



Brussels, 10.10.2019
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COMMISSION DELEGATED REGULATION (EU) .../...

of 10.10.2019

supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules concerning the performance of specific official controls of wood packaging material, notification of certain consignments and measures to be taken in cases of non-compliance

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) 2017/625 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.

The purpose of this draft Commission Delegated Regulation is to establish official controls of wood packaging material introduced into the Union whether or not actually in use in the transport of commodities.

In that regard, this draft Commission Delegated Regulation establishes the obligation for competent authorities to develop a monitoring plan based on risk assessment taking into account a wide range of information available at national and at the Union level.

In order to organise the official controls and to avoid unnecessary burden for business operators competent authorities may request pre-notification by operators for the consignments selected for official control on the bases of the monitoring plan.

At the completion of the official controls the competent authority must record the results for Official Controls in the computerised Information Management System established by Regulation (EU) 2017/625, which will allow to collect relevant information at the Union level as a basis for possible actions to be taken to protect Union territory from the spreading of Union quarantine pests.

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.

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

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The draft Commission Delegated Regulation is based on Regulation (EU) 2017/625, and in particular on Articles 45(4) and 77(1)(d) thereof.

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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) 1107/2009, (EU) 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 Articles 45(4) and 77(1)(d) thereof,

Whereas:

- (1) Regulation (EU) 2017/625 of the European Parliament and of the Council establishes inter alia the framework for the performance of official controls and other official activities on animals and goods entering the Union territory from third countries to verify compliance with Union legislation in order to protect human, animal and plant health, animal welfare and, in relation to GMO and plant protection products, also the environment.
- (2) Wood packaging material, which may accompany all kinds of objects, is known to be a source of introduction and spreading of pests of plants. Forms of wood packaging material that may serve as a pathway for pests posing a risk of spreading of pests of plants in the Union include but are not limited to packing cases, boxes, crates, cable drums and spools/reels, pallets, box pallets and other load boards, pallet collars and dunnage, whether or not actually in use in the transport of objects of all kinds. The volumes of wood packaging material entering the Union territory by means of transport are substantial.
- (3) Articles 43 and 96 of Regulation (EU) 2016/2031 of the European Parliament and of the Council² set out specific import conditions for the introduction into the Union

¹ OJ L 95 7.4.2017, p. 1.

² Regulation (EU) 2016/2031 of the European Parliament of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing

territory of wood packaging material. Article 77(1)(d) of Regulation (EU) 2017/625 empowers the Commission to establish rules for the performance of specific official controls to verify compliance of wood packaging material with these requirements, at the places referred to in Article 44(3) of Regulation (EU) 2017/625, and on measures in cases of non-compliance.

- (4) To ensure the effectiveness of checks on wood packaging material entering the Union territory and to avoid any risk of introduction or spreading of pests of plants, rules should be adopted to supplement those in Regulation (EU) 2017/625 concerning the performance of specific official controls of wood packaging material and measures to be taken in cases of non-compliance.
- (5) Specific import conditions for wood packaging material set out in Article 43(1) of Regulation (EU) 2016/2031 do not apply to material which is subject to the exemptions provided for in the International Standard for Phytosanitary Measures No 15 - Regulation of Wood Packaging Material in International Trade (ISPM15). Such material should therefore be exempted from the scope of this Regulation.
- (6) With a view to identifying consignments where wood packaging material, which may present the highest phytosanitary risk for the Union territory is present and which accordingly should be subject to specific official controls, the competent authorities of Member States should establish a monitoring plan based on a risk approach.
- (7) On the basis of that monitoring plan, the competent authorities should select consignments of wood packaging material for the performance of the specific official controls. Moreover, the competent authorities should have the possibility to require the customs authorities, where necessary, for the performance of the specific official controls by the competent authorities, to detain selected consignments in which wood packaging material is present until the specific official controls are completed.
- (8) Wood packaging material is not included in the lists of goods subject to official controls at border control posts referred to in point (c) of Article 47(1) of Regulation (EU) 2017/625.
- (9) Article 45(4) of Regulation (EU) 2017/625 empowers the Commission to specify cases where and the conditions under which competent authorities may request operators to notify the arrival of certain goods which are not subject to controls at border control posts.
- (10) For competent authorities to be able to plan and perform specific official controls on wood packaging material in an effective manner, they should be able to request operators to inform them of the arrival of consignments where wood packaging material is present within a reasonable time in advance.
- (11) Therefore, the possibility for competent authorities to request operators to notify the competent authorities in advance of the arrival of such consignments should be foreseen together with the rules on specific official controls on wood packaging material laid down in this Regulation. 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 may be used for such notifications. The competent authorities may request operators responsible for the consignment to notify, by way of the IMSOC, by way of existing national information systems or in another

Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC (*OJ L 317, 23.11.2016, p. 4.*)

way agreed to by the competent authority, within a reasonable time in advance specified by the competent authorities, the arrival.

- (12) The Common Health Entry Document (CHED) referred to in Article 56 of Regulation (EU) 2017/625 should be used to record the results of the specific official controls in the IMSOC. The recorded results of official controls will provide an overview of the situation regarding specific official controls on wood packaging material carried out in Member States, as a basis for further actions to protect the Union territory from the spreading of pests of plants.
- (13) The provisions of this Regulation should apply without prejudice to the relevant provisions of Regulation No (EU) 952/2013 of the European Parliament and of the Council³.
- (14) Where the competent authority decides to re-dispatch non-compliant wood packaging material to a destination outside the Union pursuant to point (b) of the first subparagraph of Article 66(3) of Regulation (EU) 2017/625, the non-compliant wood packaging material should remain under official customs supervision, until it leaves the Union territory, to avoid any risk of introduction of pests into the Union or spreading of pests.
- (15) When non-compliant wood packaging material is found during physical checks at the point of release for free circulation in the Union or at the place of destination, such material should be immediately destroyed, in view of the higher risk for the spreading of Union quarantine pests, which cannot be prevented by less effective means.
- (16) Regulation (EU) 2017/625 applies from 14 December 2019. Accordingly, the rules laid down in this Regulation should also apply from that date,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

1. This Regulation lays down rules for the performance of specific official controls of wood packaging material or wood products (excluding paper products) intended for supporting, protecting or carrying a commodity entering the Union territory, whether or not actually in use in the transport of objects of all kind ('wood packaging material'), and measures in case of non-compliance.
2. This Regulation also establishes cases where and conditions under which the competent authorities may request operators to notify the arrival of certain consignments entering the Union territory in which wood packaging material is present.
3. This Regulation does not apply to wood packaging material referred to in the second subparagraph of Article 43(1) of Regulation (EU) 2016/2031 concerning the exemptions provided under the International Standard for Phytosanitary Measures No 15 - Regulation of Wood Packaging Material in International Trade (ISPM15).

³ 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).

Article 2
Monitoring plan

The competent authorities shall develop a monitoring plan on wood packaging material on the basis of a risk analysis taking into account at least the following:

- (a) the number and results of specific official controls conducted in previous years on wood packaging material carried out by the competent authorities, on the basis of information from the information management system for official controls (IMSOC);
- (b) the history of compliance by the third country, the exporter or the operator responsible for consignments, with Regulation (EU) 2016/2031, in particular Article 43(1) and point (a) of the first subparagraph of Article 96(1) of that Regulation;
- (c) where available, information from customs authorities and from other sources regarding the number of consignments entering the Union in which wood packaging material is present and the country of origin of the consignment.

Article 3
Notification of consignments

The competent authorities may request operators responsible for the consignment to notify, by way of the IMSOC, by way of existing national information systems or in another way agreed to by the competent authority, within a reasonable time in advance specified by the competent authorities, the arrival of consignments entering the Union territory in which wood packaging material is present.

Article 4
Specific official controls on wood packaging material

1. The competent authorities shall select for physical checks consignments in which wood packaging material is present, on the basis of:
 - (a) the monitoring plan referred to in Article 2;
 - (b) where applicable, information provided in the notifications referred to in Article 3; and
 - (c) any other relevant information at their disposal.
2. The competent authorities shall carry out physical checks of the consignments that have been selected in accordance with paragraph 1, to verify their compliance with the import requirements laid down in Article 43(1) and point (a) of the first subparagraph of Article 96(1) of Regulation (EU) 2016/2031.
3. The competent authorities may require the customs authorities, if deemed necessary for the purpose of physical checks in accordance with paragraph 2 and for the duration of those checks, to detain selected consignments in which wood packaging material is present.
4. While performing specific official controls, the competent authorities shall have access to the entire consignment, in a way that the physical checks referred to in paragraph 2 may be carried out on the entirety of the wood packaging material present in the consignment.

5. Within three working days from the beginning of the detention of the consignment in which wood packaging material is present, the competent authority shall submit to the customs authorities the results of the checks of the detained consignment.
6. Where physical checks cannot be completed within three working days from the beginning of the detention of the consignment in which wood packaging material is present, the competent authorities may request the customs authorities to continue the detention of the consignment for additional three working days in order to complete the checks.

In this case, if technically possible, the customs authority may release the consignment if the operator responsible for the consignment separates the wood packaging material from the consignment.
7. A consignment that has been detained by the customs authorities pursuant to paragraph 3 shall be released if, within three working days from the beginning of the detention, the competent authorities have not submitted the results of the checks in accordance with paragraph 5 or have not requested the customs authorities to continue the detention for additional three working days in accordance with paragraph 6.

Article 5

Reporting of results of specific official controls

1. After the completion of the specific official controls in accordance with Article 4, the competent authorities shall:
 - (a) complete the Common Health Entry Document (CHED) with the results of specific official controls as referred to in Article 56(3)(b)(i) of Regulation (EU) 2017/625;
 - (b) submit the results of the specific official controls of the wood packaging material to the IMSOC directly or via existing national systems; and
 - (c) notify the operator responsible for the consignments in which wood packaging material is present and the customs authorities of the results of the specific official controls.
2. Where the operator responsible for the consignment in which wood packaging material is present is notified by the competent authorities of the results of the specific official controls through a CHED, the operator shall provide the reference number of the CHED as a supporting document as referred to in Article 163 of Regulation (EU) 952/2013 to any customs declaration which is lodged with the customs authorities for this consignment.

Article 6

Measures in cases of non-compliance

1. The competent authorities shall order, in accordance with Article 66 of Regulation (EU) 2017/625, destruction, re-dispatch or special treatment of wood packaging material that does not comply with the requirements set out in Article 43(1) and point (a) of the first subparagraph of Article 96(1) of Regulation (EU) 2016/2031.

However, where such non-compliant wood packaging material is found during physical checks in accordance with Article 4 at the consignment's point of release for free circulation in the Union or at the consignment's place of destination, as referred

in Article 44(3)(c) and (e) of Regulation (EU) 2017/625, the competent authorities shall order the operator concerned to destroy the wood packaging material without delay. Prior to and during destruction, the wood packaging material shall be handled in a way that prevents spreading of Union quarantine pests as defined in Article 4 of Regulation (EU) 2016/2031.

2. Where the competent authorities decide to order the operator responsible for the consignment to re-dispatch non-compliant wood packaging material outside the Union pursuant to point (b) of the first subparagraph of Article 66(3) of Regulation (EU) 2017/625, the consignment in which non-compliant wood packaging material is present shall remain under official customs supervision, in accordance with the appropriate customs procedure, until the non-compliant wood packaging material leaves the Union territory.

Article 7

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 14 December 2019.

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

Done at Brussels, 10.10.2019

For the Commission
The President
Jean-Claude JUNCKER