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COMMISSION DIRECTIVE

of 13 May 1965

on the procedure for formulation of opinions in intra-Community trade in bovine animals and swine and in fresh meat

(65/277/EEC)

THE COMMISSION OF THE EUROPEAN ECONOMIC COMMUNITY,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Council Directive of 26 June 1964 on animal health problems affecting intra-Community trade in bovine animals and swine [1], and in particular Article 10 (2) thereof,

Having regard to the Council Directive of 26 June 1964 on health problems affecting intra-Community trade in fresh meat [2], and in particular Article 7 (2) thereof,

Whereas Article 10 (2) of the first Directive and Article 7 (2) of the second Directive require Member States which prohibit the introduction into their territory of bovine animals or swine or fresh meat for reasons set out in these Directives to grant the consignors concerned the right to obtain the opinion of a veterinary expert;

Whereas the principles and bases for such inspections are set out in the abovementioned Council Directives which make the Commission responsible for laying down general rules as to the procedure for these inspections;

Whereas the inspection does not affect existing legal remedies and rules of procedure in Member States; whereas its sole aim is to give the consignor an opportunity of having the grounds for prohibition reviewed by an expert; whereas the opinion formulated could be used as evidence in proceedings instituted under national law;

Whereas the experts to be responsible for formulating opinions should be nominated by Member States since Member States are in the best position to assess their professional qualifications; whereas the Commission should publish the list of experts drawn up in the light of proposals made by Member States so that consignors can be aware of the experts on whom they can call;

Whereas the inspection should be made as promptly as possible to ensure that trade is not hindered, that undue storage expenses are not incurred and that animal and public health considerations are taken into account; whereas a consignor seeking an inspection should therefore be required to notify his intention without delay to the authority which has prohibited importation and to get into immediate contact with an expert to arrange for the formulation of an opinion;

Whereas to allow an opinion to be formulated the prohibited consignment must, unless considerations of animal and public health call for other action, be held at the disposal of the expert from the time the competent authority is notified of the consignor's intention to seek an opinion;

Whereas the opinion must be formulated under the best possible conditions and whereas the expert would find it difficult to carry out his task if certain facilities in the form of equipment and staff were not made available to him; whereas the competent authorities of the Member State of destination should therefore be required to provide every possible assistance to the expert designated to formulate the opinion;

Whereas the expert must carry out his investigations and present his findings in the form of an opinion with the least possible delay so that the inspection procedure may be terminated rapidly;

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[1] OJ No 121, 29. 7. 1964, p. 1977/64.
[2] OJ No 121, 29. 7 1964, p. 2012/64.

Whereas, since the Commission is in no way involved in arrangements between consignor and expert, the details may for the most part be left to the discretion of the parties;

Whereas, since opinions should be more or less uniform in all Member States, the use of a standard form should be prescribed;

Whereas, in accordance with the provisions of the abovementioned Directives of 26 June 1964, the Member States have been consulted on the measures provided for in this Directive,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Where, in accordance with Article 10 (2) of the Directive of 26 June 1964 on intra-Community trade in bovine animals and swine and with Article 7 (2) of the Directive of 26 June 1964 on intra-Community trade in fresh meat, the consignor of animals or meat is entitled to obtain the opinion of a veterinary expert, Member States shall ensure that the opinion is formulated and its formulation facilitated in accordance with the following Articles.

Article 2

1. Each Member State shall put forward to the Commission, both for the 'bovine animals and swine' sector and the 'fresh meat' sector, the names of not less than two veterinary experts whose competence is beyond doubt, giving details of their special fields, their exact addresses and their telephone numbers.

2. In the light of the proposals referred to in paragraph 1, the Commission shall draw up the list of experts who may be called upon to formulate opinions. This list shall be published in the *Official Journal of the European Communities*.

3. If a Member State wishes to have the name of one of its designated experts deleted from the list, or if it proposes to make any other amendments to the list, it shall so inform the Commission. The minimum number of experts fixed in the first paragraph must however be maintained. The Commission shall have all changes to the list published in the *Official Journal of the European Communities*.

Article 3

The consignor or his representative:

(a) shall notify the competent authority of the country of destination of his decision to seek the opinion of an expert as soon as possible after being informed by that authority that action has been taken on the basis of the provisions referred to in Article 1;

(b) shall contact one of the experts appearing on the list provided for in Article 2 (2) with the least possible delay and arrange for an inspection;

(c) shall supply the competent authority of the country of destination and the Commission with a copy of the expert's opinion, drawn up in accordance with the specimen form set out in the Annex to this Directive, as soon as this opinion is received.

Article 4

1. The Member State of destination shall ensure that:

(a) no measures are taken at any time which might render the inspection more difficult or impossible, unless such measures are justified by considerations of animal or public health;

(b) that the expert is supplied on request with:

— all information, including documents, needed to assess the case,

— the appropriate personnel, equipment and facilities,

so that the inspection can be carried out in accordance with the principles of veterinary practice.

2. Pending the entry into force of any Community provisions, Member States shall be free to adopt provisions for the charging of expenses arising out of the measures provided for in paragraph 1.

Article 5

The expert shall present his opinion in writing to the consignor with the least possible delay, using the specimen form set out in the Annex to this Directive.