Regulation (EU) 2015/1775 of the European Parliament and of the Council of 6 October 2015 amending Regulation (EC) No 1007/2009 on trade in seal products and repealing Commission Regulation (EU) No 737/2010 (Text with EEA relevance)

REGULATION (EU) 2015/1775 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) Regulation (EC) No 1007/2009 of the European Parliament and of the Council[(3)] was adopted with the objective of eliminating obstacles to the functioning of the internal market due to differences in national measures regulating trade in seal products. Those measures were adopted in response to public moral concerns about the animal welfare aspects of the killing of seals and the possible presence on the Union market of products obtained from seals killed in a way that causes excessive pain, distress, fear and other forms of suffering. Such concerns were supported by evidence showing that a genuinely humane killing method cannot be consistently and effectively applied and enforced in the specific conditions in which seal hunting takes place. In order to achieve that objective, Regulation (EC) No 1007/2009 introduced, as a general rule, a prohibition on the placing on the market of seal products.

(2) At the same time, seal hunting is an integral part of the socio-economy, nutrition, culture and identity of the Inuit and other indigenous communities, making a major contribution to their subsistence and development, providing food and income to support the life and sustainable livelihood of the community, preserving and continuing the traditional existence of the community. For those reasons, seal hunts traditionally conducted by Inuit and other indigenous communities do not raise the same public moral concerns as seal hunts conducted primarily for commercial reasons. Moreover, it is broadly recognised that the fundamental, economic and social interests of Inuit and other indigenous communities should not be adversely affected, in accordance with

the United Nations Declaration on the Rights of Indigenous Peoples adopted on 13 September 2007 and other relevant international instruments. In addition, three Member States (Denmark, the Netherlands and Spain) have ratified the Convention concerning Indigenous and Tribal Peoples in Independent Countries (Convention No 169), adopted on 27 June 1989 by the International Labour Organisation[(4)]. For those reasons, by way of exception, Regulation (EC) No 1007/2009 allows the placing on the market of seal products which result from hunts traditionally conducted by Inuit and other indigenous communities for their subsistence and which contribute to such subsistence.

(3) In the light of the objective pursued by Regulation (EC) No 1007/2009, the placing on the Union market of seal products resulting from hunts conducted by Inuit and other indigenous communities should be made conditional upon those hunts being conducted with due regard to animal welfare in a manner which reduces pain, distress, fear or other forms of suffering experienced by the animals hunted to the extent possible, while taking into consideration the way of life of the Inuit and other indigenous communities and the subsistence purpose of the hunt. Therefore, the exception granted in respect of seal products resulting from hunts conducted by Inuit and other indigenous communities should be limited to hunts that contribute to the subsistence of those communities.

(4) Regulation (EC) No 1007/2009 also allows, by way of exception, the placing on the market of seal products where the hunt is conducted for the sole purpose of the sustainable management of marine resources. While recognising the importance of hunts conducted for the purpose of the sustainable management of marine resources, in practice those hunts may be difficult to distinguish from the large-scale hunts conducted primarily for commercial reasons. This may lead to unjustified discrimination with regard to the seal products concerned. Therefore, that exception should no longer be provided for. Nevertheless, the removal of the exception relating to the sustainable management of marine resources may create problems in Member States where carcasses derived from legal seal hunts have been used as material for seal products which have been placed on the local markets occasionally and in small quantities. It is appropriate for the Commission to include information made available to it on the implementation of Regulation (EC) No 1007/2009, as amended by this Regulation, in those Member States in its assessment of the functioning, effectiveness and impact of Regulation (EC) No 1007/2009. The removal of that exception is without prejudice to the right of Member States to continue regulating hunts conducted for the purpose of the sustainable management of marine resources.

(5) In order to ensure that the exception granted in respect of seal products resulting from hunts conducted by Inuit and other indigenous communities is not used for seal products resulting from a hunt which is conducted primarily for commercial reasons, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to, where necessary and on the basis of evidence, prohibit the placing on the market or limit the quantity that may be placed on the market of seal products resulting from the hunt concerned. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. It is also important that the Commission carry out appropriate consultations with the countries of origin concerned and with

relevant stakeholders. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(6) In order to ensure uniform conditions for the implementation of Regulation (EC) No 1007/2009, implementing powers should be conferred on the Commission to further specify the administrative arrangements for the recognition of bodies that may attest to the compliance with the conditions for the placing on the market of seal products and for the issuance and control of attesting documents, and the administrative provisions necessary for ensuring compliance with the conditions for the import of seal products for the personal use of travellers or their families, as well as to issue technical guidance notes. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[(5)].

(7) In order to facilitate the implementation of Regulation (EC) No 1007/2009 and of its exceptions, the Commission should inform the public and competent authorities, including customs authorities, of the provisions of that Regulation and of the rules under which seal products resulting from hunts conducted by Inuit or other indigenous communities can be placed on the market.

(8) Member States should report on a regular basis on the actions taken to implement Regulation (EC) No 1007/2009. On the basis of those reports, the Commission should report to the European Parliament and to the Council on the implementation of Regulation (EC) No 1007/2009, including the impact on the socioeconomic development of the Inuit and other indigenous communities.

(9) Since the objective of this Regulation cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(10) In view of the extent to which trade in seal products is regulated in Regulation (EC) No 1007/2009, as amended by this Regulation, Commission Regulation (EU) No 737/2010[(6)] should be repealed.

(11) Regulation (EC) No 1007/2009 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1007/2009 is amended as follows:

(1) In Article 2, the following point is inserted:

4a. "other indigenous communities" means communities in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present State boundaries and who, irrespective of their legal

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) 2015/1775 of the European Parliament and of the Council. (See end of Document for details)*

status, retain some or all of their own social, economic, cultural and political institutions;.

(2) Article 3 is replaced by the following:

Article 3

Conditions for placing on the market

1 The placing on the market of seal products shall be allowed only where the seal products result from hunts conducted by Inuit or other indigenous communities, provided that all of the following conditions are fulfilled:

a the hunt has traditionally been conducted by the community;

b the hunt is conducted for and contributes to the subsistence of the community, including in order to provide food and income to support life and sustainable livelihood, and is not conducted primarily for commercial reasons;

c the hunt is conducted in a manner which has due regard to animal welfare, taking into consideration the way of life of the community and the subsistence purpose of the hunt.

The conditions set out in the first subparagraph shall apply at the time or point of import for imported seal products.

1a At the time of its being placed on the market, a seal product shall be accompanied by a document attesting compliance with the conditions set out in paragraph 1 ("attesting document").

An attesting document shall, upon request, be issued by a body recognised for that purpose by the Commission.

Such recognised bodies shall be independent, competent to carry out their functions and subject to an external audit.

2 By way of derogation from paragraph 1, the import of seal products shall also be allowed where it is of an occasional nature and consists exclusively of goods for the personal use of travellers or their families. The nature and quantity of those goods shall not be such as to indicate that they are being imported for commercial reasons.

3 The application of paragraphs 1 and 2 shall not undermine the achievement of the objective of this Regulation.

4 The Commission shall adopt implementing acts to further specify the administrative arrangements for the recognition of bodies that may attest to the compliance with the conditions set out in paragraph 1 of this Article and for the issuance and control of attesting documents, as well as the administrative provisions necessary for ensuring compliance with paragraph 2 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 5(2).

5 If there is evidence that a seal hunt is conducted primarily for commercial reasons, the Commission shall be empowered to adopt delegated acts in accordance with Article 4a in order to prohibit the placing on the market or limit the quantity that may be placed on the market of seal products resulting from the hunt concerned. It is of particular importance that the Commission follow its usual practice and carry out