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COMMISSION

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COMMISSION IMPLEMENTING REGULATION (EU) .../...

of XXX

on the procedures at border control posts for a coordinated performance by competent authorities of intensified official controls on products of animal origin, germinal products, animal by-products and composite products

(Text with EEA relevance)

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

COMMISSION IMPLEMENTING REGULATION (EU) .../...

of **XXX**

on the procedures at border control posts for a coordinated performance by competent authorities of intensified official controls on products of animal origin, germinal products, animal by-products and composite products

(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 65(6) thereof,

Whereas:

- (1) Regulation (EU) 2017/625 subjects certain categories of animals and goods to systematic controls at border control posts prior to their entry into the Union.
- (2) It follows from Article 65(4) of Regulation (EU) 2017/625 that in case of suspected fraudulent or deceptive practices by an operator or in the case of serious or repeated infringements of the rules referred to in Article 1(2) of that Regulation, official controls on consignments with the same use or origin performed by the competent authorities at the border control posts should be intensified. Pursuant to Article 65(5) of Regulation (EU) 2017/625, the competent authorities' decision to perform such intensified controls is to be notified to the Commission and the Member States through the information management system for official controls (IMSOC) referred to in Article 131 of that Regulation.
- (3) In order to ensure a harmonised approach to the coordinated performance of intensified official controls on certain goods entering the Union, detailed procedures for the coordinated performance of those controls should be established, including rules on the role of the IMSOC in this respect. For practical reasons, the coordinated performance of intensified controls at borders should be limited to the categories of consignments for which there is an identifiable listed establishment of origin, i.e. consignments of products of animal origin, germinal products, animal by-products and composite products.

¹ OJ L 95, 7.4.2017, p. 1.

- (4) When receiving notifications from the competent authorities in accordance with Article 65(5) of Regulation (EU) 2017/625, the Commission should in particular assess whether the non-compliance is based on suspected fraudulent or deceptive practices or on a possible serious or repeated infringement of the rules referred to in Article 1(2) of Regulation (EU) 2017/625, for instance the placing on the market of products of animal origin containing levels of contaminants or residues of veterinary medicinal products which exceed the maximum residue limit, or of products which do not comply with Commission Regulation (EC) No 2073/2005².
- (5) In order to reduce the risk of fraudulent or deceptive practices by way of presenting small consignments for official controls, the total weight of compliant consignments required to end the coordinated performance of intensified official controls should amount to at least ten times the weight of the consignment that initially triggered the measure. However, in order to avoid an unacceptable administrative and financial burden for the competent authorities and for operators, a maximum total weight of compliant consignments required to end the coordinated performance of intensified official controls should be set.
- (6) If, during the coordinated performance of intensified official controls, three consignments entering the Union reveal the same type of infringement indicated in the notification in accordance with Article 65(5) of Regulation (EU) 2017/625, the coordinated performance of intensified official controls should be maintained until its results and the action of the competent authorities of the third countries concerned are satisfactory. In that case, the Commission should request the competent authorities of the third countries to carry out the necessary investigations and measures in order to remedy the situation in the establishment of origin and report back to the Commission.
- (7) For reasons of the efficiency of the control system, it should be possible for the Member States to exclude certain consignments from the coordinated performance of intensified official controls, in cases where the consignments are to be refused entry into the Union on grounds other than the infringement for which the coordinated intensified official controls are performed.
- (8) Since Regulation (EU) 2017/625 applies from 14 December 2019, this Regulation should also apply from that date.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

This Regulation lays down rules relating to the procedures at border control posts for a coordinated performance by competent authorities of intensified official controls on products of animal origin, germinal products, animal by-products and composite products entering the Union for placing on the market.

² Commission Regulation (EC) No 2073/2005 of 15 November 2005 on microbiological criteria for foodstuffs (OJ L 338, 22.12.2005, p. 1).

Article 2
Definition

For the purpose of this Regulation, ‘establishment of origin’ means the establishment of origin in a third country, including third country vessels, appearing on lists drawn up regarding the export of products of animal origin, germinal products, animal by-products and composite products to the Union in accordance with the relevant Union legislation.

Article 3

Triggering of the coordinated performance of intensified official controls

1. When notifying the Commission and the other Member States through the IMSOC of their decision in accordance with Article 65(5) of Regulation (EU) 2017/625, the competent authorities shall indicate the establishment of origin, the category of goods, including their description and code from the Combined Nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87³, and the infringement for which a coordinated performance of intensified official controls is to be performed.
2. After receipt of the notification referred to in paragraph 1, the Commission shall assess whether the following conditions are met:
 - (a) the notification is based on suspected fraudulent or deceptive practices or on a possible serious or repeated infringement of the rules referred to in Article 1(2) of Regulation (EU) 2017/625;
 - (b) the notification is related to an action or omission for which the establishment of origin of the consignment concerned is responsible; and
 - (c) the consignment concerned is not already subject to the coordinated performance of intensified official controls in accordance with this Regulation;
 - (d) the consignment concerned is not subject to emergency measures adopted in accordance with Article 53 of Regulation (EC) No 178/2002 of the European Parliament and of the Council⁴ and Article 261 of Regulation (EU) 2016/429⁵, or to special measures adopted in accordance with Article 128 of Regulation (EU) 2017/625, for the same infringement as the one indicated in the notification referred to in paragraph 1.
3. The Commission shall record the outcome of its assessment referred to in paragraph 2 in the IMSOC.
4. Where the outcome of the assessment referred to in paragraph 2 indicates that the requisite conditions have been met, the competent authorities at the border control posts in all Member States shall perform coordinated intensified official controls.

³ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256 7.9.1987, p. 1).

⁴ Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

⁵ Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health (‘Animal Health Law’) (OJ L 84, 31.3.2016, p. 1).

Article 4

Procedures for the coordinated performance of intensified official controls

1. The competent authorities at the border control posts in all Member States shall carry out the identity and physical checks referred to in Article 49 of Regulation (EU) 2017/625 on each consignment coming from the same establishment of origin and containing the same category of goods, for the same type of infringement, as indicated in the IMSOC in accordance with Article 3(1).
2. For the controls referred to in paragraph 1, the consignments shall be selected on the basis of the codes from the Combined Nomenclature indicated in IMSOC in accordance with Article 3(1).
3. Where no specific subdivision of the codes from the Combined Nomenclature exists to accurately identify the category of goods referred to in paragraph 1, the competent authorities at border control posts shall not subject selected consignments which do not correspond to the description of the goods referred to in Article 3(1) to the coordinated performance of intensified official controls.
4. The competent authorities shall record in the IMSOC the reasons for not subjecting a selected consignment to the coordinated performance of intensified official controls in accordance with paragraph 3.

Article 5

Imposed checks

1. If, during the coordinated performance of intensified official controls, three consignments entering the Union reveal the same type of infringement indicated in the notification referred to in Article 3(1), the Commission shall request the competent authority of the third country, in which the establishment of origin of the non-compliant consignments is located, to:
 - (a) make the necessary investigations to identify the reasons for the infringements ('imposed checks');
 - (b) adopt an action plan in relation to the establishment of origin to effectively remedy the situation; and
 - (c) report back on the actions referred to in points (a) and (b), including the results of the action plan.
2. The Commission shall closely monitor the results of the imposed checks and the action plan and take further action, including measures in accordance with Article 53 of Regulation (EC) 178/2002 and Article 127(4) of Regulation (EU) 2017/625, when:
 - (a) the competent authority of the third country does not take appropriate action to effectively remedy the situation; or
 - (b) the competent authorities of the Member States continue to notify unsatisfactory results of the coordinated performance of intensified official controls.

Article 6

Termination of the coordinated performance of intensified official controls

1. The coordinated performance of intensified official controls shall end in the following cases:
 - (a) when a competent authority decides to withdraw its notification referred to in Article 3(1) and informs the Commission and the other Member States thereof through the IMSOC, indicating the reasons justifying their decision; or
 - (b) when the following conditions are met:
 - (i) an uninterrupted sequence of at least 10 satisfactory results in the coordinated performance of intensified official controls has been recorded in the IMSOC by the competent authorities of the border control posts of the Member States; and
 - (ii) the total weight of the consignments referred to in point (i) reaches at least 10 times the weight of the consignment to which the notification referred to in Article 3(1) relates, or a net weight of 300 tons, whichever is the lowest.
2. However, where the Commission has requested imposed checks in accordance with point (a) of Article 5(1), the coordinated performance of intensified official controls shall end when:
 - (a) an uninterrupted sequence of at least 30 satisfactory results in the coordinated performance of intensified official controls has been recorded in the IMSOC by the competent authorities of the border control posts of the Member States; and
 - (b) the competent authority of the third country has adopted a satisfactory action plan in accordance with point (b) of Article 5(1).

Article 7

Costs of the coordinated performance of intensified official controls

The costs of the coordinated performance of intensified official controls shall be at the expense of the operator responsible for the consignments that are subject to those controls.

Article 8

Consignments excluded from the coordinated performance of intensified official controls

1. The competent authorities may exclude a consignment from the coordinated performance of intensified official controls, if the consignment is to be refused entry into the Union in accordance with Article 66(1) of Regulation (EU) 2017/625 on grounds other than the infringement for which the coordinated intensified official controls are performed.
2. The competent authorities shall record in the IMSOC the reasons for the exclusion of a consignment from the coordinated performance of intensified official controls in accordance with paragraph 1.

Article 9

Entry into force and 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,

For the Commission
The President
Jean Claude JUNCKER

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