COUNCIL DIRECTIVE 93/118/EC

of 22 December 1993

amending Directive 85/73/EEC on the financing of health inspections and controls of fresh meat and poultrymeat

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 products are included in the list of products contained in Annex II to the Treaty; whereas the marketing of those products constitutes a significant source of income for a large part of the agricultural population;

Whereas Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market [4], laid down in particular the requirements for veterinary checks to be carried out in the Member State of dispatch for a large number of animal products;

Whereas Council Directive 90/675/EEC of 10 December 1990 laying down the principles governing the organization of veterinary checks on products entering the Community from third countries [5] laid down in particular the requirements for checks to be carried out on animal products from third countries;

Whereas Directive 85/73/EEC [6] laid down harmonized rules on the financing of health inspections and controls in relation to fresh meat of certain animal species; whereas that Directive lays down in particular that a fee is to be collected for inspections and controls;

Whereas Directive 85/73/EEC should be amended to take account of the new provisions concerning controls;

Whereas the principles laid down by Directive 85/73/EEC, and in particular the principle of charging fees, should be extended; whereas such an extension is justified by the concern to ensure that the control arrangements operate effectively and distortions of competition are avoided;

Whereas the necessary rules should now be laid down to ensure the financing of the checks on meat covered by Directives 64/433/EEC [7], 71/118/EEC [8] and 72/462/EEC [9];

Whereas for the other products of animal origin detailed rules will be established at a later date taking account of the specific nature of the products to be checked, the nature of the checks to be made and the advisability, having regard to the rules of competition, of setting a Community fee;

Whereas the Community provisions on the matter must be presented homogeneously,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 85/73/EEC is hereby amended as follows:

1. The title shall be replaced by the following:

   'Council Directive 85/73/EEC on the financing of veterinary inspections and controls of animal products covered by Annex A to Directive 89/662/EEC and by Directive 90/675/EEC'.

2. Article 1 shall read as follows:

   'Article 1

   1. The Member States shall ensure

   — the collection of a Community fee for the costs occasioned by health inspections and controls on the meat referred to in Directives 64/433/EEC, 72/462/EEC and 71/118/EEC, including the expenses entailed by the checks referred to in Directive 86/469/EEC, as well as those resulting from monitoring the rules laid down in Directive 93/118/EC (*),

(1) OJ No C 325, 14. 12. 1991, p. 21.
(2) OJ No C 94, 13. 4. 1992, p. 326.
(3) OJ No C 106, 27. 4. 1992, p. 17.
(4) OJ No L 395, 30. 12. 1989, p. 13. Directive last amended by Directive 92/118/EEC (OJ No L 62, 15. 3. 1993, p. 49).
(5) OJ No L 373, 31. 12. 1990, p. 1. Directive last amended by Directive 92/118/EEC (OJ No L 62, 15. 3. 1993, p. 49).
(6) OJ No L 32, 5. 2. 1985, p. 14. Directive amended by Directive 88/409/EEC (OJ No L 194, 22. 7. 1988, p. 28).
(7) OJ No 121, 29. 7. 1964, p. 2012/64.
(8) OJ No L 55, 8. 3. 1971, p. 23.
(9) OJ No L 302, 31. 12. 1972, p. 28.

— the financing of:

— other veterinary inspections and controls laid down for the products referred to in the Directives listed in Annex A to Directive 89/662/EEC,

— the controls provided for by Directive 90/675/EEC for products of animal origin other than the meat referred to in the first indent, including controls to detect the presence of residues.

2. The fees referred to in paragraph 1 shall be fixed so as to cover the costs incurred by the competent authority for

— salary costs, including social-security costs,

— administrative costs, which may include the expenditure required for in-service training of inspectors

for carrying out the controls and inspections referred to in paragraph 1.

3. Any direct or indirect refund of the fees provided for by this Directive shall be prohibited.

(*) OJ No L 340, 31. 12. 1993, p. 15'.

3. Articles 2, 2a, and 3 shall be replaced by the following Articles:

'*Article 2*

1. The Member States shall ensure, for the purpose of financing the controls carried out pursuant to the Directives referred to in Article 1 by the competent authorities and for that purpose only, the collection

— for the types of meat referred to in Directives 64/433/EEC, 71/118/EEC and 72/462/EEC, with effect from 1 January 1994, of the Community fees following the procedures laid down in the Annex,

— from a date to be set at the time of adoption of the decisions provided for by Article 6, of a Community fee for the controls carried out on products of animal origin referred to in Article 1 (1), second indent.

2. Pending the decisions referred to in the second indent of paragraph 1, the Member States may collect national fees with due regard to the relevant principles governing the setting of Community fees.

3. Member States shall be authorized to collect an amount exceeding the level or levels of the Community fees, provided that the total fee collected by each Member State is not greater than the actual figure for inspection costs.

4. The Community fees shall replace all other health inspection charges or fees levied by the national, regional or local authorities of the Member States for the inspections and controls referred to in Article 1 and the certification thereof. However, until 31 December 1995, the Member States shall be authorized to collect registration costs for establishments approved in accordance with the rules referred to in Annex A to Directive 89/662/EEC.

This Directive shall not preclude Member States from collecting a fee for combating epizootic diseases.

5. The Member States shall forward information — initially two years after the introduction of the new system and subsequently at the Commission's request — to the Commission concerning the distribution and use of the fees and must be able to justify their method of calculation.

Article 3

1. As part of the checks provided for in Article 12 of Directive 64/433/EEC, Article 10 of Directive 71/118/EEC and Article 20 of Directive 90/675/EEC, the Commission may, by random spot checks, verify whether the provisions of this Directive are being applied.

2. Where a Member State considers that the controls in another Member State are carried out in such a way that the fees provided for in this Directive do not correspond to the actual costs of the controls, it shall have recourse to the relevant provisions of Directive 89/608/EEC and, in particular, Articles 10 and 11 thereof.

Article 4

The fees shall be payable by the operator or owner of the establishment carrying out the operations referred to in the Directives listed in Annex A to Directive 89/662/EEC, who shall have the option of passing on the cost of the fee for the operation concerned to the natural or legal person on whose behalf the said operations are carried out. For imports the fees shall be payable by the importer or the customs agent acting for the importer.

Article 5

The rate of conversion into national currency of the amounts in ecus specified in this Directive shall be that published annually on the first working day of the month of September in the C series of the *Official Journal of the European Communities.*

This rate shall apply from 1 January of the following year.

However, the Member States shall apply for 1994 the rate of conversion applicable on 1 September 1992 and, for 1995, the average of the conversion rates published in accordance with the first paragraph for the last three years.

Article 6

1. The Council, acting by a qualified majority on a proposal from the Commission, may supplement this Directive with specific Annexes, so as to set the standard levels of the Community fees and determine the rules and principles for the application of this Directive, including exceptions to be made, as required for the implementation of the checks laid down in the Directives referred to in Annex A to Directive 89/662/EEC and in Directive 90/675/EEC.

2. The Annex to this Directive may be amended or supplemented by the procedure provided for in paragraph 1.

3. Before 1 January 1996, the Council shall review this Directive on the basis of a report from the Commission, accompanied by proposals where appropriate.

Article 7

The Member States shall inform the Commission

— of the conversion rates adopted each year in accordance with Article 5,

— of the place or places where fees are charged, in accordance with Chapter I.6 of the Annex, giving any necessary explanations.

Article 8

1. Greece shall be authorized to derogate from the principles laid down in this Directive where, because of geographical characteristics, the costs of collecting a fee in geographically remote regions are greater than the yield from the fee.

The Greek authorities shall inform the Commission of the territorial extent of the derogations granted.

The information shall be accompanied by any necessary explanations.

2. In the case of other outermost regions, other Member States may be authorized, in accordance with the procedure provided for in Article 18 of Directive 89/662/EEC, to benefit from the same derogations.'

4. The existing Articles 4 and 5 shall become Articles 9 and 10 respectively.

5. The Annex attached to this Directive is hereby added.

Article 2

Decision 88/408/EEC is hereby repealed with effect from 1 January 1994.

Article 3

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 31 December 1993 as regards the requirements in the Annex and in Article 5, and not later than 31 December 1994 as regards the other provisions.

Portugal shall be allowed an additional period of one year to comply with the new provisions in Chapter I of the Annex.

Member States shall forthwith inform the Commission of the provisions adopted.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of domestic law which they adopt in the field governed by this Directive.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 22 December 1993.

For the Council

The President

J.-M. DEHOUSSE