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 (Text with EEA relevance)

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

(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 50(4), points (a) to (d) of Article 51(1), points (c) and (j) of 77(1) and Article 77(2) thereof,

Whereas:

(1) Regulation (EU) 2017/625 of the European Parliament and of the Council establishes the framework for official controls and other official activities to verify compliance with the Union agri-food chain legislation. That framework includes official controls performed on animals and goods entering the Union from third countries through designated border control posts.

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(2) Article 50(4) of Regulation (EU) 2017/625 empowers the Commission to adopt rules establishing the cases where, and the conditions under which, the Common Health Entry Document (CHED) is required to accompany consignments of animals, products of animal origin, germinal products, animal by-products, derived products, hay and straw and composite products, plants, plant products and other objects referred to in Article 47(1) of Regulation (EU) 2017/625 to the place of destination, in transit through the Union.

(3) Point (a) of Article 51(1) of Regulation (EU) 2017/625 provides that the Commission is to establish the cases where, and the conditions under which, the competent authorities of border control posts should be able to authorise the onward transportation of consignments of food and feed of non-animal origin, plants, plant products, and other objects referred to in Article 47(1) of that Regulation to their place of final destination pending the availability of the results of physical checks.

(4) Points (b) and (c) of Article 51(1) of Regulation (EU) 2017/625 empower the Commission to establish the cases where, and conditions under which, identity checks and physical checks of transhipped consignments and of animals arriving by air or sea and staying on the same means of transport for onward travel may be performed at a border control post other than the one of first arrival in the Union. For the purpose of effective controls of transhipped consignments, it is necessary to lay down the time periods and arrangement under which the competent authorities of the border control post should perform documentary, identity and physical checks.

(5) Point (d) of Article 51(1) of Regulation (EU) 2017/625 provides that the Commission is to establish the cases where, and the conditions under which, the transit through the Union of consignments of animals, products of animal origin, germinal products, animal by-products, derived products, hay and straw and composite products, plants, plant products and other objects referred to in Article 47(1) of Regulation (EU) 2017/625, should be authorised. It also provides for the Commission to lay down rules concerning certain official controls to be performed at border control posts on such consignments, including the cases and conditions for the temporary storage of goods in customs warehouses, warehouses in free zones, temporary storage facilities and warehouses specialised in supplying NATO or US military bases.

(6) The competent authorities of border control posts should be permitted to authorise the onward transportation to the place of final destination pending the availability of the results of laboratory analyses and tests of consignments of food and feed of non-animal origin subject to the measures referred to in points (d), (e) and (f) of Article 47(1) of Regulation (EU) 2017/625 and of consignments of plants, plant products and other objects referred to in points (c) and (e) of Article 47(1) of that Regulation. The food and feed which form such consignments may appear on the list of goods subject to a temporary increase of official controls at the point of entry into the Union established pursuant to point (b) of Article 47(2) of Regulation (EU) 2017/625 or may be subject to an emergency measure provided for in acts adopted in accordance with Article 53(1)(b) of Regulation (EC) No 178/2002 of the European Parliament and of the Council[2] or be subject to additional conditions for the entry into the Union provided for in acts adopted

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in accordance with Article 126 of Regulation (EU) 2017/625 or to special measures regarding their entry into the Union provided for in acts adopted in accordance with Article 128 of Regulation (EU) 2017/625.

(7) The onward transportation authorisation should be subject to conditions in order to ensure a proper control of risks. In particular, in order to contain potential risks to human or plant health, consignments of food and feed of non-animal origin subject to measures referred to in points (d), (e) and (f) of Article 47(1) of Regulation (EU) 2017/625 and consignments of plants, plant products and other objects referred to in points (c) and (e) of Article 47(1) should be transported to, and stored at, onward transportation facilities at the place of final destination designated by the Member States pending the availability of the results of laboratory analyses and tests.

(8) The onward transportation facilities should be customs warehouses or temporary storage facilities authorised, designated or approved in accordance with Regulation (EU) No 952/2013 of the European Parliament and of the Council[(3)] and in order to ensure the hygiene of foodstuffs and feedingstuffs they should be registered with the competent authorities as provided for in Regulation (EC) No 852/2004 of the European Parliament and of the Council[(4)] and Regulation (EC) No 183/2005 of the European Parliament and of the Council[(5)], respectively.

(9) Animal health risks associated with consignments of animals from third countries arriving by air or sea and staying on the same means of transport for onward travel to the third country or another Member State which are intended to be placed on the market in the Union or to transit through the Union are lower than those associated with other consignments of animals, including consignments transhipped in ports or airports. Therefore, unless non-compliance with the rules referred to in Article 1(2) of Regulation (EU) 2017/625 is suspected, identity and physical checks of such animals should be performed at the border control post of introduction into the Union. In addition, documentary checks should be performed at the border control posts, including at the border control post of introduction into the Union where animals 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.

(10) Long journeys on the same means of transport can be detrimental to the welfare of animals. In order to respect animal welfare requirements during transport the Council Regulation (EC) No 1/2005[(6)] provisions should apply until the consignment of animals reaches the border control post of introduction into the Union.

(11) In order to avoid the introduction of animal diseases into the Union it is necessary to perform documentary, identity and physical checks on transhipped consignments of animals in ports or airports at the border control post where the first transhipment takes place.

(12) Taking into account the risks to human and animal health associated with transhipped consignments of products of animal origin, germinal products, animal by-products, derived products, hay and straw and composite products and the need to ensure an efficient operation of official controls on such consignments it is appropriate to establish time period during which documentary checks should be carried out by the competent

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authorities of the border control post of transhipment. The calculation of time for the transhipment period should start when consignment arrives at the port or airport of the Member State. Where non-compliance with the rules referred to in Article 1(2) of Regulation (EU) 2017/625 is suspected the competent authorities of the border control post of transhipment should perform documentary, identity and physical checks.

(13) With a view to ensuring an efficient operation of official controls and taking into account the risks to plant health associated with transhipped consignments of plants, plant products and other objects referred to in points (c) and (e) Article 47(1) of Regulation (EU) 2017/625, it is appropriate to establish time limits after which documentary checks may be carried out by the competent authorities of the border control post of transhipment. The calculation of time for the transhipment period should start when consignment arrives at the port or airport of the Member State. Where non-compliance with the rules referred to in Article 1(2) of Regulation (EU) 2017/625 is suspected the competent authorities of the border control post of transhipment should perform documentary, identity and physical checks.

(14) It is appropriate to provide that unless all checks on transhipped consignments of plants, plant products and other objects referred to in points (c) and (e) Article 47(1) of Regulation (EU) 2017/625 which are intended to be placed on the market in the Union have been performed at the border control post of transhipment based on the suspicion of non-compliance with the rules referred to in Article 1(2) of Regulation (EU) 2017/625, the competent authorities of the border control post of introduction into the Union should perform documentary, identity and physical checks.

(15) In order to reduce the administrative burden, operators responsible for transhipped consignments should be able to transmit to the competent authorities of the border control post of transhipment information on the identification and location of the goods in the port or airport, the estimated time of arrival, the estimated time of departure and the destination of their consignment. In such cases, the Member States should be equipped with an information system which enables them to consult the information provided by the operators and to verify that the time limits for carrying out documentary checks have not been exceeded.

(16) The risks to public and animal health are low in the case of food and feed of non-animal origin subject to measures or acts referred to in points (d), (e) and (f) of Article 47(1) of Regulation (EU) 2017/625, which are transhipped from a vessel or aircraft under customs supervision to another vessel or aircraft in the same port or airport. It is therefore appropriate to provide that in this case documentary, identity and physical checks should take place not at the border control post of transhipment, but at a later stage at the border control post of introduction into the Union. Accordingly, the operator responsible for the consignment should give prior notification of the arrival of the consignments by completing and submitting the relevant part of the CHED in the information management system for official controls (IMSOC) for transmission to the competent authorities of the border control post of introduction.

(17) In order to protect animal health and welfare, consignments of animals in transit from one third country to another third country passing under custom supervision through

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the Union territory should be subject to documentary, identity and physical checks at the border control post of first arrival into the Union, and such transit should only be authorised subject to the favourable outcome of those checks.

(18) 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 passing through the Union territory should be subject to documentary and identity checks at the border control post. Such transit should be authorised subject to certain conditions, including the favourable outcome of checks at the border control post, with a view to ensuring the proper control of risks at the border and during transit, and ultimately ensuring that such goods leave the Union territory.

(19) In order to protect plant health the consignments of plants, plant products and other objects referred to in points (c) and (e) of Article 47(1) of Regulation (EU) 2017/625 in transit from one third country to another third country and passing through the Union territory should be subject to risk based documentary and physical checks at the border control post. Such transit should be authorised subject to certain conditions, including the favourable outcome of checks at the border control post.

(20) In certain cases, consignments of products of animal origin, germinal products, animal by-products, derived products, hay and straw and composite products which are in transit from one third country to another third country passing through the Union territory may be temporarily stored in warehouses. In order to ensure the traceability of such consignments, such temporary storage should only take place in warehouses approved by the competent authorities of Member States and which should comply with hygiene requirements laid down and referred to in Regulation (EC) No 852/2004 and Commission Regulation (EU) No 142/2011[(7)].

(21) In the interests of transparency, Member States should maintain and keep up-to-date in the IMSOC a list of all approved warehouses, indicating their name and address, the category of goods for which they are approved and the approval number. The approved warehouses should be subject to regular official controls performed by the competent authorities with a view to ensure that the conditions for their approval are maintained.

(22) In order to ensure that consignments of products of animal origin, germinal products, animal by-products, derived products, hay and straw and composite products are actually delivered on board the vessels, including military vessels, leaving the Union, the competent authority of the port of destination or the representative of the master of the vessel upon completion of delivery should confirm delivery to the competent authorities of the border control post of introduction into the Union or of the warehouse where such goods have been temporarily stored. Such confirmation should be provided by countersigning the official certificate or by electronic means. Where consignments are not delivered to the vessel, as they missed the vessel in port or due to logistical problems, the competent authority of the warehouse or border control post of introduction into the Union should be permitted to authorise the return of the consignment to the place of dispatch.