Commission Regulation (EU) No 737/2010 of 10 August 2010 laying down detailed rules for the implementation of Regulation (EC) No 1007/2009 of the European Parliament and of the Council on trade in seal products (Text with EEA relevance)

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THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1007/2009 of the European Parliament and of the Council of 16 September 2009 on trade in seal products[(1)], and in particular Article 3(4) thereof,

Whereas:

(1) Regulation (EC) No 1007/2009 allows for the placing on the market of seal products which result from hunts traditionally conducted by Inuit and other indigenous communities and which contribute to their subsistence. It also allows for the placing on the market of seal products where the hunt was conducted with the sole purpose of the sustainable management of marine resources and where the import of seal products are occasional in nature and consist exclusively of goods for the personal use of travellers and their families.

(2) It is therefore necessary to specify detailed requirements for the import and the placing on the Union market of those seal products in order to ensure a uniform application of Regulation (EC) No 1007/2009.

(3) The placing on the market of seal products which result from hunts traditionally conducted by Inuit and other indigenous communities and which contribute to their subsistence should be allowed where such hunts are part of the cultural heritage of the community and where the seal products are at least partly used, consumed or processed within the communities according to their traditions.

(4) The conditions for the placing on the market of seal products resulting from by-products of hunting that is conducted for the sole purpose of the sustainable management of marine resources, and for the importation of seal products for the personal use of travellers or their families, should also be laid down.

(5) Within this exceptional framework, an effective mechanism to ensure an adequate verification of compliance with those requirements should be introduced. That mechanism should not be more trade-restrictive than necessary.

(6) Other options would not be sufficient to achieve these aims. Therefore, a mechanism should exist by which recognised bodies issue documents attesting that seal products are compliant with the requirements laid down in Regulation (EC) No 1007/2009, unless the import is for the personal use of travellers or their families.

(7) It is appropriate to provide that entities which comply with certain requirements should be included in a list of recognised bodies issuing such attesting documents.

(8) Models should be set out for the attesting document and its copies in order to facilitate the management and verification of attesting documents.

(9) Procedures for the control of attesting documents should be set out. Those procedures should be as simple and as practical as possible, without compromising the credibility and consistency of the system.

(10) The use of electronic systems should be allowed in order to facilitate the exchange of data between competent authorities, the Commission and the recognised bodies.

(11) The processing of personal data for the purposes of this Regulation, in particular as regards the processing of personal data contained in attesting documents, should comply with Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data[(2)] and Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data[(3)].

(12) Since this Regulation lays down detailed rules for the implementation of Article 3 of Regulation (EC) No 1007/2009 which applies on 20 August 2010, it should enter into force as a matter of urgency.

(13) The measures provided for in this Regulation are in accordance with the opinion of the Committee established pursuant to Article 18(1) of Council Regulation (EC) No 338/97[(4)],

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down detailed rules for the placing on the market of seal products pursuant to Article 3 of Regulation (EC) No 1007/2009.

Article 2

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

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

2. 'placing on the market on a non-profit basis' means placing on the market for a price less than or equal to the recovery of the costs borne by the hunter reduced by the amount of any subsidies received in relation to the hunt.

Article 3

1 Seal products resulting from hunts by Inuit or other indigenous communities may only be placed on the market where it can be established that they originate from seal hunts which satisfy all of the following conditions:

a seal hunts conducted by Inuit or other indigenous communities which have a tradition of seal hunting in the community and in the geographical region;

b seal hunts the products of which are at least partly used, consumed or processed within the communities according to their traditions;

c seal hunts which contribute to the subsistence of the community.

2 At the time of the placing on the market, the seal product shall be accompanied by the attesting document referred to in Article 7(1).

Article 4

Seal products for the personal use of travellers or their families may only be imported where one of the following requirements is fulfilled:

1. the seal products are either worn by the travellers, or carried or contained in their personal luggage;

2. the seal products are contained in the personal property of a natural person transferring his normal place of residence from a third country to the Union;

3. the seal products are acquired on site in a third country by travellers and imported by those travellers at a later date, provided that, upon arrival in the Union territory, those travellers present to the customs authorities of the Member State concerned the following documents:

   (a) a written notification of import;

   (b) a document giving evidence that the products were acquired in the third country concerned.

For the purposes of point 3, the written notification and the document shall be endorsed by the customs authorities and returned to the travellers. On import, the notification and document shall be presented to the customs authorities together with the customs declaration for the products concerned.

Article 5

1 Seal products resulting from marine resources management may only be placed on the market where it can be established that they originate from seal hunts which satisfy all of the following conditions:

a seal hunts conducted under a national or regional natural resources management plan which uses scientific population models of marine resources and applies the ecosystem-based approach;

b seal hunts which does not exceed the total allowable catch quota established in accordance with the plan referred to in point (a);

c seal hunts the by-products of which are placed on the market in a non-systematic way on a non-profit basis.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) No 737/2010. (See end of Document for details)*

2 At the time of the placing on the market, the seal product shall be accompanied by the attesting document referred to in Article 7(1).

Article 6

1 An entity shall be included in a list of recognised bodies where it demonstrates that it fulfils the following requirements:

a it has legal personality;

b it has the capacity to ascertain that the requirements of Article 3 or 5 are met;

c it has the capacity to issue and manage attesting documents referred to in Article 7(1), as well as process and archive records;

d it has the ability to carry out its functions in a manner that avoids conflict of interest;

e it has the ability to monitor compliance with the requirements set out in Articles 3 and 5;

f it has the capacity to withdraw attesting documents referred to in Article 7(1) or suspend their validity in case of non-compliance with the requirements of this Regulation, and to take measures to inform competent authorities and customs authorities of Member States thereof;

g it is subject to an independent third party audit;

h it operates at national or regional level.

2 In order to be included in the list referred to in paragraph 1, an entity shall submit to the Commission a request accompanied by documentary evidence that it fulfils the requirements set out in paragraph 1.

3 The recognised body shall submit audit reports produced by the independent third party referred to in paragraph 1(g) to the Commission at the end of each reporting cycle.

Article 7

1 Upon request, where the requirements for placing on the market set out in Article 3(1) or 5(1) are met, a recognised body shall issue an attesting document conforming to the models set out in the Annex.

2 The recognised body shall deliver the attesting document to the applicant and shall keep a copy for three years for record-keeping purposes.

3 Subject to Article 8(2), when a seal product is placed on the market, the original attesting document shall be delivered with the seal product. The applicant may keep a copy of the attesting document.

4 A reference to the attesting document number shall be included in any further invoice.

5 A seal product accompanied by an attesting document issued in accordance with paragraph 1 shall be deemed to comply with Article 3(1) or 5(1).

6 Acceptance of a customs declaration for release for free circulation pursuant to Article 79 of Council Regulation (EEC) No 2913/92[(5)] of a seal product shall be subject to the presentation of an attesting document issued in accordance with paragraph 1 of this Article. Without prejudice to Article 77(2) of Regulation (EEC) No 2913/92, the customs authorities shall keep a copy of the attesting document in their records.

7 In case of doubts relating to the authenticity or correctness of an attesting document issued in accordance with paragraph 1 as well as when further advice is required, the customs authorities and other enforcement officers shall contact the competent authorities designated

by the Member State concerned in accordance with Article 9. The competent authorities shall decide on the measures to be taken.

Article 8

1 The attesting document referred to in Article 7(1) shall be paper-based or in electronic form.

2 In case of an electronic attesting document, a printed copy of that attesting document shall accompany the seal product at the time of placing on the market.

3 The use of the attesting document shall be without prejudice to any other formalities relating to the placing on the market.

4 The competent authority designated in accordance with Article 9 may require that the attesting document be translated into the official language of the Member State where the product is to be placed on the market.

Article 9

1 Each Member State shall designate one or several competent authorities responsible for the following tasks:

a verification upon request of the customs authorities pursuant to Article 7(7) of attesting documents for imported seal products;

b control of the issuing of attesting documents by recognised bodies established and active in that Member State;

c preservation of a copy of attesting documents issued for seal products originating from seal hunts in that Member State.

2 Member States shall notify the Commission of the competent authorities designated in accordance with paragraph 1.

3 The Commission shall make the list of competent authorities designated in accordance with paragraph 1 available on its website. The list shall be regularly updated.

Article 10

1 Competent authorities may use electronic systems for the exchange and recording of data contained in attesting documents.

2 Member States shall take into account the complementarity, compatibility and interoperability of the electronic systems referred to in paragraph 1.

Article 11

This Regulation is without prejudice to the level of protection of individuals with regard to the processing of personal data under Union law and national law, and in particular does not alter the obligations and rights set out in Directive 95/46/EC and Regulation (EC) No 45/2001. The protection of individuals with regard to the processing of personal data shall be ensured in particular with regard to any disclosure or communication of personal data in an attesting document.

Article 12

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