

Brussels, 8 April 2026
Case No: 90290
Document No: 1518932
Decision No: 066/26/COL

Icelandic Ministry of Industries
Borgartún 26
105 Reykjavík
Iceland

Dear Sir or Madam,

Subject: Letter of formal notice to Iceland concerning national rules on intra-EEA movements of animal products originating in third countries

1 Introduction

By a letter dated 19 April 2023,¹ the EFTA Surveillance Authority (“the Authority”) informed the Icelandic Government that it had opened an own initiative case regarding Icelandic rules for certain products of animal origin² originating in third countries³ that have been imported into the internal market and are being moved to Iceland from another EEA State. These animal products include fresh or raw meat and meat products, raw eggs and raw egg products, unpasteurised milk and dairy products processed from unpasteurised milk.

The letter referenced a media report concerning imports of poultry meat to Iceland from the Netherlands, that originated in Ukraine.⁴ The media report stated that three operators had imported 185 tons of Ukrainian poultry meat to Iceland from the Netherlands without meeting the national requirements set out for imports of meat products originating in third countries. The report further noted that Icelandic rules required operators to obtain an import permit from the Icelandic Food and Veterinary Authority (MAST) before they could import meat products originating in third countries, regardless of whether they were being imported directly to Iceland or via another EEA State. It also stated that a risk assessment should be carried out by MAST before such an import permit could be granted, and that operators must confirm that fresh or raw meat has been frozen at -18°C for at least 30 days before customs clearance in Iceland.

The aim of the EEA Agreement is to guarantee a high level of health protection and consumer interest while providing for the fullest possible realisation of the free movement of goods. The Authority notes that veterinary import controls are crucial for protecting public and animal health by ensuring that animal products entering the internal market are safe and produced according to EEA standards. In line with that aim the EEA legal framework, as incorporated into Annex I of the EEA Agreement pursuant to Article 17 EEA, exhaustively harmonises the conditions for import, movement and handling after entry of animal products from third countries and the requirements for veterinary import controls.

This harmonised system for veterinary import controls is based on the principle that controls take place in the EEA State where the products first enter the internal market and thereby a common border is established between the EEA States and third countries. The EEA

¹ Letter of 19 April 2023, Doc No 1367477.

² ‘Products of animal origin’ is defined in Article 4(29) of Regulation (EU) 2016/429. For the purposes of this letter, the meaning of products of animal origin are to be understood to refer to ‘food of animal origin’, including meat, eggs and dairy products. In the following, ‘products of animal origin’ will sometimes be shortened to ‘animal products’.

³ Except from Switzerland, the United Kingdom, Greenland or the Faroe Islands.

⁴ <https://www.bbl.is/frettir/kjuklingur-fluttur-inn-i-leyfisleysi>

rules set out detailed arrangements for the veterinary import controls that must be carried out, as well as the animal and public health rules, i.e. the entry conditions, that the products must fulfil to be allowed entry into the internal market. The objective and effectiveness of the EEA import control system could not be achieved if the EEA States were free to go beyond its requirements by maintaining or adopting national measures other than those expressly provided for in the harmonised EEA rules.

An integral part of the EEA Agreement is the principle that once the Contracting Parties have agreed on and adopted a decision to incorporate an EU act into the Annexes to the Agreement, the act becomes binding upon the EEA EFTA States. The regulations on import controls and animal health were incorporated into the EEA Agreement without any substantive adaptations for Iceland, except for the general exemption that Iceland maintains for provisions concerning live terrestrial animals and germinal products⁵ and which are not relevant to the present case. Consequently, Iceland has committed itself to apply, and adhere to, the harmonised EEA rules for veterinary import controls and entry conditions for animal products.

Despite this, Iceland has in place national rules which require additional veterinary controls to be carried out on animal products originating in third countries that have already been subject to import controls in another EEA State. Consequently, certain animal products that have been permitted entry into the EEA cannot be moved to Iceland in accordance with EEA rules.

Considering the above and the Authority's correspondence and discussions with the Icelandic Government since April 2023, the Authority concludes that the obligation to obtain a prior authorisation (import permit) for certain animal products originating in third countries that have already been subject to import controls in another EEA State and released for circulation, and the requirement that fresh or raw meat has been frozen for 30 days prior to being moved to Iceland from another EEA State, as it is set out in Icelandic Act No 25/1993⁶ and Icelandic Regulation No 1250/2019⁷, are incompatible with the exhaustively harmonised EEA rules on veterinary import controls and movements after entry of animal products.

2 Correspondence

In its letter from 19 April 2023, the Authority requested the Icelandic Government to provide information on the imports of products of certain animal origin coming from third countries, both where Iceland is the first point of entry and for products moved to Iceland from another EEA State, as well as the legal and administrative requirements that are applied to such products. The Authority also requested information on the risk assessments carried out by the national authorities before granting an import permit, and on any sanctions that could be imposed on operators that did not comply with the additional national requirements.

The Icelandic Government responded with a letter dated 6 June 2023.⁸ In its reply the Icelandic Government confirmed that the following additional national requirements were applied to products that have passed import controls in another EEA country and been released for circulation:

1. *The importer must have an import permit*

⁵ Paragraph 2 of the Introductory Part of Chapter I of Annex I to the EEA Agreement as follows: “*The provisions contained in this Chapter shall apply to Iceland, except for the provisions concerning live animals, other than fish and aquaculture animals, and animal products such as ova, embryo and semen. When an act is not to apply or is to apply partly to Iceland, it shall be stated in relation to the specific act.*”

⁶ Lög nr. 25/1993 um dýrasjúkdóma og varnir gegn þeim, as amended.

⁷ Reglugerð nr. 1250/2019 um varnir gegn því að dýrasjúkdómar og sýktar afurðir berist til landsins

⁸ ‘Letter of 6 June 2023’, Doc No 1377810 / IS ref. MAR23040066.

2. *The importer must notify MAST of the consignment through the MAST online portal (application no. 4.32) when the consignment arrives in Iceland. The following must be submitted with the notification:*
 - a. *Itemized product invoice*
 - b. *CHED⁹*
 - c. *Test results confirming that the products are free of salmonella pathogens*
 - d. *A statement confirming that the meat has been frozen and stored for at least 30 days at -18°C before customs clearance.*

The Icelandic Government also provided information on the risk assessment that may be carried out before an import permit is granted if “*MAST considers it necessary to verify whether the requirements of the regulations adequately ensure that the import of the relevant product does not threaten the health of animals in Iceland*”.¹⁰

The case was discussed with Iceland at the package meeting which took place on 7-8 June 2023. At the meeting, the representatives of the Icelandic Government explained that, for non-heat-treated meat, an import permit was required and that granting of the import permit was based on a risk assessment. However, only products originating in approved establishments from third countries listed by the European Commission would be considered. In addition, there was a general requirement that fresh or raw meat had to have been frozen for at least 30 days at the time of customs clearance, and that negative results of Salmonella and Campylobacter testing were submitted. The same requirements applied whether the meat was imported directly to Iceland, or ‘indirectly’ via another EEA State. An example of a risk assessment was provided that referred to, e.g., the findings of recent audits by the European Commission to the relevant third country.

The representatives of the Icelandic Government furthermore stated that they had not made any notifications under Article 260 of the ‘Animal Health Law’¹¹ following a negative outcome of a risk assessment. They had also never notified the EEA Joint Committee, following a negative risk assessment, of any difficulties in application of the acts concerning application texts and lists of establishments in third countries, or safeguard and protective measures, which are applicable under the EEA Agreement.

In a follow-up letter after the package meeting dated 23 June 2023,¹² the Authority requested the Icelandic Government to provide examples of risk assessments carried out, examples of applications of an import permit, and explanations for why the outcomes of the negative risk assessments had not been notified in line with the requirements of Article 260 of the ‘Animal Health Law’ and/or points 7(b) and 8(b) of the Introductory Part of Chapter I of Annex I to the EEA Agreement. In the response received from Iceland on 25 September 2023,¹³ the Icelandic Government could not provide any clarifications for why the mechanisms set out in the ‘Animal Health Law’ and the sectoral adaptations in Chapter I of Annex I had not been used when performing a risk assessment or in the event of a negative risk assessment.

⁹ Consignments arriving from third countries which require controls at their entry into the EEA should be accompanied by a Common Health Entry Document (CHED), to be used for the prior notification of the arrival of consignments at the border control post, and to record the outcome of official controls performed and of decisions taken by the competent authorities in relation to the consignment which they accompany, and to obtain clearance by customs authorities once all official controls have been performed, cf. Articles 56-57 of Regulation (EU) 2017/625 on Official Controls.

¹⁰ Letter of 6 June 2023, Doc No 1377810 / IS ref. MAR23040066.

¹¹ Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health (‘Animal Health Law’) (OJ L 84, 31.3.2016, p.1) was incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 179/2020 of 11 December 2020 and is referred to at Point 13 in Part 1.1 of Chapter I of Annex I to the EEA Agreement. The decision entered into force on 17 April 2021. The act became applicable simultaneously in the EU and the EEA on 21 April 2021.

¹² Letter of 23 June 2023, Doc no 1379468.

¹³ ‘Letter of 25 September 2023’, Doc No 1400180 / IS ref. MAR23040066.

The case was discussed again at the package meeting which took place on 15-16 May 2024. The representatives of the Icelandic Government informed the Authority that there had been no new risk assessments carried out in the past year and that the intention of the Icelandic Government was to rely on the listing of third countries in Regulation (EU) 2021/404.¹⁴ However, the representatives of the Icelandic Government confirmed that the requirement to obtain an import permit, which follows from Icelandic Act No 25/1993 on animal diseases and their prevention and Icelandic Regulation No 1250/2019 on the prevention of animal diseases and infected products entering the country, would remain in place, including the condition that fresh meat products must be frozen for at least 30 days before import set out in Regulation No 1250/2019.

The Authority sent a follow-up letter after the meeting on 23 May 2024 requesting information on the intended amendments to Icelandic Regulation No 1250/2019.¹⁵ In its response dated 6 June 2024,¹⁶ the Icelandic Government informed the Authority that there was work ongoing to amend Regulation No 1250/2019 in order to abolish the requirement for a risk assessment. This amendment was to be finalised and adopted by 1 July 2024. However, no further updates were provided by the Icelandic Government on the status of the amendment to Regulation No 1250/2019 and the Authority notes that, to date, no amendments have been adopted to Regulation No 1250/2019.

The case was discussed again at the package meeting which took place on 6-7 May 2025. At the meeting, the Icelandic Government reflected on the history of the national requirements in place for animal products originating in third countries and recalled the background of the legislative changes made in 2019, following the judgements of the EFTA Court¹⁷ and the Supreme Court of Iceland¹⁸ regarding national import requirements for fresh or raw meat originating in the EEA States. The Icelandic Government confirmed that, in light of these considerations, there were no plans to change the current legislation regarding the national import requirements in place for fresh or raw meat and certain other animal products originating in third countries, that had been imported to another EEA State before being moved to Iceland. The Authority informed the Icelandic Government that it would consider its next steps in light of this. The discussions at the meeting were reflected in a follow-up letter sent by the Authority to the Icelandic Government on 28 May 2025.¹⁹

3 Relevant EEA law

Article 1(1) of the EEA Agreement sets out the following:

“The aim of this Agreement of association is to promote a continuous and balanced strengthening of trade and economic relations between the Contracting Parties with equal conditions of competition, and the respect of the same rules, with a view to creating a homogeneous European Economic Area, hereinafter referred to as the EEA.”

¹⁴ Act subject to the simplified procedure and taken note of by the EEA Joint Committee on 9 July 2021 (Doc No 1212629/ EFTA ref. 21-1696), *Commission Implementing Regulation (EU) 2021/404 of 24 March 2021 laying down the lists of third countries, territories or zones thereof from which the entry into the Union of animals, germinal products and products of animal origin is permitted in accordance with Regulation (EU) 2016/429 of the European Parliament and the Council.*

¹⁵ Letter of 23 May 2024, Doc No 1457639.

¹⁶ ‘Letter of 6 June 2024’, Doc No 1461699/ IS ref. MAR24050142

¹⁷ See Judgment of the EFTA Court in Case E-17/15 *Ferskar kjötvörur ehf. v the Icelandic State*, [2016] EFTA Ct. Rep. 4 and Judgment of the EFTA Court in Joined Cases E-2&3/17 *EFTA Surveillance Authority v. Iceland*, [2017] EFTA Ct. Rep. 727.

¹⁸ Supreme Court Judgement No 154/2017 of 11 October 2018 *Icelandic State vs Ferskar kjötvörur ehf.*

¹⁹ Letter of 28 May 2025, Doc No 1538087.

Pursuant to Article 17 of the EEA Agreement, Chapter I of Annex I contains the specific provisions concerning veterinary issues, including the detailed arrangements for veterinary import controls. Article 17 EEA reads:

“Annex I contains specific provisions and arrangements concerning veterinary and phytosanitary matters.”

3.1 Import controls

Chapter V (titled “*Official controls on animals and goods entering the [EEA]*”) of Title II (titled “*Official controls and other official activities in [EEA] States*”) of *Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls*²⁰ (‘OCR’) sets out the requirements for official controls on animals and goods entering the EEA, that must take place before the animals or goods are released for circulation within the EEA.

Article 3(40) of the OCR provides the following definition of ‘entering the [EEA]’ or ‘entry into the [EEA]’:

“means the action of bringing animals and goods into one of the territories that are listed in Annex I to this Regulation from outside these territories [...]”

Paragraph (h) of the adaptation text to the OCR adds the territory of Iceland to the list of territories of the Member States in Annex I to the OCR.²¹

Article 9 (titled “*General rules on official controls*”) sets out the general obligations for the official controls to be carried out by competent authorities. Paragraphs 6 and 7 provide the following:

“6. Competent authorities shall perform official controls in the same manner, while taking account of the need to adapt the controls to the specific situations, irrespective of whether the animals and goods concerned are:

- (a) available on the [EEA] market, whether originating in the [EEA] State where the official controls are performed or in another [EEA] State;*
- (b) to be exported from the [EEA]; or*
- (c) entering the [EEA].*

7. To the extent strictly necessary for the organisation of the official controls, [EEA] States of destination may require operators that have animals or goods delivered to them from another [EEA] State to report the arrival of such animals or goods.”

Article 47 (titled “*Animals and goods subject to official controls at border control posts*”) sets out that each consignment of products of animal origin must undergo official controls at the border control post of *first arrival* into the EEA to ascertain its compliance with EEA rules. Article 47 provides, in relevant parts:

²⁰ *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 (OJ L 95, 7.4.2017, p. 1) was incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 210/2019 of 27 September 2019 and is referred to at point 11b of Part 1.1 of Chapter I and point 31q of Chapter II of Annex I of the EEA Agreement. The decision entered into force on 7 March 2020.*

²¹ See point 11b of Part 1.1 of Chapter I and at point 31m of Chapter II of Annex I of the EEA Agreement.

“1. To ascertain compliance with the rules referred to in Article 1(2), the competent authorities shall perform official controls, at the border control post of first arrival into the Union, on each consignment of the following categories of animals and goods entering the Union:

[...]

(b) products of animal origin, germinal products, animal by-products, hay and straw and foodstuffs containing both products of plant origin and processed products of animal origin (“composite products”);”

Article 49 (titled *“Official controls at border control posts”*) sets out that competent authorities must perform official controls upon arrival of the consignment at the border control post and that those controls must include documentary checks, identity checks and physical checks.

Article 55 (titled *“Decisions on consignments”*) provides that competent authorities must take a decision on each consignment following the performance of official controls indicating whether the consignment is in compliance with EEA rules.

Article 56 (titled *“Use of the Common Health Entry Document (CHED) by the operator and by the competent authorities”*) sets out that the operator responsible for each consignment of animal products must provide the information necessary for the immediate and complete identification of the consignment and its destination in the CHED. The competent authorities of the border control post of first entry must record the outcome of the official controls performed, and any decisions taken on that basis, in the CHED and finalise it as soon as all controls have been performed.

3.2 Entry conditions

3.2.1 Animal health requirements

Part V of *Regulation (EU) 2016/429 of the European Parliament and of the Council on transmissible animal diseases (‘Animal Health Law’)*, and in particular Articles 229-239, set out the animal health requirements for the entry into the EEA of products of animal origin.

Products of animal origin is defined in Article 4(29) of the Animal Health Law:

“(29) ‘products of animal origin’ means:

(a) food of animal origin, including honey and blood;

(b) live bivalve molluscs, live echinoderms, live tunicates and live marine gastropods, intended for human consumption; and

(c) animals other than those referred to in point (b) intended to be prepared with a view to being supplied live to the final consumer;”

Article 229(1) of the ‘Animal Health Law’ (titled *“Requirements for entry into the [EEA] of animals, germinal products and products of animal origin”*) lays down the requirements under which the EEA States are to permit the entry into the EEA of consignments of products of animal origin:

“1. Member States shall permit the entry into the Union of consignments of animals, germinal products and products of animal origin from third countries or territories only if those consignments fulfil the following requirements, unless such animals, germinal products or products of animal origin are covered by a derogation granted pursuant to Article 239(2):

(a) without prejudice to Article 230(2), they come from a third country or territory listed in accordance with Article 230(1) for the particular species and category of animals, or germinal products or products of animal origin concerned, or from a zone or compartment thereof;

- (b) *they come from establishments which are approved and listed, where such approval and listing is required by Article 233;*
- (c) *they fulfil the animal health requirements for entry into the Union laid down in Article 234(1) and in any delegated acts adopted pursuant to Article 234(2), where such requirements are laid down for the animal, germinal product or product of animal origin concerned;*
- (d) *they are accompanied by an animal health certificate and by declarations and other documents where required by Article 237(1) or by rules adopted pursuant to Article 237(4);*

2. *The operators responsible for the consignment in question shall present consignments of animals, germinal products and products of animal origin from third countries or territories for the purposes of official control as provided for in Article 47 of Regulation (EU) 2017/625”*

Article 234(1) of the ‘Animal Health Law’ (titled “*Animal health requirements for the entry into the Union of species and categories of animals, germinal products and products of animal origin*”) stipulates that the animal health requirements for entry into the EEA of consignments of products of animal origin from third countries or territories or zones thereof must be as stringent as those laid down in this Regulation, and in delegated acts adopted pursuant to it, applicable to movements within the EEA of those categories of commodities. If the requirements are not as stringent as those in the Regulation, they must offer equivalent guarantees to the applicable animal health requirements set out in Part IV (Articles 84 to 228) of the ‘Animal Health Law’.

Parts I (titled “*General rules*”) and IV (titled “*Animal health requirements for entry into the [EEA] of products of animal origin as referred to in Articles 3 and 5*”) of Regulation (EU) 2020/692 as regards rules for entry into the [EEA], and the movement and handling after entry of consignments of certain animals, germinal products and products of animal origin,²² set out the detailed animal health requirements for the entry into the EEA of consignments of products of animal origin from third countries or territories or zones thereof. It also lays down rules concerning the movement and handling of those consignments after their entry into the EEA.

Article 3 of Regulation (EU) 2020/692 (titled “*Obligations of the competent authorities of [EEA] States*”) provides that competent authorities *shall permit the entry* into the EEA of consignments of products of animal origin of species and categories covered by Part IV of that Regulation:

“The competent authority shall permit the entry into the Union of consignments of animals, germinal products and products of animal origin of species and categories covered by Parts II to VI, which are presented for the purpose of official controls as provided for in Article 47(1) of Regulation (EU) 2017/625, provided that:

(a) *the consignments come from:*

(i) *in the case of terrestrial animals, a listed third country or territory or zone thereof for the particular species and category of animals, germinal products and products of animal origin; [...]*

²² Commission Delegated Regulation (EU) 2020/692 of 30 January 2020 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for entry into the Union, and the movement and handling after entry of consignments of certain animals, germinal products and products of animal origin (OJ L 174, 3.6.2020, p. 379), incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 3/2021 of 5 February 2021. The Decision entered into force on 17 April 2021.

(b) *the competent authority of the third country or territory of origin has certified that the consignments comply with:*

(i) *the general animal health requirements for entry into the Union of animals, germinal products and products of animal origin laid down in this Article, Article 4 and Articles 6 to 10;*

(ii) *the animal health requirements applicable to the particular species and category of animals, germinal products and products of animal origin and intended use, as laid down in Parts II to VI;*

(c) *the consignments are accompanied by the following documents whereby the competent authority of the third country or territory of origin has provided the necessary guarantees as regards compliance with the animal health requirements referred to in point (b):*

(i) *an animal health certificate issued by an official veterinarian of the third country or territory of origin, specific for the particular species and category of animals, germinal products and products of animal origin and their intended use;*

(ii) *a declaration and other documents, where required in this Regulation.*

In the case of consignments of animals and hatching eggs, the animal health certificate, referred to in point (c)(i) must have been issued within the period of 10 days prior to the date of arrival of the consignment at the border control post; however, in the case of transport by sea that period may be extended by an additional period corresponding to the duration of the journey by sea.”

Article 121(1) (titled “Treatment requirements for products of animal origin”) of Regulation (EU) 2020/692, sets out the following:

“1. Consignments of products of animal origin, other than fresh or raw, shall only be permitted to enter the [EEA] if the products of the consignment have been treated in accordance with Titles 3 to 6 of this Part.

The treatment referred to in the first subparagraph must have been:

(a) *specifically assigned by the [EEA] in the list, to the third country or territory of origin or zone thereof and to the species of origin of the product of animal origin;*

(b) *applied in a third country or territory or zone thereof listed for entry into the [EEA] of the particular species and category of products of animal origin;*

(c) *applied in accordance with requirements for:*

(i) *risk-mitigating treatments for meat products set out in Annex XXVI;*

(ii) *risk-mitigating treatments for dairy products set out in Annex XXVII;*

(iii) *risk-mitigating treatments for egg products set out in Annex XXVIII”²³*

²³ The following definitions are set out in Article 2 of Regulation (EU) 2020/692:

(41) ‘fresh meat’ means meat, minced meat and meat preparations, including vacuum-wrapped or wrapped in a controlled atmosphere, which has not undergone any preserving process other than chilling, freezing or quick-freezing;

(44) ‘meat products’ means processed products, including treated stomachs, bladders, intestines, rendered animal fats and meat extracts, resulting from the processing of meat or from the further processing of such processed products, so that the cut surface shows that the product no longer has the characteristics of fresh meat;

The following definitions are set out in Annex I to Regulation (EC) No 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin:

Title 3 (titled “*Animal health requirements for entry into the [EEA] of meat products and casings*”), Title 4 (titled “*Animal health requirements for entry into the [EEA] of milk, dairy products, colostrum and colostrum-based products*”), Title 5 (titled “*Animal health requirements for entry into the [EEA] of eggs and egg products*”) and Title 6 (titled “*Animal health requirements for entry into the [EEA] of processed products of animal origin contained in composite products*”) of Part IV (titled “*Animal health requirements for entry into the [EEA] of products of animal origin as referred to in Articles 3 and 5*”) of Regulation (EU) 2020/692, set out the specific entry conditions and treatment requirements for products of animal origin other than fresh or raw.

Regulation (EU) 2021/404²⁴ lays down the lists of third countries, territories or zones thereof from which the entry into the EEA of products of animal origin is permitted. Recital (10) of the preamble to the Regulation states that:

“Pursuant to the EEA Agreement, the EEA EFTA States are not third countries when trading with the EU Member States in areas governed by the EEA Agreement.”

The lists of third countries, territories or zones thereof authorised for the entry into the EEA of the relevant consignments of animal products are listed in Annexes XIII (titled “*Fresh meat of ungulates*”), XIV (titled “*Fresh meat of poultry and game birds*”), XV (titled “*Meat products from ungulates, poultry and game birds*”), Annex XVI (titled “*Casings*”), Annex XVII (titled “*Milk, colostrum, colostrum-based products and dairy products derived from raw milk and dairy products not required to undergo a specific risk-mitigating treatment against foot and mouth disease*”), Annex XVIII (titled “*Dairy products required to undergo a specific risk-mitigating treatment against foot and mouth disease*”) and Annex XIX (titled “*Eggs and egg products*”).

Regulation (EU) 2021/404 is continuously updated to reflect emerging risks and disease developments in the relevant third countries. At the time of issuance of this letter of formal notice, the regulation has been amended 165 times. The regulation, and its amendments, are applicable under the EEA Agreement subject to the simplified procedure²⁵.

3.2.2 Public health requirements

Articles 125-129 of Chapter II (titled “*Conditions for the entry into the [EEA] of animals and goods*”) of Title VI (titled “*[EEA] activities*”) of the OCR, set out the conditions for entry into the EEA of animal products.

Regulation (EU) 2022/2292²⁶ sets out the public health requirements for the entry into the EEA of consignments of food-producing animals and certain goods intended for human consumption. It defines the entry conditions for animal products to guarantee compliance

7.2 ‘*Dairy products*’ means processed products resulting from the processing of raw milk or from the further processing of such processed products.

7.3 ‘*Egg products*’ means processed products resulting from the processing of eggs, or of various components or mixtures of eggs, or from the further processing of such processed products.

²⁴ Act subject to the simplified procedure and taken note of by the EEA Joint Committee on 9 July 2021 (Doc No 1212629/ EFTA ref. 21-1696).

²⁵ [Information about simplified procedures in the veterinary field](#), EFTA Secretariat, ref. 1067775.

²⁶ *Commission Delegated Regulation (EU) 2022/2292 of 6 September 2022 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council with regard to requirements for the entry into the Union of consignments of food-producing animals and certain goods intended for human consumption (OJ L 304, 24.11.2022, p. 1)*, was incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 254/2023 of 27 October 2023 and is referred to at Points 11bzb in Part 1.1 of Chapter I and 31qz of Chapter II of Annex I and 164zd of Annex II to the EEA Agreement. The Decision entered into on 28 October 2023.

with EEA food hygiene requirements, the use of pharmacologically active substances and residues thereof, contaminants and pesticide residues.

Regulation (EU) 2021/405²⁷ lays down the lists of third countries or regions thereof authorised for the entry into the EEA of certain animals and goods intended for human consumption, cf. Article 127(2) of the OCR and Regulation (EU) 2022/2292. The lists include only third countries or regions thereof, which have provided appropriate evidence and guarantees that the animals and goods concerned comply with the requirements of EEA legislation in the area of food safety, and which have approved residue control plans. Regulation (EU) 2021/405, and its amendments, are subject to the simplified procedure under the EEA Agreement.

Annex -I of Regulation (EU) 2021/405 lists the third countries or regions thereof with approved control plans for certain food-producing animals and products of animal origin intended for human consumption.

Iceland can apply special guarantees concerning Salmonella to consignments of meat and eggs from poultry,²⁸ and meat from bovine and porcine animals²⁹ intended for Iceland. Operators must therefore ensure that the relevant products meet those requirements and are accompanied by the appropriate certification.

3.3 Simplified procedures in the food and veterinary field

The simplified procedures were introduced in the food and veterinary field to ensure that emergency and protective measures would be applied uniformly throughout the EEA, and that the EEA EFTA States would apply the same rules at the same time as the EU Member States when checking products imported from third countries. This is of particular importance in the case of measures concerning entry conditions for imported products, import certificates, and lists of third countries and third country establishments from which imports may be authorised, which are frequently updated in light of developments in the relevant third countries.

The simplified procedures entail that the EEA EFTA States are obliged to apply the measures that fall under that procedure in the same manner and within the same deadlines as those applicable to the EU Member States, based on acts adopted by the European Commission.³⁰ This means that the relevant acts become, in substance, applicable for the EEA EFTA States at the same time as for the EU Member States, and that the EEA Joint Committee only takes note of them after they have become applicable.

Simplified procedures apply for acts that entail the following:

- texts of application concerning imports from third countries and listing of establishments.
- safeguard and protective measures concerning imports from third countries.
- acts adopted pursuant to Articles 261 and 262 of the Animal Health Law.

²⁷ Act subject to the simplified procedure and taken note of by the EEA Joint Committee on 9 July 2021 (Doc No 1212629/ EFTA ref. 21-1696), *Commission Implementing Regulation (EU) 2021/405 of 24 March 2021 laying down the lists of third countries or regions thereof authorised for the entry into the Union of certain animals and goods intended for human consumption in accordance with Regulation (EU) 2017/625 of the European Parliament and of the Council.*

²⁸ EFTA Surveillance Authority Decision No 001/19/COL of 16 January 2019 extending the special guarantees concerning Salmonella spp. laid down in Regulation (EC) No 853/2004 of the European Parliament and of the Council to meat and eggs of domestic fowl (*Gallus gallus*), and meat derived from turkeys intended for Iceland (Doc No 1045744).

²⁹ See Point (b) of the adaptation text to the act referred to at point 17 in Part 6.1 of Chapter I of Annex I to the EEA Agreement, *Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin.*

³⁰ [Information about simplified procedures in the veterinary field](#), EFTA Secretariat, ref. 1067775.

- acts adopted pursuant to Articles 53 and 54 of Regulation (EC) No 178/2002.³¹

Paragraph 7 of the Introductory Part of Chapter I of Annex I to the EEA Agreement titled “Imports from third countries - Application texts and lists of establishments” sets out the following:

- “(a) The EFTA States shall simultaneously with the Member States take measures corresponding to those taken by the latter on the basis of the relevant Community acts as regards the application texts and lists of establishments concerning imports from third countries.
- (b) In the case of any difficulty relating to the application of a Community act, the EFTA State concerned shall immediately report the matter to the EEA Joint Committee.
- (c) This paragraph applies also to Iceland for the areas referred to in paragraph 2.
- (d) The EEA Joint Committee may take note of the Community decisions.
- (e) The obligation laid down in (a), shall apply to all relevant acts in force at any given moment, whatever their date of adoption.”

Paragraph 8 of the Introductory Part of Chapter I of Annex I to the EEA Agreement titled “Imports from third countries – Safeguard and protective measures” sets out the following:

- “(a) The EFTA States shall simultaneously with the EC Member States take measures corresponding to those taken by the latter on the basis of the relevant Community acts as regards safeguard and protective measures on imports from third countries.
- (b) In the case of any difficulty relating to the application of a Community act, the EFTA State concerned shall immediately report the matter to the EEA Joint Committee.
- (c) The application of this paragraph is without prejudice to the possibility of an EFTA State taking unilateral protective measures pending the adoption of the decisions mentioned in (a).
- (d) This paragraph applies also to Iceland for the areas referred to in paragraph 2.
- (e) The EEA Joint Committee may take note of the Community decisions.”

For acts pertaining to imports from third countries, point b) of Paragraphs 7 and 8 of the Introductory Part of Chapter I of Annex I to the EEA Agreement provides that “In the case of any difficulty relating to the application of a Community act, the EFTA State concerned shall immediately report the matter to the EEA Joint Committee.”

The Icelandic Government has confirmed that it has not reported any difficulties in application of acts subject to the simplified procedure to the EEA Joint Committee.³²

3.4 Scope for national measures

Article 234(3) of the ‘Animal Health Law’ provides that *pending the adoption of delegated acts* laying down animal health requirements as regards a particular species and category of product of animal origin, EEA States may, following evaluation of the risks involved, apply national rules if they comply with the requirements set out in Articles 235 and 236 of the ‘Animal Health Law’.

Article 260 of the ‘Animal Health Law’ (titled “Emergency measures to be taken by the competent authority”) sets out the following:

³¹ The act referred to at points 13 in Part 7.1 of Chapter I and 41 of Chapter II of Annex I and 54zzzz of Chapter XII of Annex II to the EEA Agreement, *Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety*, which entered into force in the EEA on 1 May 2010.

³² See Letter of 25 September 2023, Doc No 1400180 / IS ref. MAR23040066.

“Where the competent authority of a [EEA] State becomes aware of animals or products originating from a third country or territory, or of means of transport or materials, which may have come into contact with such animals and products, that are likely to constitute a serious risk in the [EEA] due to possible infection or contamination by listed diseases or emerging diseases or hazards, it shall:

- (a) immediately take one or more of the following emergency measures necessary to mitigate that risk, depending on the gravity of the situation;*
 - (i) destruction of the animals and products concerned;*
 - (ii) quarantine of animals and isolation of products;*
 - (iii) surveillance and traceability measures;*
 - (iv) any disease control measures referred to in Chapter 1 of Title II of Part III (Articles 53 to 71), where appropriate;*
 - (v) any other emergency measure which it deems appropriate to prevent the spread of the disease or hazard into the [EEA];*
- (b) immediately inform the Commission and the other [EEA] States of the risks associated with the animals and products in question and of the origin of those animals and products by means of Traces, and without delay of the emergency measures taken pursuant to point (a).”*

Regulation (EU) 2020/692 sets out the species and categories of animal products allowed entry into the EEA. As is noted in recital (4) of the preamble of that Regulation:

“Article 234 of the ‘Animal Health Law’ provides that pending the adoption of delegated acts laying down animal health requirements as regards a particular species and category of animal, germinal product or product of animal origin, Member States may, following evaluation of the risks involved, apply national rules if they comply with certain requirements laid down in that Regulation. Therefore, the entry into the EU of species and categories of animals, germinal products and products of animal origin not covered by this Regulation may be subject to such national rules applied by Member States.”

It follows that EEA States may only apply national rules setting out entry conditions for species and categories of products of animal origin if they comply with the Animal Health law and are *not covered by Regulation (EU) 2020/692*.

4 Relevant national law

Icelandic Act No 25/1993 of 7 April 1993 on animal diseases and preventative measures against them³³ (‘Act No 25/1993’), as amended, sets out the following in paragraph 1 of Article 10:

“To prevent animal diseases from reaching the country it is prohibited to import the following types of goods:
[...]
f. raw and slightly salted slaughter products, both processed and unprocessed, raw eggs, unpasteurized milk and milk products originating in States which are not

³³ Lög nr. 25/1993 frá 7. apríl 1993 um dýrasjúkdóma og varnir gegn þeim.

contracting parties to the Agreement on the European Economic Area or in Switzerland, in the United Kingdom, in Greenland or the Faroe Islands.

The Minister may, by regulation, authorize the Icelandic Food and Veterinary Authority to permit the import of these products and to set the conditions necessary to ensure that livestock are not endangered by such import.[...]³⁴

Icelandic Regulation No 1250/2019 on the prevention of animal diseases and infected products entering the country ('Icelandic Regulation No 1250/2019' or 'Regulation No 1250/2019'),³⁵ is adopted pursuant to Act No 25/1993 and sets out the criteria for the authorisation of imports of certain animal products originating in third countries, including for fresh meat and dairy products.

“Article 3 Import ban.

The following animal products and goods that may carry infectious agents that cause diseases in animals and humans are prohibited to import into the country, cf. further details in Chapter III:

- a. Raw meat, processed or unprocessed, chilled or frozen, as well as offal and offal, from producers outside the European Economic Area, which has not been heat treated to a core temperature of 72°C for 15 seconds or other comparable treatment in the opinion of the Icelandic Food and Veterinary Authority.*

[...]

- e. Untreated eggs, eggshells and egg products, from producers outside the European Economic Area, that have not undergone heat treatment, such that the product has been heated to 65°C for five minutes or another comparable treatment in the opinion of the Icelandic Food and Veterinary Authority.*
- f. Unpasteurized milk and dairy products made from unpasteurized milk from producers outside the European Economic Area.*

Article 4 Import permit.

The Icelandic Food and Veterinary Authority is authorised to permit the import of products listed in Article 3, cf. Article 10 of Act No. 25/1993 on animal diseases and their prevention, as amended, provided that it is ensured that they do not transmit infectious agents that cause diseases in animals and humans and that the conditions set for the import are met, see, however, Article 7. When applying for the first import of a product according to points a, b, e and f of the 1st paragraph originating from countries that are not contracting parties to the Agreement on the European Economic Area, the importer shall provide the Icelandic Food and Veterinary Authority with the necessary information about the product for examination and approval before the product is sent from the exporting country. The same applies to the import of pet food.

An importer of a product according to paragraph 2 originating from countries that are not contracting parties to the Agreement on the European Economic Area shall always apply for a permit to the Icelandic Food and Veterinary Authority and submit, in an import report, information on the country of origin and production of the product, the type of product and the manufacturer, as well as the required certificates according to Articles 5 and 6.

All imports of animal products from countries that are not contracting parties to the Agreement on the European Economic Area shall pass through border inspection

³⁴ Unofficial English translation.

³⁵ *Reglugerð nr. 1250/2019 frá 30 desember 2019 um varnir gegn því að dýrasjúkdómar og sýktar afurðir berist til landsins.* Entry into force 1 January 2020.

posts, cf. a border inspection post at the border of the European Economic Area, designated and approved to carry out health inspections of products from third countries.

An official certificate of origin and health that meets the requirements of legislation on rules for the verification of documents and identification and on the control of the health of products coming from countries outside the European Economic Area must accompany all animal products passing through border crossing points.

The Icelandic Food and Veterinary Authority's disease control permits shall be based on an assessment, which, among other things, takes into account the animal disease status of the exporting country. The implementation of this Article shall be subject to the provisions of the Agreement on the Application of Sanitary and Phytosanitary Measures in Annex 1 A to the Agreement Establishing the World Trade Organization.

Article 5 Raw animal products from producers outside the European Economic Area.

Imported foodstuffs from producers outside the European Economic Area that are classified under product headings: 0202, 0203, 0204, 0207, 0208, 0210, 1601 and 1602,³⁶ cf. Annex I to Customs Act No. 88/2005, which the Icelandic Food and Veterinary Authority has granted permission to import into the country, cf. Article 4, and which have not received adequate heat treatment must be accompanied by the following documents:

- a. An official certificate of origin and health that meets the requirements of legislation on rules for the verification of documents and identification and for monitoring the health of products coming from countries outside the European Economic Area.*
- b. A certificate confirming that the goods have been stored at least -18°C continuously for 30 days prior to customs clearance.*
- c. Certificate or results from an approved laboratory confirming that the products are free from salmonella pathogens. Regarding certificates for the import of chicken meat, chicken eggs, turkey meat, beef and pork, the provisions of Regulation No. 877/2019 and Regulation No. 1155/2019 apply.*

Imported foodstuffs classified under headings 0210 and 1601 and which have undergone one of the following treatments must be accompanied by confirmation that the product has undergone the appropriate treatment as described below:

- a. Heat treatment where the product is in airtight packaging with an Fc value of 3.00 or more or treatment where the core temperature has reached 72°C for 15 seconds or,*
- b. natural fermentation and maturation. The meat must have undergone a treatment involving fermentation or maturation and have an aw value of not more than 0.93 and a pH value of not more than 6.0. Raw ham must have undergone a treatment for at least 190 days and raw ham for at least 140 days or,*
- c. dried meat, processed for storage. The meat must have received a treatment that, in the opinion of the Icelandic Food and Veterinary Authority, is comparable to the treatments stated in points a and b above.*

³⁶ Definition of Customs Tariff numbers from the Icelandic Customs Tariff database:

0202 - Meat of bovine animals, frozen; 0203 - Pork, fresh, chilled or frozen; 0204 - Meat of sheep or goats, fresh, chilled or frozen; 0207 - Meat and edible offal of poultry of heading 0105, fresh, chilled or frozen; 0208 - Other meat and edible offal, fresh, chilled or frozen; 0210 - Meat and edible meat offal, salted, in brine, dried or smoked; edible flours and meals of meat or meat offal; 1601 - Sausages and similar products, of meat, offal, blood or insects; food products made mainly of these products; 1602 - Other meat, meat offal, blood or insects, prepared or preserved.

Imported cheeses classified under tariff codes 0406.2000 and 0406.3000³⁷ must have received appropriate treatment so that the cheese mass has been heat-treated to a minimum of 48°C, the product has been stored for at least 6 months at a temperature not lower than 10°C and with a humidity of less than 36%.

[...]

Article 11 Penalties.

Violations of the provisions of this regulation are punishable by fines or imprisonment for up to 2 years. Cases arising from violations of this regulation shall be handled in accordance with the Criminal Procedure Act.

Animal products and goods covered by this regulation that are imported without authorization shall be destroyed by the Icelandic Food and Veterinary Authority in a secure manner, without compensation and at the importer's expense.³⁸

Regulation (EU) 2017/625 is incorporated into Icelandic law by Icelandic Regulation No 234/2020 on the entry into force of Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities of food, feed etc.³⁹

Regulation (EU) 2016/429 is incorporated into Icelandic law by Icelandic Regulation No 462/2021 on the entry into force of Regulation (EU) 2016/429 on transmissible animal diseases ('Animal Health Law').⁴⁰

Regulation (EU) 2020/692 is incorporated into Icelandic law by Icelandic Regulation No 450/2022 on the entry into force of Delegated Regulation (EU) 2020/692 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for entry into the EEA, and the movement and handling after entry of consignments of certain animals, germinal products and products of animal origin.⁴¹

Regulation (EU) 2022/2292 is incorporated into Icelandic law by Icelandic Regulation No 896/2024 on the entry into force of Commission Delegated Regulation (EU) 2022/2292 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council with regard to requirements for the entry into the EEA of consignments of food-producing animals and certain goods intended for human consumption.⁴²

Regulation (EU) 2021/404 is incorporated into Icelandic law by Icelandic Regulation No 580/2021 on the entry into force of Commission Implementing Regulation (EU) 2021/404 laying down the lists of third countries, territories or zones thereof from which the entry into the EEA of animals, germinal products and products of animal origin is permitted in accordance with Regulation (EU) 2016/429 of the European Parliament and the Council.⁴³

Regulation (EU) 2021/405 is incorporated into Icelandic law by Icelandic Regulation No 581/2021 on the entry into force of Commission Implementing Regulation (EU) 2021/405 laying down the lists of third countries or regions thereof authorised for the entry into the

³⁷ Definition of Customs Tariff numbers from the Icelandic Customs Tariff database:

0406.2000 - *Grated or crumbled cheese of any kind*; 0406.3000 - *Finished cheese, not grated or crumbled*.

³⁸ Unofficial English translation.

³⁹ Entry into force on 20 March 2020.

⁴⁰ Entry into force on 29 April 2021.

⁴¹ Entry into force 12 April 2022.

⁴² Entry into force 24 July 2024.

⁴³ Entry into force 18 May 2021.

EEA of certain animals and goods intended for human consumption in accordance with Regulation (EU) 2017/625 of the European Parliament and of the Council.⁴⁴

5 The Authority's assessment

5.1 Harmonised rules for imports of products of animal origin from third countries

The present case concerns restrictions on movements between Iceland and other EEA States of certain animal products originating in third countries that have already been subject to import controls in another EEA State and have been permitted entry into the internal market. The Authority recalls that the aim of the EEA Agreement, as stated by the EFTA Court, is to promote a continuous and balanced strengthening of trade and economic relations between the Contracting Parties. The EEA is to provide for the fullest possible realisation of the free movement of goods, while at the same time aim to guarantee a high level of health protection and promote the interests of consumers. These aims are reflected in the preamble to the Agreement and laid down in various provisions.⁴⁵

Important public and animal health considerations apply to import of products of animal origin from outside the EEA, as imports may entail a risk of introducing harmful pathogens into the internal market. Consequently, a harmonised legal framework has been implemented in the EU for the import into the internal market of products of animal origin, and their movements and handling after entry, which is continuously updated in light of developing risks and disease situations in third countries. The system is based on the principle that the required checks to verify that consignments of animal products meet the relevant conditions to enter the internal market, take place at the border control post *in the EEA State of first entry*. As is stated in recital (56) of the preamble to the 'OCR'⁴⁶:

"In order to reinforce the efficiency of the Union's official control system, ensure an optimal allocation of official control resources assigned to border controls and facilitate the enforcement of Union agri-food chain legislation, a common integrated system of official controls at border control posts, replacing the current fragmented control frameworks, should be established to handle all consignments which, given the risk they may carry, should be controlled on their entry into the Union."

In Joined Cases E-2/17 and E-3/17 *EFTA Surveillance Authority v. Iceland* the EFTA Court noted that there are certain differences between the TFEU⁴⁷ and the EEA Agreement with regard to agricultural and fishery products, as the EFTA States are not part of the EU's Common Agricultural Policy or Common Fisheries Policy. As for the free movement of goods between the Contracting Parties, it follows from Article 8(3) EEA that the provisions of the Agreement do not apply, unless otherwise specified, to products falling outside Chapters 25 to 97 of the Harmonized Commodity Description and Coding System or to products not specified in Protocol 3. The reason for excluding certain goods from the scope of the EEA Agreement is that the Contracting Parties wished to maintain freedom to decide on their respective regulations for these products unaffected by the rules contained in the EEA Agreement.⁴⁸

Furthermore, the EFTA Court noted that as meat, egg, unpasteurised milk and products processed from meat, egg and unpasteurised milk do not fall within said chapters of the

⁴⁴ Entry into force 18 May 2021.

⁴⁵ Judgment of the EFTA Court in Case E-17/15 *Ferskar kjötvörur ehf. v the Icelandic State*, [2016] EFTA Ct. Rep. 4., paragraph 41.

⁴⁶ 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 ('Official Controls Regulation').

⁴⁷ Treaty of the Functioning of the European Union (TFEU). OJ C 202 7.6.2016, p. 47.

⁴⁸ Judgment of the EFTA Court in Joined Cases E-2/17 and E-3/17 *EFTA Surveillance Authority v. Iceland*, [2017] EFTA Ct. Rep. 727, paragraph 60.

Harmonized Commodity Description and Coding System, with the exceptions provided for by Article 8(3)(b), they fall outside the scope of the EEA Agreement, unless otherwise specified in the Agreement.⁴⁹

In that regard, the EFTA Court highlighted that Chapter 2 of Part II of the EEA Agreement lays down certain provisions concerning agricultural and fisheries products and comprises Articles 17 to 20. Pursuant to Article 17 of the EEA Agreement, the harmonised rules for veterinary import controls, which are the subject of the present case, have been incorporated into Chapter I of Annex I to the EEA Agreement, thereby creating a common border for the imports of animal products between the EEA States and third countries.

The legislation referred to in Section 3 of this letter provides the EEA legal framework for imports into the internal market, and movements after entry, of products of animal origin from third countries. The Authority observes that the provisions of Chapter I of Annex I to the EEA Agreement apply to Iceland, unless an adaptation text states otherwise. It follows, that Iceland has undertaken the obligation to implement and apply the provisions set out in Chapter I of Annex I unless expressly stated otherwise.

In this regard, the Authority recalls the EFTA Court's judgments in Case E-17/15 *Ferskar kjötvörur ehf. v the Icelandic State*⁵⁰ and Joined Cases E-2/17 and E-3/17 *EFTA Surveillance Authority v. Iceland*⁵¹ which concerned the Icelandic additional requirements for animal products subject to harmonised rules on intra-EEA trade. The Authority notes that the judgments concerned Directive 89/662/EEC, which has since been repealed and replaced by the OCR. In Joined Cases E-2/17 and E-3/17 *EFTA Surveillance Authority v. Iceland*, the EFTA Court declared that Iceland had failed to fulfil its obligations arising from Article 5 of Directive 89/662/EEC.

Pursuant to Article 146 of the OCR, Directive 89/662/EEC was repealed with effect from 14 December 2019 and, as set out in Article 146(2), any references to the Directive are to be construed as references to the OCR and to be read in accordance with the correlation table in Annex V.⁵² It follows from the Correlation Table in Annex V of the OCR, that Article 5 of Directive 89/662/EEC correlates to Articles 9 and 137(2) and (3) of the OCR.

The EFTA Court held in Joined Cases E-2/17 and E-3/17 *EFTA Surveillance Authority v. Iceland* that:

“The objective of [Directive 89/662/EEC] could not be realised, nor its effectiveness achieved, if the EEA States were free to go beyond its requirements. Maintaining or adopting national measures other than those expressly provided for in [Directive 89/662/EEC] must therefore be regarded as incompatible with the wording and purpose of the Directive (see Ferskar kjötvörur, cited above, paragraph 66 and case law cited). Consequently, the Directive must be read as exhaustively harmonising the veterinary checks that may take place in the State of destination.”⁵³

⁴⁹ Judgment of the EFTA Court in Joined Cases E-2/17 and E-3/17 *EFTA Surveillance Authority v. Iceland*, paragraph 60.

⁵⁰ Judgment of the EFTA Court in Case E-17/15 *Ferskar kjötvörur ehf. v the Icelandic State*.

⁵¹ Judgment of the EFTA Court in Joined Cases E-2/17 and E-3/17 *EFTA Surveillance Authority v. Iceland*.

⁵² The aim of the OCR is to establish a single legislative framework for the organisation of official controls and as is noted in recital (92) of the preamble to the OCR: “This Regulation covers areas that are already covered in certain acts currently in force. To avoid duplications and to establish a coherent legislative framework, the following acts should be repealed and replaced by this Regulation: Regulation (EC) No 882/2004 and Regulation (EC) No 854/2004 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.”

⁵³ *EFTA Surveillance Authority v. Iceland*, paragraph 66.

The EFTA Court stated that there was no specific EEA context that could lead to a different interpretation of the exhaustively harmonised rules in question.⁵⁴ The Court further noted that the acts contained in Annex I applied fully to Iceland in the absence of adaptations providing exemptions thereto. There was, therefore, no exemption in place for Iceland to apply national measures other than those implementing the EEA measures.

The EEA legal framework is adopted on the basis of a careful risk assessment with the aim of ensuring that products of animal origin coming from third countries are compliant with the EEA rules applicable to animal products, in particular, the rules established to protect human and animal health, as is set out in Article 234(1) of the 'Animal Health Law' and Article 47(1) of the 'OCR'. This legal framework has been made part of the EEA Agreement without any adaptations that would permit the EEA EFTA States to apply different or additional requirements for products of animal origin from third countries that have been released for circulation on the internal market following import controls in another EEA State.⁵⁵

The Authority notes that, by definition, EEA rules on veterinary controls of products imported into the EEA, and their movements after entry, concern products originating in third countries. By incorporating the rules on veterinary import controls and movements of animal products after entry, without any adaptations that limit their application, it must be understood that Iceland has taken on the obligation to apply the harmonised EEA rules for animal products originating in third countries. Furthermore, it cannot be argued that acts concerning veterinary import controls on animal products are limited in their scope following from Article 8(3)(a) EEA. As has been held by the EFTA Court, when legal acts dealing with specific aspects of trade in agriculture and fishery products have been incorporated into the EEA Agreement, as in the present case, this extension of the scope of the EEA is intended to further a continuous and balanced strengthening of trade and economic relations between the Contracting Parties.⁵⁶ As stated by the EFTA Court:

"It follows that in so far as the Contracting Parties have agreed to extend the scope of the Agreement such an extension may limit, as in this case, an EEA/EFTA State's discretion in setting rules on trade in goods."⁵⁷

Consequently, the Authority considers that Iceland is required to apply the EEA rules concerning import, movement and handling after entry of products of animal origin from third countries as they are incorporated into the EEA Agreement, and that there is no scope for subjecting animal products that have been released for circulation on the internal market following import controls in another EEA State to additional import requirements.

The Authority must therefore conclude that, by limiting the exemption from the import ban set out in point (f) of the first paragraph of Article 10 of Act No 25/1993 to products originating within the EEA, and thereby excluding products that are moved to Iceland from another EEA State after having undergone import controls and been released for circulation in the EEA, Iceland has failed to fulfil its obligations arising from Regulation (EU) 2017/625, and in particular Articles 9 and 47 thereof, Regulation (EU) 2016/429, and in particular Article 229 thereof, and Regulation (EU) 2020/692, and in particular Article 3 thereof.

⁵⁴ See *Ferskar kjötvörur*, paragraphs 40 to 49, and *EFTA Surveillance Authority v. Iceland*, paragraphs 59 to 63.

⁵⁵ See Decisions of the EEA Joint Committee No 210/2019 of 27 September 2019 and No 179/2020 of 11 December 2020.

⁵⁶ See *Ferskar kjötvörur*, paragraphs 42 to 45, and *EFTA Surveillance Authority v. Iceland*, paragraphs 60 to 64.

⁵⁷ *Ferskar kjötvörur*, paragraph 49.

5.2 National requirements for intra-EEA movements of animal products – the authorisation system

At the outset, the Authority observes that points (a), (e) and (f) of Article 3 of Icelandic Regulation No 1250/2019 list certain animal products which are prohibited to be imported to Iceland from third countries, cf. Article 10 of Act No 25/1993. These animal products include fresh or raw meat and meat products, raw eggs and raw egg products, unpasteurised milk and dairy products processed from unpasteurised milk. However, it follows from Article 4 of Regulation No 1250/2019 that MAST can authorise the import of the products listed in Article 3, provided that the entry conditions set out in that Regulation are fulfilled. The second subparagraph of Article 4 requires all importers of the relevant products to apply for an authorisation (referred to by Iceland as an ‘import permit’) from MAST and provide the documentation and information as set out in Articles 4 and 5 of that Regulation.

From the information provided by Iceland, there are many consignments of products of animal origin from third countries where the first point of arrival into the EEA is not an Icelandic border control post (BCP). Rather, these consignments are first imported into another EEA State before being moved to Iceland, in what the Icelandic Government refers to as ‘indirect imports’.⁵⁸ The Authority notes that the Icelandic Government has confirmed that an authorisation (import permit) is also a requirement for products originating in third countries that are being ‘indirectly imported’ from another EEA State.⁵⁹ On the website of MAST the following information is provided for operators that wish to ‘indirectly import’ meat and other animal products:

*“Before importing for the first time, you must apply for an import permit from the Icelandic Food and Veterinary Authority [...]. A permit application is processed in accordance with Article 4 of Regulation No. 1250/2019 on the prevention of animal diseases and infected products entering Iceland.
An import permit must be obtained before goods are shipped to Iceland.”⁶⁰*

Additionally, the “*Guidance Notes on Importing meat & dairy products from 3rd countries*”⁶¹ published by MAST, sets out the following for consignments of animal products originating in third countries that are being moved to Iceland from another EEA State:

“The importation of animal products originating from countries outside the EU/EEA that have undergone border control at another EEA country before being imported to Iceland:

⁵⁸ See letter of 6 June 2023. Iceland reports that a total of 294 consignments of meat products originating in third countries were moved to Iceland from another EEA State in what they refer to as ‘indirect imports’ in the years 2020-2023 (Attachment 5 (Doc No 1377806) to letter of 6 June 2023).

⁵⁹ See letter of 6 June 2023 and letter of 25 September 2023 and attachments 6 (Doc No 1400170) and 7 (Doc No 1400168 / IS ref. 2109210) thereto.

⁶⁰ [Dýraafurðir frá EES sem eiga uppruna í 3. ríkjum | Matvælastofnun](#) (Downloaded 10 June 2025, Doc No 1542530). Unofficial English translation. On the processing of the permit applications, the Authority notes that in one example provided by Iceland of an import permit for meat from the Netherlands, that originated in Uruguay, the application was submitted on 9 September 2021 while the import permit was finally granted on 23 February 2022. See Attachment 7 (Doc No 1400168 / IS ref. 2109210) to Letter of 25 September 2023.

⁶¹ [Guidance Notes: Importing meat & dairy products from 3rd countries. Icelandic Food and Veterinary Authority](#), Doc No 1533332. See also [Leiðbeiningar fyrir eftirlitsaðila: Eftirlit með innflutningi á fersku hráu kjöti og eggjum frá EES svæðum](#) (e. Guidelines for competent authorities: Controls on imports of fresh meat and eggs from EEA States, Downloaded 21 February 2025, Doc No 1592987), page. 3/29, where it states “Imports of meat produced in countries outside the EEA continue to require a permit. Animal products (meat products/dairy products/eggs) produced in a third country but imported to Iceland via the EU/EEA are subject to the same conditions as products imported to Iceland directly from a third country, so an import permit must also be applied for from the Icelandic Food and Veterinary Authority.” Unofficial English translation.

The products/consignments must be notified to MAST upon import to Iceland. This is done by submitting an application in the MAST portal (þjónustugátt), application no. 4.33⁶² for raw meat/meat products and 4.32⁶³ for other animal products. The importing party must be registered in Iceland and have an Icelandic [national registration number].”

To illustrate, in an example provided by Iceland of an authorisation (import permit) for the movement from the Netherlands to Iceland of frozen beef originating in Uruguay,⁶⁴ the following is stated:

“When applying for the first import of a product that falls under the above definition [raw and lightly salted slaughter products originating in countries that are not contracting parties to the Agreement on the European Economic Area], the importer must provide the Icelandic Food and Veterinary Authority with the necessary information about the product for review and approval before the product is shipped from the exporting country.[...]

Taking into account the above data and the risk mitigation measures provided for in Regulation No. 1250/2019, the Icelandic Food and Veterinary Authority hereby authorizes [the importer] to import beef from the Netherlands produced by [establishment] in Uruguay, provided that the following conditions are met:

- *The production of the products must be in full compliance with applicable European Union requirements.*
- *Imports must be reported to the Icelandic Food and Veterinary Authority’s service portal and the following documents submitted:*
 - 1) *Copy of the Common Health Entry Document (CHED)*
 - 2) *A certificate that confirms that the products have been stored at at least -18°C continuously for 30 days prior to customs clearance.*
 - 3) *Certificate or results from an approved laboratory confirming that the products are free from salmonella pathogens. Regarding certificates for the import of beef, the provisions of [Icelandic] Regulation 1155/2019 apply.*
 - 4) *Invoice.”*

Furthermore, the fifth subparagraph of Article 4 of Icelandic Regulation No 1250/2019 sets out that the granting of import authorisations for animal products from third countries is to be based on an assessment, which, among other things, takes into account the animal disease status of the exporting country.

From the information provided by Iceland, such risk assessments are carried out when MAST considers it necessary to verify that the legislative requirements adequately ensure that the import of the relevant product does not threaten the health of animals in Iceland.⁶⁵ However, according to the information provided, there are no established criteria for what would necessitate a risk assessment to be carried out, such as a known outbreak of animal disease in the country of origin or information on emerging risks.⁶⁶

⁶² See 4.33 *Tilkynning um innflutning a hraum ohitamedhöndludum kjotvorum med uppruna i tridja riki sem fluttar eru til Islands i gegnum ESB/EES*, downloaded on 14 November 2025, Doc No 1574243.

⁶³ See 4.32 *Tilkynning um innflutning á eftirlitsskyldum vörum/afurðum sem ekki skulu skráðar í TRACES*, downloaded on 21 February 2025, Doc No 1574165.

⁶⁴ Attachment 7 (Doc No 1400168 / IS ref. 2109210) to Letter of 25 September 2023. Unofficial English translation.

⁶⁵ Letter of 6 June 2023.

⁶⁶ The Authority observes that this does not meet the criteria identified by the EFTA Court for risk assessments carried out under the Animal Health Law to be “*objective, independent and transparent and must not be based on a mere hypothetical risk*”, see Judgment of the EFTA Court in Case E-8/24 *Nordsjø Fjordbruk AS and The Norwegian State*, paragraph 57.

As has been noted, the EEA legal framework is adopted on the basis of a careful risk assessment with the aim of ensuring that products of animal origin coming from third countries are compliant with the EEA rules for public and animal health. To ensure that this objective is achieved, the rules setting out the entry conditions for animal products are continuously updated in light of developing risks and disease situations in third countries. Such safeguard and protective measures must be immediately implemented across the EEA to ensure that unsafe products do not enter the internal market.⁶⁷

The Authority observes that the requirement of the fifth subparagraph of Article 4 of Icelandic Regulation No 1250/2019 does not take into consideration that in the listing of third countries and authorised products under Regulations (EU) 2021/404 and (EU) 2021/405, a risk assessment has already taken place. In an example provided by Iceland of an import permit authorising an operator to import beef originating in Uruguay from the Netherlands,⁶⁸ the risk assessment by the Icelandic authorities refers to, *i.a.*, an audit done by the European Commission on meat production in Uruguay. However, the risk assessment does not take into consideration that the outcomes of that audit would have already been reflected in the EEA rules listing the third countries and areas thereof from which bovine meat is allowed entry into the EEA.

The Authority notes that the authorisation system described above is substantively the same type of measure that the EFTA Court, in Joined Cases E-2/17 and E-3/17, held to be incompatible with the exhaustively harmonised EEA rules on veterinary controls. The EFTA Court found that:

“[...] the requirement to apply for an import permit and to submit certain certificates are administrative formalities. They are therefore veterinary checks within the meaning of [Directive 89/662/EEC]”⁶⁹

The EFTA Court also concluded that:

“[...] it is not compatible with the provisions of [Directive 89/662/EEC] for an EEA State to enact rules demanding that an importer of raw meat products applies for a special permit before the products are imported, and requiring the submission of a certificate confirming that the meat has been stored frozen for a certain period prior to customs clearance.”⁷⁰

Although Joined Cases E-2/17 and E-3/17 *EFTA Surveillance Authority v Iceland* and Case E-17/15 *Ferskar kjötvörur* concerned fresh meat and other animal products produced within the EEA, the same reasoning applies when a materially identical authorisation requirement is imposed on consignments originating in third countries after they have lawfully entered the internal market and been released for free circulation. The EFTA Court held that EEA rules establish an exhaustively harmonised system of veterinary controls which does not permit the EEA State of destination to impose additional requirements or procedures on products in free movement within the EEA.

Consequently, once products have undergone the harmonised veterinary import controls in the EEA State of first entry, the EEA State of destination is precluded from imposing any additional requirements or procedures unless expressly authorised under EEA law. In the

⁶⁷ Regulations (EU) 2021/404 and (EU) 2021/405, and their amendments, are subject to the simplified procedure under the EEA Agreement, which obliges the EEA EFTA States to apply corresponding measures simultaneously with the EU Member States.

⁶⁸ Attachment 7 (Doc No 1400168 / IS ref. 2109210) to Letter of 25 September 2023.

⁶⁹ Joined Cases E-2/17 and E-3/17 *EFTA Surveillance Authority v Iceland*, paragraph 81. Directive 89/662/EEC was repealed and replaced by Regulation (EU) 2017/625.

⁷⁰ *Ferskar kjötvörur*, paragraph 77.

absence of adaptations providing for such discretion, this applies irrespective of whether the goods were produced within the EEA or imported from third countries.

The Authority further recalls that the correlation table in Annex V to the OCR, which repealed and replaced Directive 89/662/EEC, confirms that the relevant provisions of Directive 89/662/EEC correlate to provisions now set out in the OCR. Article 9(1) of the OCR⁷¹ sets out that competent authorities are to perform official controls regularly, on a risk basis and with appropriate frequency. As regards controls by EEA States of destination, it follows from Article 9(7) of the OCR that the EEA State of destination may only require operators that have goods delivered to them from another EEA State *to report the arrival* of such animals or goods, *to the extent strictly necessary* for the organisation of the official controls.

Furthermore, the Authority notes that the EEA import control system is based on the full inspection of the imported goods at the point of first entry into the EEA. Chapter V of Section II of the OCR outlines the rules for official controls that are to take place at border control posts (“BCPs”) for animals and goods. Pursuant to Article 47 of the OCR, competent authorities are to perform official controls at the BCPs *of first arrival into the EEA* on each consignment of products of animal origin. It follows, that consignments of animal products moved to Iceland from other EEA States will already have undergone the controls required by the OCR at the BCP of first arrival. Pursuant to EEA rules, the controls will have verified that the products in question fulfil the EEA entry conditions and that they are accompanied by the necessary documents.⁷² Against this background, the Authority finds that an obligation to obtain an authorisation (import permit) and to submit additional documentation *before* products can be moved from another EEA State to Iceland, cannot be equated with the *reporting of the arrival* of products that authorities can require under Article 9(7) of the OCR.⁷³ An authorisation requirement such as the one at issue is more restrictive than a mere notification system.⁷⁴

The Authority therefore submits that, by requiring operators to apply for an authorisation (import permit) before certain animal products can be moved to Iceland from another EEA State, Iceland is imposing veterinary checks on consignments of animal products from third countries that have already been controlled by competent authorities in the EEA State of first entry. Such an authorisation system is incompatible with the harmonised requirements on import controls and movements after entry of the OCR and the Animal Health Law, and its subsequent legislation.⁷⁵

Accordingly, the Authority concludes that, by maintaining in force the authorisation system set out in the second and fifth subparagraphs of Article 4 of Regulation No 1250/2019 to

⁷¹ 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 (‘Official Controls Regulation’).

⁷² In this regard the Authority highlights the following that was observed by the Icelandic Government in the risk assessment done for imports from the Netherlands of poultry meat originating in Ukraine (Attachment 6 (Doc No 1377808) to Letter of 6 June 2023):

“Infectious agents of various serious poultry diseases can be brought to Iceland through the import of raw poultry meat. This applies equally to whether the meat originates in the European Union or in Ukraine. However, meat that is marketed in the European Union, regardless of its origin, is unlikely to contain avian influenza viruses and Newcastle disease viruses due to special requirements in EU legislation in this regard.” Unofficial English translation.

⁷³ “7. To the extent strictly necessary for the organisation of the official controls, [EEA] States of destination may require operators that have animals or goods delivered to them from another [EEA] State to report the arrival of such animals or goods.”

⁷⁴ *Ferskar kjötvörur*, paragraph 71.

⁷⁵ See for comparison, Joined Cases E-2/17 and E-3/17 *EFTA Surveillance Authority v Iceland*, paragraph 82. Article 5 of the former Directive 89/662/EEC has been substantially replaced by Articles 9 and 137 of the OCR.

products originating in third countries that are being moved to Iceland following import controls in another EEA State, Iceland has failed to fulfil its obligations arising from the harmonised EEA rules on veterinary import controls set out in Regulation (EU) 2017/625, and especially Articles 9 and 47 thereof.

5.3 National entry conditions applied to fresh or raw meat and meat products being moved from another EEA State – the freezing obligation

Animal products from third countries must fulfil both the public health and animal health requirements set out in EEA law to be allowed entry into the EEA. Regulations (EU) 2020/692 and (EU) 2022/2292 set out the detailed entry conditions for products of animal origin, including the measures to be applied to mitigate risks associated with the products. As is stated in recital (64) of the preamble to Regulation (EU) 2020/692:

“Products of animal origin can transmit disease agents to animals and products. The animal health risk linked to fresh and raw products of animal origin is obviously higher than those that have been processed and treated. Therefore the animal health requirements for the third country or territory of origin of fresh meat, raw milk, colostrum and colostrum-based products should be stricter than those for meat products and dairy products. However, the treatment applied to those treated products needs to be effective in order to mitigate the risk they pose depending on the species of origin of the product and the country or territory of origin.”

As is noted in Section 3 above, EEA rules entail strict entry conditions for the imports of fresh or raw meat from third countries which take into account several factors, such as the disease situation in the third country or region that are relevant for the different categories of meat, the controls on pharmacologically active substances in the country of origin, and the establishments of production and dispatch. Regulation (EU) 2021/404 lists the third countries and regions thereof from which the imports of fresh or raw meat are permitted.

The Authority notes that point (a) of Article 3 of Icelandic Regulation No 1250/2019, prohibits the import of all categories of raw meat, processed or unprocessed, chilled or frozen, from any third country, cf. Article 10 of Act No. 25/1993, unless it has been heat treated to a core temperature of 72°C for 15 seconds or “*other comparable treatment in the opinion of the Icelandic Food and Veterinary Authority*”. However, point (b) of the first subparagraph of Article 5 of Regulation No 1250/2019 allows MAST to provide an exemption from this requirement if a certificate is provided confirming that the products have been “*stored at at least -18°C continuously for 30 days prior to customs clearance*”. This ‘freezing obligation’ is made applicable to all fresh or raw meat of any category from any third country, whether imported directly or ‘indirectly’ via another EEA State. More specifically, the fresh or raw meat and meat products covered by the ‘freezing obligation’ are defined in the first subparagraph of Article 5 of Regulation No 1250/2019 as products *classified under the product headings: 0202, 0203, 0204, 0207, 0208, 0210, 1601 and 1602, cf. Annex I to Customs Act No. 88/2005.*⁷⁶

With reference to the legislation cited in Section 3, the Authority observes that freezing is not recognised as a risk mitigating treatment for meat products listed in Annex XXVI to Regulation (EU) 2020/692, cf. Article 121(1)(c)(i), nor is it stipulated as an entry condition for fresh or raw meat set out in Title II of Part IV of Regulation (EU) 2020/692.⁷⁷ As is noted in the definition for ‘fresh meat’ in Article 3(41) of Regulation (EU) 2020/692, freezing is considered under EEA rules as a form of preservation of fresh meat.

The Authority recalls that the EFTA Court has already addressed the ‘freezing obligation’ for fresh or raw meat in its judgments in Case E-17/15 *Ferskar kjötvörur ehf. v the Icelandic*

⁷⁶ See footnote 36 above.

⁷⁷ See the provisions set out in Title 2 of Part IV of Regulation (EU) 2020/692.

*State*⁷⁸ and Joined Cases E-2/17 and E-3/17 *EFTA Surveillance Authority v. Iceland*.⁷⁹ The EFTA Court found that in the absence of a provision under EEA law making freezing of meat a legitimate requirement for veterinary purposes between EEA States, national rules cannot require a certificate to confirm that the meat has been frozen for a specified period of time. As stated by the EFTA Court:

“Article 5(c) of the Icelandic Regulation [No 448/2012⁸⁰] requires the importer to submit a certificate confirming that the products have been stored at a temperature of at least -18°C for a month prior to customs clearance. However, EEA law makes no provision for the freezing of meat as a legitimate requirement for veterinary purposes between EEA States and does not therefore allow for any such requirement to be made under national law. As a consequence, national law may not require a certificate to verify the freezing of meat”⁸¹

While the findings of the EFTA Court concerned fresh and raw meat produced within the EEA, the same reasoning applies where a materially identical ‘freezing obligation’ is imposed on consignments of meat originating in third countries after they have lawfully entered the internal market and been released for free circulation. As the EFTA Court has held, in the absence of a specific provision making the freezing of meat a legitimate requirement for veterinary purposes between EEA States, such an obligation cannot be maintained under national law.

The Authority notes that, despite there being no provision under EEA law making the *freezing of meat a legitimate requirement for veterinary purposes* for the import and movements of animal products, the Icelandic Government imposes such a requirement on consignments of fresh or raw meat originating in third countries that are being moved to Iceland from another EEA State. The stated aim of this requirement is risk mitigation. As is noted by the Icelandic authorities in an example provided of an import permit for raw bovine meat from Uruguay that had already been imported to the Netherlands:

“In addition to the conditions for import into the EU/EEA, Regulation No. 1250/2019 stipulates that the products must be frozen for at least 30 days prior to customs clearance.

Taking into account the above data and the risk mitigation measures provided for in Regulation No. 1250/2019, the Icelandic Food and Veterinary Authority hereby authorises [...]”⁸²

Despite the supposed aim of the ‘freezing obligation’, the Authority observes that the Icelandic Government has recognised the lack of effectiveness of the ‘freezing obligation’ as a method for risk mitigation. In the preparatory documents accompanying the bill for the Icelandic amending Act No 93/2019,⁸³ which amended Act No 25/1993 to abolish the import

⁷⁸ *Ferskar kjötvörur ehf*, paragraph 72.

⁷⁹ *EFTA Surveillance Authority v. Iceland*, paragraph 84.

⁸⁰ Icelandic Regulation No 448/2012 was repealed and replaced by Icelandic Regulation No 1250/2019.

⁸¹ *EFTA Surveillance Authority v. Iceland*, paragraph 84.

⁸² Attachment 7 (Doc No 1400168 / IS ref. 2109210) to Letter of 25 September 2023. Import permit dated 23 February 2022 for bovine meat originating in Uruguay that was being moved to Iceland from the Netherlands where it had already undergone the required veterinary import controls to verify that it met the EEA entry conditions. The Authority notes that at the date of application of the import permit, 9 September 2021, Annex XIII to Regulation (EU) 2021/404 listed Uruguay as authorised for imports of fresh bovine meat, provided that it fulfilled the conditions set out in point 3.1(c) of Part B of Annex XXV to Delegated Regulation (EU) 2020/692 regarding the maturation and de-boning of the fresh meat.

⁸³ *Preparatory documents accompanying the bill to amend the act on animal diseases and preventative measures against them, the act on food and the act on controls on feed, fertilisers and seeds*. 149th Legislative Session 2018–2019. Parliamentary Document 1217, Case 766. Government Bill.

ban and freezing obligation of fresh meat originating within the EEA, the following is concluded:

“It is the opinion of the Chief Veterinarian and the Chief Epidemiologist that removing the freezing obligation will have little to no impact on viral and bacterial diseases in animals but could have an impact on parasite infection.”⁸⁴

The Authority finds that, as it presently stands, there is no provision under harmonised EEA law which allows for national measures requiring the freezing of fresh or raw meat from third countries as a condition for the movement of such products between the EEA States. Consequently, the Authority concludes that there is no basis under EEA law to maintain in place a requirement for a certificate confirming the freezing of fresh or raw meat originating in third countries, as set out in point (b) of the first subparagraph of Article 5 of Regulation No 1250/2019, for products that have undergone import controls in another EEA State and where it has been verified that they meet the EEA entry conditions.

As such, the Authority submits that, by maintaining in force the requirement for operators to present a certificate to prove that fresh or raw meat being moved to Iceland from another EEA State has been frozen for 30 days, Iceland is imposing veterinary checks on consignments of products of animal origin from third countries that have already been controlled in other EEA States. Maintaining in force this ‘freezing obligation’ is incompatible with the harmonised requirements on import controls and movements after entry of animal products set out in the OCR⁸⁵ and the Animal Health Law⁸⁶, and its subsequent legislation.

Accordingly, the Authority concludes that, by maintaining in place the requirement of point (b) of the first subparagraph of Article 5 of Regulation No 1250/2019, to submit a certificate to prove that fresh or raw meat being moved to Iceland from another EEA State has been frozen for 30 days, Iceland has failed to fulfil its obligations arising from the harmonised EEA rules on veterinary import controls set out in Regulation (EU) 2017/625, and in particular Articles 9 and 47 thereof.

Furthermore, the Authority submits that the requirement of point (b) of the first subparagraph of Article 5 of Regulation No 1250/2019, to submit a certificate to prove that fresh or raw meat being moved to Iceland from another EEA State has been frozen for 30 days, is incompatible with the entry conditions set out for animal products in Regulations (EU) 2016/429, especially Article 229 thereof, and (EU) 2020/692, and in particular Article 3 thereof.

5.4 Scope for national measures

As was described in Sections 3 and 5.1 above, the EEA rules concerning import, movement and handling after entry of products of animal origin from third countries are exhaustively harmonised. Consequently, the scope for adopting national measures within the remit of the legal framework are limited and clearly defined.

The Authority recalls that it follows from Article 234 of the Animal Health Law⁸⁷ that EEA States may only apply national rules to set out animal health requirements for species and

⁸⁴ Ibid, page 23. Unofficial English translation.

⁸⁵ 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 (‘Official Controls Regulation’).

⁸⁶ Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health (‘Animal Health Law’).

⁸⁷ Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health (‘Animal Health Law’).

categories of products of animal origin that are *not covered* by Regulation (EU) 2020/692, and if they comply with the Animal Health Law. The Authority observes that, all consignments of products of animal origin from third countries moved to Iceland in the years 2020-2023 from another EEA State,⁸⁸ were products covered by Regulation (EU) 2020/692. Despite this, the national authorisation requirements and the 'freezing obligation', as set out in the second subparagraph of Articles 4 and point (b) of the first subparagraph of Article 5 of Icelandic Regulation No 1250/2019 respectively, are applied to those consignments.

The Authority further notes that, Article 260 of the Animal Health Law requires competent authorities of the EEA States to take immediate emergency measures if they become aware of animals or products originating from a third country or territory that are likely to constitute a serious risk in the EEA due to possible infection or contamination by listed diseases or emerging diseases or hazards. In such cases, the competent authorities are to immediately inform the Authority and the other EEA States of the identified risks, and the national measures taken.

Iceland has confirmed that the national measures applied to products of animal origin from third countries that are being moved to Iceland from another EEA State, i.e. the prior authorisation requirement set out in Article 4 of Regulation No 1250/2019 and the 'freezing obligation' set out in point (b) of the first subparagraph of Article 5 of Regulation No 1250/2019, have never been notified as emergency measures under Article 260 of the Animal Health Law.⁸⁹ Additionally, the Authority must conclude that the general application of the 'freezing obligation' to all fresh and raw meat products regardless of any identified risks associated with the species, country or region of origin, does not meet the requirements set out for emergency measures that can be taken to prevent the spread of diseases or hazards under Article 260 of the Animal Health Law.

The Authority therefore submits that, as it presently stands, there is no scope within EEA law to maintain in place the requirements set out in Article 4 and point (b) of the first subparagraph of Article 5 of Regulation No 1250/2019 for the movement to Iceland of animal products originating in third countries that have been released for circulation following import controls in another EEA State.

6 Conclusion

Accordingly, taking into account the relevant EEA law as set out in Section 3 above, and on the basis of the assessment in Section 5, and as its information presently stands, the Authority must conclude as follows:

1. By limiting the exemption from the import ban set out in point (f) of the first paragraph of Article 10 of Act No 25/1993 to products originating within the EEA, and thereby excluding products that are moved to Iceland from another EEA State after having undergone import controls and been released for circulation in the EEA, Iceland has failed to fulfil its obligations arising from Regulation (EU) 2017/625, as amended and as adapted to the EEA Agreement under its Protocol 1 and Annex I, and in particular Articles 9 and 47 thereof, Regulation (EU) 2016/429, as amended and as adapted to the EEA Agreement under its Protocol 1 and Annex I, and in particular Article 229 thereof, and Regulation (EU) 2020/692, as amended and as adapted to the EEA Agreement under its Protocol 1 and Annex I, and in particular Article 3 thereof.
2. By maintaining in force the authorisation system set out in the second and fifth subparagraphs of Article 4 of Icelandic Regulation No 1250/2019 for the movement to Iceland of certain animal products originating in third countries, as defined in points (a), (e) and (f) of Article 3 of Icelandic Regulation No 1250/2019, that have

⁸⁸ Letters of 6 June 2023 and 6 June 2024.

⁸⁹ Letter of 25 September 2023.

undergone import controls in another EEA State and have been permitted entry into the EEA, Iceland has failed to fulfil its obligations arising from Regulation (EU) 2017/625, as amended and as adapted to the EEA Agreement under its Protocol 1 and Annex I, and in particular Articles 9 and 47 thereof.

3. By maintaining in force the 'freezing obligation' set out in point (b) of the first subparagraph of Article 5 of Icelandic Regulation No 1250/2019 for the movement to Iceland of fresh and raw meat products originating in third countries, as defined in the first subparagraph of Article 5 of Icelandic Regulation No 1250/2019, that have undergone import controls in another EEA State and have been permitted entry into the EEA, Iceland has failed to fulfil its obligations arising from Regulation (EU) 2017/625 as amended and as adapted to the EEA Agreement under its Protocol 1 and Annex I, and in particular Articles 9 and 47 thereof, Regulation (EU) 2016/429, as amended and as adapted to the EEA Agreement under its Protocol 1 and Annex I, and in particular Article 229 thereof, and Regulation (EU) 2020/692, as amended and as adapted to the EEA Agreement under its Protocol 1 and Annex I, and in particular Article 3 thereof.

In these circumstances, and acting under Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, the Authority requests that the Icelandic Government submits its observations on the content of this letter *within two months* of its receipt.

After the time limit has expired, the Authority will consider, in the light of any observations received from the Icelandic Government, whether to deliver a reasoned opinion in accordance with Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.

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