COUNCIL DIRECTIVE

of 14 December 1988

amending Directive 77/99/EEC on health problems affecting intra-Community trade in meat products

(88/658/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 (3),

Whereas, as a result of the adoption by the Council of Directive 83/90/EEC of 7 February 1983 amending Directive 64/433/EEC on health problems affecting intra-Community trade in fresh meat (4), Directive 77/99/EEC (5), as last amended by Regulation (EEC) No 3805/87 (6), should be amended in order to harmonize the rules applicable to meat and meat products;

Whereas Directive 77/99/EEC should be amended also in order to take account of scientific and technical developments;

Whereas rules should be established for prepared meals in which meat products form part of the composition;

Whereas some meat products should remain excluded from the scope of the Directive;

Whereas it has proved necessary to make provision for hygiene rules to be followed with regard to containers,

Whereas meat products intended for direct sale to the consumer must be labelled in accordance with Council Directive 79/112/EEC of 18 December 1978 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs for sale to the ultimate consumer (7), as last amended by Directive 86/197/EEC (8);

Whereas the procedures governing the inspection and approval of, and the withdrawal of approval from, establishments, and the procedure to be followed in the event of a dispute between Member States must be amended in order to harmonize them with the rules laid down in other directives in the veterinary field;

Whereas the rules relating to inspections must take account of the essential requirements of the internal market;

Whereas it has been established that all the Member States have national rules governing the composition of meat products and limiting the additives that may be used for the manufacture of meat products; whereas the existence of different standards in this field may run counter to the essential requirements of the internal market; whereas a procedure should therefore be provided for whereby these standards concerning composition may be harmonized; whereas it is appropriate that the laying down of common rules governing the use of additives for meat products should be postponed until a decision is taken within the framework of the Community;

Whereas Annex A to this Directive lays down the temperatures to be observed during cutting and wrapping of meat products; whereas the reference to a procedure for establishing those temperatures may thus be deleted;

Whereas provisions relating to animal health problems were laid down in Council Directive 80/215/EEC of 22 January 1980 on animal health problems affecting intra-Community trade in meat products (9), as last amended by Directive 87/491/EEC (10),

HAS ADOPTED THIS DIRECTIVE:

Article 1

Articles 1 to 17 of Directive 77/99/EEC are hereby replaced by the following:

'*Article 1*

This Directive lays down health requirements for meat products intended for intra-Community trade.

(1) OJ No C 349, 31. 12. 1985, p. 43.
(2) OJ No C 46, 23. 2. 1987, p. 127.
(3) OJ No C 189, 28. 7. 1986, p. 35.
(4) OJ No L 59, 5. 3. 1983, p. 10.
(5) OJ No L 26, 31. 1. 1977, p. 85.
(6) OJ No L 357, 19. 12. 1987, p. 1.
(7) OJ No L 33, 8. 2. 1979, p. 1.
(8) OJ No L 144, 29. 5. 1986, p. 38.
(9) OJ No L 47, 21. 2. 1980, p. 4.
(10) OJ No L 279, 2. 10. 1987, p. 27.

Without prejudice to prohibitory measures to be taken pursuant to Directive 80/215/EEC [1], this Directive shall not apply to meat products:

(a) forming part of travellers' personal luggage, on condition that they are not subsequently used for commercial purposes;

(b) sent as small packages to private persons, in so far as no commercial operation is involved;

(c) intended for consumption by the crew and passengers on board means of transport operating commercially between Member States.

(1) OJ No L 47, 21. 2. 1980, p. 4.

Article 2

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

(a) Meat products: products prepared from or with meat which has undergone treatment such that the cut surface shows that the product no longer has the characteristics of fresh meat.

However, the following shall not be regarded as a meat product:

(i) meat which has undergone only cold treatment; such meat shall remain subject to the rules in Directive 64/433/EEC;

(ii) products not covered by the definition in the first subparagraph; such products shall be subject to Council Directive 88/657/EEC of 14 December 1988 laying down the requirements for the production of, and trade in, minced meat, meat in pieces of less than 100 grams and meat preparations and amending Directives 64/433/EEC, 71/118/EEC and 72/462/EEC [2].

(2) See page 3 of this Official Journal.

In addition, the following are not covered by this Directive:

(i) meat extracts, meat consommé and stock, meat sauces and similar products not containing fragments of meat;

(ii) whole, broken or crushed bones, meat peptones, animal gelatin, meat powder, pork-rind powder, blood plasma, dried blood, dried blood plasma, cellular proteins, bone extracts and similar products;

(iii) fats melted down from animal tissues;

(iv) stomachs, bladders and intestines, cleaned and bleached, salted or dried,

(b) (i) meat: meat as defined in:

— Article 1 of Directive 64/433/EEC,

— Article 1 of Directive 71/118/EEC,

— Article 1 of Directive 72/461/EEC,

— Article 2 of Directive 72/462/EEC,

— Article 2 of Directive 88/657/EEC;

(ii) fresh meat: fresh meat as defined in Article 1 of Directives 64/433/EEC, 71/118/EEC and 72/461/EEC and in Article 2 of Directive 72/462/EEC and also meat satisfying the requirements set out in Article 3 of Directive 88/657/EEC;

(c) meat preparations: preparations satisfying the requirements set out in Article 3 of Directive 88/657/EEC;

(d) treatment: the treatment of fresh meat, whether or not combined with other foodstuffs, by heating, salting, curing or drying, or a combination of these processes;

(e) heating: use of dry or damp heat;

(f) salting: use of salt;

(g) curing: distribution of curing salts throughout the product;

(h) maturing: complete treatment of salted meat, applied under climatic conditions which, in the course of a slow and gradual reduction of humidity, are capable of generating natural fermentation or enzymatic processes, involving changes over a period of time which give the product typical organoleptic characteristics and ensure its preservation and wholesomeness at normal ambient temperature;

(i) drying: natural or artifical reduction of the water content;

(j) prepared meals: wrapped meat products corresponding to culinary preparations, cooked or pre-cooked, with no preservatives added for the purposes of preservation;

(k) exporting country: the Member State from which meat products are sent to another Member State;

(l) country of destination: the Member State to which meat products are sent from another Member State;

(m) consignment: a quantity of a meat product which is covered by the same health certificate;

(n) wrapping: the protection of meat products by the use of an initial wrapping or initial container in direct contact with the product concerned as well as the initial wrapper or initial container itself;

(o) packaging: the placing of one or more wrapped or unwrapped meat products in a container, as well as the container itself;

(p) hermetically-sealed container: container intended to protect the contents against the entry of micro-organisms during and after heat processing and which is impermeable to air.

Article 3

1. Each Member State shall ensure that only meat products complying with the following general conditions — without prejudice to the conditions laid down in paragraph 3 — are sent from its territory to the territory of another Member State:

(1) they shall have been prepared in an establishment approved and inspected in accordance with Article 7;

(2) they shall have been prepared, stored and transported in accordance with Annex A and if they are stored in a cold-storage plant separate from the establishment, this plant must be approved and inspected in accordance with Article 8 of Directive 64/433/EEC;

(3) they shall have been prepared from:

(a) fresh meat as defined in Article 2 (b) (ii). This fresh meat may originate:

(i) in accordance with Directives 64/433/EEC and 71/118/EEC, in the Member State in which the preparation is carried out or in any other Member State. Pigmeat recognized as trichinous may not be used to manufacture meat products;

(ii) in accordance with Article 5 a of Directive 72/461/EEC, in the Member State in which the preparation is carried out;

(iii) in accordance with Directive 72/462/EEC, in a third country, being imported either directly or by way of another Member State;

(iv) in accordance with Article 15 of Directive 71/118/EEC, in a third country in so far as:

— products obtained from this meat fulfil the requirements set out in this Directive,

— these products do not bear the health marking laid down in Annex A, Chapter VI,

— intra-Community trade in these products remains subject to the national provisions of each Member State;

(b) meat referred to in Article 5 (a) of Directive 64/433/EEC;

(4) they shall have been prepared from fresh meat complying with the conditions of Annex A, Chapter III;

(5) they shall, in accordance with Annex A, Chapter IV, have undergone an inspection carried out by the competent authority and, in the case of hermetically-sealed containers, carried out in accordance with rules to be drawn up under the procedure laid down in Article 18 by not later than 31 March 1990;

(6) they shall meet the requirements laid down in Article 4;

(7) where wrapping and packaging takes place, they must be wrapped and packaged in accordance with Annex A, Chapter V;

(8) they shall bear a health marking in accordance with Annex A, Chapter VI;

(9) they shall, in accordance with Annex A, Chapter VII, be accompanied by a health certificate during transport to the country of destination. This obligation shall not apply to meat products in hermetically sealed containers and having undergone a treatment such as referred to in Annex B, Chapter II, point 1 (a), first indent, if the health mark is indelibly marked on the container in accordance with the provisions to be drawn up under the procedure laid down in Article 18;

(10) they shall be stored and transported to the country of destination under satisfactory health conditions in accordance with Annex A, Chapter VIII.

2. Meat products may not have been subjected to ionizing radiation unless this is justified on medical grounds and unless such procedure is clearly indicated on the product and on the health certificate.

3. Member States shall ensure that, in addition to the general requirements laid down in paragraphs 1 and 2, meat products meet the following conditions:

(a) they shall have been prepared by heating, curing or drying, which process may be combined with smoking or maturing, possibly under specific microclimatic conditions, and associated, in particular, with certain curing agents within the meaning of Article 13. They may also be associated with other foodstuffs and condiments;

(b) they may have been obtained from a meat product or from a meat preparation.

Article 4

For inspection purposes, the producer shall ensure that the packaging of meat products, which cannot be stored at ambient temperatures and meat preparations, bear a clear and legible indication of the temperature at which the products must be transported and stored, and the minimum durability date.

Article 5

Articles 3 and 4 shall not apply to meat products which are imported with the authorization of the country of

destination for uses other than human consumption; in this case, the country of destination shall ensure that these products are used only for the purposes for which they were dispatched to that country.

Article 6

Member States shall ensure that intra-Community trade in prepared meals is governed by the provisions laid down for meat products and that such meals also meet the requirements set out in Annex B, Chapter III.

Article 7

1. Each Member State shall draw up a list of its approved establishments, each of them having a veterinary approval number. It shall send this list to the other Member States and to the Commission.

A Member State shall not approve an establishment unless it complies with this Directive. The Member State shall withdraw its approval if the conditions for approval cease to be fulfilled.

If a check has been made in accordance with Article 8, the Member State concerned shall take account of the conclusions resulting from that check. The other Member States and the Commission shall be informed in the event of approval being withdrawn.

2. The inspection and supervision of approved establishments shall be carried out by the competent authority.

The competent authority must at all times have free access to all parts of establishments for the purpose of ensuring that this Directive is being complied with.

3. Where a Member State considers, in particular after carrying out a check or inspection as provided for in Article 12 (1) and (2), that the provisions governing approval are not being, or have ceased to be, observed in an establishment in another Member State, it shall inform the competent central authority of that State accordingly. That authority shall take all necessary measures and notify the competent central authority of the first Member State of the decisions taken and the reasons therefor.

Should that Member State fear that such measures have not been taken or are inadequate, it shall, with the Member State in question, seek ways and means of remedying the situation, if appropriate, by an on-the-spot-visit.

The Member State concerned shall inform the Commission of the matters in dispute and of the solutions reached.

If the Member States in question cannot reach agreement, one of them shall within a reasonable period put the matter before the Commission, which shall instruct one or more veterinary experts to given an opinion. In the light of that opinion or of the opinion expressed in accordance with Article 8, Member States may be authorized, under the procedure laid down in Article 18, to prohibit provisionally the introduction into their territory of meat products coming from the particular establishment concerned. Such authorization may be withdrawn, under the procedure laid down in Article 18, in the light of a further opinion drawn up by one or more veterinary experts.

The veterinary experts must be nationals of a Member State other than one of those involved in the dispute.

General rules for the application of this paragraph shall be adopted in accordance with the procedure laid down in Article 18.

Article 8

The provisions of Article 9 of Directive 64/433/EEC shall apply *mutatis mutandis* to the establishments referred to in Article 7.

Article 9

By way of derogation from the conditions stipulated in Article 3, it may be decided, in accordance with the procedure laid down in Article 18, that some provisions of this Directive shall not apply to certain products which contain other foodstuffs and only a small percentage of meat, meat product or meat preparation.

These exceptions shall relate only to:

(a) the conditions for approval of establishments as laid down in Annex A, Chapter I and in Annex B, Chapter I;

(b) the inspection requirements described in Annex A, Chapter IV;

(c) the requirements for a health marking and health certificate as laid down in paragraphs 8 and 9 of Article 3 (1).

When considering whether to allow exceptions such as those provided for under this Article, both the nature and the composition of the product shall be taken into account.

Notwithstanding the provisions of this Article, Member States shall ensure that all meat products intended for intra-Community trade are wholesome products prepared from fresh meat, meat products or products covered by Directive 88/657/EEC.

Article 10

The Council shall, acting by a qualified majority on a proposal from the Commission to be submitted by 1 July 1990, adopt the rules applicable to the products referred to in Article 2 (a), third subparagraph.

Article 11

Member States shall ensure that the meat products undergo checks to be carried out by the establishments referred to in Article 7 and with periodic inspection by the official department, in order to ensure that the products comply with the requirements laid down in this Directive.

Article 12

1. Without prejudice to Articles 7 and 8, a country of destination may check that all consignments of meat products, excluding meat products referred to in Article 3 (1) (9), second sentence, are accompanied by the health certificate in accordance with Chapter VII of Annex A.

2. If irregularities are seriously suspected, the country of destination may carry out non-discriminatory inspections to check that the requirements laid down in this Directive have been met.

3. As a general rule, checks and inspections shall be carried out at the place of destination of the goods or at any other suitable place, provided that the choice of the latter place causes as little interference as possible with the movement of the goods.

The checks and inspections referred to in paragraphs 1 and 2 may not be such as to cause undue delay in the movement of the goods and their placing on the market which might adversely affect the quality of the meat products.

4. If, during an inspection carried out on the basis of paragraph 2, it is found that the meat products do not comply with the requirements of this Directive, the competent authority of the country of destination may give the consignor, the consignee or their representative the option of sending back the products and preparations or using them for other purposes, provided that health considerations so permit, or, if they do not, of destroying the consignment. In any event, precautionary measures shall be taken to prevent improper use of such meat products.

5. (a) Decisions of the competent authority, together with the grounds for taking them, shall be communicated to the consignor or his representative. Should such person so request, the grounds for taking the decisions shall be communicated forthwith in writing, accompanied by an indication of the channels of appeal open under current legislation, the forms they take and the time limits within which they are open.

(b) If the decisions referred to in (a) are based on the diagnosis of a contagious or infectious disease or a deterioration dangerous to human health, they shall be communicated forthwith to the competent central authority of the producing Member State and to the Commission.

(c) Following such communication, appropriate measures may be taken in accordance with the procedure laid down in Article 18, in particular for the purpose of coordinating the measures taken in other Member States with regard to the meat products involved.

Article 13

Pending compilation, in the context of Community legislation on additives, of the list of foodstuffs to which the additives authorized for use may be added and establishment of the conditions under which they may be added and, where appropriate, a limit on the technological purpose of their use, the national rules and the bilateral arrangements existing on the date on which this Directive is brought into application restricting the use of additives in the products covered by this Directive shall remain applicable, with due regard for the general provisions of the Treaty, provided that they apply without distinction to domestic production and to trade.

Until that provisional list is drawn up, the national rules and the bilateral arrangements governing the use of additives for the products referred to in this Directive shall remain in force, in compliance with the general provisions of the Treaty and the Community rules in force in the field of additives.

Article 14

The Annexes shall be amended by the Council acting by a qualified majority on a proposal from the Commission.

Article 15

The Council shall, acting on a proposal from the Commission, take before 1 January 1991 a decision on the incorporation into meat products of starch or proteins of animal or vegetable origin and the maximum permissible percentages from a technological viewpoint.

Until such decision is taken, national rules restricting the use of the abovementioned substances and the bilateral arrangements in force on the date of notification of this Directive and concerning such incorporation shall remain applicable in compliance with the general provisions of the Treaty and, in particular, in so far as they apply without any distinction being made between national products and imported products and without prejudice to any initiatives to be embarked upon under a Community procedure with a view to their approximation.

Member States which authorize the said incorporation shall ensure that details of such incorporation and the incorporated products referred to in the first