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COMMISSION IMPLEMENTING REGULATION (EU) .../...

of **XXX**

amending Implementing Regulation (EU) 2019/1793 on the temporary increase of official controls and emergency measures governing the entry into the Union of certain goods from certain third countries implementing Regulations (EU) 2017/625 and (EC) No 178/2002 of the European Parliament and of the Council

(Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) .../...

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amending Implementing Regulation (EU) 2019/1793 on the temporary increase of official controls and emergency measures governing the entry into the Union of certain goods from certain third countries implementing Regulations (EU) 2017/625 and (EC) No 178/2002 of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety¹, and in particular Article 53(1), point (b)(ii), thereof,

Having regard to Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation)², and in particular Article 47(2), first subparagraph, point (b), and Article 54(4), first subparagraph, points (a) and (b) and Article 90, first paragraph, point (a), thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) 2019/1793³ lays down rules on the temporary increase of official controls at the entry into the Union on certain consignments of food and feed of non-animal origin from certain third countries listed in Annex I to that Implementing Regulation, and on the imposition of special conditions governing the entry into the Union of certain consignments of food and feed from certain third countries due to the risk of contamination by mycotoxins,

¹ OJ L 31, 1.2.2002, p. 1, ELI: <http://data.europa.eu/eli/reg/2002/178/oj>.

² OJ L 95, 7.4.2017, p. 1, ELI: <http://data.europa.eu/eli/reg/2017/625/oj>.

³ Commission Implementing Regulation (EU) 2019/1793 of 22 October 2019 on the temporary increase of official controls and emergency measures governing the entry into the Union of certain goods from certain third countries implementing Regulations (EU) 2017/625 and (EC) No 178/2002 of the European Parliament and of the Council and repealing Commission Regulations (EC) No 669/2009, (EU) No 884/2014, (EU) 2015/175, (EU) 2017/186 and (EU) 2018/1660 (OJ L 277, 29.10.2019, p. 89, ELI: http://data.europa.eu/eli/reg_impl/2019/1793/oj).

including aflatoxins, pesticide residues, microbiological contamination, Sudan dyes and plant toxins listed in Annex II to that Implementing Regulation.

- (2) Article 12 of Implementing Regulation (EU) 2019/1793 lays down the obligation of the Commission to review at regular intervals not exceeding six months the lists set out in the Annexes to that Implementing Regulation, in order to take into account new information related to risks for human health and non-compliance. Such new information includes the data resulting from notifications received through the Rapid Alert System for Food and Feed ('RASFF') established by Regulation (EC) No 178/2002, as well as data and information concerning consignments and the results of the documentary, identity and physical checks carried out by Member States and communicated to the Commission.
- (3) Recent notifications received through the RASFF indicate the existence of serious direct or indirect risk for human health deriving from certain food or feed. Additionally, official controls performed by the Member States on certain food and feed of non-animal origin in the second semester of 2024 indicate that the lists set out in Annexes I and II to Implementing Regulation (EU) 2019/1793 should be amended in order to protect human health in the Union.
- (4) Furthermore, certain legal acts referred to in Articles 3 and 10 of Implementing Regulation (EU) 2019/1793 have been repealed. Therefore, the references to those legal acts should be updated, and that Implementing Regulation should be amended accordingly.
- (5) There are no commodities listed in Annex II to Implementing Regulation (EU) 2019/1793 due to possible contamination by pentachlorophenol and dioxins. The provisions concerning those contaminants in Articles 3 and 10 of that Implementing Regulation should therefore be deleted.
- (6) Article 9(3) of Implementing Regulation (EU) 2019/1793 provides for a derogation from Article 9(2) of that Implementing Regulation. That derogation should not be limited to commodities listed in Annex II to that Implementing Regulation due to possible contamination by mycotoxins. Therefore, Article 9(3) of Implementing Regulation (EU) 2019/1793 should be amended accordingly.
- (7) In relation to consignments of granadilla and passion fruit (*Passiflora ligularis* and *Passiflora edulis*) from Colombia, a high rate of non-compliance with the relevant requirements provided for in Union legislation with respect to contamination by pesticide residues was detected during official controls performed by the Member States in accordance with Articles 5 and 6 of Implementing Regulation (EU) 2019/1793. It is therefore appropriate to increase the frequency of identity and physical checks to be performed on those consignments entering the Union to 20 % in Annex I to Implementing Regulation (EU) 2019/1793.
- (8) In relation to consignments of vine leaves from Egypt, a high rate of non-compliance with the relevant requirements provided for in Union legislation with respect to contamination by pesticide residues was detected during official controls performed by the Member States in accordance with Articles 5 and 6 of Implementing Regulation (EU) 2019/1793. It is therefore appropriate to increase the frequency of identity and physical checks to be performed on those consignments entering the Union to 50 % in Annex I to Implementing Regulation (EU) 2019/1793.
- (9) In relation to consignments of mango (*Mangifera indica*) from Egypt, data from RASFF notifications and information regarding official controls performed by the

Member States indicate the emergence of new risks for human health, due to possible contamination by pesticide residues. It is therefore necessary to require an increased level of official controls on entries of that commodity from Egypt. That commodity should therefore be included in Annex I to Implementing Regulation (EU) 2019/1793, with a frequency of identity and physical checks set at 20 % of consignments entering the Union.

- (10) Peppers of the genus *Piper*, dried or crushed or ground fruit of the genus *Capsicum* or of the genus *Pimenta*, ginger, saffron, turmeric (curcuma), thyme, bay leaves, curry and other spices from Ethiopia have been subjected to an increased level of official controls and to special conditions at their entry into the Union due to the risk of contamination by aflatoxins since December 2019. The official controls carried out by the Member States show improvement in compliance with the relevant requirements provided for in Union legislation. The results of those controls provide evidence that the entry of those foodstuffs into the Union do not constitute a serious risk for human health. Consequently, it is not necessary to continue to provide that each consignment is to be accompanied by an official certificate stating that all the results of sampling and analysis show compliance with the relevant requirements provided for in Union legislation. However, Member States should continue to carry out controls to ensure that the current level of compliance is maintained. Therefore, the entry on peppers of the genus *Piper*, dried or crushed or ground fruit of the genus *Capsicum* or of the genus *Pimenta*, ginger, saffron, turmeric (curcuma), thyme, bay leaves, curry and other spices from Ethiopia in point 1 of Annex II to Implementing Regulation (EU) 2019/1793 should be deleted and transferred to Annex I to that Implementing Regulation, with a frequency of identity and physical checks set, in light of the number of consignments in the last years, at 30 % of consignments entering the Union.
- (11) In relation to consignments of bottle gourd (*Lagenaria siceraria*) from India, data from RASFF notifications and information regarding official controls performed by the Member States indicate the emergence of new risks for human health, due to possible contamination by pesticide residues. It is therefore necessary to require an increased level of official controls on entries of that commodity from India. That commodity should therefore be included in Annex I to Implementing Regulation (EU) 2019/1793, with a frequency of identity and physical checks set at 20 % of consignments entering the Union.
- (12) In relation to consignments of yardlong beans (*Vigna unguiculata* ssp. *sesquipedalis*, *Vigna unguiculata* ssp. *unguiculata*) from Sri Lanka, a high rate of non-compliance with the relevant requirements provided for in Union legislation with respect to contamination by pesticide residues was detected during official controls performed by the Member States in accordance with Articles 5 and 6 of Implementing Regulation (EU) 2019/1793. It is therefore appropriate to increase the frequency of identity and physical checks to be performed on those consignments entering the Union to 30 % in Annex I to Implementing Regulation (EU) 2019/1793.
- (13) In relation to consignments of tahini and halva from *Sesamum* seeds from Syria, a high rate of non-compliance with the relevant requirements provided for in Union legislation with respect to contamination by *Salmonella* was detected during official controls performed by the Member States in accordance with Articles 5 and 6 of Implementing Regulation (EU) 2019/1793. It is therefore appropriate to increase the frequency of identity and physical checks to be performed on those consignments entering the Union to 30 % in Annex I to Implementing Regulation (EU) 2019/1793.

- (14) Grapefruits from Türkiye have been subjected to an increased level of official controls due to the risk of contamination by pesticide residues since January 2022. The official controls carried out by the Member States show improvement in compliance with the relevant requirements provided for in Union legislation. Therefore, while an increased level of official controls is still appropriate, the level of 20 % of consignments entering the Union is no longer justified for that commodity and the frequency of controls should be decreased to 10 % of consignments entering the Union in Annex I to Implementing Regulation (EU) 2019/1793.
- (15) In relation to consignments of tomatoes (*Solanum lycopersicum* L.) from Türkiye, data from RASFF notifications and information regarding official controls performed by the Member States indicate the emergence of new risks for human health, due to possible contamination by pesticide residues. It is therefore necessary to require an increased level of official controls on entries of that commodity from Türkiye. That commodity should therefore be included in Annex I to Implementing Regulation (EU) 2019/1793, with a frequency of identity and physical checks set at 20 % of consignments entering the Union.
- (16) Drumsticks (*Moringa oleifera*) from India have been subjected to an increased level of official controls due to the risk of contamination by pesticide residues since January 2022. The official controls carried out on that commodity by the Member States show a persistent high rate of non-compliance since the establishment of the increased level of official controls. Those controls provide evidence that the entry of that commodity into the Union constitutes a serious risk for human health. It is therefore necessary, in addition to the increased level of official controls, to provide for special conditions in relation to the importation of drumsticks (*Moringa oleifera*) from India. In particular, all consignments of drumsticks (*Moringa oleifera*) from India should be accompanied by an official certificate stating that all the results of sampling and analyses show compliance with Union requirements. The results of sampling and analyses should be attached to that certificate. Therefore, the entry on drumsticks (*Moringa oleifera*) from India in Annex I to Implementing Regulation (EU) 2019/1793 should be deleted and transferred to Annex II to that Implementing Regulation, with a frequency of identity and physical checks set at 30 % of consignments entering the Union.
- (17) Yardlong beans (*Vigna unguiculata* ssp. *sesquipedalis*, *Vigna unguiculata* ssp. *unguiculata*) from India have been subjected to an increased level of official controls due to the risk of contamination by pesticide residues since July 2022. The official controls carried out on that commodity by the Member States show a persistent high rate of non-compliance since the establishment of the increased level of official controls. Those controls provide evidence that the entry of that commodity into the Union constitutes a serious risk for human health. It is therefore necessary, in addition to the increased level of official controls, to provide for special conditions in relation to the importation of yardlong beans (*Vigna unguiculata* ssp. *sesquipedalis*, *Vigna unguiculata* ssp. *unguiculata*) from India. In particular, all consignments of yardlong beans (*Vigna unguiculata* ssp. *sesquipedalis*, *Vigna unguiculata* ssp. *unguiculata*) from India should be accompanied by an official certificate stating that all the results of sampling and analyses show compliance with Union requirements. The results of sampling and analyses should be attached to that certificate. Therefore, the entry on yardlong beans (*Vigna unguiculata* ssp. *sesquipedalis*, *Vigna unguiculata* ssp. *unguiculata*) from India in Annex I to Implementing Regulation (EU) 2019/1793 should be deleted and transferred to Annex II to that Implementing Regulation, with a

frequency of identity and physical checks set, in light of the number of consignments in the last years, at 50 % of consignments entering the Union.

- (18) In relation to dried figs, mixtures and products produced from dried figs from Türkiye, a high rate of non-compliance with the relevant requirements provided for in Union legislation with respect to contamination by aflatoxins was detected during official controls performed by the Member States in accordance with Articles 7 and 8 of Implementing Regulation (EU) 2019/1793. It is therefore appropriate to increase the frequency of identity and physical checks to be performed on those consignments entering the Union to 30 % in Annex II to Implementing Regulation (EU) 2019/1793.
- (19) In addition, for consignments of dried figs, mixtures and products produced from dried figs from Türkiye, data from RASFF notifications and information regarding official controls performed by the Member States indicate the emergence of a risk for human health, due to possible contamination by Ochratoxin A. As aflatoxins and Ochratoxin A are both mycotoxins which present similar risks for human health and as the level of non-compliance with the relevant requirements provided for in Union legislation with respect to contamination by aflatoxins and Ochratoxin A is similar, it is appropriate to include the additional hazard Ochratoxin A for consignments of dried figs, mixtures and products produced from dried figs from Türkiye in Annex II to Implementing Regulation (EU) 2019/1793, with a frequency of identity and physical checks set at 30 % of consignments entering the Union.
- (20) In relation to cumin seeds from Türkiye, a high rate of non-compliance with the relevant requirements provided for in Union legislation with respect to contamination by pyrrolizidine alkaloids was detected during official controls performed by the Member States in accordance with Articles 7 and 8 of Implementing Regulation (EU) 2019/1793. It is therefore appropriate to increase the frequency of identity and physical checks to be performed on those consignments entering the Union to 50 % in Annex II to Implementing Regulation (EU) 2019/1793.
- (21) Furthermore, certain legal acts referred to in the model official certificate in Annex IV to Implementing Regulation (EU) 2019/1793 have been repealed. Therefore, the references to those legal acts referred to in the model official certificate in Annex IV to that Implementing Regulation should be updated accordingly.
- (22) To have the possibility of providing guarantees for commodities listed in Annex II to Implementing Regulation (EU) 2019/1793 that are subject to special conditions for the entry into the Union due to contamination risk by the mycotoxins ‘aflatoxins’ and ‘Ochratoxin A’, point II.2.1 of the model official certificate in Annex IV to that Implementing Regulation should be amended accordingly.
- (23) In addition, since currently there are no commodities listed in Annex II to Implementing Regulation (EU) 2019/1793 due to possible contamination by pentachlorophenol and dioxins, it is appropriate to delete point II.2.3 of the model official certificate in Annex IV to that Implementing Regulation.
- (24) To ensure legal certainty for the entry into the Union of consignments that have already been dispatched from the country of origin or from another third country, if that country is different from the country of origin, when this Regulation enters into force, it is appropriate to provide for a transitional period of two months for consignments of drumsticks (*Moringa oleifera*) and yardlong beans (*Vigna unguiculata* ssp. *sesquipedalis*, *Vigna unguiculata* ssp. *unguiculata*) from India, which are not accompanied by the results of sampling and analyses and an official certificate.

During this transitional period, public health protection is ensured for those consignments, since they are subjected to identity and physical checks for drumsticks (*Moringa oleifera*) at a frequency of 30 % and for yardlong beans (*Vigna unguiculata* ssp. *sesquipedalis*, *Vigna unguiculata* ssp. *unguiculata*) at a frequency of 50 %, when entering the Union.

- (25) Implementing Regulation (EU) 2019/1793 should therefore be amended accordingly.
- (26) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) 2019/1793 is amended as follows:

- (1) Article 3 is amended as follows:

- (a) point (a) is replaced by the following:

‘(a) for food listed in Annexes I and II due to possible contamination risk by mycotoxins, including aflatoxins, the sampling and the analyses shall be performed in accordance with Commission Implementing Regulation (EU) 2023/2782*;

* Commission Implementing Regulation (EU) 2023/2782 of 14 December 2023 laying down the methods of sampling and analysis for the control of the levels of mycotoxins in food and repealing Regulation (EC) No 401/2006 (OJ L, 2023/2782, 15.12.2023, ELI: http://data.europa.eu/eli/reg_impl/2023/2782/oj).’;

- (b) point (d) is deleted;

- (c) point (f) is replaced by the following:

‘(f) the methods of sampling and analyses referred to in the footnotes to Annexes I and II shall be applied in relation to hazards other than those referred to in points (a), (b), (c) and (e).’;

- (2) in Article 9, paragraph 3 is replaced by the following:

‘3. By way of derogation from paragraph 2, in case of a consignment in which the bag or packaging combines several small packages, it is sufficient that the identification code of the consignment is mentioned on the bag or packaging combining these small packages.’;

- (3) Article 10 is amended as follows:

- (a) paragraph 2 is amended as follows:

- (i) point (a) is replaced by the following:

‘(a) compliance with Commission Regulation (EU) 2023/915* and Directive 2002/32 on maximum levels of relevant mycotoxins, for consignments of food and feed listed in Annex II due to contamination risk by mycotoxins and plant toxins.

- * Commission Regulation (EU) 2023/915 of 25 April 2023 on maximum levels for certain contaminants in food and repealing Regulation (EC) No 1881/2006 (OJ L 119, 5.5.2023, p. 103, ELI: <http://data.europa.eu/eli/reg/2023/915/oj>).’;

- (ii) point (c) is deleted;
- (b) paragraph 3 is deleted;
- (4) Article 14 is replaced by the following:

‘Article 14
Transitional period

Consignments of drumsticks (*Moringa oleifera*) and yardlong beans (*Vigna unguiculata* ssp. *sesquipedalis*, *Vigna unguiculata* ssp. *unguiculata*) from India, which have been dispatched from the country of origin, or from another third country if that country is different from the country of origin, before the date of entry into force of Commission Implementing Regulation (EU) ...*, may enter the Union until ... [two months after the date of entry into force of this Regulation] without being accompanied by the results of sampling and analyses and the official certificate provided for in Articles 10 and 11. [OJ: Please insert in the text the number of this Regulation and insert the number, date, OJ reference and ELI number of this Regulation in the footnote, underneath.]

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- * Commission Implementing Regulation (EU) ... of ... amending Implementing Regulation (EU) 2019/1793 on the temporary increase of official controls and emergency measures governing the entry into the Union of certain goods from certain third countries implementing Regulations (EU) 2017/625 and (EC) No 178/2002 of the European Parliament and of the Council (OJ L, ..., ..., ELI: ...).’;

- (5) Annexes I and II are replaced by the text set out in Annex I to this Regulation;
- (6) Annex IV is replaced by the text set out in Annex II to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President
Ursula VON DER LEYEN