Commission Implementing Regulation (EU) 2019/1873 of 7 November 2019 on the procedures at border control posts for a coordinated performance by competent authorities of intensified official controls on products of animal origin, germinal products, animal by-products and composite products (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2019/1873

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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 Article 65(6) thereof,

Whereas:

(1) Regulation (EU) 2017/625 subjects certain categories of animals and goods to systematic controls at border control posts prior to their entry into the Union.

(2) It follows from Article 65(4) of Regulation (EU) 2017/625 that in case of suspected fraudulent or deceptive practices by an operator or in the case of serious or repeated infringements of the rules referred to in Article 1(2) of that Regulation, official controls on consignments with the same use or origin performed by the competent authorities at the border control posts should be intensified. Pursuant to Article 65(5) of Regulation (EU) 2017/625, the competent authorities' decision to perform such intensified controls is to be notified to the Commission and the Member States through the information management system for official controls (IMSOC) referred to in Article 131 of that Regulation.

(3) In order to ensure a harmonised approach to the coordinated performance of intensified official controls on certain goods entering the Union, detailed procedures for the coordinated performance of those controls should be established, including rules on the

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2019/1873. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

role of the IMSOC in this respect. For practical reasons, the coordinated performance of intensified controls at borders should be limited to the categories of consignments for which there is an identifiable listed establishment of origin, i.e. consignments of products of animal origin, germinal products, animal by-products and composite products.

(4) When receiving notifications from the competent authorities in accordance with Article 65(5) of Regulation (EU) 2017/625, the Commission should in particular assess whether the non-compliance is based on suspected fraudulent or deceptive practices or on a potentially serious or repeated infringement of the rules referred to in Article 1(2) of Regulation (EU) 2017/625, for instance the placing on the market of products of animal origin containing levels of contaminants or residues of veterinary medicinal products which exceed the maximum residue limit, or of products which do not comply with Commission Regulation (EC) No 2073/2005[(2)].

(5) In order to reduce the risk of fraudulent or deceptive practices by way of presenting small consignments for official controls, the total weight of compliant consignments required to end the coordinated performance of intensified official controls should amount to at least ten times the weight of the consignment that initially triggered the measure. However, in order to avoid an unacceptable administrative and financial burden for the competent authorities and for operators, a maximum total weight of compliant consignments required to end the coordinated performance of intensified official controls should be set.

(6) If, during the coordinated performance of intensified official controls, three consignments entering the Union reveal the same type of infringement indicated in the notification in accordance with Article 65(5) of Regulation (EU) 2017/625, the coordinated performance of intensified official controls should be maintained until its results and the action of the competent authorities of the third countries concerned are satisfactory. In that case, the Commission should request the competent authorities of the third countries to carry out the necessary investigations and measures in order to remedy the situation in the establishment of origin and report back to the Commission.

(7) For reasons of the efficiency of the control system, it should be possible for the Member States to exclude certain consignments from the coordinated performance of intensified official controls, in cases where the consignments are to be refused entry into the Union on grounds other than the infringement for which the coordinated intensified official controls are performed.

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

(9) 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:

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Article 1

Subject matter and scope

This Regulation lays down rules relating to the procedures at border control posts for a coordinated performance by competent authorities of intensified official controls on products of animal origin, germinal products, animal by-products and composite products entering the Union for placing on the market.

Article 2

Definition

For the purpose of this Regulation, 'establishment of origin' means the establishment of origin in a third country, including third country vessels, appearing on lists drawn up regarding the export of products of animal origin, germinal products, animal by-products and composite products to the Union in accordance with the relevant Union legislation.

Article 3

Triggering of the coordinated performance of intensified official controls

1 When notifying the Commission and the other Member States through the IMSOC of their decision in accordance with Article 65(5) of Regulation (EU) 2017/625, the competent authorities shall indicate the establishment of origin, the category of goods, including their description and code from the Combined Nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87[(3)], and the infringement for which a coordinated performance of intensified official controls is to be performed.

2 After receipt of the notification referred to in paragraph 1, the Commission shall assess whether the following conditions are met:

a the notification is based on suspected fraudulent or deceptive practices or on a potentially serious or repeated infringement of the rules referred to in Article 1(2) of Regulation (EU) 2017/625;

b the notification is related to an action or omission for which the establishment of origin of the consignment concerned is responsible;

c the consignment concerned is not already subject to the coordinated performance of intensified official controls in accordance with this Regulation; and

d the consignment concerned is not subject to emergency measures adopted in accordance with Article 53 of Regulation (EC) No 178/2002 of the European Parliament and of the Council[(4)] or Article 261 of Regulation (EU) 2016/429[(5)], or to special measures adopted in accordance with Article 128 of Regulation (EU) 2017/625, for the same infringement as the one indicated in the notification referred to in paragraph 1.

3 The Commission shall record the outcome of its assessment referred to in paragraph 2 in the IMSOC.

4 Where the outcome of the assessment referred to in paragraph 2 indicates that the requisite conditions have been met, the competent authorities at the border control posts in all Member States shall perform coordinated intensified official controls.

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Article 4

Procedures for the coordinated performance of intensified official controls

1 The competent authorities at the border control posts in all Member States shall carry out the identity and physical checks referred to in Article 49 of Regulation (EU) 2017/625 on each consignment coming from the same establishment of origin and containing the same category of goods, for the same type of infringement, as indicated in the IMSOC in accordance with Article 3(1).

2 For the controls referred to in paragraph 1, the consignments shall be selected on the basis of the codes from the Combined Nomenclature indicated in IMSOC in accordance with Article 3(1).

3 Where these codes are not specific enough to properly identify the category of goods, the competent authorities at border control posts shall only subject consignments selected on the basis of these codes to the coordinated performance of intensified official controls if they correspond to the description of the goods indicated in accordance with Article 3(1).

4 The competent authorities shall record in the IMSOC the reasons for not subjecting a selected consignment to the coordinated performance of intensified official controls in accordance with paragraph 3.

Article 5

Imposed checks

1 If, during the coordinated performance of intensified official controls, three consignments entering the Union reveal the same type of infringement indicated in the notification referred to in Article 3(1), the Commission shall request the competent authority of the third country, in which the establishment of origin of the non-compliant consignments is located, to:

a make the necessary investigations to identify the reasons for the infringements (‘imposed checks’);

b adopt an action plan in relation to the establishment of origin to effectively remedy the situation; and

c report back on the actions referred to in points (a) and (b), including the results of the action plan.

2 The Commission shall closely monitor the results of the imposed checks and the action plan and take further action, including measures in accordance with Article 53 of Regulation (EC) No 178/2002 and Article 127(4) of Regulation (EU) 2017/625, when:

a the competent authority of the third country does not take appropriate action to effectively remedy the situation; or

b the competent authorities of the Member States continue to notify unsatisfactory results of the coordinated performance of intensified official controls.