Commission Delegated Regulation (EU) 2019/2122 of 10 October 2019 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards certain categories of animals and goods exempted from official controls at border control posts, specific controls on passengers' personal luggage and on small consignments of goods sent to natural persons which are not intended to be placed on the market and amending Commission Regulation (EU) No 142/2011 (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2019/2122

of 10 October 2019

supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards certain categories of animals and goods exempted from official controls at border control posts, specific controls on passengers' personal luggage and on small consignments of goods sent to natural persons which are not intended to be placed on the market and amending Commission Regulation (EU) No 142/2011

(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(b), (c), (d), (e) and (f), point (d)(ii) of Article 53(1) and point (k) of Article 77(1) thereof,

Whereas:

(1) Article 48 of Regulation (EU) 2017/625 empowers the Commission to adopt rules exempting certain categories of animals and goods from official controls at border control posts, when such an exemption is justified. Point (d)(ii) of Article 53(1) of Regulation (EU) 2017/625 empowers the Commission to adopt rules concerning specific official control tasks performed by customs authorities or other public authorities, insofar as those tasks are not already falling under the responsibility of those authorities, on passengers' personal luggage.

(2) 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

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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. These rules often serve common purposes and refer to complementary activities of operators and competent authorities. Therefore, it is appropriate to group together these rules in a single Delegated Regulation.

(3) Where rules establishing exemptions from official controls at border control posts are adopted, 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

(4) Exemptions from official controls at border control posts for products which form part of travellers' personal luggage, for products for consumption by the crew and passengers on board means of transport operating internationally, and for products sent as small consignments to private persons already exist under Council Directive 97/78/EC[(2)]. For the sake of legal clarity and in order to ensure a consistent application of those exemptions given that Directive 97/78/EC is repealed with effect from 14 December 2019, it is appropriate to lay down provisions on such exemptions in this Regulation. Those exemptions concern certain categories of animals and goods which, although they enter the Union, are not to be placed on the market.

(5) In order to ensure consistency of Union legislation, Member States should continue to carry out appropriate risk-based controls with a view to preventing the introduction into the Union of certain invasive alien species, as required by Regulation (EU) No 1143/2014 of the European Parliament and of the Council[(3)].

(6) In the interest of facilitating the promotion of scientific activities, it is justified to exempt certain categories of animals and goods intended for scientific purposes from official controls at border control posts.

(7) Plants, plant products and other objects referred to in Article 47(1)(c) of Regulation (EU) 2017/625 intended for scientific purposes should be exempted from identity and physical checks at border control posts, under certain conditions, since adequate protection measures are laid down in accordance with Article 48 of Regulation (EU) 2016/2031 of the European Parliament and of the Council[(4)].

(8) Pursuant to Article 48(d) and (e) of Regulation (EU) 2017/625, products which form part of passenger's personal luggage and are intended for their personal consumption or use and small consignments of goods sent to natural persons which are not intended to be placed on the market should be exempted from official controls at border control posts. Concerning small consignments of goods sent to natural persons which are not intended to be placed on the market, Member States should carry-out risk-based controls. The possible risk of introducing pathogenic agents or diseases into the Union through the introduction of products of animal origin should be considered in measures regulating the introduction of such consignments or products.

(9) To ensure that risks to public health, animal health and plant health are minimised Member States should review at least once per year their specific control mechanisms

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and actions for goods which form part of passengers' personal luggage and update these mechanisms and actions annually after the main travelling season.

(10) Regulation (EU) No 576/2013 of the European Parliament and of the Council[(5)] and Commission Implementing Regulation (EU) No 577/2013[(6)] provide rules concerning certain species of pet animals accompanying their owner or an authorised person during non-commercial movements into the Union from third countries. Administrative burden related to such movements should be minimised while a sufficient level of safety should be ensured with regard to the public and animal health risks involved. Furthermore, Member States should only authorise the movement into the Union of pet birds in accordance with Commission Decision 2007/25/EC[(7)].

(11) Article 48(f) of Regulation (EU) 2017/625 empowers the Commission to adopt rules exempting pet animals kept for private non-commercial purposes from official controls at border control posts. The rules on exemption in this Regulation should not affect the obligation of Member States to carry out official controls to ensure compliance with Regulation (EU) No 1143/2014 and Commission Regulation (EC) No 865/2006[(8)].

(12) With a view to providing citizens with clear and accessible information concerning the rules that apply to the non-commercial movement into the Union of certain species of pet animals, Member States should be required to make that information available to the public.

(13) The level of public and animal health risk arising from the introduction of animal diseases and pathogenic agents varies according to different factors, such as the type of product, the animal species from which the products have been obtained, and the likelihood of the presence of pathogenic agents. Comprehensive Union rules to prevent the introduction of animal diseases and pathogenic agents exist in Commission Regulation (EC) No 206/2009[(9)] to address such risks. Given that this Regulation lays down rules covered by Regulation (EC) No 206/2009, that Regulation should be repealed from the date of application of this Regulation.

(14) Commission Regulation (EU) No 142/2011[(10)] should be amended as regards the exemption of certain research and diagnostic samples from veterinary checks at the border inspection posts as the subject matter is covered by this Regulation.

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

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation lays down rules for the cases where and the conditions under which certain categories of animals and goods are exempted from official controls at border control posts and the cases where and the conditions under which specific control tasks may be performed by customs authorities or other public authorities, insofar as those

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tasks are not already falling under the responsibility of those authorities, on passengers' personal luggage.

Article 2

Definitions

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

(1) 'research and diagnostic samples' means research and diagnostic samples as defined in point (38) of Annex I to Regulation (EU) No 142/2011;

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

(3) '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[(11)];

(4) 'prepared fishery products' means prepared fishery products as defined in point 3.6 of Annex I to Regulation (EC) No 853/2004;

(5) 'processed fishery products' means 'processed fishery products' as defined in point 7.4 of Annex I to Regulation (EC) No 853/2004;

(6) 'pet animal' means pet animal as defined in point (11) of Article 4 of Regulation (EU) 2016/429 of the European Parliament and of the Council[(12)];

(7) 'non-commercial movement' means non-commercial movement as defined in point (14) of Article 4 of Regulation (EU) 2016/429;

(8) 'petfood' means petfood as defined in point (19) of Annex I to Regulation (EU) No 142/2011.

Article 3

Animals intended for scientific purposes

1 Invertebrates intended for scientific purposes such as research, educational activities or research related to product development activities shall be exempted from official controls at border control posts other than controls carried out in accordance with Article 15(2) of Regulation (EU) No 1143/2014, provided that:

a they comply with the animal health requirements set out in the rules referred to in point (d) of Article 1(2) of Regulation (EU) 2017/625;

b their entry into the Union is authorised in advance for that purpose by the competent authority of the Member State of destination;

c when the activities related to the scientific purposes have been carried out, they and products derived from them, with the exception of the quantities used for the scientific purposes, shall be disposed of or re-dispatched to the third country of origin.

2 Paragraph 1 shall not apply to honey bees (*Apis mellifera*), bumble bees (*Bombus* spp.), molluscs belonging to the phylum *Mollusca* and crustaceans belonging to the subphylum *Crustacea*.

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Article 4

Research and diagnostic samples

1 The competent authority may exempt research and diagnostic samples from official controls at border control posts provided that:

a the competent authority of the Member State of destination has issued to the user of the samples an authorisation in advance for their introduction into the Union in accordance with Article 27(1) of Regulation (EU) No 142/2011 and this authorisation is recorded in an official document delivered by that authority;

b they are accompanied by the official document referred to in point (a) or by a copy thereof until they reach the user referred to in point (a) or in the case referred to in point (c) the border control post of entry;

c in the case of entry into the Union via a Member State other than the Member State of destination, the operator presents the samples at a border control post.

2 In the case referred in paragraph 1(c), the competent authority of the border control post shall inform through the IMSOC the competent authority of the Member State of destination of the introduction of the samples.

Article 5

Plants, plant products and other objects intended for scientific purposes

1 Plants, plant products and other objects are exempted from identity and physical checks at border control posts other than controls carried out pursuant to Article 15(2) of Regulation (EU) No 1143/2014, provided that they are intended for scientific purposes in accordance with Article 48(1) of Regulation (EU) 2016/2031.

2 The competent authority of the border control post of first arrival of the consignment shall perform documentary checks on the authorisation referred to in Article 48(1) of Regulation (EU) 2016/2031. In case of identified or suspected non-compliance, the competent authority of the border control post of first arrival may perform identity and physical checks on the consignment or request such checks to be carried out by the person responsible for the quarantine station or the confinement facility that has been designated by the competent authority.

3 If the competent authority of the border control post of first arrival of the consignment requests identity and physical checks to be carried out by the person responsible for the quarantine station or the confinement facility that has been designated by the competent authority, the competent authority of the border control post of first arrival of the consignment shall inform through the IMSOC the competent authority of the quarantine station or the confinement facility of the results of the documentary checks and of the subsequent departure of the consignment for the quarantine station or the confinement facility. The competent authority of the quarantine station or the confinement facility shall inform through the IMSOC the competent authority of the border control post of first arrival of the consignment of the arrival of the consignment at the quarantine station or the confinement facility. The competent authority of the quarantine station or the confinement facility shall carry out identity and physical checks.