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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 during transport by livestock vessels

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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 in its Article 21 lays down specific rules on official controls, including at exit points, 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.
- (2) In this context, the Commission has carried out a series of audits ('Commission audits') on the compliance strengths and weaknesses of the Member States' systems to protect the welfare of the European Union's farm animals during their transport to third countries where 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 of livestock vessels for the granting of their certificate of approval in accordance with Article 19 (1) point (c) of Regulation (EC) No 1/2005, or the inspections on livestock vessels on loading and unloading in accordance with Article 20 of the same Regulation, is generally not sufficient to minimise the risk inherent to that type of transport. As a result, the welfare of the animals transported in those vessels can be affected. The Commission audits have also shown that there is a margin for improving the current available mechanisms for verifying compliance with the existing rules laid down in Regulation (EC) No 1/2005.

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).

- (3) Based on their experience of the transport of animals by livestock vehicles, Member States' experts, including national contact points for the protection of animals during transport, developed in 2014 a network document³ aiming at providing guidance for official controls of animal welfare during export by livestock vessels as required by Regulation (EC) No 1/2005 ('the network document'). The guidelines in that network document were updated in January 2020 in light of the experience gained in applying the network document and of the Commission audits.
- (4) Inspectors from the competent authorities that carry out inspections on livestock vessels are mostly official veterinarians. Both the Commission audits and the guidance in the network document recognise that veterinary competency alone is not sufficient to check the functioning of the mechanical and management systems of a livestock vessel that may have an impact on the welfare of the animals being transported. That leads to poor official controls of the livestock vessel and of its suitability to transport animals ensuring compliance with animal welfare requirements laid down in Union legislation Regulation (EC) 1/2005. For that reason, and as proposed in the network document, the teams performing inspections prior to the granting of the certificate of approval for a livestock vessel provided for in Article 19 of Regulation (EC) No 1/2005 and the inspections on loading and unloading of consignments of live animals provided for in Article 20 of Regulation (EC) No 1/2005, should consist of official veterinarians and inspectors with appropriate expertise on those mechanical and management systems, the vessel structures and practical experience of the operation of livestock vessels. This is in accordance with Article 5(1), point (e), of Regulation (EU) 2017/625.
- (5) In order to have sufficient time to check whether a livestock vessel complies with the requirements for the granting of a certificate of approval, as provided for in Article 19 of Regulation (EC) No 1/2005, the applicant should submit to the competent authority an application for approval at least 20 days prior to the date of the inspection of the livestock vessel. That would give enough time to the competent authority to assess the information contained in the documentation received and to prepare for a thorough physical inspection of the livestock vessel.
- (6) The inspections of the livestock vessel, as provided for in Article 19(1), point (c), of Regulation (EC) No 1/2005 may show that it complies with the requirements laid down in that Regulation. In order to check that the mechanical and management systems are not detrimental to the welfare of the animals on board during the journey, an official veterinarian should be on board on one of the first five journeys with consignments of animals to their destination to confirm the approval of the livestock vessel or its renewal, which is, therefore, conditioned to this inspection.
- (7) As a part of inspection of the livestock vessel, as provided for in Article 19(1), point (c), of Regulation (EC) No 1/2005, and in order to keep a visual record of the state of the livestock vessel, inspectors should take evidence by means of photographs or videos of the non-compliances on board, the unfitness of the animals or any element that may affect negatively the welfare of the animals during the journey. Those photographs or videos should be kept by the competent authority for the whole duration of the period of validity of the certificate of approval of the livestock vessel.
- (8) The Commission audits found that many competent authorities grant authorisations to transporters to carry out long journeys, as provided for in Regulation (EC) No 1/2005,

³ <https://circabc.europa.eu/ui/group/f41c4e1d-22a1-4e7b-aa31-cd16f126037d/library/d1bdd5a7-2e73-4f9a-97e2-c0975fc713a1/details>

but the livestock vessels have incomplete or inadequate contingency plans in the event of emergencies. For this reason, competent authorities at the place of departure should make sure that the transporter has a contingency plan and that it meets the relevant requirements.

- (9) The competent authorities at exit points at seaports should have sufficient time to assess whether livestock vessels meet the conditions laid down in Article 20 of Regulation (EC) No 1/2005, in Article 21 of Regulation (EU) 2017/625, and in this Regulation, prior to the date of the beginning of a journey. The organizer of a journey should therefore provide those competent authorities with the relevant documentation at least five working days prior to the date of inspection of the livestock vessel.
- (10) The competent authorities at exit points at seaports should also perform an inspection after loading the animals on the livestock vessel to verify that the distribution of the animals is in line with Chapter VII of Annex I to Regulation (EC) No 1/2005.
- (11) Livestock vessels can transport hundreds or thousands of animals during a single long journey. Those consignments of animals arrive by road at a seaport where they are loaded onto a livestock vessel. That arrival is a critical moment during the long journey, and it should be scheduled in such a way that it goes smoothly. In order to ensure that animals with origin in other Member States or transported on long road journeys from the place of origin to the seaport can be unloaded and provided with the necessary care in cases when the loading on the livestock vessel has to be delayed, the control posts referred to in Council Regulation (EC) No 1255/97⁴ should be available at the exit points at seaports or within two hours distance by truck transport in order to allow for animals to be fed, watered and be able to rest. The requirements for control posts laid out in Council Regulation (EC) No 1255/97 should be met.
- (12) In order for Member States to allocate resources to the new tasks and obligations laid down in this Regulation, and to ensure a smooth and seamless adaptation to the new rules, Articles 7 and 8 of this Regulation, more demanding in this regard, should have a delayed date of application,

HAS ADOPTED THIS REGULATION:

Article 1
Subject matter and scope

This Regulation establishes rules for the performance of official controls referred to in Article 21(2) of Regulation (EU) 2017/625, and in particular, for the inspections pursuant Articles 19 and 20 of Regulation (EC) No 1/2005.

Article 2
Definitions

For the purpose of this Regulation, the definitions in Article 2 of Regulation (EC) No 1/2005 shall apply.

⁴ Council Regulation (EC) No 1255/97 concerning Community criteria for control posts and amending the route plan referred to in the Annex to Directive 91/628/EEC (OJ L 174, 2.7.1997, p. 1).

Article 3

Application for approval of livestock vessels

The applicant shall send to the relevant competent authority or body designated by a Member State the application for the certificate of approval for a livestock vessel in accordance with Article 19 of Regulation (EC) No 1/2005 at least 20 working days prior to the date of inspection referred to in Article 19(1), point(c) of that same Article.

Article 4

Teams of inspectors for livestock vessels

1. Competent authorities shall ensure that the inspection of a livestock vessel for the purpose of granting a certificate of approval as provided for in Article 19 of Regulation (EC) No 1/2005, the inspections on loading and unloading provided for in Article 20 of that Regulation and the official controls at exit points at seaports provided for in Article 21 of Regulation (EU) 2017/625 are carried out by a team of inspectors including at least the following:
 - (a) an official veterinarian;
 - (b) a maritime expert authorised by the maritime authorities of the Member State.
2. The maritime expert referred to in paragraph 1, point (b), shall have appropriate theoretical knowledge, and practical experience of livestock vessels including experience of the operation of livestock vessels, and, as a minimum, one of the following:
 - (a) appropriate qualifications from a marine or nautical institution recognised by the Member State and relevant seagoing experience as a certificated ship officer holding or having held a valid Standard of Training Certification and Watchkeeping (STCW) II/2 or III/2 certificate of competency not limited as regards the operating area or propulsion power or tonnage; or
 - (b) have passed an examination recognised by the responsible maritime authority as a naval architect, mechanical engineer or an engineer related to the maritime fields and worked in that capacity for at least five years; or
 - (c) a relevant university degree or equivalent degree or equivalent from a tertiary institution within a relevant field of engineering or science recognised by the Member State.

Article 5

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

1. Where animals are presented for loading or unloading on livestock vessels at exit points the organiser shall provide the competent authority at the exit point with the following documents at least five working days prior to the date of inspection of the livestock vessel provided for in Article 20 of Regulation (EC) No 1/2005 and the official controls provided for in Article 21(2), point (c), of Regulation (EU) 2017/625:
 - (a) a copy of the authorisation for the sea leg of the journey as provided for in Article 10(1) of Regulation (EC) No 1/2005 or, for long journeys, in Article 11(1) of that Regulation; and

- (b) for long journeys, the contingency plan for the sea leg of the journey in the event of emergencies provided for in Article 11(1), point (b)(iv), of Regulation (EC) No 1/2005.
2. The official veterinarian at the exit point at a seaport shall:
- (a) verify that the contingency plan in the event of emergencies provided for in Article 11(1), point (b)(iv), of Regulation (EC) No 1/2005 meets the requirements provided for in Implementing Regulation XXXX, and
 - (b) verify through a physical inspection that the distribution of the animals in the pens meet the requirements for space allowance laid down in Chapter VII of Annex I to Regulation (EC) No 1/2005.

Article 6
Visual evidence of inspections

1. When performing inspections in accordance with Articles 19 and 20 of Regulation (EC) No 1/2005 and Article 5 of this Regulation, the competent authority of the Member State where the application for the certificate of approval for a livestock vessel in accordance with Article 19 of Regulation (EC) No 1/2005 was made, and the competent authority of the port where animals are loaded and unloaded in accordance with Article 20 of Regulation (EC) No 1/2005 shall take photographs or videos
- (a) of the construction and equipment referred to in Chapter IV, Section 1, of Annex I to Regulation (EC) No 1/2005 that are non-compliant with that same Annex;
 - (b) of unfitness of the animals, and
 - (c) of any other element that presents deficiencies, is non-compliant with the relevant provisions or it is likely to negatively affect the welfare of the animals.
2. The photographs or videos taken during the inspections provided for in paragraph 1 shall be attached to the inspection files and kept by the competent authorities referred to in paragraph 1 for the duration of the period of validity of the certificate of approval of the livestock vessel provided for in Article 19 of Regulation (EC) No 1/2005.

Article 7
Inspections by an official veterinarian on board of a livestock vessel

1. An official veterinarian shall carry out inspections on board a livestock vessel during one of the 5 first journeys of the vessel with a consignment of animals prior to confirming the approval of the livestock vessel provided for by Article 19 of Regulation (EC) No 1/2005 or the renewal of such approval.
2. The approval or renewal of the approval will be confirmed when:
- (a) the construction and equipment requirements for livestock vessels laid out in Section 1, Chapter IV of Annex I to Regulation (EC) 1/2005 are not detrimental for the welfare of the animals on board, or
 - (b) corrective measures are taken if the results of the checks identify any deficiencies.

3. For the performance of the inspections referred to in paragraph 1, the official veterinarian shall complete a report of checks on board during the journey in accordance with the model set out in the Annex.

Article 8

Minimum requirements of control posts at the exit points at seaports

When operations involve transports from other Member States or long journeys from the place of departure to the seaport, the competent authority shall ensure that control posts approved for the relevant categories of animals in accordance with Article 3 of Regulation (EC) No 1255/97 are available at exit points at seaports or within two hours journey by road from the exit point concerned.

Article 9

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 apply from 15 December 2022.

However, Article 7 shall apply from 1 June 2023. Article 8 shall apply from 1 January 2024.

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

ANNEX

REPORT OF PHYSICAL CHECKS ON BOARD DURING THE JOURNEY

referred to in Article 7

1. General			
Name of the Vessel:		IMO number of the vessel	
Country of approval/ re-approval:		Date of approval or re-approval:	
Name of the captain:		Certificate of approval Number:	
2. Type of journey			
<input type="checkbox"/> First journey after approval <input type="checkbox"/> First journey after re-approval			
3. Departure and Destination			
3.1. Exit point and country of DEPARTURE:		3.2. Place and country of DESTINATION:	
3.1.1. Date	3.1.2. Time	3.2.1. Date	3.2.1. Time
3.1.3. Species and categories		3.1.4. Number of animals by species	
3.1.5. Estimated total weight of the consignment (in kg):			
4. Conditions on board the decks for animals during the journey			
4.1. Highest temperature registered:		4.2. Highest relative humidity registered:	4.3. Highest ammonia registered:
5. Functioning of systems affecting the welfare of the animals			
5.1. Ventilation: <input type="checkbox"/> Yes <input type="checkbox"/> No	Anomalies detected:	Corrective measures (if applicable):	
5.2. Drainage: <input type="checkbox"/> Yes <input type="checkbox"/> No	Anomalies detected:	Corrective measures (if applicable):	
5.3. Enough lighting to inspect animals: <input type="checkbox"/> Yes <input type="checkbox"/> No	Anomalies detected:	Corrective measures (if applicable):	
5.4. Fresh water production, if applicable: <input type="checkbox"/> Yes <input type="checkbox"/> No	Anomalies detected:	Corrective measures (if applicable):	
5.5. Feed and water: <input type="checkbox"/> Yes <input type="checkbox"/> No	Anomalies detected:	Corrective measures (if applicable):	

5.6. Number of animals sick/injured during the journey:	Anomalies detected:	Corrective measures (if applicable):
5.7. Number of animals dead during the journey of which euthanised:	Anomalies detected:	Corrective measures (if applicable):
5.8. Others	Anomalies detected:	Corrective measures (if applicable):
6. Authority Issuing the Report		
6.1. Name of the Authority		6.2. Address of the Authority
6.3. Phone of the Authority		6.4. Email of the Authority
6.5. Date		6.6. Place
6.7. Name and signature of the official veterinarian		6.8. Stamp