EUROPEAN COMMISSION
HEALTH AND CONSUMERS DIRECTORATE-GENERAL

Veterinary and International affairs
Multilateral International relations

Brussels, 24.05.2012

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WORKING DOCUMENT

GENERAL GUIDANCE ON IMPLEMENTATION AND INTERPRETATION OF ARTICLE 24 OF COUNCIL DIRECTIVE 97/78/EC – RE-ENFORCED CHECKS

(SANCO/11255/2012)

PURPOSE OF THIS DOCUMENT

This document is mainly directed at competent authorities and more specifically at border inspection posts, and aims to give guidance on the implementation of the requirements governing the import control system for animal products originating from third countries.

NOTE

This document is an evolving document and may be updated as necessary to take account of experiences and information from competent authorities and private operators in third countries, from importers and from the Commission's inspection service, the Food and Veterinary Office (FVO).

ABBREVIATIONS AND DEFINITIONS USED IN THE GUIDANCE DOCUMENT

BIP	Border Inspection Post as defined in Council Directive 97/78/EC
CVED	Common veterinary entry document for animal products as laid down in Annex III to Commission Regulation (EC) No 136/2004
DG SANCO	Directorate General Health and Consumers
EEA	European Economic Area
EU	European Union
ML	Maximum Level (of contaminants of food) as defined in Commission Regulation (EC) No 1881/2006
MRL	Maximum Residue Limits (for residues of pharmacologically active substances) as defined in Regulation (EC) No 470/2009
MRL	Maximum Residue Level (for residues of pesticides) as defined in Regulation (EC) No 396/2005 of the European Parliament and of the Council
MRPL	Minimum Required Performance Limit as defined in Commission Decision 2002/657/EC
RASFF notification	Notification transmitted through the Rapid Alert System for Food and Feed of the European Commission (Commission Regulation (EU) No 16/2011)
RPA	Reference Point of Action as provided for in Articles 18 and 19 of Regulation (EC) No 470/2009
TRACES	TRAde Control and Expert System introduced by Commission Decision 2004/292/EC

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1. PURPOSE

The purpose of these guidelines is to achieve a more harmonised approach in the Member States on the interpretation and implementation of:

- The specific procedures applying to the re-enforced checks requirements of Article 24 of Council Directive 97/78/EC[1] laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries.

- The specific procedures applying to the re-enforced checks requirements of Article 30 of Council Directive 96/23/EC[2] on measures to monitor certain substances and residues thereof in live animals and animal products.

2. DEFINITIONS

Import: release of animal products for free circulation, or, the intention to release feed or food for free circulation within the meaning of Article 79 of Regulation (EEC) No 2913/92[3] into EU/EEA territory - as referred to in Annex I to Regulation (EC) No 882/2004[4]; reference is also made to Article 2(h) of Directive 97/78/EC, Article 2(15) of Regulation (EC) No 882/2004, to the EEA-Agreement[5] and to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products[6].

Serious or repeated infringements: notification(s) by a Member State through the Rapid Alert System for Food and Feed of the Commission (RASFF), which are related to a serious risk or repeated occurrence and which were detected during veterinary checks at an EU approved Border Inspection Post (BIP) or during market controls in the Union, and repeated administrative infringements or other infringements, examples are set out in Sections 5 and 6 below.

Origin: in cases of RASFF notifications which trigger re-enforced checks under Article 24 of Directive 97/78/EC and Article 30 of Directive 96/23/EC, this is normally the establishment (including fishing, factory or freezer vessels) of origin within a third country. In cases of RASFF notifications which may involve contamination on a wider scale, this may concern a region in a third country or the country as a whole. Re-enforced checks will also apply to such notifications. For certification infringements which trigger a re-enforced checks programme this may concern issues of a generic nature in a third

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1 Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries, OJ L 24, 30.01.1998, p. 9

2 Council Directive 96/23/EC of 29 April 1996 on measures to monitor certain substances and residues thereof in live animals and animal products and repealing Directives 85/358/EEC and 86/469/EEC and Decisions 89/187/EEC and 91/664/EEC, OJ L 125, 23.5.1996, p. 10

3 Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, OJ L 302, 19.10.1992, p. 1

4 Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules, OJ L 165, 30.04.2004 and re-published in OJ L 191, 28.05.2004, p.1

5 OJ L 1, 03.01.1994, p. 3

6 OJ L 114, 30.04.2002, p. 132

country, in such cases a more regional/countrywide programme of re-enforced checks may also be required.

Product categories: RASFF notifications triggering re-enforced checks should be made using product/animal species specific categories in line with the Nomenclature Codes in TRACES as listed in Annex A.

3. BACKGROUND

3.1 General requirements for official controls on food and feed are laid down in Regulation (EC) No 882/2004, whereas details for border veterinary checks on products of animal origin coming from third countries and entering the Union territory are laid down in Directive 97/78/EC. This Directive sets out the veterinary procedures and requirements to be followed in order to import into or transit through the Union commercial consignments of products of animal origin.

3.2 Consignments of products of animal origin introduced from third countries into the territory of the Union must be presented at an EU approved BIP to undergo veterinary checks. BIPs must sample such consignments based on a national monitoring plan for the presence of residues, pathogenic organisms or other substances dangerous to humans, animals or the environment (Annex II to Commission Regulation (EC) No 136/2004[7])

3.3 A rapid alert system for food and feed (RASFF) for the notification of a direct or indirect risk to human health deriving from food or feed has been established as a network across the territory of the Union. The requirements for such notifications are set down in Article 50 of Regulation (EC) No 178/2002[8].

3.4 Implementing measures for the RASFF are laid down Commission Regulation (EU) No 16/2011[9] and in the Draft Standard Operating Procedures for the operation of the Rapid Alert System for Food and Feed[10] – referred to as RASFF SOPs in this document.

3.5 Article 24 of Directive 97/78/EC sets out the basic principles required for re-enforced checks when a notification is made by a Member State through RASFF or otherwise of a serious or repeated infringement. It does not, as currently drafted, set out the detailed requirements to enable all Member States to take a harmonised approach in implementing this Article (there are no implementing measures provided to allow the Commission to set down any detailed rules). This guidance will provide Member States assistance to develop a more harmonised approach to the implementation and interpretation of Article 24.

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7 Commission Regulation (EC) No 136/2004 of 22 January 2004 laying down procedures for veterinary checks at Community border inspection posts on products imported from third countries, OJ L 21, 28.01.2004, p. 11

8 Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, OJ L 31, 01.02.2002, p. 1

9 Commission Regulation (EU) No 16/2011 of 10 January 2011 laying down implementing measures for the Rapid alert system for food and feed, OJ L 6, 11.01.2011, p. 7

10 There will be a reference to the relevant location once the RASFF SOPs are published.

3.6 Article 20 of Directive 97/78/EC provides for the official competent authority to carry out any veterinary checks necessary on consignments which are suspected to be in non-compliance with the EU veterinary legislation or if there is any doubt to this. The consignments checked must remain under the supervision of the competent authority until results of the checks are obtained. If the suspicions are confirmed, re-enforced checks as provided for in Article 24 of the same Directive need to be initiated for subsequent consignments.

3.7 Article 30 of Directive 96/23/EC sets out the same provisions for re-enforced checks but is focussed on the detection of residues in animals or products which are not allowed in the EU and for notification of products where the legislative Maximum Residue Limits (MRLs) for residues of pharmacologically active substances, Maximum Residue Levels (MRLs) of pesticides or Maximum Limits (MLs) of contaminants in food have been exceeded.

In the event that residues of a substance are detected for which a Minimum Required Performance Limit (MRPL) has been established pursuant to Commission Decision 2002/657/EC[11] (e.g. chloramphenicol, nitrofurans etc), the actions to be taken are the same as those outlined in the paragraph above. Pursuant to Commission Decision 2005/34/EC[12] the MRPL for such substances can be used as Reference Point of Action (RPA).

Directive 96/23/EC has been amended to reflect the requirements of Directive 97/78/EC. Unless stated otherwise the guidance on Article 24 of Directive 97/78/EC should be read as reflecting guidance in relation to Article 30 of Directive 96/23/EC.

4. TRIGGERING A PROGRAMME OF RE-ENFORCED CHECKS

4.1 Article 24 (1) of Directive 97/78/EC states "*Where checks provided by this Directive give grounds for believing that Community veterinary legislation has been seriously or repeatedly infringed the competent authority shall take the following measures in respect of products involved in such use or in the origin of such products"*

4.2 A programme of re-enforced checks is set in motion when a Member State notifies the Commission of a **serious** or **repeated** infringement of Union harmonised veterinary legislation (see flow chart at Annex B). If confirmed by the Commission services, a programme of re-enforced checks will be applicable to consignments of the same establishment of origin in the third country for which the notification is made. For example a notification related to microbiological contamination would result from hygiene failures and it would be reasonable for all products coming from the same establishment to undergo re-enforced checks.

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[11] Commission Decision 2002/657/EC of 12 August 2002 implementing Council Directive 96/23/EC concerning the performance of analytical methods and the interpretation of results, OJ L 221, 17.08.2002, p. 8

[12] Commission Decision 2005/34/EC of 11 January 2005 laying down harmonised standards for the testing for certain residues in products of animal origin imported from third countries, OJ L 16, 20.01.2005, p. 61

It may also be specific to a certain product of animal origin/certain fish species from that establishment depending on the nature of the notification, e.g. if residue problems are concerned. In addition, depending on the nature of the notification, the programme of re-enforced checks can be applicable to the region of origin in the third country or the third country of origin itself.

4.3 Whereas samples for research and development are excluded from veterinary checks in BIPs and from the re-enforced check regime, veterinary checks have to be carried out in BIPs on trade samples and display items as provided for by Article 17 of Regulation (EC) No 1069/2009[13] and Article 28 of Commission Regulation (EU) No 142/2011[14]. However, if such consignments receive an unfavourable result, this would not trigger a re-enforced check programme as Article 24 of Directive 97/78/EC is not applicable.

4.4 A programme of re-enforced checks can be triggered in case of animal-by products, for which test results, which are not in line with the specific rules laid down in Regulation (EU) No 142/2011, are achieved and a RASFF notification needs to be issued in TRACES. However, this will not trigger a re-enforced check programme in the case of Salmonella or Enterobacteriaceae detected in processed animal protein, as the specific rules laid down in Section 2 of Chapter 1 of Annex XIV to Regulation (EU) No 142/2011 are applicable. According to those it is the relevant BIP which should sample the next consignments until six consecutive tests have favourable results.

5. SERIOUS INFRINGEMENTS

Serious infringements may include (the following are examples based on Union legislation and the list is non-exhaustive - more detailed examples can be found in the lists A, B and C of the draft RASFF SOP 2):

– Microbiological failures, based on Union legislation,

– Excessive levels of histamine in certain fish,

– Excessive levels of contaminants such as heavy metals,

– A breach of MRLs,

- Any breach of an established MRL or MRPL for substances which have a related MRPL published and indicated as an action level for enforcement or a reference point of action (RPA),

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[13] Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation), OJ L 300, 14.11.2009, p. 1

[14] Commission Regulation (EU) No 142/2011 of 25 February 2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive, OJ L 54, 26.02.2011, p. 1

- Any breach of import conditions that poses a risk to animal or public health that requires notification by RASFF. While animal health risks are notified for feed, this is not applicable for food. In such cases the Commission would adopt safeguard or emergency measures, which would be included directly in TRACES and trigger relevant checks as necessary.

According to Article 50 of Regulation (EC) No 178/2002, RASFF notifications are required for reporting rejections of consignments presented for import into the Union on account of a direct or indirect risk. Therefore the requirement for notifying border rejections is not limited to serious risks[15] as defined in this Regulation.

In addition cases of food or feed fraud (e.g. falsified declarations or certificates) should be reported via the RASFF in order to inform competent authorities in other countries, even if a risk cannot immediately be demonstrated, thereby ensuring the protection of the consumer. The very nature of the fraud means that the food or feed may be or have been excluded from proper controls.

6. REPEATED INFRINGEMENTS

Repeated infringements may include (the following are examples and the list is non-exhaustive):

– Repetition of unfavourable results from random samples taken from consignments from the same third country, same region or the same establishment of origin,

– Repeated infringements would be three or more notifications from the same operator in three months, six or more notifications from the same hazard in six months for the same country of origin, as provided for in the Summary Manual for the operation of the RASFF system for food and feed[16] – these criteria will be included in the RASFF SOPs in the near future.

– Meat and milk products certified continually with the wrong heat treatment,

– Repeated administrative certification errors or repeated errors of labelling requirements for veterinary health mark, ISO Code and approval number of establishment. BIPs are required to keep records of such repeated errors to justify their decision to trigger the re-enforced check programme, when necessary.

– Repeated requirement for replacement certification due to administrative errors in identifying the consignment. BIPs are required to keep records of replacement certification actions.

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[15] any hazard having a serious negative effect on human or animal health, even if not immediate, requiring rapid action by the competent authorities

[16] Published on the CIRCA website: http://circa.europa.eu/Members/irc/sanco/rasff/library?l=/info/circarasffsusersmanuals&vm=detailed&sb=Title

7. NOTIFICATION OF INFRINGEMENTS TRIGGERING RE-ENFORCED CHECKS

7.1 Article 24.1 first indent of Directive 97/78/EC states *"it shall inform the Commission of the nature of the products used and the consignment concerned; the Commission shall forthwith inform all border inspection posts"*

7.2 Border Rejection Notifications[17]: If veterinary checks in a BIP result in an unfavourable decision for a certain consignment, this decision for rejection of the consignment in the Common Veterinary Entry Document (CVED) in the TRACES application will trigger the RASFF module in TRACES. The BIP needs to choose "Border Rejection" and include the relevant information in TRACES. The notification will be forwarded automatically through TRACES to the Member State contact point[18], where the possibility to launch the re-enforced check programme or not throughout the Union in TRACES will be opened. The national contact point may – after the evaluation of the information – modify the information in the RASFF module, if necessary, and validate or refuse the Article 24 programme in TRACES by annotating the relevant boxes considering the presence of a serious or repeated infringement. The notification is forwarded through TRACES to the Commission contact point, which will evaluate the information and validate or refuse the Article 24 programme in TRACES. In addition the RASFF border rejection notification will be sent.

7.3 Alert and Information Notifications[19]: EU legislation requires Member States to carry out monitoring programmes for certain substances on consignments presented to BIPs for importation and these consignments may be released before the results of the laboratory tests are available. In case of an unfavourable test result returned to the BIP of entry, this result has to be included immediately in the laboratory part of the relevant CVED in TRACES, which will trigger the RASFF module and the status of the relevant CVED in TRACES will change from "valid" to "recalled". The BIP has to choose "market notification" in the RASFF module and all the relevant information needs to be included in the notification. The notification will be forwarded automatically through TRACES to the Member State contact point together with the possibility to launch the re-enforced check programme or not in TRACES and the process described in point 7.2 starts.

In addition, EU legislation requires Member States to carry out official controls on food and feed released on the internal markets, including imported animals and products, for a wide range of contaminants. Where it is identified that animals for slaughter or animal products originating from third countries are found to present a serious health risk, this should be notified by the Member State contact point through the relevant RASFF notification including the CVED number to the Commission contact point. If the necessary information is provided, then the RASFF notification can be acknowledged by the Commission contact point. If in addition the criteria for the re-enforced physical checks at BIPs are fulfilled, the Commission will trigger the Article 24 programme in

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17 Article 1 (6) of Commission Regulation (EU) No 16/2011

18 Contact point: means the designated contact point that represents the member of the network – Article 1 (4) of Regulation (EU) No 16/2011

19 Article 1 (4 and 5) of Commission Regulation (EU) No 16/2011

TRACES to ensure that re-enforced checks are applied on the relevant consignments in all Union BIPs.

7.4 While it is for the Member States to authorise increased physical checks under Article 24, the Commission may seek further information on notifications before acknowledging that an Article 24 programme is triggered. This information may consist of

- any information further to be evaluated or verified.

– any outstanding issues which are relevant in consideration to the other Member States taking action including information from the third country on the scope of exports from that origin and to which Member States.

7.5 Member States need to ensure that RASFF notifications are filled in completely and adequately. In addition supporting documents have to be attached in to the notifications to ensure that all relevant information is submitted to Member States and third countries. Details for completing the notifications and for attaching supporting documents are available in the RASFF SOPs and in the TRACES Release Note for version 3.3, chapter III, RASFF.

7.6 It may be the case that if certain criteria such as those identified in the two previous chapters are not met for a notification triggering re-enforced checks, then an Article 24 programme across all Member States may not be launched as this involves other Member States taking enforcement action based on those notification criteria. However, the Member State concerned may retain an increased programme of physical checks in accordance with Article 20 of Directive 97/78/EC while there remains suspicion of a risk to animal or human health.

7.7 On issuing the notification, this will also inform in the RASFF the third country concerned, that re-enforced checks are in progress for that establishment and this will indicate that if continued unfavourable results are identified, the Commission will require the third country to investigate the establishment and to either suspend or de-list the establishment until such time as they can meet the EU import requirements.

8. ACTION FOLLOWING TRIGGERING A ARTICLE 24 PROGRAMME OF RE-ENFORCED CHECKS

8.1 Article 24.1 second indent of Directive 97/78/EC states *"Member States shall carry out more stringent checks on all consignments of products from the same origin. In particular, the next 10 consignments from the same origin must be impounded, and a deposit lodged against inspection costs, at the border inspection post for a physical check, including the taking of samples and the laboratory tests provided in Annex III"*

8.2 When an Article 24 programme of re-enforced checks is triggered, this is applicable to all Member States and is the responsibility of the competent authority of each Member State to ensure that re-enforced checks are carried out at BIPs as required. Unless there are environmental or certification issues or there

is a clear indication of other circumstances, the re-enforced checks programmes will be lodged against the establishment of origin in the third country.

8.3 When a programme of re-enforced checks is triggered, any subsequent individual consignments from the same origin identified should be included within that programme (see re-enforced check programme flow chart in Annex C). It may however be the case that following a notification and launch of a re-enforced checks programme that consignments from the same origin may reduce greatly in size and be sent to airport BIPs instead of port BIPs in the Union. This practice could be taken to achieve 10 consecutive favourable results and to avoid much larger consignments on the water being detained on arrival and subject to re-enforced checks and possible rejection. In such cases, the TRACES system will analyse the size of consignments from the same origin (e.g. same consignor, destination, product, establishment of origin). If the size is similar to the size of the consignment which triggered the re-enforced checks programme, TRACES will indicate that physical checks should take place in accordance with Article 24. If the size is much smaller than the size of the original consignments, it is not deemed as part of the re-enforced checks programme and TRACES will display a message that the establishment of origin is under a re-enforced check programme, but due to the small size it cannot be considered for counting down the number of re-enforced checks. However, a full check including a laboratory test may be carried out in accordance with Article 20 of Directive 97/78/EC. If this Article is applied, then consignments must also be detained at the BIP until such time as the results of the tests are known.

8.4 Depending on the trigger of the re-enforced checks programme, the checks would include a full identity and physical check and possibly a laboratory check. The laboratory check must be carried out related to the laboratory result which triggered the re-enforced checks programme. In case of repeated administrative short comings/errors, a re-enforced check should be carried out with the aim to exclude other hazards for the consignment. This would mean that in such cases the possibility for seal checks instead of full identity checks and for reduced physical checks should be ignored and a full veterinary check should be carried out. Through TRACES the BIP will have access to the first CVED triggering the re-enforced check programme and to all relevant information, e.g. the reasons why the relevant consignment was non-compliant.

8.5 With regard to the requirement for the next 10 consignments from the same origin to be impounded, this is a requirement applicable to all Member States. It requires Member States to detain immediately the first 10 consignments following that of the original notification, from the same origin, and to carry out a physical check in relation to the reason for the original notification. The consignments impounded must undergo a physical check and the costs for these should be charged to the person responsible for the load, this includes the taking of samples and the laboratory tests provided for in Annex III to Directive 97/78/EC.

8.6 After the first 10 consignments have been sampled, subsequent consignments may arrive from the same origin prior to the results of the first 10 samples taken. These consignments (number 11 – 30) should be detained in the BIP until such time as the results of the first 10 samples taken are available. If these are returned favourable then the subsequent consignments may be released. If however the

person responsible for consignments (number 11 - 30) wishes to have their consignment sampled prior to receiving the results of the first 10 then this is an option which can be taken up based on Article 20 of Directive 97/78/EC. Importers will however have to bear the costs for such checks which they otherwise might not have had to pay. It does however provide them with the possibility for speedier test results to release their consignment if one of the first 10 samples comes back unfavourable.

8.7 The procedure in TRACES concerning "the next 10 consignments from the same origin must be impounded" is as follows (see also Detailed TRACES workflow re-enforced checks in Annex D):

(1) Following the original RASFF notification triggering a re-enforced checks programme, the first 10 consignments from the same origin must be detained at the BIP. Consignments counting from 11 - 30 should also be detained at the BIP pending results of the first 10 consignments checked and sampled.

(2) TRACES starts counting when the first part of the CVED is validated by the person responsible for the load and it is opened by the relevant BIP for the first time. For the validation of the second part of the relevant CVED in TRACES a message will be displayed that this consignment is underlying a re-enforced check programme with a hyperlink to the CVED which triggered the re-enforced check programme. The message will also include the status of the relevant programme within the Union, e.g. how many consignments have been sampled on which dates and how many and which test results are available.

(3) If the documentary check has been carried out, the CVED will be saved "in progress". If no documentary check has been carried out, the CVED will just be closed. Re-opening of the same CVED by the BIP will re-check in TRACES and update the calculation of the samples taken.

(4) The consignments will be subject to a full veterinary check in relation to the reason for the original RASFF notification including laboratory tests as necessary until such time as 10 consecutive favourable results are achieved. As the results for individual consignments are identified as being favourable they may be released subject meeting all other import requirements.

(5) When the sample has been taken and this is indicated in the CVED, which is saved "in progress", the calculation of the samples is updated.

(6) TRACES will also provide in a separate section the collective number of consignments sampled together with relevant information (reference number of the CVED, product, third country of origin, name and approval number of establishment of origin, net weight of consignment, laboratory test, date of sample, result of laboratory checks when available and a reference to the set of re-enforced checks) to competent authorities of all Member States and of the third country concerned.

(7) In addition TRACES will provide in a separate section the collective number of re-enforced check programmes with the following information: commodity, third country/region of origin and the hazard which triggered the re-enforced checks. This section will be available for economic operators in Member States and third countries. For the publication of this information, Article 11 of Regulation (EU) No 16/2011 needs to be respected, which allows the Commission to publish a summary of all RASFF notifications providing information on specific elements of the notifications, however, the identification of the establishment of origin is not included in these elements[20].

(8) If the first 10 consecutive results are favourable then the programme of re-enforced checks is lifted within TRACES, which can be consulted in the re-enforced check module in TRACES by all BIPs and by the third countries using TRACES. A relevant notification to be sent from TRACES to all BIPs detaining subsequent consignments (11 – 30) and to the third country of the origin is under development.

(9) If there is one or more unfavourable laboratory/sample result(s) for any of the consignments sampled in the first 10 then those consignments receiving the unfavourable result must be disposed of in accordance with Article 17(2)(a) and (b) of Directive 97/78/EC and/or Article 21 of Regulation (EC) No 882/2004.

(10) As laboratory results of consignments 11 – 30 if the person responsible for the load decided for sampling, are returned favourable, then these consignments may be released prior to all of the first 10 results being returned, if applicable. However, in case the first 10 results are returned favourable, those consignments 11 – 30 for which sampling had been decided, cannot be released before the favourable results of their samples have been returned as provided for in Article 20 of Directive 97/78/EC.

(11) With regard to definition of the sequence of 10 consignments, as individual consignments arrive at Union BIPs where appropriate, they are subjected to a re-enforced checks programme, and samples sent to a laboratory, if necessary. If an unfavourable result comes e.g. from the sixth sample taken, then immediately the sequence of 10 consecutive consignments re-starts. In total there will be three sequences of 10 consecutive consignments. This can be viewed within TRACES which will count up to a maximum of 30 samples taken and their results indicating whether or not 10 consecutive favourable results are achieved. If this is indicated the re-enforced checks programme is lifted.

(12) If following a RASFF notification a re-enforced check programme for specific laboratory tests has been triggered, and the 5th consignments fails the identity check, in case of fraud or a health risk involved, a new RASFF notification will be issued. The BIP needs still to carry out the relevant

[20] This information is available on the following website: https://webgate.ec.europa.eu/rasff-window/portal/index.cfm?event=notificationsList

laboratory test to accommodate the re-enforced check programme if the relevant establishment of origin could be verified during the identity check. However, the new RASFF notification will trigger a new re-enforced check programme based on the relevant hazard discovered during the identity check.

9. LENGTH OF TIME AND SCOPE OF RE-ENFORCED CHECKS PROGRAMMES

9.1 A re-enforced checks programme when triggered will only last until such time as 10 consecutive favourable results are achieved from the physical checks of the consignments in question from the same origin.

9.2 A message informing that a re-enforced check programme for a specific establishment, region or third country has been ceased with satisfactory results will be forwarded to the relevant third country competent authority.

9.3 If at least three unfavourable results for the same hazard or three different hazards at the same type of consignment are achieved within three sequences of samples of 10, then the programme of re-enforced checks will cease with unsatisfactory results within TRACES. The three unfavourable test results may be achieved in one sequence of ten or in one unfavourable test result in each of the three 10-sample-sequences.

9.4 Relevant messages will be displayed in TRACES to the Commission services and to all BIPs (see point 1.8 in Annex D). The Commission services will address the relevant third country competent authority and seek to suspend/delist the establishment, region or the country of origin until such time as the problem is addressed appropriately in the place of origin. Notification of this intent to the third country will be given to the relevant competent authority of the third country concerned. A template for this is to be drawn up in liaison with the RASFF/TRACES team.

9.5 Subsequent consignments from the same origin will be subject to 100% physical checks based on Article 20 of Directive 97/78/EC. TRACES will alert the BIPs receiving relevant consignments accordingly until the Commission services decide what further measures should be taken, ie. safeguard measure, suspension or de-listing of the relevant establishment, region or third country.

9.6 The programme of re-enforced checks will be reviewed monthly by the Commission services and the analysis will be reported at meetings of the Expert Group for Veterinary Checks.

10. GENERAL

10.1 Re-enforced checks will be reviewed on a monthly basis by the Commission services to assess what action is required from third countries or Member States. This is important to ensure, where appropriate, re-enforced checks programmes are lifted and all Member States informed accordingly. It is also required to analyse whether or not there is a need for further action by the Commission such as the possibility of a safeguard measure. Where appropriate it may also assist in missions of the DG SANCO inspection service (Food and Veterinary Office

located in Grange, Ireland) to relevant third countries for them to visit establishments which have been identified as being involved with Article 24 programmes.

10.2 Re-enforced checks will be placed on the agenda for all future meetings of the Expert Group for Veterinary Checks for analysis by the Commission services and comments from Member States.

11. FRAUD

If during veterinary checks in a BIP fraud is identified, which can be related to a specific establishment of origin, the relevant RASFF notification should be issued and trigger a programme of re-enforced checks. These could be cases of wrong declaration in the health certificate, e.g. sheep casings are certified, however, the consignment contains as well bovine casings and it is originating from a third country, from which the import of bovine casings is not allowed. In such cases re-enforced veterinary checks would be necessary for subsequent consignments from the same origin. The same would be applicable in cases of product related fraud, e.g. when CITES provisions are not respected, however, the consignment can be traced to a specific establishment of origin.

If the fraud consists of broken labels, falsified identification marks, descriptions or stamps, and this can not necessarily be traced to a specific establishment of origin, a RASFF notification should be issued, however, it would only be possible to trigger a re-enforced check programme for consignments containing the same product from the same third country to alert BIPs to carry out a full veterinary check in order to verify that no such fraudulent activities occurred on subsequent consignments.

In case of certification fraud, often the third country of origin cannot be determined and the relevant RASFF notification will alert the BIPs of such cases but it will not trigger a re-enforced check programme. Such cases need to be followed up with different action and with the involvement from the third countries concerned, e.g. with the verification of certification lists from the relevant third country, e.g. the lists of certificates for fishery products issued by relevant third country competent authorities.

SANCO G 6
Import Controls

ANNEX A

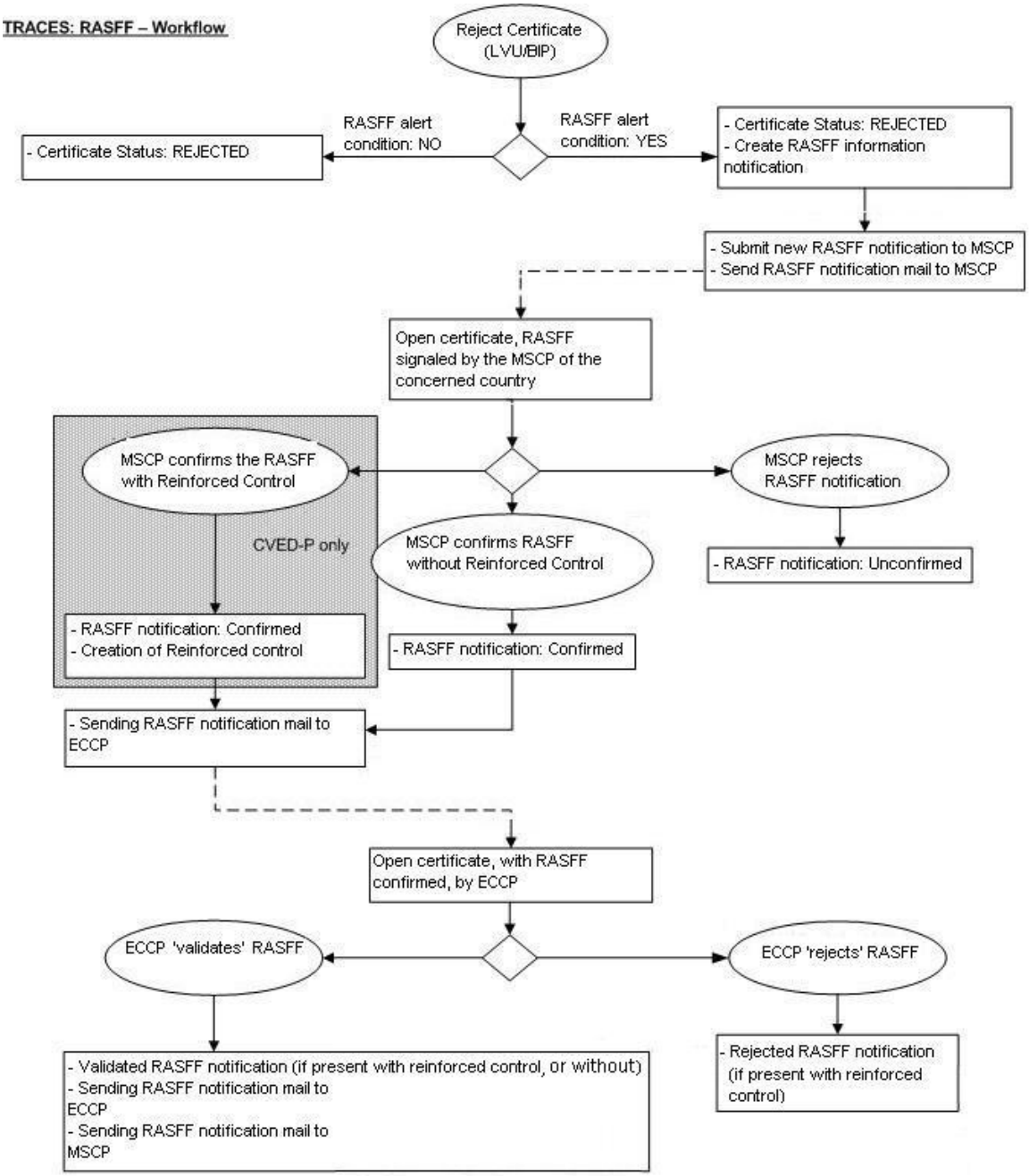
NOMENCLATURE CODES WITHIN TRACES

The Customs Nomenclature codes listed in TRACES are published on the following website

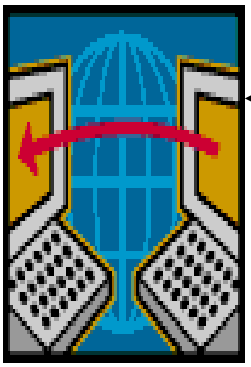
http://circa.europa.eu/Public/irc/sanco/tracesinfo/library?l=/manuals/traces_2012_enpdf/_EN_1.0_&a=d

ANNEX B

TRACES-RASFF workflow re-enforced checks

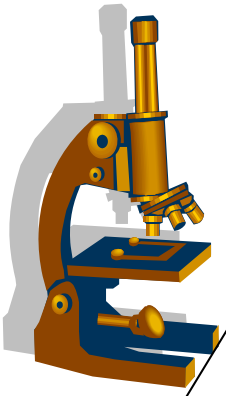


Re-enforced check programme flow chart



RASFF notification of serious or repeated infringement by Member State contact point to Commission

Acknowledgement by Commission to all Member States and to third country of origin – Information in TRACES



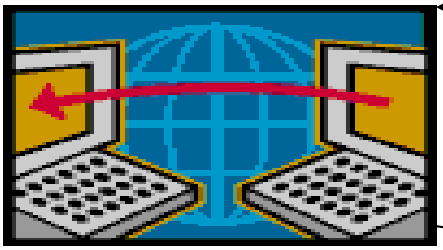
Next 10 consignments presented for import at all EU BIPs from the same origin of RASFF notification for re-enforced check

CHECK TRACES database for re-enforced checks and TRACES will notify BIP of necessity of physical checks

If 10 consecutive favourable results – re-enforced checks lifted
If unfavourable result achieved

Further samples taken until 10 consecutive favourable results are achieved up to a maximum of 30 samples

If unfavourable results continue with 30 samples then referred to Commission for consideration of further action



Options:
Seek third country to suspend relevant establishment
Article 20 or 100% physical checks
Safeguard measure
FVO – may include the establishment in the scope of a future sectoral audit

ANNEX D

Detailed TRACES workflow re-enforced checks

The following information and procedures triggered in TRACES after a RASFF notification has been validated:

1. Information to the BIP receiving a consignment underlying re-enforced checks:

1.1. Re-enforced checks are signalled in TRACES up to a maximum of the next 30 consignments or until 10 consecutive favourable results are obtained.

1.2. Counting of the first consignment starts when the first part of the CVED, which has been validated by the person responsible for the load is opened by the BIP.

1.3. Display of message that this consignment is underlying a re-enforced check programme, with the hyperlink of the CVED which initiated the re-enforced check, together with the status of the relevant programme within the Union containing the following details of each control: date of sampling, date and results of the laboratory tests if any.

1.4. Depending on its size, the consignment will or will not be taken into consideration within the re-enforced check programme. For consignments with a much smaller size, a message will be delivered to the BIP specifying this aspect: "This establishment of origin is under a re-enforced check programme, but the size of this consignment does not allow to take it into consideration in the counting down of the re-enforced checks". For consignments with similar size, the message mentioned in point 1.3. will be displayed.

1.5. Ticking of sample taken in box II.29 of the CVED when it is saved “in progress” adds the sample to the status table.

1.6. Completing the result of the sample in box II.29 of the CVED and validating the CVED in box II.40 adds the result to the test result to the status table.

1.7. If 10 consecutive favourable test results are achieved, the re-enforced check programme will be lifted in TRACES and a relevant message will be sent from TRACES to all BIPs detaining subsequent consignments and to the third country concerned.

1.8. If an unfavourable result occurs before the end of the first set of 10 consignments, the counter is reset and a new re-enforced check programme starts. This can happen twice. If the controls are not favourably completed in the third set, two alerts will be sent: one to carry out full checks on all the arriving consignments to the relevant BIPs with the following message: "The re-enforced check programme was achieved as unfavourable. A full veterinary check which has to include the relevant laboratory tests, which triggered the re-enforced check programme, must be performed".

The other alert is directed to the Commission: "The re-enforced check programme on the establishment {0} came to an unfavourable end."

1.9. The same procedure starts, if during a re-enforced check programme three different hazards are detected for the establishment for which the re-enforced check programme was triggered.

2. Information to the competent authorities of all Member States and of the third country concerned:

Table with status of overview on re-enforced check programmes containing the reference number of the CVED, commodity, third country or region of origin, name and approval number of establishment of origin, net weight of consignment, laboratory tests, date of sample and result of laboratory checks when available and a reference to the set of re-enforced checks (first, second, third).

3. Information to the Economic Operators in Member States and third countries:

Table with status of overview on re-enforced check programmes containing the commodity, third country or region of origin and the hazard which triggered the relevant re-enforced check programme.