

## EU legislation: Food and feed control

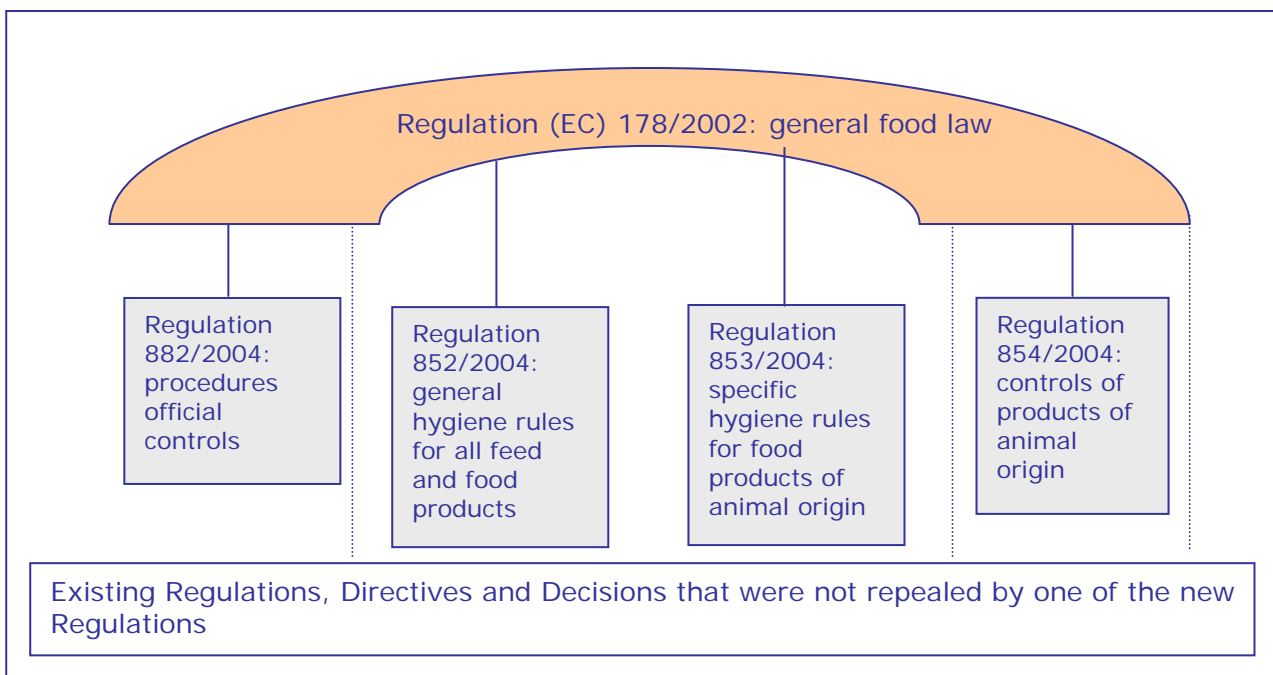
### Introduction



This document provides an overview of the Regulation that is going to establish official controls for food and feed marketed in the EU, Regulation (EC) 882/2004. In this document only requirements for food and feed products of non-animal origin are included, as food of animal origin does not fall within the scope of the CBI product groups, nor does feed.

### Structure of the EU food safety legislation

The General Food Law, Regulation (EC) 178/2002, constitutes the framework of European food law. The General Food Law establishes that all food marketed in the EU must be safe and further lays down requirements on transparency in the food chain. These principles form a horizontal framework, on which other food legislation in the EU is based. The figure below provides an overview of the structure of EU food safety legislation.



➡ [For more information](#) on the other legal requirements that together make up the complete EU food safety legislation, please refer to the related links.

### Outline of the legislation

Regulation (EC) 882/2004 establishes how official controls of food and feed in the EU are to take place. The requirements of the Regulation will enter into force January 1, 2006 and will introduce a harmonised EU-wide regime for official control of all food and feed imports. The current regime for controls on the import of products of animal origin remains, but a more harmonised approach to controls on imports of food and feed of non-animal origin will be introduced.

### Aim

The aim of the Regulation is to:

- Prevent or eliminate risks which may arise (directly or via environment) for human beings and animals, or reduce these risks to an acceptable level;
- Guarantee fair practices regarding trade in food and feed and the protection of consumers' interests, including the labelling of food and feed and any other form of information intended for consumers.

## Scope

The Regulation focuses on control procedures in the EU and the responsibilities assigned to Member States and their control authorities. Third Countries, including developing countries, are included as well, as they are included in the EU control system. This means this Regulation does not apply directly to food and feed businesses. However, if national authorities of developing countries do not comply with the requirements of the new regulation, it might have negative impacts on the trade to the EU and therefore the private sector in developing countries.

The new Regulation is likely, in practice, to require third countries to produce and retain more documented records of their control systems, their management and day-to-day operation than may be currently the case. Greater emphasis is also likely to be placed on formal accreditation of laboratories and control, systems by independent, internationally-recognised bodies. For exporters of food and feed the technical requirements on their products will be the same.

## The content of Regulation (EC) 882/2004

In this document the specific requirements for third countries will be outlined.

➔ [For more information](#) on Regulation (EC) 882/2004, please see the external link.

Title I: Subject matter, scope and definitions

Title II: Official controls by Member States

- General obligations
- Competent authorities (Chapter II)
- Sampling and analysis
- Crisis management
- Official controls on the introduction of feed and food from third countries
- Financing of official controls
- Other provisions

Title III: Reference laboratories

Title IV: Administrative assistance and cooperation in the areas of feed and food

Title V: Control plans

Title VI: Community activities

- Community controls
- Import conditions
- Training of control staff
- Other Community activities

Title VII: Enforcement measures

- National enforcement measures
- Community enforcement measures

Title VIII: Adaptation of Community legislation

Title IX: General provisions

Title X: Final provision

## Exports from third countries to the EU

Official controls on feed and food from third countries  
(Title II, Chapter V)

Controls of food and feed of animal origin are already established by Directive 97/78/EC. Regulation 882/2004 complements these requirements by additionally including controls of food and feed products of non-animal origin. The new regulation also establishes additional controls for aspects not covered by Directive 97/78/EC.

### *Control checks within the EU*

The controls will be carried out at points of entry of the goods into EU territory, points of release for free circulation, warehouses, the premises of the importing feed and food business operator or other points in the feed and food chain. A list of feed and food of non-animal origin

based on associated risks will be drawn up and will be subject to increased levels of control. The official controls for feed and food of non-animal origin will at least include a documentary check, a random identity check and, when appropriate, a physical check.

The frequency with which physical checks are carried out depends on:

- the risks associated with the different types of food and feed;
- the history of compliance of third countries, establishment of origin and feed or food business operators with the requirements for the product concerned
- the controls that the feed or food business operator importing the product has already carried out;
- the guarantees that the competent authority of the third country of origin has given.

Feed and food business operators have to give Member States (designated points of entry where official controls take place) prior notice of the arrival of their products.

In case of non-compliance with the legislation, the products may be seized or confiscated to be destroyed, submitted to special treatment or re-dispatched outside the EU. The responsible operator for the consignment is liable for the costs.

Pre-export checks carried out by the competent authorities of third countries and are approved by the Community, can lead to a reduction of the official controls carried out by Member States upon entering the EU territory.

#### *Control checks by the country of origin*

Pre-export checks by a third country may be approved provided they satisfy the EU requirements. If this is the case, the frequency of controls carried out by Member States at the entry point may be adapted. Note, however, that this is only the case when the requirements in the third country satisfy the EU requirements.

Please note that at present, the Regulation does not oblige third countries to introduce control systems, nor does it require third countries to set up Competent Authorities in charge of such systems. However, the text in the Regulation is formulated in such a way that this could become obligatory at a later date, which in turn could have serious consequences for producers in countries where official controls do not meet EU standards.

#### *Control checks by EU officials in the country of origin*

The Regulation establishes that EU experts may carry out controls in third countries. It is, however, not clear in which cases this would take place. But if it takes place, the basis should be:

- a risk assessment of the products exported to the EU,
- volume and nature of imports from the country concerned,
- results of import controls by Member States and EU experts already carried out,
- information of relevant European and international bodies etc. The reports of community Controls will be made available for the public.

### **Import conditions**

In order to verify compliance to or equivalence with community law (and facilitate the efficiency and effectiveness of the controls in a third country), the Commission is responsible for asking third countries for accurate and up-to-date information compliance with general import conditions of the EU. This includes information regarding:

- sanitary or phytosanitary regulations adopted or proposed within the third country;
- control and inspection procedures, production and quarantine treatment, pesticide tolerance and food additive approval procedures operated within its territory;
- risk assessment procedures and determination of the appropriate level of sanitary or phytosanitary protection.

When a third country provides inadequate information or no information at all, specific import conditions may be fixed on a case-by-case and strictly temporary basis in consultation with the third country concerned.

### Specific import conditions

There are three possible options to lay down specific import conditions and detailed procedures:

- a) The establishment of a positive list of third countries from which specific products may be imported to the Member States. If the EU decides to draw up a positive list of third countries, the competent authorities in these countries must be able to guarantee compliance or equivalence with EU food and feed law. At present this is not the case, however, third countries are not required to establish competent authorities. The vague formulation in the Regulation means that the interpretation in practice will only be apparent once the Regulation has entered into force.
- b) The establishment of models of certificates accompanying consignments;
- c) Special import conditions, depending on the type of product or animal and the possible risks associated therewith. Special import conditions may be established for a single product or for a group of products. They may apply to a single third country, to regions of a third country, or to a group of third countries

**Please note:** At the moment these procedures are only described as procedure that may be introduced, and it is thus unclear how the EU will implement it in practice.

### Equivalence principle

When third countries can offer proof that the measures they take in specific areas offer the same guarantees as the measures taken in the Community, then it must be recognised as such by the Community. This recognition forms the basis of the conditions formulated for the imports from a certain country or region.

The conditions may include:

- the nature and content of the certificates that must accompany the products
- specific requirements applicable to import into the Community
- where necessary, procedures for drawing up and amending lists of regions or establishments from which imports are permitted

### Effects for developing countries

At this point it is difficult to estimate to which extent this will have an impact on third countries. An impact study by COLEACP ("COLEACP Study on the impact of Regulation 882/2004 on ACP countries", also see link in the external links section) foresees the following areas to be of possible concern:

- Third countries should have systems that are auditable. This will likely result in a requirement for a more formalised system of record keeping than is currently in place in some Third Countries.
- Third countries should have documentation on issues such as sanitary and phytosanitary regulations, control and inspection procedures, production and quarantine treatment, pesticide tolerance and food additive approval procedures, risk assessment procedures etc. These documentation is not always available because of a lack of proper procedures and systems.
- Greater emphasis is also likely to be placed on formal accreditation of laboratories and control systems by independent, internationally-recognised bodies.
- Presentation of the Third Countries to assessing officials in an acceptable manner.
- The way systems and bodies will be considered as equivalent to EU safety standards and corresponding procedures.
- The mechanisms of the EU on how to assess Third Countries are not yet fully clear, if EU assessments will be proportionate to the nature of possible risks is not yet very clear.

### Support for developing countries

Regulation 882/2004 establishes that the EU will support third countries in meeting the requirements set by the EU, in particular developing countries. The following measures may be adopted:

- A phased introduction of the requirements for products exported to the Community (conditions applied to establishments in third countries equivalent to EU standards, list of establishments, adequate control system etc). Progress in meeting these requirements shall be evaluated and taken into account in determining the need for specific time-limited exemptions for (certain) requirements. The phased introduction shall also take into account the progress in building the institutional capacity in a third country.
- Assistance of Community experts with providing the information regarding national legal system, control system etc.
- Joint projects between developing countries and Member States
- The development of guidelines to assist developing countries in organising official controls on products exported to the Community
- Assistance of Community experts in the organisation of official controls in developing countries
- Possibility for control staff from developing countries to participate in training courses for staff in Member States.
- In the context of the Community's Development Cooperation Policy, the Commission shall promote support to developing countries with regard to feed and food safety in general and compliance with feed and food standards in particular, in order to build the institutional capacity of third countries.

To date, little information on the effects of the Regulation on developing countries and EU assistance in practice is available. This document provides at the external links:

- The EC sheet on frequently asked questions. Guidelines on how to implement the regulation are promised by the EC and have a high priority for Third Countries, but are not yet provided.
- The COLEACP study outlined in a brochure

Furthermore, CBI is following the developments and will report as soon as more is known.

➡ [For more information](#) concerning the implications for developing countries of any aspects of the food safety legislation in the EU, you are welcome to contact us at [marketaccess@cbi.nl](mailto:marketaccess@cbi.nl).

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