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From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

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

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Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 29.10.2020 amending Delegated Regulation (EU) 2019/2124 as regards official controls at the border control post where goods leave the Union and certain provisions on transit and transshipment

Delegations will find attached document C(2020) 7418 final.

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Brussels, 29.10.2020
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COMMISSION DELEGATED REGULATION (EU) .../...

of 29.10.2020

amending Delegated Regulation (EU) 2019/2124 as regards official controls at the border control post where goods leave the Union and certain provisions on transit and transhipment

(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.

Article 51(1) of OCR provides that certain categories of animals and goods referred in Article 47(1) of Regulation (EU) 2017/625 coming from third countries must be subject to specific official controls at the border control posts.

The purpose of this Delegated Regulation amending Regulation (EU) 2019/2124 is to:

- harmonise terms with regard to which operator specific provisions apply;
- establish new category of goods (products of animal origin) to be checked by the competent authorities at the border control post where consignments leave the Union;
- lay down provisions to accompany the consignments destined to NATO/US military bases in third countries with the certificate issued under Reg. 2019/2128 from the approved warehouses until the border control post where consignments leave the Union.

In addition, the objective of this Delegated Regulation amending Regulation (EU) 2019/2124 is to lay down provisions to allow operators under certain conditions to give prior notification to the border control post of re-introduction into the Union about arrival of consignments of goods through IT systems other than IMSOC. This technical solution is necessary to facilitate the performance of official controls of goods in transit through the United Kingdom, excluding Northern Ireland, following the end of the transition period provided for in the Withdrawal Agreement.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The Commission Expert Group "official controls" (E00911) was consulted at several occasions and meeting has been held with relevant stakeholders.

No impact assessment has been carried out, as the Delegated Regulation is not expected to have any significant negative impact.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The legal basis is Article 55(1) of Regulation (EU) 2017/625.

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

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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 points (b) and (d) of Article 51(1) thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) 2019/2124² establishes rules for the performance of official controls by the competent authorities of the Member States³ on consignments of animals and goods in transit, transhipment and onward transportation through the Union.
- (2) Since several operators are involved during transit and transhipment, including importers, transporters, customs agents and traders, it is necessary to indicate that operators responsible for consignments should comply with the rules in Delegated Regulation (EU) 2019/2124.

¹ OJ L 95, 7.4.2017, p. 1.

² Commission Delegated Regulation (EU) 2019/2124 of 10 October 2019 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules for official controls of consignments of animals and goods in transit, transhipment and onward transportation through the Union, and amending Commission Regulations (EC) No 798/2008, (EC) No 1251/2008, (EC) No 119/2009, (EU) No 206/2010, (EU) No 605/2010, (EU) No 142/2011, (EU) No 28/2012, Commission Implementing Regulation (EU) 2016/759 and Commission Decision 2007/777/EC (OJ L 321, 12.12.2019, p. 73).

³ In accordance with the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, and in particular Article 5(4) of the Protocol on Ireland / Northern Ireland in conjunction with Annex 2 to that Protocol, this Regulation applies to and in the United Kingdom in respect of Northern Ireland.

- (3) In order to ensure traceability of consignments until they leave the Union territory, the official certificate issued in accordance with Commission Implementing Regulation (EU) 2019/2128⁴ is to accompany the consignments from the approved warehouses to the border control posts where the goods leave the Union territory.
- (4) In accordance with Implementing Regulation (EU) 2019/2128, official certificates may be issued in paper format. As a consequence, competent authorities responsible for official controls at NATO or US military bases, competent authorities at the border control posts where goods leave the Union and the representative of the master of a vessel or the operator responsible for delivery of consignments to a vessel leaving the Union territory should also be allowed the possibility of countersigning official certificates that are issued in paper format and returning such official certificates within 15 days from the date when transit was authorised.
- (5) With a view to protecting human and animal health, consignments of products of animal origin, germinal products, animal by-products, derived products, hay and straw and composite products in transit from one third country to another third country may be authorised to pass through the Union territory provided they meet certain conditions. Such conditions should include the proper monitoring of consignments during transit and their due presentation for official controls at the border control post where they leave the Union territory.
- (6) To ensure human and animal health protection, products of animal origin should be added to the commodities to be checked at the border control post where goods leave the Union.
- (7) Delegated Regulation (EU) 2019/2124 lays down the specific requirements for transit of animals, products of animal origin, germinal products, animal by-products, derived products, hay and straw and composite products from one part of the Union territory to another part of the Union territory, passing through the territory of a third country.
- (8) After the transition period, which was agreed as part of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (Withdrawal Agreement), products of animal origin, germinal products, animal by-products, derived products, hay and straw and composite products that are moved from one part of the Union territory to another part of the Union territory, passing through the United Kingdom, excluding Northern Ireland, are to be presented for official controls at the border control post of re-introduction into the Union. The notion ‘Union territory’ includes Northern Ireland for the purposes of the application of this Regulation.
- (9) On the basis of prior notification of arrival of the consignment and documentary checks, the competent authorities of the border control post of re-introduction into the Union should be able to assess whether the consignment in transit may be readmitted into the Union or is to be presented for further controls. This prior notification should be effected by the operator responsible for the consignment. Prior notification and documentary checks should be performed through the information management system for official controls (IMSOC).

⁴ Commission Implementing Regulation (EU) 2019/2128 of 12 November 2019 establishing the model official certificate and rules for issuing official certificates for goods which are delivered to vessels leaving the Union and intended for ship supply or consumption by the crew and passengers, or to NATO or a United States’ military base (OJ L 321, 12.12.2019, p. 114).

- (10) However, several Member States have highlighted practical problems and the considerable administrative burden of using the IMSOC for prior notification and documentary checks in the specific case of transit through the United Kingdom, excluding Northern Ireland.
- (11) In order to avoid any delay resulting from the administrative burden of complying with documentary formalities for the re-introduction of products of animal origin, germinal products, animal by-products, derived products, hay and straw and composite products into the Union, the possibility should be provided for Member States of using an alternative information system that achieves the same objectives as the IMSOC for prior notification and recording of the results of documentary checks at the border control post of re-introduction into the Union after transit through the United Kingdom, excluding Northern Ireland.
- (12) Delegated Regulation (EU) 2019/2124 should therefore be amended accordingly.
- (13) In order to ensure that the measures provided for in this Regulation are effective after the transition period in the Withdrawal Agreement ends, this Regulation should apply from 1 January 2021,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2019/2124 is amended as follows:

- (1) in Article 2, point (7) is replaced by the following:
‘(7) border control post of introduction into the Union’ means the border control post where animals and goods are presented for official controls and through which they enter the Union for subsequent placing on the market or for transit through the Union territory* and which may be the border control post of first arrival into the Union;

* The notion “Union territory” includes Northern Ireland for the purposes of the application of this Regulation.’;

- (2) Article 14 is replaced by the following:

‘Article 14

Storage of transhipped consignments of products of animal origin, germinal products, animal by-products, derived products, hay and straw and composite products

The operator responsible for consignments of products of animal origin, germinal products, animal by-products, derived products, hay and straw and composite products shall ensure that those consignments are only stored during the transshipment period either in:

- (i) the customs or free zone area of the same port or airport in sealed containers; or
- (ii) commercial storage facilities under the control of the same border control post, in compliance with the conditions laid down in Article 3(11) and (12) of Commission Implementing Regulation (EU) 2019/1014**.

** Commission Implementing Regulation (EU) 2019/1014 of 12 June 2019 to lay down detailed rules on minimum requirements for border control posts, including inspection centres, and for the format, categories and abbreviations to use for listing border control posts and control points (OJ L 165, 21.6.2019, p. 10).’;

(3) in Article 29, point (c) is replaced by the following:

‘(c) the operator responsible for the consignment ensures that an official certificate in accordance with the model set out in the Annex to Implementing Regulation (EU) 2019/2128 accompanies the consignment to its place of destination or to the border control post where the goods leave the Union territory.’;

(4) Article 31 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘2. The operator responsible for the consignments of goods referred to in paragraph 1 may unload those consignments at the port of destination before the delivery of the consignments to the vessel leaving the Union territory provided that the operation is authorised and supervised by the customs authority, and the conditions of delivery indicated in the notification referred to in paragraph 1 are met.’;

(b) paragraph 4 is replaced by the following:

‘4. The representative referred to in paragraph 3 or the operator responsible for the delivery of the consignments to the vessel leaving the Union territory shall return to the competent authorities of the border control post of introduction into the Union or of the warehouse, within a period of 15 days from the date on which transit was authorised at the border control post of introduction into the Union or at the warehouse, the countersigned official certificate referred to in point (a) of paragraph 3.’;

(5) Article 32 is replaced by the following:

‘Article 32

Operator’s obligations to present goods leaving the Union territory for official controls

1. The operator responsible for consignments of products of animal origin, germinal products, animal by-products, derived products, hay and straw and composite products that leave the Union territory to be transported to a third country shall present those consignments for official controls to the competent authorities of the border control post indicated in the CHED, at a location indicated by those competent authorities.
2. The operator responsible for the consignments of goods referred to in paragraph 1 that leave the Union territory to be dispatched to a NATO or US military base located in a third country shall present those consignments for official controls to the competent authorities of the border control post indicated in the official certificate issued in accordance with the model set out in the Annex to Implementing Regulation (EU) 2019/2128.’;

(6) Article 33 is replaced by the following:

Official controls at the border control post where goods leave the Union territory

1. The competent authorities of the border control post where products of animal origin, germinal products, animal by-products, derived products, hay and straw and composite products leave the Union territory shall perform an identity check to ensure that the consignment presented corresponds to the consignment referred to in the CHED or in the official certificate issued in accordance with the model set out in the Annex to Implementing Regulation (EU) 2019/2128 accompanying the consignment. In particular, they shall verify that the seals fixed on the vehicles or transport containers in accordance with point (d) of Article 19, point (d) of Article 28 or point (e) of Article 29 are still intact.
 2. The competent authorities of the border control post where goods referred to in paragraph 1 leave the Union territory shall record the outcome of official controls in part III of the CHED or part III of the official certificate issued in accordance with the model set out in the Annex to Implementing Regulation (EU) 2019/2128.
 3. The competent authorities of the border control post responsible for the checks referred to in paragraph 1 shall confirm to the competent authorities of the border control post of introduction into Union or of the warehouse, within a period of 15 days from the date on which transit was authorised at the border control post of introduction into the Union or at the warehouse, the arrival and compliance of the consignment with this Regulation, either by:
 - (a) entering the relevant information in the IMSOC; or
 - (b) countersigning the official certificate issued in accordance with the model set out in the Annex to Implementing Regulation (EU) 2019/2128 and returning to the competent authorities of the warehouse the original certificate or transmitting a copy thereof.’;
- (7) Article 35 is amended as follows:
- (a) paragraph 2 is replaced by the following:

‘2. The competent authorities responsible for controls at the NATO or US military base at the place of destination shall perform an identity check to confirm that the consignment corresponds to the one covered by the CHED or by the accompanying official certificate issued in accordance with the model set out in the Annex to Implementing Regulation (EU) 2019/2128. In particular, they shall verify that the seals fixed on the vehicles or transport containers in accordance with point (d) of Article 19 and point (e) of Article 29 are still intact.’;
 - (b) the following paragraph 3 is added:

‘3. The competent authorities responsible for controls at the NATO or US military base at the place of destination shall confirm to the competent authorities of the border control post of introduction into the Union or of the warehouse, within a period of 15 days from the date on which transit was authorised at the border control post of introduction into the Union or at the warehouse, the arrival and compliance of the consignment with this Regulation, either by:

- (a) entering the relevant information in the IMSOC; or
- (b) countersigning the official certificate issued in accordance with the model set out in the Annex to Implementing Regulation (EU) 2019/2128 and returning to the competent authorities of the warehouse the original certificate or transmitting a copy thereof.’;

(8) in Article 36, paragraph 3 is replaced by the following:

‘3. The operator responsible for the consignment of goods referred to in paragraph 1 shall directly transport the consignment to one of the following destinations:

- (a) the border control post which authorised transit through the Union; or
- (b) the warehouse where it was stored before refusal by a third country.’;

(9) Article 37 is amended as follows:

(a) the following paragraph 4a is inserted:

‘4a. For the consignments of goods referred to in paragraph 1 of this Article that are not subject to animal health requirements for entry into the Union in accordance with the rules referred to in points (d) and (e) of Article 1(2) of Regulation (EU) 2017/625 and that are moved from one part of the Union territory to another part of the Union territory, passing through the United Kingdom, excluding Northern Ireland, the operators referred to in paragraph 2 of this Article may give prior notification of arrival of those consignments to the competent authorities of the border control post of re-introduction into the Union through an information system or a combination of information systems other than the IMSOC, provided such system or combination of systems:

- (a) has been designated by the competent authorities;
- (b) allows the operators to provide the following information:
 - (i) the description of the goods in transit;
 - (ii) the identification of the means of transport;
 - (iii) the estimated time of arrival;
 - (iv) the origin and destination of the consignments; and
- (c) allows the competent authorities of the border control post of re-introduction into the Union to:
 - (i) assess the information provided by the operators;
 - (ii) inform the operators if the consignments must be presented for the additional checks provided for in paragraph 4.’;

(b) paragraph 5 is replaced by the following:

‘5. The operators responsible for consignments of animals that are moved from one part of the Union territory to another part of the Union territory, passing through the territory of a third country, shall present those consignments for official controls at the exit point from the Union territory.’.

Article 2

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 1 January 2021.

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

Done at Brussels, 29.10.2020

For the Commission
The President
Ursula VON DER LEYEN