Commission Regulation (EC) No 1285/2008 of 15 December 2008 on the introduction into the Community of personal consignments of products of animal origin and amending Regulation (EC) No 136/2004 (Text with EEA relevance)

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries[(1)], and in particular Article 3(5), Article 16(3) and (4) and Article 17(7) thereof,

Having regard to Council Directive 2002/99/EC of 16 December 2002 laying down animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption[(2)], and in particular the third indent of Article 8(5) thereof,

Having regard to Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules[(3)], and in particular Article 25(2)(c) and (d) thereof,

Whereas:

(1) Directive 97/78/EC provides for veterinary checks on consignments of certain products of animal origin introduced into the Community from third countries.

(2) Pursuant to Article 3(1) and (2) of that Directive, Member States are to ensure that no consignment from a third country is introduced into the Community without having been subjected to the appropriate veterinary checks (systematic checks), and that consignments are introduced into the Community via a border inspection post.

(3) Pursuant to Article 16 of Directive 97/78/EC, those requirements are not to apply to products which form part of travellers' luggage and are intended for their personal consumption, insofar as their quantity does not exceed a quantity to be defined in accordance with the procedure described therein. Also, those requirements are not to apply to products sent as small consignments to private persons, provided that the products are not being imported by way of trade, insofar as their quantity does not exceed a quantity to be defined in accordance with the procedure described in that Directive.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1285/2008. (See end of Document for details)*

(4) Commission Decision 2007/275/EC of 17 April 2007 concerning lists of animals and products to be subject to controls at border inspection posts under Council Directives 91/496/EEC and 97/78/EC[(4)] lists the products of animal origin to be subjected to veterinary checks at border inspection posts.

(5) Article 8 of Commission Regulation (EC) No 136/2004 laying down procedures for veterinary checks at Community border inspection posts on products imported from third countries[(5)] lays down a weight limit of 1 kg for the exemption from systematic veterinary checks for products destined for human consumption from approved countries or parts thereof. That Article also lays down weight limits for other specific products of animal origin introduced into Denmark, *inter alia*, from Greenland and the Faeroe Islands, and with regard to certain fish introduced into Finland and Sweden from Russia.

(6) Annex II to Decision 2007/275/EC lists the composite products which are exempted from veterinary controls. Those products should therefore also be exempted from the systematic veterinary controls when they form part of travellers' luggage and are intended for their personal consumption or when they are sent as small consignments to private persons.

(7) The requirements and in particular the weight limits for the introduction of consignments of products of animal origin for personal consumption are therefore laid down in several legislative texts. Those requirements, however, need to be easily understood by enforcement authorities, travellers and the general public. It is therefore appropriate to simplify and to bring together in one Regulation, the types and quantities of products of animal origin for which an exemption from the veterinary checks laid down for commercial imports may be granted.

(8) The possible risk of introducing animal diseases into the Community through the introduction of products of animal origin should always be considered when laying down measures regulating such introductions. The level of animal health risk varies according to different factors, such as the type of product, the animal species from which the products are obtained, and the likelihood of the pathogenic agent being present.

(9) One of the most dangerous diseases that could be potentially introduced into the Community is foot and mouth disease (FMD). The European Food Safety Authority (EFSA) has evaluated the risk of introduction of FMD into the Community. That evaluation clearly shows that the introduction of meat and meat products and of milk and milk products are potential ways for the FMD virus to enter into the Community.

(10) In order to avoid the introduction of such diseases, the Community has put in place, for many years, a complete set of rules regulating the imports of live animals and products of animal origin for commercial purposes.

(11) Commission Regulation (EC) No 745/2004[(6)] lays down measures with regard to imports of meat and meat products and of milk and milk products for personal consumption. Pursuant to that Regulation meat and meat products and milk and milk products cannot be introduced into the Community by travellers unless such products fully comply with the Community's commercial import rules.

(12) That principle should be maintained in the future in order to ensure that the Community maintains its FMD-free status. The quantity of meat and meat products and milk and milk products carried by passengers that should be exempted from the systematic veterinary checks at borders provided for by Directive 97/78/EC should thus be fixed at zero.

(13) The measures provided for in this Regulation should be without prejudice to Community veterinary legislation having as objective the control and eradication of animal diseases, or concerning certain protection measures.

(14) The measures provided for in this Regulation should be without prejudice to legislation implementing Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein[7].

(15) It is also appropriate to ensure that information about the veterinary controls and the rules applicable to the introduction of products of animal origin be provided to travellers and the general public.

(16) Certain third countries, because of their geographical proximity and animal health status, are considered to present a minimal animal health risk to the Community. Limited quantities of meat and meat products and milk and milk products from such countries should therefore continue to be exempted from systematic veterinary checks.

(17) In addition, certain neighbouring third countries have specific veterinary agreements with the Community with respect to relevant aspects of the Community veterinary legislation.

(18) Personal consignments of products of animal origin in quantities below a certain threshold from those third countries should therefore remain outside the scope of the systematic veterinary checks provided for by Directive 97/78/EC. To ensure that accurate information is conveyed to passengers, such third countries should be indicated as exempted countries on all relevant publicity material.

(19) In general, the animal health status of Croatia may be considered to present a minimal animal health risk to the Community. Products of animal origin in quantities below a certain threshold which are part of passengers' luggage or sent as small consignments to consumers from Croatia should remain outside the scope of the systematic veterinary checks provided by Directive 97/78/EC. To ensure that accurate information is conveyed to passengers, Croatia should be indicated as an exempted country on all relevant publicity material laid down by this Regulation.

(20) Due to the current classical swine fever situation in Croatia, however, pig meat and pig meat products could pose a possible animal health risk to the EU. To address this issue, Croatia has agreed to take appropriate measures to ensure that such products destined for the Community and carried by travellers or sent by post to private individuals do not leave their territory.

(21) In addition, it should be clarified that provisions which apply to certain products of animal origin intended for human consumption should also apply to products of animal

origin destined for the feeding of pets, in order to prevent travellers or consumers from circumventing the rules laid down in this Regulation.

(22) There should continue to be a clear disincentive to prevent the introduction of consignments of products of animal origin of a non-commercial character that are not in conformity with the Community health requirements from entering the Community without undergoing the required veterinary clearance. Member States should therefore continue to impose such costs and penalties as necessary, including the costs of disposal of the products, on persons held liable for a breach of the rules on the introduction into the Community of products of animal origin.

(23) Member States should continue to supply appropriate information to the Commission on the mechanisms they have put in place for the enforcement of the rules set out in this Regulation. In addition, the information supplied could then be used to review the rules set out in this Regulation.

(24) To ensure that information about the requirements concerning the introduction into the Community of products of animal origin is effectively conveyed to travellers and to the general public, Member States and international passenger transport operators should bring those requirements to the attention of the general public and passengers carried into the Community.

(25) In view of the difficulties in collating the information concerning postal depots, more time should be given to the Member States to submit this information.

(26) In the interest of consistency and clarity of Community legislation, it is appropriate to amend Article 8 of Regulation (EC) No 136/2004 and to repeal Regulation (EC) No 745/2004.

(27) 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

Subject matter

1 This Regulation lays down rules concerning the introduction into the Community of personal consignments of products of animal origin of a non commercial character which form part of travellers' luggage, or are sent as small consignments to private persons, or are ordered remotely (for example, by mail, by telephone or via the Internet) and delivered to the consumer.

2 This Regulation shall not apply to personal consignments from Andorra, Liechtenstein, Norway, San Marino, and Switzerland. In addition, this Regulation shall not apply to personal consignments of fishery products from the Faeroe Islands and Iceland. However for the appropriate information of passengers, such third countries shall be indicated as exempted countries on all relevant publicity material.

3 This Regulation shall apply without prejudice to Community veterinary legislation having as objective the control and eradication of animal diseases, or concerning certain protection measures.

4 This Regulation shall apply without prejudice to the relevant rules on certification contained within legislation implementing Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein.

Article 2

Rules concerning the introduction into the Community of personal consignments of products of animal origin

1 Personal consignments of products of animal origin, for personal human consumption, as referred to in Article 16(1)(a), (b), and (d), and in Article 16(4) of Directive 97/78/EC, shall not be subject to the rules set out in Chapter I of that Directive, provided that they:

a are listed in Part 1 of Annex I and not covered by Article 6(1) of Decision 2007/275/EC, and their combined quantity does not exceed the weight limit of 0 kilograms;

b are listed in Part 1 of Annex II and their combined quantity does not exceed the weight limit of 2 kilograms;

c are eviscerated fresh or prepared fishery products, or processed fishery products, within the meaning of points 3.5, 3.6 or 7.4 of Annex I to Regulation (EC) No 853/2004, and their combined quantity does not exceed the weight limit of 20 kilograms or the weight of one fish, whichever weight is the highest;

d are products other than those referred to in Paragraphs (a), (b), (c) or in Article 6(1) of Decision 2007/275/EC and their combined quantity does not exceed the weight limit of 2 kilograms.

2 Personal consignments of animal products destined for the feeding of pets, shall not be subject to the rules set out in Chapter I of Directive 97/78/EC, provided that they:

a are listed in Part 2 of Annex I and their combined quantity does not exceed the weight limit of 0 kilograms;

b are listed in Part 2 of Annex II and their combined quantity does not exceed the weight limit of 2 kilograms.

3 By way of derogation from Paragraphs 1(a), 1(b), 1(d) and 2, personal consignments of animal products, coming from Croatia, the Faeroe Islands, Greenland or Iceland, shall not be subject to the rules set out in Chapter I of that Directive, provided that they:

a are listed in Annex I and not covered by Article 6(1) of Decision 2007/275/EC, and their combined quantity does not exceed the weight limit of 10 kilograms;

b are listed in Annex II and their combined quantity does not exceed the weight limit of 10 kilograms;

c are products other than those referred to in Paragraphs 1(c), 3(a), 3(b) of this Article or in Article 6(1) of Decision 2007/275/EC and their combined quantity does not exceed the weight limit of 10 kilograms.

Article 3

Information to be provided by Member States to travellers and to the general public

1 Member States shall ensure that at all points of entry into the Community, the veterinary conditions applicable to personal consignments introduced into the Community are brought to the attention of travellers arriving from third countries.