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COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 16 March 2018

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

No. Cion doc.: C(2018) 1516 final

Subject: CORRIGENDUM to Commission Delegated Regulation of 21 November
2017 supplementing Regulation (EU) No 576/2013 of the European
Parliament and of the Council with regard to preventive health measures
for the control of Echinococcus multilocularis infection in dogs, and
repealing Delegated Regulation (EU) No 1152/2011 (C(2017)7619)

Delegations will find attached document C(2018) 1516 final.

Encl.: C(2018) 1516 final



Brussels, 16.3.2018
C(2018) 1516 final

CORRIGENDUM

to Commission Delegated Regulation of 21 November 2017 supplementing Regulation (EU) No 576/2013 of the European Parliament and of the Council with regard to preventive health measures for the control of *Echinococcus multilocularis* infection in dogs, and repealing Delegated Regulation (EU) No 1152/2011

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(C(2017)7619)

1. CONTEXT OF THE CORRIGENDUM

Commission Delegated Regulation C(2017) 7619 final supplementing Regulation (EU) No 576/2013 of the European Parliament and of the Council with regard to preventive health measures for the control of *Echinococcus multilocularis* infection in dogs, and repealing Delegated Regulation (EU) No 1152/2011 was adopted on 21 November 2017. No objection was expressed by the European Parliament or the Council during the scrutiny period. The scrutiny period ended on 22 January 2018. However, before the Delegated Regulation was published, it was discovered that Article 9 contains an error regarding the date of application of the act. The error affects the substance of the act. Publication has therefore been delayed to allow a corrigendum to be adopted. A consolidated version of the act can then be published with the error corrected.

The Delegated Regulation to be corrected ("the new Regulation") is intended to repeal and replace Delegated Regulation (EU) No 1152/2011 ("the old Regulation"). The old Regulation currently lists the Member States eligible to apply the preventive health measures. The new Regulation is different. The power to list the relevant Member States for the purposes of the new Regulation is instead contained in Article 20 of Regulation (EU) No 576/2013 ("the basic act"). Article 20 provides:

"The Commission may, by means of an implementing act, adopt lists of Member States or parts of the territory of Member States that comply with the rules for the categorisation of Member States or parts thereof referred to in point (a) of Article 19(3). That implementing act shall be adopted in accordance with the examination procedure referred to in Article 41(2)."

Therefore, the repeal of the old Regulation under Article 8 of the new Regulation should not take effect until the Member States have been categorised under Article 20 of the basic act. However, in order to adopt an implementing act under that Article, the rules for categorisation referred to in Article 19(3)(a) must first be in place. Those rules are contained in Articles 2 and 3 of the new Regulation. Therefore, Articles 2 and 3 of the new Regulation must come into effect before the Member States can be categorised.

Article 9 of the new Regulation, in the version adopted on 21 November 2017, provides that the whole act is to apply from 1 January 2018. That was clearly not the intention, given the time needed for scrutiny, publication and entry into force. It would have had the effect of retroactively repealing the old Regulation. That would have left a gap between repeal of the old regime and implementation of the new one, pending adoption of an implementing act under Article 20 of the basic act.

In order to avoid such a gap, repeal of the old Regulation should be deferred so as to coincide with the date of application of the implementing act to be adopted under Article 20 of the basic act. Conversely, the rules for categorisation contained in the new Regulation should be applied from entry into force of the new Regulation to enable the implementing act listing the Member States to be adopted as soon as possible.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

An inter-service consultation with the Legal Service, Secretariat General and DG AGRI has been carried out.

3. LEGAL ELEMENTS OF THE CORRIGENDUM

The corrigendum corrects the new Regulation by changing the date of application in Article 9 from 1 January 2018 to 1 July 2018 and confining the deferred application rule so that it operates solely on Article 8. Article 8 is the Article that repeals the old regime under Delegated Regulation (EU) No 1152/2011. This will ensure that the procedure and conditions for categorisation provided for in Articles 2 and 3 of the new Regulation come into effect immediately on entry into force (namely, 20 days after publication).

It is not necessary to defer application of Articles 4 to 7 of the new Regulation as they have no effect unless and until Member States are listed in an implementing act under Article 20 of the basic act.

The chosen date of 1 July 2018 takes into account the maximum time needed to complete the internal procedure to adopt the corrigendum by written procedure and the objection period in the European Parliament and Council. A further 20 days after publication of the consolidated version of the new Regulation will then be needed before the new Regulation enters into force and the implementing act listing the Member States can be formally adopted by the Commission. The implementing act will then also need to be published before it can enter into force. It would therefore be helpful if the corrigendum could take effect as soon as possible.

In Article 9:

for: 'It shall apply from 1 January 2018.'

read: 'Article 8 shall apply from 1 July 2018.'