

## **Decisions**

### **Decision of the Board of Directors of the National Food Safety Authority**

#### **No. 7 of the Year 2020**

#### **On**

#### **Risk-Based Food Import Control System**

#### **Board of Directors (BOD)**

After reviewing the Constitution,

Law No. 66 of the Year 1963 on the Enactment of the Law on Customs,

Law No. 118 of the Year 1975 on Import and Export,

Law No. 121 of the Year 1982 on the Importer Register and Amendments thereto,

Law No. 181 of the Year 2018 on the Consumer Protection and the Executive Regulations Implementing this Law,

Law No. 1 of the Year 2017 on the National Food Safety Authority (NFSA),

Decree of the Prime Minister No. 412 of the Year 2019 on the Enactment of the Executive Regulations Implementing the Law on NFSA,

Decree of the Prime Minister No. 1296 of the Year 2020 on the Re-Formation of NFSA/BOD, and

Approval of NFSA/BOD in the meeting held on 22 July, 2020

#### **Decided the following:**

#### **Preamble**

The present Decision is made within the framework of the role performed by NFSA, being the sole authority entrusted with the control of food imports, and the development of food import control systems, including the provision of optimum level of protection for the consumer against the risks of food imports whilst enhancing the efficiency of the final release of food imports by adopting preventive measures based on the risk level of food imports, and by taking appropriate measures for the release of food imports,

In accordance with the provisions of Article No. 2 of Law No. 1 of the Year 2017 and the Executive Regulations implementing this law issued by decree of the prime minister No. 412 of the year 2019, which stipulates that NFSA shall solely exercise the competence previously vested in ministries and organizations in respect of the control of food handling in accordance with the provisions of the food safety related laws and decisions, of verification that food safety requirements are fulfilled in all food handling operations, and of the development of control systems on food imports and production inputs destined for the Arab Republic of Egypt,

Pursuant to the provision of Article 3 (8) of Law No. 1 of the Year 2017, which regulates NFSA's powers and responsibilities for performing risk-based official controls, taking into account the responsibilities of food importers for ensuring the safety and compliance of food imported into the Arab Republic of Egypt, and

In accordance with Codex Guidelines on the Principles for Food Import and Export Inspection and Certification (CAC/GL 20-1995) and Guidelines for the Design, Operation, Assessment and Accreditation of Food Import and Export Inspection and Certification Systems (CAC/GL 26-1997), which guide for the adoption of risk-based food import inspection systems.

## **Article (1)**

### **Definitions**

The following terms shall, in the application of the provisions of the present Decision, have the meanings set forth next to each:

**"NFSA"** shall mean the National Food Safety Authority.

**"Food Handling"** shall mean one or more operations of food production, manufacture, offering or displaying for sale, storage, preserving, wrapping, transportation, delivery, importation, exportation, or the licensing or approval for any of such activities.

**"Food Imports"** shall mean the foods imported into the Arab Republic of Egypt, including production inputs, in accordance with the definition of "Food" provided for in Law No. 1 of the Year 2017 on the Enactment of Law on NFSA.

**"Importer"** shall mean a natural or legal person in whose name a Customs Declaration is registered for the food imports requested to be released after paying an import duty or released according to other customs systems, and who is responsible for meeting import regulations.

**"Food Consignment"** shall mean one or more food commodities that are usually covered by one certificate in accordance with the guidelines issued by the Codex Alimentarius Commission (CAC).

**"Production Inputs"** shall include materials, raw materials, intermediate goods, additives, flavoring agents, processing aids, and food-contact packaging materials.

**"Food Safety and Quality Requirements"** shall mean the technical regulations on food safety and quality requirements issued by NFSA with a view to ensuring compliance of food, in accordance with the provisions of Law No. 1 of the Year 2017 and the Executive Regulations implementing this law, and with the applicable international food standards, including standards issued by CAC and approved by NFSA.

**“List of Food Prohibited from Importation”** shall mean a list of food prohibited from being imported into the Arab Republic of Egypt based on international notifications and information exchange mechanisms, and such list shall periodically be updated and published on the NFSA website.

**“Risk-Based Sampling and Inspection System”** shall mean an approach followed by NFSA for dealing with food imports through applying a sampling system appropriate to the potential risk level of such food imports at a rate ranging between 100% and 2% upon arrival of such imports at the customs points of entry of the Arab Republic of Egypt.

**“Pre-Border Notification”** shall mean a notification submitted to NFSA in writing or by any electronic means for food import consignments prior to arrival of such consignments at the customs points of entry of the Arab Republic of Egypt, including basic information on the content of the imported food consignments, and any additional information that assists in the determination of risk level of such consignments as determined by NFSA.

**“NFSA-Registered Conformity Assessment Bodies (CABs)”** shall mean a third party entrusted with the task of verifying and documenting compliance of food imports with the requirements set by NFSA, and of issuing Certificates of Conformity (COCs). NFSA-registered CABs are either included in the list of bodies whose food safety control systems are approved by NFSA, or in the list of NFSA-registered CABs issuing COCs for imported food consignments in accordance with the Decision of NFSA/BOD No. 2 of the Year 2020, and such lists shall be published on the NFSA website.

**“Determination of Imported Food Consignment Risk Level”** shall mean the result of the determination of various risks of an imported food consignment taking into account a number of basic criteria, in particular the identified risks associated with food, a food business establishment, the use of a food, any process, material or activity that may have an effect on food safety; the strength of the food control system applied in the country of origin of food commodity; food import compliance verified by NFSA-registered CABs (third party) in accordance with the Egyptian and international food safety requirements; the past compliance history of food importers to whom a food consignment is directed in terms of compliance with food safety related laws and legislation; and any information that may indicate the existence of a violation. Determination of imported food consignment risk level shall be used as a basis for taking a decision on how such consignment will be dealt with upon arrival at the customs points of entry of the Arab Republic of Egypt.

**“Multiple-Criteria Decision Analysis (MCDA)”** shall mean an analytical approach based on multiple criteria, which may have an effect on the presented case taking into account each decision-making criterion.

**“Clearance Channel”** shall mean a decision taken by NFSA on the customs release methodology determined for dealing with imported food consignments based on the determination of risk level of such consignments, in accordance with the information provided in a pre-border notification.

**“Final Release of Imported Food Consignment”** shall mean the release of an imported food consignment to a food importer with the possibility to handle food in the Egyptian market.

**“Temporary Release of Imported Food Consignment”** shall mean the release of an imported food consignment under the detention of NFSA and in the custody of food importer without the possibility to handle food in the Egyptian market pending an official notification from NFSA upon completion of compliance verification procedures determined by NFSA, and NFSA issues a decision on controls, requirements and procedures for temporary release.

**“Certificate of Exemption from Import Control”** shall mean a certificate issued by NFSA stating that an imported food consignment is exempt from control since such consignment is not intended for handling in the Egyptian market, such as transit goods, and is subject to a different food control system, in accordance with a Memorandum of Understanding (MOU) between NFSA, food control authorities, and other entities.

**"Food Withdrawal"** shall mean an action taken to remove a food product from the supply chain except for the product possessed by the consumer.

**"Food Recall"** shall mean an action taken to retrieve a food product after being sold, where the consumer is advised to take a proper procedure such as returning or destroying the food.

**“Import for Personal Use”** shall mean all commodities imported by a natural person with a view to realizing personal and family benefits, provided that such commodities are suitable in terms of quality and quantity to the personal or family use and not for the purpose of trading.

## **Article (2)**

### **Scope of Application of Food Import Control Systems**

All foods imported into the Arab Republic of Egypt shall, in accordance with the provisions of the present Decision, be subject to the risk-based food import control system.

The provisions of the present Decision may not apply to the following:

1. food imported for personal use,
2. gifts, grants, foods intended for advertising and promotion purposes, and food samples,
3. airline meals served by foreign transportation companies,

4. food consignments intended for immediate transshipment, for example, transit goods transported through Egypt,
5. food consignments intended for consumption by the Egyptian Armed Forces personnel,
6. food samples received for the purpose of analysis in Egyptian testing laboratories, and
7. consignments of fish caught from Lake Nasser, as well as fish caught by fishing fleets flying the flag of Egypt and operating on the high seas.

### **Article (3)**

#### **Principles and Objectives of Risk-Based Food Import Control System**

NFSA shall adopt a risk-based imported food control system and international best practices applied in the area of imported food control, with a view to enhancing consumer protection, supporting food business operators (FBOs), facilitating the access of food imports to the Egyptian market, and motivating food manufacturers and importers to follow best practices.

NFSA shall adopt a preventive approach for food import control based on the principles of the CAC and the World Trade Organization (WTO) in particular:

- issuing decisions appropriate to the determination of risk level of food imports,
- adopting non-discriminatory treatment between imported and domestically produced foods,
- ensuring transparency in issuing decisions pertaining to food import control system, and
- providing a mechanism for the fast customs clearance for imported food consignments,

with a view to achieving the following goals:

- strengthening risk based food import control system, and supporting preventive measures to protect consumers, and
- reducing the burden on food importers and consumers.

### **Article (4)**

#### **Risk-Based Food Import Control System**

NFSA shall apply a risk-based food import control system through implementing the measures provided for in the present Decision, in accordance with the following stages:

- 1) Prior to arrival of food imports at customs points of entry, and/or prior to leaving the country of production or the country of origin, with a view to ensuring the safety of food imports and the compliance with the food safety and quality requirements set by NFSA,
- 2) Upon arrival of food imports at customs points of entry, with a view to taking the measures required for ensuring the compliance of imported food consignments with the food safety and quality requirements set by NFSA, and

- 3) Subsequent to the final release and handling of food imports, with a view to implementing the measures required for ensuring the control of food imports after being handled in the Egyptian market.

### **Article (5)**

#### **Prohibition of Imported Food Handling**

It is prohibited to import food that:

- is included in the list of foods prohibited from importation and updates thereto, as determined by NFSA,
- do not comply with the food safety and quality requirements issued by NFSA, and
- is deemed to be harmful to health by the country of production or the country of origin.

Importation of food imports is also prohibited in case where such imports contain a food that is unfit for human consumption.

### **Article (6)**

It is prohibited for any food business establishment to import foods into the Arab Republic of Egypt, unless such establishment obtains an import license from NFSA to operate as a food importer, and complies with the requirements set by NFSA.

### **Article (7)**

#### **Responsibilities of NFSA**

NFSA shall develop and implement risk-based food import control measures through:

- establishing a risk-based food import control framework to be applied by NFSA for the purposes of verification of compliance, including development of measures for the release of imported food consignments upon arrival at customs points of entry, setting inspection and sampling rates, and updating and publishing such rates as the need arises,
- developing and publishing a list of foods prohibited from importation into the Arab Republic of Egypt, and updating such list in accordance with international notifications and information exchange mechanisms,
- developing and publishing lists of NFSA-registered CABs on the NFSA website as determined by NFSA,
- developing, monitoring, and publishing the controls and requirements set by NFSA, with a view to ensuring compliance of imported food consignments destined for the Arab Republic of Egypt with the food safety and quality requirements, including targeted food risks and risk analysis methods and protocols,

- making available to importers all information, in particular: rules, requirements, conditions, and procedures governing food import control, as well as the decisions issued by NFSA on any imported food consignment within the risk management framework (RMF), and
- concluding protocols with the NFSA-registered CABs by NFSA Chairman of the Board of Directors (COB), with a view to enhancing the application of the risk-based food import control system.

## **Article (8)**

### **Rights and Obligations of Food Importers**

Food importers shall fulfill NFSA food import control requirements and conditions, and comply with the licensing controls and requirements set by NFSA.

Food importers or representatives thereof shall bear the costs of control activities performed on imported food consignments within the framework of the risk-based food import control system, in particular:

- charges for obtaining a Food Import License,
- costs of controls performed on imported food consignments prior to arrival at customs points of entry,
- costs of controls performed on imported food consignments at customs points of entry, including sampling and conducting laboratory analyses, with a view to ensuring compliance with the food safety and quality requirements set by NFSA, and
- Any other expenses incurred by NFSA for the implementation of control activities referred to in the present Decision.

Food importer has the right to file a grievance before NFSA Grievance Committee against any decision issued by NFSA with regard to the application of the food import control system.

## **Article (9)**

### **Rules Governing Risk-Based Food Import Sampling and Inspection**

Food imports shall be subject to a risk-based sampling and inspection system provided that a pre-border notification of imported food consignment is submitted to NFSA, and that such notification fulfills the requirements and controls provided for in the present Decision.

Acceptance of a pre-border notification shall be conditional on providing such notification within a period of time not exceeding three months and not less than 72 hours as of the expected date of arrival of imported food consignment at the Egyptian customs port.

Food importers shall whenever possible to NFSA provide the pre-border notification of food imports in the manner so determined by NFSA so as to benefit from the risk-based sampling and inspection system, and NFSA shall also issue a "Certificate of Exemption from Import Control" by virtue of a decision on the exemption of food imports in accordance with the provision of Article (2) of the present Decision.

## **Article (10)**

### **Clearance Channels of Imported Food Consignment**

NFSA shall assign a clearance channel for each imported food consignment fulfilling the pre-border notification requirements set by NFSA, based on the determination of risk level for each consignment, and clearance channel shall determine the methodology for dealing with imported food consignments upon arrival at the customs points of entry of the Arab Republic of Egypt, in particular the inspection and random sampling level, in accordance with the following four channels:

- a. **Green Clearance Channel:** assigned for low-risk imported food consignments.
- b. **Yellow Clearance Channel:** assigned for low-medium risk imported food consignments.
- c. **Orange Clearance Channel:** assigned for medium-high risk imported food consignments.
- d. **Red Clearance Channel:** assigned for high-risk imported food consignments.

## **Article (11)**

### **Dealing with Imported Food Consignments Not Fulfilling Pre-Border Notification Requirements**

Imported food consignments shall follow the Red Clearance Channel upon arrival at the customs points of the Arab Republic of Egypt in case where a pre-border notification of such consignments was not sent to NFSA or where such consignments do not fulfill the required requirements, including but not limited to providing a pre-border notification containing insufficient information or sending such notification outside the prescribed time period.

## **Article (12)**

### **Requirements for Pre-Border and Separate Notifications**

A single pre-border notification shall to NFSA be provided for each imported food consignment containing a single food commodity or containing a food commodity of identical type and Harmonized System Code (HS Code), and destined for the Arab Republic of Egypt through the same customs port at the same date/time, whether in one or several containers.



In case where an imported food consignment contains several food commodities, the contents of each food commodity in such consignment shall be of identical type, HS Code, grade and packaging, and NFSA shall deal with such consignment through determining the risk level associated therewith based on the food commodity with highest risk.

### **Article (13)**

An amount of L.E. 2000 (only Two Thousand Egyptian Pounds or equivalent in the approved foreign currency) shall be paid at NFSA's account at the Central Bank of Egypt in return for inspection of the imported food consignment for which a pre-border notification was sent.

### **Article (14)**

#### **Information Required to Be Provided in Pre-Border Notification**

Pre-border notification shall include the minimum amount of the required information, provided that such notification is submitted in writing or by any electronic means as determined by NFSA and in the form prepared for that purpose, and is made available on the NFSA website, and shall include the following:

a. information on a food importer:

- license number issued by NFSA, and
- contact information (address, phone, fax, email, etc.);

b. information on food consignment and a customs port of the Arab Republic of Egypt:

- HS Code for food commodity/commodities,
- name of food commodity/commodities and a full description of the manufacturing and packaging conditions,
- number of containers,
- expected shipping date,
- expected time of arrival at the customs port of the Arab Republic of Egypt, and
- expected customs port of the Arab Republic of Egypt;

c. food commodity country of origin, which is the last country wherein a food commodity was produced or manufactured, under the supervision of the food control authority;

d. whether the competent food control authority of the country of origin is included in the list of bodies whose food safety control systems are approved by NFSA, and such list is published on the NFSA website; and

e. formal proof of compliance, including a series of measures taken by NFSA to ensure compliance of food imports with food safety and quality requirements through the COC issued by the NFSA-registered CABs.

## **Article (15)**

### **Pre-Border Notification Update**

Information provided in pre-border notification of imported food consignment destined for the Arab Republic of Egypt may be updated, provided that such update is made 72 hours prior to the arrival of food imports at the customs points of entry of the Arab Republic of Egypt.

NFSA shall take into account the information provided in the last pre-border notification provided on such food imports.

## **Article (16)**

Food imports where for a pre-border notification was sent shall be subject to the sampling and inspection system based on the determination of risk level of the imported food consignments at customs points of entry of the Arab Republic of Egypt and on the results of the risk analysis methodology.

Risk analysis methodology shall, in accordance with the provisions of the present Decision, be applied using the information provided in the pre-border notification of imported food consignments submitted to NFSA, and shall include a number of criteria for the determination of risks associated with imported food consignments, in particular:

- country of origin of a food product and whether the competent food control authority is included in the list of bodies whose food safety control systems are approved by NFSA, and such list is published on the NFSA website,
- the risk level of imported food commodity based on the risk posed by the potential contamination of a commodity as a result of food hazards, the treatment level of such commodity, any potential target population category, and any other factor that may have an effect on the potential risks associated with the consumption of such commodity,
- conformity assessment documents issued by NFSA-registered CABs proving that an imported food consignment complies with the requirements and conditions set by NFSA, and
- past compliance history of food importers to whom food imports are consigned in respect of compliance with food safety related laws and decisions.

NFSA shall review and amend the standards and mechanisms regulating risk analysis methodology used for the determination of risks associated with imported food consignments keeping pace with the development of scientific evidence and the availability of additional data supporting decision-making.

## **Article (17)**

### **Terms and Conditions for Customs Clearance**

#### **Random or Mandatory Sampling System**

Clearance Channel shall determine whether imported food consignments are subject to temporary or final release upon arrival at the customs points of entry of the Arab Republic of Egypt, and shall determine the level of random or mandatory sampling where to imported food consignments may be subject for the verification of compliance.

NFSA shall issue a decision on the final release of imported food consignments from customs upon assigning the Green or Yellow Channel to such consignments, including consignments that have been subject to random sampling for the verification of compliance before NFSA receives the results of laboratory tests, in accordance with the criteria and requirements set by NFSA to be applied at the customs points of entry of the Arab Republic of Egypt.

NFSA shall issue a decision on the temporary release of imported food consignments from customs upon assigning the Orange Channel to such consignments, including consignments that have been subject to random sampling, in accordance with the decisions issued by NFSA in this regard.

NFSA shall issue a decision on the temporary release of imported food consignments from customs upon assigning the Red Channel to such consignments after conducting mandatory sampling thereon.

NFSA shall determine the rate of random or mandatory sampling (i.e. the percentage of imported food consignments that follow the same clearance channels and are subject to sampling) in accordance with the potential risk level of such consignments as determined by NFSA.

Risk categorization controls and conditions as well as the procedures required to be followed and taken in this regard shall be determined by a decision issued by NFSA/COB.

## **Article (18)**

### **Dealing with Non-Compliant Food Imports**

For food imports, which have been subject to sampling and have been granted final release from customs after following the Green and Yellow Clearance Channels, and then found to be non-compliant, NFSA shall take appropriate measures on such consignments, including detention, and in case where such consignments have been handled in the Egyptian market, the importer shall withdraw and recall food from said market.

In case where the importer fails to recall non-compliant food, NFSA/COB shall issue appropriate decisions and take the required measures in this regard at the expense of the importer.

For food imports, which have been subject to sampling and have been granted temporary release from customs after following the Red or Orange Clearance Channel and then found to be non-compliant, NFSA shall take appropriate measures in this regard, including re-export or destruction of such food.

### **Article (19)**

NFSA shall whenever possible make available on the NFSA website and by other media all information on the methodology applied in specifying:

- criteria for the determination of risk level of imported food consignments and food production inputs, and whenever possible any changes made to such criteria, including any mathematical processing of data that can be developed and updated for such purpose, and the methodology used for dealing with food imports, provided that the methodology applied is in consistence with the Codex guidelines on risk-based food import control system, and
- random sampling rates required to be applied as a result of the determination of risk level of imported food consignments and food production inputs, and each time the methodology is updated in order to be used in the determination of sampling rate in accordance with the protocol for the determination of risk level of food imports.

### **Article (20)**

#### **Keeping Pace with Scientific Developments**

NFSA shall update the risk-based food import control system in accordance with the developments in scientific evidence associated with food safety risks, and with any update aiming at keeping pace with the developments in establishing international Codex standards for food import control.

### **Article (21)**

The present Decision shall enter into force 6 months after date of publication, and such period may be extended for a similar period by virtue of a decision issued by NFSA/BOD.

**Chairman of the Board of Directors**

**Dr. Hussein Mansour**

**Dated : 26 July, 2020**