COMMISSION NOTICE

Questions and answers on the application of EU rules on import controls on products from third countries intended to be placed on the EU market as organic products or in-conversion products

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Glossary

BCP	Border Control Post
CPIC	Coordinated performance of intensified controls provided for in Implementing Regulation (EU) 2019/1873
CN	Combined Nomenclature provided for in Council Regulation (EEC) No 2658/87[1]
CP	Control point referred to in Article 53(1), point (a), of the OCR
CHED	Common Health Entry Document referred to in Article 56 of Regulation (EU) 2017/625
CHED-D	A CHED drawn up in accordance with the template in Section D of Part 2 of Annex II to Implementing Regulation (EU) 2019/1715, for consignments of feed and food of non-animal origin subject at their entry into the Union to any of the measures or conditions provided for Article 47(1), points (d), (e) or (f) of the OCR[2]
CHED-PP	A CHED drawn up in accordance with the template in Section C of Part 2 of Annex II to Implementing Regulation (EU) 2019/1715, for consignments of: plants, plant products and other objects referred to in Article 47(1), point (c), of the OCR; plants, plant products and other objects subject at their entry into the Union to one of the measures or conditions provided for Article 47(1), points (d), (e) or (f) of the OCR; or specific plants, plant products and other objects of a particular origin or provenance for which a minimum level of official controls is necessary to respond to recognised uniform hazards and risks to plant health as provided for in Implementing Regulation (EU) 2019/66[3]
COI	Certificate of Inspection
MRL	Maximum Residue Level of pesticide residues [4]
Union goods	Goods which fall into any of the following categories: (a) goods wholly obtained in the customs territory of the Union and not incorporating goods imported from countries or territories outside the customs territory of the Union; (b) goods brought into the customs territory of the Union from countries or territories outside that territory and released for free circulation; (c) goods obtained or produced in the customs territory of the Union, either solely from goods referred to in point (b) or from goods referred to in points (a) and (b)[5]
Non-Union goods	Goods other than 'Union goods' or which have lost their customs status as Union goods[6]
OCR	Regulation (EU) 2017/625 (Official Controls Regulation)[7]
ORR	Regulation (EU) 2018/848 on organic production and labelling of organic products[8]

[1] Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).
[2] See Article 40(1), point (d), of Implementing Regulation (EU) 2019/1715.
[3] See Article 40(1), point (c), of Implementing Regulation (EU) 2019/1715.
[4] See Article 3(2), point (d), of Regulation (EC) No 396/2005 of the European Parliament and of the Council on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC.

[5] See Article 5(23) of Regulation (EU) 952/2013.
[6] See Article 5(24) of Regulation (EU) 952/2013.
[7] 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) (Text with EEA relevance) ((OJ L 095 7.4.2017, p. 1).
[8] Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007, OJ L 150 14.6.2018, p. 1.

Organic checks	Official controls on consignments for the verification of compliance with the ORR, referred to in Article 6(1) of Commission Delegated Regulation (EU) 2021/2306
Plant health checks	Official controls on plants, plant products and other objects in order to verify compliance with Union rules on protective measures against pests of plants applicable to those goods
SPS	Sanitary and Phytosanitary
SPS official controls	Official controls performed for the verification of compliance with the sanitary and phytosanitary rules referred to in Article 1(2) of the OCR

1. Introduction

Regulation (EU) 2018/848 ('ORR') establishes the principles of organic production and lays down the rules concerning organic production, related certification and the use of indications referring to organic production in labelling and advertising, conditions and measures for the import into the Union of products for the purpose of placing on the market within the Union as organic products or in-conversion products, as well as rules on controls additional to those laid down in Regulation (EU) 2017/625 ('Official Controls Regulation/OCR'). The ORR entered into application on 1 January 2022.

Pursuant to Article 45(5) of the ORR, compliance with the conditions and measures for the import of organic products and in-conversion products referred to in that Regulation must be ascertained at border control posts (BCPs), in accordance with Article 47(1) of the OCR. At the same time, Delegated Regulation (EU) 2021/2305[9] exempts certain categories of organic products and in-conversion products from official controls at BCPs, in accordance with Article 48, point (h), of the OCR. Competent authorities are to carry out official controls on those exempted products at points of release for free circulation located in the Member State in which the consignment is released for free circulation into the Union[10].

The OCR establishes the framework for official controls and other official activities to verify the correct application of Union agri-food chain legislation. This includes official controls performed on animals and goods entering the Union from third countries. In this regard, the OCR establishes two different regimes of import controls, one applicable to animals and goods referred to in Article 47(1) of the OCR subject to mandatory official controls at the entry into the Union at BCPs and another applicable to animals and goods other than those subject to mandatory official controls at BCPs. For animals and goods which are not subject to mandatory official controls at BCPs, import controls are to be performed at an appropriate place within the customs territory of the Union, regularly, on a risk basis and with appropriate frequency, in accordance with Articles 44 to 46 of the OCR. By contrast, consignments of animals and goods subject to official controls at the BCP must be subject to 100% documentary checks and to a harmonized frequency of identity and physical checks. Those controls are to be carried out in accordance with specific procedures detailed in Articles 47 to 64 of the OCR and in delegated and implementing acts adopted in accordance with those provisions.

Import controls on consignments of food and feed of non-animal origin and of plants, plant products and other objects subject to mandatory official controls at BCPs and intended to be placed on the Union market as organic products or in-conversion products may be carried at control points other than BCPs (CPs), subject to conditions set out in Delegated Regulation (EU) 2019/2123, as amended by Delegated Regulation (EU) 2021/2305. Moreover, competent authorities at BCPs may authorise the onward transportation to the place of final destination pending the availability of the results of laboratory analyses and tests of consignments of goods of non-animal origin, including where those goods are organic products or in-conversion products subject to official controls at BCPs, in accordance with Delegated Regulation (EU) 2019/2124, as amended.

It is the responsibility of the Member States to designate the BCPs and CPs where organic checks are to be performed[11] and to define and register in TRACES the points of release for free circulation[12].

In addition to the aforementioned rules on import controls, Delegated Regulation (EU) 2021/2306[13] lays down rules on official controls on products entering the Union from third countries

[9] Commission Delegated Regulation (EU) 2021/2305 of 21 October 2021 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council with rules on the cases where and conditions under which organic products and in-conversion products are exempted from official controls at border control posts, the place of official controls for such products and amending Commission Delegated Regulations (EU) 2019/2123 and (EU) 2019/2124 (Text with EEA relevance) (OJ L 461, 27.12.2021, p. 5).
[10] Article 4 of Delegated Regulation (EU) 2021/2305.
[11] See points 3.2.1 and 3.2.2 of this document.
[12] See point 4.2 of this document.

intended to be placed on the Union market as organic products or in-conversion products, which cover both products subject to official controls at BCPs and products exempted from official controls at BCP.

Implementing Regulation (EU) 2021//2307[14] lays down rules on the declarations and communications by importers, operators responsible for the consignments, first consignees and consignees for the import of products from third countries for the purpose of placing those products on the market within the Union as organic products or in-conversion products, as well as rules on the notification by the competent authorities of the Member States of suspected or established non-compliance of consignments.

The purpose of this Questions & Answers document is to provide guidance for the implementation of the aforementioned rules on import controls of products intended to be placed on the EU market as organic products or in-conversion products. These guidelines set out how the Commission understands the said rules and how it considers they should be applied.

[13] Commission Delegated Regulation (EU) 2021/2306 of 21 October 2021 supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council with rules on the official controls in respect of consignments of organic products and in-conversion products intended for import into the Union and on the certificate of inspection (Text with EEA relevance) (OJ L 461 27.12.2021, p. 13).

[14] Commission Implementing Regulation (EU) 2021/2307 of 21 October 2021 laying down rules on documents and notifications required for organic and in-conversion products intended for import into the Union (Text with EEA relevance) (OJ L 461, 27.12.2021, p. 30).

2. Common rules

2.1 Delegation of official controls tasks to control bodies

Do competent authorities have the possibility to delegate to private control bodies certain official controls tasks in relation to organic products and labelling of organic products, such as sampling?

Yes, under some conditions. The conditions for the delegation of such tasks are established in Article 40 of the ORR. These conditions apply in addition to Chapter III of Title II of the OCR (see Article 40(1) of the ORR).

However, Article 40(4) of the ORR provides a list of official control tasks and tasks related to other official activities to control bodies that cannot be delegated to control bodies by a competent authority. In particular, Article 40(4), point (d), of the ORR requires that the "assessment of the likelihood of non-compliance with the provisions of this Regulation" determining the frequency of physical checks cannot be delegated by the competent authorities. This does not rule out the delegation of certain control tasks such as, inter alia, sampling, as long as this delegation is in accordance with Article 40 of the ORR as well as with Chapter III of Title II (Articles 28 et seq.) of the OCR.

2.2 Designation of more than one competent authority for organic import checks

Can Member States establish different competent authorities for performing organic import checks on products of plant origin and on products of animal origin, respectively? In particular, is it possible for COIs of organic products of animal origin to be endorsed by the competent authority responsible for official controls on products of animal origin and that COIs for organic products of plant origin are endorsed by a different authority?

Yes. The rules on import controls on products intended to be placed on the EU market as organic or in-conversion products applicable as of 1 January 2022 do not affect the possibility for Member States to designate different competent authorities responsible respectively for carrying out organic checks on goods of animal origin and endorsing the related COIs for such goods and for carrying out organic checks on goods of plant origin and endorsing the related COI for such goods. In relation to this, pursuant to Article 4(2) of the OCR, in the case where, for the same area, a Member State confers the responsibility to organise or perform official controls or other official activities on more than one competent authority, at national, regional or local level, the Member State must observe certain requirements enumerated in that provision for the efficient and effective coordination of all authorities involved and the consistency and effectiveness of controls.

2.3 Shipments composed of goods falling under several CN codes

Can one consignment of organic products and in-conversion products consist of goods falling under several Combined Nomenclature (CN) codes in the case of goods subject to phytosanitary controls? What about a consignment of organic goods subject to animal health official controls?

The answer is different for organic products and in-conversion products subject to official controls at BCPs and for organic products and in-conversion products exempted from official controls at BCPs.

For organic products and in-conversion products subject to official controls at BCPs, for products subject to protective measures against pest of plants (phytosanitary controls) referred to in Article 1(2), point (g), of the OCR, 'mixed' consignments, that is to say consignments composed of products falling under different CN Codes are allowed[15].

By contrast, for other categories of goods, for example for goods subject to animal health official controls, mixed consignments are not allowed.

It should be noted that several containers or batches can be regarded as a single consignment for the purposes of Delegated Regulation (EU) 2021/2306, provided that they are covered by the same COI, are conveyed by the same means of transport, come from the same territory or third country, and are of the same type, class or description. Under these circumstances, the concerned containers or batches under one COI are covered by the same CHED.

In case of organic products and in-conversion products exempted from official controls at BCPs, so called 'mixed' consignments are allowed for all categories of exempted goods[16].

2.4 Composition of consignments

Can a consignment of plants, plant products and other objects be composed in part of organic products subject to official controls at BCPs and in part of organic products exempted from official controls at BCPs?

No. Consignments should be composed either of plants, plant products and other objects subject to official controls at BCP (by virtue of Article 45(5) of the ORR), or of plants, plant products and other objects exempted from such official controls at BCP. The reason is that a COI must be issued for each consignment and in box 10 in the COI (Part I in Annex to Delegated Regulation (EU) 2021/2306), it must be indicated whether the consignment is subject to official controls at BCP or at the point of release for free circulation.

2.5 Pre-notification of arrival

How should the pre-notification of arrival of consignments of organic products and in-conversion products be organised, both for products subject to official controls at BCP and for products subject to official controls at points of release for free circulation?

The importer or, where appropriate, the operator responsible of the consignment[17] must give a prior notification of the arrival of the consignment at the BCP or at the point of release for free circulation by completing box 20 in the COI[18].

[15] In this regard, see the definition of 'consignment' for the purposes of Delegated Regulation (EU) 2021/2306 established in Article 2(1) of that Regulation by reference to the definition in Article 3, point (37), of the OCR.
[16] In this regard, see the definition of a 'consignment' for the purpose of Delegated Regulation (EU) 2021/2306, to mean 'a quantity of products under one or more Combined Nomenclature (CN) codes, covered by a single certificate of inspection, conveyed by the same means of transport and importer from the same third country' (see Article 2(1) of Delegated Regulation (EU) 2021/2306).
[17] The operator responsible for the consignment means either the importer or a natural or legal person established in the Union who presents the consignment at the border control post on behalf of the importer.
[18] See Article 3(1) of Implementing Regulation (EU) 2021/2307, which establishes the general obligations regarding the prior notification of arrival.

In addition, for organic products and in-conversion products subject to official controls at BCP, the operator responsible for the consignment must give prior notification to the competent authorities of the BCP of the arrival of such consignment[19] by completing and submitting in TRACES the relevant CHED[20] and indicating in box I.10 of that CHED the estimated arrival date and time at the BCP[21]. Since the operator intends to place these products on the EU market as organic or as in-conversion, it must select the product type 'Organic' in box I.31 in part I of the CHED in TRACES[22]. In addition, the operator must insert a link to the COI in the CHED.

For all categories of organic products and in-conversion products the prior notification as referred above must be given in principle at least one working day before the expected arrival of the consignment[23]. This is subject to derogations where logistical constraints prevent compliance with the time limit, in accordance with Commission Implementing Regulation (EU) 2019/1013.

2.6 Authority responsible for endorsing the COI. Customs authorities

Is the competent authority at the BCP or at the point of release for free circulation indicated in box 10 of the COI responsible for endorsing the COI? Is it the same authority to which the customs declaration is to be submitted?

Box 10 in the COI refers to the BCP or to the competent authority at the point of release for free circulation where the verification and endorsement of the COI take place. In case the consignment is transferred to a CP other than a BCP for organic identity and physical checks[24], the COI is endorsed by the competent authority at the CP[25].

BCPs, CPs and points of release for free circulation do not need to be the place where the customs declaration is submitted. It is for the Member States to designate the competent authorities responsible to carry out organic checks[26]. In case a Member State has conferred on customs authorities the responsibility to carry out organic checks, such authorities would be responsible for endorsing the COI.

[19] See Article 56(3)(a), of the OCR.
[20] See Article 56(4) of the OCR.
[21] See the explanatory notes for box I.10 of the CHED in Part I of Annex II to Commission Implementing Regulation (EU) 2019/1715.
[22] While this does not appear in the model CHEDs laid down in Annex II to Implementing Regulation (EU) 2019/1715, this is activated in TRACES.
[23] See Article 3(3) of Implementing Regulation (EU) 2021/2307 and Article 1 of Implementing Regulation (EU) 2019/1013.
[24] The transfer is to take place in accordance with Chapter I of Commission Delegated Regulation (EU) 2019/2123. See point 3.3.4 of this document.
[25] See Article 6(6)(b) of Delegated Regulation (EU) 2019/2123, as amended by Delegated Regulation (EU) 2021/2305.
[26] See Article 4 of the OCR.

2.7 Applicable customs procedures. Scope of provisions on special customs procedures

Article 7(1) and (2) of Delegated Regulation (EU) 2021/2306 refers to customs warehousing and inward processing. Are other customs procedures allowed?

Yes, the Union Customs Code (Regulation (EU) No 952/2013) applies to organic goods, including the provisions regarding special customs procedures. Delegated Regulation (EU) 2021/2306 establishes additional specific provisions only for customs warehouse and inward processing for organic products.

In this regard, the requirement of a first and second verification, as provided for in Articles 7(1) and (2) of Delegated Regulation (EU) 2021/2306, only applies in case the consignment is placed under the special customs procedures of customs warehousing or inward processing in order to undergo one of the preparations mentioned in points (a) and (b) of Article 7(1) second subparagraph of Delegated Regulation (EU) 2021/2306. By contrast, if the consignment is placed under customs warehousing for storage, for example, then the COI must be endorsed after one verification, as provided for in Article 6 of Delegated Regulation (EU) 2021/2306 and, for products subject to official controls at BCP, the CHED may be validated as acceptable for internal market only after the COI is endorsed[27].

2.8 Place of second verification referred to in Article 7(2) of Delegated Regulation (EU) 2021/2306

Can the verification of compliance with the rules on organic products and in conversion products (before the entry of the consignment under the procedure of customs warehouse or inward processing in order to undergo preparations as referred to in Article 7(1) of Delegated Regulation (EU) 2021/2306) take place in one Member State and the verification and endorsement of the COI after the exit of the consignment from customs warehouse or inward processing take place in a different Member State?

No. Boxes 23, 25, 29 and 30 of the COI need to be completed in the same Member State by the competent authority at the BCP or at the point of release for free circulation indicated in box 10 of the COI.

Accordingly, in case the fields relating to customs warehousing and inward processing are completed in box 23 of the COI, the competent authority at the BCP may not authorise the transfer to a CP.

2.9 Receipt of the consignment by the first consignee

Does the first consignee have to receive the consignment physically?

Yes. As indicated in the notes for the completion of the COI, box 31 needs to be completed by the first consignee at the reception of the products and after carrying out the necessary checks[28].

[27] See Article 56(5) of the OCR.
[28] Part II to Annex to Delegated Regulation (EU) 2021/2306.

2.10 Scope of certification requirements under organic rules. Warehouses and premises used for special customs procedures

Is the certification of the warehouses or premises where special customs procedures takes place required?

In accordance with Article 35(1) of the ORR, a certificate is provided by the competent authorities or, where appropriate, control authorities or control bodies to operators to certify that the activity notified in accordance with Article 34(1) of the ORR complies with that Regulation. Therefore, operators are certified, not the places where activities take place. Importers are certified operators. Importers are also responsible for ensuring the operations carried out during the special customs procedures are in accordance with the ORR.

2.11 Applicability of Chapter IV 'Sampling, analyses, tests and diagnoses' of Title II of the OCR to organic import checks

Do the rules in Chapter IV 'Sampling, analyses, tests and diagnoses' of Title II of the OCR apply when performing the analyses on organic shipments by a laboratory?

Yes, the OCR, including its Chapter IV of Tittle II, applies to official controls performed for the verification of compliance with the rules whether established at Union or Member State level, to apply Union legislation in the area of organic production and labelling of organic products (Article 1(2), point (i), of the OCR), including where those requirements are applicable to animals and goods entering the Union[29].

2.12 Reference to the COI in the customs declaration

In order for customs authorities to know whether the products are organic or not, is a reference to the COI in the customs declaration at every stage of the customs movement (i.e. also when there is an inward processing or customs warehousing) necessary?

In case of inward processing or customs warehousing carried out in accordance with Article 7(1) of Delegated Regulation (EU) 2021/2306, the reference number of the customs declaration by which the goods have been declared for the customs warehousing or inward processing procedure must be indicated by the importer in box 23 of the COI. It is equally appropriate to provide the reference of the COI in the relevant customs declaration at this particular point of the customs movement.

For the release for free circulation, the importer must report the number of the COI in the customs declaration[30].

[29] See Article 1(3) of the OCR.
[30] See Article 4(2) of Implementing Regulation (EU) 2021/2307.

2.13 How can customs automate the checks of COIs and COI extracts?

Customs authorities may retrieve COIs or COI extracts by using the interconnection between TRACES and the EU Customs Single Window Certificate Exchange System (EU CSW-CERTEX), which is a central component of the EU Single Window Environment for Customs[31]. This interconnection supports the possibility for customs to retrieve from TRACES a COI or a COI extract in a structured and human readable format (PDF), allowing to automate the verification of COI data against the data lodged in the customs declaration. Besides, EU CSW-CERTEX has the quantity management functionality, allowing customs authorities to report the usage of a COI or a COI extract. Such quantity management record is visualised in TRACES and it is available to the competent authorities and economic operators in 'PDF Quantity Management' view. This refers to an advanced print option in TRACES which allows the display of the quantity of the consignment that has been cleared by customs and the relevant details (customs document reference number, quantity cleared, quantity remaining, etc.).

While the connection to the EU CSW-CERTEX is currently optional for the Member States' customs authorities, only the quantity management records of those Member States which opted to interconnect with EU CSW-CERTEX, will be visible in TRACES. The Commission proposal for a Regulation establishing the EU Single Window Environment for Customs and amending Regulation (EU) No 952/2013[32] proposes the date in 2025 by when the Member States are required to interconnect with EU CSW-CERTEX. The proposal is expected to be adopted and published in the Official Journal by the end of 2022.

[31] https://ec.europa.eu/taxation_customs/eu-single-window-environment-customs_en.

[32] COM(2020)673.

3 Organic products and in-conversion products subject to official controls at BCPs

3.1 Categories of products subject to official controls at BCPs identified by their CN codes (positive lists)

Which categories of organic products and in-conversion products, identified by their CN codes, are subject to official controls at BCP (positive lists)?

The categories of organic products and in conversion products subject to official controls at BCP are those categories of animals and goods subject to SPS official controls listed in Article 47(1) of the OCR.

Table 1 lists some examples.

Table 1

Article	List	Comments
47(1), points (a) and (b), of the OCR	Annex to Implementing Regulation (EU) 2021/632	The lists of animals, products of animal origin, germinal products, animal by-products and derived products, composite products, and hay and straw subject to official controls at BCPs, indicating their CN codes.
47(1), point (c), of the OCR	**Part A of Annex XI** to Implementing Regulation (EU) 2019/2072	The list of plants, plant products and other objects, as well as the respective third countries of origin or dispatch, whose introduction into the Union territory requires a phytosanitary certificate, as referred to in **Article 72(1) of Regulation (EU) 2016/2031.**
	Annex XII to Implementing Regulation (EU) 2019/2072	The list of plants, plant products and other objects, whose introduction into certain protected zones from certain third countries of origin or dispatch requires a phytosanitary certificate.
47(1), points (d) and (e) of the OCR	**Annexes I and II** to Implementing Regulation (EU) 2019/1793	Annex I - Food and feed of non-animal origin from certain third countries subject to a temporary increase of official controls at BCPs and CPs, indicating their CN Codes. Annex II - Food and feed from certain third countries subject to special conditions for the entry into the Union due to contamination risk by mycotoxins, including aflatoxins, pesticide residues, pentachlorophenol and dioxins and microbiological contamination.

	Commission Implementing Decision (EU) 2011/884 Emergency measures regarding unauthorised genetically modified rice in rice products originating from China	Annex I – List of products.
	Commission Implementing Regulation (EU) 2021/1533 imposing special conditions governing the import of feed and food originating in or dispatched from Japan following the accident at the Fukushima nuclear power station and repealing Implementing Regulation (EU) 2016/6	Food and feed referred to in Article 4(1) of Implementing Regulation (EU) 2021/1533.
	Commission Implementing Regulation (EU) 2020/1158 on the conditions governing imports of food and feed originating in third countries following the accident at the Chernobyl nuclear power station	Products listed in Annex II, with reference to the relevant CN code from third countries listed in Annex I.
	Plant health emergency measures referred to in Article 47(1), point (e), of the OCR.	A non-exhaustive list of EU emergency import measures for pests is available on the European Commission webpage[33]

[33] https://ec.europa.eu/food/plants/plant-health-and-biosecurity/legislation/control-measures_en.

3.2 BCP and CP designation and listing for official controls on products intended to be placed on the market as organic products or in-conversion products

3.2.1 Designation of BCPs and registration in TRACES

Are Member States required to designate BCPs for official controls on organic products and in-conversion products?

Yes. Member States are required to designate BCPs for the purposes of performing official controls on organic products and in-conversion products subject to official controls at BCPs pursuant to Article 45(5) of the ORR[34].

In case Member States intend to use existing BCPs to perform official controls on organic products and in-conversion products, they are under the obligation to notify the Commission of such an extension of the scope of designation of BCPs to organic products and in-conversion products[35], indicating whether this entails a change in the BCP infrastructure. For that purpose, the national competent authorities are invited to use the dedicated template for BCP notification and send the completed form to sante-consult-f4@ec.europa.eu and SANTE-IMPORT-CONTROLS@ec.europa.eu. In addition, in the event that the said extension in the scope of designation of BCPs is accompanied by a change in the BCP infrastructure, in order to facilitate the evaluation by the Commission, the national competent authorities are invited to complete the relevant parts of the BCP assessment table and send the completed form document to sante-consult-f4@ec.europa.eu.

Member States are required to ensure that BCPs comply with minimum requirements. Among others, in case the competent authority responsible for SPS official controls on animals and goods referred to in Article 47(1) of the OCR is not the competent authority for the performance of checks on organic products and in-conversion products, Member States need to ensure that the concerned BCPs have a sufficient number of suitably qualified staff to carry out organic checks, in accordance with Article 64(3), point (a), of the OCR. Moreover, Member States should ensure that the training programmes for BCP staff are updated with the specific import requirements for animals and goods intended to be placed on the Union market as organic or in-conversion products.

Member States are also required to ensure appropriate arrangements are in place for the proper handling of different categories of animals and goods and to prevent risks from, for example, cross-contamination[36]. As regards the requirement of a proper handling of different categories of animals and goods, Member States are to ensure that notwithstanding the applicable minimum requirements as regards sharing of BCP facilities, the facilities used for both organic and non-organic (conventional) products are managed in such a way as to ensure identification of lots and to avoid any mixing or contamination of organic and in-conversion products with products or substances not in compliance with the organic production rules. Organic and in-conversion products must be clearly identifiable at all times. As regards animals, Member States should ensure that they are kept, cared for or treated under appropriate conditions and given appropriate organic feeding in accordance with point 1.4.1(b) of part II of Annex II to the ORR when detained[37].

[34] See Article 59(1) of the OCR.
[35] See Article 59(2) of the OCR.
[36] See Article 64(3), point (h) of the OCR.
[37] See also Article 66(1), second subparagraph, of the OCR.

In accordance with Article 45(5) of the ORR, which refers to Article 47(1) of the OCR, compliance with the conditions and measures for the import of organic products and in-conversion products shall be ascertained at BCPs. All organic checks need therefore to take place in the BCP of first arrival together with the SPS official controls. Consequently there is a unique BCP of first arrival and it is not feasible to separate SPS official controls from organic checks by designating different BCPs. For that reason, the designation of a BCP only for organic checks is not possible. By contrast, it is possible to designate a BCP for official controls on only one or more of the categories of animals and goods referred to in Article 47(1) of the OCR that are organic products or in-conversion products.

After the Commission notifies the Member State that it may proceed with the designation of the BCP for organic checks[38], the Member State should transmit the list with designated BCPs to the Commission services responsible for TRACES[39]. These services will assign the organic domain[40] to that/those BCPs in TRACES. Accordingly, when a BCP has the organic domain in TRACES, this will enable competent authority users connected to that BCP to view and endorse COIs for organic consignments falling under that BCP's responsibility.

3.2.2 Designation of CPs other than BCP and registration in TRACES

Are Member States required to designate CPs for official controls on organic products and in-conversion products?

Member States may designate CPs other than BCPs[41], for the purposes of performing SPS and organic identity and physical checks on certain organic products and in-conversion products, in accordance with Delegated Regulation (EU) 2019/2123[42].

In case Member States intend to use existing CPs for the purposes of performing the organic identity and physical checks, in accordance with Delegated Regulation (EU) 2019/2123, they are required to include organic and in-conversion products in the scope of designation of those CPs[43].

Since CPs are managed directly by the national competent authorities, Member States would also need to proceed with the relevant (manual) adaptations in TRACES to assign the appropriate authorities having the organic domain in TRACES to their respective CPs. This will enable CPs whose control authorities have the organic domain in TRACES to be selected to carry out the organic checks.

3.2.3 Listing of BCPs and CPs other than BCPs

How should the BCP and CP lists be amended to reflect that organic products and in-conversion products are included in the scope of designation?

It results from Articles 53(2) and 60(1), point (d), of the OCR that Member States must include in the list of BCPs and CPs, for each BCP and CP, the categories of animals and goods referred to in Article 47(1) of that Regulation which are included in the scope of its designation. Pursuant to Article 7 of Implementing Regulation (EU) 2019/1014, Member States are required to use the format set out in

[38] In accordance with Article 59(3) to (5) of the OCR.
[39] See point 3.2.3 of this document.
[40] The authority domains are configured and managed in TRACES and are assigned to authorities (e.g. BCPs, central/regional/local authorities) to determine their area of competence (i.e. the type(s) of documents/official controls that are to be managed by each authority in TRACES).
[41] Referred to in Article 53(1), point (a), of the OCR and in Delegated Regulation (EU) 2019/2123.
[42] See Article 53(2) of the OCR, in conjunction with Article 59(1) of the OCR.
[43] See Article 53(2) of the OCR, in conjunction with Article 59(1) of the OCR.

Annex I to that Regulation for the said BCP and CP lists and to use the abbreviations and the specifications set out in Annex II to Implementing Regulation (EU) 2019/1014.

Currently, there are no abbreviations laid down in Annex II to Implementing Regulation (EU) 2019/1014 for organic products and in-conversion products. However, column 7 of the format for the lists of BCPs and CPs allows Member States to include additional specifications concerning the scope of designation and the specification '(1)' allows Member States to refer to such additional specifications in column 7.

In light of the above, for each BCP and CP designated for the performance of official controls on organic products and in-conversion products, Member States should include in column 7 of the BCP and CP lists additional specifications to indicate that such products are included in the scope of designation. For that purpose, in order to indicate the categories of organic or in-conversion products included in the scope of designation, they should use the abbreviations laid down in Annex II to Implementing Regulation (EU) 2019/1014 (for example, including organic and in-conversion PAO-HC and PNAO-HC).

The BCP lists should be communicated to the Commission services responsible for TRACES support at sante-traces@ec.europa.eu in order to allow the concerned BCPs to be listed in TRACES. For the CPs, Member States will need to do the manual adaptations in TRACES[44].

3.3 Place of official controls for organic products and in-conversion products subject to official controls at BCPs

3.3.1 Official controls at distance from the BCP

What is meant by official controls carried out at distance from the BCP?

There are two cases to be considered.

As regards goods subject to official controls at BCPs, Article 53(1), point (e), of the OCR empowers the Commission to adopt delegated acts establishing the cases where and the conditions under which documentary checks may be performed at distance from a BCP. However, this possibility is limited to consignments of plants, plant products and other objects referred to in Article 47(1), point (c), of that Regulation. In addition, the consignment needs to be physically in the BCP despite the fact that documentary checks are carried out at distance. The specific rules governing those official controls are laid down in Chapter II of Delegated Regulation (EU) 2019/2123.

As regards goods subject to official controls at BCPs other than plants, plant products and other objects referred to in Article 47(1), point (c), of the OCR[45] the consignment also needs to be physically present at the BCP, as provided for in Article 47(5) of the OCR. In accordance with Article 49(1) of the OCR, the competent authority shall perform official controls which include documentary checks at the BCP, using all available expertise at its disposal.

[44] See point 3.2.2 of this document.
[45] See Chapter II of Delegated Regulation (EU) 2019/2123.

3.3.2 Place of additional controls on products originating in specific third countries

Can the additional controls on organic products originating in certain third countries be carried out outside the BCPs?

The Commission, together with the Member States, establishes the categories of products originating in specific third countries that must be subject to additional controls in the third country in accordance with Article 8 of Delegated Regulation (EU) 2021/1698 and also at the entry into the Union in accordance with Article 6(2) of Delegated Regulation (EU) 2021/2306 [46]. If the product falls under the categories of products subject to official controls at the BCP or CP, additional controls will be carried out at the BCP or CP. For any other product exempted from official controls at the BCP, the additional controls will take place at the point of release for free circulation referred to in Article 4 of the Delegated Regulation (EU) 2021/2305.

3.3.3 Application of rules on onward transportation to organic food and feed of non-animal origin

Why is there no reference in Delegated Regulation (EU) 2019/2124, as amended by Delegated Regulation (EU) 2021/2305, to organic or in-conversion food and feed of non-animal origin in Article 47(1), points (d) to (f), of the OCR, which is subject to official controls at BCPs by virtue of Article 45(5) of the ORR?

It is not necessary to include such a reference, given that Delegated Regulation (EU) 2019/2124 already applies to food and feed of non-animal origin subject to official controls at BCPs, including where such food and feed is organic or is an in-conversion product subject to official controls at BCP pursuant to Article 45(5) of the ORR. This results from Article 1(1), point (a)(iii), of Delegated Regulation 2019/2124, which states that provisions on onward transportation laid down in that Regulation apply to:

> '(iii)food and feed of non-animal origin subject to the measures provided for by the acts referred to in points (d), (e) and (f) of Article 47(1) of Regulation (EU) 2017/625;'.

In relation to this, organic and in-conversion products referred to in Article 45(5) of the ORR fall within the categories of animals and goods referred to in Article 47(1), point (f), of the OCR [47].

3.3.4 Procedure for transfer to CPs for identity and physical checks, including for organic checks in the form of identity and physical checks

Can you describe in detail the process of transfer to CPs other than BCPs for identity and physical checks, in accordance with Delegated Regulation (EU) 2019/2123?

Delegated Regulation (EU) 2019/2123, as amended by Delegated Regulation (EU) 2021/2305, covers consignments of food and feed of non-animal origin and of plants, plant products and other objects that are intended to be placed on the Union market as organic products or in-conversion products and that are subject to official controls at BCP by virtue of Article 45(5) of the ORR.

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[46] https://ec.europa.eu/info/food-farming-fisheries/farming/organic-farming/trade_en.
[47] See recital 2 of Delegated Regulation (EU) 2021/2305.

The conditions for the performance of **organic checks in the form of identity and physical checks at CPs** are laid down in Article 2a of Delegated Regulation (EU) 2019/2123, as amended by Delegated Regulation (EU) 2021/2305. In particular, the competent authority at the BCP responsible for organic checks can authorise such a transfer only if the competent authorities of the BCP responsible for SPS official controls have recorded in the CHED their authorisation to transfer the consignment to a CP for food and feed safety checks in the form of identity and physical checks or for phytosanitary checks in the form of identity and physical checks[48].

The workflow for the authorisation of transfer to a CP for organic identity and physical checks takes place via the COI (boxes 21, 22, 25, 26, 27 and 29 of the model COI in the Annex to Delegated Regulation (EU) 2021/2306). By contrast, the workflow for the authorisation of transfer to a CP for food and feed safety identity and physical checks[49] or for phytosanitary identity and physical checks[50] takes place via the CHED.

In case the transfer to a CP is authorised both in the CHED and in the COI, the organic identity and physical checks and the SPS identity and physical checks must be performed at the same CP, which has to be designated for the category of goods in the consignment and to be located in the Member State where the consignment is to be released for free circulation[51].

In relation to the notification of transfer from the competent authority responsible for organic checks at the BCP to the authority responsible for organic checks at the CP[52], there is no specific notification generated automatically in TRACES when box 27 in the COI is completed. However, when a transfer to a CP is authorised (a CP is selected in box 27 of the COI), the competent authorities that appear as responsible authorities for that CP will be able to see the COI through their dashboard (where all COIs in their area of responsibility will be displayed).

In case the consignment is selected by the competent authorities of the BCP both for food and feed safety checks or phytosanitary checks in the form of identity and physical checks and for organic checks in the form of identity and physical checks, the competent authorities of the BCP are to authorise the transfer in relation to all those checks[53] (so called 'full parallelism').

In relation to consignments of food and feed of non-animal origin or of plants, plant products and other objects intended to be placed on the Union market as organic or in-conversion products, the competent authority at the BCP responsible for SPS official controls may authorise the transfer to a CP for identity and physical checks in order to verify compliance with **sanitary or phytosanitary rules** referred to in Article 1(2) of the OCR, as appropriate. In this case, the following applies (see also dedicated decision tree in Annex to this document):

- the competent authority at the BCP responsible for documentary organic checks carries out those checks and completes box 25 of the COI in relation to the outcome of those checks. It must also indicate in that box whether the consignment is selected for identity and physical checks;

[48] Article 2a(1)(d) of Delegated Regulation (EU) 2019/2123, as amended by Delegated Regulation (EU) 2021/2305.
[49] Article 1(a) of Delegated Regulation (EU) 2019/2123 defines 'food and feed safety checks' as 'official controls performed for the verification of compliance with the rules referred to in Article 1(2), points (a) and (c), of Regulation (EU) 2017/625'.
[50] Article 1(a) of Delegated Regulation (EU) 2019/2123 defines 'phytosanitary checks' as 'official controls performed for the verification of compliance with the rules referred to in Article 1(2), point (g), of Regulation (EU) 2017/625'.
[51] Article 3(3)(b) of Delegated Regulation (EU) 2019/2123 and Article 4(4), point (b), of Delegated Regulation (EU) 2019/2123, as amended by Delegated Regulation (EU) 2021/2305.
[52] See Article 2a(1), point (e), of Delegated Regulation (EU) 2019/2123, as amended by Delegated Regulation (EU) 2021/2305.
[53] Article 3(3)(b) and Article 4(4), point (b), of Delegated Regulation (EU) 2019/2123, as amended by Delegated Regulation (EU) 2021/2305.

- in parallel, in case the consignment has been selected at the BCP for SPS identity and physical checks (boxes II.4, II.5 and possibly II.6 of the CHED are ticked) and the competent authority at the BCP responsible for SPS official controls intends to authorise the transfer to CP for SPS identity and physical checks, that competent authority authorises the transfer of the consignment to a CP, unless:

    - ❖ in box 30 of the COI the checkbox 'the consignment cannot be released for free circulation' had been ticked[54]. This also applies in the case where it results from box 30 in the COI that part of the consignment cannot be released for free circulation (neither as organic, nor as conventional)[55]. In case the consignment is not selected for organic identity and physical checks in the COI, the competent authority responsible for SPS official controls must wait for the decision to be recorded in box 30 in the COI. By contrast, if the consignment is selected for organic identity and physical checks in the COI, the competent authority responsible for SPS official controls can proceed with the authorisation of transfer in the CHED without waiting for box 30 in the COI to be completed. In addition, the competent authority responsible for SPS official controls can authorise the transfer to a CP also in case the outcome of documentary checks in box 25 is not satisfactory provided that the decision in box 30 of the COI is that the consignment can be released for free circulation as non-organic. In this case, the transfer to CP for food and feed safety or phytosanitary identity and physical checks should still be possible. The CP does not need to be designated for organic checks. The transfer to CP takes place in accordance with the rules and procedures laid down in Chapter I of Delegated Regulation (EU) 2019/2123; or

    - ❖ The box on special customs procedures is ticked in the COI[56];

- In case the operator has not requested the transfer to a CP, the competent authority at the BCP responsible for SPS official controls may decide such transfer provided that the operator does not object to this decision[57];
- upon authorisation of transfer to CP in box II.9 and II.18 of the CHED, the operator responsible for the consignment must issue a separate (subsequent) CHED in line with Article 2(1), point (d), of Delegated Regulation (EU) 2019/2123. When issuing this subsequent CHED, the operator must select the product type 'Organic' in box I.31 of this CHED and insert a link to the COI in this subsequent CHED; and
- after the identity and physical checks have been carried out at the CP, the separate (subsequent) CHED is finalised by the competent authority at the CP responsible for SPS official controls. The CHED may be finalised as acceptable for the internal market only after the consultation of the COI (via the link to the COI available in the CHED)[58].

[54] Article 2(4) of Delegated Regulation (EU) 2019/2123, as amended by Delegated Regulation (EU) 2021/2305.
[55] This is the case where the decision recorded in box 30 of the COI is that part of the consignment can be released for free circulation and the organic competent authority has indicated under 'additional information' in box 30 of the COI that the other part of the consignment cannot be released (neither as organic, nor as conventional). In relation to this, the competent authorities are required to provide the relevant information under 'additional information' in box 30 of the COI if the option "Part of the consignment can be released for free circulation" has been selected (see the notes for the completion of box 30 of the COI in part II of the Annex to Delegated Regulation (EU) 2021/2306).
[56] See point 2.8.
[57] Article 4(2), point (b), of Delegated Regulation (EU) 2019/2123.
[58] See dedicated decision tree in Annex to this Document for finalisation of CHED as acceptable for the internal market – Link to COI.

***Example** – decision of the **phytosanitary** authority at the BCP to authorise transfer to CP for plant health checks (**workflow in the CHED**).*

A consignment of citrus fruit from Mexico intended to be placed on the EU market as organic (product type 'Organic' is selected in box I.31 of the CHED and a link to the COI is inserted in the CHED) is presented for official controls at the BCP of first arrival in Member State 1. The operator responsible for the consignment requests the transfer of the consignment to a CP for plant health checks, in Member State 2, in case the consignment is selected for such checks, by completing box I.20 in part I of the CHED-PP in TRACES. The following applies:

- *the BCP of first arrival must be indicated in box 10 of the COI[59];*
- *the CP where plant health checks are to be carried out must be indicated by the operator responsible for the consignment in box I.20 of the CHED-PP, in TRACES, in the part dedicated to 'details of controlled destinations for I.20'[60];*
- *the competent authority at the BCP responsible for organic checks carries out the organic documentary checks and records the outcome of such checks in the relevant part in box 25 of the COI. It also indicates in box 25 in the COI whether or not the consignment is selected for identity and physical checks. Documentary organic checks are carried out at the BCP;*
- *the competent authority at the BCP responsible for phytosanitary checks carries out documentary checks and if these checks are satisfactory it may authorise the transfer of the consignment to a CP for plant health checks in a Member State 2[61], by completing boxes II.9 and II.18 in the first CHED-PP in TRACES, provided that the consignment has been selected for phytosanitary identity and physical checks at the BCP. In case the operator has not requested the transfer to a CP, the competent authority at the BCP may decide such a transfer, provided that the operator does not object[62]. However, before authorising the transfer via the CHED, the competent authority must check the COI (via the link available in the CHED) and refuse the transfer if in box 30 of the COI the checkbox 'the consignment cannot be released for free circulation' has been ticked. This also applies in the case where it results from box 30 in the COI that part of the consignment cannot be released (neither as organic, nor as conventional)[63]. This also applies in case the box 23 in the COI on special customs procedures is ticked[64];*
- *in case the consignment is selected for organic identity and physical checks, the competent authority at the BCP responsible for organic checks must authorise transfer to the same CP as the one indicated in the CHED (see dedicated decision tree for the authority responsible for organic checks in Annex to this document).*
- *upon authorisation of transfer in the CHED, the operator responsible for the consignment must issue a separate (subsequent) CHED referred to in Article 2(1), point (d), of Delegated Regulation (EU) 2019/2123, select the product type 'Organic' in box I.31 in that CHED and insert a link to the COI in that subsequent CHED; and*
- *the competent authority at the CP responsible for phytosanitary checks finalises the separate (subsequent) CHED referred to in article 2(1), point (d), of Delegated Regulation (EU) 2019/2123. This CHED may be finalised as acceptable for the internal market only after the*

[59] See Article 3(1), point (a), of Implementing Regulation (EU) 2021/2307 and the Notes of completion of the COI in part II of the Annex to Delegated Regulation (EU) 2021/2306.
[60] See Article 2(1)(a) of Delegated Regulation (EU) 2019/2123 and Notes for the completion of the CHED, in Part 1 of Annex II to Implementing Regulation (EU) 2019/1715.
[61] Except in the case referred to in Article 2(3) of Delegated Regulation (EU) 2019/2123, when a Member State uses an existing national system instead of TRACES to record results of official controls. In this case, the transfer can only take place in the same Member State.
[62] Article 4(2)(b) of Delegated Regulation (EU) 2019/2123.
[63] This is the case where the decision recorded in box 30 of the COI is that part of the consignment can be released for free circulation and the organic competent authority has indicated under 'additional information' in box 30 of the COI that the other part of the consignment cannot be released (neither as organic, nor as conventional). In relation to this, the competent authorities are required to provide the relevant information under 'additional information' in box 30 of the COI if the option "Part of the consignment can be released for free circulation" has been selected (see the notes for the completion of box 30 of the COI in part II of the Annex to Delegated Regulation (EU) 2021/2306).
[64] See point 2.8 of this document.

consultation of the endorsed COI (via the link to the COI available in this subsequent CHED).

Example

For the workflow for the competent authority at the BCP responsible for **organic checks** in relation to the authorisation of transfer to CP in the COI for organic identity and physical checks, **see dedicated decision tree in Annex to this document.**

On this point, see also:

- the Decision tree for the competent authority at the BCP responsible for SPS official controls concerning the authorisation of transfer to CP via the CHED for SPS identity and physical checks in the Annex to this Document; and
- the Decision tree for the authority at the BCP responsible for organic checks for the authorisation of transfer to CP in the COI for organic identity and physical checks in the Annex to this Document.

3.3.5 Procedure for onward transportation to the place of final destination pending availability of results of laboratory analyses

Can you describe in detail the process related to onward transportation to the place of final destination, pending the availability of results of physical checks, in accordance with Delegated Regulation (EU) 2019/2124?

Delegated Regulation (EU) 2019/2124 covers plants, plant products and other objects and food and feed of non-animal origin subject to official controls at BCP, including where they are intended to be placed on the Union market as organic products or in-conversion products. For example, the following food and feed of non-animal origin intended to be placed on the Union market as organic or in-conversion products may be concerned by such transfer to onward transportation facilities: rice and rice products from China, subject to Implementing Decision (EU) 2011/884; products listed in Annexes I and II to Implementing Regulation (EU) 2019/1793.

Delegated Regulation (EU) 2019/2124 does not apply to products of animal origin.

The cases where, and the conditions under which, onward transportation can be authorised, including the procedures to be followed, are laid down in Chapter II, Articles 3 to 10, of Delegated Regulation (EU) 2019/2124.

'Onward transportation' is defined in Article 2(4) of Delegated Regulation (EU) 2019/2124 as "the movement of consignments of goods from a border control post to their place of final destination in the Union pending the availability of the results of laboratory analyses and tests".

The conditions for the authorisation of the onward transportation are established in Article 4 of Delegated Regulation (EU) 2019/2124. The competent authorities of the BCP of introduction into the Union may authorise the onward transportation of consignments provided that the following conditions are fulfilled: the outcome of the documentary checks, identity checks and physical checks, other than of the laboratory analyses and tests carried out as part of those physical checks, performed at the BCP is satisfactory (a); the operator responsible for the consignment has requested the onward transportation (b).

The operator responsible for the consignment may request onward transportation in case the consignment is selected at the BCP for laboratory tests. In the case of consignments of organic and in-conversion products, the following cases of onward transportation may happen:

- pending the results of SPS laboratory tests only; in this case the consignment has been selected for SPS laboratory tests only (box II.6 of the CHED is ticked) and not for organic laboratory tests (the relevant part on laboratory test in box 29 of the COI is not ticked); or
- pending the results of **both** SPS and organic laboratory tests; in this case the consignment has been selected for **both** SPS laboratory tests and for organic laboratory tests. The workflow for the authorisation of onward transportation takes place via the CHED and the competent authorities at the BCP responsible for SPS official controls and organic checks respectively must collaborate for that purpose.

By contrast, it is not possible to authorise onward transportation via the CHED in TRACES in case the consignment has been selected only for organic laboratory tests (as opposed to SPS laboratory tests). Indeed, the onward transportation must be authorised in the CHED by the competent authority, and such authorisation can only take place if the boxes II.4 to II.6 in the CHED are ticked.

In case the competent authority at the BCP authorises onward transportation in the cases described above, the transport to the onward transportation facilities should take place **before** the endorsement of the COI and/or the finalisation of the CHED. The endorsement of the COI can only take place when the results of the laboratory analyses in the framework of organic checks are available.

When the competent authorities at the BCP authorise onward transportation, the operator responsible for the consignment must issue a separate CHED as provided for in Article 5 of Delegated Regulation (EU) 2019/2124. The operator must select the product type 'Organic' in box I.31 of this separate (subsequent) CHED and insert the link to the COI in that CHED.

The consignment must be transported to 'onward transportation facilities' designated in accordance with Article 9 of Delegated Regulation (EU) 2019/2124 and registered in TRACES in accordance with Article 10 of that Regulation. This means, among others, that Member States may designate onward transportation facilities for consignments of one or more categories of goods as referred to in Article 1(1), point (a), of Delegated Regulation (EU) 2019/2124 provided that they are customs warehouses or temporary storage facilities as referred to in Articles 240(1) and 147(1) of Regulation (EU) No 952/2013, respectively[65].

'Onward transportation facility' is defined in Article 2(5) of Delegated Regulation (EU)2019/2124 as 'the facility at the place of final destination in the Union or at a place situated under the remit of the same competent authority as the place of final destination, designated by the Member State of destination for the storage of consignments of goods subject to onward transportation prior to the release for free circulation of such consignments'.

For organic products and in-conversion products, only the premises of the first consignee may be designated as onward transportation facilities, since onward transportation allows for the movement to the place of final destination and the first consignee[66] receives the consignment for further preparation and/or marketing.

[65] Article 9(1), point (a), of Delegated Regulation (EU) 2019/2124.
[66] First consignee' means a natural or legal person established in the Union and subject to the control system referred to in Regulation (EU) 2018/848 to whom the consignment is delivered by the importer after the release for free circulation and who receives it for further preparation and/or marketing (Article 2(3) of Implementing Regulation (EU) 2021/2307).

The conditions for transportation and storage of consignments subject to onward transportation are laid down in Article 6 of Delegated Regulation (EU) 2019/2124. In particular, the consignment must not leave the onward transportation facility pending the decision on the consignment being taken by the competent authorities of the BCP and recorded in the CHED in accordance with Article 55 of the OCR[67]. The CHED may be finalised as 'acceptable for internal market' only after the consultation of the endorsed COI (via the link to the COI available in the CHED).

Article 7 of Delegated Regulation (EU) 2019/2124 establishes the operations to be carried out by the competent authorities of the BCP after authorisation of onward transportation. In particular, upon finalisation of the separate CHED referred to in Article 5 of Delegated Regulation (EU) 2019/2124, and in accordance with Article 56(5) of the OCR, the competent authorities of the BCP of introduction into the Union must immediately notify the competent authorities at the place of final destination (first consignee) through TRACES[68]. The endorsement of the COI must take place before the finalisation of the separate CHED as 'acceptable for internal market' and is to be carried out by the competent authority at the BCP responsible for recording a decision in the COI.

Article 8 of Delegated Regulation 2019/2124 establishes the operations to be carried out by the competent authorities at the place of final destination (first consignee). In particular, the competent authorities at the place of final destination must confirm the arrival of the consignment at the onward transportation facility by completing in TRACES the Part III of the CHED referred to in Article 3 of Delegated Regulation (EU) 2019/2124 (initial CHED, as opposed to the subsequent CHED referred to in Article 5 of that Regulation). Furthermore, the competent authorities at the place of final destination must place consignments that do not comply with the rules referred to in Article 1(2) of the OCR under official detention in accordance with Article 66(1) of the OCR, and must take all necessary steps to apply the measures ordered by the competent authorities of the BCP in accordance with Article 66(3) and 66(4) of the OCR[69].

The release for free circulation can take place only once the CHED has been finalised as 'acceptable for internal market', in accordance with Article 57(2), point (b), of the OCR and the COI indicates that the consignment can be released for free circulation.

3.4 The link between the COI and the CHED

3.4.1 Designation of different competent authorities responsible for SPS official controls and organic checks

In several Member States, the authorities competent to carry out organic checks and those competent for SPS official controls are different. Do the rules on import controls of organic products at BCP of first arrival, applicable as of 1 January 2022, affect that national division of responsibilities?

The rules on import controls on products intended to be placed on the EU market as organic or in-conversion products applicable as of 1 January 2022[70] do not affect either the possibility for Member States to designate different competent authorities responsible respectively for carrying out organic checks and SPS official controls, or the possibility that such different authorities carry out those checks at BCPs.

[67] See Article 6(1), point (c), of Delegated Regulation (EU) 2019/2124.
[68] See Article 7(2) of Delegated Regulation (EU) 2019/2124.
[69] See Article 8(2) of Delegated Regulation (EU) 2019/2124.
[70] Delegated Regulation (EU) 2021/2305; Delegated Regulation (EU) 2021/2306; Implementing Regulation (EU) 2021/2307.

The COI is to be endorsed by the competent authority in charge of organic checks at the BCP or CP, as appropriate.

Furthermore, Article 6(5) of Delegated Regulation (EU) 2021/2306 states that the decision on consignments taken in accordance with Article 55 of the OCR shall refer to one of the indications referred to in Article 6(3), first subparagraph, of Delegated Regulation (EU) 2021/2306. For this purpose, the link to the COI will be available in the CHED and in the case where based on the results of the SPS official controls, the CHED can be finalised as 'acceptable for internal market', the SPS inspector would need to take into account the decision recorded in box 30 of the COI via that link before finalising the CHED[71].

3.4.2 Staff competent to carry out sampling for analysis and to endorse the COI

Does the COI need to be endorsed by an official veterinarian or a plant health inspector? Does the sampling for the purpose of organic checks need to be carried out by an official veterinarian or an official plant health inspector?

No. That being said, an official veterinarian or an official plant health officer must take a decision on consignments of such products, in accordance with Articles 55 (1) and (2) of the OCR. To that effect, the official veterinarian or the official plant health officer may finalise the CHED as 'acceptable for internal market' only after he/she has taken into account the decision on the consignment recorded in box 30 of the COI[72].

3.4.3 Possibility for authorities at the BCPs responsible for SPS official controls and for organic checks to act independently, including in TRACES

Can the competent authorities at the BCP responsible, respectively, for organic checks and SPS official controls operate independently? Can each of them be designated separately as BCP for its field of competence?

Yes, these competent authorities can operate independently. At the same time, they are required to exchange information in case they detect non-compliance in relation to the same consignment or other relevant information to the organic status[73].

Accordingly, TRACES allows the competent authorities at the BCP responsible for organic checks and for SPS official controls to act independently as regards the completion and signature of the COI and CHED. TRACES provides a read-only access to COI via the CHED to authorities responsible for SPS official controls and vice versa to CHED to authorities responsible for organic checks so that it is easier for them to see the COIs and CHEDs.

After the Commission has informed the Member State that it can proceed with the designation of the BCPs for organic checks, the Member State must transmit to the Commission services responsible for TRACES the list of BCPs designated for organic checks and these services will assign the organic domain[74] to that/those BCPs.

[71] See also point 3.4.4. in this document.
[72] See also points 3.4.1. of this document, on the division of responsibilities and point 3.4.4 of this document on the link COI-CHED.
[73] See Article 6(5) of Delegated Regulation (EU) 2021/2306.
[74] See point 3.2.1 of this document.

3.4.4 Workflow to finalize a CHED linked to a COI

What is the workflow to finalize a CHED linked to a COI?

- The competent authority responsible for SPS and organic checks receives prior notification of the arrival of the consignment via the CHED and the COI;
- In case the operator intends to place the product on the Union market as organic or in-conversion, it must select the product type 'Organic' made available in TRACES in box I.31 of the CHED. In such a case, the operator must also insert the link to the COI in the CHED. In case a consignment is subject to both a CHED-D and a CHED-PP (e.g. organic sweet peppers (*Capsicum annuum*) from the Dominican Republic), the aforementioned applies in respect of both CHED-D and CHED-PP;

    - ❖ in case of consignments transferred to CPs other than BCPs for identity and physical checks to verify compliance with SPS rules, a separate CHED must be submitted by the operator[75]. The operator responsible for the consignment must select the product type 'Organic' in box I.31 of that separate (subsequent) CHED and insert a link to the COI in that separate (subsequent) CHED;
    - ❖ in case of consignments transferred to the premises of the first consignee designated as onward transportation facility, a separate CHED must be submitted[76]. The operator responsible for the consignment must select the product type 'Organic' in box I.31 of that separate (subsequent) CHED and insert a link to the COI in that separate (subsequent) CHED;

- the consignment is presented for organic checks and SPS official controls at the BCP of first arrival into the Union;
- the competent authority responsible for organic checks carries out those checks in accordance with Article 6 of Delegated Regulation (EU) 2021/2306 and endorses the COI (the decision on the consignment is recorded in box 30 in the COI);
- in parallel, the competent authority responsible for SPS official controls carries out those checks and records the outcome of those checks in part II of the CHED;
- in case the results of the SPS official controls are not satisfactory, the CHED must be finalised as 'not acceptable' for the internal market;

The finalisation of part II of the CHED as 'acceptable for internal market' is blocked in TRACES if one of the following applies:

- the product type 'Organic' is selected in box I.31 in the CHED, but the operator has not inserted a link to the COI in that CHED; or
- the operator has inserted a link to the COI in that CHED, but the SPS inspector has not checked the tick-box in part II of the CHED: 'I confirm that I have consulted and verified the outcome of related official controls on [*COI reference number*]'; or
- the SPS inspector has ticked the box in part II of the CHED: 'I confirm that I have consulted and verified the outcome of related official controls on [*COI*

[75] In accordance with Article 2(1), point (d), of Delegated Regulation (EU) 2019/2123.
[76] In accordance with Article 5(a) of Delegated Regulation (EU) 2019/2124.

reference number]', but the decision recorded in box 30 of the COI does not allow the finalisation of the CHED as 'acceptable for internal market'[77].

- For the purposes of ticking the box 'I confirm that I have consulted and verified the outcome of related official controls on [*COI reference number*]', as described above, the authority responsible for SPS official controls must access the link to the COI that appears in the CHED in TRACES and visualise the decision on the consignment recorded in box 30 of the COI[78];
- The following applies upon consultation by the SPS inspector of the decision recorded in box 30 of the COI[79]:

  - ❖ in case the decision recorded in box 30 of the COI is that the consignment can be released for free circulation (as organic, in-conversion or conventional), but the results of SPS official controls are not satisfactory, the CHED must be finalised as 'Not acceptable' (box II. 16 of the CHED)[80]. This decision must be notified without delay to the competent authority responsible for endorsing the COI in TRACES, in order to update the COI[81];
  - ❖ in case the decision recorded in box 30 of the COI is that the consignment can be released for free circulation (as organic, in-conversion or conventional) and if the results of the SPS official controls are satisfactory, box II.12 ('Acceptable for internal market') of the CHED must be completed;
  - ❖ in case the decision recorded in box 30 of the COI is that the consignment cannot be released for free circulation (neither as organic, nor as conventional), this decision is to be notified without delay in TRACES to the relevant competent authority responsible for SPS official controls and finalisation of the CHED, together with the reasons thereof[82]. The finalisation of the CHED as 'acceptable for the internal market' is blocked in TRACES.
  - ❖ In case the decision recorded in box 30 of the COI is that part of the consignment can be released for free circulation, the finalisation of the CHED as 'acceptable for internal market' is possible in TRACES. However, if it results from box 30 of the COI that part of the consignment cannot be released for free circulation (neither as organic, nor as conventional)[83], the CHED must be finalised as 'not acceptable' for internal market[84] .

On this point, see also the dedicated Decision tree in the Annex to this document.

[77] This is the case where the decision in box 30 of the COI is that the consignment cannot be released for free circulation. This is also the case where the decision recorded in box 30 of the COI is that part of the consignment can be released for free circulation and the organic competent authority has indicated under 'additional information' in box 30 of the COI that the other part of the consignment cannot be released (neither as organic, nor as conventional). In relation to this, the competent authorities are required to provide the relevant information under 'additional information' in box 30 of the COI if the option "Part of the consignment can be released for free circulation" has been selected (see the notes for the completion of box 30 of the COI in part II of the Annex to Delegated Regulation (EU) 2021/2306).

[78] This is implemented in TRACES NT, no change to the CHED formats in Annex II to Implementing Regulation (EU) 2019/1715.

[79] In accordance with Article 56(5) of the OCR.

[80] The CHED must be finalised at 'not acceptable' for internal market in all cases where the results of the SPS official controls are not satisfactory, independently of the decision recorded in box 30 of the COI.

[81] See Article 6(5), third subparagraph, of Delegated Regulation (EU) 2021/2306.

[82] See Article 6(5), second subparagraph, of Delegated Regulation (EU) 2021/2306.

[83] This is the case where the decision recorded in box 30 of the COI is that part of the consignment can be released for free circulation and the organic competent authority has indicated under 'additional information' in box 30 of the COI that the other part of the consignment cannot be released (neither as organic, nor as conventional). In relation to this, the competent authorities are required to provide the relevant information under 'additional information' in box 30 of the COI if the option "Part of the consignment can be released for free circulation" has been selected (see the notes for the completion of box 30 of the COI in part II of the Annex to Delegated Regulation (EU) 2021/2306).

[84] See CHED workflow if box 30 of the COI records 'part of the consignment can be released for free circulation' in point 3.4.5 of this document.

3.4.5 CHED workflow if box 30 of the COI records 'part of the consignment can be released for free circulation'

In case the decision recorded in box 30 in the COI is that 'part of the consignment can be released for free circulation', how is this reflected in the CHED and what is the procedure to be followed?

Different situations must be distinguished:

1/ the whole consignment can be released for free circulation but in part as organic or in-conversion products and in part as non-organic (conventional) products (case 1); or

2/ only part of the consignment can be released for free circulation whereas the other part cannot be released (neither as organic, nor as conventional products) (case 2).

In case 1, the competent authority responsible for SPS official controls will finalise the CHED as 'acceptable for internal market'. There are two situations[85]:

- in case the consignment is split at the BCP, the operator responsible for the consignment shall submit, through TRACES, a CHED for each part of the split consignment[86]. The competent authority at the BCP will finalise the CHED for the individual parts of the split consignment with the decision 'acceptable for internal market' for each part of the split consignment[87]. An extract of the COI must be issued for each part of the split consignment[88]. The link to the COI extract needs to be provided in the separated (subsequent) CHED for each individual part of the consignment by the operator[89].
- in case the consignment is split after leaving the BCP and before being released for free circulation, Article 6 of Delegated Regulation (EU) 2019/1602 applies and the operator responsible for the consignment must ensure that a copy, on paper or in electronic form, of the CHED accompanies each part of the split consignment until it is released for free circulation. An extract of the COI must be endorsed for each part of the split consignment[90].

In case 2, the decision in the COI is that only part of the consignment can be released for free circulation (whether as organic or as non-organic) and it results from box 30 of the COI that part of the consignment cannot be released for free circulation (neither as organic, nor as conventional)[91]. The competent authority responsible for SPS official controls at the BCP will finalise the CHED as 'Not acceptable' for the internal market and may decide to reject only part of the consignment, in accordance with Article 66(4) of the OCR. The provisions of Article 5(2) of Delegated Regulation (EU) 2019/1602 apply, including, but not limited to:

- upon finalisation of the CHED for the entire consignment, the operator responsible for the consignment must submit a CHED for each part of the split consignment and declare therein the quantity, the means of transport and the place of destination for that part. In addition, the importer shall submit an extract of the COI for each of the batches and insert the link to the

[85] See also reply to 3.4.6. of this document.
[86] See Article 5(1), point (b), of Delegated Regulation (EU) 2019/1602.
[87] See Article 5(1), point (c) of Delegated Regulation (EU) 2019/1602.
[88] Article 6(6) of Delegated Regulation (EU) 2021/2306.
[89] See point 3.4.6 of this document.
[90] Article 6(6) of Delegated Regulation (EU) 2021/2306.
[91] This is the case where the decision recorded in box 30 of the COI is that part of the consignment can be released for free circulation and the organic competent authority has indicated under 'additional information' in box 30 of the COI that the other part of the consignment cannot be released (neither as organic, nor as conventional). In relation to this, the competent authorities are required to provide the relevant information under 'additional information' in box 30 of the COI if the option "Part of the consignment can be released for free circulation" has been selected (see the notes for the completion of box 30 of the COI in part II of the Annex to Delegated Regulation (EU) 2021/2306).

extract of the COI in the separate CHED issued for the individual parts of the split consignment[92]; and

- the competent authority at the BCP shall finalise the CHEDs for the individual parts of the split consignment in accordance with Article 56(5) of the OCR, taking into account the decision taken in box 12 of the extract of the COI for each part of the split consignment.

3.4.6 Link between the CHED and the COI extracts

How will the COI extracts be linked to the CHED for goods under Article 47(1) of the OCR?

There are several scenarios and in all scenarios the link[93] needs to be provided by the operator in TRACES. TRACES allows linking the COI to the CHED and the COI extracts to the COI and, as of the 4th quarter 2022, linking COI extracts to the CHED, including to subsequent or separate CHEDs.

- In case the consignment is split after the consignment leaves the BCP and before release for free circulation and all batches are released for free circulation:
  - ❖ link between CHED and COI[94]; and
  - ❖ link between COI extract and the COI[95] and a link between the CHED and the COI extracts[96].
- In case the consignment is split at the BCP[97] and all batches are released for free circulation:
  - ❖ link between the first CHED (so called 'mother' CHED) and the COI[98]; and
  - ❖ link between the separate (subsequent) CHEDs issued for each part of the split consignment (so-called 'daughter' CHEDs) and the COI extracts[99].
- In case the consignment is partially rejected[100]:
  - ❖ Link between the first CHED (so called 'mother' CHED) and the COI[101]; and
  - ❖ link between the separate (subsequent, so called 'daughter' CHEDs) CHEDs issued for the accepted and the rejected part of the consignment and the corresponding COI extracts[102].

[92] See point 3.4.6 of this document in relation to the link between the CHED and COI extracts in case of partially rejected consignments.

[93] By the word 'link' it is meant an internet link (URL) that leads to the COI/CHED in question. The link is reciprocal. Accordingly, if the operator inserts a link to the COI in the CHED, a corresponding link to the CHED will appear in the COI.

[94] If the operator inserts a link to the COI in the CHED, then a corresponding link to the CHED will appear in the COI.

[95] If the operator inserts a link to the COI in the COI extract, a corresponding link to the COI extract will appear in the COI.

[96] If the operator inserts a link to the COI extract in the CHED, then a corresponding link to the CHED will appear in the COI extract.

[97] In relation to the issuance of separate CHEDs (so called 'daughter' CHEDs) in this case, for each part of the split consignment, see Article 5(1) of Delegated Regulation (EU) 2019/1602.

[98] If the operator inserts a link to the COI in the first CHED, then a corresponding link to the first CHED will appear also in the COI.

[99] If the operator inserts a link to the COI extract in the separate CHED, then a corresponding link to the separate CHED will appear in the COI extract.

[100] See Article 66(4) of the OCR and Article 5(2) of Delegated Regulation (EU) 2019/1602.

[101] If the operator inserts a link to the COI in the first CHED, then a corresponding link to the first CHED will appear also in the COI.

[102] In case the operator inserts a link to the COI extract in the separate CHED, then a corresponding link to the separate CHED will appear in the COI extract.

3.4.7 Possibility for box 30 of the COI to record 'the consignment cannot be released for free circulation'

Will the competent authority continue to be able to record in the COI the decision that the consignment cannot be released?

Yes. The situation remains the same as before 1 January 2022 where inspectors responsible of organic checks could take a decision in TRACES on consignments that could not be released for free circulation[103].

3.4.8 Possibility to request the release as non-organic of a consignment found non-compliant with organic production rules

In case of a non-compliance with the ORR, the necessary investigation may take several weeks. Can the CHED be finalised as 'acceptable for internal market' if all the other official controls have been performed and the product is in compliance with all the other rules?

No. The CHED can only be finalised as 'acceptable for internal market' when all official controls, including organic checks, have been performed. Therefore, for the finalisation of the CHED, the investigation needs to be finalised and the COI endorsed. In case the investigation shows non-compliance with the ORR but the goods can be released into free circulation in the internal market as conventional (non-organic), the operator may request the release as conventional goods. The competent authority needs to agree and endorse the COI by completing box 30, so that the goods can be released as non-organic (conventional). The CHED will be finalised as soon as the COI is endorsed.

3.4.9 Prohibition to release the consignment on the market prior to the endorsement of the COI

Can consignments of products referred to in Article 47(1), point (b), of the OCR, and consignments of plants, plant products and other objects sampled for laboratory analysis during organic physical checks be placed on the market as organic products or in-conversion products before those laboratory test results are available, that is to say before the COI is endorsed and before the CHED is finalised on that basis?

No.

The COI has to be finalised by the competent authorities based on the results of the laboratory tests. The CHED will be validated as 'acceptable for internal market' only when the COI is finalised and the decision recorded in box 30 thereof is that the consignment can be released for free circulation. The consignment may not be placed on the market as 'organic' before the finalisation of the COI.

[103] See Article 6(3), point (d), of Delegated Regulation (EU) 2021/2306.

In relation to products referred to in Article 47(1), point (b), of the OCR, the release for free circulation cannot be authorised in accordance with Article 4(8) of Implementing Regulation (EU) 2019/2130, because laboratory tests performed in view of the completion of the COI are not random, but based on the likelihood of non-compliance with the ORR[104].

In relation to plants, plant products and other objects, the release for free circulation cannot be authorised in accordance with Article 4(9) of Implementing Regulation (EU) 2019/2130, because that provision does not apply in cases where such plants, plant products and other objects are organic products, subject to official controls at BCP by virtue of Article 45(5) of the ORR (and thus by virtue of Article 47(1), point (f), of the OCR). However, in relation to these products, Delegated Regulation (EU) 2021/2305 amends Delegated Regulation (EU) 2019/2124 in order to allow the onward transportation of such products to the place of final destination, pending the availability of the results of the laboratory tests. Pursuant to Delegated Regulation (EU) 2019/2124, in case of onward transportation, the consignment must be transported to the onward transportation facilities (premises of the first consignee designated as onward transportation facilities) by the Member States. The consignment must not leave the onward transportation facility and cannot be released for free circulation pending the decision on the consignment being taken by the competent authorities of the BCP in accordance with Article 55 of the OCR[105].

3.4.10 MRL exceedance found during SPS official controls not preventing marketing as conventional and impact on the organic status

If during SPS official controls it is found that products exceed the applicable MRLs, but that they comply with that MRL thus allowing their marketing as conventional, what is the impact on a previous decision in the COI to grant the products organic status (taken without physical check)?

For any food product, compliance with MRLs for pesticides must be determined following the procedure described in the RASFF Working Instruction 2.2.

If following that procedure, the conclusion is drawn that the product does not comply with the relevant MRL, it cannot be placed on the market whether as organic or a conventional product. In that case, the competent authority at the BCP must record in the CHED that the consignment is 'not acceptable' for internal market and it must inform in TRACES the competent authority responsible for organic checks that has endorsed the related COI in order to update that COI[106].

If following that procedure, the conclusion is drawn that despite the MRL exceedance, the products comply with the MRL, those products may be placed on the market as conventional. However, the competent authority that authorised the marketing as conventional must provide in TRACES the information concerning the MRL exceedance, including laboratory analysis results, to the competent authority that has endorsed the related COI. The same applies in the case where the competent authority responsible for SPS official controls has other relevant information for the organic status of the product (for example in the case where the laboratory test results show that the product has been grown with pesticides that are not authorized for use in organic agriculture). The authority responsible for SPS official controls must put on hold the finalisation of the CHED pending the decision on the

[104] See Article 45(5) of the ORR and Article 6(1), point (c), of Delegated Regulation (EU) 2021/2306.
[105] See point 3.3.5.
[106] See Article 6(5), second paragraph, first sentence, of Delegated Regulation (EU) 2021/2306, that states: ''In case the decision taken in the CHED in accordance with Article 55 of Regulation (EU) 2017/625 indicates that the consignment does not comply with the rules referred to in Article 1(2) of that Regulation, the competent authority at the border control post shall inform in TRACES the competent authority that has taken the decision in accordance with paragraph 3 of this Article, in order to update the certificate of inspection (…)'.

organic status in the COI: the competent authority that took the decision in the related COI must use this 'relevant information' to decide on whether this has an impact on the organic status of the product, update box 30 of the COI if relevant[107] and provide feedback to the authority responsible for SPS official controls whether or not the decision recorded in box 30 of the COI has been changed.

3.4.11 Impact on the coordinated intensified controls of non-compliance with organic rules recorded in the COI

What is the impact on a coordinated performance of intensified controls (CPIC) in accordance with Implementing Regulation (EU) 2019/1873, of a decision in the COI indicating that the consignment is not compliant with the ORR?

Consignments are selected for a coordinated performance of intensified controls (CPIC) in relation to a specific infringement of the rules referred to in Article 1(2) of the OCR[108].

Accordingly, within the CPICs, official controls are carried out in relation to the same type of infringement, as indicated in TRACES in accordance with Article 3(1) of Regulation 2019/1873[109].

Accordingly, imposed checks are established when three consignments enter the Union revealing the same type of infringement indicated in the notification referred to in Article 3(1) of Regulation 2019/1873[110].

As regards Articles 6(1), point (b)(i), and 6(2), point (a), of Implementing Regulation (EU) 2019/1873 concerning the termination of the CPIC, reference is made there to an "uninterrupted sequence of at least 10, respectively 30, satisfactory results in the coordinated performance of intensified official controls recorded in the IMSOC by the competent authorities of the border control posts of the Member States". In this regard, it results from a combined reading of Articles 4(1) and 6 of that Regulation that the satisfactory results referred to in Article 6 refer to results in relation to the same type of infringement as the one mentioned in Article 3(1) of Implementing Regulation (EU) 2019/1873.

In light of the above, in case the infringement that triggered the CPIC is not the same as the one mentioned in the COI and, the results of the official controls in relation to the infringement that triggered the CPIC are satisfactory, the result of the check would be considered satisfactory within the meaning of Article 6 of Implementing Regulation (EU) 2019/1873. The fact that the consignment is not compliant with the ORR would not affect the termination of the CPIC, in accordance with all the conditions established in Article 6 of Implementing Regulation (EU) 2019/1873.

[107] See Article 6(5), second paragraph, last sentence, of Delegated Regulation (EU) 2021/2306, that states : '(…) In addition, any competent authority performing official controls in order to verify compliance with the rules referred to in Article 1(2), points (a) to (h) and (j), of Regulation (EU) 2017/625 shall provide in TRACES any relevant information, such as laboratory analysis results, to the competent authority that has taken the decision in accordance with paragraph 3 of this Article in order to update, if relevant, the certificate of inspection.'
[108] See Article 3(1) of Implementing Regulation (EU) 2019/1873.
[109] See Article 4(1) of Implementing Regulation (EU) 2019/1873.
[110] See Article 5(1) of Implementing Regulation (EU) 2019/1873.

3.5 Special customs procedures in accordance with Articles 7(1) and (2) of Delegated Regulation (EU) 2021/2306

3.5.1 Finalisation of the CHED required for placement under special customs procedures

The placing of the consignment under special customs procedures (box 23 of the COI) requires a finalised CHED[111]. Can the competent authorities finalise a CHED for that purpose, given that the COI is not yet endorsed at that stage of the import process?

The requirement of a first and second verification, as provided for in Articles 7(1) and (2) of Delegated Regulation (EU) 2021/2306, applies only in case the consignment is placed under the special customs procedures of customs warehousing or inward processing in order to undergo one of the preparations mentioned in Article 7(1), second subparagraph, points (a) and (b), of Delegated Regulation (EU) 2021/2306. By contrast, if the consignment is placed under custom warehousing for storage, for example, then the COI is endorsed after one verification, as provided for in Article 6 of Delegated Regulation (EU) 2021/2306, and the CHED is finalised on that basis.

In case Articles 7(1) and (2) of Delegated Regulation (EU) 2021/2306 apply, the competent authority at the BCP can finalise a **first** CHED-D or CHED-PP, as appropriate, by completing box II.9 of such CHEDs, in order to allow the placing under customs warehousing or inward processing for the preparations mentioned in Article 7(1) of Delegated Regulation (EU) 2021/2306. After the second verification provided for in Article 7(2) of Delegated Regulation (EU) 2021/2306, the COI will be endorsed and a **second** CHED will be issued.

3.5.2 Reference in the CHED to the information recorded in box 23 of the COI via the link to the COI

Article 6(5), second sentence, of Delegated Regulation (EU) 2021/2306 lays down rules on the completion of the CHED in case the importer has ticked box 23 in the COI on special customs procedures. Will the implementation of that provision be possible in TRACES, given that the customs procedures mentioned in Article 7(1) of Delegated Regulation (EU) 2021/2306 (customs warehousing, inward processing) are not mentioned in the CHED, but fall instead under the CHED decision 'acceptable for internal market'?

Article 6(5) of Delegated Regulation (EU) 2021/2306 states that, where the importer has requested the placing under special customs procedures in accordance with Article 7(1) of Delegated Regulation (EU) 2021/2306, by completing box 23 of the COI, the decision on consignments in accordance with Article 55 of the OCR shall indicate the applicable customs procedure. In practice:

- see point 3.5.1 of this document regarding the procedure to be followed for the placing under special customs procedures; and
- a link to the COI is available in part I of the CHED, and the authority signing the CHED would need to consult the COI via that link before finalising the CHED. It is the responsibility

[111] See article 57(1) of the OCR.

of the operator responsible for the consignment to provide that link to the COI in Part I of the CHED[112].

3.6 Release for free circulation

3.6.1 Place of release for free circulation for products subject to organic import checks at the BCP

After the organic checks take place in the BCP, can a consignment be released in another Member State? Will the Member State where the consignment is released for free circulation appear in the COI?

Two cases need to be distinguished:

Case 1 — In case of products subject to official controls at BCP, the operators can present the consignment for release for free circulation in another Member State than the Member State where the BCP is located. The Member State of release for free circulation will not be included in the COI. However, box 11 in the COI indicates the Member State of destination or the Member State of the first consignee.

Case 2 — In case of products exempted from official controls at BCP, but which are checked at the BCP because the BCP is also registered in TRACES as a point of release for free circulation, the operator should present the consignment for release for free circulation in the same Member State where the point of release for free circulation is located. In this case, the BCP must also be the point of release for free circulation. The reason for this is that in case of products exempted from official controls at BCP, the organic checks must take place at a point of release for free circulation in the Member State in which the consignment is released for free circulation into the Union.

3.6.2 Consignments split in temporary storage

According to Article 6(7) of Delegated Regulation (EU) 2021/2306, customs authorities shall only allow the release for free circulation of the consignment subject to a CHED requirement upon presentation of a duly finalised CHED, as provided for in Article 57(2), point (b), of the OCR, and of a COI endorsed in accordance with Article 6 of Delegated Regulation (EU) 2021/2306, indicating that the consignment can be released for free circulation. Should this also apply to cases where the consignment is split in temporary storage in accordance with Articles 144 to 149 of Regulation (EU) 952/2013?

Yes, this rule applies when non-Union goods are presented to custom authorities. Therefore, the consignment can be split only when the COI has been endorsed and the CHED is finalised[113].

In addition, a CHED must accompany the consignment before release for free circulation as provided for in Article 5 (consignments split at BCP) and Article 6 (consignments under customs supervision split after leaving the BCP) of Delegated Regulation (EU) 2019/1602. Furthermore, in order to be split, an extract of the COI must be issued for each batch and be endorsed[114]. The CHED

[112] See point 3.4.4 of this document.
[113] See Article 50(3) of the OCR.
[114] See Article 6(6) of Delegated Regulation (EU) 2021/2306.

accompanying the batch must indicate that it is 'acceptable for the internal market'. The extract of the COI must be endorsed in its box 12, indicating that the batch can be released for free circulation.

4 Organic products and in-conversion products exempted from official controls at BCPs

4.1 Categories of organic products and in-conversion products exempted from official controls at BCPs

Which organic products and in-conversion products entering the Union are exempted from official controls at the BCP of first arrival into the Union?

Delegated Regulation (EU) 2021/2305 exempts certain categories of organic and in-conversion products from official controls at BCP[115]. Official controls on such exempted products must be carried out at points of release for free circulation in the Member State in which the consignment is released for free circulation into the Union[116].

The exemption is limited to the categories of products referred in Article 3, points (a) and (b), of Delegated Regulation (EU) 2021/2305. Under that provision, organic products and in-conversion products that are not subject to SPS official controls at the BCP by virtue of Article 47(1) of the OCR and to a corresponding CHED requirement[117] are exempted from organic checks at BCP. Examples of the categories of products subject to SPS official controls at the BCP identified by their CN codes (positive lists) are provided in Table 1 in point 3.1 of this document.

4.2 Registration in TRACES of points of release for free circulation

What are the rules governing the registration in TRACES of points of release for free circulation?

Delegated Regulation (EU) 2021/2305 exempts certain categories of organic and in-conversion products from official controls at BCP[118] and provides that such controls on such exempted products must be carried out at points of release for free circulation in the Member State in which the consignment is released for free circulation into the Union[119]. Member States must inform the Commission of the points of release for free circulation where the competent authorities carry out import controls on organic products and in-conversion products, indicating, for each point of release, their name, address and contact details[120].

Member States need to register and keep up to date in the TRACES system the points of release for free circulation under their responsibility where import controls on organic and in-conversion products exempted from official controls at BCP are carried out. Such points need to be registered in TRACES

[115] Article 3 of Delegated Regulation (EU) 2021/2305.
[116] Article 4 of Delegated Regulation (EU) 2021/2305.
[117] See Article 56 of the OCR.
[118] Article 3 of Delegated Regulation (EU) 2021/2305.
[119] Article 4 of Delegated Regulation (EU) 2021/2305.
[120] Article 4(2) of Delegated Regulation (EU) 2021/2305.

under the entity 'Controlled Location' as a new type called "Point of release for free circulation"[121]. Member States also need to assign the competent authority to each of these points.

4.3 Possibility to register a BCP as a point of release for free circulation in TRACES

Can a BCP be registered in TRACES as a point of release for free circulation?

Yes, where a BCP is to be used to carry out organic checks on organic and in-conversion products exempted from organic checks at BCP[122].

4.4 Impact on national rules in relation plant health checks under Article 5 of Implementing Regulation (EU) 2019/66

Can identity and physical checks required under Article 5 of Implementing Regulation (EU) 2019/66 for plants, plant products and other objects referred to in Article 73 of Plant Health Law continue to be carried out at the BCP under national rules?

Yes.

Import checks on organic and in-conversion products exempted from official controls at BCP must be carried out in the Member State where the consignment is released for free circulation[123] at a point of release for free circulation registered in TRACES[124].

However, Article 4 of Delegated Regulation (EU) 2021/2305 does not prevent Member States from establishing national rules requiring that plant health controls (identity and physical checks) required under Article 5 of Implementing Regulation (EU) 2019/66 be carried out at the BCP or at a CP other than BCP, referred to in Delegated Regulation (EU) 2019/2123, as amended by Delegated Regulation (EU) 2021/2305.

In case Member States intend to carry out all official controls (plant health checks and organic checks) at the BCP or CP, as appropriate, that BCP and CP must be registered in TRACES as points of release for free circulation[125].

4.5 Official controls carried out at distance from points of release for free circulation

Can organic checks be carried out at distance from points of release for free circulation?

In accordance with Article 4(1) of Delegated Regulation (EU) 2021/2305, the competent authority must perform organic checks which include documentary checks at the point of release for free circulation, using all available expertise at its disposal.

[121] Recital (4) of Delegated Regulation (EU) 2021/2305.
[122] See the definition of the 'point of release for free circulation' in Article 2(3) of Delegated Regulation (EU) 2021/2306.
[123] Article 4(1) of Delegated Regulation (EU) 2021/2305.
[124] Article 4(2) of Delegated Regulation (EU) 2021/2305.
[125] Regarding registration in TRACES of points of release for free circulation, see point 4.2. of this document.

4.6 Information of the competent authority responsible for SPS official controls of the rejection of consignments exempted from organic checks at BCP

In relation to products exempted from organic checks at BCP, in case the decision in box 30 of the COI is that the consignment cannot be released, will there be a functionality in TRACES allowing the competent authority responsible for organic checks to inform the competent authority responsible for SPS official controls of this?

At present there is no specific functionality for this in TRACES. Such a communication would take place outside TRACES, as part of normal cooperation between competent authorities.

5 List of EU acts referred to in the document

Regulation (EU) 2017/625 (Official Controls Regulation)[126], referred to as '**OCR**'
Regulation (EU) 2018/848 on organic production and labelling of organic products[127], referred to as '**ORR**'
Commission Delegated Regulation (EU) 2021/2305[128]
Commission Delegated Regulation (EU) 2021/2306[129]
Commission Implementing Regulation (EU) 2021/2307[130]
Commission Delegated Regulation (EU) 2019/1602[131]
Commission Delegated Regulation (EU) 2019/2123[132]
Commission Delegated Regulation (EU) 2019/2124[133]
Commission Implementing Regulation (EU) 2019/66[134]
Commission Implementing Regulation (EU) 2021/632[135]
Commission Implementing Regulation (EU) 2019/1013[136]
Commission Implementing Regulation (EU) 2019/1014[137]
Commission Implementing Regulation (EU) 2021/1533[138]
Commission Implementing Regulation (EU) 2019/1715[139]

[126] 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) (Text with EEA relevance) ((OJ L 095 7.4.2017, p. 1).

[127] Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007, OJ L 150 14.6.2018, p. 1.

[128] Commission Delegated Regulation (EU) 2021/2305 of 21 October 2021 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council with rules on the cases where and conditions under which organic products and in-conversion products are exempted from official controls at border control posts, the place of official controls for such products and amending Commission Delegated Regulations (EU) 2019/2123 and (EU) 2019/2124 (Text with EEA relevance) (OJ L 461, 27.12.2021, p. 5).

Commission Delegated Regulation (EU) 2021/2306 of 21 October 2021 supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council with rules on the official controls in respect of consignments of organic products and in-conversion products intended for import into the Union and on the certificate of inspection (Text with EEA relevance) (OJ L 461 27.12.2021, p. 13).

[130] Commission Implementing Regulation (EU) 2021/2307 of 21 October 2021 laying down rules on documents and notifications required for organic and in-conversion products intended for import into the Union (Text with EEA relevance) (OJ L 461, 27.12.2021, p. 30).

[131] Commission Delegated Regulation (EU) 2019/1602 of 23 April 2019 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council concerning the Common Health Entry Document accompanying consignments of animals and goods to their destination (OJ L 250, 30.9.2019, p. 6).

[132] Commission Delegated Regulation (EU) 2019/2123 of 10 October 2019 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules for the cases where and the conditions under which identity checks and physical checks on certain goods may be performed at control points and documentary checks may be performed at distance from border control posts (OJ L 321, 12.12.2019, p. 64).

[133] Commission Delegated Regulation (EU) 2019/2124 of 10 October 2019 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules for official controls of consignments of animals and goods in transit, transhipment and onward transportation through the Union, and amending Commission Regulations (EC) No 798/2008, (EC) No 1251/2008, (EC) No 119/2009, (EU) No 206/2010, (EU) No 605/2010, (EU) No 142/2011, (EU) No 28/2012, Commission Implementing Regulation (EU) 2016/759 and Commission Decision 2007/777/EC (OJ L 321, 12.12.2019, p. 73).

[134] Commission Implementing Regulation (EU) 2019/66 of 16 January 2019 on rules on uniform practical arrangements for the performance of official controls on plants, plant products and other objects in order to verify compliance with Union rules on protective measures against pests of plants applicable to those goods (OJ L 015 17.1.2019, p. 1).

[135] Commission Implementing Regulation (EU) 2021/632 of 13 April 2021 laying down rules for the application of Regulation (EU) 2017/625 of the European Parliament and of the Council as regards the lists of animals, products of animal origin, germinal products, animal by-products and derived products, composite products, and hay and straw subject to official controls at border control posts, and repealing Commission Implementing Regulation (EU) 2019/2007 and Commission Decision 2007/275/EC (Text with EEA relevance)(OJ L 132, 19.4.2021, p. 24).

[136] Commission Implementing Regulation (EU) 2019/1013 of 16 April 2019 on prior notification of consignments of certain categories of animals and goods entering the Union (Text with EEA relevance.) (OJ L 165, 21.6.2019, p. 8).

[137] Commission Implementing Regulation (EU) 2019/1014 of 12 June 2019 to lay down detailed rules on minimum requirements for border control posts, including inspection centres, and for the format, categories and abbreviations to use for listing border control posts and control points (Text with EEA relevance.) (OJ L 165, 21.6.2019, p. 10).

[138] Commission Implementing Regulation (EU) 2021/1533 of 17 September 2021 imposing special conditions governing the import of feed and food originating in or dispatched from Japan following the accident at the Fukushima nuclear power station and repealing Implementing Regulation (EU) 2016/6 (Text with EEA relevance) (OJ L 330, 20.9.2021, p. 72).

Commission Implementing Regulation (EU) 2019/1873[140]
Commission Implementing Regulation (EU) 2019/2130[141]
Commission Implementing Regulation (EU) 2019/2072[142]
Commission Implementing Regulation (EU) 2019/1793[143]
Commission Implementing Regulation (EU) 2020/1158[144]
Commission Delegated Regulation (EU) 2021/1698[145]
Commission Implementing Decision 2011/884/EU[146]

[139] Commission Implementing Regulation (EU) 2019/1715 of 30 September 2019 laying down rules for the functioning of the information management system for official controls and its system components (the IMSOC Regulation) (Text with EEA relevance) (OJ L 261 14.10.2019, p. 37).

[140] Commission Implementing Regulation (EU) 2019/1873 of 7 November 2019 on the procedures at border control posts for a coordinated performance by competent authorities of intensified official controls on products of animal origin, germinal products, animal by-products and composite products (Text with EEA relevance) (OJ L 289, 8.11.2019, p. 50).

[141] Commission Implementing Regulation (EU) 2019/2130 of 25 November 2019 establishing detailed rules on the operations to be carried out during and after documentary checks, identity checks and physical checks on animals and goods subject to official controls at border control posts (Text with EEA relevance) (OJ L 321, 12.12.2019, p. 128).

[142] Commission Implementing Regulation (EU) 2019/2072 of 28 November 2019 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council, as regards protective measures against pests of plants, and repealing Commission Regulation (EC) No 690/2008 and amending Commission Implementing Regulation (EU) 2018/2019 (OJ L 319, 10.12.2019, p. 1).

[143] 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 (Text with EEA relevance)((OJ L 277 29.10.2019, p. 89).

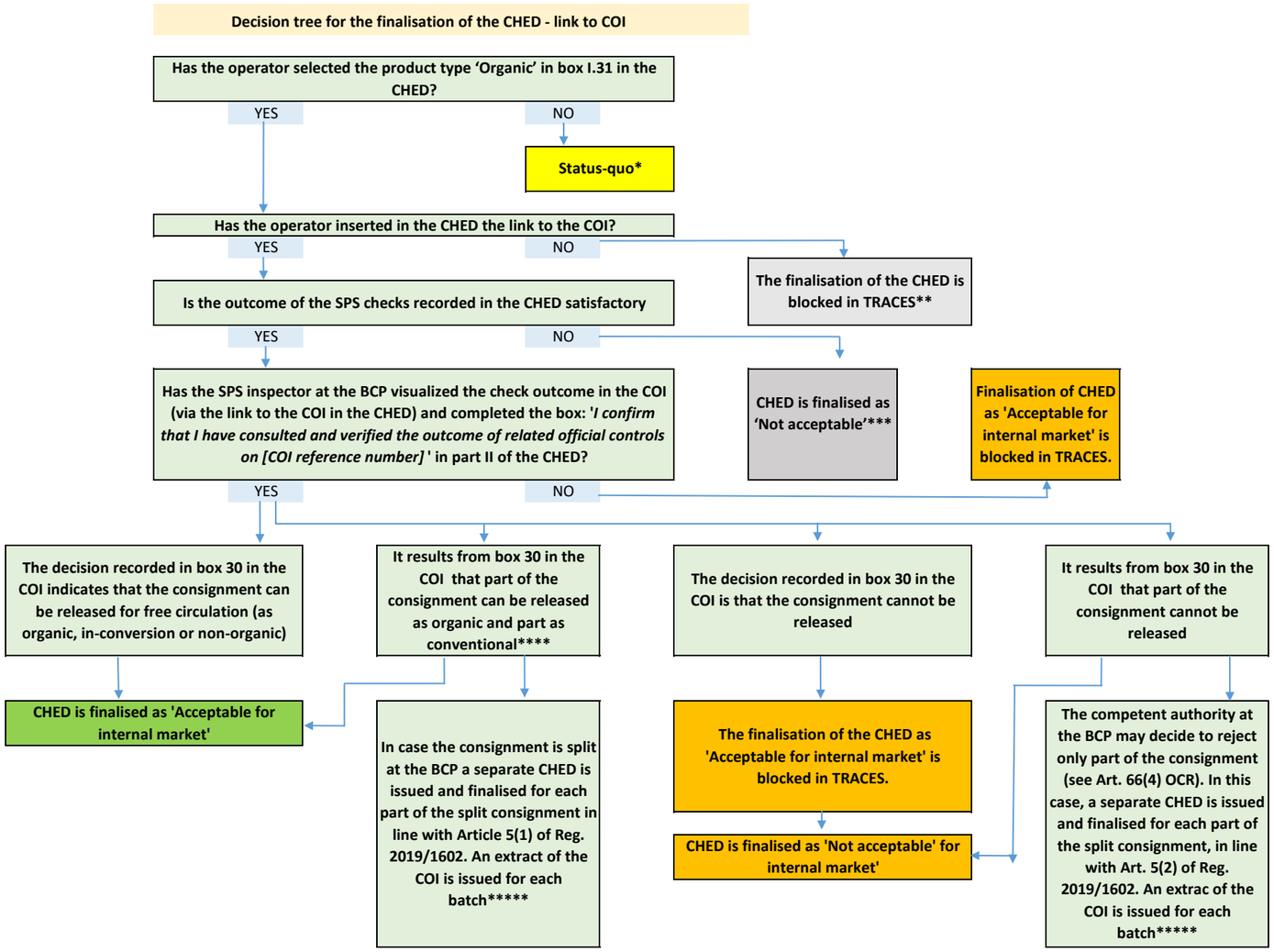
[144] Commission Implementing Regulation (EU) 2020/1158 of 5 August 2020 on the conditions governing imports of food and feed originating in third countries following the accident at the Chernobyl nuclear power station (Text with EEA relevance) (OJ L 257, 6.8.2020, p. 1).

[145] Commission Delegated Regulation (EU) 2021/1698 of 13 July 2021 supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council with procedural requirements for the recognition of control authorities and control bodies that are competent to carry out controls on operators and groups of operators certified organic and on organic products in third countries and with rules on their supervision and the controls and other actions to be performed by those control authorities and control bodies (Text with EEA relevance) (OJ L 336, 23.9.2021, p. 7).

[146] Commission Implementing Decision 2011/884/EU of 22 December 2011 on emergency measures regarding unauthorised genetically modified rice in rice products originating from China and repealing Decision 2008/289/EC (Text with EEA relevance) (OJ L 343, 23.12.2011, p.140).

6 Annexes

6.1 Point 3.4.4. Finalisation of a CHED linked to a COI



*In this case, the finalisation of the CHED in TRACES is independent of the finalisation/endorsement of the COI. The consignment can only be released as conventional (non-organic).

**By contrast, the SPS authority at the BCP will have the possibility to finalise a first CHED after having authorised the transfer to CP or to onward transportation facility

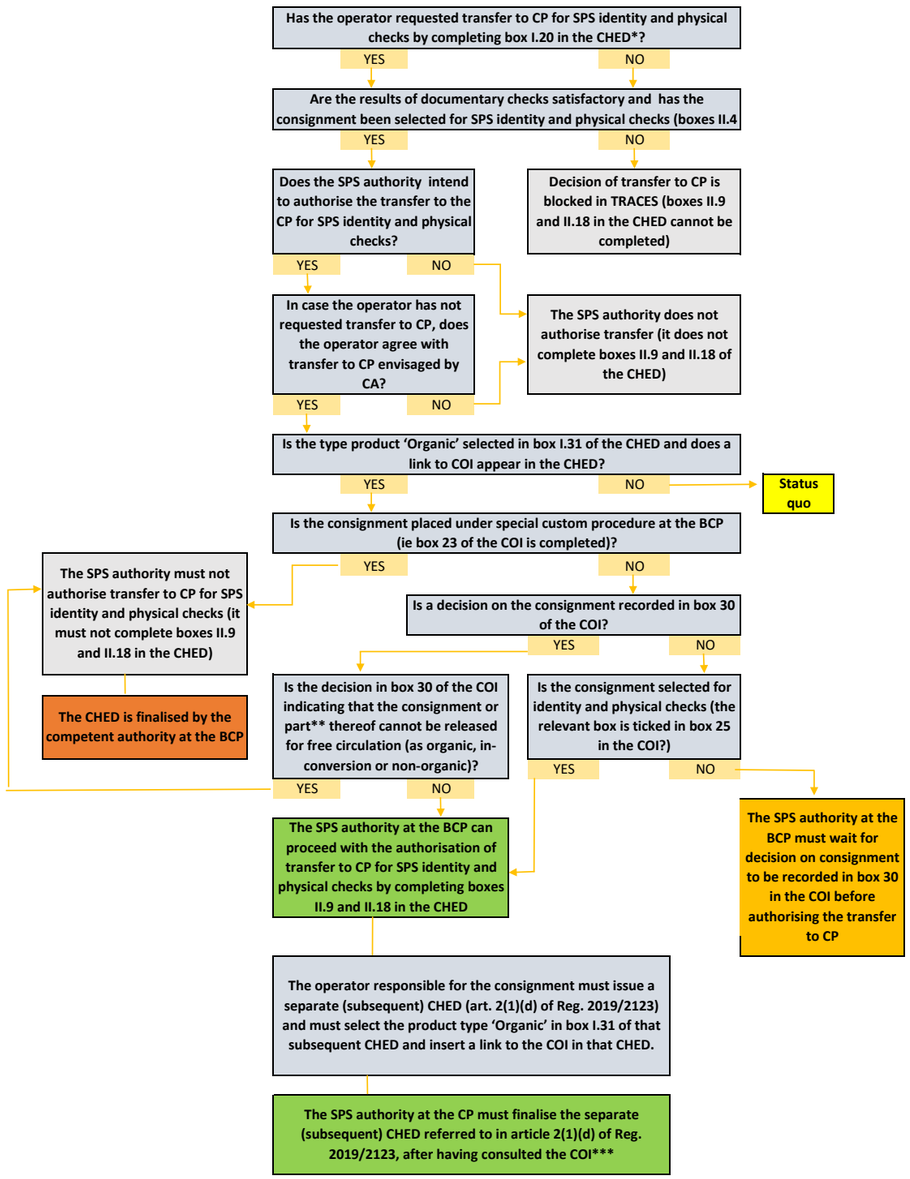
***The competent authority at the BCP must inform in TRACES the competent authority responsible for endorsing the COI, in order to update COI. In addition, any competent authority performing official controls in order to verify compliance with the rules referred to in Article 1(2), points (a) to (h) and (j), of Regulation (EU) 2017/625 must provide in TRACES any relevant information, such as laboratory analysis results, to the competent authority responsible for endorsing the COI in order to update it, if relevant.

****This is the case where the decision recorded in box 30 in the COI is that part of the consignment can be released for free circulation and the organic competent authority has indicated under 'additional information' in box 30 of the COI that all parts of the consingment can be released (part as organic and part as non-organic). This information must be provided under 'additional information' in box 30 in the COI (see the notes for the completion of box 30 of the COI in part II of the Annex to Delegated Regulation (EU) 2021/2306).

*****These separeted/subsequent CHEDs (so-called 'daughter' CHEDs) are linked in TRACES to extracts of the COI issued for each part of the split consignment.

6.2 Point 3.3.4 Authorisation of transfer to CP for SPS identity and physical checks via the CHED

Decision tree for the SPS authority at the BCP for the authorisation of transfer to CP in the CHED for SPS identity and physical checks

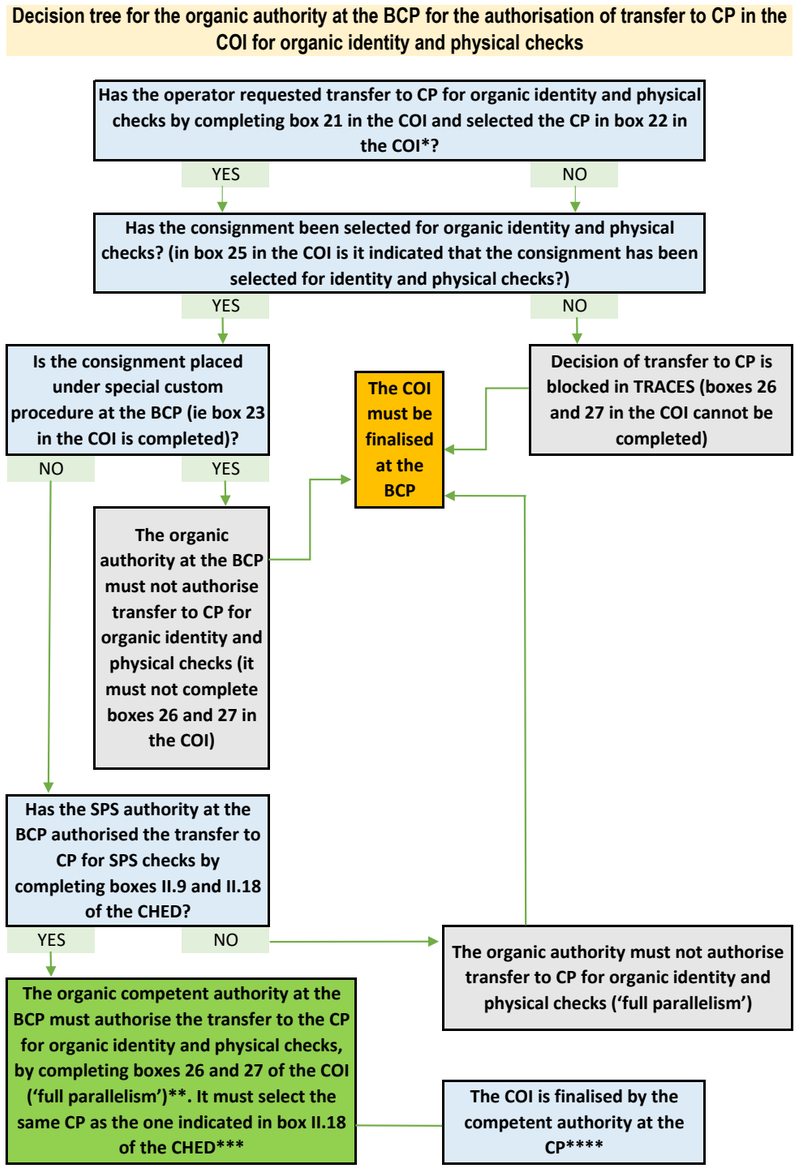


*The operator must request transfer to CP and select the CP both for SPS identity and physical checks (by completing box I.20 in the CHED) and for organic identity and physical checks (by completing boxes 21 and 22 of the COI) (see Articles 3(3), point (a), and 4(4), point (a), of Delegated Regulation (EU) 2019/2123). The operator must select the same CP in box I.20 (details of controlled destinations) in the CHED and in box 22 in the COI. This control point has to be designated for the category of goods in the consignment and be located in the Member State where the consignment is to be released for free circulation (see Articles 3(3), point (b), and 4(4), point (b), of Delegated Regulation (EU) 2019/2123).

**This is the case where the decision recorded in box 30 of the COI is that part of the consignment can be released for free circulation and the competent authority responsible for organic checks has indicated under 'additional information' in box 30 of the COI that the other part of the consignment cannot be released (neither as organic, in-conversion, nor as conventional). In relation to this, the competent authorities are required to provide the relevant information under 'additional information' in box 30 of the COI if the option "Part of the consignment can be released for free circulation" has been selected (see the notes for the completion of box 30 of the COI in part II of the Annex to Delegated Regulation (EU) 2021/2306).

*** See decision tree for the finalisation of the CHED- link to COI in Annex 6.1 to this document

6.3 Point 3.3.4. Authorisation of transfer to CP for organic identity and physical checks via the COI



*The operator must request transfer to CP and select the CP both for organic identity and physical checks (by completing boxes 21 and 22 of the COI) and for SPS identity and physical checks (by completing box I.20 in the CHED) (see Articles 3(3), point (a) and 4(4), point (a), of Delegated Regulation (EU) 2019/2123). The operator must select the same CP in box I.20 (details of controlled destinations) in the CHED and in box 22 in the COI. This control point has to be designated for the category of goods in the consignment and be located in the Member State where the consignment is to be released for free circulation (see Articles 3(3), point (b) and 4(4), point (b), of Delegated Regulation (EU) 2019/2123).

**This applies also in the case where the operator responsible for the consignment has not requested transfer to CP for organic identity and physical checks, by completing boxes 21 and 22 of the COI.

***In case the CP indicated in box II.18 of the CHED is not designated for organic or in-conversion products and/or it is not located in the MS where the consignment is to be released for free circulation, the competent authority responsible for organic checks must contact the competent authority at the BCP responsible for the CHED, to coordinate to ensure that the same CP is indicated in box II.18 of the CHED and in box 27 of the COI

****When a transfer to a CP is authorised (a control point is selected in box 27 of the COI), the competent authorities who appear as responsible authorities for that CP will be able to see the COI through their dashboard (where all COIs in their area of responsibility will be displayed). See also Article 2a(1), point (e), of Delegated Regulation (EU) 2019/2123.