



EUROPEAN
COMMISSION

Brussels, **XXX**
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[...] (2024) **XXX** draft

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

of **XXX**

supplementing Regulation (EU) 2017/625 as regards the cases where and the conditions under which competent authorities may request operators to notify the arrival of certain goods entering the Union

(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 establishes the framework for official controls and other official activities to verify compliance with the Union agri-food chain legislation. That framework includes official controls performed on animals and goods entering the Union.

Article 45(4) of Regulation (EU) 2017/625 provides delegating powers for the Commission to lay down rules concerning the cases where and the conditions under which competent authorities may request operators to notify the arrival of certain goods entering the Union other than those subject to official controls at border control posts in accordance with Article 47(1) of Regulation (EU) 2017/625.

The purpose of this Delegated Regulation is to establish the cases where and the conditions under which competent authorities may request operators to notify the arrival of consignments of goods not subject to official controls at border control posts in accordance with Article 47(1) of Regulation (EU) 2017/625. The competent authority may request operators to notify the arrival of goods entering the Union where it considers that a notification is necessary in order to organise official controls on those goods in view of the risks to human, animal or plant health, animal welfare or, as regards genetically modified organisms and plant protection products, also to the environment, which are associated with those goods or the history of compliance with the requirements established by the rules referred to in Article 1(2) of Regulation (EU) 2017/625 applicable to those goods. In particular, the information management system for official controls (IMSOC) set up and managed by the Commission in accordance with Article 131(1) of Regulation (EU) 2017/625 should be used for such notifications. For the categories of goods referred to above, the operator responsible for the consignment should notify the arrival of the consignment by completing and submitting a notification of arrival in the Trade Control and Expert System (TRACES) referred to in Article 133(4) of Regulation (EU) 2017/625, for transmission to the competent authorities of the border control post prior to the physical arrival of the consignment into the Union.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The Commission's Expert Group "official controls" (E00911) was consulted.

The informal discussions contributed to the preparation of this draft which did not present controversial issues.

No impact assessment has been carried out, as the Delegated Regulation is not expected to have significant impacts.

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¹ Regulation (EU) 2017/625 of the European Parliament and of the Council Regulation (EU) 2017/625 of the European Parliament and of the Council 15 March 2017 of 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, ELI: <http://data.europa.eu/eli/reg/2017/625/oj>).

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The legal basis is Article 45(4) of Regulation (EU) 2017/625.

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

of **XXX**

supplementing Regulation (EU) 2017/625 as regards the cases where and the conditions under which competent authorities may request operators to notify the arrival of certain goods entering the Union

(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)¹, and in particular Article 45(4), thereof,

Whereas:

- (1) Regulation (EU) 2017/625 establishes the framework for official controls and other official activities to verify compliance with the Union agri-food chain legislation. That framework includes official controls performed on animals and goods entering the Union.
- (2) Article 47(1) of Regulation (EU) 2017/625 requires Member States to perform official controls at designated border control posts on each consignment of the categories of animals and goods referred to in that provision. In this case, each consignment is to be pre-notified and checked at border control posts using the Common Health Entry Document (CHED) referred to in Article 56 of Regulation (EU) 2017/625. The CHED is to be submitted into the information management system for official controls (IMSOC) set up and managed by the Commission in accordance with Article 131(1) of that Regulation.
- (3) Pursuant to Article 44 of Regulation (EU) 2017/625, Member States are to perform official controls regularly, on a risk basis and with appropriate frequency, on animals and goods entering the Union to which Articles 47 and 48 of that Regulation do not apply. The appropriate frequency is to be determined taking into account the criteria laid down in Article 44(2) of Regulation (EU) 2017/625 and for plant protection products also the criteria established in Article 24(2) of that Regulation. Where

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¹ OJ L 95, 7.4.2017, p. 1, ELI: <http://data.europa.eu/eli/reg/2017/625/oj>.

performed, such official controls always are to include a documentary check and are to include identity checks and physical checks depending on the risk to human, animal or plant health, animal welfare or, as regards genetically modified organisms (GMOs) and plant protection products, also to the environment.

- (4) In accordance with Article 44(3), point (b), of Regulation (EU) 2017/625, official controls on the goods entering the Union from third countries to which Articles 47 and 48 of that Regulation do not apply are to be carried out, amongst other places, at a border control post.
- (5) Certain goods entering the Union from third countries pose risks to human, animal or plant health, animal welfare or, as regards GMOs and plant protection products, also to the environment. Alternatively, information on the legislation of third countries in a particular sector, on the performance by the competent authorities of third countries of adequate official controls in that sector, or any other relevant information from bilateral contacts with third countries allows the competent authorities to assess the history of compliance with the requirements established by the rules referred to in Article 1(2) of Regulation (EU) 2017/625 applicable to the goods concerned.
- (6) Where the competent authorities at the border control post perform official controls on those goods, the official controls are to include documentary checks, identity checks and physical checks. In order to enable the competent authorities to organise those checks in an efficient manner that prevents introducing risks into the Union, the competent authorities should be able to receive in advance standardised information describing the consignments in sufficient detail to allow the competent authorities to readily and completely identify the consignments, their destination and intended use.
- (7) It is therefore appropriate to supplement Regulation (EU) 2017/625 in accordance with Article 45(4) of that Regulation and specify the cases where and the conditions under which the competent authorities of the Member States may request operators to notify the arrival of consignments of certain goods from third countries. The determination of those cases and conditions should be based on an assessment of the risks to human, animal or plant health, animal welfare or, as regards GMOs and plant protection products, also to the environment, associated with the goods concerned, or the history of compliance with the requirements established by the rules referred to in Article 1(2) of Regulation (EU) 2017/625 applicable to the goods concerned. Moreover, notifications of arrival should concern consignments of goods that are subject to official controls at border control posts in accordance with Article 44(3), point (b), of Regulation (EU) 2017/625.
- (8) Having regard to Article 133(3) of Regulation (EU) 2017/625, notifications of arrival are to be carried out by way of the IMSOC. In order to facilitate timely exchanges of data between competent authorities performing sanitary and phytosanitary checks and customs authorities, including exchanges via electronic means, the operator responsible for the consignments should notify the arrival of each consignment by completing and submitting the relevant data in the Trade Control and Expert System (TRACES) in the IMSOC, for transmission to the competent authorities at the border control posts of first arrival into the Union and for access to the data by customs

authorities in accordance with Article 38(1), point (b), of Commission Implementing Regulation (EU) 2019/1715².

- (9) The operator responsible for the consignments should provide a description of the consignments in sufficient detail in the notification of arrival to allow the competent authorities to readily and completely identify the consignments, their destination and intended use, such as human consumption, feedstuff, sample, display exhibition item, food contact materials, plant protection products or other. In addition, the operator responsible for the consignments should, by means of a declaration, certify that the information provided in the notification of arrival is true and complete. To facilitate the procedure and for reasons of legal certainty, the information should be provided using a standardised format.
- (10) In the standardised format used to describe the consignments, operators responsible for the consignment should be able to indicate that those consignments are to be transferred to onward transportation facilities which have been designated in accordance with Article 9 of Commission Delegated Regulation (EU) 2019/2124³. Operators responsible for the consignment should also be able to indicate that consignments are to be transferred to customs warehouses referred to in Article 240(1) of Regulation (EU) No 952/2013 of the European Parliament and of the Council⁴ or to a temporary storage facility referred to in Article 147(1) of that Regulation. Operators should describe consignments with reference to the Combined Nomenclature (CN) code and title provided for in Council Regulation (EEC) No 2658/87⁵ and the integrated tariff of the European Union (TARIC) code.
- (11) Pursuant to Article 13 of Regulation (EU) 2017/625, competent authorities are to draw up written records of every official control that they perform, on paper or in electronic form. In order to facilitate the performance of official controls and of customs controls, the competent authorities at the border control posts should be able to add the written records of the official controls performed on the consignments and any decisions taken on that basis, including the decision to reject a consignment, in the notification of arrival submitted in TRACES.
- (12) To ensure an adequate level of security of electronic means of identification and electronic certification and to digitalise and harmonise the procedure, the use of an electronic notification of arrival submitted in TRACES should meet the standards for electronic signatures and electronic seals with their different levels of identity

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² Commission Implementing Regulation (EU) 2019/1715 of 30 September 2019 laying down the rules for the functioning of the information management system for official controls and its system components ('the IMSOC Regulation') (OJ L 261, 14.10.2019, p.37, ELI: http://data.europa.eu/eli/reg_impl/2019/1715/oj).

³ Commission Delegated Regulation (EU) 2019/2124 of 10 October 2019 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules for official controls of consignments of animals and goods in transit, transshipment and onward transportation through the Union, and amending Commission Regulations (EC) No 798/2008, (EC) No 1251/2008, (EC) No 119/2009, (EU) No 206/2010, (EU) No 605/2010, (EU) No 142/2011, (EU) No 28/2012, Commission Implementing Regulation (EU) 2016/759 and Commission Decision 2007/777/EC (OJ L 321, 12.12.2019, p. 73, ELI: http://data.europa.eu/eli/reg_del/2019/2124/oj).

⁴ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1, ELI: <http://data.europa.eu/eli/reg/2013/952/oj>).

⁵ 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, ELI: <http://data.europa.eu/eli/reg/1987/2658/oj>).

assurance set by Regulation (EU) No 910/2014 of the European Parliament and of the Council⁶ and Commission Implementing Decision (EU) 2015/1506⁷.

- (13) It is appropriate to provide for a deferred date of application of this Regulation having regard to the time needed to ensure the connection of TRACES in respect of the notification of arrival provided for in this Regulation with the electronic European Union Customs Single Window Certificates Exchange System established by Regulation (EU) 2022/2399 of the European Parliament and of the Council⁸,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

This Regulation lays down rules concerning the cases where and the conditions under which competent authorities may request operators to notify the arrival of certain goods entering the Union and to which Articles 47 and 48 of Regulation (EU) 2017/625 do not apply.

Article 2

Cases where a notification may be requested

Competent authorities may request operators to notify the arrival of certain goods where the following conditions are met:

1. the notification is necessary, taking into account:
 - (a) identified risks to human, animal or plant health, animal welfare or, as regards genetically modified organisms and plant protection products, also to the environment, associated with the goods concerned; or
 - (b) the history of compliance with the requirements established by the rules referred to in Article 1(2) of Regulation (EU) 2017/625 applicable to the goods concerned;
2. the goods concerned are subject to official controls at border control posts in accordance with Article 44(3), point (b), of Regulation (EU) 2017/625.

Article 3

Definitions

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

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⁶ Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73, ELI: <http://data.europa.eu/eli/reg/2014/910/oj>).

⁷ Commission Implementing Decision (EU) 2015/1506 of 8 September 2015 laying down specifications relating to formats of advanced electronic signatures and advanced seals to be recognised by public sector bodies pursuant to Articles 27(5) and 37(5) of Regulation (EU) No 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market (OJ L 235, 9.9.2015, p. 37, ELI: http://data.europa.eu/eli/dec_impl/2015/1506/oj).

⁸ Regulation (EU) 2022/2399 of the European Parliament and of the Council of 23 November 2022 establishing the European Union Single Window Environment for Customs and amending Regulation (EU) No 952/2013 (OJ L 317, 9.12.2022, p. 1, ELI: <http://data.europa.eu/eli/reg/2022/2399/oj>).

1. 'TRACES' means the system referred to in Article 133(4) of Regulation (EU) 2017/625;
2. 'electronic signature' means an electronic signature as defined in Article 3, point (10), of Regulation (EU) No 910/2014;
3. 'advanced electronic seal' means an electronic seal complying with the technical specifications laid down in the Annex to Implementing Decision (EU) 2015/1506;
4. 'qualified electronic seal' means an electronic seal as defined in Article 3, point (27), of Regulation (EU) No 910/2014.

Article 4

Conditions for requesting the notification of arrival

1. The competent authorities may request operators to notify the arrival of the consignments provided the border control post of first arrival into the Union of the consignments is located within the territory of the competent authorities' Member State.
2. The notification of arrival shall consist of:
 - (a) standardised information describing the consignments in sufficient detail to allow the competent authorities to immediately and completely identify the consignments, their destination and intended use, in accordance with paragraph 4; and
 - (b) a declaration of the operator responsible for the consignments to certify that the information referred to in point (a) is true and complete.
3. The operator responsible for the consignments shall complete and submit for each consignment the notification of arrival in TRACES, in an official Union language of the Member State of entry, for transmission to the competent authorities of the border control post of first arrival into the Union prior to the arrival of the consignments. However, a Member State may consent to a notification being drawn up in an official Union language other than that of the Member State of entry.
4. The notification of arrival shall be completed following the standardised information below:
 - (a) the name, address, country and the International Organization for Standardization (ISO) country code of the natural or legal person dispatching the consignments;
 - (b) the name of the border control post of first arrival into the Union;
 - (c) the name and address of the natural or legal person to whom the consignments are destined;
 - (d) the name, address, country and ISO country code of the place where the consignments are being delivered for final unloading;
 - (e) the name, address, country and ISO country code of the natural or legal person in the Member State who is in charge of the consignments when presented at the border control post;
 - (f) the type of documents accompanying the consignments, their unique code and the country of issue, where applicable;

- (g) the references of commercial documents, where applicable;
- (h) the estimated arrival date and time at the entry point where the border control post is located;
- (i) the country of origin of the goods or the country in which they were grown, harvested or produced;
- (j) the final means of transport for the journey to the Union and the identification of the final means of transport;
- (k) the country where the goods were loaded onto the final means of transport for the journey to the Union;
- (l) the name, address, country and ISO country code of the establishments of origin and, where applicable, their registration or approval number;
- (m) the category of required temperature during transport (ambient, chilled, frozen), where applicable;
- (n) the container number and seal number, where applicable;
- (o) the intended use of the goods or their category as specified in the official certificates, official attestations, declarations or commercial documents, where required;
- (p) information on the conformity of the goods;
- (q) the intended destination of the consignments after the consignments leave the border control post, as follows:
 - (i) ‘for internal market’, in case the consignments are intended to be placed on the market in the Union; or
 - (ii) ‘for transit’, in the case of consignments of non-authorized feed additives of non-animal origin and of non-authorized plant protection products intended for transit to a third country of destination, with the indication of the name and the ISO country code of the third country of destination and, in case of consignments of non-authorized products that are crossing the Union territory by road, rail or waterway, the name of the exit border control post, located in the same Member State as the border control post;
 - (iii) ‘for transfer to’, if the consignments may be transferred by virtue of national rules from the border control post to a control point referred to in Article 53(1), point (a), of Regulation (EU) 2017/625, located in the same Member State as the border control post, for further official controls, with the indication of the name of the control point;
 - (iv) ‘for onward transportation to’, if the consignments may be transferred by virtue of national rules to an onward transportation facility designated in accordance with Article 9 of Delegated Regulation (EU) 2019/2124, located in the same Member State as the border control post, with the indication of the details of that facility;
 - (v) in the case of consignments of non-authorized feed additives of non-animal origin and of non-authorized plant protection products that are not in direct transit to a third country, the following controlled destinations where the consignments will be delivered before they leave the territory of the Member State where the border control post is located:

1. a customs warehouse referred to in Article 240(1) of Regulation (EU) No 952/2013;
 2. a temporary storage facility referred to in Article 147(1) of Regulation (EU) No 952/2013;
 3. a free zone, where applicable;
 4. a feed business establishment, with indication of its registration or approval number;
- (r) the description of the goods in the consignments based on official certificates, official attestations, declarations or other commercial documents, allowing their identification and the calculation of fees, including all of the following:
- (i) the Combined Nomenclature (CN) code and title provided for in Regulation (EEC) No 2658/87 and the integrated tariff of the European Union (TARIC) code;
 - (ii) the net weight, in kilogrammes;
 - (iii) the gross weight, composed of the net weight, plus immediate containers and all packaging, but excluding transport containers and other transport equipment;
 - (iv) the type of packages and the total number of packages in the consignments;
 - (v) the batch number;
 - (vi) the product type, including whether the goods are intended to be placed on the market as organic or in-conversion products;
 - (vii) the number of pieces or the volume, where appropriate.
5. The competent authorities at the border control posts may add written records of official controls referred to in Article 13(1) of Regulation (EU) 2017/625 in the notification of arrival submitted in TRACES, including any of the following decisions taken on the consignments:
- (a) ‘acceptable for internal market’;
 - (b) ‘acceptable for transfer’;
 - (c) ‘acceptable for onward transportation’;
 - (d) ‘acceptable for transit’;
 - (e) ‘acceptable for non-conforming goods’;
 - (f) ‘not acceptable’.
6. Operators responsible for the consignments and the competent authorities may only use the notification of arrival in TRACES if it is signed by those operators with their electronic signature and it bears the advanced or qualified electronic seal of those competent authorities.

Article 5

Entry into force and 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 3 March 2025.

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

Done at Brussels,

For the Commission
The President
Ursula VON DER LEYEN

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