Commission Implementing Decision (EU) 2019/2098 of 28 November 2019 on temporary animal health requirements for consignments of products of animal origin for human consumption originating in and returning to the Union following a refusal of entry by a third country (notified under document C(2019)8092) (Text with EEA relevance)

COMMISSION IMPLEMENTING DECISION (EU) 2019/2098

of 28 November 2019

on temporary animal health requirements for consignments of products of animal origin for human consumption originating in and returning to the Union following a refusal of entry by a third country

(notified under document C(2019)8092)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption[(1)], and in particular the third indent of point 5 of Article 8 thereof,

Whereas:

(1) Directive 2002/99/EC lays down the general animal health rules governing the introduction into the Union of products of animal origin intended for human consumption from third countries. More particularly, it provides for the adoption by the Commission of rules concerning certain types of introduction of those products. The animal health rules laid down in that Directive do not affect, and are applied in parallel with, the rules on veterinary checks laid down in Council Directive 97/78/EC[(2)].

(2) Directive 97/78/EC lays down rules governing the organisation of veterinary checks on consignments of products of animal origin entering the Union from third countries, including products falling within the scope of Directive 2002/99/EC. Article 15 of Directive 97/78/EC provides that Member States are to authorise the re-importation of such products where they have been refused by a third country, subject to certain conditions. Those conditions include certification requirements, and they are intended to protect public and animal health.

(3) Regulation (EU) 2017/625 of the European Parliament and of the Council[(3)] repealed Directive 97/78/EC with effect from 14 December 2019. That Regulation established a new legal framework for official controls and other official activities to verify the correct application of Union agri-food chain legislation. It lays down rules concerning, inter alia, official controls on consignments of products of animal origin entering

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the Union, including food. In addition, Regulation (EU) 2016/429 of the European Parliament and of the Council[4] repealed Directive 2002/99/EC with effect from 21 April 2021. Regulation (EU) 2016/429 lays down rules for the prevention of animal diseases, including rules for the entry into the Union of products of animal origin. The rules laid down in those two Regulations are applied in parallel, but while the rules laid down in Regulation (EU) 2017/625 are horizontal in nature, those laid down in Regulation (EU) 2016/429 are more sector-specific as they concern animal health.

(4) Supplementary rules have now been established by Commission Delegated Regulation (EU) 2019/2074[5] under Regulation (EU) 2017/625 for the performance of official controls on consignments of animals and goods originating from and returning to the Union following a refusal of entry by a third country. Those supplementing rules aim to verify compliance of the returning consignments with, inter alia, animal health requirements and refer to those requirements as set out in Union animal health rules. That Delegated Regulation applies from 14 December 2019, in line with the date of application of Regulation (EU) 2017/625.

(5) Commission acts for the implementation of Directive 2002/99/EC currently do not lay down specific animal health requirements for the re-entry into the Union of products of animal origin, which have been exported from the Union and have been refused entry by a third country. Therefore animal health requirements specific for the re-entry into the Union of consignments of products of animal origin destined for human consumption, which have been exported from the Union and have been refused entry by third countries should be laid down to provide legal certainty as regards the animal health requirements applicable to those consignments, and to mitigate potential animal health risks after 14 December 2019, following the repeal of Directive 97/78/EC.

(6) In particular, the unloading, storage and re-loading of these products in third countries should not lead to risks for the spread and introduction into the Union of pathogens of certain listed animal diseases referred to in Annex I to Directive 2002/99/EC.

(7) In addition to the original documents issued by the competent authority of the Member State of export, it should also be permissible to verify the origin of consignments of products of animal origin for human consumption on the basis of the electronic equivalent of the original official certificate submitted in the information management system for official controls referred to in Article 131 of Regulation (EU) 2017/625 (IMSOC) and established by Commission Implementing Regulation (EU) 2019/1715[6].

(8) A consignment of products of animal origin for human consumption which has been returned to the Union following refusal of entry by a third country should be allowed to be transported to a place of destination in the Union, where the competent authority of the place of destination in the Union has agreed to receive that consignment.

(9) It is necessary to ensure that consignments of products of animal origin for human consumption which have been returned to the Union following a refusal of entry by a third country arrive at their place of destination in the Union. Therefore, the procedural requirements laid down in Commission Delegated Regulation (EU) 2019/1666[7] should apply to the monitoring of the transport and arrival of such consignments, from the

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border control post of arrival into the Union to the establishment at the place of destination.

(10) The animal health requirements laid down in this Implementing Decision should apply until 21 April 2021, as Regulation (EU) 2016/429 and the Commission Delegated Regulation on animal health rules for the entry into the Union, movement and handling after the entry of certain animals, germinal products and products of animal origin from third countries or territories, apply from that date.

(11) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS DECISION:

Article 1

1 The competent authority at the border control post shall authorise the entry into the Union of consignments of products of animal origin defined in Article 2(4) of Council Directive 2002/99/EC originating in and returning to the Union following a refusal of entry by a third country where the following requirements are fulfilled:

a the consignment is accompanied by the original official certificate or document issued by the competent authority of the Member State of export, or its electronic equivalent submitted in the information management system for official controls referred to in Article 131 of Regulation (EU) 2017/625 (IMSOC) and established by Implementing Regulation (EU) 2019/1715 or an authenticated copy thereof;

b the consignment is accompanied by a declaration from the competent authority of the place of destination in the Union confirming that it agrees to receive the consignment and indicating the place of destination for its return to the Union;

c the consignment is accompanied by one of the following documents indicating the reason for the refusal of entry by the third country, where applicable the place and date of unloading, storage and re-loading in the third country, and the following information:

(i) in the case of containers or packages with an intact original seal, a declaration by the operator responsible for the consignment confirming that the transport has taken place under conditions appropriate for the type of products of animal origin and the contents of the consignment were not altered during the transport; or

(ii) an official declaration of the competent authority or other public authority of the third country confirming that the requirements of point (d) have been complied with;

d where the products of animal origin were unloaded in a third country, the competent authority or other public authority of the third country has attested that:

(i) the products of animal origin did not undergo any handling other than the unloading, storage and re-loading in the third country;

(ii) effective measures were put in place to avoid the contamination of the products of animal origin with disease agents which cause transmissible animal diseases listed in Annex I to Directive 2002/99/EC during the unloading, storage and re-loading in the third country;

(iii) the place of any unloading, storage and re-loading in the third country was not subject to animal health movement restrictions due to transmissible animal