



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a
COUNCIL DIRECTIVE

laying down the principles governing the organization of veterinary checks
on products entering the Community from third countries

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COUNCIL DIRECTIVE

amending Directives 71/118/EEC, 72/462/EEC, 85/73/EEC, 91/67/EEC, 91/492/EEC,
91/493/EEC, 92/45/EEC and 92/118/EEC as regards the organization of veterinary checks
on products entering the Community from third countries

(presented by the Commission)

EXPLANATORY MEMORANDUM

Council Directive 90/675/EEC, laying down the principles governing the organization of veterinary checks on products entering the Community from third countries⁽¹⁾, introduces arrangements for a new system of veterinary checks for products entering the Community from third countries.

With the establishment of the Internal Market, it has been all the more necessary to fix common principles governing the organization of checks and the movement inside the Community of products from third countries given that internal border checks were to be abolished.

Since the entry into force of Directive 90/675/EEC, experiences have been gained and developments have taken place with regard to the implementation of the Directive which together with reasons of transparency calls for a modification of the Directive.

For all products of animal origin imported from third countries harmonized conditions are in the process of being completed; therefore one single checking regime should be applied and in any case the provisions for the bilateral agreements should be abolished for which there is no need.

In a system of veterinary checks on products of animal origin, it is not necessary to have a separate identity check, since such a check should primarily be part of the physical check.

For products arriving at the Community border, without having the Community as final destination, strict rules are established to ensure that these products will leave the Community.

Measures are laid down for consignments which have been introduced into the territory of the Community without being presented for veterinary checks. Measures are also laid down for the re-entry of Community consignments which have been refused by a third country.

Article 1 includes the whole text of the Directive and the modifications are underlined to improve readability of the text. In addition, a table of correspondence is laid down in an Annex to the modified Directive.

⁽¹⁾ OJ No L 373, 31.12.1990, p. 1. Directive as last amended by Directive 95/52/EC (OJ No L 265, 8.11.1995, p. 16).

Proposal for a
COUNCIL DIRECTIVE

96/0109 (CNS)

laying down the principles governing the organization of veterinary checks
on products entering the Community from third countries

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission⁽¹⁾,

Having regard to the opinion of the European Parliament⁽²⁾,

Having regard to the opinion of the Economic and Social Committee⁽³⁾,

Whereas 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 the establishment of the Internal Market has accentuated the need to lay down common principles for the veterinary checks, given that internal border checks have been abolished;

Whereas, since 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⁽⁴⁾ took effect, developments have taken place in the application of the Directive and new experiences have been encountered; whereas in the interests of transparency, the Directive should be amended;

Whereas harmonized conditions for all products of animal origin imported from third countries into the Community should be established; whereas for that reason a single checking scheme for these products should be applied and the requisite adjustments made;

Whereas in the new system of veterinary checks only a documentary and physical check need to be carried out; whereas for that reason the identity check needs to be abolished;

Whereas rules must be laid down whereby consignments which have been introduced into the Community without being presented will undergo the veterinary checks at a border inspection post;

(1) OJ No C

(2) OJ No C

(3) OJ No C

(4) OJ No L 373, 31.12.1990, p. 1. Directive as last amended by Directive 95/52/EC (OJ No L 265, 8.11.1995, p. 16).

Whereas Member States, in certain cases, may impose additional requirements for products to be imported; whereas the Member State of arrival has to take account of these extra national requirements when making checks;

Whereas with regard to the transshipment by sea or air of products with a final destination in the Community clear rules should be laid down on where to carry out the checks; whereas for that reason the checks should, in principle, be carried out at the border inspection post of destination;

Whereas Community legislation requires certain products to be monitored from arrival in the Community to the place of destination to safeguard public and animal health; whereas for that reason strict rules must be laid down;

Whereas strict rules should be established to ensure that products arriving at the Community border without having the Community as final destination will leave the Community;

Whereas those products which comply with Community requirements for importation should be separated from those which do not; whereas to take account of these differences separate checking systems should be laid down;

Whereas the supply of products of animal origin for the crew and passengers of sea and air transport is of considerable commercial importance in the Community; whereas those products often do not comply with Community requirements; whereas for that reason strict rules should be laid down to safeguard public and animal health;

Whereas a Community product which is refused by a third country and which is returned to the Community should be regarded as no longer fulfilling the Community requirements; whereas for that reason strict rules in that regard should be laid down to safeguard public and animal health;

Whereas extra safeguards should be laid down with a view to the prevention of fraud and to provide for harmonized measures on fraudulent operations and irregularities;

Whereas Directive 90/675/EEC has been substantially amended on several occasions; whereas, on the occasion of the new amendments required, it is thus advisable for the sake of clarity and rationality to repeal and replace that Directive,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Veterinary checks on products from third countries introduced into one of the territories as referred to in Annex I shall be carried out by the Member States in accordance with this Directive.

Article 2

1. For the purposes of this Directive, the definitions contained in Article 2 of Council Directives 89/662/EEC⁽⁵⁾ and 90/425/EEC⁽⁶⁾, respectively, shall apply as necessary.

⁽⁵⁾ OJ No L 395, 30.12.1989, p. 13. Directive as last amended by Directive 92/118/EEC (OJ No L 62, 15.3.1992, p. 49).

⁽⁶⁾ OJ No L 224, 18.8.1990, p. 29. Directive as last amended by Directive 92/118/EEC.

2. In addition:

- (a) "products" means products of animal origin referred to in Directives 89/662/EEC and 90/425/EEC including by-products of animal origin not covered by Annex II to the Treaty, or, in the circumstances described in Article 18
 - fresh fish landed immediately from a fishing vessel;
 - certain plant products;
- (b) "documentary check" means the examination of the veterinary certificate(s) or veterinary document(s), or other document(s) accompanying a consignment,
- (c) "physical check" means
 - the verification of the consistency between the veterinary certificate(s) or veterinary document(s) or other document(s) provided for by veterinary legislation and the product;
 - a check of the product itself, which may include checks on packaging and temperature and also sampling and laboratory testing;
- (d) "declarant" means any physical or legal person who presents products for introduction into one of the territories set out in Annex I;
- (e) "consignment" means a quantity of products of the same type, covered by the same veterinary certificate(s) or veterinary document(s), or other document(s) provided for by veterinary legislation, conveyed by the same means of transport and coming from the same third country or part of such country;
- (f) "border inspection post" means any inspection post, designated and approved in accordance with Article 6, for the carrying out of veterinary checks on products arriving at the border of one of the territories referred to in Annex I from third countries;
- (g) "import" means clearance by customs for release for free circulation;
- (h) "import conditions" means veterinary requirements on products to be imported, as laid down in Community legislation;
- (i) "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

1. Member States shall ensure that consignments from third countries shall not be introduced into one of the territories referred to in Annex I without having undergone the required veterinary checks.

2. Member States shall ensure that consignments are introduced into one of the territories referred to in Annex I only via a border inspection post. On arrival in one of the territories set out in Annex I, each consignment shall be conveyed direct to the nearest border inspection post in order to undergo there, without delay, the required veterinary checks.
3. Member States shall ensure that declarants are obliged to give prior notification of details of the consignment to the veterinary staff of the border inspection post to which the products are to be submitted.
4. Customs authorities shall only allow the intended customs-approved treatment or use of the consignments, in accordance with the certificate referred to in Article 5(1).
5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure referred to in Article 26.

Article 4

1. Each consignment shall be subject to veterinary checks in the border inspection post referred to in Article 3(2) by staff of the competent authority acting under the responsibility of the official veterinarian.
2. For each consignment the official veterinarian shall, on the basis of the information referred to in Article 3(3), consult the database referred to in Annex I to Council Decision 92/438/EEC⁽⁷⁾ on computerization of veterinary import procedures. Furthermore, for each consignment intended for import into one of the territories referred to in Annex I hereto, he shall consult the database referred to in Annex II to Decision 92/438/EEC.
3. Each consignment shall be subject to a documentary check irrespective of the customs-approved treatment or use, in order to establish:
 - (a) that the information in the veterinary certificate(s) or veterinary document(s) or other document(s) corresponds to the information referred to in Article 3(3);
 - (b) in the case of imports, that the particulars contained in the veterinary certificate(s) or veterinary document(s) or other document(s) afford the guarantees required.
4. The official veterinarian shall, where so required by this Directive, carry out a physical check on the basis of a representative sample of the consignment in order to:
 - (a) check that the products correspond to the accompanying veterinary certificate(s) or veterinary document(s) or other document(s) and bear any stamps or marks required by veterinary legislation;
 - (b) check that the products are in a fit state to be used for the purpose specified in the accompanying certificate or document;
 - (c) perform any laboratory tests which have to be carried out on the spot;
 - (d) take any official samples required and have them analysed as soon as possible.
5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure referred to in Article 26.

⁽⁷⁾ OJ No L 243, 25.8.1992, p. 27. Decision as amended by the Act of Accession of Austria, Finland and Sweden.

Article 5

1. After completion of the required veterinary checks, the official veterinarian shall issue for the consignment of products concerned a certificate certifying the checks and recording the intended place of destination.
2. The document referred to in paragraph 1 shall accompany the consignment:
 - as long as the consignment remains under customs supervision; or
 - in the case of imports, until the first establishment as referred to in Directive 89/662/EEC, or until the first centre or organization of destination as referred to in Directive 90/425/EEC.
3. If the consignment is split, paragraph 1 shall apply to each part.
4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure referred to in Article 26.

Article 6

1. Border inspection posts must be:
 - (a) located in the immediate vicinity of the point of entry into one of the territories referred to in Annex I, and in an area which is designated or approved by the customs authorities in accordance with Article 38(1)(a) of Council Regulation (EEC) No 2913/92⁽⁸⁾;

However, where necessitated by geographical constraints (such as unloading wharf, railway station, passes) a border inspection post at a certain distance from the point of introduction may be tolerated.
 - (b) 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.

He shall ensure that all updating of the data bases indicated in the third indent of Article 1(1) of Decision 92/438/EEC is carried out.
 - (c) - proposed by the Member State;
 - inspected by the Commission in collaboration with the competent authority of the Member State;
 - approved in accordance with the procedure referred to in Article 26.
2. A list of approved border inspection posts shall be established and published by the Commission.
3. Pending the adoption of the list under paragraph 2, the list currently in force shall remain applicable.
4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure referred to in Article 26.

⁽⁸⁾ OJ No L 302, 19.10.1992, p. 1. Regulation as amended by the Act of Accession of Austria, Finland and Sweden.

Article 7

1. Each consignment intended for import into one of the territories referred to in Annex I shall be accompanied by the original veterinary certificate(s) or original veterinary document(s) or other original document(s) as required by veterinary legislation. The original certificate(s) or document(s) shall remain at the border inspection post.
2. Each consignment of products from a third country intended for import into one of the territories referred to in Annex I shall be subject to a physical check.
3. Customs authorities shall not allow the importation of consignments of products unless - without prejudice to the customs regulations and to the special provisions to be adopted in accordance with Article 17 - proof has been supplied both that the relevant veterinary checks have been carried out with satisfactory results and paid for, and that the relevant certificate has been issued in accordance with Article 5.
4. If the consignment complies with the import conditions, the official veterinarian shall provide the person concerned with an authenticated copy of the original certificate(s) or document(s) and issue a certificate certifying that the consignment complies with those conditions in accordance with Article 5(1).
5. Trade in the products referred to in Directives 89/662/EEC and 90/425/EEC and allowed into one of the territories referred to in Annex I to this Directive shall be conducted in accordance with the rules laid down in the said Directives, in particular in Chapter II thereof.
6. Detailed rules for the application of this Article shall be adopted in accordance with the procedure referred to in Article 26.

Article 8

1. 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,

additional information must be given to the competent authority of the place of destination by means of the ANIMO network.
2. Each consignment of products referred to in the first and third indents of paragraph 1 and destined for another Member State shall undergo the documentary and physical check 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 or area of destination.
3. Member States shall ensure that in the case of products referred to in the first and third indents of paragraph 1 and introduced into a Member State other than the Member State of destination, all measures shall be taken to ensure that consignment involved reaches the intended Member State of destination.

4. Products which are to be monitored pursuant to Community legislation from the border inspection post of arrival to the establishment at the place of destination, shall be forwarded under the following conditions:
- the consignments in question are forwarded between the border inspection post of arrival and the establishment at the place of destination, under supervision of the competent authority in leakproof vehicles or containers sealed by the competent authorities;
 - the products shall undergo in the establishment at the place of destination the treatment referred to in the relevant Community legislation;
 - the official veterinarian at the border inspection post concerned shall inform the official veterinarian at the place of destination via the ANIMO network.

Member States shall submit to the Commission the list of approved establishments as referred to above for the products concerned following the relevant Community legislation.

The Commission shall adopt a list of approved establishments and shall arrange the communication of the up to date list to the Member States.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure referred to in Article 26.

Article 9

1. By way of derogation from Article 3(2), in the case of consignments intended for import into one of the territories set out in Annex I and arriving at a border inspection post of a port or airport in one of the territories set out in Annex I, the physical check shall be carried out in the border inspection post of destination, provided that the transport takes place by sea or air. The following procedures shall be carried out in the border post referred to in Article 3(2):
- (a) If the consignment is not unloaded, the competent authority may carry out random documentary checks of the products, on the basis of the original veterinary certificate or veterinary document or other document, or an authenticated copy of them. If a documentary check has been carried out the competent authority shall issue the certificate referred to in Article 5(1) certifying the results of this check, for the benefit of the authorities in the port or airport of destination.
 - (b) If the consignment is transhipped from one aircraft to another or from one vessel to another within the customs area of the same port or airport, the competent authority shall be informed and may carry out a documentary check of the products on the basis of the same documents referred to in paragraph (a).
 - (c) If the consignment is unloaded and stored temporarily under supervision of the competent authority in the customs area of the port or airport to be forwarded to another border inspection post by sea or air transport, the competent authority shall carry out a documentary check of the products on the basis of the same documents as are referred to in paragraph (a); in exceptional cases which may present a risk to public or animal health or when irregularities are suspected, a physical check may be carried out;
2. Detailed rules for the application of this Article shall be adopted in accordance with the procedure referred to in Article 26.

Article 10

1. At the request of a Member State, accompanied by the requisite substantiating information, or acting on its own initiative, the Commission may, in accordance with the procedure referred to in Article 26, determine that physical 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 products from certain third countries or regions or certain establishments in third countries offering satisfactory guarantees as regards checks at the point of origin on products intended for import into one of the territories referred to in Annex I.
2. The Commission shall take into account the following criteria for granting derogations:
 - (a) the guarantees offered by the third country in question with respect to compliance with Community requirements;
 - (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 applied by the third country for monitoring and combatting disease;
 - (e) structures, powers, independence and competence of the veterinary or other competent services;
 - (f) compliance with the minimum standards laid down by Community law with regard to production hygiene;
 - (g) rules on the authorization of certain substances and compliance with the requirements set out in Council Directive 96/.../EC⁽⁹⁾;
 - (h) outcome of the Community inspection visits;
 - (i) outcome of the import controls carried out;
 - (j) the type of product or products.
3. Without prejudice to paragraph 1, reductions in the frequency of physical checks may also be determined with regard to a third country pursuant to a bilateral veterinary agreement.

Article 11

1. A Member State shall, on behalf of all Member States through which the transit will take place, authorize the transit of consignments from one third country to another third country provided that such a transit has been previously authorized by the official veterinarian of the border inspection post of the Member State where the consignment first arrives at one of the territories referred to in Annex I.
2. The authorization is subject to the following conditions:
 - (a) consignments presented for transit at the border inspection post shall be accompanied by the original veterinary certificate(s) or veterinary document(s) or other document(s), or by authenticated copies;

⁽⁹⁾ OJ No L

- (b) the consignment of products must be presented in the said border inspection post in order to undergo the documentary check and the verification that the documentation relates to the consignment being presented. In exceptional cases which may present a public health or animal health risk or when irregularities are suspected, physical checks are to be carried out.

Derogation from the documentary and physical check may be given by the competent authority for sea and air transport where the consignment:

- is not unloaded; or
- is transhipped from one plane to another or from one boat to another within the customs area of the same port or airport; or
- is unloaded and stored temporarily under control of the competent authority in the customs area at the port or airport;

- (c) in the case of passage through the territories referred to in Annex I, such consignment shall:

- be sent under customs supervision to the point of exit from the Community, together with the document required under paragraph 2(a) and the document required under Article 5(1), certifying the border inspection post where the consignment will leave the Community;
- be transported, without the products being unloaded or split after leaving the border inspection post of arrival 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 border inspection post into or out of one of the territories referred to in Annex I;
- leave the Community via a border inspection post.

- (d) The official veterinarian who authorizes the transport shall inform the competent authority of the border inspection post of exit via the ANIMO network.

3. All expenditure incurred pursuant to this Article shall be chargeable to the declarant or his representative, without indemnification by the Member State.
4. Detailed rules for the application of this Article, in particular the exchange of information between the border inspection post of entry and of exit, shall be adopted in accordance with the procedure referred to in Article 26.

Article 12

1. Consignments coming from a third country and destined for a free zone, a free warehouse or a customs warehouse shall undergo in the border inspection post as referred to in Article 3(2) a documentary and a physical check in order to ensure that the products comply with the import conditions.
2. Without prejudice to Article 16, Member States may allow on their territory, consignments which the declarant declares to the competent authority, pursuant to Article 3(3), to be presented for storage in a free zone, a free warehouse or a customs warehouse in accordance with Regulation (EEC) No 2913/92, and which do not comply with the import conditions; any customs warehouse used shall be enclosed and the entry and exit points shall be subject to permanent control.

Such zones and warehouses shall be approved by the competent authority for the storage of the products as defined in Article 2(2)(a). The zones and warehouses shall be under the permanent supervision of an official veterinarian.

3. The allowance provided for in paragraph 2 shall be subject to the following conditions:
 - consignments arriving at the Community border shall be accompanied by the original veterinary certificate(s), veterinary document(s) or other document(s) or by authenticated copies or by official customs documents, or other relevant certificate(s) or document(s);
 - consignments shall undergo a documentary check at the border inspection post of arrival, including a verification that the documentation relates to the consignment being presented. In exceptional cases involving a public health or animal health risk, or when irregularities are suspected, a physical check shall be carried out;
 - consignments shall be sent, under customs supervision, together with the document mentioned in the first indent and with the document required under Article 5(1), specifying the free warehouse, free zone, or customs warehouses concerned, or in the case of consignments leaving the Community the border inspection post where the consignment will leave the Community, or in the case referred to in paragraph 4 specifying the place where the consignment will leave the Community;
 - the consignments in question shall be subsequently forwarded under such conditions to ensure that transport is carried out, without the goods being unloaded, under the supervision of the competent authorities in leakproof vehicles or containers sealed by the competent authorities;
 - the competent authority which authorizes the transport shall inform the competent authority of the place of destination via the ANIMO network;
 - the identity of the consignment shall be permanently monitored and shall be supervised by the official veterinarian.
4. In addition, operators who supply, to sea and air transport, operating internationally, products as referred in Article 2(2)(a) which are intended for consumption by the crew and passengers:
 - (a) shall be subject to prior registration by the competent authority;
 - (b) shall keep a register in which such deliveries are recorded;
 - (c) shall report the arrival and dispatch of products in a zone or a warehouse as referred to in paragraph 2;
 - (d) shall keep for at least three years the register referred to in (b).
5. Member States shall ensure that the consignments, before entering a zone or warehouse as referred to in paragraph 2, undergo a documentary check and, if necessary, where there are grounds for suspicion, a physical check.
6. All expenditure incurred pursuant to this Article shall be chargeable to the declarant or his representative, without indemnification by the Member State.
7. Member States shall submit to the Commission the list of approved free zones, free warehouses and customs warehouses as referred to in paragraph 2.

The Commission shall adopt a list of approved zones and warehouses, and shall arrange for its publication in the Official Journal of the European Communities.

8. Detailed rules for the application of this Article, in particular the control procedures to be carried out on the arrival and on the departure of consignments to and from such zone or warehouse, the transport of consignments between such zones or such warehouses, the form of storage of the products and the handling allowed, shall be adopted in accordance with the procedure referred to in Article 26.

Article 13

1. Products for which the customs-approved treatment or use under Regulation (EEC) No 2913/92 is other than as provided for in Articles 7, 11 and 12 of this Directive, shall undergo, where appropriate, a physical check in order to ensure that they comply with the import conditions.
2. Detailed rules for the application of this Article shall be adopted, where necessary, in accordance with the procedure referred to in Article 26.

Article 14

1. The re-importation of a Community consignment refused by a third country may be authorized only by the Member State where the veterinary certificate has been issued, and provided that:
 - the products in question have to undergo in the border inspection post of arrival the documentary, and where necessary, a physical check;
 - the consignment returns to that Member State and that, if transport across another Member State is involved, it has been previously authorized by the official veterinarian of the border inspection post of the Member State where the consignment first arrives into one of the territories of the Community referred to in Annex I, on behalf of all Member States through which the consignment will transit.
2. In circumstances envisaged in paragraph 1, the products in question shall be forwarded under such conditions as ensure that transport is carried out under customs supervision by means of leakproof means of transport, identified and sealed by the competent authority so that the seals will be broken whenever the container is opened in the Member State where the veterinary certificate has been issued.
3. The official veterinarian which authorizes the transport shall inform the competent authority in the place of destination via the ANIMO network.
4. All expenditure incurred pursuant to this Article shall be chargeable to the declarant or his representative, without indemnification by the Member State.
5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure referred to in Article 26.

Article 15

1. This Chapter shall not apply to products which:
 - (a) form part of travellers' personal luggage and are intended for their personal consumption in so far 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, being a country from which importation is not prohibited;

- (b) are sent as small packages to private persons, provided that the products are not being imported by way of trade, in so far 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, being a country from which importation is not prohibited;
- (c) are on board means of transport operating internationally and are intended for consumption by the crew and passengers, provided that they are not introduced into one of the territories referred to in Annex I.

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 from one means of transport operating internationally to another at the same port and under customs supervision;

- (d) 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 an Fo value of 3.00 or more and:
 - (i) form part of travellers' personal luggage and are intended for their personal consumption;
 - (ii) are sent as small packages to private persons, provided that the products are not being imported by way of trade;
- (e) are sent as trade samples provided that they are not intended for human consumption and will not come into contact with any ruminating animal, swine, poultry or horses.

2. Paragraph 1 shall not affect the rules applicable to fresh meat and meat products in accordance with Article 1(2) of Council Directive 72/462/EEC⁽¹⁰⁾.
3. In accordance with the procedure laid down in Article 26, the Commission shall set the weight limits for the different products liable to be covered by the derogations referred to in paragraph 1.

Article 16

1. Consignments which have been introduced into one of the territories of the Community without being presented for veterinary checks in accordance with the requirements of Articles 3 and 4, shall be seized and the competent authority shall decide either to destroy them in accordance with paragraph 2(b) or to re-dispatch them in accordance with paragraph 2(a).
2. Where the checks referred to in this Directive show the competent authority that the product does not satisfy the import conditions, or where such checks reveal an irregularity, the competent authority, in consultation with the declarant or his representative, shall decide either:
 - (a) to re-dispatch the product outside the territories referred to in Annex I from the same border inspection post to a named destination approved by the competent authority of the third country concerned, within a time limit to be set by the competent national authority, where veterinary inspection and health requirements so allow.

⁽¹⁰⁾ OJ No L 302, 31.12.1972, p. 28. Directive as amended by the Act of Accession of Austria, Finland and Sweden.

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

- activate the information procedure provided for in the first indent of Article 1(1) of Decision 92/438/EEC,
- under arrangements to be defined by the Commission in accordance with the procedure provided for in Article 26, invalidate the veterinary certificate(s) or document(s) accompanying the rejected products;

or

(b) if re-dispatch is impossible, to destroy the products in these facilities provided for that purpose in accordance with Council Directive 90/667/EEC⁽¹¹⁾ which are nearest to the border inspection post.

3. Paragraph 2 shall not apply where an authorization has been given by the competent authority in order to permit the use of products in accordance with Directive 90/667/EEC, provided that there is no risk for human and animal health.

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

Furthermore, where an irregularity has been found to be the result of negligence or a deliberate action, the competent authority shall impose on the declarant a financial penalty of at least 20% of the customs value of the product.

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

6. Detailed rules for the application of this Article shall be adopted in accordance with the procedure referred to in Article 26.

Article 17

The Commission, in accordance with the procedure referred to in Article 26, 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 a mainland part of the Community territory.

To that end France and Greece shall 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 those 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 redispached under any circumstances to other parts of Community territory.

⁽¹¹⁾ OJ No L 363, 27.12.1990, p. 51. Directive as amended by the Act of Accession of Austria, Finland and Sweden.

Article 18

1. The Commission, in accordance with the procedure referred to in Article 26, 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 the guarantees, may be authorized to export to the Community the plant products referred to in the first paragraph;
 - 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. Fresh fish immediately landed from a fishing vessel flying a third-country flag shall in accordance with Council Regulation (EC) No 1093/94⁽¹²⁾ - and before it can be imported into any of the territories referred to in Annex I - undergo the checks laid down in respect of fish immediately landed by fishing vessels flying the flag of a Member State.
 3. In accordance with the procedure referred to in Article 26, derogations may be granted from the provisions of Article 6(1)(b) and, as regards the staff responsible for carrying out the checks, those of Article 4(1) for border inspection posts where fishery products are presented as referred to in Council Directive 91/493/EEC⁽¹³⁾.

Article 19

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 20

1. Austria 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 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 26. These measures shall ensure that all the necessary checks are carried out as close as possible to the Community's external frontier.
2. Finland shall have a period of two 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, 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 26. These measures shall ensure that all the necessary checks are carried out as close as possible to the Community's external frontier.

⁽¹²⁾ OJ No L 121, 12.5.1994, p. 3.

⁽¹³⁾ OJ No L 268, 24.9.1991, p. 15. Directive as amended by Directive 95/71/EC (OJ No L 332, 30.12.1995, p. 40).

CHAPTER II

SAFEGUARD PROVISIONS

Article 21

1. If, in the territory of a third country, a disease referred to in Council Directive 82/894/EEC⁽¹⁴⁾, a zoonosis or other disease or phenomenon liable to present a serious threat to animal or public health manifests or spreads itself, 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 shall, 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 from that part or all of the third country concerned, and where appropriate from the third country of transit;
 - set special conditions in respect of products 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 to 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 Decision 92/438/EEC.
3. In the case provided for in paragraph 1, the Commission may take provisional protective measures in respect of products covered by Articles 11 and 12.
4. Representatives of the Commission may make an immediate visit to the third country concerned.
5. Within ten working days, the Standing Veterinary Committee shall have the matter referred to it, pursuant to the terms of Article 25, with a view to the extension, amendment or repeal of the measures provided for in paragraphs 1 and 3. The procedure provided for in Article 25 may also be used for adopting the necessary decisions, including those relating to intra-Community movement of products and to transit.
6. Decisions to modify, repeal or extend measures decided on by virtue of paragraphs 1, 2, 3 and 5 shall be taken in accordance with the procedure laid down in Article 25.
7. Detailed rules for the application of this Chapter shall be adopted, where necessary, in accordance with the procedure laid down in Article 26.

⁽¹⁴⁾ OJ No L 378, 31.12.1982, p. 58. Directive as amended by the Act of Accession of Austria, Finland and Sweden.

CHAPTER III

INSPECTION

Article 22

1. Veterinary experts from the Commission may, in conjunction with the competent national authorities and whenever uniform application of the requirements of this Directive renders it necessary, verify that the border inspection posts approved in accordance with Article 6 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.
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 referred to in Article 25.
6. The Commission shall monitor developments; in the light of such developments and in accordance with the procedure referred to in Article 25, 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 referred to in Article 26.

Article 23

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 referred to in Article 6, or in a customs warehouse, free zone or free warehouse referred to in Article 12 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 possible ways and means of remedying the situation, 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, customs warehouse, free zone or free warehouse in question.

Pending the Commission's findings, the Member State attacked must, at the request of the Member State of destination, step up checks at the border inspection post, customs warehouse, 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 confirmed by the inspection referred to in the first indent of the fifth subparagraph - the Commission must, in accordance with the procedure referred to in Article 25, 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 available 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 to his representative.

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

3. The detailed rules for the application of this Article shall be adopted in accordance with the procedure referred to in Article 26.

Article 24

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 programmes on 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⁽¹⁵⁾.
7. Detailed rules for the application of paragraphs 1, 4 and 5 shall be adopted where necessary, in accordance with the procedure referred to in Article 26.

⁽¹⁵⁾ OJ No L 224, 18.8.1990, p. 19. Decision as last amended by Decision 94/370/EC (OJ No L 168, 2.7.1994, p. 31).

CHAPTER IV

GENERAL PROVISIONS

Article 25

Where reference is made to the procedure provided for in this Article, the Standing Veterinary Committee set up by Council Decision 68/361/EEC⁽¹⁶⁾ shall take decisions in accordance with the rules established in Article 17 of Directive 89/662/EEC.

Article 26

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 27

Annex II to this Directive may be supplemented in accordance with the procedure referred to in Article 26.

Article 28

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

Article 29

Member States, in particular Austria and Finland, may make use of the Community financial assistance provided for in Article 38 of Decision 90/424/EEC for the implementation of this Directive.

Article 30

Directive 90/675/EEC is repealed with effect from 1 January 1997.

References to the Directive repealed in the first paragraph shall be construed as references to this Directive and shall be correlated in accordance with the table set out in Annex III.

Article 31

1. Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with the provisions of this Directive before 1 January 1997; they shall forthwith notify the Commission thereof.

They shall apply those provisions as from 1 January 1997.

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 such reference shall be adopted by Member States.

2. Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

⁽¹⁶⁾ OJ No L 255, 18.10.1968, p. 23

Article 32

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

Article 33

This Directive is addressed to the 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 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.
13. The territory of the Republic of Austria.
14. The territory of the Republic of Finland.
15. The territory of the Kingdom of Sweden.

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. (through the computerized system provided for in Article 20 of Directive 90/425/EEC or the Shift project).

Table of correspondence

Directive 90/675/EEC	Directive
Article 1.1	Article 1.1
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Article 2.2(d)	Article 2.2(c)
-	Article 2.2(d)
Article 2.2(f)	Article 2.2(e)
Article 2.2(g)	Article 2.2(f)
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-	Article 6.2
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-	Article 11.2(b)
-	Article 11.2(c) first indent
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-	Article 11.2(c) third indent
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Proposal for a
COUNCIL DIRECTIVE

amending Directives 71/118/EEC, 72/462/EEC, 85/73/EEC, 91/67/EEC, 91/492/EEC,
91/493/EEC, 92/45/EEC and 92/118/EEC as regards the organization of veterinary checks
on products entering the Community from third countries

EXPLANATORY MEMORANDUM

Council Directive 90/675/EEC, laying down the principles governing the organization of veterinary checks on products entering the Community from third countries⁽¹⁾, introduces arrangements for a new system of veterinary checks for products entering the Community from third countries.

With the establishment of the Internal Market it has been all the more necessary to fix common principles governing the organization of checks and the movement inside the Community of products from third countries given that internal border checks were to be abolished.

Since the entry into force of Directive 90/675/EEC experiences have been gained and developments have taken place with regard to the implementation of the Directive which together with reasons of transparency calls for a modification of the Directive.

The proposed modifications in the above mentioned Directive has consequences for the text of a number of existing Directives. For that reason these Directives must be brought into line with the modifications provided for in Directive 90/675/EEC.

⁽¹⁾ OJ No L 373, 31.12.1990, p. 1. Directive as last amended by Directive 95/52/EC (OJ No L 265, 8.11.1995, p. 16).

Proposal for a
COUNCIL DIRECTIVE 96/0110 (CNS)

amending Directives 71/118/EEC, 72/462/EEC, 85/73/EEC, 91/67/EEC, 91/492/EEC,
91/493/EEC, 92/45/EEC and 92/118/EEC as regards the organization of veterinary checks
on products entering the Community from third countries

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission⁽¹⁾,

Having regard to the opinion of the European Parliament⁽²⁾,

Having regard to the opinion of the Economic and Social Committee⁽³⁾,

Whereas for the sake of clarity and rationality, Council Directive 90/675/EEC⁽⁴⁾, which laid down the principles governing the organization of veterinary checks on products entering the Community from third countries, was repealed and replaced by Directive 96/.../EC⁽⁵⁾;

Whereas the replacement of Directive 90/675/EEC by Directive 96/.../EC has consequences for the existing texts of the following Council Directives:

Directive 71/118/EEC of 15 February 1971 on health problems affecting the production and placing on the market of fresh poultrymeat⁽⁶⁾,

Directive 72/462/EEC of 12 December 1972 on health and veterinary inspection problems upon importation of bovine, ovine, caprine animals and swine, fresh meat or meat products from third countries⁽⁷⁾,

Directive 85/73/EEC of 29 January 1985 on the financing of health inspections and controls of fresh meat and poultrymeat⁽⁸⁾,

Directive 91/67/EEC of 28 January 1991 concerning the animal health conditions governing the placing on the market of aquaculture animals and products⁽⁹⁾,

⁽¹⁾ OJ No C

⁽²⁾ OJ No C

⁽³⁾ OJ No C

⁽⁴⁾ OJ No L 373, 31.12.1990, p. 1. Directive as last amended by Directive 95/52/EC (OJ No L 265, 8.11.1995, p. 16).

⁽⁵⁾ OJ No L

⁽⁶⁾ OJ No L 55, 8.3.1971, p. 23. Directive as last amended by Directive 94/65/EC (OJ No L 368, 31.12.1994, p. 10).

⁽⁷⁾ OJ No L 302, 31.12.1972, p. 28. Directive as amended by the Act of Accession of Austria, Finland and Sweden.

⁽⁸⁾ OJ No L 32, 5.2.1985, p. 14. Directive as last amended by Directive 96/17/EC (OJ No L 78, 28.3.1996, p. 30).

⁽⁹⁾ OJ No L 46, 19. 2.1991, p. 1. Directive as last amended by Directive 95/22/EC (OJ No L 243, 11.10.1995, p. 1).

Directive 91/492/EEC of 15 July 1991 laying down the health conditions for the production and the placing on the market of live bivalve molluscs⁽¹⁰⁾,

Directive 91/493/EEC of 22 July 1991 laying down the health conditions for the production and the placing on the market of fishery products⁽¹¹⁾,

Directive 92/45/EEC of 16 June 1992 on public health and animal health problems relating to the killing of wild game and the placing on the market of wild-game meat⁽¹²⁾,

Directive 92/118/EEC of 17 December 1992 laying down animal health and public health requirements governing trade in and imports into the Community of products not subject to the said requirements laid down in specific Community rules referred to in Annex A(I) to Directive 89/662/EEC and, as regards pathogens, to Directive 90/425/EEC⁽¹³⁾.

Whereas for that reason, those Directives should be brought into line with the text of Directive 96/.../EC,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Directive 71/118/EEC is amended as follows:
 - (a) in Article 14B2(a), the second sentence is deleted;
 - (b) in Article 17, the second subparagraph is deleted.
2. Directive 72/462/EEC is amended as follows:
 - (a) in Article 31a, "Article 17 of Directive 90/675/EEC" is replaced by "Article 17 of Directive 96/.../EC";
 - (b) Article 31 is deleted.
3. Directive 85/73/EEC is amended as follows:

in Article 3(1), "Article 20 of Directive 90/675/EEC" is replaced by "Article 22 of Directive 96/.../EC".
4. Directive 91/67/EEC is amended as follows:
 - (a) Article 23 is replaced by the following:

⁽¹⁰⁾ OJ No L 268, 24.9.1991, p. 1. Directive as amended by the Act of Accession of Austria, Finland and Sweden.

⁽¹¹⁾ OJ No L 268, 24.9.1991, p. 15. Directive as amended by Directive 95/71/EC (OJ No L 332, 30.12.1995, p. 40).

⁽¹²⁾ OJ No L 268, 14.9.1992, p. 35. Directive as amended by the Act of Accession of Austria, Finland and Sweden.

⁽¹³⁾ OJ No L 62, 15.3.1993, p. 49. Directive as last amended by Commission Decision 96/103/EC (OJ No L 24, 31.1.1996, p. 28).

"Article 23

"The principles and rules laid down in Directives 91/496/EEC and 96/.../EC shall apply, with particular reference to the organization of and follow-up to the checks to be carried out by the Member States and the safeguard measures to be implemented";

(b) Article 24 is deleted.

5. Directive 91/492/EEC is amended as follows:

- the second subparagraph of Article 10 is deleted.

6. Directive 91/493/EEC is amended as follows:

(a) in the second subparagraph of Article 10, "Article 18(3) of Directive 90/675/EEC" is replaced by "Article 18(2) of Directive 96/.../EC";

(b) Article 12(2) is deleted.

7. Directive 92/45/EEC is amended as follows:

(a) Article 17(2) is deleted;

(b) Article 19(2) is deleted.

8. Directive 92/118/EEC is amended as follows:

(a) in the second subparagraph of Article 12(1), "Article 8(2) of Directive 90/675/EEC" is replaced by "Article 4(4) of Directive 96/.../EC";

(b) Article 12(2) is deleted.

Article 2

1. Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with the provisions of this Directive before 1 January 1997; they shall forthwith notify the Commission thereof.

They shall apply those provisions as from 1 January 1997.

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 such reference shall be adopted by Member States.

2. Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels,

For the Council
The President

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