

2011/215/EU: Commission Implementing Decision of 4 April 2011 implementing Council Directive 97/78/EC as regards transshipment at the border inspection post of introduction of consignments of products intended for import into the Union or for third countries (notified under document C(2011) 2067)

Text with EEA relevance

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Commission Implementing Decision of 4 April 2011 implementing Council Directive 97/78/EC as regards transshipment at the border inspection post of introduction of consignments of products intended for import into the Union or for third countries (notified under document C(2011) 2067)

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(2011/215/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries [1], and in particular Articles 9(2) and 11(4) thereof,

Whereas:

(1) Directive 97/78/EC provides that veterinary checks on products of animal origin and on certain plant products from third countries introduced into the Union are to be carried out by Member States in accordance with that Directive. It also provides that Member States are to ensure that consignments of such products are introduced into the Union via a border inspection post.

(2) Article 9 of Directive 97/78/EC provides for the procedures to be carried out at the border inspection post of introduction in the case of consignments intended for import into the Union via another border inspection post, but which are transhipped at the border inspection post of introduction, within the customs area of the same port or airport in the Union.

(3) Article 11 of Directive 97/78/EC concerns consignments coming from a third country and which are transhipped at the border inspection post of arrival, within the customs area of the same port or airport in the Union but which are intended for another third country either via the territory of the Union via another border inspection post or directly to a third country without introduction at another border inspection post.

(4) In addition, Articles 9 and 11 of Directive 97/78/EC provide for a number of derogations from the general rules on veterinary checks performed at the border inspection post of introduction. Those derogations have a different scope and are linked to the final destination of the consignments and to the duration of the storage of the consignments during the transshipment process at the border inspection post of arrival.

(5) That duration is determined by reference to a minimum and a maximum period for such storage, which are to be determined in accordance with the procedure referred to in Directive 97/78/EC.

(6) Commission Decision 2000/25/EC of 16 December 1999 establishing the detailed rules for the application of Article 9 of Council Directive 97/78/EC concerning the transshipment of products at a Border Inspection Post where the consignments are intended for eventual import into the European Community, and amending Commission Decision 93/14/EEC [2] currently lays down the minimum and maximum periods applicable in cases where the consignments are intended for import into the Union via another border inspection post situated in the same territory or situated in the territory of another Member State.

(7) Decision 2000/25/EC it is not entirely clear as regards the scope of the rules concerning consignments being transhipped from one aircraft to another or from one vessel to another within the customs area of the same port or airport to transit to a third country either without

further stop on the territory of the Union or via the territory of the Union. It is therefore necessary to lay down rules in this Decision, to clarify the provisions already set out in Decision 2000/25/EC, including rules on the relevant minimum periods.

(8) In order to safeguard public and animal health, the official veterinarian at the border inspection post of introduction should receive appropriate information in the case of consignments covered by Articles 9 and 11 of Directive 97/78/EC. It is therefore appropriate to lay down rules on the information to be provided by the person responsible for the load at the time of arrival of a consignment at the border inspection post.

(9) The minimum period after which veterinary checks must be carried out on consignments which are transhipped from one vessel to another in the same port and which are intended for import or for transit to third countries as foreseen in Articles 9 and 11 of Directive 97/78/EC is seven days.

(10) For consignments which are transhipped from one vessel to another in the same port at the border inspection post of arrival and which are intended directly for a third country without further stop on the territory of the Union, the animal and public health risks for the Union are reduced, since the contact of the consignments with the territory of the Union is limited. In such cases, it may be appropriate to extend the minimum period referred to in Articles 9 and 11 of Directive 97/78/EC.

(11) That extension should be subject to appropriate guarantees from the Member State of the border inspection post of arrival. In particular, that Member State should ensure that such consignments are prevented from moving to another Union port and that they are dispatched directly to a third country. In addition, that Member State should provide the Commission and the other Member States with appropriate information concerning those guarantees, including information on the monitoring system to ensure that time periods and onward transportation arrangements to a specific destination as indicated in the notification of the consignment are respected.

(12) In addition, it is important to specify that consignments must be submitted to the full range of veterinary checks laid down in Directive 97/78/EC after the expiry of the maximum periods laid down in this decision.

(13) In the interests of clarity and consistency of Union legislation, it is appropriate to repeal Decision 2000/25/EC and replace it by this Decision.

(14) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

Where consignments are presented at a border inspection post for subsequent transhipment, the person responsible for the load shall notify the official veterinarian at that border inspection post of the following:

- (a) the estimated time of unloading of the consignment;
- (b) the border inspection post of destination in the Union in case of import or transit through the Union or the third country of destination in case of transit directly to a third country;
- (c) the exact location of the consignment, if it is not loaded directly on the aircraft or vessel to the onward destination;
- (d) the estimated time of loading of the consignment on the aircraft or vessel bound to the onward destination.

That notification shall be made at the time of arrival of the consignment at the border inspection post and by a means fixed by the competent authority.

Article 2

1. The minimum period provided for in Article 9(1)(b)(i) of Directive 97/78/EC shall be:

- (a) 12 hours for an airport;
- (b) seven days for a port.

2. The maximum period provided for in Article 9(1)(b)(i) of Directive 97/78/EC shall be:

- (a) 48 hours for an airport;
- (b) 20 days for a port.

Article 3

1. For the purposes of the application of Article 11 of Directive 97/78/EC, the minimum period provided for in Article 9(1)(a) of that Directive shall be:

(a) 12 hours for an airport;

(b) seven days for a port.

2. For the purposes of the application of Article 11(1) of Directive 97/78/EC and of the second indent of Article 11(2)(b) of that Directive, Member States may extend the minimum period laid down in paragraph 1(b) of this Article to 14 days, provided that:

(a) the consignments come from a third country and are intended for another third country without any further stop on the territories listed in Annex I to Directive 97/78/EC;

(b) the consignments are transhipped from one vessel to another at the border inspection post within the customs area of the same port of the Union;

(c) the Member State concerned presents a detailed justification to the Commission and the other Member States in the framework of the Standing Committee on the Food Chain and Animal Health, which specifies that they have taken all the measures necessary to prevent such consignments from being moved to another Union port instead of being transhipped directly to a third country.

Those measures shall include a monitoring system to ensure that the time periods and the onward destination as indicated in notification provided for in Article 1 are respected.

Article 4

In cases where the maximum period laid down in Article 2(2) has elapsed, the consignment shall be submitted to the identity and physical checks as provided for in Article 4 of Directive 97/78/EC, at the border inspection post of introduction.

Article 5

Decision 2000/25/EC is repealed.

Article 6

This decision shall apply from 1 May 2011.

Article 7

This Decision is addressed to the Member States.

Done at Brussels, 4 April 2011.

For the Commission

John Dalli

Member of the Commission

[1] OJ L 24, 30.1.1998, p. 9.

[2] OJ L 9, 13.1.2000, p. 27.