Action Plan received from the Competent Authority, 3 May 2013

ANNEX

Response of the Competent Authorities of the Netherlands to the recommendations of Report ref. DG(SANCO)/2012-6312-MR of an audit carried out from 19 to 23 November 2012 in order to evaluate the official controls of genetically modified organisms, including their deliberate release into the environment

N°.	Recommendation	Action Proposed by the Competent Authority
1	Any detectable presence of GMO in seed is subject to labelling and traceability requirements of GMOs in line with Article 21 of Directive 2001/18/EC and Article 4 of Regulation (EC) No 1830/2003.	Controls are in place to ensure compliance of seed with the requirements of Regulation (EC) No 1830/2003 and Directive 2001/18/EC. In the FVO report, it is noted that the threshold applied in the Netherlands for the authorised GM material in non-GM seed contravenes Article 21 of Directive 2001/18/EC and Article 4 of Regulation (EC) No 1830/2003. This should be read, as the threshold has never been applied, as the threshold considered in the Netherlands for the authorised GM material in non-GM seed contravenes Article 21 of Directive 2001/18/EC and Article 4 of Regulation (EC) No 1830/2003. In practice, this value has never been applied as levels were always at or below the detection limit. The threshold has never been applied. **Therefore no action is needed.** The Netherlands has repeatedly urged the Commission - during regulatory committee meetings on 2001/18/EC and during the council working group meetings on the council conclusions on GMOs of 2008 - to establish a harmonized threshold level for the authorised GM material in non-GM seed. **Action**: The Netherlands will continue to urge the Commission to establish one or more labeling thresholds for the adventitious presence of authorised GM material in conventional seeds at European level.
2	The obligations established for feed and food business operators	**Action**: Food Business Operators are recently informed and instructed in

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	or their representatives referred to in Article 3 of Decision 2011/884/EU are met in order to ensure compliance with the requirements of Article 5 of the same Decision.	relation to Article 3 and 5. The checks on all documents (common entry document, health certificate and analytical report) take place at the moment of arrival, at the point as mentioned in Article 3 of Decision 2011/884/EU. In the stage of the documentary control, Customs determines if the analytical report and health certificate are present and if they are in compliance with the Decision 2011/884/EU.
3	The import conditions established in Article 4(2) of Decision 2011/884/EU are met. In particular that the import of products referred in Annex I to this Decision without analytical report and health certificate is allowed only when these documents are replaced by a declaration issued by the operators indicating that the food or feed is not containing, consisting or produced from rice.	The declaration as meant in Art. 4(2) of Decision 2011/884/EU has to be handed over at the stage of the documentary control, at the same stage as the check of the analytical report and the health certificate. **Action**: Customs will verify if the declaration issued by the operator is present during the documentary control.
4	The laboratory capacity is adequate to analyse both samples taken under Decision 2011/884/EU and samples from the controls of food products as required by Article 4(2)(c) of of Regulation (EC) No 882/2004.	**Action**: feed will be sampled and analysed according to the annual plan as was also the case in 2012. For food, all laboratory capacity is necessary to analyse the rice samples taken at the outside border, in time. Also from the beginning of 2012, part of the rice analysis is done by the RIKILT in order to generate capacity in the NVWA lab for routine GMO analysis

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		The amount of samples and the methods to be used for the detection of unauthorised gm rice in food/ feed products from China are directly responsible for the enormous increase in the workload of the laboratory. The, in our view, unnecessary large amount of subsamples to be analysed and frequent repeats of the analysis cause a lot of work. Despite questions and reports to the commission on the methods to be used and proposed changes to prevent possible false positive results no response have been given. The proposed review of the decision that should have taken place in June 2012, has not taken place yet. **Action**: the NVWA has recently given several proposals to improve the decision.
5	Reports are drawn up on sampling of seed for GMO presence as required by Article 9 of Regulation (EC) No 882/2004.	Reports have always been drawn up as set out in Article 9 of Regulation (EC) No 882/2004 as indicated during the mission. **No action** required. It should be pointed out however that formally Regulation (EC) No 882/2004 is not applicable to any controls with respect to Directive 2001/18/EC.
6	A RASFF notification is always issued when non-authorised GMO is detected in line with Article 50 of Regulation (EC) No 178/2002.	Because of the very busy activities of the importteam, there were backlogs. **Action**: at the moment the backlog is no longer in place. A lot of notifications have been sent to Brussels earlier this year..