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

of XXX

supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules for the performance of official controls to verify compliance with animal welfare requirements for the transport of animals by livestock vessels

(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 Council establishes rules on the performance of official controls by the competent authorities of the Member States. It provides for rules on official controls and for action to be taken by the competent authorities in relation to welfare requirements for animals.

Based on Article 21(8), point (a), this Delegated Act provides for further specific requirements for the performance of official controls on livestock vessels. Based on Article 21(8), point (c), this Delegated Act also provides for the verification of animal welfare requirements at border control posts and at exit points and the minimum requirements applicable to those exit points.

The Delegated Regulation is expected to improve the way the competent authorities perform official controls on livestock vessels by addressing deficiencies identified in the audit reports from the European Commission on Member States, which are often deficient as the Commission audits have found.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The Commission's Expert Group "official controls" (E00911) and national contact points for animal transport in Member States have been consulted.

The discussions contributed to the preparation of the draft.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The legal basis for this Delegated Regulation is Article 21(8), points (a) and (c), of Regulation (EU) 2017/625, which empower the Commission to act.

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supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules for the performance of official controls to verify compliance with animal welfare requirements for the transport of animals by livestock vessels

(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 21(8), points (a) and (c), 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.
- (2) Article 21 of Regulation (EU) 2017/625 lays down specific rules on official controls and for action to be taken by the competent authorities in relation to animal welfare requirements, including those laid down in Council Regulation (EC) No 1/2005².
- (3) In this context, the Commission has carried out a series of audits on Member States' compliance systems to protect the welfare of animals during transport to third countries, if part of the journey involves the use of livestock vessels. One of the key conclusions from the Commission audits is that the way in which Member States carry out inspections on loading and unloading of animals in accordance with Article 20 of that Regulation, is generally not sufficient to minimise the risk to animal welfare inherent in that type of transport.
- (4) The Commission audits found weaknesses in Member States' compliance systems with respect to contingency plans in the event of emergencies. For this reason, the competent authorities at the place of departure should make sure that the transporter

¹ OJ L 95, 7.4.2017, p. 1.

² Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97 (OJ L 3, 5.1.2005, p. 1).

has a contingency plan in the event of emergencies and that the contingency plan meets the relevant requirements.

- (5) Pursuant to Directive 2009/16/EC of the European Parliament and of the Council³, all Member States with maritime ports are to carry out port State control inspections of ships that call at their ports. The results of the port State control inspections may be relevant for the inspections required by Article 20(1) of Regulation (EC) No 1/2005, such as detected deficiencies relating to water-tightness, ventilation, buoyancy or fire-fighting equipment. It is therefore necessary for the competent authority to take into account the results of these inspections when inspecting livestock vessels during loading and unloading.
- (6) Where animals are presented for loading and unloading on livestock vessels at exit points at seaports, the competent authorities should have sufficient time to assess whether livestock vessels meet the conditions laid down in Article 20 of Regulation (EC) No 1/2005 and in Article 21(2), point (c) of Regulation (EU) 2017/625. The organiser of a journey should therefore provide those competent authorities with the relevant documentation at least five working days prior to the date of inspection or the date of official controls of the livestock vessel.
- (7) The competent authorities at exit points at seaports should also perform a physical inspection after loading the animals on the livestock vessel to verify that the distribution of the animals in the pens is in line with the space allowances laid down in Chapter VII of Annex I to Regulation (EC) No 1/2005.
- (8) In order to keep a visual record of the state of the livestock vessel, inspectors from the competent authorities should take evidence by means of photographs or videos of any non-compliances on board, any animals that are unfit for the intended journey and any other element that is likely to negatively affect the welfare of the animals. Those photographs or videos should be kept by the competent authorities for the duration of the period of validity of the certificate of approval of the livestock vessel.

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

This Regulation establishes rules for the performance of official controls as referred to in Article 21(2) of Regulation (EU) 2017/625, and in particular, for inspections pursuant to Article 20 of Regulation (EC) No 1/2005.

Article 2

Definitions

1. For the purposes of this Regulation, the definitions in Article 2 of Regulation (EC) No 1/2005 shall apply.
2. ‘port-State control inspection’ means an inspection carried out by port State control authorities in accordance with Directive 2009/16/EC⁴

³ Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (OJ L 131, 28.5.2009, p. 57).

⁴ Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (OJ L 131, 28.5.2009, p. 57–100).

Article 3

Documentary checks on contingency plans in the event of emergencies

Where animals are transported to third countries and part of the journey involves the use of livestock vessels, the competent authorities at the place of departure shall verify that contingency plans in the event of emergencies meet the requirements provided for in Article 7 of Commission Implementing Regulation [SANTE/2020/9237]⁵

Article 4

Results of port State control inspections

In order to carry out well-informed decisions when inspecting livestock vessels during loading and unloading for the purposes of Article 20 of Regulation (EC) No 1/2005, competent authorities shall take into account the relevant publicly available results of port State control inspections.

Article 5

Inspections of livestock vessels on loading and unloading at exit points at seaports

1. Where animals are presented for loading and unloading on livestock vessels at exit points the organiser shall provide the competent authority at the exit points with the following documents at least five working days prior to the date of inspection of the livestock vessels provided for in Article 20 of Regulation (EC) No 1/2005, or the date of official controls provided for in Article 21(2), point (c), of Regulation (EU) 2017/625:
 - (a) a copy of the transporter authorisation for the sea leg of the journey as provided for in Article 10(1) of Regulation (EC) No 1/2005;
 - (b) for long journeys, a copy of the transporter authorisation and the contingency plans for the sea leg of the journey in the event of emergencies provided for in Article 11(1) of Regulation (EC) No 1/2005.
2. The competent authorities at exit points at seaports shall:
 - (a) verify that the contingency plans in the event of emergencies provided for in Article 11(1), point (b)(iv), of Regulation (EC) No 1/2005 meet the requirements provided for in Article 6 of Implementing Regulation [SANTE/2020/9237]; and
 - (b) verify, through a physical inspection, that the distribution of the animals in the pens meet the requirements for space allowances laid down in Chapter VII of Annex I to Regulation (EC) No 1/2005.

Article 6

Visual evidence of inspections and official controls

1. When performing inspections and official controls in accordance with Article 5(1) of this Regulation, the competent authorities of the Member State of the seaport where animals are unloaded and loaded in accordance with Article 20 of Regulation (EC) No 1/2005, shall take photographs or videos of the following:

⁵ Commission Implementing Regulation (EU) ..., ...

- (a) any construction elements or equipment laid down in Chapter IV, Section 1, of Annex I to Regulation (EC) No 1/2005 that is non-compliant with that Section;
 - (b) any animals that are unfit for the intended journey; and
 - (c) any other element that presents deficiencies, is non-compliant with the relevant provisions, or is likely to negatively affect the welfare of the animals.
2. The photographs or videos taken during the inspections and official controls provided for in paragraph 1 shall be attached to the inspection files and kept by the competent authorities for the duration of the period of validity of the certificate of approval of the livestock vessel.

Article 7
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*.

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