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COUNCIL DIRECTIVE 95/53/EC

of 25 October 1995

fixing the principles governing the organization of official inspections in the field of animal nutrition

(OJ L 265, 8.11.1995, p. 17)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Council Directive 1999/20/EC of 22 March 1999	L 80	20	25.3.1999
►**M2**	Directive 2000/77/EC of the European Parliament and of the Council of 14 December 2000	L 333	81	29.12.2000
►**M3**	Directive 2001/46/EC of the European Parliament and of the Council of 23 July 2001	L 234	55	1.9.2001

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COUNCIL DIRECTIVE 95/53/EC

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fixing the principles governing the organization of official inspections in the field of animal nutrition

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission [1],

Having regard to the opinion of the European Parliament [2],

Having regard to the opinion of the Economic and Social Committee [3],

Whereas animal nutrition has become a very important aspect of Community agriculture;

Whereas fixing at Community level the principles governing the organization of official inspections in the field of animal nutrition helps safeguard animal health, human health and the environment, ensure the fairness of commercial transactions and protect the interests of consumers;

Whereas rules must be laid down for the organization of official inspections of feedingstuffs in view of the very wide range of products used, the large volume of consignments of goods commercially traded, the integrated structure of the sector and, in particular, the need to ensure both the wholesomeness of the feedingstuff to be consumed by animals and the quality of the foodstuff;

Whereas, in order to attain the desired objective, the rules laid down in this Directive must cover all products and substances used in animal nutrition in the Community; whereas inspections should therefore be organized to cover products imported into or released for free circulation in the Community;

Whereas the definition of 'competent authority' does not prevent Member States from delegating in whole or in part the responsibility of the authority for the purpose of carrying out officials checks in the field of animal nutrition, provided that inspections continue to be carried out under their authority;

Whereas, to be effective, inspections must be carried out regularly; whereas they must not be restricted as to the subject, stage or moment at which they are carried out; whereas they must take the most suitable forms to ensure their effectiveness;

Whereas, in order to ensure that inspection procedures are not evaded, it is necessary to provide that Member States shall not exclude a product from appropriate inspection on the grounds that it is intended for export outside the Community;

Whereas products from third countries must be subject to random documentary and identity checks on entry into the Community territory;

Whereas provision should be made for Member States to have the possibility of designating entry points in order to ensure the efficient conduct of inspections of imported products, without prejudice to the provisions laid down in other relevant Community legislation, in particular Directives 90/675/EEC [4] and 92/118/EEC [5] concerning veterinary checks and animal health and public health requirements;

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(1) OJ No C 313, 19. 11. 1993, p. 10.
(2) OJ No C 128, 9. 5. 1994, p. 97.
(3) OJ No C 127, 7. 5. 1994, p. 10.
(4) OJ No L 373, 31. 12. 1990, p. 1. Directive as last amended by Regulation (EEC) No 1601/92 (OJ No L 173, 27. 6. 1992, p. 13).
(5) OJ No L 62, 15. 3. 1993, p. 49. Directive as last amended by Commission Decision 94/723/EC (OJ No L 288, 9. 11. 1994, p. 48).

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Whereas principles should be laid down to govern the organization of and steps to be taken following the physical checks to be carried out by the competent authorities;

Whereas, as regards intra-Community trade, emphasis should be placed on the checks to be carried out at the place of origin; whereas, however, in the event of a presumption of irregularity, the check may, exceptionally, be carried out while the products are in transit or at the place of destination;

Whereas this solution requires greater confidence in the inspections carried out by the Member State of dispatch; whereas the Member State of dispatch must ensure that such checks are carried out in an appropriate fashion;

Whereas provision should be made for action to be taken where a check discloses that a consignment is irregular;

Whereas, for reasons of effectiveness, it is for the Member State of dispatch to ensure that the products comply with Community rules; whereas, in the event of infringements, the Commission must be able to take action, in cooperation with the Member States concerned, particularly by making on-the-spot visits and adopting measures appropriate to the situation;

Whereas, in accordance with Council Directive 70/373/EEC [1], all methods of sampling and methods of analysis necessary for carrying out official checks on feedingstuffs should be adopted at Community level;

Whereas, although undertakings should not have the right to oppose inspections, their legitimate rights must nevertheless be preserved, in particular the right to manufacturing secrecy and the right of appeal;

Whereas the authorities responsible for inspections may differ from one Member State to another; whereas it is therefore desirable to publish a list of the competent authorities in the field in each Member State, with an indication of the territories for which they are competent and the laboratories authorized to carry out analyses in connection with such inspections;

Whereas, although it is primarily for the Member States to lay down their inspection programmes, it is necessary, with a view to the proper functioning of the internal market, to arrange also for coordinated programmes at Community level;

Whereas the Commission should be entrusted with the task of adopting measures for applying this Directive,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I

INTRODUCTORY PROVISIONS

Article 1

1. This Directive sets out the principles governing the organization of official inspections in the field of animal nutrition.

2. This Directive shall apply without prejudice to more specific Community rules, in particular Community customs rules and Community veterinary rules.

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(1) OJ No L 170, 3. 8. 1970, p. 2. Directive as last amended by Regulation (EEC) No 3768/85 (OJ No L 362, 31. 12. 1985, p. 8).

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Article 2

1. For the purposes of this Directive the following definitions shall apply:

(a) 'official inspection in the field of animal nutrition', hereinafter called 'inspection', means an inspection by the competent authorities to check compliance with the Community provisions laid down in:

— Council Directive 70/524/EEC of 23 November 1970 concerning additives in feedingstuffs [1],

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— Council Directive 1999/29/EC of 22 April 1999 on undesirable substances and products in animal nutrition [2],

▼M1

— Council Directive 96/25/EC of 29 April 1996 on the circulation of feed materials, amending Directives 70/524/EEC, 74/63/EEC, 82/471/EEC and 93/74/EEC and repealing Directive 77/101/EEC,

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— Council Directive 79/373/EEC of 2 April 1979 on the marketing of compound feedingstuffs [3],

— Council Directive 82/471/EEC of 30 June 1982 concerning certain products used in animal nutrition [4],

— Council Directive 93/74/EEC of 13 September 1993 on feedingstuffs intended for particular nutritional purposes [5], and

— any other rules in the field of animal nutrition in which provision is made for official inspections to be carried out in accordance with the provisions of this Directive;

(b) 'documentary check' means verification of the documents accompanying a product or of any other information provided on the product;

(c) 'identity check' means verification, by visual inspection only, for consistency between the documents, the labelling and the products;

(d) 'physical check' means a check of the product itself, including, where appropriate, sampling and laboratory testing;

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(e) 'product intended for animal nutrition' or 'product': animal feed or any substance used in animal nutrition;

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(f) 'competent authority' means the Member State's authority responsible for carrying out official checks in the field of animal nutrition;

(g) 'establishment' means any undertaking which produces or manufactures a product or which holds the product at an intermediate stage before marketing or which markets the products;

▼M3

(h) 'putting into circulation' or 'circulation': the holding of any product intended for animal nutrition for the purposes of sale, including offering for sale, or any other form of transfer, whether free or not, to third parties, and the sale and other forms of transfer themselves.

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2. The definitions given in the Community legislation relating to the field of animal nutrition shall apply where appropriate.

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[1] OJ No L 270, 14. 12. 1970. Directive as last amended by Commission Directive 94/77/EC (OJ No L 350, 31. 12. 1994, p. 113).

[2] OJ L 115, 4.5.1999, p. 32.

[3] OJ No L 86, 6. 4. 1979, p. 30. Directive as last amended by Directive 93/74/EEC (OJ No L 237, 22. 9. 1993, p. 23).

[4] OJ No L 213, 21. 7. 1982, p. 8. Directive as last amended by Directive 93/74/EEC (OJ No L 237, 22. 9. 1993, p. 23).

[5] OJ No L 237, 22. 9. 1993, p. 23.

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Article 3

1. Member States shall take all the necessary measures to ensure that inspections are carried out in accordance with this Directive.

2. Member States shall not exclude a product from appropriate inspection on the grounds that it is intended for export.

Article 4

1. Inspections shall be carried out:

(a) at regular intervals;

(b) where non-compliance is suspected;

(c) using means proportionate to the desired objective and particularly in the light of the risks and of experience gained.

2. Inspections shall cover all stages of production and manufacture, the intermediate stages prior to marketing, including importation, and the use of products.

The competent authority shall select the stage or stages most appropriate for the intended purpose of the inspection.

3. As a general rule, inspections shall be carried out without prior warning.

4. Inspections shall also cover uses prohibited in relation to animal nutrition.

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Article 4a

1. Member States shall draw up contingency operational plans setting out measures to be implemented without delay where a product for animal nutrition has been found to pose a serious risk to human health, animal health or to the environment and specifying powers and responsibilities as well as channels for transmitting information. Member States shall review these plans as appropriate, particularly in the light of changes in the organisation of the inspection services and of the experience gained, including that gained in any simulation exercises.

2. Member States shall forward to the Commission the contingency operational plans drawn up by them and also any amendments thereto.

3. The Commission shall examine the plans and suggest to the Member States concerned any amendment which would help to ensure that Member States' contingency operation plans offer equivalent guarantees of efficiency. Where necessary in order to achieve that objective the Commission, acting in accordance with the procedure provided for in Article 23, may issue guidelines to harmonise the contingency operational plans.

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CHAPTER II

IMPORTS FROM THIRD COUNTRIES

Article 5

Notwithstanding Article 4 (1), Member States shall take all the necessary steps to ensure that when products are introduced into the customs territory of the Community they are subjected by the competent authorities to a documentary check of each batch and to random identity checks in order to verify:

— their nature,

— their origin,

— their geographical destination,

so as determine the customs procedure applicable to them.