Commission Regulation (EU) No 790/2010 of 7 September 2010 amending Annexes VII, X and XI to Regulation (EC) No 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption (Text with EEA relevance)

COMMISSION REGULATION (EU) No 790/2010

of 7 September 2010

amending Annexes VII, X and XI to Regulation (EC) No 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption[(1)], and in particular the first and second subparagraphs of Article 32(1) thereof,

Whereas:

(1) Regulation (EC) No 1774/2002 lays down animal and public health rules concerning animal by-products not intended for human consumption.

(2) Article 19 of that Regulation provides that processed animal protein and other processed products that could be used as feed material are to be placed on the market only if they comply with certain requirements. In this respect, Annex VII to that Regulation sets out specific hygiene requirements for the processing and placing on the market of such products.

(3) In addition, Article 29 of Regulation (EC) No 1774/2002 provides that the importation into, and the transit through the Union of the products referred to in Annex VII may take place only if such products comply with certain requirements. Those requirements include that the products must come from a third country or parts of third countries on a list to be drawn up and updated in accordance with the procedure referred to in that Article, except where Annex VII to Regulation (EC) No 1774/2002 provides otherwise.

(4) Colostrum is a feed material of animal origin, within the meaning of the definition laid down in point 23 of Annex I to Regulation (EC) No 1774/2002.

(5) Part A of Chapter V of Annex VII to that Regulation does not set out any specific requirements for the production of colostrum or colostrum products. That Part only sets out the general principle that colostrum must be produced under conditions offering adequate guarantees as regards animal health.

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(6) In addition, Part B of Chapter V of Annex VII to Regulation (EC) No 1774/2002 does not set out specific requirements for the importation of colostrum and colostrum products and the Commission has not laid down any list of third countries or parts of third countries from which imports of colostrum are accepted. Accordingly, the importation of colostrum or colostrum products into the European Union is currently not authorised.

(7) There is an interest to import into the Union colostrum and colostrum products as feed material for farmed animals and for technical purposes. Economic operators have indicated their interest in the use of colostrum and colostrum products for the production of feed material and for technical purposes.

(8) The demand for such products from economic operators should be met and rules should therefore be laid down for the importation of such animal by-products. However, colostrum is an animal by-product which may pose a risk for the transmission of certain diseases, such as foot-and-mouth disease, tuberculosis, brucellosis and enzootic-bovine-leukosis to susceptible animals. In order to safeguard animal health, the importation of colostrum and colostrum products should therefore be subject to certain conditions.

(9) In accordance with the first paragraph of Article 28 of Regulation (EC) No 1774/2002 the provisions applicable to the importation of products referred to in Annex VII to that Regulation from third countries are not to be more favourable or less favourable than those applicable to the production and marketing of those products in the Union. The specific requirements set out for the importation of whey and colostrum or colostrum products should therefore also apply to the production and placing on the market of those animal by-products in the Union.

(10) The opinion of the European Food Safety Authority, adopted on 29 March 2006, related to the animal health risks of feeding animals with ready-to-use dairy products without further treatment[(2)], confirmed that specific hygiene requirements and treatments for milk and milk-based products are to be established to limit the risk of transmitting infectious diseases, in particular through feeding of milk or milk products to animals of species susceptible to foot-and-mouth disease. In the absence of suitable scientific data, the aforementioned opinion does not recommend any treatment which would provide the necessary guarantees that the considered pathogens are effectively inactivated in colostrum while preserving antibodies contained therein.

(11) In the absence of approved treatments and in order to prevent the transmission of possible animal diseases through colostrum and colostrum products, it is appropriate to establish health requirements for those animal by-products based on guarantees at origin.

(12) In particular, as regards foot-and-mouth disease prevention, colostrum and colostrum products should be obtained from animals free of foot-and-mouth disease and not at risk of contracting this disease. Imports of colostrum and colostrum products should therefore be limited to bovine colostrum and its products from countries approved for imports of raw milk. Imports of colostrum and colostrum products should be limited

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to bovine colostrum and its products from countries where the risk of foot-and-mouth disease is limited.

(13) Commission Decision 2004/438/EC of 29 April 2004 laying down animal and public health and veterinary certifications conditions for introduction in the Community of heat-treated milk, milk-based products and raw milk intended for human consumption[(3)] provides that Member States are to authorise imports of raw milk and raw milk-based products only from the third countries listed in column A of Annex I thereto. The list of third countries from which the importation into the Union of colostrum and colostrum products should be authorised should therefore be the same as the list of third countries set out in column A of Annex I to Decision 2004/438/EC. Chapter V of Annex VII to Regulation (EC) No 1774/2002 should therefore refer to that list.

(14) The health status with regard to bovine tuberculosis, bovine brucellosis and enzootic-bovine-leukosis of the herds from which colostrum and colostrum products originate should also be taken into account, in particular where such animal by-products are intended for feeding animals or the production of certain technical products. The herds from which colostrum and colostrum products originate should be free of those diseases.

(15) Council Directive 64/432/EEC of 26 June 1964 on animal health problems affecting intra-Community trade in bovine animals and swine[(4)] applies to intra-Union trade in bovine animals and sets out provisions for recognising herds as being disease-free. It lays down the definitions for officially tuberculosis-free bovine herds, officially brucellosis-free bovine herds and officially enzootic-bovine-leukosis-free herds. The requirements for placing on the market and importation of colostrum and colostrum products should therefore take account of those definitions.

(16) Colostrum and colostrum products should have undergone a primary high temperature short term treatment for their preservation. In addition, the placing on the market, including the importation, of such animal by-products should only be allowed if they originate from animals that do not show clinical signs of any disease communicable through colostrum to humans or animals. Colostrum and colostrum products should therefore be produced from bovine animals kept in areas for which guarantees can be provided that foot-and-mouth disease has not occurred within at least one incubation period of 21 days after the collection and before such colostrum or colostrum products are placed on the market in Member States.

(17) Part A of Chapter V of Annex VII to Regulation (EC) No 1774/2002 provides that whey to be fed to animals of species susceptible to foot-and-mouth disease and produced from milk treated in accordance with the rules set out therein must be collected at least 16 hours after milk clotting and its pH must be recorded as below 6,0 before transport to animal holdings.

(18) Chapter 2 of Annex X to Regulation (EC) No 1774/2002 sets out a single model health certificate for milk and milk products not intended for human consumption originating in third countries for dispatch to or for transit through the European Union. That model certificate should be amended in order to cover also colostrum and colostrum products, as well as to reflect the new rules concerning whey.

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(19) Annex XI to Regulation (EC) No 1774/2002 sets out lists of third countries from which Member States may authorise imports of certain animal by-products not intended for human consumption. Part I of that Annex should be amended to take account of the rules for the importation of colostrum and colostrum products.

(20) Cameroon applied for the authorisation for imports of apiculture animal by-products. Cameroon is already authorised for the imports of honey for human consumption. Part XII of Annex XI should be amended appropriately and Cameroon should be authorised for the imports of apiculture animal by-products.

(21) Annexes VII, X and XI to Regulation (EC) No 1774/2002 should therefore be amended accordingly.

(22) A transitional period should be provided for after the date of entry into force of this Regulation, in order to provide the necessary time for stakeholders to comply with the new rules and to allow for the continued importation into the European Union of the animal by-products concerned, as provided for in Regulation (EC) No 1774/2002, before the amendments introduced by this Regulation.

(23) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes VII, X and XI to Regulation (EC) No 1774/2002 are amended in accordance with the Annex to this Regulation.

Article 2

Consignments of milk and milk products not intended for human consumption accompanied by a health certificate completed and signed in accordance with the appropriate model set out in Chapter 2 of Annex X to Regulation (EC) No 1774/2002 before the date of entry into force of this Regulation shall continue to be accepted for importation into the Union until 30 September 2010, where those certificates were completed and signed before 31 August 2010.

Article 3

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 7 September 2010.

For the Commission

The President

José Manuel BARROSO

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