Regulation (EC) No 1523/2007 of the European Parliament and of the Council of 11 December 2007 banning the placing on the market and the import to, or export from, the Community of cat and dog fur, and products containing such fur (Text with EEA relevance)

REGULATION (EC) No 1523/2007 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 establishing the European Community, and in particular Articles 95 and 133 thereof,

Having regard to the proposal from the Commission,

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

Acting in accordance with the procedure laid down in Article 251 of the Treaty[(2)],

Whereas:

(1) In the perception of EU citizens, cats and dogs are considered to be pet animals and therefore it is not acceptable to use their fur or products containing such fur. Evidence exists of the presence in the Community of non-labelled fur from cats and dogs and of products containing such fur. As a consequence, consumers have become concerned about the possibility that they could buy cat and dog fur, and products containing such fur. On 18 December 2003[(3)], the European Parliament adopted a declaration expressing its concerns about the trade in such fur and products and requesting that it be ended so as to restore the confidence of EU consumers and retailers. During its meetings of 17 November 2003 and 30 May 2005, the Agriculture and Fisheries Council also highlighted the need to adopt rules on the trade in cat and dog fur, and products containing such fur as soon as possible.

(2) It is appropriate to clarify that only fur of species of domestic cats and dogs should be covered by this Regulation. However, as it is scientifically impossible to differentiate fur of domestic cats from fur of other non-domestic cat subspecies, a definition of cat as '*felis silvestris*', which includes also non-domestic cat subspecies, should be adopted in this Regulation.

(3) In response to consumer concern, several Member States have adopted legislation aiming at preventing the production and marketing of fur from cats and dogs.

(4) There are differences between Member States' provisions governing the trade, import, production and labelling of fur and fur products, with the aim of preventing cat and dog fur from being put on the market or otherwise used for commercial purposes. Whilst some Member States have adopted a total ban on the production of fur from cats and dogs by banning the rearing or the slaughter of such animals for fur production purposes, others have adopted restrictions on the production or import of fur and products containing such fur. In some Member States, labelling requirements have been introduced. Citizens' increasing awareness of the issue is likely to prompt more Member States to adopt further restrictive measures at national level.

(5) As a result, certain EU fur traders introduced a voluntary code of conduct to refrain from trading in cat and dog fur, and products containing such fur. However, this code has proved insufficient to prevent the importation and sale of cat and dog fur, particularly where fur traders deal in fur whose species of origin is not indicated and not easily recognizable, or purchase products containing such fur and are confronted with the risk either that the products in question cannot legally be traded in one or more of the Member States or that trade in one or more Member States is subject to additional requirements aimed at preventing the use of cat and dog fur.

(6) The differences between national measures as regards cat and dog fur constitute barriers to the fur trade in general. Those measures impede the smooth operation of the internal market, since the existence of diverse legal requirements hamper fur production in general and make it more difficult for fur legally imported to, or produced in, the Community to circulate freely within the Community. The diverse legal requirements across the Member States lead to additional burdens and costs for fur traders.

(7) Moreover, the public is confused by the diversity of legal requirements in the Member States, which itself creates an impediment to trade.

(8) The measures provided for in this Regulation should therefore harmonise the rules across the Member States as regards banning the sale, offer for sale and distribution of cat and dog fur, and products containing such fur, and thereby prevent the disturbance of the internal market for all other similar products.

(9) To eliminate the present fragmentation of the internal market there is a need for harmonisation where the most effective and proportionate instrument to counter the barriers to trade resulting from diverging national requirements would be a ban on the placing on the market and on the import to, or export from, the Community of cat and dog fur, and products containing such fur.

(10) A labelling requirement would not be suitable to achieve the same result since it would disproportionately burden the garment industry, including traders who specialise in faux fur, and would also be disproportionately costly in cases where fur represents only a tiny part of the product.

(11) There is no tradition of rearing cats and dogs for fur production purposes in the Community, although instances of manufacturing cat and dog fur have been noted. It appears in fact that the vast majority of cat and dog fur products in the Community originate from third countries. Thus, in order to be more effective, the ban on intra-

Community trade should be accompanied by a ban on imports of the same products into the Community. Such an import ban would also respond to concerns expressed by consumers as to the possible introduction into the Community of fur from cats and dogs, especially since there are indications that those animals may be kept and slaughtered inhumanely.

(12) A ban on exports should also ensure that cat and dog fur, and products containing such fur are not produced in the Community for export.

(13) However, it is appropriate to provide for the possibility of limited derogations from the general ban on the placing on the market and on the import to or export from the Community of cat and dog fur, and products containing such fur. Such is the case in relation to cat and dog fur imported and placed on the market for educational or taxidermy purposes.

(14) Regulation (EC) No 1774/2002 of the European Parliament and of the Council[(4)] lays down animal and public health rules for the placing on the market and the import or export of animal by-products, including cat and dog fur. It is therefore appropriate to clarify the scope of this Regulation, which should be the only act to apply to the placing on the market and the import or export of cat and dog fur at all stages of production, including raw fur. However, this Regulation should not affect the obligations under Regulation (EC) No 1774/2002 concerning the disposal of cat and dog fur for public health reasons.

(15) Measures for the ban of the use of cats and dogs for fur production should be enforced uniformly across the Community. However, the techniques currently used to identify cat and dog fur, such as DNA testing, microscopy and MALDI-TOF Mass Spectrometry, vary from one Member State to another. It is appropriate for information regarding such techniques to be made available to the Commission, so that enforcement bodies are kept abreast of innovations in this field and so that the possibilities for prescribing a uniform technique can be assessed.

(16) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[(5)].

(17) In particular, the Commission should be empowered to establish analytical methods to identify the species of origin of fur and exceptionally to adopt measures which derogate from the prohibitions laid down in this Regulation. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(18) Member States should lay down rules on penalties applicable to infringements of the provisions of this Regulation and ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive. In particular, Member States which seize consignments of cat and dog fur following the application of this Regulation should adopt laws allowing the confiscation and destruction of such consignments and

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EC) No 1523/2007 of the European Parliament and of the Council. (See end of Document for details)*

the suspension or revocation of the import or export licences granted to the traders concerned. Member States should be encouraged to apply criminal sanctions where this is possible under their national law.

(19) Since the objective of this Regulation, namely the elimination of obstacles to the functioning of the internal market by harmonising at Community level national bans concerning the trade in cat and dog fur, and products containing such fur, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve that objective,

HAVE ADOPTED THIS REGULATION:

Article 1

Objective

The purpose of this Regulation is to ban the placing on the market and the import to, or export from, the Community of cat and dog fur, and products containing such fur in order to eliminate obstacles to the functioning of the internal market and to restore consumer confidence in the fact that the fur products which consumers buy do not contain cat and dog fur.

Article 2

Definitions

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

1. ‘cat’ shall mean an animal of the species *felis silvestris*;

2. ‘dog’ shall mean an animal of the subspecies *canis lupus familiaris*;

3. ‘placing on the market’ shall mean the holding of cat and/or dog fur or a product containing such fur for the purpose of sale, which includes offer for sale, sale and distribution;

4. ‘import’ shall mean the release for free circulation within the meaning of Article 79 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code[(6)], with the exception of imports of a non-commercial nature within the meaning of Article 45(2)(b) of Council Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duty[(7)];

5. ‘export’ shall mean an export procedure allowing Community goods to leave the customs territory of the Community within the meaning of Article 161 of Regulation (EEC) No 2913/92.