

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(91) 75 final

Brussels, 15 March 1991

Proposal for a

COUNCIL REGULATION (EEC)

Laying down the principles governing the organization of
veterinary checks on animals entering the Community
from third countries

(presented by the Commission)

EXPLANATORY MEMORANDUM

When the Council adopted Directive 90/425/EEC 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⁽¹⁾, it undertook in particular to fix, before 1 January 1991, the general principles applicable to veterinary checks on animals imported from third countries.

It is all the more necessary to fix common principles governing the organisation of checks and the movement inside the Community of animals from third countries given that internal border checks are to be abolished.

The proposal adopts the following general principles :

In all cases, a documentary check must be carried out on arrival in Community territory. Then, an identity check and a physical check must be carried out at an inspection post located in the immediate vicinity of the point of entry. After these checks, the animals shall be subject to the same system as Community animals.

In addition to the general principles, the proposal provides for the approval and checking of inspection posts, the placing in quarantine of animals, the organization of follow-ups to the checks, the settlement of disputes, programmes for exchanges between officials and special cases.

A general system of safeguards is proposed. It is for the Commission to take the necessary protection measures. The situation is reviewed as soon as possible within the Standing Veterinary Committee and the necessary decisions are adopted by the Commission in accordance with the so-called regulatory committee procedure (Formula 3.A.).

(1) OJ No L 224, 18.8.1990, p. 29.

Proposal for a
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laying down the principles governing the organization of
veterinary checks on animals entering the Community
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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,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas live animals are listed in Annex II to the Treaty;

Whereas the laying down at Community level of principles governing the
organization of veterinary checks on animals from third countries helps to
guarantee security of supply and market stability, at the same time
harmonizing the measures necessary to ensure the protection of animal and
public 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⁽¹⁾ provides, in particular, that the Council must fix,
before 1 January 1991, the rules and general principles applicable to checks
on imports from third countries of animals covered by the said Directive;

(1) OJ No L 224, 18.8.1990, p. 29.

Whereas each consignment of animals from third countries must be subjected to documentary checks on entering the Community;

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

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

Whereas, if the system of checks is to function smoothly, inspection posts must be checked and exchanges should take place between officials empowered to carry out checks on live animals originating in third countries;

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

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

HAS ADOPTED THIS REGULATION:

CHAPTER I
GENERAL PROVISIONS

Article 1

1. Without prejudice to special provisions arising from specific Community rules, Member States shall carry out veterinary checks in respect of animals entering the Community from third countries in accordance with this Regulation.

2. This Regulation shall be without prejudice to the continued application of veterinary requirements in respect of the animals concerned, where such requirements arise from Community rules or from national rules which have not yet been harmonized at Community level.

Article 2

1. For the purposes of this Regulation, the definitions in Article 2 of Directive 90/425/EEC shall apply.
2. In addition :
 - (a) documentary check means verification of the documents accompanying an animal which is itself not subjected to any check;
 - (b) identity check means verification, by visual inspection only, of the correspondence between the documents and an animal which is itself not subjected to any physical check;
 - (c) physical check means a check of the animal itself, possibly including sampling and laboratory testing and, where applicable, the placing in quarantine and the tests carried out during quarantine.

CHAPTER 11
ORGANIZATION AND EFFECTS OF CHECKS

Article 3

1. Each consignment of animals from a third country shall be subjected to a documentary check by the competent authorities irrespective of the customs destination of the animals.
2. The documentary check shall be carried out on entry into the territory defined in Annex 1.
3. Detailed rules for application of this Article shall be adopted, where necessary, in accordance with the procedure laid down in Article 21.

Article 4

1. Animals shall be conveyed directly, under customs supervision, to the inspection post referred to in Article 5, or, where applicable, to a quarantine centre referred to in Article 6. Each consignment of animals shall be subjected to an identity check and a physical check. The identity check and the physical check shall be based on random sampling using methods adopted in accordance with paragraph 3.
2. However, by way of derogation from paragraph 1, for animals entering a port or an airport in the territory defined in Annex 1, these checks may be carried out at the port or airport of destination, provided that such port or airport has an inspection post as referred to in Article 5, and that the animals are transported, 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 inform the official veterinarian at the inspection post of the Member State of destination that the animals have passed through.

3. Detailed rules for the application of paragraph 1 shall be adopted in accordance with the procedure laid down in Article 21.

Article 5

1. The inspection post referred to in Article 4(1) must satisfy the requirements of this Article.
2. The inspection post must be located in the immediate vicinity of the point of entry into the territory defined in Annex I. In the case of animals entering the Community by rail or by road, however, where geographical conditions so warrant and where a Member State so requests and provides the necessary justification, a derogation may be granted in accordance with the procedure laid down in Article 21.
3. The inspection post must be subject to the authority of an official veterinarian, who shall be effectively responsible for the checks. The official veterinarian may be assisted in the performance of purely material duties by assistants specially trained for the purpose. The procedures for such assistance shall be adopted in accordance with the procedure laid down in Article 21.
4. The general approval conditions for the inspection posts are laid down in Annex II. The Commission, in accordance with the procedure laid down in Article 21, shall adopt the special approval conditions applicable to the different animal species.
5. The Commission shall approve the inspection posts in accordance with the procedure laid down in Article 21.

Article 6

1. In cases where Community or national rules, in areas which have not been the subject of harmonization and in compliance with the general rules of the Treaty, provide for live animals to be placed in quarantine, or where the official veterinarian in charge of the inspection post so decides, such quarantine shall take place on the holding of destination or at a quarantine centre.
2. The general approval conditions for quarantine centres are laid down in Annex III. The Commission, in accordance with the procedure laid down in Article 21, shall adopt the special approval conditions applicable to the different animal species.
3. The Commission shall approve the quarantine centres in accordance with the procedure laid down in Article 21.

Article 7

1. Where the checks referred to in Articles 3 and 4 show that the veterinary conditions for importation have actually been complied with and that there is no danger to public or animal health, the official veterinarian in charge of the inspection post referred to in Article 5 shall:
 - provide the person concerned with an authenticated copy or, if the consignment of goods is split, copies of the original certificates relating to the animals;

- issue a certificate showing that the checks referred to in Article 4 have been carried out;
 - keep the original certificate or certificates relating to the animals.
2. Detailed rules for the application of paragraph 1 shall be adopted in accordance with the procedure laid down in Article 21.
 3. Intra-Community trade in animals as referred to in paragraph 1 shall be conducted in accordance with the rules laid down in Directive 90/425/EEC.

Article 8

1. This Article shall apply in respect of animals to be transported from one third country to another.
2. Transport as referred to in paragraph 1 shall be authorized by the competent authority subject to the following conditions:
 - (a) the check referred to in Article 3 has been carried out with satisfactory findings for the competent authority. Where fraud is suspected, the said authority may carry out all appropriate veterinary checks, and decide in particular that the animals must be brought to the inspection post for being submitted to the necessary checks.
 - (b) the person concerned provides the competent authority with proof that the first third country to which the animals are to be forwarded after transit across the Community territory defined in Annex I undertakes not to re-consign the animals to the Community under any circumstances;

(c) transport in the territory defined in Annex I takes place under the Community transit system (external procedure) or another customs transit system provided for in Community rules.

3. The competent authority shall inform the competent authorities of the Member States of transit that the animals have passed through.
4. Detailed rules for the application of this Article shall be adopted, where necessary, in accordance with the procedure laid down in Article 21.

Article 9

Where fraud is suspected or there is doubt as to the identity of animals, the competent authority shall carry out any checks it deems appropriate.

Article 10

1. Where the checks referred to in this Regulation show the competent authority that the animals do not satisfy the requirements laid down in the Community rules or national rules in matters which have not yet been the subject of Community harmonization, or where such checks reveal that there is a risk to public or animal health, the competent authority, after consultation with the importer or his representative, shall decide either:
 - (a) to take steps to house, if necessary in a quarantine centre, and to provide appropriate care for the animals until the problem is resolved, or
 - (b) to order their re-exportation outside the territory defined in Annex I to the third country of origin after they have been adequately rested, fed and watered, in accordance with the instructions of the official veterinarian; in this case, the veterinarian in charge of the inspection post shall inform the other inspection posts in the Community that importation has been refused; or

(c) to take steps to slaughter and/or destroy the animals.

Costs incurred pursuant to this paragraph shall be charged to the importer or his representative and shall have no financial implications for the Member State concerned.

2. Detailed rules for the application of this Article shall be adopted, where necessary, in accordance with the procedure laid down in Article 21.

3. The competent authorities shall, where appropriate, communicate any information at their disposal in accordance with Council Directive 89/608/EEC⁽²⁾.

Article 11

Derogations to the requirements of this Chapter may be granted, in accordance with the procedure laid down in Article 21, in particular in respect of animals accompanying travellers.

CHAPTER III

SAFEGUARD PROVISIONS

Article 12

1. If, in the territory of a third country, a disease referred to in Council Directive 82/894/EEC⁽³⁾, a zoonosis, a disease or other cause liable to present a serious threat to animal or public health breaks out or spreads, or if any other serious animal health or public health reason so warrants, the Commission may, as a protective measure, prohibit imports or apply special conditions to imports of animals originating directly or indirectly in the third country concerned or part of the territory thereof.

(2) OJ No L 351, 2.12.1989, p. 34.

(3) OJ No L 378, 31.12.1982, p. 58.

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

Article 13

1. Without delay the Commission shall review the situation within the committee referred to in Article 19. It may adopt the necessary decisions in accordance with the procedure laid down in Article 20, including those relating to intra-Community movements of animals.

2. Decisions to modify, revoke or prolong measures decided by virtue of Article 12, paragraph 1, shall be taken in accordance with the procedure laid down in Article 20.

Article 14

Detailed rules for the application of this Chapter shall be adopted, where necessary, in accordance with the procedure laid down in Article 21.

CHAPTER IV

INSPECTION

Article 15

1. Veterinary experts from the Commission shall, in collaboration with the competent authorities, check that

- (a) the inspection posts approved in accordance with Article 5(5) satisfy the conditions for approval;

- (b) the quarantine centres approved in accordance with Article 6(3) satisfy the conditions for approval.

2. Veterinary experts from the Commission may, in collaboration 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 the checks so justifies, it shall review the situation within the committee referred to in Article 19. It may adopt the necessary decisions in accordance with the procedure laid down in Article 21.
6. The Commission shall monitor developments and, in accordance with the procedure laid down in Article 21, amend or revoke, in the light of the developments, 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 21.

Article 16

1. Where, on the basis of the checks carried out at the point of destination of the animals, a competent authority of a Member State considers that this Regulation is not being complied with at an inspection post, a quarantine centre or a point of arrival in another Member State, it shall, without delay, contact the competent central authority of that Member State. The latter shall take all the necessary measures and inform the competent authority of the first Member State of the decisions taken and the reasons for such decisions.
2. 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 in which the situation can be rectified, where necessary by visiting the Member State in question.
3. Where the checks referred to in paragraph 1 show repeated non-compliance with this Regulation, the competent authority of the Member State of destination shall inform the Commission and the competent authorities of the other Member States.

4. 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 ascertained:
 - send an inspection team to the Member State in question,
 - instruct an official veterinarian, whose name must be on a list to be drawn up by the Commission on the basis of suggestions from the Member States and who must be acceptable to all the parties involved, to verify the facts at the inspection post, quarantine centre or point of arrival in question,
 - request the competent authority to increase the checks carried out at the inspection post, quarantine centre or point of arrival in question.
5. The Commission shall inform the Member States of its conclusions. Where it deems it necessary, it shall review the situation within the committee referred to in Article 19. It may adopt the necessary decisions in accordance with the procedure laid down in Article 21.
6. The Commission shall monitor developments and, in accordance with the procedure laid down in Article 21, amend or revoke, in the light of the developments, 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 21.

CHAPTER V

GENERAL PROVISIONS

Article 17

1. Each Member State shall draw up a programme for the exchange of officials empowered to carry out the checks on animals originating in third countries.
2. The Commission and the Member States shall coordinate the programmes referred to in paragraph 1 within the committee referred to in Article 19.

3. Member States shall take the necessary measures to allow implementation of the programmes resulting from the coordination referred to in paragraph 2.
4. Each year, in the committee referred to in Article 19, the implementation of programmes shall be reviewed on the basis of reports by the Member States.
5. Member States shall take into account the experience gained in order to improve and develop the programmes 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⁽⁴⁾.
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 21.

Article 18

1. Article 20(1) of Directive 90/425/EEC shall apply to the exchange of information to be carried out under this Regulation.
2. The third paragraph of Article 21 of Directive 90/425/EEC shall apply to the measures necessary for the computerization of the statements of the conditions applicable to the admission of animals to the territory of the Community.

(4) OJ No L 224, 18.8.1990, p. 19.

Article 19

The Commission shall be assisted by the Standing Veterinary Committee, set up by Council Decision 68/361/EEC⁽⁵⁾, hereinafter referred to as "the Committee".

Article 20

Where the procedure laid down in this Article is to be followed, the following provisions shall apply:

The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit of two days. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of 15 days from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 21

Where the procedure laid down in this Article is to be followed, the following provisions shall apply:

(5) OJ No L 255, 18.10.1968, p. 23.

The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

Article 22

The Annexes shall be amended in accordance with the procedure laid down in Article 21.

Article 23

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

Article 24

Directive 90/425/EEC is hereby amended as follows :

1. Article 7 is replaced by the following :

"Article 7

1. Member States shall ensure that during the checks carried out at the places where animals or animal products from a third country may be brought into the Community, such as ports, airports and frontier posts with third countries, the following measures are taken:

(a) the certificates or documents relating to the animals and products are checked;

- (b) Community animals and products shall be subject to the control rules laid down in Article 5;
- (c) animals from third countries are subject to the rules laid down in Council Regulation (EEC) No/90*.

2. 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 "

2. Article 26 is replaced by the following :

"Article 26

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

- (i) Article 10 of this Directive and Article 9 of Directive 89/662/EEC, two months after the date of notification of this Directive;
- (ii) the other provisions of this Directive, not later than 1 July 1991.

However, the Hellenic Republic shall have an additional time limit of one year.

When Member States adopt these provisions, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for this reference shall be adopted by Member States."

Article 25

This Regulation shall enter into force on the thirtieth day following that of its publication in the Official Journal of the European Communities.

It shall apply from 1 July 1991. This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President

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 in Europe.
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.

ANNEX I

GENERAL CONDITIONS FOR THE APPROVAL OF INSPECTION POSTS

Inspection posts must have :

- (1) enough adequately trained staff to care for the animals arriving at the post;
- (2) adequate facilities for loading and unloading the different means of transport arriving at the post;
- (3) facilities (which must be easy to clean and disinfect) for the reception, inspection, feeding and watering of the animals, with adequate space, lighting and ventilation and drainage for the type and number of animals to be housed;
- (4) separate facilities for the housing of animals which are sick, wounded or in need of special treatment;
- (5) suitable facilities for the staff, including changing rooms, toilets, basins, showers and equipment for the cleaning and disinfecting of boots and other protective clothing;
- (6) offices reserved for the competent authority; such offices must be of an adequate size and lockable;
- (7) an adequate system for the disposal of waste materials and dead animals;
- (8) adequate facilities for the slaughter of animals;
- (9) facilities required for the implementation of the information transfer system provided for in this Regulation.

ANNEX III

GENERAL CONDITIONS FOR THE APPROVAL OF QUARANTINE CENTRES

1. The requirements of Annex II, points 1 to 8 shall apply.

2. In addition, the quarantine centres must :

- be placed under permanent veterinary control and under the responsibility of an 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 an adequate surveillance of the animals.

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