Commission Implementing Regulation (EU) 2020/2208 of 22 December 2020 including the United Kingdom as a third country authorised for the imports into the Union of consignments of hay and straw (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2020/2208

of 22 December 2020

including the United Kingdom as a third country authorised for the imports into the Union of consignments of hay and straw

(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 128(1) thereof,

Whereas:

(1) Certain plant products, including hay and straw, pose a risk of spreading infectious or contagious diseases to animals.

(2) Article 128(2) of Regulation (EU) 2017/625 provides for the elements that should be included in the measures necessary to contain such risks.

(3) Article 9 of Commission Regulation (EC) No 136/2004[(2)] requires veterinary checks for the plant products listed in Annex IV to that Regulation, including straw and hay. Annex V to that Regulation lists the countries from which Member States are authorised to import hay and straw and specifies the conditions for such imports.

(4) The CN codes for hay and straw are provided for in Chapter 12 of Annex I to Commission Implementing Regulation (EU) 2019/2007[(3)].

(5) Whilst Commission Implementing Regulation (EU) 2019/2130[(4)] repealed Regulation (EC) No 136/2004, at the same time, it provided that Article 9 and Annexes IV and V of Regulation (EC) No 136/2004 remain applicable until 21 April 2021.

(6) Implementing Regulation (EU) 2019/2130 applies to hay and straw entering the Union. That Implementing Regulation provides detailed rules for documentary checks, identity checks and physical checks to be performed on hay and straw at border control posts.

(7) In view of the end of the transition period provided for in 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) on 31 December 2020, the United Kingdom requested to be able to continue its exports of hay and straw to the Union.

(8) Furthermore, hay and straw are commodities through which risks to animal health may be transmitted. However, the present animal health status of the United Kingdom does not pose any concerns in relation to exports of hay and straw to the Union. Therefore, it is appropriate to subject hay and straw originating from the United Kingdom to documentary checks, identity checks and physical checks at the border control post of first arrival into the Union.

(9) The United Kingdom has provided the necessary guarantees that would have fulfilled Regulation (EC) No 136/2004 for a third country to be listed in Annex V of that Regulation and to be included into the list of third countries from which Member States are authorised to import hay and straw. Taking into account the potential risk to animal health as well as the guarantees provided by the United Kingdom, that third country should be included as a third country from which Member States are authorised to import hay and straw, without prejudice to to the application of Union law to and in the United Kingdom in respect of Northern Ireland in accordance with Article 5(4) of the Protocol on Ireland/Northern Ireland to the Withdrawal Agreement in conjunction with Annex 2 to that Protocol.

(10) Council Directive 97/78/EC[(5)], which provided the legal base for Regulation (EC) No 136/2004, was repealed by Article 146(1) of Regulation (EU) 2017/625 and could therefore not serve as a legal base for including the United Kingdom in Annex V to Regulation (EC) No 136/2004.

(11) Since the list of third countries from where Member States may import hay and straw in Annex V to Regulation (EC) No 136/2004 is still applicable until 21 April 2021, the Commission has not yet adopted any delegated act in accordance with Article 126(1) of Regulation (EU) 2017/625 to lay down that hay and straw only enter the Union from a third country or a region of a third country which appears on a list drawn up by the Commission for that purpose. As a consequence, the United Kingdom cannot be included into such list in accordance with Article 127(1) of Regulation (EU) 2017/625. Therefore, the United Kingdom should be included as a third country from which Member States are authorised to import hay and straw subject to the detailed rules on the operations to be carried out on goods subject to official controls at border control posts in accordance with Implementing Regulation (EU) 2019/2130.

(12) Pending the replacement of the list in Annex V to Regulation (EC) No 136/2004 by a measure adopted in accordance with Regulation (EC) 2017/625, it is appropiate to allow imports into the Union of hay and straw coming and originating from the United