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DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

The Director-General

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Subject: Your questions concerning the transit of imported organic products and the endorsement of the certificate of inspection

Dear Ms Drozdovska,

Thank you for your e-mail dated 9 November 2012, by which you raised detailed and concrete questions concerning the transit of imported organic products and the endorsement of the certificate of inspection by the competent authorities of the Member States.

Basically, you described the concrete situation as follows:

« Organic grains are transported from a third country (KZ) through Latvia in railway wagons to a port and after that shipped to other EU Member States. The grains are transported in different rolling stocks and at different times and then unloaded into organically certified warehouse in the port. When the entire consignment (50 wagons) has arrived to the port, the grains are trans-shipped on board the ship and carried further to Sweden, United Kingdom and Germany.

The exporter is under control of an Italian control body. This control body has issued a certificate (one for all grains trans-shipped on board) of inspection for import of products from organic production into the European Union. Customs authority in Latvia applies an external transit procedure to this consignment according to Article 91 (a) of Regulation (EEC) No 2913/92, during this procedure wagons are sent to the warehouse of a Latvian business operator in the port.

The importers are situated in SE, UK and DE. All three importers have valid import authorizations notified in OFIS. Due to geographical reasons the cereals undergo transit through Latvia. »

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In accordance with Article 33(1) of Regulation (EC) No 834/2007¹: "The original of the certificate [of inspection] shall accompany the goods to the premises of the first consignee", which is defined as follows: " 'first consignee' means the natural or legal person to whom the imported consignment is delivered and who will receive it for further preparation and/or marketing" (see Article 2(4) of Regulation (EC) No 1235/2008² and Article 2(d) of Regulation (EC) No 889/2008³).

The certificate of inspection is meant to be used in the context of the release for free circulation of the products imported. In accordance with Article 13(8) of Regulation (EC) No 1235/2008, the certificate of inspection is then to be endorsed by the relevant Member State's authorities (box 17).

In addition to this "ordinary" endorsement procedure, Article 14 of Regulation (EC) No 1235/2008 foresees two possible "special customs procedures":

- Article 14(1): where the consignment is assigned to customs warehousing or inward processing in the form of a system of suspension and "subject to one or more preparations as defined in Article 2(i) of Regulation (EC) 834/2007", the original of the certificate of inspection shall be endorsed before the first preparation is carried out in accordance with Article 13(1). After the preparation the endorsed original certificate of inspection shall accompany the consignment and shall be presented to the relevant Member State's authority, which shall verify the consignment for the purpose of its release for free circulation;
- Article 14(2): where, under a suspensive customs procedure, the consignment is submitted to "splitting into different batches", the original of the certificate of inspection shall be endorsed before this splitting is carried out and for each of the batches which results from the splitting, an extract of the certificate of inspection shall be submitted to the relevant Member State's authority.

Where the products are not subject to preparation or split into different batches, the customs warehouse allows for continuing the customs supervision. Transportation by train in different batches from KZ to the LV port must be carried out under a customs transit procedure (e.g. the simplified customs transit procedure for rail as specified in Articles 412-440 of Regulation (EEC) No 2454/93⁴ or the standard procedure by NCTS). When the batches are put together and loaded on board sea vessels with destination SE, UK, and DE, the movement would have to be covered by a customs transit procedure for maritime transport (Articles 446-448 of Regulation (EEC) No 2454/93) when the sea vessels operate under the Regular shipping service scheme as defined in Article 313a of

¹ Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91. (O.J. L 189 , 20/07/2007, p. 1)

² 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. (O.J. L 334 , 12/12/2008, p. 25)

³ 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. (O.J. L 250 , 18/09/2008, p. 1)

⁴ Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, p. 1)

that Regulation. If the sea vessels does not operate under the Regular shipping service scheme no customs transit procedure is mandatory according to the EU Customs Code as, at re-entry, the goods would be treated as non EU goods. Under these provisions there is a sufficient guarantee that the products entering the customs warehouse system are the same as those leaving it, in accordance with Art. 528-530 of Regulation (EEC) No 2454/93.

Taking account of these elements and subject to a further complete description of the case set out in your letter, please find the answers to your questions in the following table:

Questions raised by LV	Answers by AGRI
1. Has the certificate of inspection for import of products from organic production into the European Union to be present in Latvia?	No
2. Has the business operator to present in the first BIP of entry the certificate of inspection for import of products from organic production into the European Union, issued by Italy for all consignment or for every part of the consignment or for each railcar wagon?	No
3. Is it acceptable that the Italian control body issues the certificate of inspection for import of products from organic production into the European Union only to the consignment, which is loaded on board the ship, and not to each part of the consignment loaded into railway wagons?	Yes
4. Who is the first consignee in cases where organic goods are discharging from one way of transportation to another when they are under transit? Is there a difference depending on if the exporter or the importer has contracts out transport or the temporary storage or transport to a third party or takes care of transport and storage itself?	In accordance with Article 2(d) of Regulation (EC) 889/2008, 'first consignee' means the natural or legal person to whom the imported consignment is delivered and who will receive it <u>for further preparation and/or marketing.</u>
5. Which business operator must be indicated in the certificate as the first consignee- the Latvian business operator, who handles the consignment (merging of separate parts into one consignment; trans-shipment of the consignment), or the Swedish UK, DE) business operator, who will release the consignment for free circulation?	In the present case the first consignee would be the SE/UK/DE operator.
6. If the accompanying documents of consignment (like railway bills, phytosanitary certificates and other documents not regulated in the organic	See 1) and 2)

legislation) have indications that the product is organic, and indicate that the destination in Latvia is a Latvian company- is it then necessary to present also the certificate of inspection for imports of organic products from third countries?	
7. Which country's competent authority must put an endorsement in the box 17 of the certificate of inspection? Has a respective Latvia's authority, which according to Latvia's legislation is the Border Inspection (similar to U.K.), to check the consignment and put an endorsement in the box 17 of the certificate of inspection for import of products from organic production that are under transit into other Member States in the European Union? Or is it the Swedish (UK, DE) customs authority has to do it when the importer has its office in those Member States and the import authorizations are issued in those Member States?	Endorsement in the box 17 of the certificate of inspection is linked with the release for free circulation of the products in the Community, which in the present case takes place in UK/DE/SE. The competent authorities of these Member States are responsible for the endorsement of the certificate of inspection.
8. Is it necessary to issue an extract of the certificate of inspection for import of products from organic production into the European Union in accordance with Article 14 of Regulation 1235/2008 on merging of the consignment by indicating in the extract the numbers of certificates of each separate part of the consignment, because the Latvian business operator is indicated in the railway bill of lading as the beneficiary?	No
9. In case such extract of the certificate is being issued, then who issues this extract and who endorses it in the box 14?	Not applicable

The present opinion is provided on the basis of the facts as set out in your e-mail of 9 November 2012 and on the understanding that in the event of a dispute involving Union law it is, under the Treaty on the Functioning of the European Union, ultimately for the Court of Justice of the European Union to provide a definitive interpretation of the applicable Union law.

Best regards,



José Manuel SILVA RODRIGUEZ