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► B**COUNCIL DIRECTIVE**

of 15 July 1991

laying down the principles governing the organization of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC

(91/496/EEC)

(OJ L 268, 24.9.1991, p. 56)

Amended by:

	Official Journal		
	No	page	date
► <u>M1</u> Council Decision 92/438/EEC of 13 July 1992	L 243	27	25.8.1992
► <u>M2</u> Council Directive 91/628/EEC of 19 November 1991	L 340	17	11.12.1991

Amended by:

► <u>A1</u> Act of Accession of Austria, Sweden and Finland	C 241	21	29.8.1994
(adapted by Council Decision 95/1/EC, Euratom, ECSC)	L 1	1	1.1.1995

▼B**COUNCIL DIRECTIVE****of 15 July 1991****laying down the principles governing the organization of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC**

(91/496/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<sup>(1)</sup>,Having regard to the opinion of the European Parliament<sup>(2)</sup>,

Whereas live animals are included in the list in Annex II to the Treaty;

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

Whereas 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<sup>(3)</sup> provides, in particular, that the Council must lay down the rules and general principles applicable to checks on imports from third countries of animals covered by the said Directive;

Whereas each consignment of animals from third countries must be subjected to documentary and identity checks upon entry into the territory of 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 live animals 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 Directives 89/662/EEC<sup>(4)</sup>, 90/425/EEC, and 90/675/EEC should be amended in order to adapt them to this Directive;

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

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

<sup>(1)</sup> OJ No C 89, 6. 4. 1991, p. 5.<sup>(2)</sup> OJ No C 183, 15. 7. 1991.<sup>(3)</sup> OJ No L 224, 18. 8. 1990, p. 29. Directive amended by Directive 91/174/EEC (OJ No L 85, 5. 4. 1991, p. 37).<sup>(4)</sup> OJ No L 395, 30. 12. 1989, p. 13.

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HAS ADOPTED THIS DIRECTIVE:

*Article 1*

1. Veterinary checks in respect of animals from third countries entering the Community shall be carried out by the Member States in accordance with this Directive.
2. This Directive shall not apply to veterinary checks on family pets accompanying travellers for non-commercial purposes, other than *equidae*.

*Article 2*

1. For the purposes of this Directive, the definitions contained in Article 2 of Directive 90/425/EEC shall apply as necessary.
2. In addition:
  - (a) 'documentary check' shall mean verification of the veterinary certificates or documents accompanying an animal;
  - (b) 'identity check' shall mean verification, by visual inspection only, for consistency between the documents or certificates and the animals and for the presence and conformity of the marks which must appear on the animals;
  - (c) 'physical check' shall mean a check of the animal itself, possibly including sampling and laboratory testing and, where appropriate, additional checks during quarantine;
  - (d) 'importer' shall mean any natural or legal person who presents animals for importation into the Community;
  - (e) 'consignment' shall mean a quantity of animals of the same species, covered by the same veterinary certificate or document, conveyed by the same means of transport and coming from the same third country or same part of such country;
  - (f) 'border inspection post' shall mean any inspection post located in the immediate vicinity of the external border of one of the territories referred to in Annex I to Council Directive 90/675/EEC of 10 December 1990 laying down the principles governing the organization of veterinary checks on products entering the Community from third countries<sup>(1)</sup> and designated and approved in accordance with Article 6.

CHAPTER I

**Organization and follow-up of checks**

*Article 3*

1. Member States shall ensure that:
  - (a) importers are obliged to give one working day's notice to the veterinary staff of the border inspection post where the animals are to be presented specifying the number, nature and estimated time of arrival of the animals;
  - (b) the animals are conveyed directly, under official supervision, to the border inspection post referred to in Article 6 or, where applicable, to a quarantine centre as provided for in the second indent of the first subparagraph of Article 10 (1);
  - (c) the animals may not leave such post or centre unless, without prejudice to the special provisions to be adopted in accordance with the procedure provided for in Article 23, proof has been supplied:
    - (i) in the form of the certificate provided for in the second indent of Article 7 (1) or in Article 8, that the veterinary checks have been carried out on the animals in question in accordance with

<sup>(1)</sup> OJ No L 373, 31. 12. 1990, p. 1.

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Article 4 (1) and (2) (a), (b) and (d) and Articles 8 and 9 to the satisfaction of the competent authority;

- (ii) that the veterinary checks have been paid for, and that, where relevant, a deposit covering any cost provided for in the second and third indents of Article 10 (1), Article 10 (6) and Article 12 (2) has been lodged;
  - (d) the customs authority does not authorize release for free circulation in the territories referred to in Annex I to Directive 90/675/EEC unless, without prejudice to the specific provisions to be adopted in accordance with the procedure laid down in Article 23, proof has been supplied that the requirements in (c) have been fulfilled.
2. Detailed rules for implementing this Article shall be adopted, as the need arises, in accordance with the procedure laid down in Article 23.

*Article 4*

1. Member States shall ensure that, irrespective of the customs destination of the animals, each consignment of animals from a third country is subjected by the veterinary authority to a documentary check and identity check at one of the border inspection posts situated in one of the territories referred to in Annex I to Directive 90/675/EEC and approved for that purpose, in order to verify:

- their origin,
- their subsequent destination, particularly in the case of transit or in the case of animals, trade in which has not been harmonized at Community level or which are subject to specific requirements recognized by a Community decision in respect of the Member State of destination,
- that the particulars which appear on the certificates or documents afford the guarantees required by Community rules or, in the case of animals, trade in which has not been harmonized at Community level, the guarantees required under the national rules applicable in the various cases covered by this Directive,

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- that no indication of rejection of the consignment has been given through the procedure specified in the first indent of Article 1 of Council Decision 92/438/EEC of 13 July 1992 on computerization of veterinary import procedures (Shift project)<sup>(1)</sup>.

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2. Without prejudice to the exemptions pursuant to Article 8, the official veterinarian must carry out a physical check on animals presented at the border inspection post. That check must include, in particular:

- (a) a clinical examination of the animals in order to ensure that they conform to the information provided in the accompanying certificate or document and that they are clinically healthy.

In accordance with the procedure laid down in Article 23, derogation may be made, subject to certain conditions and in accordance with rules to be established under the same procedure, from the principle of individual clinical examination in respect of certain categories and species of animals;

- (b) any laboratory tests which it is thought necessary should be carried out or which are provided for by Community rules;
- (c) possible official samples to be examined for residues and analysed as soon as possible;

**▼M2**

- (d) verification of compliance with the requirements of Council Directive 91/628/EEC of 19 November 1991 on the protection of

<sup>(1)</sup> OJ No L 243, 25. 8. 1992, p. 27.

**▼M2**

animals during transport and amending Directives 90/425/EEC and 91/496/EEC<sup>(1)</sup>.

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For the purposes of a subsequent check on transport and, where appropriate, on compliance with the additional requirements of the holding of destination, the official veterinarian shall communicate the necessary information to the competent authorities of the Member State of destination by means of the information exchange system provided for in Article 20 of Directive 90/425/EEC.

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

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The check must be made after reference to the data bases specified in the second indent of Article 1 of Decision 92/438/EEC.

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3. However, by way of derogation from paragraphs 1 and 2, for animals entering a port or an airport in the territory defined in Annex I to Directive 90/675/EEC, the identity check and the physical check may be carried out at such port or airport of destination, provided that such port or airport has a border inspection post as referred to in Article 6, and that the animals continue their journey, as the case may be, by sea or by air in the same vessel or in the same aircraft. In such cases, the competent authority which carried out the documentary check shall, either directly or through the local veterinary authority, inform the official veterinarian of the inspection post of the Member State of destination by means of the information exchange system referred to in Article 20 of Directive 90/425/EEC that the animals have passed through.

4. 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.

5. The detailed rules for applying this Article, including those relating to the training and qualification of assistants, shall be adopted, as the need arises, in accordance with the procedure laid down in Article 23.

#### *Article 5*

Entry into one of the territories defined in Annex I to Directive 90/675/EEC shall be prohibited where the checks show that:

- (a) animals of species in respect of which import rules have been harmonized at Community level come, without prejudice to the special conditions provided for in Article 19 of Directive 90/426/EEC<sup>(2)</sup> as concerns the movement and import of *equidae* coming from third countries, from a territory or part of a territory of a third country not included in the lists drawn up in accordance with Community rules for the species concerned or from which imports are prohibited pursuant to a Community decision;
- (b) animals other than those referred to in (a) do not comply with the requirements provided for in the national rules corresponding to the various cases covered by this Directive;
- (c) animals are suffering from or are suspected to be suffering from or infected by a contagious disease or a disease presenting a risk for public health or animal health, or any other reason provided for in Community rules;
- (d) the exporting third country has not complied with the requirements provided for in Community rules;
- (e) animals are not in a fit state to continue their journey;

<sup>(1)</sup> OJ No L 340, 11. 12. 1991, p. 17.

<sup>(2)</sup> OJ No L 224, 18. 8. 1990, p. 42.

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- (f) the veterinary certificate or document accompanying animals 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 corresponding to the various cases covered by this Directive.

The detailed rules for applying this Article shall be adopted in accordance with the procedure laid down in Article 23.

*Article 6*

1. Border inspection posts must satisfy the requirements of this Article.

2. Border inspection posts must be:

- (a) located at the point of entry into one of the territories referred to in Annex I to Directive 90/675/EEC;

However, where necessitated by geographical constraints (such as unloading wharf, railway station, passes) and provided that in such a case the inspection post is located far from holdings or places where animals likely to be infected by contagious diseases are kept, siting of an inspection post at a certain distance from the point of entry may be tolerated;

- (b) located in a customs area enabling other administrative formalities to be carried out, including customs formalities relating to importation;
- (c) designated and approved in accordance with paragraph 3;
- (d) 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 working under his direction. ►**M1** The official veterinarian shall ensure that all updating of the data bases indicated in the third indent in Article 1 of Decision 92/438/EEC is carried out. ◀

3. Before 1 January 1992, and once border posts have been short-listed by national authorities, acting in conjunction with the Commission departments which will verify their compliance with the minimum requirements set out in Annex A, Member States shall submit to the Commission the list of border inspection posts responsible for carrying out veterinary checks on animals, and shall provide the following information:

- (a) nature of the border inspection post:
- port,
  - airport,
  - road checkpoint,
  - rail checkpoint;
- (b) nature of the animals which could be checked at the border inspection post in question given the equipment and veterinary staff available, indicating any animals that cannot be checked at those border inspection posts and for registered equidae the operating hours of a specially approved border inspection post;
- (c) staff assigned 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 for carrying out:
- the documentary check,
  - the physical check,
  - sampling,
  - the general tests laid down in Article 4 (2) (b),
  - the specific tests ordered by the official veterinarian;

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- (e) capacity of the premises available to house animals where necessary pending the test results;
- (f) nature of the equipment allowing a rapid exchange of information, particularly with other border inspection posts;
- (g) volume of trade (types and quantities of animals 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 in order to satisfy itself 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 A.

Before 1 January 1992, the Commission shall submit to the Standing Veterinary Committee a report on the outcome of the inspection referred to in the first subparagraph, together with proposals taking into account the conclusions of the report, with a view to establishing a Community list of border inspection posts. That list shall be approved and subsequently updated in accordance with the procedure laid down in Article 22.

The abovementioned report shall cover any problems that would be 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 July 1992.

To take account of any such problem, some of the border inspection posts may be kept in operation and granted a maximum of three years to comply with the requirements of this Directive as regards equipment and structures.

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

5. As the need arises, the Commission shall adopt any detailed rules required for implementing this Article in accordance with the procedure laid down in Article 23.

#### *Article 7*

1. Where animals of species for which import rules have been harmonized at Community level are not to be placed on the market in the territory of the Member State which carried out the checks referred to in Article 4, the official veterinarian of the border inspection post shall, without prejudice to the specific requirements applicable to *equidae* registered and accompanied by the identification document provided for by Directive 90/427/EEC<sup>(1)</sup>:

- provide the person concerned with a copy or, if the consignment of animals is split, several individually authenticated copies of the original certificates relating to the animals; the period of validity of such copies shall be no more than 10 days,
- issue a certificate which matches the model to be drawn up by the Commission in accordance with the procedure laid down in Article 23 attesting that the checks referred to in Articles 4 (1) and (2) (a), (b) and (d) 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, or when those results are expected,
- keep the original certificate or certificates accompanying the animals.

2. Detailed rules for the application of paragraph 1 shall be adopted in accordance with the procedure laid down in Article 23.

<sup>(1)</sup> OJ No L 224, 18. 8. 1990, p. 55.

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3. Once animals have passed through border inspection posts trade in the animals referred to in paragraph 1 and allowed into the territories referred to in Annex I to Directive 90/675/EEC shall be conducted in accordance with the rules for veterinary checks laid down in Directive 90/425/EEC.

In particular, the information from the competent authority of the place of destination given by means of the information exchange system provided for in Article 20 of Directive 90/425/EEC, must specify whether:

- animals 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.

*Article 8*

A. Member States shall ensure that:

1. veterinary checks on imports of animals of species not covered by Annex A to Directive 90/425/EEC are carried out in accordance with the following provisions:

- (a) where animals are presented directly at one of the border posts of the Member State which intends to import them, they shall undergo at that post all the checks provided for in Article 4;
- (b) where animals are presented at a border inspection post situated in another Member State, with the latter's prior agreement:
  - (i) either all the checks referred to in Article 4 shall be carried out at that post on behalf of the Member State of destination in order, in particular, to ensure that the latter's animal health requirements have been complied with;
  - (ii) or, in the event of agreement between the competent central authorities of the two Member States and, where appropriate, those of the Member State or Member States of transit, only the checks provided for in Article 4 (1) shall be carried out at that post, in which case the checks provided for in Article 4 (2) shall be carried out in the Member State of destination.

In the latter case, however, animals may leave the border inspection post where the documentary check and identity check have been carried out only in sealed vehicles and only after the official veterinarian:

- has indicated on the copy, or, where the consignment is split, on the copies, of the original certificates that the animals have passed through and that the check has been carried out,
- has informed, by means of the information exchange system provided for in Article 20 of Directive 90/425/EEC, the veterinary authority of the place of destination or, where appropriate, of the Member State or Member States of transit, that the animals have passed through,
- notwithstanding Article 3 (1) (c), has given a discharge to the competent customs authority of the border inspection post in respect of the animals presented.

In the case of animals intended for slaughter, Member States may have recourse only to the solution set out in (i).

Member States shall inform the Commission and the representatives of the other Member States meeting in the Standing Veterinary Committee, of cases of recourse to the solution set out in (ii);

2. pending adoption of the specific decisions provided for under Community rules, animals the trade in which has been harmo-



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nized at Community level but which come from a third country for which uniform animal health conditions have not yet been established shall be imported subject to the following conditions:

- they must have remained in the third country of dispatch at least during the periods provided for in Article 10 (1) of Council Directive 72/462/EEC of 12 December 1972 on health and veterinary inspection problems upon importation of bovine, ovine and caprine animals and swine, fresh meat or meat products from third countries<sup>(1)</sup>,
  - they must undergo the checks provided for in Article 4,
  - they may not leave the border inspection post or the quarantine centre unless such checks show that the animal or consignment of animals:
    - (i) either, without prejudice to specific requirements applicable to the third countries concerned in respect of diseases foreign to the Community, complies with the animal health requirements applicable in trade in the species concerned as laid down in the Directives referred to in Annex A to Directive 90/425/EEC or with the animal health requirements laid down in Directive 72/462/EEC;
    - (ii) or, in respect of one or more specific diseases, fulfils the conditions of equivalence recognized, in accordance with the procedure laid down in Article 23, on the basis of reciprocity, between the requirements of the third country and those of the Community;
  - if they are intended for a Member State benefiting from the additional guarantees provided for in Article 3 (1) (e) (iii) and (iv) of Directive 90/425/EEC, they must satisfy the relevant requirements laid down in respect of intra-Community trade.
  - after they have passed through the border inspection post, they must, in the case of animals for slaughter, be conveyed to the slaughterhouse of destination, or, in the case of animals for breeding and production or aquaculture animals, be conveyed to the holding of destination;
3. if the checks provided for in points 1 and 2 show that the animal or the consignment of animals does not comply with the requirements laid down therein, the animal or consignment may not leave the border inspection post or quarantine centre and Article 12 shall be applicable;
  4. where the animals referred to in point 1 are not intended to be placed on the market in the territory of the Member State which has carried out the veterinary checks, the provisions of Article 7, and in particular those relating to the issue of the certificate, shall apply;
  5. at the place of destination, animals for breeding and production shall remain under the official supervision of the competent veterinary authorities. After an observation period to be determined in accordance with the procedure laid down in Article 23, the animals may enter intra-Community trade under the conditions laid down in Directive 90/425/EEC.

Animals for slaughter shall be subject, in the slaughterhouse of destination, to the Community rules relating to the slaughter of the species concerned.

- B. Detailed rules for the application of this Article shall be adopted, as the need arises, in accordance with the procedure laid down in Article 23.

<sup>(1)</sup> OJ No L 302, 31. 12. 1972, p. 28. Directive last amended by Directive 91/266/EEC (OJ No L 134, 29. 5. 1991, p. 45).

▼B*Article 9*

1. Member States shall authorize the transit of animals from one third country to another third country provided that:

- (a) such transit has been previously authorized by the official veterinarian of the border inspection post of the Member State in the territory of which the animals must be presented in order to undergo there the checks provided for in Article 4 and, where appropriate, by the competent central authority of the Member State or Member States of transit;
- (b) the party concerned supplies proof that the first third country to which the animals are being sent, after transit through one of the territories referred to in Annex I to Directive 90/675/EEC, undertakes under no circumstances to reject or to send back the animals, the importation or transit of which it has authorized and undertakes to comply, in the territories referred to in Annex I to Directive 90/675/EEC, with Community rules on protection during transport;
- (c) the check referred to in Article 4 shows to the satisfaction of the veterinarian, if applicable after the animals have passed through a quarantine centre, that the animals fulfil the requirements of this Directive or, in the case of animals referred to in Annex A to Directive 90/425/EEC, afford health guarantees recognized in accordance with the procedure laid down in Article 23 as being at least equivalent to those requirements;
- (d) the competent authority of the border inspection post notifies the fact that the animals have passed through to the competent authorities of the Member State or Member States of transit and of the border post of exit, by means of the information exchange system ►M1 referred to in Article 20 of Directive 90/425/EEC ◀;
- (e) in the case of passage through one of the territories referred to in Annex I to Directive 90/675/EEC, such transit is carried out under the Community transit procedure (external transit) or under any other customs transit procedure provided for in Community rules; the only handling authorized during transit shall be that carried out at the point of entry into or exit from one of the territories referred to in Annex I and operations to ensure the animals' welfare.

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.

*Article 10*

1. In cases where Community rules or the national rules of the place of destination, in areas which have not been harmonized and in compliance with the general rules of the Treaty, provide for live animals to be placed in quarantine or isolation, such quarantine or isolation may take place:

- for disease other than foot-and-mouth disease, rabies and Newcastle disease, at a quarantine centre situated in the third country of origin, provided that it has been approved by the procedure laid down in Article 22 and is regularly inspected by the Commission's veterinary experts,
- at a quarantine centre situated within Community territory which meets the requirements laid down in Annex B,
- on the holding of destination.

Special safeguards to be complied with during transport between the quarantine centre farms of origin and of destination and border inspection posts and in the quarantine centres referred to in the first indent of the preceding subparagraph may be laid down in accordance with the procedure provided for in Article 23.

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2. If the official veterinarian responsible for the border inspection post orders placing in quarantine, that quarantine must take place, depending on the hazard diagnosed by the official veterinarian:

- either at the border inspection post itself or in its immediate vicinity,
- or on the holding of destination,
- or at a quarantine centre situated in the vicinity of the holding of destination.

3. The general conditions to be fulfilled for the quarantine centres referred to in the first and second indents of paragraph 1 are laid down in Annex B.

The special approval conditions applicable to the different animal species shall be adopted in accordance with the procedure laid down in Article 23.

4. The procedure laid down in Article 22 must be followed for the approval and subsequent updating of the list of quarantine centres referred to in the first and second indents of paragraph 1 and the first indent of paragraph 2. Quarantine centres shall be subject to the inspection provided for in Article 19.

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

5. The second subparagraph of paragraph 1 and paragraphs 3 and 4 shall not apply to quarantine centres which are solely for the animals referred to in Article 8 (A) (1).

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

7. Before 1 January 1996, the Commission shall submit to the Council a report, possibly accompanied by proposals, on the need for Community quarantine centres and financial assistance from the Community for their operation.

#### *Article 11*

1. Without prejudice to the remaining 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 an animal, carry out any veterinary checks he or it deems appropriate.

2. Member States shall take the appropriate administrative or penal measures to penalize any infringement of veterinary legislation by natural or legal persons where it is found that Community rules have been infringed, in particular where it is found that the certificates or documents drawn up do not correspond to the actual state of the animals, that identification marks do not comply with those rules or that the animals were not presented for inspection at a border post or that the animals have not been sent to the destination originally intended.

#### *Article 12*

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

- (a) to shelter, feed and water and, if necessary, treat the animals; or
- (b) as the case may be, to place them in quarantine or to isolate the consignment;
- (c) to re-dispatch, within a time limit to be set by the competent national authority, the consignment of animals outside the terri-

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teries referred to in Annex I to Directive 90/675/EEC where animal health or animal welfare requirements so allow.

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

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— activate the information procedure provided for in the first indent of Article 1 of Decision 92/438/EEC,

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— under arrangements to be defined in accordance with the procedure laid down in Article 23, cancel the veterinary certificate or document accompanying the rejected consignment.

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If re-dispatch is impossible, in particular for reasons of the welfare of the animals, the official veterinarian:

- may, after agreement by the competent authority and after ante-mortem inspection, authorize slaughter of the animals for human consumption under the condition laid down by Community rules,
- must, otherwise, order slaughter of the animals for purposes other than human consumption or order deduction of the carcasses, specifying the conditions regarding control of the use of the products obtained.

The competent central authority shall inform the Commission of cases where recourse is had to these derogations in accordance with paragraph 4.

The Commission shall keep the Standing Veterinary Committee regularly informed of such cases.

2. The importer or his representative shall be liable for the costs incurred in the measures provided for in paragraph 1, the process of destroying the consignment or using the meat for other purposes.

The yield of the sale of the products referred to in the third subparagraph of paragraph 1 (c) must revert to the owner of the animals or his representative, after deduction of the above costs.

3. Detailed rules for the application of this Article shall be adopted, as the need arises, in accordance with the procedure laid down in Article 23.

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4. The provisions of Decision 92/438/EEC shall apply.

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5. The competent authorities shall, where appropriate, communicate 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<sup>(1)</sup>.

### *Article 13*

In accordance with the procedure laid down in Article 23, the Commission shall, on the basis of the plans referred to in the second subparagraph, adopt the rules applicable to imports of animals for slaughter intended for local consumption and of breeding or production animals in certain parts of the territories referred to in Annex I to Directive 90/675/EEC to take account of the natural constraints specific to these territories, including their remoteness from the mainland part of Community territory.

<sup>(1)</sup> OJ No L 351, 2. 12. 1989, p. 34.

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To that end, by 31 December 1991 at the latest, Member States shall submit a plan to the Commission setting out the procedures for carrying out checks on imports, into the regions referred to in the first subparagraph, of animals from third countries. These plans must specify the checks carried out to prevent animals introduced into the territories concerned or products obtained from those animals being dispatched under any circumstances to other parts of Community territory.

*Article 14*

For the purposes of carrying out the checks referred to in Article 7 (3) of this Directive, the identification and registration provided for in Article 3 (1) (c) of Directive 90/425/EEC must, except in the case of animals for slaughter and registered equidae, be carried out at the place of destination of the animals, where appropriate after the observation period provided for in Article 8A (5) of this Directive.

The procedures for identifying or marking animals for slaughter shall be determined according to the procedure provided for in Article 23.

*Article 15*

1. Member States shall collect a health fee when the animals referred to in this Directive are imported to cover the costs occasioned by health inspections and checks, as provided for in Articles 4, 5, and 8.
2. The Council, acting by a qualified majority on a proposal from the Commission shall, before 1 July 1992, take a decision on the level or levels of the fees referred to in paragraph 1 and on the detailed rules and principles for the implementation of this Directive, and on possible exceptions.

*Article 16*

Under the procedure provided for in Article 23 and on a reciprocal basis, less frequent identity checks and/or physical checks may, without prejudice to controls to see that the welfare requirements during transport are being complied with, be applied under certain conditions, and in particular in the light of the results of checks carried out prior to the adoption of this Directive.

The Commission shall 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 of Directives 72/462/EEC and 90/426/EEC;
- (b) the health situation of animals in the third country concerned;
- (c) information on the health situation in the third 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) rules on the authorization of certain substances and compliance with the requirements set out in Article 7 of Council Directive 86/469/EEC of 16 September 1986 concerning the examination of animals and fresh meat for the presence of residues<sup>(1)</sup>;
- (g) outcome of the Community inspection visits;
- (h) outcome of the import controls carried out.

<sup>(1)</sup> OJ No L 275, 26. 9. 1986, p. 36.

▼B*Article 17*

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 of the Member State of destination and the reasons for such decision shall be notified to the importer concerned by such decisions or his representative.

If the importer 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 in which the frontier inspection post is situated, and of the procedure and time limits applicable.

▼A1*Article 17a*

Austria and Finland shall have a period of three years from the date of entry into force of the Accession Treaty to introduce the checking system provided for in this Chapter. During that transitional period, Austria and Finland shall apply the measures which will be determined before the date of entry into force of the Accession Treaty in accordance with the procedure laid down in Article 23. These measures must ensure that all the necessary checks are carried out as close as possible to the Community's external frontier.

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## CHAPTER II

**Safeguard provisions***Article 18*

1. If a disease referred to in Council Directive 82/894/EEC of 21 December 1982 on the notification of animal diseases within the Community<sup>(1)</sup>, a zoonosis or other disease or phenomenon liable to present a serious threat to animal or human health occurs or spreads in the territory of a third country, or if any other serious animal 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 all or part of the third country concerned, and where appropriate from the third country of transit,
- set special conditions in respect of animals coming from all or part of the third country concerned.

2. If one of the checks provided for in this Directive indicates that a consignment of animals 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 animals, in accordance with Article 12 (4).

3. In the case provided for in paragraph 1, the Commission may take interim protective measures in respect of animals covered by Article 9.

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

5. In the case where a Member State informs the Commission officially of the need to take safeguard measures and the Commission has not invoked paragraphs 1 and 3 or made a referral to the Standing

<sup>(1)</sup> OJ No L 378, 31. 12. 1982, p. 58. Directive as last amended by Decision 90/134/EEC (OJ No L 76, 22. 3. 1990, p. 23).

**▼B**

Veterinary Committee in accordance with paragraph 6, that Member State may take interim protective measures in respect of the animals in question.

Where a Member State takes interim protective measures in respect of a third country under the terms of this paragraph, it shall inform the other Member States and the Commission in accordance with Article 12 (5).

6. Within 10 working days, the Standing Veterinary Committee shall have the matter referred to it, pursuant to the terms of Article 22, with a view to the extension, amendment or repeal of the measures provided for in paragraphs 1, 3 and 5.

7. Decisions to extend, amend or repeal measures decided on pursuant to paragraphs 1, 2, 3 and 6 shall be taken in accordance with the procedure laid down in Article 22.

8. Detailed rules for the application of this Chapter shall be adopted, where the need arises, in accordance with the procedure laid down in Article 23.

## CHAPTER III

**Inspection***Article 19*

1. Veterinary experts from the Commission may, in conjunction with the competent national authorities and to the extent necessary for uniform application of the requirements of this Directive, verify that the border inspection posts approved in accordance with Article 6 and the quarantine centres approved in accordance with Article 10 satisfy the criteria listed respectively in Annexes A and B.

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

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 22.

6. The Commission shall monitor developments; in the light of such developments and in accordance with the procedure laid down in Article 22, 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 the need arises, in accordance with the procedure laid down in Article 23.

*Article 20*

Where, on the basis of the checks carried out at the point where the animals are marketed, a competent authority of a Member State considers that this Directive is not being complied with at a border inspection post of another Member State, it shall contact the competent national 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 decision 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

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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 must, at the request of the competent authority of the Member State of destination or on its own initiative, send an inspection team to the Member State in question in conjunction with the competent national authorities. Depending on the type of infringement observed, that team may remain in the Member State in question until the decisions referred to in the final subparagraph have been taken.

Pending the Commission's findings, the Member State in question must, at the request of the Member State of destination, step up checks at the border inspection post or quarantine centre concerned.

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

At the request of one of the two Member States concerned, and in accordance with the procedure laid down in Article 22, the Commission must, where the irregularities are confirmed by the inspection referred to in the fifth subparagraph, take the appropriate measures. These measures must be confirmed or reviewed as soon as possible in accordance with the same procedure.

#### *Article 21*

1. Each Member State shall draw up a programme for the exchange of staff designated to carry out the veterinary checks on animals 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 exchange programmes.
6. A financial contribution from the Community may be granted in order to promote the efficient development of exchange programmes. Detailed rules for such contribution and the estimated amount to be charged to the general budget of the European Communities are laid down in Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field<sup>(1)</sup>.
7. Detailed rules for the application of paragraphs 1, 4 and 5 shall be adopted, where the need arises, in accordance with the procedure laid down in Article 23.

#### CHAPTER IV

#### **General provisions**

#### *Article 22*

Where reference is made to the procedure provided for in this Article, action shall be taken in accordance with Article 17 of Directive 89/662/EEC.

<sup>(1)</sup> OJ No L 224, 18. 8. 1990, p. 19. Decision amended by Decision 91/133/EEC (OJ No L 66, 13. 3. 1991, p. 18).



▼B*Article 23*

Where reference is made to the procedure provided for in this Article, action shall be taken in accordance with Article 18 of Directive 89/662/EEC.

*Article 24*

The Annexes to this Directive shall, where the need arises, be amended in accordance with the procedure laid down in Article 23.

*Article 25*

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

*Article 26*

1. Articles 12 and 28 of Directive 72/462/EEC shall be deleted.

Pending the decisions provided for in Articles 5 and 6 of this Directive, the acts adopted pursuant to Article 12 of Directive 72/462/EEC shall continue to apply.

2. Articles 20 and 21 of Directive 90/426/EEC and Articles 27 and 29 (2) of Directive 90/539/EEC shall be deleted.

*Article 27*

1. Directive 89/662/EEC is hereby amended as follows:

- (a) in article 19 (2) '31 December 1992' shall be replaced by '31 December 1996';
- (b) Article 22 shall be replaced by the following:

*'Article 22*

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive on 1 July 1992.'

2. Directive 90/425/EEC shall be amended as follows:

- (a) Article 7 shall be replaced by the following:

*'Article 7*

1. Member States shall ensure that, during checks carried out at the places where animals and products referred to in Annex I 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) certificates or documents accompanying the animals and products are checked;
- (b) Community animals and products shall be subject to the control rules laid down in Article 5;
- (c) products from third countries shall be subject to the rules laid down in Directive 90/675/EEC;
- (d) animals from third countries shall be subject to the rules laid down in Directive 91/496/EEC.

2. However, as from 1 January 1993 and by way of derogation from paragraph 1, all animals or products transported by means of transport providing a regular and direct link between two geographical points of the Community shall be subject to the rules for control provided for in Article 5.'

- (b) Article 23 shall be replaced by the following:

**▼B***Article 23*

The Council shall, on the basis of a Commission report, accompanied by possible proposals on which the Council will decide by a qualified majority, re-examine:

- the provisions of Article 10 and of Article 5 (2) (a) before 1 January 1993,
- other provisions before 1 January 1996.

(c) In Article 26:

in the first subparagraph, point (ii) shall be replaced by:

‘(ii) the other provisions of this Directive on 1 July 1992.’;

the second subparagraph shall be deleted.

3. Directive 90/675/CEE is hereby amended as follows:

(a) in Article 19, paragraph 6 shall be replaced by the following:

‘6. Within 10 working days, the Standing Veterinary Committee shall have the matter referred to it, pursuant to the terms of Article 23, with a view to the extension, amendment or repeal of the measures provided for in paragraphs 1, 3 and 5. The procedure provided for in Article 23 may also be used to adopt the necessary decisions, including those relating to intra-Community movement of products and to transit.’

(b) In Article 32, ‘by 31 December 1991’ shall be replaced by ‘on 1 July 1992’.

*Article 28*

Acting in accordance with the procedure laid down in Article 23, the Commission may adopt for three years the transitional measures necessary to facilitate the transition to the new checking arrangements provided for in this Directive.

*Article 29*

Member States ►**A1**, in particular Austria and Finland, ◀ may make use of the Community financial assistance provided for in Article 38 of Directive 90/424/EEC for the implementation of this Directive, in particular for setting up networks for exchanges of information between veterinary services and border posts.

*Article 30*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with:

- (a) the provisions of Article 6 (3) and Articles 13, 18 and 21 on 1 December 1991;
- (b) the other provisions of this Directive on 1 July 1992.

They shall forthwith inform the Commission thereof.

When these measures are adopted by the Member States, 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.

2. Detailed rules for applying this Directive, and in particular those concerning Article 8 (3), shall be adopted and the system referred to ►**M1** — Article 12 (4) brought into force on 1 July 1992.

If the date referred to in the preceding subparagraph cannot be met, the transitional measures provided for in Article 28 shall be taken on that date.

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*Article 31*

This Directive is addressed to the Member States.

*ANNEX A***General conditions for the approval of border inspection posts**

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

- 1) a dedicated access lane for the transport of live animals so that the animals are spared unnecessary waiting;
- 2) facilities (which must be easy to clean and disinfect) for loading and unloading the different means of transport, inspection, feeding, watering and treatment of the animals, with adequate space, lighting and ventilation for the number of animals to be inspected;
- 3) sufficient numbers, in relation to the numbers of animals dealt with by the border inspection post, of veterinary and auxiliary staff specially trained to carry out checks on the accompanying documents and the clinical checks referred to in Articles 4, 5, 8 and 9 of this Directive;
- 4) sufficiently large premises at the disposal of the staff responsible for carrying out veterinary checks, including changing rooms, showers and toilets;
- 5) appropriate premises and facilities for taking and processing the samples for the routine checks laid down in Community rules;
- 6) the services of a specialized laboratory able to carry out special tests on the samples taken at the post;
- 7) the services of an undertaking in the immediate vicinity which has the facilities and equipment to house, feed, water, treat and, if necessary, slaughter the animals;
- 8) where such posts serve as stopping or transfer points for animals during transport, suitable facilities for the animals to be unloaded, watered, fed, housed properly where necessary and given the requisite treatment or if necessary to be slaughtered on the spot in a way which spares them unnecessary suffering;
- 9) appropriate equipment permitting the rapid exchange of information with other border inspection posts and the competent veterinary authorities referred to in Article 20 of Directive 90/425/EEC;
- 10) equipment and facilities for cleaning and disinfecting.

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*ANNEX B*

**General conditions for the approval of quarantine centres**

1. The requirements of Annex A, points 2, 4, 5, 7, 9 and 10 shall apply.
2. In addition, quarantine centres must:
  - be placed under the permanent control and under the responsibility of the official veterinarian,
  - be located at a distance from holdings or other places where animals are kept which are likely to be infected by contagious diseases,
  - have an efficient control system so as to ensure adequate surveillance of the animals.