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[...] (2020) **XXX** draft

COMMISSION DELEGATED REGULATION (EU) .../...

of XXX

supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards certain categories of goods exempted from official controls at border control posts and amending Commission Decision 2007/275/EC

(Text with EEA relevance)

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) 2017/625 of the European Parliament and of the Council¹ on Official Controls (OCR) establishes the framework for official controls and other official activities to verify the correct application of Union agri-food chain legislation. This includes official controls performed on animals and goods entering the Union from third countries.

Article 48(h) of the OCR provides that certain categories of animals and goods referred to in Article 47(1) of the OCR coming from third countries might be exempted from official controls at border control posts. According to Article 77(1)(k) of the OCR, arrangements for specific official controls might be laid down in delegated acts for those animals and goods exempted from official controls at border control posts.

Commission Decision 2007/275/EC² contains the list of composite products which are exempted from official controls at border control posts upon entry into the Union.

The new requirements for entry into the Union of composite products laid down in Commission Delegated Regulation (EU) 2019/625³, which will apply from 21 April 2021, will be no longer based on the quantities of processed products of animal origin (expressed in percentage of ingredients of the composite product), but rather on the risk linked to the composite product itself.

The purpose of this Regulation is to lay down cases and conditions under which certain low risk shelf-stable composite products not containing processed meat should be exempted from official controls at border control posts. The Member State competent authorities should perform official controls on such composite products regularly, on a risk basis and with appropriate frequency, at the place of destination, the point of release for free circulation in the Union, or the warehouses or the premises of the operator responsible for the consignment.

For these reasons, it is necessary to establish a new list of certain shelf-stable composite products not containing processed meat and exempted from official controls at border control posts, lay down rules concerning official controls on those products and amend Decision 2007/275/EC accordingly.

¹ Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) (OJ L 95, 7.4.2017, p. 1).

² 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 (OJ L 116, 4.5.2007, p. 9).

³ Commission Delegated Regulation (EU) 2019/625 of 4 March 2019 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council with regard to requirements for the entry into the Union of consignments of certain animals and goods intended for human consumption (OJ L 131, 17.5.2019, p. 18).

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The Commission Expert Group "official controls" (E00911) was consulted at several occasions, and a number of meetings have been held with relevant stakeholders.

No impact assessment has been carried out, as this Regulation is not expected to have any significant impact.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The legal basis is Article 48(h) and Article 77(1)(k) of Regulation (EU) 2017/625. In the interest of legal certainty, it is appropriate to lay down in a single act rules on composite products exempted from official controls at border control posts and rules on official controls to be performed on such composite products at the place of destination, the point of release for free circulation in the Union, or the warehouses or the premises of the operator responsible for the consignment.

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supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards certain categories of goods exempted from official controls at border control posts and amending Commission Decision 2007/275/EC

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation)⁴ and in particular Article 48(h) and Article 77(1)(k) thereof,

Whereas:

- (1) Article 48(h) and Article 77(1)(k) of Regulation (EU) 2017/625 empower the Commission to adopt delegated acts to establish cases where, and conditions under which, certain low risk goods, including composite products, might be exempted from official controls at border control posts, and to lay down rules for the performance of specific official controls on those goods.
- (2) The risk posed by composite products to public and animal health depends on the types of ingredients and on their storage conditions and packaging. Shelf-stable composite products that do not contain processed meat as an ingredient and do not need to be transported or stored under controlled temperatures pose the lowest risk as regards animal health and microbiological food safety. This is the case for dairy and egg products contained in shelf-stable composite products that have undergone treatment during their manufacture, such as sterilisation or treatment using ultra-high temperatures to eliminate the risk. Risks for animal health and microbiological food safety are mitigated where composite products are securely packaged or sealed.
- (3) However, chemical food safety risks are not reduced by treatments that make composite products shelf-stable. From the perspective of chemical food safety, certain shelf-stable composite products that do not contain processed meat may be exempted from official controls at the border control posts, provided that the processed products

⁴ OJ L 95, 7.4.2017, p. 1.

of animal origin that are ingredients of the composite products are produced in establishments located in third countries authorised for importing into the Union those processed products of animal origin or in establishments located in Member States.

- (4) Shelf-stable composite products that do not contain processed meat should be produced in a third country listed in Commission Decision 2011/163/EU⁵. The third country producing the composite product should either have an approved residue control plan for each of the ingredients of animal origin contained in composite product or it should source the animal ingredients from a Member State or from another third country which is listed in the Decision 2011/163/EU for those commodities.
- (5) Considering their low risk for public health and animal health, it is appropriate to exempt certain shelf-stable composite products not containing processed meat from official controls at border control posts and to list them in the Annex to this Regulation, indicating their codes from the Combined Nomenclature (CN) as laid down in Annex I to Council Regulation (EEC) No 2658/87⁶.
- (6) Certain shelf-stable composite products not containing processed meat, exempted from official controls at border control posts in accordance with this Regulation and entering the Union from third countries should be accompanied by a private attestation provided by the importing food business operator.
- (7) To ensure that certain shelf-stable composite products not containing processed meat and exempted from checks at border control posts in accordance with this Regulation meet public and animal health requirements, the competent authorities should perform official controls regularly, on a risk basis and with appropriate frequency, at the place of destination, at the point of release for free circulation in the Union, or at the warehouses or the premises of the operator responsible for the consignment.
- (8) The rules on composite products exempted from official controls at the border control posts and on official controls to be performed on such composite products are substantively linked and are intended to be applied in tandem. In the interests of simplicity and transparency, as well as to facilitate their application and to avoid a multiplication of rules, they therefore should be laid down in a single act rather than in separate acts with many cross-references and the risk of duplication.
- (9) Exemptions from official controls at border control posts for certain composite products already exist pursuant to Decision 2007/275/EC⁷. Since this Regulation lays down exemptions for products currently covered by Decision 2007/275/EC, certain provisions in that Decision should be deleted from the date of application of this Regulation and that Decision should be amended accordingly.
- (10) The public health requirements for the entry into the Union of composite products laid down in Commission Delegated Regulation (EU) 2019/625⁸ will only apply as of 21

⁵ Commission Decision 2011/163/EU of 16 March 2011 on the approval of plans submitted by third countries in accordance with Article 29 of Council Directive 96/23/EC (OJ L 70, 17.3.2011, p. 40).

⁶ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

⁷ 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 (OJ L 116, 4.5.2007, p. 9).

⁸ Commission Delegated Regulation (EU) 2019/625 of 4 March 2019 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council with regard to requirements for the entry into

April 2021. Similarly, the animal health requirements for the entry into the Union of composite products laid down in Commission Delegated Regulation (EU) 2020/692⁹ will only apply as of 21 April 2021. Accordingly, the rules laid down in this Regulation should also apply from that date,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation establishes rules concerning:

1. the cases where and the conditions under which composite products are exempted from official controls at border control posts and when such exemption is justified;
2. the performance of specific official controls on composite products exempted from official controls at border control posts.

Article 2

Definitions

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

1. 'composite product' means composite product as defined in point (14) of Article 2 of Delegated Regulation (EU) 2019/625;
2. 'shelf-stable composite products' means products that do not need to be transported or stored under controlled temperatures.

Article 3

Composite products exempted from official controls at border control posts

1. Shelf-stable composite products not containing processed meat and listed in the Annex shall be exempted from official controls at border control posts provided such products meet all of the following requirements:
 - (a) they comply with the requirements for the entry into the Union laid down in Article 12(2)(c) of Delegated Regulation (EU) 2019/625;
 - (b) any dairy and egg products contained in the shelf-stable composite products have been subjected to treatment in accordance with Article 163(a) of Delegated Regulation (EU) 2020/692;
 - (c) they are identified as intended for human consumption; and
 - (d) they are securely packaged or sealed.
2. At the time of placing on the market, shelf-stable composite products referred to in paragraph 1 shall be accompanied by a private attestation in accordance with the

the Union of consignments of certain animals and goods intended for human consumption (OJ L 131, 17.5.2019, p. 18).

⁹ Commission Delegated Regulation (EU) 2020/692 of 30 January 2020 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for entry into the Union, and the movement and handling after entry of consignment of certain animals, germinal products and products of animal origin (OJ L 174, 3.6.2020, p. 379).

model laid down in Annex V to Commission Implementing Regulation (EU) 2020/XXX [C(2020)8100]¹⁰.

Article 4

Official controls on composite products exempted from official controls at border control posts

1. The competent authorities shall perform official controls on shelf-stable composite products referred to in Article 3(1) regularly, on a risk basis and with appropriate frequency, taking into account the criteria referred to in Article 44(2) of Regulation (EU) 2017/625.
2. The official controls referred to in paragraph 1 shall be performed at any of the following places within the customs territory of the Union:
 - (a) the place of destination;
 - (b) the point of release for free circulation in the Union;
 - (c) the warehouses or the premises of the operator responsible for the consignment.
3. The official controls referred to in paragraph 1 shall be performed in accordance with Articles 45 and 46 of Regulation (EU) 2017/625.

Article 5

Amendments to Decision 2007/275/EC

Decision 2007/275/EC is amended as follows:

- (1) Article 6 is deleted;
- (2) Annex II is deleted.

Article 6

Entry into force and date of application

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

It shall apply from 21 April 2021.

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

¹⁰ Commission Implementing Regulation (EU) 2020/XXXX of ... laying down rules for the application of Regulations (EU) 2016/429 and 2017/625 of the European Parliament and of the Council as regards model animal health certificates, model official certificates and model animal health/official certificates, for the entry into the Union and movements within the Union of consignments of certain categories of animals and goods, official certification regarding such certificates and repealing Regulation (EC) No 599/2004, Implementing Regulations (EU) No 636/2014 and (EU) 2019/628, Directive 98/68/EC and Decisions 2000/572/EC, 2003/779/EC and 2007/240/EC (OJ....).

Done at Brussels,

For the Commission
The President
Ursula VON DER LEYEN

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