

SHAFFE INSIGHTS N°6/2019

SPOTLIGHT ON: IMPORT CONDITIONS INTO THE EU

6th December 2019

In this issue, SHAFFE members will find:

- Updated section on key changes of the new Plant Health Directive 2016/2031
- Handling phytosanitary certificates into the EU as of the 14th of December 2019
- Upcoming changes with regard to the coming into force of the Official Control Directive 2017/625 and its impact on SHAFFE members

As the 14th of December 2019 is approaching, the SHAFFE secretariat is dedicating its last edition in 2019 to the upcoming changes of the new Directives. This edition is designed with a two-prong approach. It will start to explain the key changes and in a separate box below it will alert in bullet points, what SHAFFE traders need to pay attention to for their trading operations, where action is needed and where the national authorities need to be alerted. In case of questions, the SHAFFE secretariat remains available for follow-up questions via shaffe@shaffe.net

Regulation (EU) 2016/2031 on protective measures against pests of plants, introducing a new EU Plant Health Framework

On 14 December, the new EU Plant Health Law ([Regulation \(EU\) 2016/2031](#)) enters into application. This modernised legislative framework has the overarching objective of implementing effective measures for the protection of the Union's territory and its plants, as well as ensuring safe trade from a biosecurity point of view, and helping the mitigation of the impacts of climate change on the health of crops and forests.

These new rules will bring several main changes when it comes to imports of fresh produce:

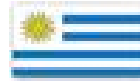
Phytosanitary certificate obligation for all F&V, with a few exceptions and different degrees of checks in Border Control Posts

From 14 December 2019, all plants (including living parts of plants eg. fruit and vegetables) will need to be accompanied by a phytosanitary certificate to enter into the EU, unless they are listed in [Commission Implementing Regulation \(EU\) 2018/2019](#) as exempted from this general requirement (not requiring to be accompanied by a phytosanitary certificate).

Currently, the list of plants exempted from the obligation to carry a phytosanitary certificate as of 14 December 2019 includes five fruits:

- Pineapples (*Ananas comosus (L.) Merrill*),
- Coconuts (*Cocos nucifera L.*),
- Durians (*Durio zibethinus Murray*),
- Bananas (*Musa L.*),
- Dates (*Phoenix datylifera L.*).





When it comes to phytosanitary checks at the border, it is important to note that, for those fruits and vegetables covered by this „extended obligation“ to carry a phyto as of 14 December, but having no additional requirements (i.e. not covered by the Annexes I to V of the Plant Health Directive 2000/29 of the previous section), this obligation will entail documentary controls (100%), and a 1% minimum physical checks.

Please note, that phytosanitary certification will become mandatory as of the 14th December 2019 sharp. So what matters in the transition is not the shipment date, but the date of entry into the Union. Therefore, it is recommended to alert traders and third country partners to have PCs prepared for consignments which will be shipped already before the 14th of December 2019 and arriving on 14th December 2019 or after. Other practical requirements to be taken into account:

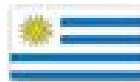
- Additional Declarations: While in the past the box „Additional Declaration“ has been handled differently, as of the 14th of December 2019 a uniform approach will be introduced. The full wording of the treatment/system approach defined in Annex VII of „Commission Implementing Regulation on establishing uniform conditions for the implementation of Regulation 2016/2031...as regards protective measures against pest of plants“ needs to be inserted document. The act is expected to be published in the Official Journal of the EU as soon as possible (definitely before 14th December).
- Signatures: Currently there is no legal basis governing the conduct of signatures on phytosanitary certificates. Therefore, it is up to the MS to decide their code of conduct with that regard, resulting in different approaches by MS authorities. DG SANTE is currently discussing with the MS on a common approach on wet signatures vs. copy. Therefore, it is highly recommended that traders carry the original document with a wet signature, to ensure smooth documents checks as of the 14th of December 2019.
- Delay in possibility for electronic transmission of PCs: Opposite to announcements made earlier, no electronic transmission opportunity for phytosanitary certificates will be available as of the 14th of December 2019. That has the following causes:
 - No third country partner has yet agreed, to conduct the transmission of PC's to the EU via TRACES;
 - Connection to the IPPC ePhyto Hub is scheduled for the course of 2020.

Therefore, the following operational possibilities will be available on 14 December:

1. Paper format
2. Creation of the phytosanitary certificate in TRACES by third country NPPO and printing
3. Information from the PC can be added manually into TRACES to support the data gathering.

According to the Commission, the second and third options are preferred, as they would allow operators to start using both paper & electronic transmission, a sort of „transition“, to get used to TRACES and be ready for the moment when electronic transmission of PCs will be made available. Moreover, the Commission mentioned the easier identification of potential fraud in PCs as a positive side effect of this „duplication“, together with the fact that any information included in TRACES will contribute building the Commission's database.





Key take aways for SHAFFE members:

- Shipments leaving the third country before the 14th of December but entering the EU on 14th of December or after will need a PC as of the due date. No transition period is foreseen. Third country partners should prepare PC's already.
- Additional declarations: Exact wording will need to be copied from Annex VII of „Commission Implementing Regulation on establishing uniform conditions for the implementation of Regulation 2016/2031...as regards protective measures against pest of plants“(to be released asap)
- Mode of transmission: SHAFFE recommends it's members to start operating with original certificates, as there is no harmonized approach towards the acceptance of qualified copies vs. Original signatures
- If your country is interested in exchanging electronic phytosanitary certificates bilaterally with the EU, please alert your NPPO to get in touch with sante-traces@ec.europa.eu
- TRACES has been connected to the IPPC ePhyto hub in late November 2019 and is currently in a test-phase. Operationality of the transmission system is scheduled by Mid-2020, but further delays should be expected

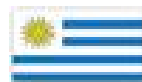
A) Draft ‚Phytosanitary Conditions Regulation‘

This regulation, whose aim is to transfer the Annexes I to V of previous Council Directive 2000/29/EC to the new regulatory framework, represents in principle a ‘technical step’ which should in principle not bring any substantial change in conditions for import. The so called ‘Commission Implementing Regulation 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’, has already been voted by Member States and should be published in the Official Journal of the EU.

The secondary act includes the following:

Article	Content
Article 3	List of Union quarantine pests (Annex II)
Article 4	List of protected zones and the respective protected zone quarantine pests (Annex III)
Article 5	List of Union regulated non-quarantine pests and specific plants for planting with and thresholds (Annex IV)
Article 6	Measures to prevent the presence of RNQPs on specific plants for planting (Annex V)

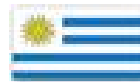




Article 7	List of plants, plant products and other objects whose introduction into the Union from third countries is prohibited (Annex VI – only plants for planting like citrus are included, as well as tubers, bark and soil)
Article 8	List of plants, plant products and other objects originating from third countries, or in the Union territory and the corresponding special requirements for their introduction into or movement within the Union territory
Annex VII	Includes the special requirements for the introduction of plant products, including fruits, from third countries. The requirements for fruits are covered in points 57 to 72 of this annex, whose substance has not suffered changes in principle (pages 115 to 132 of the pdf annex enclosed).
Annex VIII	Compiles the special requirements for movement within the union.
Article 9	List of plants, plant products and other objects, whose introduction into certain protected zones is prohibited (Annex IX).
Article 10	List of plants, plant products and other objects to be introduced into, or moved within protected zones and corresponding special requirements for protected zones (Annex X). In this Annex, points 37 and 38 are related to fruits (37 on conditions for citrus, fortunella, poncirus and their hybrids originating in BU, GR, ES, FR, HR, IT, CY, PT and SV with peduncles to enter protected zone Malta, and 38 on vitis, which shall be free from leaves to enter Cyprus).
Article 11	List of plants, plant products and other objects for which a phyto certificate is required for their introduction into the Union (part A of Annex XI). These will be the ones covered by the “phyto obligation” under article 72(1) of the new plant health law. On top of this, Article 11(2) states that all other plants, other than the ones listed in part B of Annex XI, shall be accompanied by a phyto certificated (under the “extension of the obligation” to carry a phyto). This exception covers the commodities already included in previous legislation published in December (pineapple, coconut, durian, banana, and dates).
Article 12	List of plants for which a phyto is requirement for their introduction into a protected zone from certain third countries (Annex XII – no F&V)
Article 13	List of plants for which a plant passport is required for movement within the union (Annex XIII – no F&V).
Article 15	List of plants for which a plant passport with the designation ZP is required (Annex XIV- no F&V).

This regulation shall provide further clarification regarding the wording on ‘Additional Declarations’ in PCs.





Key take aways for SHAFFE members:

Please be reminded that, despite the “re-shape” of this measure, all existent provisions in the Annexes I to V of Council Directive 2000/29/EC will remain valid and applicable (including those already introduced in previous years and the ones to be applied as of 1 September). This includes, among other, the measures regulating citrus entry into the Union under point 16 of Annex IV (obligation to be free from peduncles, treatment vs. citrus canker, *Cercospora angolensis*, CBS, and non-European fruit flies), as well as the provisions to mitigate *Keiferia lycopersicella* (Walsingham) for tomatoes and aubergines, under point 25.7.2. Please check the consolidated version of [Annexes I to V of Council Directive 2000/29/E](#) if you need more information on existing measures.

- The SHAFFE secretariat will send a short notice, once the Regulation is published in the course of the upcoming week
- For Additional Declarations in Phytosanitary Certificates, please copy the exact wording from Annex VII

Regulation (EU) 2017/625 introducing a new EU Official Controls Framework, to be applied as of 14 December 2019

The new [Official Controls Regulation 2017/625](#) will come into force as of the 14th of December 2019. It will provide the framework for Member States to verify that businesses comply with agri-food chain rules, and will encompass all those activities that range from plants and animals production to food manufacturing and supply, including activities that take place at farm level, processing and distribution to the consumer. Therefore, the new regulation will also cover import controls on fruit and vegetables entering the EU from third countries (to note, that fruit and veg. were out of the scope of the previous Official Controls Regulation). Besides, the regulation introduces a strong component of digitalisation of official controls operations under the umbrella of the so-called Information Management System for Official Control (IMSOC), which aims at facilitating the transmission of documents and certification & at enhancing traceability in the supply chain.

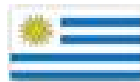
The Regulation and most of the numerous delegated & implementing acts accompanying it enter into force on 14 December 2019, at the same time as the new EU Plant Health Law. For F&V imports, there are two main implications to take into account:

Key changes as of the 14th of December 2019 on plant health controls

With the coming into force of the Official Control Regulation (EU) 2017/625) new rules for the plant health controls will apply.

- All fruit and vegetables, which will need a phytosanitary certificate as of the 14th December 2019 and fall under the provision of Article 73 of the Plant Health Regulation (EU) 2016/2031 will be controlled in line with Article 44 (OCR 2107/625), following a risk-based approach. For the commodities falling under Article 73, a minimum frequency of controls of 1% minimum has been set. This control can be conducted at designated control points other than the border control post of entry. Also the 5 excepted products fall under Article 44.





- All fruit and vegetables, which are already regulated within the current Annexes of Plant Health Directive 2000/29 and will fall under Art. 72 of the new Plant Health Regulation 2016/2031, will be controlled in line with Art. 47.1 of the OCR Regulation (EU) 2017/625 directly at the border control point. These products will have 100% of controls unless they are in the reduced frequency check lists published annually by the Commission.
- Implementing Regulation 103/2004 on specific rules for identity checks will be repealed by „Commission Implementing Regulation XXX 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.“ The new rules will impose monitoring and reporting obligations for the MS on the results of sampling, in order to further harmonise control operations. This will include some guidance on including on dormant pests.

KEY TAKE AWAYS FOR SHAFFE MEMBERS:

- F&V, which already require a PC will be controlled at the Border Control Posts on 100% frequency rate, if not otherwise defined within the reduced checks' list.
- F&V, which require a PC as of the 14th of December 2019 will be controlled on risk-basis with 1% minimum checks frequency.

Scope of operations at Border control posts (BCP'S) and points

The reform also includes the revision of conditions for the designation of border control posts (first entry points) as well as border control points. Article 47 to 64 of the 2017/625 define the framework of control operations and conditions for the designation of border control posts and points.

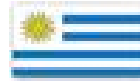
The new rules for the designation of border control posts and points require a revision and assessment of the current list of border control posts by the MS in line with provisions of Art. 64 (Conditions: sufficient number of staff, premises appropriate to nature and volume of the consignment, equipment to perform the controls, equipment to extend controls in case of non-compliance, contingency arrangements to smoothen controls, technology necessary to operate within IMSOC, access to service of official laboratories, measures in place to avoid cross-contamination and to comply with relevant biosecurity standards).

These conditions apply to border control posts and border control points equally. This may result in a change of accessible border control posts and points for fruit and vegetable controls. The list of BCP'S and points is available in TRACES.

KEY TAKE AWAYS FOR SHAFFE members

- MS should publish the newly designated BCP's in TRACES as well as on their homepages asap;
- SHAFFE Operators are encouraged to check with their respective import partners in the EU on potential changes for the entry point for goods





Transit, Transshipment and Onward Transportation

The supplementing Delegated Regulation on rules on official controls of consignments of animals and goods in transit, transshipment and onward transportation is expected to be published in Mid-December. The act covers rules on onward transportation and onward transportation facilities and on transit of animals and goods from the third country to another third country, passing through the Union territory. From the 14th of December 2019 goods in transit, which are regulated under Article 47.1 and Art. 44 of the OCR Regulation need to be accompanied by a Common Health Entry Document (CHED). Facilities for onward transportation need to be designated by the MS in line with Art. 9 of the Delegated Regulation XXX. A list of OT-facilities should be available in TRACES. Operators need to contact authorities at national level to know the list of registered facilities, if not yet published. Onward transportation needs to be requested by the operator within Part I of the CHED. For the onward transportation, TRACES will provide for a box within CHED to select the OT facility.

KEY TAKE AWAYS FOR SHAFFE MEMBERS:

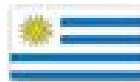
- Goods in transit falling under Art. 47.1 and Art. 44 (all fruits and vegetables except bananas, pineapples, dates, durians and coconuts) need to be accompanied by a CHED
- Goods designated to onward transportation facilities, need to request the onward transportation in Part I of the CHED
- **The CHED will be produced by the importer/ EU operator. No additional action is needed by the SHAFFE operator in the country of origin**

D) Information Management System for Official Control & TRACES

A key element of change of the OCR will be the transition into the Information Management System for Official Control - the IMSOC (regulation). The IMSOC is a roof, under which various technical elements of control operations will be managed digitally as of the 14th of December 2019. A first element is the monitoring and tracking of food safety and phytosanitary threats. Reporting of interceptions with regard to detection of quarantine pest will be digitally added to Europhyt - with immediate accessibility to the information for all MS BCP's. Also entries into RASFF will be done digitally as of the 14th of December 2019. This leads to a second element of the OCR: trade facilitation through better information exchange. Through the IMSOC channel all border control information will become available for all MS at the same time and will help to faster track biosecurity threats by invasive species, exceedences of MRL's and/or outbreaks of diseases. It will avoid that trade which is rejected in one harbour enters into another one in a different EU-MS.

While the new digital system will help to gather data on interceptions, there are currently no concrete plans to use the data of Europhyt and RASFF for improving the control operations. Thirdly, TRACES as an electronic creation system, will allow to create relevant certificates (CHED, phytosanitary certificates and the COI) digitally. While TRACES allows electronic transmission of certificates with an qualified electronic signature, this is not the main purpose. TRACES facilitates the creation of the documents and serves as a data gathering tool. Currently, „TRACES classic“ co-exists together with the new version „TRACES-NT“. All traders need to register to TRACES-NT if not done yet, as TRACES classic will cease to exist as of the 14th of December 2019 .





KEY TAKE AWAYS FOR SHAFFE MEMBERS

- Access to border control informations will be available and visible for all MS BCP's in real-time;
- Please remind your trading partners, who may have not yet registered to TRACES-NT, to request access to TRACES-NT as soon as possible. The access request will be verified by the MS authorities;
- IPPC ePhyto transmission is still pending and will only become available in the course of 2020. In case of interest, to exchange bilaterally electronic certificates, please advise your NPPO to contact sante-traces@ec.europa.eu for initiating the process.
- Interceptions will be reported into a digital interface of Europhyt and information will be available for all EU BCP's in real time
- RASFF notification will be as of the 14th of December 2019 introduced into the digital interface of IMSOC and become available for all EU BCP's in real time

COMMON HEALTH ENTRY DOCUMENT „CHED“ - CHED-PP & CHED-D

On 14 December 2019, the „Common Health Entry Document“ (CHED) will become mandatory for entry into the European Union for fruits and vegetables in need for a phytosanitary certificate. CHED has been introduced into TRACES two years ago. In particular France has made the usage of CHED mandatory already and has issued more than 100.000 CHED-PP's (for plants and plant products) in the course of the last two years.

The CHED will have to be created by EU operators in TRACES as a prior-notification tool and will serve to track the commodities from the origin until the customer. The document will be introduced in the system by the EU importer (in support of information provided by the exporter). CHED will be accessible via TRACES by several actors (importer, inspection services concerned), having defined qualified access to the relevant boxes of the document. Operators will have to fill in information on Part I - Description of the consignment. Part II and III will be filled by BCP authorities. For fruit and vegetable trade, two versions of the CHED are applicable:

- CHED-PP will be covering goods entering the Union with regard to Article 47.1 and Article 44 of the OCR (2017/625).
- Second, Fruits and vegetables, which fall under emergency measures of Regulation 2019/1793 (replacing Regulation 669/2009) will need to be accompanied by CHED-D. The legal basis is provided in Article 40(1) of Regulation (2019/1715) which states, that a CHED-D is required for feed and food of non-animal origin subject to their entry into the Union to any of the measures and conditions provided for in point (d), (e) or (f) of Article 47.1 of the OCR Regulation. This means in practice, products which are subject to emergency measures under Regulation 2019/1793 (the new „669/2009“) need to be accompanied by a CHED-D, which replaces the former CED (Common Entry Document).

To conclude, only those five products exempted from phytosanitary certification will not need a CHED to enter the EU, namely bananas, pineapples, durians, coconuts and dates.

After the creation of CHED-PP/CHED-D within TRACES, the document will be printed and signed. The original CHED will remain at the border control posts and a copy will accompany the consignment to the point of destination. Eventually, the destination must be filled with the designated BCP of entry.



KEY TAKE AWAYS FOR SHAFFE MEMBERS

- **The EU operator/importer is responsible for the creation of the CHED**
- All products which need a phytosanitary certificate, will also need to be accompanied by a CHED-PP
- Bananas, pineapples, durians, dates and coconuts are excepted from this obligation, as these commodities do not need a phytosanitary certificate either
- Products which are covered by an emergency measure defined in Regulation 2019/1793 will need to be accompanied by a CHED-D replacing the former CED - Common Entry Document;
- One consignment (same means of transport and same origin) will need one CHED. The commodities can be listed in the document. Each commodity will need its own phytosanitary certificate;
- The document will be filled, printed and signed. The original remains at the BCP and a copy accompanies the consignment to the final destination.
- The option of electronic transmission needs to be requested by the MS.

F.) Training and preparation in the Member States

The European Commission has invested time to inform and train the MS, in order to introduce the policy and operational changes. All MS have been trained on the usage of CHED-PP except Spain, Hungary and the U.K. (the latter however should be expected to be trained next week). All MS have been trained on the usage of CHED-D except Hungary, Malta and the U.K. Many countries have started to make first trials and to get into the usage habit already.

