

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

⁽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.

⁽¹⁾ OJ No L 302, 31. 12. 1972, p. 28.

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 veterinarian may be assisted by specially trained auxiliary staff.

⁽¹⁾ OJ No L 224, 18. 8. 1990, p. 42.

⁽²⁾ OJ No L 275, 26. 9. 1986, p. 36.

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.

No later than 31 December 1991, the Commission shall submit to the Standing Veterinary Committee a report on the outcome of this inspection together with proposals taking into account the conclusions of the report with a view to establishing a Community list of border inspection posts approved in accordance with the procedure laid down in Article 24.

This report shall cover any problems encountered by certain Member States if the shortlisting referred to in the first subparagraph of paragraph 3 were to result in a large number of border inspection posts being excluded at 1 January 1992.

In accordance with the procedure laid down in Article 23, a period of up to three years may be granted to enable the border inspection posts of the Member States referred to in the previous subparagraph to comply with the requirements of this Directive and in particular those concerning equipment and infrastructure.

The Commission shall publish the list of border inspection posts, and any subsequent updates, in the *Official Journal of the European Communities*.

5. The Commission shall adopt any detailed rules required for implementing this Article in accordance with the procedure laid down in Article 24.

Article 10

1. Where products, trade in which has been harmonized at Community level, are not to be entered for home use in the territory of the Member State which carried out the checks referred to in Article 8, point 2, the official veterinarian responsible for the border inspection post shall:

- provide the person concerned with a copy or, if the consignment of goods is split, several authenticated copies of the original certificates relating to the goods; the period of the certificates' validity will be set in accordance with the procedure laid down in Article 24 and will depend on the nature of the product concerned,
- issue a certificate which matches the model to be devised by the Commission in accordance with the procedure laid down in Article 24 attesting that the checks referred to in Article 8, point 2, have been carried out to the satisfaction of the official veterinarian, and specifying the nature of the samples that have been taken and the results of any laboratory tests,
- keep the original certificate or certificates accompanying the goods.

2. Detailed rules for the application of paragraph 1 particularly those concerning products imported for specific purposes shall be adopted in accordance with the procedure laid down in Article 24.

3. Trade in the products referred to in Directive 89/662/EEC and allowed into the territories referred to in Annex I of this Directive shall be conducted in accordance with the rules laid down in the said Directive, in particular in Chapter II thereof.

Article 11

1. This Article shall apply in respect of the products referred to in Article 2, where the rules governing trade in which have not yet been harmonized at Community level, and which, after entering one of the territories referred to in Annex I are to be re-dispatched to another Member State which authorizes the entry of such products into its territory.

2. Each consignment of products must undergo the checks provided for in Article 4 (1) and:

- (a) must either undergo the veterinary checks laid down in Article 8 at the border inspection post situated in the territory of the Member State where the products are introduced, to verify in particular whether the products concerned comply with the rules of the Member State of destination;
- (b) or, where a prior bilateral agreement has been reached between the Member State in the territory of which the point of entry to one of the territories referred to in Annex I is located and the Member State of destination, possibly together with the Member State or States of transit, on the arrangements for carrying out the checks, must be sent under customs supervision to the place of destination where veterinary checks must be carried out.

Member States shall inform the Commission and the other Member States meeting the Standing Veterinary Committee of the system adopted pursuant to this paragraph.

3. In the case referred to in paragraph 2 (a), Article 10 shall apply.

4. In the cases referred to in paragraph 2 (b):

- (a) the documentary and identity checks and the physical check must be carried out at a border inspection post situated in the territory of the Member State of destination;
- (b) the competent authorities carrying out the documentary check and the identity check must:
 - give the official veterinarian at the inspection post of the place of destination notice of the passage of the products, and of their probable date of arrival, in the context of the programme for developing the computerization of veterinary procedures in respect of imports (Shift project),
 - specify the fact of passage on the copy or, if the consignment of products is split, copies of the original certificates,
 - keep the original certificate or certificates relating to the products.

Where special conditions so warrant and where a Member State so requests, with due substantiation, the physical check may be carried out in a place other than one referred to in point (a).

Such a place shall be determined in accordance with the procedure laid down in Article 24.

5. In the cases provided for in paragraph 4, the products shall be transported under the Community transit system (external procedure) as defined in Regulation (EEC) No 2726/90⁽¹⁾ in vehicles or containers sealed by the competent authority.

Trade in the products admitted after being checked in accordance with this Article shall be subject to the rules laid down in Directive 89/662/EEC.

6. If the physical check referred to in this Article shows that the product cannot be entered for home use, Article 16 shall apply.

7. Any detailed rules necessary for the application of this Article shall be adopted in accordance with the procedure laid down in Article 24.

Article 12

1. The Member States shall authorize the transport of products from one third country to another third country provided that:

- (a) the party concerned supplies proof that the first third country to which products are being sent, after transit through one of the territories referred to in Annex I, undertakes under no circumstances to reject or to send back products the importation or transit of which it has authorized;
- (b) such transport has been previously authorized by the official veterinarian of the border inspection post of the Member State in the territory of which the checks provided for in Article 4 (1) are carried out;
- (c) in the case of passage through one of the territories referred to in Annex I such transport is carried out, without the goods being unloaded, under the supervision of the competent authorities in vehicles or containers sealed by the competent authorities; the only handling authorized during transport shall be that carried out at the point of entry into or exit from one of the territories referred to in Annex I.

2. All expenditure incurred pursuant to this Article shall be chargeable to the consignor, the consignee or their representative without compensation by the Member State.

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

Article 13

1. The competent veterinary service shall carry out an identity check and, where appropriate and without prejudice to Article 15, a physical check on products for which the customs destination is other than as provided for in Articles 5, 6, 10, 11 and 12.

⁽¹⁾ OJ No L 262, 26. 9. 1990, p. 1.

2. Detailed rules for the application of this Article shall be adopted, where necessary, in accordance with the procedure laid down in Article 24.

Article 14

1. Apart from Article 15, this Chapter shall not apply to products which:

- (i) form part of travellers' personal luggage and are intended for their personal consumption insofar as the quantity does not exceed a quantity to be defined in accordance with paragraph 3 and provided that the products come from a third country or part of a third country appearing on the list adopted in accordance with Community rules and from which importation is not prohibited;
- (ii) are sent as small packages to private persons, provided that the products are not being imported by way of trade, insofar as the quantity sent does not exceed a quantity to be defined in accordance with paragraph 3 and provided that the products come from a third country or part of a third country appearing on a list drawn up in accordance with Community rules and from which importation is not prohibited;
- (iii) are intended for consumption by the crew and passengers on board means of transport operating internationally, provided that they come from a third country or part of a third country or from an establishment imports from which are not prohibited under Community rules.

Where such products or their kitchen waste are unloaded, they must be destroyed. It is not, however, necessary to destroy products when they are transferred, directly or after being placed provisionally under customs supervision, from one means of transport to another;

- (iv) where quantities not exceeding a figure to be fixed in accordance with paragraph 3 are involved, have undergone heat treatment in a hermetically sealed container to a Fo value of 3,00 or more and:
 - (a) form part of travellers' personal luggage and are intended for their personal consumption;
 - (b) are sent as small packages to private persons, provided that the products are not being imported by way of trade.

2. Paragraph 1 shall not affect the rules applicable to fresh meat and meat products in accordance with Article 1 (2) of Directive 72/462/EEC.

3. In accordance with the procedure laid down in Article 24, the Commission shall set the weight limits for the different products liable to be covered by the derogations referred to in paragraph 1.

Article 15

Without prejudice to the provisions of this Chapter, the official veterinarian or the competent authority shall, where it is suspected that veterinary legislation has not been complied with or there is doubt as to the identity of a product, carry out any veterinary checks it deems appropriate.

Article 16

1. Where the checks referred to in this Directive show the competent authority that the product does not satisfy the requirements laid down in the Community rules or national rules in matters which have not yet been harmonized at Community level, or where such checks reveal an irregularity, the competent authority, in consultation with the importer or his representative, shall decide either:

- (a) to re-dispatch, within a time limit to be set by the competent national authority, the consignment outside the territories referred in Annex I where veterinary inspection and health requirements so allow.

In this case, the official veterinarian of the border post must:

- inform the other border inspection posts, in accordance with paragraph 5 that the consignment has been rejected, indicating the infringements observed;
- under arrangements to be defined by the Commission in accordance with the procedure provided for in Article 24, cancel the veterinary certificate or document accompanying the rejected consignments;
- at intervals to be determined by the Commission, supply information via the competent central authority, as to the nature and frequency of the infringements observed;

- (b) to destroy the consignment in the territory of the Member State where the checks were carried out if re-dispatch is impossible.

2. Without prejudice to the options provided in Article 24 (5) third subparagraph of Directive 72/462/EEC and in Article 8 (1) (b) first indent of Directive 90/425/EEC, derogations from paragraph 1 of this Article may be made in accordance with the procedure laid down in Article 24, in particular to permit the use of products for purposes other than human consumption. In the context of such derogations and in accordance with the same procedure, conditions shall be adopted with regard to the use of the products concerned.

3. The importer or his representative shall be liable for the costs incurred in the process of re-dispatching or destroying the consignment or using the product for other purposes.

4. Detailed rules for the application of this Article shall be adopted, where necessary, in accordance with the procedure laid down in Article 24.

5. Provisions concerning the communication of information to the Member States will be adopted in the context of the programme for developing the computerization of veterinary procedures in respect of imports (Shift project).

6. The competent authorities shall, where appropriate, communicate to the Commission and the other Member States any information at their disposal in accordance with Council Directive 89/608/EEC of 21 November 1989 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of legislation on veterinary and zootechnical matters ⁽¹⁾.

Article 17

The Commission, in accordance with the procedure laid down in Article 24, shall on the basis of the plans referred to in the second paragraph, adopt the rules applicable to imports into certain parts of the territories referred to in Annex I, to take account of the natural constraints specific to these territories in particular their remoteness from the mainland part of Community territory.

To that end, by 1 July 1991 at the latest, the French Republic and the Hellenic Republic will submit a plan to the Commission setting out, in the particular case of the French Overseas Departments and of certain islands and groups of islands, the nature of the checks to be carried out on imports into these regions of products originating in third countries, taking into account the natural geographical constraints specific to these territories.

These plans must specify the checks carried out to prevent products introduced into these territories being re-dispatched under any circumstances to other parts of Community territory.

Article 18

1. The Commission, in accordance with the procedure laid down in Article 24, shall draw up a list of plant products covered by Article 2 (2) (a) second indent which, in particular on account of their subsequent destination, may give rise to the risk of spreading infectious or contagious animal diseases and on that account are to be subjected to the veterinary checks laid down by this Directive, and in particular those provided for in Article 4, in order to verify the origin and planned destination of such plant products.

The following shall be adopted in accordance with the same procedure:

- the animal health conditions which third countries must comply with and the guarantees which must be offered, in particular the nature of any processing to be required in the light of their animal health situation,
- a list of the third countries which, in the light of these guarantees, may be authorized to export to the Community the plant products referred to in the first paragraph,

⁽¹⁾ OJ No L 351, 2. 12. 1989, p. 34.

— any specific inspection procedures, in particular with reference to sampling which may be applied to these products, especially in the case of imports in bulk.

2. Pending the adoption of Community rules applicable to imports of these products, the Commission may, in accordance with the procedure laid down in Article 24, extend to by-products of animal origin not covered by Annex II to the Treaty the veterinary inspection rules laid down by this Directive by fixing where appropriate certain specific criteria which must be complied with when veterinary checks on these products are being carried out.

3. Fresh fish immediately landed from a vessel flying a third country flag must — before entering for home use in the territory defined in Annex I — undergo the checks laid down in respect of fish immediately landed by vessels flying the flag of a Member State.

4. In accordance with the procedure laid down in Article 24, derogations may be granted from the provisions of Article 9 and, as regards the staff responsible for carrying out the checks, those of Article 8 (2) for ports where fish is landed.

CHAPTER II

Safeguard provisions

Article 19

1. If, in the territory of a third country, a disease referred to in Directive 82/894/EEC ⁽¹⁾, a zoonosis or other disease or phenomenon liable to present a serious threat to animal or public health, or if any other serious animal health or public health reason so warrants in particular in the light of the findings of its veterinary experts, the Commission may, acting on its own initiative or at the request of a Member State, adopt one of the following measures without delay and depending on the gravity of the situation:

- suspend imports coming from part or all of the third country concerned, and where appropriate from the transit third country,
- set special conditions in respect of imports coming from part or all of the third country concerned.

2. If one of the checks provided for in this Directive indicates that a consignment of products is likely to constitute a danger for animal or human health, the competent veterinary authority shall immediately take the following measures:

— it shall seize and destroy the consignment,

— it shall immediately inform the other border inspection posts and the Commission of the findings and of the origin of the products, in accordance with Article 16 (5).

3. In the case provided for in paragraph 1, the Commission may take provisional protective measures in respect of products covered by Article 12.

4. Representatives of the Commission may make an immediate visit to the third country concerned.

5. As regards products the rules on imports of which have not yet been harmonized, and in the case where a Member State informs the Commission officially of the need to take safeguard measures and the Commission has not invoked the provisions of paragraphs 1 and 3 or made a referral to the Standing Veterinary Committee in accordance with paragraph 6, that Member State may take interim protective measures in respect of the products in question.

Where a Member State takes provisional protective measures in respect of a third country or third country establishment under the terms of this paragraph, it shall inform the other Member States and the Commission in accordance with Article 16 (5).

6. Without delay the Commission shall review the situation within the Standing Veterinary Committee. It may adopt the necessary decisions in accordance with the procedure laid down in Article 23, including those relating to intra-Community movements of products and to transit.

7. Decisions to modify, repeal or extend measures decided on by virtue of paragraphs 1, 2, 3 and 6 shall be taken in accordance with the procedure laid down in Article 23.

8. Detailed rules for the application of this Chapter shall be adopted, where necessary, in accordance with the procedure laid down in Article 24.

CHAPTER III

Inspection

Article 20

1. Veterinary experts from the Commission may, in conjunction with the competent national authorities and to the extent that uniform application of the requirements of this Directive renders necessary, verify that the border inspection posts approved in accordance with Article 9 satisfy the criteria listed in Annex II.

2. Veterinary experts from the Commission may, in conjunction with the competent authorities, make on-the-spot checks.

⁽¹⁾ OJ No L 378, 31. 12. 1982, p. 58.

3. A Member State in whose territory an inspection is made shall provide the veterinary experts from the Commission with any assistance they may require in the performance of their tasks.

4. The Commission shall inform the Member States of the outcome of the checks.

5. Where the Commission deems that the outcome of checks so justifies, it shall review the situation within the Standing Veterinary Committee. It may adopt the necessary decisions in accordance with the procedure laid down in Article 23.

6. The Commission shall monitor developments; in the light of such developments and in accordance with the procedure laid down in Article 23, it may amend or repeal the decisions referred to in paragraph 5.

7. Detailed rules for the application of this Article shall be adopted, where necessary, in accordance with the procedure laid down in Article 24.

Article 21

1. Where, on the basis of the checks carried out at the point where the products are marketed, a competent authority of a Member State considers that this Directive is not being complied with at a border inspection post, a crossing point referred to in Article 4(2)(i), a free port or free zone referred to in Article 5 or a free warehouse referred to in Article 6 of another Member State, it shall contact the competent central authority of that Member State without delay.

The latter shall take all the necessary measures and inform the competent authority of the first Member State of the nature of the checks made, the decisions taken and the reasons for such decisions.

If the competent authority of the first Member State believes the measures are insufficient it shall examine, with the competent authority of the Member State in question, the ways and means in which the situation could be remedied, where necessary by visiting the Member State in question.

Where the checks referred to in the first subparagraph show repeated non-compliance with this Directive, the competent authority of the Member State of destination shall inform the Commission and the competent authorities of the other Member States.

The Commission may, at the request of the competent authority of the Member State of destination or on its own initiative, and taking account of the type of infringements complained of:

- send an inspection team to the Member State in question in conjunction with the competent national authorities,
- request the competent authority to step up the checks carried out at the border inspection post, crossing point, free port, free zone or free warehouse in question.

Pending the Commission's findings, the Member State attached must, at the request of the Member State of destination, step up checks at the border inspection post, crossing point, free port, free zone or free warehouse concerned.

The Member State of destination may, for its part, intensify checks on products coming from these sources.

At the request of one of the two Member States concerned — where the irregularities are conformed by the inspection referred to in the first indent of the fourth subparagraph — the Commission must, in accordance with the procedure laid down in Article 23, take the appropriate measures. These measures must be confirmed or reviewed as soon as possible in accordance with the same procedure.

2. Rights of appeal existing under the laws in force in the Member States against decisions by the competent authorities shall not be affected by this Directive.

Decisions taken by the competent authority and the reasons for such decisions shall be notified to the operator concerned by such decisions or his representative.

If the operator concerned or his representative so requests, the said decisions and reasons shall be forwarded to him in writing with details of the rights of appeal which are available to him under the law in force in the Member State performing the checks of the procedure and time limits applicable.

3. The detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 24.

Article 22

1. Each Member State shall draw up a programme for the exchange of officials empowered to carry out the checks on products coming from third countries.

2. The Commission and the Member States shall coordinate the programmes referred to in paragraph 1 within the Standing Veterinary Committee.

3. Member States shall take all the measures necessary to allow implementation of the programmes resulting from the coordination referred to in paragraph 2.

4. Each year, in the Standing Veterinary Committee, the implementation of programmes shall be reviewed on the basis of reports drawn up by the Member States.

5. Member States shall take into account the experience gained in order to improve and develop the programme of exchanges.

6. A financial contribution from the Community may be granted in order to promote the efficient development of exchange programmes. Detailed rules for the Community's financial contribution and the estimated amount to be

charged to the Community budget are laid down in Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽¹⁾.

7. Detailed rules for the application of paragraphs 1, 4 and 5 shall be adopted where necessary, in accordance with the procedure laid down in Article 24.

CHAPTER IV

General provisions

Article 23

Where reference is made to the procedure provided for in this Article, the Standing Veterinary Committee set up by Decision 68/361/EEC ⁽²⁾ shall take decisions in accordance with the rules established in Article 17 of Directive 89/662/EEC.

Article 24

Where reference is made to the procedure defined in this Article, the Standing Veterinary Committee shall take decisions in accordance with the rules established in Article 18 of Directive 89/662/EEC.

Article 25

Annex II to this Directive may be supplemented in accordance with the procedure laid down in Article 24.

Article 26

This Directive shall be without prejudice to obligations arising from customs rules.

Article 27

Article 23 of Directive 72/462/EEC is hereby deleted.

Pending the decisions provided for in Article 4 (6), the acts taken pursuant to Article 23 of Directive 72/462/EEC shall continue to apply.

Article 28

Article 6 (1) of Directive 89/662/EEC is hereby replaced by the following:

'1. Member States shall ensure that, during the checks carried out at the places where products from a third country may be brought into the territories, defined in Annex I to Directive 90/675/EEC (*) such as ports,

airports and border inspection posts with third countries, the following measures are taken:

- (a) a documentary check is made on the products' origin;
- (b) products originating in the Community are subject to the rules on checks provided for in Article 5;
- (c) products from third countries are subject to the rules laid down in Directive 90/675/EEC.

(*) OJ No L 373, 31. 12. 1990, p. 1.'

Article 29

Article 7 of Directive 90/425/EEC is hereby replaced by the following:

'Article 7

1. Member States shall ensure that during the checks carried out at the places where animals and products referred to in Article 1 from a third country may be brought into the territories referred to in Annex I to Directive 90/675/EEC (*), such as ports, airports and border inspection posts with third countries, the following measures are taken:

- (a) certificates or documents accompanying the animals and products are checked;
- (b) the products from third countries shall be subject to the rules laid down by Directive 90/675/EEC;
- (c) where animals are imported from third countries, they must be sent, under customs supervision, to border inspection posts in order that veterinary checks may be carried out.

The animals referred to in Annex A may not be given customs clearance unless those checks have shown that they comply with Community rules;

- (d) Community animals and products shall be subject to the control rules laid down in Article 5.

2. The animals must be brought directly into Community territory via one of the border inspection posts of the Member State which intends to import them and be inspected there in accordance with paragraph 1 (b).

Member States which make imports from third countries on the basis of national animal health rules shall inform the Commission and the other Member States, in particular Member States of transit, of the existence of such imports and of the requirements to which they subject such imports.

Member States of destination shall prohibit animals from being sent on from their territory unless they have remained there for the periods laid down in the specific

⁽¹⁾ OJ No L 224, 18. 8. 1990, p. 19.

⁽²⁾ OJ No L 255, 18. 10. 1968, p. 23.

Community rules unless they are bound, without transit, for another Member State using the same option.

However, pending the adoption of Community rules, those animals may be brought into the territory of a Member State other than that referred to in the second subparagraph following prior agreement given by that other Member State in a general manner and, where appropriate, by a Member State of transit on the arrangements for control. Member States shall inform the Commission and the other Member States in the framework of the Standing Veterinary Committee when they are making use of this derogation and of the control arrangements agreed upon.

3. However, from 1 January 1993 and by way of derogation from paragraph 1, all animals and products transported by regular, direct means of transport linking two geographical points of the Community shall be subject to the control rules laid down in Article 5.

(*) OJ No L 373, 31. 12. 1990, p. 1.'

Article 30

Acting in accordance with the procedure laid down in Article 24, the Commission may adopt for three years the transitional measures necessary to facilitate the move over to the new checking arrangements provided for in this Directive.

Article 31

Member States may make use of the Community financial assistance provided for in Article 38 of Directive 90/424/EEC for the implementation of this Directive.

Article 32

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 1991 at the latest. They shall forthwith inform the Commission thereof.

Detailed rules for applying this Directive and in particular those of Article 8 (3) shall be adopted and the Shift system brought into force not later than 31 December 1991.

Should the date referred to in the preceding subparagraph not be met, the transitional measures provided for in Article 30 shall be taken on that date.

2. When Member States adopt the measures referred to in paragraph 1, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

Article 33

This Directive is addressed to the Member States.

Done at Brussels, 10 December 1990.

For the Council
The President
V. SACCOMANDI

ANNEX I

1. The territory of the Kingdom of Belgium.
 2. The territory of the Kingdom of Denmark with the exception of the Faroe Islands and Greenland.
 3. The territory of the Federal Republic of Germany.
 4. The territory of the Kingdom of Spain, with the exception of the Canary Islands, Ceuta and Melilla.
 5. The territory of the Hellenic Republic.
 6. The territory of the French Republic.
 7. The territory of Ireland.
 8. The territory of the Italian Republic.
 9. The territory of the Grand Duchy of Luxembourg.
 10. The territory of the Kingdom of the Netherlands in Europe.
 11. The territory of the Portuguese Republic.
 12. The territory of the United Kingdom of Great Britain and Northern Ireland.
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ANNEX II

In order to obtain Community approval, border inspection posts must have:

- the staff necessary to check the documents (public health and animal health certificates or any other document laid down by Community legislation) accompanying the products,
- sufficient numbers, in relation to the quantity of products dealt with by the border inspection post, of veterinary and auxiliary staff specially trained to carry out checks that products correspond to the accompanying documents and systematic physical checks of each product consignment,
- sufficient staff to take and process random samples of product consignments presented at a given border inspection post,
- sufficiently large premises at the disposal of the staff responsible for carrying out veterinary checks,
- appropriate premises and facilities for taking and processing the samples for the routine checks laid down in Community rules (microbiological standards),
- the services of a specialized laboratory situated near the border inspection post and able to carry out special tests on the samples taken at that post,
- premises and cold stores permitting the storage of part-consignments taken for testing and products whose release for free circulation has not been authorized by the veterinary officer responsible for the border inspection post,
- appropriate equipment permitting the rapid exchange of information, in particular with other border inspection posts (from 1 January 1993, through the computerized system provided for in Article 20 of Directive 90/425/EEC or the Shift project).