Commission Delegated Regulation (EU) 2019/2126 of 10 October 2019 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules for specific official controls for certain categories of animals and goods, measures to be taken following the performance of such controls and certain categories of animals and goods exempted from official controls at border control posts (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2019/2126

of 10 October 2019

supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules for specific official controls for certain categories of animals and goods, measures to be taken following the performance of such controls and certain categories of animals and goods exempted from official controls at border control posts

(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 48(h) and Article 77(1)(a), (b) and (k) thereof,

Whereas:

(1) Article 77(1)(a), (b) and (k) of Regulation (EU) 2017/625 empowers the Commission to adopt rules for the performance of specific official controls for certain categories of animals and goods entering the Union and on measures to be taken in case of non-compliance.

(2) In the interest of ensuring efficient official controls of consignments of unskinned, furred wild game introduced into the Union, specific control requirements should be laid down where physical controls are finalised at the establishment of destination since complete physical checks and sampling cannot be performed at border control posts.

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(3) In the interest of ensuring efficient official controls of fresh fishery products directly landed in Union ports, it should be allowed for official controls to be performed in ports designated by Member States in accordance with Council Regulation (EC) No 1005/2008[(2)].

(4) Article 77(1)(k) of Regulation (EU) 2017/625 empowers the Commission to adopt rules for the performance of specific official controls for animals and goods referred to in Article 48(h) of that Regulation posing a low risk or no specific risk and exempted from official controls at border control posts, when such an exemption is justified.

(5) Where official controls are not performed at border control posts, conditions, such as adequate control arrangements, should be established to ensure that no unacceptable risks to public, animal and plant health are incurred where such animals and goods enter the Union.

(6) In the case of frozen tuna posing low risk or no specific risk in accordance with Article 48(h) of Regulation (EU) 2017/625, official controls may be carried out at the processing establishment of destination, which is to be approved by the customs authorities for the temporary storage of non-Union goods in accordance with Regulation (EU) No 952/2013 of the European Parliament and of the Council[(3)].

(7) In the case of fishery products posing low risk or no specific risk in accordance with Article 48(h) of Regulation (EU) 2017/625 caught by vessels flying the flag of a Member State and introduced into the Union after being unloaded in third countries, as referred to in Article 72 of Commission Implementing Regulation (EU) 2019/627[(4)], measures should be taken in case of suspected non-compliance.

(8) Animals and goods entering the Union through certain Greek islands and through certain French territories pose a low risk given that such animals and goods are not placed on the market outside these islands or territories. Adequate official control requirements and measures should be established to ensure that such animals and goods are not placed on the market outside these islands or territories.

(9) In order to rationalise and simplify the application of the legislative framework the rules on official controls under Article 77(1)(k) and Article 48(h) of Regulation (EU) 2017/625 should be adopted together with the rules on official controls on other categories of goods listed in Article 77(1)(a) and (b) of that Regulation.

(10) These rules are substantially linked and many are intended to be applied in tandem. In the interest of simplicity and transparency, as well as to facilitate their application and avoid a multiplication of rules, they should therefore be laid down in a single act rather than in a number of separate acts with many cross-references and the risk of duplication.

(11) Given that this Regulation lays down rules covered by Commission Decision 94/641/EC[(5)] and Commission Implementing Decision 2012/44/EU,[(6)] those legal acts should be repealed.

(12) Since Regulation (EU) 2017/625 applies from 14 December 2019, this Regulation should also apply from that date,

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HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation establishes rules for the performance of specific official controls as regards certain categories of animals and goods and measures to be taken in case of non-compliance. It lays down rules for cases where and conditions under which certain categories of animals and goods are exempted from official controls at border control posts, and when such exemption is justified.

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

(1) 'IMSOC' means the information management system for official controls referred to in Article 131 of Regulation (EU) 2017/625;

(2) 'fresh fishery products' means fresh fishery products as defined in point 3.5 of Annex I to Regulation (EC) No 853/2004 of the European Parliament and of the Council[(7)];

(3) 'frozen tuna' means tuna kept in compliance with the requirements set out in point (2) of Chapter VII of Section VIII of Annex III to Regulation (EC) No 853/2004.

Article 3

Unskinned, furred wild game

1 The competent authority of the border control posts of first arrival into the Union may allow the dispatch of consignments of unskinned, furred wild game to the establishment at the place of destination without finalising physical checks if the consignments are dispatched in vehicles or containers in accordance with Articles 2 and 3 of Commission Delegated Regulation (EU) 2019/1666[(8)].

2 The competent authority referred to in paragraph 1 shall inform the competent authority of the establishment at the place of destination of the necessity to finalise physical checks, in particular health checks and laboratory testing.

3 The competent authority of the establishment at the place of destination shall inform the competent authority referred to in paragraph 1 of the results of the physical checks referred to in paragraph 2.

Article 4

Fresh fishery products directly landed in Union ports designated by Member States from a fishing vessel flying a third country flag

Fresh fishery products directly landed from a fishing vessel flying a third country flag are exempted from official controls at border control posts provided that they are

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performed by competent authorities in Union ports designated by Member States in accordance with Article 5(1) of Regulation (EC) No 1005/2008.

Article 5

Frozen tuna directly landed in Union ports designated by Member States from a fishing vessel flying a third country flag

Member States may carry out, at the processing establishment of destination approved in accordance with Article 4 of Regulation (EC) No 853/2004, official controls of frozen tuna that has not been beheaded nor gutted and that has been landed directly in Union ports designated by Member States in accordance with Article 5(1) of Regulation (EC) No 1005/2008 from a fishing vessel flying a third country flag, subject to the following conditions:

(a) the official controls are carried out by the competent authority of the nearest border control post;

(b) the processing establishment of destination is approved by the customs authorities for the temporary storage of non-Union goods in accordance with Article 147(1) and Article 148 of Regulation (EU) No 952/2013;

(c) the frozen tuna is dispatched from the vessel to the processing establishment of destination in sealed vehicles or transport containers, under the supervision of the competent authority carrying out the official controls and under the relevant customs procedure in accordance with Articles 134, 135, 140, 141 and Article 148(5) of Regulation (EU) No 952/2013;

(d) prior to the arrival of the consignment at designated Union ports, the operator responsible for the consignment has notified the competent authority referred to in point (a) of this Article of the arrival of the consignment by submitting in the IMSOC a completed Common Health Entry Document (CHED) as referred to in Article 56 of Regulation (EU) 2017/625.

Article 6

Fishery products intended for human consumption caught by vessels flying the flag of a Member State, unloaded in third countries

1 Consignments of fishery products intended for human consumption caught by vessels flying the flag of a Member State, unloaded, with or without storage, in third countries before entering the Union by a different means of transportation as referred to in Article 72(1) of Implementing Regulation (EU) 2019/627 shall undergo documentary checks by the competent authority of the border control posts of first arrival into the Union.

2 Consignments referred to in paragraph 1 may be exempted from identity and physical checks at border control posts provided that they comply with the conditions laid down in Article 72 of Regulation (EU) 2019/627.

3 When non-compliance with the rules referred to in Article 1(2) of Regulation (EU) 2017/625 is identified or suspected, the competent authority of the border control post of first arrival into the Union shall perform, in addition to documentary checks, identity and physical checks on the consignments referred to in paragraph 1 of this Article.

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Article 7

Consignments entering the Union through certain Greek islands and certain French territories

1 Products of animal origin and composite products entering the Union from third countries through the authorised points of entry in the Greek islands of Rhodes, Mitilini and Iraklio (Crete) for local use in the Greek island of the point of entry are exempted from official controls at border control posts.

2 Animals, products of animal origin and composite products entering the Union from third countries through the authorised points of entry in the French overseas departments of Guadeloupe, French Guiana, Martinique and Mayotte for local use in the French overseas department of the point of entry are exempted from official controls at border control posts.

Article 8

Specific official controls on consignments entering the Union through certain Greek islands and certain French territories

1 Consignments referred to in Article 7 shall be subject, for each authorised point of entry, to checks in accordance with Annex I.

2 Each authorised point of entry shall be under the responsibility of a competent authority, which has at its disposal:

a official veterinarians responsible for taking decisions on the consignments in accordance with point (a) of Article 55(2) of Regulation (EU) 2017/625, and

b if deemed necessary by the competent authority, staff referred to in points (a) and (b) of Article 49(2) of Regulation (EU) 2017/625 trained in accordance with Article 2 of Commission Delegated Regulation (EU) 2019/1081[(9)].

3 The competent authority of the authorised points of entry in the Greek islands referred to in Article 7(1) shall ensure that for each authorised point of entry staff and resources are available to carry out official controls on consignments of goods referred to in Article 7(1) for which the point of entry is authorised.

4 Each authorised point of entry in the French overseas departments referred to in Article 7(2) shall have all the facilities, equipment and staff necessary to carry out official controls on consignments of animals and goods referred to in Article 7(2) for which the point of entry is authorised.

Article 9

Responsibilities of operators regarding consignments entering the Union through certain Greek islands and certain French territories

The operator responsible for consignments referred to in Article 7 shall:

(a) notify the competent authority of the authorised point of entry of the arrival of the consignment by submitting a completed CHED in the IMSOC prior to the arrival of the consignment at the authorised point of entry;