II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 10 December 1990

laying down the principles governing the organization of veterinary checks on products entering the Community from third countries

(90/675/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic 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.

Whereas the animal products or products of animal origin and plant products subject to checks intended to prevent the spread of contagious or infectious animal diseases are listed in Annex II to the Treaty;

Whereas laying down principles at Community level on the organization of veterinary checks on products coming from third countries helps to safeguard supplies and ensure market stability while also harmonizing the measures necessary to ensure the protection of animal and public health;

Whereas Article 19 of 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 (3) and Article 23 of Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market (4) provide, in particular, that the Council must lay down, before 31 December 1990, the general principles applicable to checks on imports from third countries of products covered by the said Directives;

Whereas each consignment of products from third countries must be subjected to documentary and identity checks upon entry to the Community;

Whereas principles valid throughout the Community should be fixed concerning the organization and follow-up of physical checks to be carried out by the competent veterinary authorities;

Whereas provision must be made for safeguard arrangements; whereas, in this context, the Commission must be able to act, particularly by visiting the places concerned and adopting measures appropriate to the circumstances;

Whereas, if the checking system is to function smoothly there must be an approval procedure and border inspection posts must be inspected and there should be exchanges of officials empowered to carry out checks on products coming from third countries;

Whereas the laying down of common principles at Community level is all the more necessary given that with the completion of the internal market in prospect, internal border controls are to be abolished;

Whereas the provision of certain transitional measures of limited duration appears to be necessary in order to facilitate the move over to the new checking arrangements instituted by this Directive;

(1) OJ No C 252, 6. 10. 1990, p. 10.
(2) Opinion delivered on 23 November 1990 (not yet published in the Official Journal).
(3) OJ No L 395, 30. 12. 1989, p. 13.
(4) OJ No L 224, 18. 8. 1990, p. 29.

Whereas the task of adopting measures for the application of this Directive should be entrusted to the Commission,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Veterinary checks in respect of products from third countries entering the Community shall be carried out by the Member States in accordance with this Directive.

2. This Directive shall be without prejudice to the continued application of national veterinary requirements in respect of products, trade in which has not been the subject of Community harmonization or to the requirements resulting from Community rules where such requirements have not yet been completely harmonized at Community level.

Article 2

1. For the purposes of this Directive, the definitions contained in Article 2 of Directive 89/662/EEC and in Directive 90/425/EEC shall apply as necessary.

2. In addition:

(a) 'products' means the animal products or products of animal origin referred to in Directives 89/662/EEC and 90/425/EEC, or, in the circumstances described in Article 18:
   — fresh fish landed immediately from fishing vessels,
   — certain plant products,
   — by-products of animal origin not covered by Annex II to the Treaty;

(b) 'documentary check' means verification of the veterinary certificates or documents accompanying a product;

(c) 'identity check' means verification, by visual inspection only, for consistency between the documents or certificates and the products and for the presence of the stamps and marks which must appear on the products in accordance with Community rules or in the case of products trade in which has not been harmonized at Community level, in accordance with the national legislation relevant to the various cases provided for by this Directive;

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

(e) 'importer' means any national or legal person who presents products for importation into the Community;

(f) 'consignment' means a quantity of products of the same type, covered by the same veterinary certificate or document, conveyed by the same means of transport and coming from the same third country or part of such country;

(g) 'border inspection post' means any inspection post located in the vicinity of the external border of one of the territories referred to in Annex I, designated and approved in accordance with Article 9;

(h) 'competent authority' means the central authority of a Member State, empowered to carry out veterinary or zootechnical checks, or any authority to which it has delegated such powers.

CHAPTER I

ORGANIZATION AND EFFECTS OF CHECKS

Article 3

The Member States shall ensure that the customs authorities do not authorize entry for home use into one of the territories referred to in Annex I unless — without prejudice to the special provisions to be adopted in accordance with Article 17 — proof has been supplied that:

(i) in the form of the certificate for which Article 10 (1) provides, that the veterinary checks have been carried out on the products in question in accordance with Articles 4, 5, 6 and 8 to the satisfaction of the competent authority;

(ii) that the veterinary checks have been paid for, and that where relevant a deposit covering any costs provided for in Article 16 (3) has been lodged. If necessary, detailed rules for implementing this Article shall be adopted in accordance with the procedure laid down in Article 24.

Article 4

1. Each consignment of products from a third country shall be subjected to a documentary and identity check, irrespective of the customs destination of the products, in order to verify:

— their origin,

— their subsequent destination, particularly in the case of non-harmonized products,

— that the particulars they contain afford the guarantees required by Community rules or, where products are concerned for which trade has not been harmonized at Community level, the guarantees required under national rules referred to in the various cases covered by this Directive.

2. These documentary and identity checks shall be carried out:

(i) on entry into one of the territories referred to in Annex I at one of the border inspection posts or at any other

border crossing point a list of which — and regular updates — are to be notified by the Member States to the Commission, which shall arrange for their publication in the *Official Journal of the European Communities;*

(ii) by the veterinary staff of the border inspection post or — in the case of passage through a crossing point referred to in (i), by the competent authority.

Where the products undergo the documentary and identity checks at such a crossing point, they must be dispatched without delay under customs supervision to the nearest border inspection post to undergo the checks provided for in Article 8.

3. Entry into one of the territories defined in Annex I shall be prohibited where these checks show that:

(a) these products come from a territory or part of a territory of a third country which does not meet the following conditions:

(i) in the case of products rules governing the import of which have been harmonized:

— they shall be entered on a list drawn up in accordance with Community rules, and Directive 72/462/EEC (1) in particular, as last amended by Directive 90/425/EEC,

— imports are not prohibited pursuant to a Community decision;

(ii) in the absence of harmonized rules, in particular rules on animal health, they do not comply with the requirements provided for in the national rules applicable to the various cases covered by this Directive;

(b) the veterinary certificate or document accompanying the products does not meet the conditions set pursuant to Community rules or, where rules have not been harmonized, the requirements provided for in the national rules applicable to the various cases covered by this Directive.

4. The Member States shall ensure that importers are obliged to give prior notice to the veterinary staff of the border inspection post where the products are to be submitted specifying the amount, nature and estimated time of arrival of the products.

5. Where:

— products are intended for a Member State or an area having specific requirements,

— samples have been taken but the results are not known when the means of transport leaves the border inspection post,

— imports authorized for specific cases,

are involved, information from the competent authority of the place of destination must be given:

— for products covered by Directive 90/425/EEC by means of the computerized system provided for in Article 20 of the said Directive,

— for the other products, in accordance with Article 7 (1) of Directive 89/662/EEC.

6. The detailed rules for applying paragraphs 1 to 5 shall be adopted in accordance with the procedure laid down in Article 24.

7. All expenditure incurred by the application of this Article shall be chargeable to the consignor, the consignee or their agent, without reimbursement by the Member State.

Article 5

1. For the purpose of admission to a free zone or free warehouse, as defined in Article 1 (4) (a) and (b) of Regulation (EEC) No 2504/88 (2) the competent authority shall ensure that products undergo a documentary check and verification by simple visual inspection that the documents or certificates tally with the products and, if necessary, where there are grounds for suspicion, an identity check and a physical check. Products leaving a free zone or free warehouse to be entered for home use in one of the territories referred to in Annex I will have to undergo the checks provided for in this Directive.

2. The detailed rules for implementing this Article shall be adopted in accordance with the procedure laid down in Article 24.

Article 6

1. At the time of admission to the warehouse, the competent authority shall carry out an identity check on products to be stored under the 'customs warehousing procedure' as defined in Regulation (EEC) No 2503/88 (3) or the 'temporary storage of goods procedure' as defined in Regulation (EEC) No 4151/88 (4) in a warehouse designated by the competent authority on the basis of guidelines to be determined under the procedure laid down in Article 24.

In addition, the competent authority shall perform the appropriate veterinary checks at the warehouse in accordance with paragraph 5.

2. The Member States shall draw up a list of the warehouses referred to in paragraph 1, specifying the type of veterinary check made on entry and exit of the products

(1) OJ No L 302, 31. 12. 1972, p. 28.

(2) OJ No L 225, 15. 8. 1988, p. 8.
(3) OJ No L 225, 15. 8. 1988, p. 1.
(4) OJ No L 367, 31. 12. 1988, p. 1.

referred to in Article 2. They shall forward the list, and any subsequent updates to the Commission.

The Commission shall publish the list of these warehouses and any subsequent updates in the *Official Journal of the European Communities*.

3. Products stored in a warehouse designated by a Member State which are to enter free circulation in the territories referred to in Annex I must be kept under customs supervision and before entering free circulation they must undergo the checks provided for in Article 8, or in the case of products trade in which has not been harmonized at Community level to the checks set out in Article 11.

Where a consignment is split, the products leaving the warehouse must be accompanied:

— by the certificate provided for in Article 10 (1), second indent drawn up by an official veterinarian on the basis of the certificates accompanying the consignments of products during storage and must specify the origin of the products,

— in accordance with Article 11 (4) (b) second indent by the copy of the original certificates.

4. The cost of the veterinary checks provided for in this Article shall be borne by the operator seeking customs warehousing or temporary storage.

These costs, including a deposit to cover the costs incurred as a result of any recourse to the possibilities provided for in Article 16 (3), must be paid before the products enter the warehouse.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 24.

Article 7

1. Without prejudice to measures adopted pursuant to Article 19, Member States need not apply the requirements of Article 4 (3) to products which do not satisfy either the requirements of Community rules or, in the case of products trade in which has not been the subject of Community harmonization, the relevant national rules and which are intended to be stored in a free zone provided that:

— there is a correspondence between the products or consignments and the accompanying documents,

— the products in question are subsequently forwarded to a third country under the conditions laid down in Article 12,

— the products in question are stored in such a way as to be clearly separated from products intended to be admitted for home use to the territories referred to in Annex I.

2. Any detailed rules for implementing this Article shall be adopted in accordance with the procedure laid down in Article 24.

Article 8

Products for which the veterinary requirements governing trade have been harmonized at Community level and which have been presented at one of the points of entry to the territory defined in Annex I must meet the following requirements:

1. If

(a) the point of entry is a border inspection post, the products must undergo without delay the checks provided for in Article 4 (1) and in point 2 below:

(b) the point of entry is a crossing point of the kind referred to in Article 4 (2), or if the products come from a warehouse in accordance with Article 6 (3), they must be transferred without delay under customs supervision to the nearest border inspection post where the official veterinarian must:

— ensure that the checks provided for in Article 4 (1) have been satisfactorily performed,

— carry out the checks provided for in point 2.

2. The official veterinarian must:

(a) carry out a physical check on each consignment, on the basis of a representative sample of the consignment in order to ensure that the products are still in a fit state to be used for the purpose specified in the accompanying certificate or document;

(b) perform the laboratory tests which have to be carried out on-the-spot;

(c) take official samples to be examined for residues or pathogens and have them analysed as soon as possible.

The official veterinarian may be assisted in certain of these tasks by qualified staff with special training, working under his direction.

3. The detailed rules for carrying out the checks provided for in points 1 and 2 shall be laid down by the Commission under the procedure provided for in Article 24.

At the request of a Member State, accompanied by the requisite substantiating information, or acting on its own initiative, the Commission may follow the same procedure and determine that checks are to be less frequent, under certain conditions and in the light in particular of the results of previous checks, with respect to certain third countries or third country establishments offering satisfactory guarantees as regards checks at the point of origin.

The Commission will take into account the following criteria for granting derogations of this nature:

(a) the guarantees offered by the third country in question with respect to compliance with Community requirements, particularly those laid down in Directives 72/462/EEC and 90/426/EEC (1);

(b) the health situation of animals in the third country concerned;

(c) information on the general health situation in the country;

(d) nature of the measures to monitor and to combat disease applied by the third country;

(e) structures and powers of the veterinary service;

(f) compliance with the minimum standards laid down by Community law in regard to production hygiene;

(g) rules on the authorization of certain substances and compliance with the requirements set out in Article 7 of Directive 86/469/EEC (2);

(h) outcome of the Community inspection visits;

(i) outcome of the import controls carried out.

4. However, by way of derogation from point 2, for products entering a port or airport in one of the territories referred to in Annex I, the checks may be carried out in the port or airport of destination, provided that such port or airport has a border inspection post of the kind referred to in Article 2 and the products are transported by sea or air as the case may be.

Article 9

1. The border inspection posts must satisfy the requirements of this Article.

2. Border inspection posts must be:

(i) located in the vicinity of the point of entry into one of the territories referred to in Annex I;

(ii) designated and approved in accordance with paragraph 3;

(iii) placed under the authority of an official veterinarian, who shall be effectively responsible for the checks. The official veterinariam may be assisted by specially trained auxiliary staff.

3. Before 31 March 1991, and once border posts have been shortlisted by national authorities, acting in conjunction with the Commission departments which will verify their compliance with the minimum requirements set out in Annex II, the Member States shall submit to the Commission the list of border inspection posts that will carry out veterinary checks on products and provide the following information:

(a) nature of the border inspection post:

— port,

— airport,

— road checkpoint,

— rail checkpoint;

(b) nature of the products which could be checked at the border inspection post in question given the equipment and veterinary staff available, possibly mentioning any products that cannot be checked at those border inspection posts;

(c) staff allocated to veterinary checks:

— number of official veterinarians with at least one official veterinarian on duty at all times that the border inspection post is open,

— number of specially qualified auxiliary staff or assistants;

(d) description of the equipment and premises available given the various checks to be carried out for the following operations:

— documentary check,

— physical check,

— sampling,

— laboratory for carrying out on the spot the general tests laid down in Article 8 (2) (b),

— laboratory available for specific tests ordered by the official veterinarian;

(e) capacity of the available premises and cold stores for storing the products pending the test results;

(f) nature of the equipment allowing a rapid exchange of information, particularly with other border inspection posts;

(g) procedure for handling disputes with third countries;

(h) volume of trade (types and quantities of products passing through this border inspection post).

4. Acting in conjunction with the competent national authorities, the Commission shall inspect the border inspection posts designated in accordance with paragraph 3 with a view to ensuring that there is uniform application of the rules on veterinary checks and that the various border inspection posts in fact possess the necessary infrastructures and meet the minimum requirements laid down in Annex II.

(1) OJ No L 224, 18. 8. 1990, p. 42.
(2) OJ No L 275, 26. 9. 1986, p. 36.