



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Directorate B – Sustainability

Brussels

Ref.: Your letter (Ares(2022)3084872) – 19/04-2022

I would like to thank you for your letter of 19 April 2022, according to which it is not possible for control authorities and control bodies recognised under Article 33(3) of Council Regulation (EC) No 834/2007 for the purpose of equivalence and active in Ukraine to carry out physical inspections of some operators as required according to the relevant provisions of the EU legislation and equivalent control measures. The reason quoted is that these operators are located in zones that cannot be accessed by the inspectors of the control authorities and control bodies concerned following the invasion of Ukraine by Russia.

In view of this military aggression, the Commission services agree that, for the operators located in such zones where the relevant physical inspections cannot be performed because of the invasion of Ukraine by Russia, control authorities and control bodies active in Ukraine should be allowed to carry out such physical inspections required according to the provisions of the EU legislation¹ and the relevant equivalent control measures by other means, such as video calls, documentary assessments etc. This is to be considered as temporary and the use of such possibility should be justified on a case by case basis and on the basis of evidence provided by the authorities in Ukraine that the operators concerned are indeed situated in zones that are not accessible because of the invasion by Russia. Such evidence could also be issued by authorities of third countries according to official travel advice. The possibility to carry out the physical inspection by

¹ Such as Article 65(1) and Article 65(4) of Regulation (EC) No 889/2008 (Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control - OJ L 250, 18.9.2008, p. 1. N.B: Pursuant to Article 57(1) of Regulation (EU) 2018/848, the recognition of control authorities and control bodies for the purposes of equivalence under Article 33(3) of Regulation (EC) No 834/2007 for imports of organic products into the Union will expire on 31 December 2024. When placed on the Union market until the end of those transitional periods, organic products imported into the Union under those import schemes have to be produced in accordance with the production rules and subject to control arrangements equivalent to those laid down in Regulation (EC) No 834/2007 as well as with the associated implementing rules laid down in Commission Regulations (EC) No 889/2008 and (EC) No 1235/2008 (Commission Regulation (EC) No 1235/2008 of 8 December 2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries (OJ L 334, 12.12.2008, p. 25).

other means should be without prejudice to other control measures foreseen under the control authorities' and control bodies' equivalent control measures based on Title IV of Regulation (EC) No 889/2008.

Operators for which the required physical inspection is not possible under the circumstances described above should be categorised by their control authorities and control bodies concerned as high-risk operators and the relevant control measures should be adapted accordingly including additional inspections, verifications of product and financial flows and traceability of products concerned through the supply chain, regular mass balance checks, including thorough evaluation of the quantities harvested and/or prepared, means of storage and transport of the goods, including the possible application of non-authorised substances at these stages and of the bookkeeping and financial documentation of the operators. To the extent possible, a targeted sampling strategy should be foreseen and samples should be taken and analysed according to the level of risk of the operator under the supervision of the control authority or the control body. In addition, the destination of all of the products harvested and/or prepared by the operators concerned, regardless of whether these are sold as organic or not or are exported to the EU or not should be verified.

According to the provisions of Article 3(2) of Regulation (EU) 2021/2306², the relevant control authority or control body shall verify the consignment with regard to compliance with the requirements laid down in Regulation (EC) No 834/2007 and production standards and controls measures accepted as equivalent before the consignment leaves the third country of export or of origin. That verification shall include systematic documentary checks according to Article 3(5) of Regulation (EU) 2021/2306 and, as appropriate according to the risk assessment, physical checks, before the consignment leaves the third country of export or of origin.

For the products concerned by the possibility to carry out the physical inspection of the operators by other means as described above, physical checks should be systematically carried out and a sample should be taken for each consignment and analysed before the issuance of the certificate of inspection, unless it can be proved by evidence by the authorities of Ukraine or of the authorities of other third countries that the areas concerned should not be accessible because of the invasion by Russia.

Control authorities and control bodies are requested to include in their Annual Report in accordance with Article 2 of Commission Delegated Regulation 2021/1342³, the following information with regard to operators for which the physical inspection took place by other means as described above:

- the list of the operators concerned with information on the area they are located;
- evidence by the authorities of Ukraine that the areas concerned should not be accessible because of the invasion by Russia or by other countries' official travel advice;

² 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 - OJ L 461, 27.12.2021, p. 13–29.

³ Commission Delegated Regulation (EU) 2021/1342 of 27 May 2021 supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council with rules on the information to be sent by third countries and by control authorities and control bodies for the purpose of supervision of their recognition under Article 33(2) and (3) of Council Regulation (EC) No 834/2007 for imported organic products and the measures to be taken in the exercise of that supervision - OJ L 292, 16.8.2021, p. 20–24.

- the inspections carried out, indicating the date of each inspection and the results; the decisions of the control authority or control body carrying out the physical inspections by other means should be duly justified;
- the sampling and analyses carried out; the decisions of the control authority or control body with regard to the sampling approach, including before the consignment leaves Ukraine should be duly justified;
- the non-compliances found;
- the potential corrective measures and/or sanctions applied;
- the results of the systematic documentary and physical checks of the consignments before they leave Ukraine and,
- the list of the relevant certificates of inspections signed.

Physical inspections should resume as soon as the situation allows. The Commission services will be assessing the situation.

Yours sincerely,

[Redacted signature]

c.c.:

[Redacted list of recipients]