Commission Implementing Regulation (EU) 2019/2129 of 25 November 2019 establishing rules for the uniform application of frequency rates for identity checks and physical checks on certain consignments of animals and goods entering the Union (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2019/2129

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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 (a) and (c) of the first subparagraph of Article 54(3) thereof,

Whereas:

(1) Regulation (EU) 2017/625 establishes rules on the performance of official controls by the competent authorities of the Member States on animals and goods entering the Union in order to verify compliance with Union agri-food chain legislation.

(2) Article 54(3) of Regulation (EU) 2017/625 empowers the Commission to establish rules for the uniform application of the appropriate frequency rate for identity checks and physical checks on consignments of the categories of animals and goods referred to in Article 47(1)(a) and (b) of that Regulation. Therefore the frequency rates on identity checks and physical checks should be established depending on the risk posed by each animal, good or category of animals or goods to human, animal or plant health, animal welfare or, as regards genetically modified organisms and also to the environment.

(3) To ensure that the frequency rates of physical checks required pursuant to this Regulation are complied with in a uniform manner, provision should be made in this Regulation to make use of the information management system for official controls

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(IMSOC) referred to in Article 131 of Regulation (EU) 2017/625 for the selection of consignments for physical checks.

(4) The frequency rates established in accordance with this Regulation should be applicable for the animals and goods referred to in Article 47(1)(a) and (b) of Regulation (EU) 2017/625 intended to be placed on the market. However, the frequency of physical checks carried out at border control posts to ascertain compliance with Regulation (EU) 2018/848 of the European Parliament and of the Council[(2)] should be determined in accordance with Article 45(5) of that Regulation.

(5) Council Directive 91/496/EEC[(3)] lays down rules governing the organisation of veterinary checks on animals entering the Union from third countries. Article 4 of that Directive provides that each consignment of animals should be subject to identity checks and physical checks.

(6) Directive 91/496/EEC is repealed by Regulation (EU) 2017/625 with effect from 14 December 2019. Taking into account the risk posed by certain categories of animals to human or animal health and animal welfare, the same frequency rates of identity checks and physical checks should continue to apply to animals entering the Union from third countries as those laid down in or in accordance with Directive 91/496/EEC.

(7) To ensure the effectiveness of the official controls, identity checks and physical checks should be carried out in such a way that it is not possible for the operator responsible for the consignment to predict whether any particular consignment will be subject to physical checks.

(8) Article 3 of Commission Implementing Regulation (EU) 2019/2130[(4)] establishes detailed rules on identity checks for goods referred to in point (b) of Article 47(1) of Regulation (EU) 2017/625, according to whether the consignment is subject to physical checks or not.

(9) The baseline criteria for determining the baseline frequency rates for the identity checks and physical checks performed on products of animal origin, germinal products, animal by-products, derived products, hay and straw and composite products should be established taking into account information regarding the risks associated with the categories of animals or goods and available scientific assessments.

(10) Based on information collected by the Commission in accordance with Article 125(1) of Regulation (EU) 2017/625, on the outcome of controls performed by Commission experts in third countries in accordance with Article 120(1) of that Regulation and on information collected through the IMSOC, it should be possible to modify the frequency rates for physical checks resulting from the baseline criteria.

(11) To ensure the efficiency of official controls, the frequency rates determined in accordance with this Regulation should be made available through the IMSOC.

(12) For certain third countries with which the Union has concluded veterinary agreements on equivalency, it is appropriate to reduce the frequency of physical checks on certain products, taking into account, inter alia, the application of the regionalisation principle in the case of animal disease, and of other veterinary principles. Therefore, the

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frequency rates for physical checks specified in these veterinary agreements should apply for the purpose of this Regulation.

(13) Commission Decision 94/360/EC[(5)] establishes reduced frequency rates of physical checks for certain categories of goods subject to veterinary checks. Since this Regulation lays down provisions in the areas covered by Decision 94/360/EC, that Decision should be repealed with effect from the date specified in this Regulation.

(14) Regulation (EU) 2017/625 applies from 14 December 2019. Accordingly, the rules laid down in this Regulation should also apply from that date.

(15) 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 for the uniform application of the appropriate frequency rate of identity checks and physical checks on consignments of animals and goods referred to in Article 47(1)(a) and (b) of Regulation (EU) 2017/625 intended to be placed on the market.

Article 2

Definitions

For the purpose of this Regulation,

1. ‘frequency rate’ means the minimum percentage of consignments of animals and goods referred to in Article 1, determined in accordance with this Regulation, of the number of consignments arrived at the border control post during an identified period, for which identity checks and physical checks are to be carried out by the competent authorities;

2. ‘IMSOC’ means the information management system for official controls referred to in Article 131 of Regulation (EU) 2017/625.

Article 3

Selection of consignments for physical checks

1 The competent authorities shall select consignments for physical checks in accordance with the following procedure:

a a random selection of a consignment is automatically generated by the IMSOC;

b the competent authorities may decide to select the consignment in accordance with point (a) or to select a different consignment of the same category of goods and the same origin of goods.

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2 For each consignment selected for physical checks in accordance with paragraph 1 of this Article, the competent authorities shall perform identity checks as referred to in Article 3(1) of Implementing Regulation (EU) 2019/2130.

Article 4

Frequency rates for identity checks and physical checks

1 The competent authorities shall perform identity checks and physical checks on consignments of animals, products of animal origin, germinal products, animal by-products, derived products, hay and straw and composite products at the frequency rates determined in accordance with Article 5.

2 For the third countries listed in Annex II with which the Union has concluded agreements of equivalence, physical checks shall be carried out according to the frequency rates established by these agreements.

Article 5

Determination and modification of frequency rates for identity checks and physical checks performed on animals, products of animal origin, germinal products, animal by-products, derived products, hay and straw and composite products

1 The baseline frequency rates for identity checks and for physical checks on consignments of animals and goods referred to in Article 1 are set out in Annex I to this Regulation, based on the scientific assessments and information referred to in points (a)(v) and (vi) of the first subparagraph of Article 54(3) of Regulation (EU) 2017/625.

2 The frequency rate for physical checks on specific goods from a specific third country may be increased where serious deficiencies are identified based on:

a information collected by the Commission in accordance with Article 125(1) of Regulation (EU) 2017/625; or

b the outcome of controls performed by Commission experts in accordance with Article 120(1) of Regulation (EU) 2017/625.

In this case, the frequency rate determined in accordance with paragraph 1 is increased to the next higher baseline frequency rate set out in Annex I or to a frequency rate of 50 % where the frequency rate applicable to the specific category of goods is at 30 %,

3 The frequency rate of physical checks shall be increased from the baseline frequency rate determined in accordance with paragraph 1 to the next higher baseline frequency rate set out in Annex I, or to a frequency rate of 50 % if the frequency rate applicable to the specific category of goods is at 30 %, where data and information collected via the IMSOC indicate for specific goods from a specific third country a level of non-compliance with respect to physical checks in the last 12 months, for the same category of goods, which exceeds by 30 % the average rate of non-compliance for the same category of goods from all third countries.

4 Where the criteria referred to in paragraph 2 or in paragraph 3 are no longer met, the frequency rate shall be reduced to the respective baseline frequency rate set out in Annex I.

5 The Commission shall make frequency rates determined in accordance with this Article available to competent authorities and to operators through the IMSOC.

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Article 6

Repeals

Decision 94/360/EC is repealed with effect from 14 December 2019.

Article 7

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, 25 November 2019.

For the Commission

The President

Jean-Claude JUNCKER