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EUROPEAN COMMISSION

Brussels, xxx
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Draft

COMMISSION REGULATION (EU) No .../..

of [...]

laying down detailed rules for the implementation of Regulation (EC) No 1007/2009 of the European Parliament and of the Council on trade in seal products

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THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1007/2009 of the European Parliament and of the Council of 16 September 2009 on trade in seal products¹, and in particular Article 3(4) thereof,

Whereas:

- (1) It is necessary for the uniform application of Regulation (EC) No 1007/2009 to specify the conditions for the placing on the Union market of seal products.
- (2) The placing on the market of seal products which result from hunts traditionally conducted by Inuit and other indigenous communities and which contribute to their subsistence should be allowed. Such hunts are part of the cultural heritage of the community and seal products are at least partly used, consumed or processed within the communities according to their traditions.
- (3) The placing on the markets of seal products shall also be allowed where the hunt was conducted with the sole purpose of the sustainable management of marine resources. Moreover, the conditions for the importation of seal products for the personal use of travellers or their families shall be laid down.
- (4) Within this exceptional framework, an effective mechanism should be introduced that is not more trade-restrictive than necessary to ensure an adequate verification of compliance with these requirements.
- (5) Other options are not sufficient to achieve these aims. Therefore, a mechanism should exist by which recognised bodies issue attestations that seal products are compliant with the requirements laid down in Regulation (EC) n°1007/2009, unless the import is for the personal use of travellers or their families.
- (6) It is appropriate to provide that bodies which comply with certain requirements should be included in a list of recognised bodies issuing such attestations.

¹ OJ L 286, 31.10.2009, p. 36.

- (7) Models should be set out for the attestation and its copies in order facilitate management and verification of attestations.
- (8) Procedures for the control of attestations should be set out. Those procedures should be as simple and as practical as possible, without compromising the credibility and consistency of the system.
- (9) The use of electronic systems should be allowed in order to facilitate the exchange of data between competent authorities, the Commission and the recognised bodies.
- (10) The processing of personal data for the purposes of this Regulation, in particular as regards the processing of personal data in attestations should comply with Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data² and Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data³.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the Committee on the protection of species of wild fauna and flora by regulating trade therein,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down detailed rules for the placing on the market of seal products under Article 3 of Regulation (EC) No 1007/2009.

Article 2

For the purpose of this Regulation, in addition to the definitions laid down in Article 2 of Regulation (EC) No 1007/2009, the following definitions shall apply:

1. 'other indigenous communities' means communities in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present State boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.
2. 'non-profit' means making available on the market for a price less than or equal to the recovery of the costs borne by the hunter reduced by the amount of any subsidies received in relation to the hunt.

² OJ L 281, 23.11.1995, p. 31.

³ OJ L 8, 12.1.2001, p. 1.

Article 3

1. Seal products resulting from hunts by Inuit or other indigenous communities may only be placed on the market if it can be established that they originate from seal hunts:
 - (a) conducted by Inuit or other indigenous communities which have a tradition of seal hunting in the community and in the geographical region;
 - (b) the products of which are at least partly used, consumed or processed within the communities according to their traditions;
 - (c) which contribute to the subsistence of the community.
2. At the time of the placing on the market, the seal product shall be accompanied by the attestation provided for in Article 7(1).

Article 4

Seal products for the personal use of travellers or their families may only be imported, if one of the following requirements is fulfilled:

1. the seal products are either worn by the travellers, carried or contained in the personal luggage of travellers coming from a third country.
2. the seal products are contained in the personal property of a natural person transferring his normal place of residence from a third country to the European Union.

Article 5

1. Seal products resulting from marine resources management may only be placed on the market, if it can be established that they originate from seal hunts:
 - (a) conducted under a national or regional natural resources management plan which uses scientific population models of marine resources and applies the ecosystem based-approach;
 - (b) which does not exceed the total allowable catch quota established in accordance with the plan referred to in point (a);
 - (c) the by-products of which are placed on the market in a non-systematic way.
2. At the time of the placing on the market, the seal product shall be accompanied by the attestation provided for in Article 7(1).

Article 6

1. A body shall be included in a list of recognised bodies where it demonstrates that it fulfils the following requirements:
 - (a) It has legal personality;

- (b) It has set up a scheme which ensures that the requirements of Articles 3 or 5 of this Regulation are met;
 - (c) It has the capacity to exercise the functions of issuing and managing attestations, as well as processing and archiving records;
 - (d) It has the ability to carry out its functions in a manner that avoids conflict of interest;
 - (e) It has the ability to monitor compliance with the requirements set out in Articles 3 and 5;
 - (f) It has the capacity to withdraw the attestation or suspend its validity in case of non-compliance with the requirements of this Regulation and to take measures to inform competent authorities and customs authorities of Member States thereof;
 - (g) It is subject to an independent third party audit;
 - (h) It operates at national or regional level;
2. In order to be included in the list referred to in paragraph 1, a body shall submit to the Commission a request accompanied by documents demonstrating that it fulfils the requirements set out in paragraph 1.
 3. The body shall submit the audit report produced by the independent third party to the Commission at the end of each reporting cycle.

Article 7

1. Upon request, where the requirements for placing on the market set out in Article 3(1) or Article 5(1) are met, a recognised body shall issue an attestation conforming to the models set out in the Annex.
2. The recognised body shall return the attestation to the applicant and shall keep a copy for three years for record keeping purposes.
3. The original of the attestation shall be handed over at the time of the placing on the market. The applicant may keep a copy of the attestation.
4. A reference to the attestation number shall be included in any further invoice in case of subsequent transfer of ownership.
5. A seal product accompanied by an attestation issued in accordance with paragraph 1 shall be deemed to comply with Article 3(1) or Article 5(1).
6. Acceptance of a customs declaration for release for free circulation under Article 79 of Council Regulation (EC) No. 2913/92⁴ of a seal product shall be subject to the

⁴ OJ L 302, 19.10.1992, p. 1.

presentation of an attestation issued in accordance with paragraph 1. The customs authorities shall keep a copy of the attestation in their records.

7. In case of doubts relating to the authenticity or correctness of an attestation issued in accordance with paragraph 1 as well as when further advice is required, the customs authorities and other enforcement officers shall contact the competent authorities designated by the Member State concerned in accordance with Article 9. The competent authorities shall decide on measures to be taken.

Article 8

1. The attestations shall be paper-based or electronic.
2. In case of an electronic attestation, a print-out shall accompany the seal product at the time of the placing on the market.
3. The use of the attestation shall be without prejudice to any other formalities relating to the placing on the market.
4. The competent authority designated in accordance with Article 9 may require that the attestation be translated into the official language of the Member State where the product is to be placed on the market.

Article 9

1. Member States shall designate one or several competent authorities responsible for the following tasks:
 - (a) verifying the attestations for seal products imported from third countries upon request of the customs authorities under Article 7(7).
 - (b) controlling the issuing of attestations by a body established and active in that Member State;
 - (c) keeping a copy of the attestation issued for seal products originating from seal hunts in that Member State.
2. Member States shall notify the Commission of the respective competent authorities designated in accordance with paragraph 1.
3. The Commission shall make the list of competent authorities designated in accordance with paragraph 1 available on its website. The list shall be regularly updated.

Article 10

1. Competent authorities may use electronic systems for the exchange and recording of data contained in attestations.
2. Member States shall take into account the complementarity, compatibility and interoperability of the electronic systems referred to in paragraph 1.

Article 11

This Regulation is without prejudice to the level of protection of individuals with regard to the processing of personal data under European Union law and national law, and in particular does not alter the obligations and rights set out in Directive 95/46/EC and Regulation (EC) No 45/2001. The protection of individuals with regard to the processing of personal data shall be ensured in particular with regard to any disclosure or communication of personal data in an attestation.

Article 12

This Regulation shall enter into force on the [third] 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
[...]

ANNEX

ORIGINAL	1	1 Issuing body Name Address	2 For the purposes of the issuing country	
		3 Attestation Number		
		4 Country of placing on the market		
		5 ISO Code		
		6 Commercial description of the seal product		
	1	7 Justification <input type="checkbox"/> Seal Product resulting from hunt by Inuit or other indigenous communities <input type="checkbox"/> By-products resulting from hunts for the sustainable management of marine resources		
	8 Scientific Name		9 HS-Heading	
	10 Country of taking		11 ISO Code	
	12 Net Weight (kg)		13 Number of units	
	14 Distinguishing marks		15 Unique Identifier	
	16 Signature and stamp of issuing body Place and date		17 Endorsement by customs Number of customs declaration Signature and stamp Place and date	

3 COPY FOR CUSTOMS	1 Issuing body Name Address		2 For the purposes of the issuing country	
	3 Attestation Number			
	4 Country of placing on the market			
	5 ISO Code			
	6 Commercial description of the seal product			
	3			
7 Justification <input type="checkbox"/> Seal Product resulting from hunt by Inuit or other indigenous communities <input type="checkbox"/> By-products resulting from hunts for the sustainable management of marine resources				
8 Scientific Name			9 HS-Heading	
10 Country of taking			11 ISO Code	
12 Net Weight (kg)			13 Number of units	
14 Distinguishing marks			15 Unique Identifier	
16 Signature and stamp of issuing body Place and date			17 Endorsement by customs Number of customs declaration Signature and stamp Place and date	

RESERVE	4	1 Issuing body Name Address	2 For the purposes of the issuing country	
		3 Attestation Number		
		4 Country of placing on the market		
		5 ISO Code		
		6 Commercial description of the seal product		
	4	7 Justification <input type="checkbox"/> Seal Product resulting from hunt by Inuit or other indigenous communities <input type="checkbox"/> By-products resulting from hunts for the sustainable management of marine resources		
	8 Scientific Name		9 HS-Heading	
	10 Country of taking		11 ISO Code	
	12 Net Weight (kg)		13 Number of units	
	14 Distinguishing marks		15 Unique Identifier	
	16 Signature and stamp of issuing body Place and date		17 Endorsement by customs Number of customs declaration Signature and stamp Place and date	

Notes for guidance

General:

Complete in capitals

Box 1	Issuing body	Indicate the name & address of the body that issues the attestation
Box 2.	For the purposes of the issuing country	Space for the purposes of the issuing country.
Box 3.	Attestation number	Indicate the issuing number.
Box 4.	Country of placing on the market	Indicate the Member State where the seal product is foreseen to be first placed on the market
Box 5.	ISO code	Indicate the two-letter code for the country referred to in Box 4.
Box 6.	Commercial description	Indicate the commercial description of the seal product(s). The description shall be consistent with the entry in box 8.
Box 7.	Justification	Tick one of the two boxes.
Box 8.	Scientific Name	Indicate the scientific names of the species of the seals used in the product. Where more than one species is included in a composite product, use a separate line.
Box 9.	HS Heading	Give the four-digit or the six-digit commodity code established pursuant to the Harmonised Commodity Description and Coding System.
Box 10.	Country of taking	Indicate the country where seals used in the product have been taken from the wild.
Box 11.	ISO code	Indicate the two-letter code for the country referred to in Box 9.
Box 12.	Net Weight	Give the overall weight in kg. This is defined as the net mass of the seal products without immediate containers or any packaging, other than bearers, spacers, stickers etc.
Box 13.	Number of units	Indicate the number of units, where a manufactured product is best quantified in this way.
Box 14.	Distinguishing marks	Indicate any distinguishing marks where appropriate e.g. lot number, bill of lading number.
Box 15.	Unique Identifier	Indicate any identifiers applied on the products itself for the purpose of traceability.
Box 16.	Signature and stamp of	The box shall be signed by the authorised official and stamped with the official stamp of the issuing authority. The

	issuing authority	place & data shall also be indicated.
Box 17.	Endorsement by customs	Customs authorities shall indicate the number of the customs declaration for further reference. Signature and stamp of the customs authority.