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COVER NOTE

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

date of receipt: 23 September 2019

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

No. Cion doc.: C(2019) 6749 final

Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 23.9.2019
supplementing Regulation (EU) 2017/625 of the European Parliament and
of the Council as regards rules on specific official controls on consignments
of certain animals and goods originating from, and returning to the Union
following a refusal of entry by a third country

Delegations will find attached document C(2019) 6749 final.

Encl.: C(2019) 6749 final



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COMMISSION DELEGATED REGULATION (EU) .../...

of 23.9.2019

supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules on specific official controls on consignments of certain animals and goods originating from, and returning to the Union following a refusal of entry by a third country

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) 2017/625 on Official Controls (OCR) establishes the framework for official controls and other official activities to verify the correct application of Union agri-food chain legislation. This includes official controls performed on animals and goods entering the Union from third countries.

The purpose of this draft Commission Delegated Regulation is to establish rules for the performance of official controls on consignments of animals and goods originating from and returning to the Union following refusal of entry by a third country, and to establish public health requirements for products of animal origin and composite products returning to the EU.

This draft Commission Delegated Regulation establishes the obligation for the competent authorities to carry out documentary checks, identity checks and if necessary physical checks to ensure that the requirements of Article 1(2) of Regulation (EU) 2017/625 on Official Controls for certain categories of animals and goods returning to the Union are fulfilled.

This draft Commission Delegated Regulation is linked to the Delegated Regulation which will establish conditions for monitoring the transport and arrival of consignments to the place of destination (on the basis of Article 77(2) of Regulation (EU) 2017/625 on Official Controls (C/2019/4500)).

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The Commission Expert Group "official controls" (E00911) was consulted at several occasions, and a number of meetings have been held with relevant stakeholders.

The informal discussions contributed to the preparation of a draft which did not present controversial issues.

The possibility offered through the Commission's website (https://ec.europa.eu/info/law/better-regulation/have-your-say_en) to provide public feedback on the draft Delegated Regulation resulted in four comments. One comment was not relevant to this act and one comment was not in relation to the scope of the empowerment in Article 77(1)(h) of Regulation (EU) 2017/625.

Two other comments relate to the lack of detailed animal health requirements. However, the empowerment in Article 77(1)(h) of Regulation (EU) 2017/625 does not allow for the adoption of detailed animal health requirements.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The draft Commission Delegated Regulation is based on Regulation (EU) 2017/625 and in particular on Article 77(1) (h) thereof.

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation)¹, and in particular Article 77(1)(h) thereof,

WHEREAS:

- (1) In accordance with Regulation (EU) 2017/625, the Commission is required to adopt rules for the performance of specific official controls on consignments of animals and goods referred to in Article 47(1)(a), (b) and (c) thereof, originating from, and returning to the Union following a refusal of entry by a third country.
- (2) Animals and goods originating from, and returning to the Union following a refusal of entry by a third country should be subject to documentary, identity and where appropriate physical checks at the border control post of arrival into the Union to ensure that they fulfil the requirements of Union law. In particular, those checks should ensure that the animals are fit for further transportation to their place of destination and that animal welfare requirements are respected.
- (3) Article 15 of Council Directive 97/78/EC² lays down rules concerning the veterinary checks to be conducted for the purposes of authorising the re-importation of consignments of products of Union origin returning to the Union following a refusal of entry by a third country. Regulation (EU) 2017/625 repeals and replaces Directive 97/78/EC with effect from 14 December 2019.

¹ OJ L 095 7.4.2017, p. 1.

² 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, 30.1.1998, p. 9).

- (4) In order to ensure a high level of protection of animal and public health, the requirements set out in Article 15 of Directive 97/78/EC should be maintained with certain adaptations taking into account the experience gained in the application of the requirements laid down in that Article, and the new legal framework established by Regulation (EU) 2017/625.
- (5) In particular, in order to ensure that there is no risk for the introduction and spread into the Union of animal diseases or pests of plants, the competent authorities of the Member States should ensure that consignments of Union origin returning to the Union comply with the relevant requirements for the re-entry into the Union of such consignments, as laid down in the rules on animal health, on animal by-products, or on plant health, as appropriate.
- (6) Consignments of products of animal origin and of composite products originating from, and returning to the Union, following a refusal of entry by a third country, may pose a risk to public health. In order to ensure that those consignments comply with the food and food safety rules referred to in Article 1(2)(a) of Regulation (EU) 2017/625, it is appropriate to require that the competent authorities of the border control posts of arrival into the Union should authorise the re-entry of products of animal origin listed in Commission Implementing Regulation [C(2019) 5500]³ and of composite products subject to veterinary checks at border control posts pursuant to Commission Decision 2007/275/EC⁴, provided that those products comply with additional specific requirements.
- (7) It is necessary to ensure that consignments of products of animal origin and composite products originating from, and returning to, the Union following a refusal of entry by a third country arrive at their place of destination. Therefore, the procedural requirements laid down in Commission Delegated Regulation [C(2019) 4500]⁵ should apply to monitoring the transport and arrival of consignments of goods, from the border control post of arrival into the Union to the establishment at the place of destination.
- (8) Regulation (EU) 2017/625 applies from 14 December 2019. Accordingly, the rules laid down in this Regulation should also apply from that date,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

This Regulation lays down rules for the performance of specific official controls at border control posts on consignments of the categories of animals and goods referred to in Article

³ Commission Implementing Regulation (EU) .../... of XXX laying down rules for the application of Regulation (EU) 2017/625 of the European Parliament and of the Council as regards the lists of animals, products of animal origin, germinal products, animal by-products and derived products and hay and straw subject to official controls at border control posts and amending Decision 2007/275/EC (OJ L ..., dd/mm/yyyy, p...).

⁴ Commission Decision 2007/275/EC of 17 April 2007 concerning lists of animals and products to be subject to controls at border inspection posts under Council Directives 91/496/EEC and 97/78/EC (OJ L 116, 4.5.2007, p. 9).

⁵ Commission Delegated regulation (EU)...../....of XXX supplementing Regulation (EU) 2017/625 of European Parliament and the Council as regards conditions for monitoring the transport and arrival of consignments of certain goods from the border control post of arrival to the establishment at the place of the place of destination in the Union (OJ L ..., dd/mm/yyyy, p...).

47(1)(a), (b) and (c) of Regulation (EU) 2017/625 originating from and returning to the Union following a refusal of entry by a third country.

Article 2

Specific official controls on consignments of animals and goods originating from and returning to the Union following a refusal of entry by a third country

1. The competent authority at the border control post of arrival into the Union shall perform documentary and identity checks on consignments of animals and goods referred to in Article 47(1)(a), (b) and (c) of Regulation (EU) 2017/625 originating from and returning to the Union following a refusal of entry by a third country.
2. The competent authority at the border control post of arrival into the Union shall perform physical checks on the following consignments originating from and returning to the Union following a refusal of entry by a third country:
 - (a) consignments of animals referred to in Article 47(1)(a) of Regulation (EU) 2017/625;
 - (b) consignments of goods referred to in Article 47(1)(b) and (c) of Regulation (EU) 2017/625 where non-compliance of those goods with the rules referred to in Article 1(2) of Regulation (EU) 2017/625 is suspected in order to confirm or eliminate that suspicion.
3. The competent authority at the border control post of arrival into the Union shall verify compliance of consignments of animals and goods with the following requirements:
 - (a) for animals referred to in Article 47(1)(a) of Regulation (EU) 2017/625 and for germinal products referred to in Article 47(1)(b) of Regulation (EU) 2017/625, the animal health and welfare requirements, as appropriate, set out in the rules referred to in Article 1(2)(d) and (f) of Regulation (EU) 2017/625;
 - (b) for products of animal origin and composite products referred to in Article 47(1)(b) of Regulation (EU) 2017/625:
 - (i) the animal health requirements set out in the rules referred to in Article 1(2)(d) of Regulation (EU) 2017/625;
 - (ii) the additional rules laid down in Article 3 of this Regulation;
 - (c) for animal by-products referred to in Article 47(1)(b) of Regulation (EU) 2017/625 and for derived products, the requirements set out in the rules referred to in Article 1(2)(e) of Regulation (EU) 2017/625;
 - (d) for plants, plant products, and other objects referred to in Article 47(1)(c) of Regulation (EU) 2017/625, the plant health requirements set out in the rules referred to in Article 1(2)(g) of Regulation (EU) 2017/625.
4. The competent authority at the border control post of arrival into the Union shall inform the competent authority at the place of destination via the information management system for official controls referred to in Article 131 of Regulation (EU) 2017/625 ("IMSOC") of the fact that the consignment has been accepted to enter the Union with a specified place of destination indicated in the Common Health Entry Document (CHED).

Article 3

Additional rules on specific official controls on consignments of products of animal origin and composite products

1. The competent authority at the border control post of arrival into the Union shall authorise the entry into the Union of the following consignments of products originating from and returning to the Union following a refusal of entry by a third country provided that they comply with the requirements set out in paragraph 2:
 - (a) products of animal origin listed in the Annex to Commission Implementing Regulation [C(2019) 5500];
 - (b) composite products listed in Chapters 16 to 22 of Annex I to Decision 2007/275/EC that are subject to veterinary checks at border control posts of arrival into the Union in accordance with Article 4 of that Decision.
2. The consignments of products referred to in paragraph 1 shall be accompanied by the following documents:
 - (a) the original official certificate issued by the competent authority of the Member State from which the goods originate and were dispatched to a third country ('Member State of origin'), or its electronic equivalent submitted in IMSOC, or an authenticated copy thereof;
 - (b) the official declaration of the competent authority or of other public authorities of the third country indicating the reason for the refusal of entry, the place and date of unloading and re-loading in the third country and confirming that:
 - (i) the consignment did not undergo any other handling than unloading, storage and re-loading;
 - (ii) the unloading and re-loading of the products of animal origin and composite products was handled hygienically to avoid cross contamination;
 - (iii) the products of animal origin and composite products were stored under hygienic conditions and at the required temperature for the relevant types of goods;
 - (c) the declaration of the competent authority of the place of destination in the Union that they agree to receive the consignment; however, that declaration shall not be required where the consignment returns to the establishment of origin of the consignment which is located in the same Member State as the border control post of arrival into the Union.
3. By way of derogation from paragraph 2(a), where it is not possible to provide the documents referred to in that provision, the origin of the consignment may be authenticated in another way on the basis of documented evidence presented by the operator responsible for the consignment.
4. The competent authority at the border control post of arrival into the Union may grant exemptions from the requirements laid down in paragraph 2(b) for sealed consignments, with an intact origin seal, provided that the operator responsible for the consignment submits a declaration stating the reason for the refusal of entry by the third country and confirming that transport has taken place under conditions appropriate for the relevant type of products of animal origin and composite products.

5. The competent authority at the border control post of arrival shall monitor the transport and arrival at the place of destination of the consignment in accordance with Delegated Regulation [C(2019) 4500], where the competent authority of the place of destination has issued the declaration referred to in paragraph 2(c).

Article 4

Entry into force and date of application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 14 December 2019.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 23.9.2019

For the Commission
The President
Jean-Claude JUNCKER