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EUROPEAN
COMMISSION

Brussels, **XXX**
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[...](2019) **XXX** draft

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

of **XXX**

imposing special conditions governing the import of groundnuts from Bolivia, Gambia, Madagascar, Senegal and Sudan and watermelon seeds from Sierra Leone and amending Regulations (EC) No 669/2009 and (EU) No 884/2014.

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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)(b)(ii) thereof,

Having regard to Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules², and in particular Article 15(5) thereof,

Whereas:

- (1) Commission Regulation (EC) No 669/2009 provides for an increased level of official controls on imports of certain feed and food of non-animal origin listed in Annex I to that Regulation. Groundnuts from Bolivia are already subject to such an increased level of official controls as regards the presence of aflatoxins since January 2017, from Gambia since October 2015, from Madagascar since 1 April 2016, from Senegal since 1 July 2017 and from Sudan since 1 April 2014. Since January 2013, watermelon seeds from Sierra Leone have also been subject to an increased level of official controls regarding aflatoxins.
- (2) The results of the official controls carried out by the Member States in pursuant to Regulation (EC) No 669/2009 on those commodities show a continuous high frequency of non-compliance with maximum levels of aflatoxins or following high levels of non-compliance have resulted in a significant reduction of offering for import into the EU of consignments of these products. Those results provide evidence that the import of those foods and feeds constitute a risk for animal and human health. No improvement of the situation could be observed after several years of increased frequency of controls at Union borders.
- (3) Commission Implementing Regulation (EU) No 884/2014 imposes special conditions on the import of certain feed and food from certain third countries due to contamination risk by aflatoxins.

¹ OJ L 31, 1.2.2002, p. 1.

² OJ L 165, 30.4.2004, p. 1.

- (4) In order to protect human and animal health in the Union, it is necessary to provide for additional guarantees in relation to those food and feed from Bolivia, Gambia, Madagascar, Senegal, Sudan and Sierra Leone. All consignments of groundnuts from Bolivia, Gambia, Madagascar, Senegal and Sudan and watermelon seeds from Sierra Leone should be accompanied by a health certificate stating that the products have been sampled and analysed for the presence of aflatoxins and have been found compliant with Union legislation. The results of the analytical tests should be attached to the health certificate.
- (5) Besides the exemption of consignments destined to a private person for personal consumption and use, it is also appropriate to exclude consignments of feed and food sent as trade samples or as display items for exhibitions, which are not intended to be placed on the market or intended for scientific purposes. This relates to very small consignments of certain feed and food but it is not appropriate to fix a specific weight given the variety of products covered by the Annex. The requirement of a health certificate accompanied by the analytical result is for such consignments not proportionate to the low risk for public health of such consignments.
- (6) The Indian, Ethiopian, Brazilian and Argentinian authorities have informed the Commission of a change of the competent authority whose authorised representative is entitled to sign the health certificate. Therefore, these changes should be introduced accordingly.
- (7) Given the high level of non-compliance it is appropriate to increase the frequency of control of aflatoxin in dried figs from Turkey from 10 to 20 %.
- (8) Furthermore, it is appropriate to update the relevant CN codes for *Capsicum annum* due to recent changes of the CN code and to add CN codes to hazelnut paste and figs prepared or preserved including mixtures as products corresponding to the description are traded under these codes.
- (9) Regulation (EC) No 669/2009 and Implementing Regulation (EU) No 884/2014 should therefore be amended accordingly.
- (10) 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

Regulation (EC) 669/2009 is amended in accordance with Annex I to this Regulation.

Article 2

Implementing Regulation (EU) No 884/2014 is amended as follows:

- (1) The following points (o), (p), (q), (r), (s) and (t) are added to Article 1(1):

“(o) groundnuts in shell and shelled, peanut butter, groundnuts otherwise prepared or preserved (feed and food) originating in or consigned from Bolivia;

(p) groundnuts in shell and shelled, peanut butter, groundnuts otherwise prepared or preserved (feed and food) originating in or consigned from The Gambia;

(q) groundnuts in shell and shelled, peanut butter, groundnuts otherwise prepared or preserved (feed and food) originating in or consigned from Madagascar;

- (r) groundnuts in shell and shelled, peanut butter, groundnuts otherwise prepared or preserved (feed and food) originating in or consigned from Senegal;
- (s) groundnuts in shell and shelled, peanut butter, groundnuts otherwise prepared or preserved (feed and food) originating in or consigned from Sudan;
- (t) watermelon (Egusi, *Citrullus* spp.) seeds and derived products from Sierra Leone.”

(2) Article 1 (3) is replaced by the following:

“3. This Regulation shall not apply to consignments of feed and food referred to in paragraphs 1 and 2 which are destined to a private person for personal consumption and use only. In case of doubt, the burden of proof lies with the recipient of the consignment. This Regulation shall also not apply to consignments of feed and food sent as trade samples, laboratory samples or as display items for exhibitions, which are not intended to be placed on the market or intended for scientific purposes.”

(3) In Article 5(2), point (a) is replaced by the following:

“(a) the Ministry of Agriculture, Livestock and Food Supply (MAPA) (Ministério da Agricultura, Pecuária e Abastecimento (MAPA)) and Sistema Nacional de Vigilância Sanitária (SNVS) for feed and food from Brazil.”

(4) In Article 5(2), the points (g), (k) and (l) are replaced by the following:

“(g) the Ethiopian Food Medicine and Health Care Administration and Control Authority for food from Ethiopia;

(k) the National Agri-Food Health and Quality Service (Servicio Nacional de Sanidad Agroalimentaria (SENASA)) and the National Institute of Nutrition (Instituto Nacional de Alimentos (INAL)) for feed and food from Argentina;

(j) the Food Safety Agency of the Republic of Azerbaijan for food from Azerbaijan.

(5) In article 5(2) the following points (m), (n); (o), (p) (q) and (r) are added

“(m) the Ministry of Rural Development and Land for feed and food from Bolivia

(n) the Food Safety and Quality Authority for feed and food from The Gambia

(o) the Ministry of Agriculture for feed and food from Madagascar

(p) the Ministry of Agriculture and Rural Equipment for feed and food from Senegal

(q) the Ministry of Agriculture and Irrigation for feed and food from Sudan

(r) the Ministry of Agriculture, Forestry and Food Security for food from Sierra Leone”

(6) Annex I to Regulation (EU) No 884/2014 is amended in accordance with Annex II to this Regulation.

Article 3

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

It shall apply from the date of entry into force except for feed and food covered by Article 1 (1) (o), (p), (q), (r), (s), and (t) for which it shall apply from 1 July 2019.

Consignments of feed and food referred to in Article 1(1) (o), (p), (q), (r), (s), and (t) which left the country of origin prior to the entry into application may be imported into the EU without being accompanied by a health certificate and the results of sampling and analysis.

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

Done at Brussels,

For the Commission
The President
Jean-Claude JUNCKER

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