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[...] (2023) **XXX** draft

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)

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(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), 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, including aflatoxins, pesticide residues, pentachlorophenol and dioxins,

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).

microbiological contamination, Sudan dyes, Rhodamine B 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 6 months the lists set out in the Annexes to that Implementing Regulation, in order to take into account new information related to risks to human health and non-compliance with Union legislation. 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 to 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 first semester of 2023 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) Consignments of food consisting of two or more ingredients, listed in point 2 of Annex II to Implementing Regulation (EU) 2019/1793 and containing any of the food listed in point 1 of that Annex, have been subjected to an increased level of official controls due to the risk of contamination by aflatoxins since October 2019. The official controls carried out on those commodities by the Member States indicate an overall satisfactory degree of compliance with the relevant requirements provided for in Union legislation. Therefore, an increased level of official controls is no longer justified for those commodities, the relevant provisions in Articles 1 and 8 of Implementing Regulation (EU) 2019/1793 should be amended and point 2 of Annex II to that Implementing Regulation should be deleted.
- (5) In relation to consignments of seem bean, helmet bean (*Lablab purpureus*) from Bangladesh, data from RASFF notifications and information regarding official controls performed by the Member States indicate the emergence of new risks to human health, due to a possible contamination by pesticide residues. It is therefore necessary to require an increased level of official controls on entries of that commodity from Bangladesh. 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.
- (6) New TARIC sub-division CN codes have been introduced in the TARIC system to separate granadilla and passion fruit (*Passiflora ligularis* and *Passiflora edulis*). Therefore, it is appropriate to amend the TARIC sub-division for CN code ex 0810 90 20 in the entry on granadilla and passion fruit (*Passiflora ligularis* and *Passiflora edulis*) from Colombia in Annex I to Implementing Regulation (EU) 2019/1793.
- (7) In relation to consignments of vine leaves from Egypt, data from RASFF notifications and information regarding official controls performed by the Member States indicate the emergence of new risks to human health, due to a 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.

- (8) Mint (*Mentha*) from Israel⁴ has been subjected to an increased level of official controls due to the risk of contamination by pesticide residues since January 2023. The official controls carried out on that commodity by the Member States indicate an overall satisfactory degree of compliance with the relevant requirements provided for in Union legislation. Therefore, an increased level of official controls is no longer justified for that commodity and its entry in Annex I to Implementing Regulation (EU) 2019/1793 should be deleted.
- (9) In relation to consignments of yardlong beans (*Vigna unguiculata* ssp. *sesquipedalis*, *Vigna unguiculata* ssp. *unguiculata*) from India, 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.
- (10) Guar gum from India has been subjected to an increased level of official controls due to risk of contamination by pentachlorophenol and dioxins since February 2015. The official controls carried out by the Member States show improvement in compliance with the relevant requirements provided for in Union legislation. Therefore, an increased level of official controls at the level of 50 % of consignments entering the Union is no longer justified for that commodity and the frequency of controls should be decreased to 30 % of consignments entering the Union in Annex I to Implementing Regulation (EU) 2019/1793.
- (11) Food supplements containing botanicals from South Korea have been subjected to an increased level of official controls due to the risk of contamination by ethylene oxide since December 2021. The official controls carried out on those commodities by the Member States indicate an overall satisfactory degree of compliance with the relevant requirements provided for in Union legislation. Therefore, an increased level of official controls is no longer justified for those commodities and their entry in Annex I to Implementing Regulation (EU) 2019/1793 should be deleted.
- (12) Instant noodles containing spices/seasonings or sauces from South Korea have been subjected to an increased level of official controls due to the risk of contamination by ethylene oxide since December 2021. The official controls carried out by the Member States show improvement in compliance with the relevant requirements provided for in Union legislation. Therefore, an increased level of official controls at 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.
- (13) In relation to consignments of yardlong beans (*Vigna unguiculata* ssp. *sesquipedalis*, *Vigna unguiculata* ssp. *unguiculata*) from Sri Lanka, data from RASFF notifications and information regarding official controls performed by the Member States indicate the emergence of new risks to human health, due to a possible contamination by pesticide residues. It is therefore necessary to require an increased level of official controls on entries of that commodity from Sri Lanka. That commodity should

⁴ Hereinafter understood as the State of Israel, excluding the territories under the administration of the State of Israel after 5 June 1967, namely the Golan Heights, the Gaza Strip, East Jerusalem and the rest of the West Bank.

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.

- (14) In relation to consignments of black-eyed beans (*Vigna unguiculata*) from Madagascar, 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.
- (15) In relation to consignments of rice from Pakistan, 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 10 % in Annex I to Implementing Regulation (EU) 2019/1793.
- (16) In relation to consignments of granadilla and passion fruit (*Passiflora ligularis* and *Passiflora edulis*) from Thailand, data from RASFF notifications and information regarding official controls performed by the Member States indicate the emergence of new risks to human health, due to a possible contamination by pesticide residues. It is therefore necessary to require an increased level of official controls on entries of those commodities from Thailand. Those commodities should therefore be included in Annex I to Implementing Regulation (EU) 2019/1793, with a frequency of identity and physical checks set at 10 % of consignments entering the Union.
- (17) In relation to consignments of 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 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.
- (18) Peppers of the genus *Capsicum* (other than sweet) from Uganda have been subjected to an increased level of official controls due to the risk of contamination by ethylene oxide since December 2021. The official controls carried out on that commodity by the Member States indicate an overall satisfactory degree of compliance with the relevant requirements provided for in Union legislation. Therefore, an increased level of official controls is no longer justified for that commodity and its entry in Annex I to Implementing Regulation (EU) 2019/1793 should be deleted.
- (19) In relation to consignments of durian (*Durio zibethius*) from Vietnam, data from RASFF notifications and information regarding official controls performed by the Member States indicate the emergence of new risks to human health, due to a possible contamination by pesticide residues. It is therefore necessary to require an increased level of official controls on entries of that commodity from Vietnam. 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 10 % of consignments entering the Union.

- (20) In relation to consignments of peppers of the genus *Capsicum* (other than sweet) from India, 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 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.
- (21) In relation to consignments of *sesamum* seeds from India, 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 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.
- (22) *Sesamum* seeds from India have been subjected to an increased level of official controls and to special conditions at their entry into the Union due to risk of contamination by ethylene oxide since October 2020. The official controls carried out by the Member States show improvement in compliance with the relevant requirements provided for in Union legislation. Therefore, an increased level of official controls at the level of 50 % of consignments entering the Union is no longer justified for that commodity and the frequency of controls should be decreased to 30 % of consignments entering the Union in Annex II to Implementing Regulation (EU) 2019/1793.
- (23) Implementing Regulation (EU) 2019/1793 should therefore be amended accordingly.
- (24) 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. in Article 1(1), point (b) is amended as follows:
 - (a) the introductory wording is replaced by the following:

‘special conditions governing the entry into the Union of the following categories of consignments of food and feed due to the risk of contamination by mycotoxins, including aflatoxins, pesticide residues, microbiological contamination, Sudan dyes, Rhodamine B and plant toxins, in accordance with Article 53(1), point (b), of Regulation (EC) No 178/2002.’;
 - (b) point (ii) is deleted;
2. in Article 8, paragraphs 3 and 4 are deleted;
3. Annexes I and II are replaced by the text set out in the Annex 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