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2013/0147 (NLE)

Proposal for a

COUNCIL REGULATION

amending Council Regulation (EC) No 866/2004 on a regime under Article 2 of Protocol 10 to the Act of Accession as regards goods which are taken out of the areas under the effective control of the Government of the Republic of Cyprus and taken back into them after passing through the areas not under the effective control of the Government of the Republic of Cyprus

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

By Regulation No 866/2004 (hereinafter "the Green line regulation"), the Council established a regime under Article 2 of Protocol 10 to the Act of Accession 2003 which provides for special rules concerning goods, services and persons crossing the line between those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control and those areas in which the Government of the Republic of Cyprus exercises effective control.

Annex I to the Green Line Regulation provides a list of approved crossing points. Over the years, the increasing number of approved crossing points has resulted in a rising number of crossings.

The present amendment purports to regulate the movement of goods which are taken out of the areas under the effective control of the Government of the Republic of Cyprus and taken back into them through the crossing points mentioned in Annex I after having passed through the areas not under the effective control of the Government of the Republic of Cyprus. The amendment aims in particular to enable farmers from the remote Kato Pyrgos area to bring their products to the market in Nicosia in much less time than before the opening of the Kato Pyrgos-Karavostasi crossing point.

2. LEGAL ELEMENTS OF THE PROPOSAL

The present amendment lays down provisions applying to goods taken out of the areas under the effective control of the Government of the Republic of Cyprus and taken back into them after passing through the areas not under the effective control of the Government of the Republic of Cyprus.

The responsibility for checks at the crossing points rests with the authorities of the Republic of Cyprus. This amendment regulates the way in which these checks are to be carried out, which documents are to be presented and the time span allowed between the moment the goods are taken out of the areas in which the Government of the Republic of Cyprus exercises effective control and the moment where they are taken back into them

The provisions of this Regulation ensure a high level of protection of human and animal health by prohibiting the movement of live animals and by laying down requirements for the allowed movement of animal products. They also define the measures that the competent authorities of the Republic of Cyprus should take when, on the basis of the relevant information at their disposal and taking account of the need to ensure a high level of protection of human and animal health, they consider that the time span mentioned in the previous recital has been considerably exceeded.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Protocol 10 on Cyprus to the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded¹, and in particular Article 2 thereof,

Having regard to the proposal from the European Commission²,

Whereas:

- (1) Council Regulation (EC) No 866/2004³ lays down special rules concerning goods, services and persons crossing the line between the areas in which the Government of the Republic of Cyprus does not exercise effective control and those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus exercises effective control.
- (2) Annex I to Regulation (EC) No 866/2004 provides a list of approved crossing points between the areas in which the Government of the Republic of Cyprus does not exercise effective control and those areas in which the Government of the Republic of Cyprus exercises effective control. Over the years, the number of approved crossing points increased, resulting in a rising number of crossings.
- (3) In order to ease the life of citizens living in remote areas of Cyprus, it is necessary to regulate the movement of goods taken out of the areas under the effective control of the Government of the Republic of Cyprus and taken back into them through the crossing points mentioned in Annex I to Regulation (EC) No 866/2004, after passing through the areas in which the Government of the Republic of Cyprus does not exercise effective control.
- (4) In order to ensure that the goods transported are Union goods, that the goods taken back into the areas in which the Government of the Republic of Cyprus exercises effective control were taken out of these areas and that a high level of protection of human and animal health is maintained, in so far as the responsibility for checks at the crossing points rests with the competent authorities of the Republic of Cyprus, it is necessary to regulate the way in which these checks are to be carried out, which

¹ OJ L 236, 23.9.2003, p. 955.

² COM(2013)...

³ OJ L 161, 30.4.2004, p. 128.

documents are to be presented and the time span allowed between the moment the goods are taken out of the areas in which the Government of the Republic of Cyprus exercises effective control, and the moment they are taken back into those areas.

- (5) Strict criteria should be foreseen for the movement of goods provided for in this Regulation in order to ensure a high level of protection of human and animal health. In particular, to that end, the movement of live animals should be prohibited and the movement of animal products should be submitted to clear rules, including the requirement that the movement through the areas, subject to a certain margin of flexibility, should be limited to the time necessary for the transportation distance concerned.
- (6) Regulation (EC) No 866/2004 should therefore be amended accordingly

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 866/2004 is amended as follows:

- (1) The following Article 5a is inserted in Title III:

"Article 5a

Treatment of goods which are taken out of the areas under the effective control of the Government of the Republic of Cyprus and taken back into them after passing through the areas not under the effective control of the Government of the Republic of Cyprus.

- (1) Without prejudice to Articles 4, 4a and 6, Union goods may be taken out of the areas under the effective control of the Government of the Republic of Cyprus and taken back into them after passing through the areas of the Republic of Cyprus not under the effective control of the Government of the Republic of Cyprus, subject to the following requirements:
 - (a) Whoever transports those goods shall present to the competent authorities of the Republic of Cyprus appropriate documentation to establish that they are Union goods at the crossing point where the goods are taken out of the areas under the effective control of the Government of the Republic of Cyprus. That documentation shall include an invoice, a transport document or an equivalent document. In cases where it is not possible to present such documentation, because the goods are of the production of the person transporting them, a declaration that the goods are Union goods shall be presented to the competent authorities of the Republic of Cyprus.
 - (b) Except when the goods are destined for personal use, the documentation accompanying them shall contain at least the full name and address of the consignor, or the declarant where consignor and declarant are not the same, the quantity and kind as well as the marks and numbers of the packages, a description of the goods, the gross mass in kilograms and, where necessary, the container numbers.
 - (c) Whoever transports these goods shall designate the crossing point which is intended to be used for taking them back into the areas under the effective control of the Government of the Republic of Cyprus and shall inform thereof the competent authorities of the Republic of Cyprus at the

crossing point where the goods are taken out of the areas under the effective control of the Government of the Republic of Cyprus.

- (d) When considered necessary by the competent authorities of the Republic of Cyprus, consignments or means of transport shall be sealed at the crossing point where the goods are taken out of the areas under the effective control of the Government of the Republic of Cyprus.
 - (e) When the goods are taken back into the areas under the effective control of the Government of the Republic of Cyprus after passing through the areas not under the effective control of the Government of the Republic of Cyprus, whoever transports these goods shall present to the competent authorities of the Republic of Cyprus at the crossing point where the goods are taken back into the areas under the effective control of the Government of the Republic of Cyprus the same documentation as used at the crossing point where the goods were taken out of the areas under the effective control of the Government of the Republic of Cyprus.
 - (f) The goods shall be taken out and taken back into the areas under effective control of the Government of the Republic of Cyprus at the crossing points listed in Annex I and within a reasonable time span determined by the competent authorities of the Republic of Cyprus taking into account the acceptable total time of transportation, considering the total transportation distance.
 - (g) The competent authorities of the Republic of Cyprus shall check the documentation and if appropriate the goods and their seals, whether the goods taken back into the areas under the effective control of the Government of the Republic of Cyprus correspond to the documentation used at the crossing point where the goods were taken out of the areas under the effective control of the Government of the Republic of Cyprus and whether the requirements in point (f) were respected.
 - (h) In case of failure to comply with the requirements in points (a) to (g) the goods shall not be allowed to be taken back into to the areas under the effective control of the Government of the Republic of Cyprus unless an assessment of the risk involved has been carried out and effective, proportionate and targeted measures based upon this assessment have been adopted. Those goods shall be subject to confiscation by the customs authorities of the Republic of Cyprus
- (2) In accordance with Article 4(9), the return of live animals which are subject to Union veterinary requirements shall be prohibited.
 - (3) Consignments of animal products which are subject to Union veterinary requirements may be taken out of the areas under the effective control of the Government of the Republic of Cyprus and be taken back into them after passing through the areas not under the effective control of the Government of the Republic of Cyprus.

The competent authorities of the Republic of Cyprus shall ensure that consignments of animal products are not allowed to return to the areas in which the Government of the Republic of Cyprus exercises effective control where the total time of transportation considerably exceeds the acceptable total time of transportation, considering the total transportation distance, unless the

competent veterinary authority has carried out an assessment of the risks to animal and public health and has adopted effective, proportional and targeted measures based on that assessment.

The Republic of Cyprus shall regularly and as necessary inform the Commission of any non-compliance with provisions of this paragraph and of any measures taken to address it.

- (4) The goods referred to in the paragraphs 1 to 3 shall not be subject to further customs formalities.

The competent customs authorities of the Republic of Cyprus may however perform effective risk analysis and customs security checks according to the applicable legal provisions, on the basis of the documentation concerning the goods being transported;

The crossing points listed in Annex I shall be fully equipped, staffed and in every other way prepared to enforce the provisions in paragraphs 1 to 3."

(2) In Article 11, paragraph 2 is replaced by the following:

"2. The Commission shall monitor the application of Articles 4 and 5a of this Regulation and the patterns of trade between the areas under the effective control of the Government of the Republic of Cyprus and the areas not under its effective control, including the volume and value of trade and products traded. The Republic of Cyprus shall collect data and communicate it to the Commission for this purpose on a monthly basis."

Article 2

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 Council
The President