

COUNCIL DIRECTIVE**of 22 January 1980****on animal health problems affecting intra-Community trade in meat products****(80/215/EEC)**

THE COUNCIL OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 43 and 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Whereas Council Directive 77/99/EEC of 21 December 1976 on health problems affecting intra-Community trade in meat products (2) has been applicable since 1 July 1979;

Whereas the implementation of the above Directive will not have the desired effect so long as intra-Community trade is hindered by differences between the health requirements of Member States concerning meat products; whereas, in particular with a view to eliminating these differences, common provisions should be laid down in this field;

Whereas, in order to avoid the spread of epizootic diseases by means of meat products it should be laid down that the meat from which some of the said meat products are manufactured should comply with the health provisions applicable to fresh meat;

Whereas care should be taken that meat products which do not comply with Community rules are not given the health mark provided for in those rules;

Whereas when meat products have been treated in such a way as to destroy all germs of diseases which may be passed on to animals, such treatment should be mentioned on the health certificate which accompanies the products concerned;

Whereas the Member States must have the right to refuse the entry into free circulation in their territory

of meat products which have been found to contain germs of a contagious or infectious disease or which do not comply with Community health provisions;

Whereas the consignor should at his own request or at that of a representative be allowed to have the meat products returned to him unless there are health grounds for not doing so;

Whereas, in order to enable those concerned to appreciate the basis for any prohibition or restriction imposed, the reasons for such prohibition or restriction should be brought to the notice of the consignor or his representative and, in certain cases, the competent authorities of the consigning country;

Whereas the consignor should be afforded the opportunity of requesting the opinion of a veterinary expert in the event of a dispute between the consignor and the authorities of the country of destination as to whether a prohibition or restriction is justified;

Whereas the Member States must have the right to prohibit the introduction into their territory of certain meat products from a Member State where an epizootic disease has broken out; whereas, depending on the nature and character of this epizootic disease, such a prohibition may either be limited to meat products coming from a part of the territory of the exporting country, or extended to the whole of that territory; whereas, in the event of an outbreak of a contagious or infectious disease in the territory of a Member State appropriate measures must be taken rapidly to control it; whereas the dangers inherent in such diseases and the requisite protective measures should be viewed in the same light throughout the Community;

Whereas, to facilitate the implementation of the provisions envisaged, a procedure should be laid down establishing close cooperation between the Member States and the Commission within the Standing Veterinary Committee set up by the Council Decision of 15 October 1968 (3),

(1) OJ No C 114, 11. 11. 1971, p. 40.

(2) OJ No L 26, 31. 1. 1977, p. 85.

(3) OJ No L 255, 28. 10. 1968, p. 23.

HAS ADOPTED THIS DIRECTIVE:

Article 4

Article 1

This Directive lays down animal health requirements for intra-Community trade in meat products.

Article 2

For the purposes of this Directive, the definitions contained in Article 2 of Council Directive 72/461/EEC of 12 December 1972 on health problems affecting intra-Community trade in fresh meat⁽¹⁾, as amended by Directive 78/54/EEC⁽²⁾, and in Article 2 of Directive 77/99/EEC shall apply where relevant.

Products which have been subjected to natural fermentation and maturation for a long period shall be regarded as having undergone complete treatment until the Council, acting unanimously on a proposal by the Commission, amends the limits given in Annex A, Chapter V (27) (b) to Directive 77/99/EEC.

Article 3

Each Member State shall ensure that meat products intended for intra-Community trade are prepared from or with:

- fresh meat as defined in Article 1 of Council Directive 64/433/EEC of 26 June 1964 on health problems affecting intra-Community trade in fresh meat⁽³⁾, as last amended by Directive 75/379/EEC⁽⁴⁾, and fulfilling the animal health requirements of Articles 3 and 4 of Directive 72/461/EEC,
- fresh meat as defined in Article 2 (a) of Council Directive 72/462/EEC of 12 December 1972 on health and veterinary inspection problems upon importation of bovine animals and swine and fresh meat from third countries⁽⁵⁾, as last amended by Directive 77/98/EEC⁽⁶⁾, and complying with the animal health requirements of Directive 72/462/EEC.

1. By way of derogation from the first indent of Article 3, and subject to the application of paragraph 2, meat products may be intended for intra-Community trade, which are prepared in whole or in part from or with fresh meat as defined in Article 1 of Directive 64/433/EEC which fulfils the requirements laid down by Article 5a of Directive 72/461/EEC, may enter intra-Community trade if they have also undergone one of the following forms of treatment:

- (a) heat treatment in a hermetically sealed container, with an F_0 value of 3.00 or more;
- (b) where the fresh meat has been obtained from animals which do not come from an infected holding subject to prohibition measures pursuant to Article 3 (2) (b) of Directive 64/432/EEC:
 - (i) heat treatment different from that referred to in (a) in which the internal temperature is raised to at least 70 °C, or
 - (ii) treatment consisting in natural fermentation and maturation of not less than nine months for boned or boneless hams weighing not less than 5.5 kg and having the following characteristics:
 - a_w value of not more than 0.93,
 - pH value of not more than 6.

2. Each Member State shall ensure that:

- (a) the fresh meat referred to in paragraph 1 is:
 - (i) transported and stored separately from, or not at the same time as, the fresh meat referred to in Article 3,
 - (ii) used in such a way as to avoid it being introduced into meat products intended for intra-Community trade other than those indicated in paragraph 1;
- (b) the health certificate specified in Annex A, Chapter VIII of Directive 77/99/EEC contains, without prejudice to footnote⁽⁷⁾ of that certificate, the following words under the heading 'Nature of products': 'Treated in accordance with Article 4 (1) of Directive 80/215/EEC'.

Article 5

1. Member States shall ensure that meat products which do not fulfil the requirements of Articles 3 and 4 are not given the health mark provided for in Directive 77/99/EEC, Annex A, Chapter VII.

2. The country of destination may prohibit the entry of meat products into circulation in its territory

⁽¹⁾ OJ No L 302, 31. 12. 1972, p. 24.

⁽²⁾ OJ No L 16, 20. 1. 1978, p. 22.

⁽³⁾ OJ No 121, 29. 7. 1964, p. 2012/64.

⁽⁴⁾ OJ No L 172, 3. 7. 1975, p. 17.

⁽⁵⁾ OJ No L 302, 31. 12. 1972, p. 28.

⁽⁶⁾ OJ No L 26, 31. 1. 1977, p. 81.

if it has been established that Articles 3 and 4 have not been complied with.

3. In such case, the country of destination must, at the request of the consignor or his representative, authorize the return of the whole consignment of meat products, provided that this is not contrary to animal health considerations.

4. The competent authority of the country of destination may order the consignment to be destroyed at the expense of the consignor, the consignee or their representative without indemnification by the State, where entry into circulation is prohibited pursuant to paragraph 2 and where the exporting country or country of transit, as the case may be, does not authorize return of the consignment.

5. The decisions taken by the competent authority under paragraphs 2, 3 and 4 must be communicated to the consignor or his representative, together with the reasons for such decisions. Where the consignor or his representative so requests, these decisions and the grounds on which they have been taken must be communicated to him forthwith in writing with an indication of the remedies for which current legislation makes provision, their forms and the time limits within which they are open. The decisions must also be communicated to the competent central authority of the exporting country.

Article 6

1. This Directive shall not affect the remedies for which legislation current in Member States makes provision against the decisions of the competent authorities referred to in this Directive.

2. In the case of meat products which may not enter circulation pursuant to Articles 3 and 4, each Member State shall grant consignors the right to obtain the opinion of a veterinary expert.

Each Member State shall ensure that, before the competent authorities take any other measures such as destroying the meat products, the veterinary expert has an opportunity of determining whether the conditions of Articles 3 and 4 have been fulfilled.

The veterinary expert must be a national of a Member State other than the exporting country or the country of destination.

Acting on a proposal from the Member States, the Commission shall draw up a list of the veterinary experts who may be instructed to formulate such opinions. After consulting the Member States, it shall lay down the general rules which are to be applied, in particular as regards the procedure for formulating these opinions.

Article 7

1. A Member State may take the following measures if there is a danger that animal diseases may be spread by the introduction of meat products from another Member State into its territory:

- (a) in the event of an outbreak of classical foot and mouth disease, classical swine fever or Teschen disease in the other Member State, the introduction of products prepared from the meat of animals which are susceptible to these diseases, other than products which have undergone one of the treatments referred to in Article 4 (1), may be temporarily prohibited or restricted from those parts of the territory of the Member State in which the disease has appeared;
- (b) if an epizootic disease becomes widespread or if there is an outbreak of another serious and contagious or infectious animal disease, the introduction, from the entire territory of that State, of products prepared from the meat of animals which are susceptible to these diseases may be temporarily prohibited or restricted.

2. Each Member State must notify the other Member States and the Commission without delay of the outbreak in its territory of any disease referred to in paragraph 1 and of the measures it has taken to combat it. It must also notify them without delay of the disappearance of the disease.

3. Measures taken by a Member State under paragraph 1, and repeal thereof, must be communicated without delay to the other Member States and to the Commission, together with the reasons for such action.

It may be decided, according to the procedure laid down in Article 8, that these measures should be amended, in particular to ensure coordination with those adopted by the other Member States, or abolished.

4. If the situation provided for in paragraph 1 arises and if it seems necessary that other Member States should also apply the measures taken pursuant to the said paragraph, together with any amendments made in accordance with paragraph 3, the appropriate provisions shall be adopted according to the procedure defined in Article 8.

5. In drawing up the amendments referred to in the second subparagraph of paragraph 3, or the provisions referred to in paragraph 4, a decision may be taken in accordance with the same procedure to adapt them in the light of the disease in question, the treatments that the products concerned have undergone, the date on which the meat used was obtained and the processing period.

Article 8

1. Where the procedure laid down in this Article is to be followed, the matter shall be referred to the Standing Veterinary Committee (hereinafter called 'the Committee'), set up by the Council Decision of 15 October 1968, by its chairman, either on his own initiative or at the request of a Member State.

2. Within the Committee, the votes of the Member States shall be weighted as provided in Article 148 (2) of the Treaty. The chairman shall not vote.

3. The Commission representative shall submit a draft of the measures to be taken. The Committee shall deliver its opinion on the measures within two days. Opinions shall be delivered by a majority of 41 votes.

4. Where the measures are in accordance with the opinion of the Committee, the Commission shall adopt them and shall apply them immediately. Where they 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 on the measures to be taken. The Council shall adopt the measures by a qualified majority.

If the Council has not adopted any measures within 15 days of the date on which the proposal was submitted to it, the Commission shall adopt the measures proposed and shall apply them immediately, save where the Council has decided against them by a simple majority.

Article 9

Article 8 shall apply until 21 June 1981.

Article 10

Acting unanimously on a proposal from the Commission, the Council shall, before 1 July 1980, decide on any provisions concerning swine fever to be inserted into this Directive with respect to certain products in the light of the solutions adopted on intra-Community trade in fresh pigmeat.

Article 11

1. Acting on a proposal from the Commission, the Council shall lay down the animal health requirements applicable to intra-Community trade in fresh poultrymeat and to imports of such poultrymeat from third countries.

2. Pending the entry into force of the Community provisions referred to in paragraph 1, national animal health provisions concerning the import of meat products prepared in part or in whole from or with fresh poultrymeat shall remain applicable while complying with the general provisions of the Treaty.

Article 12

Until the implementation of Community animal health Directives concerning imports of meat products other than those referred to in Article 11 (2) from third countries, national provisions applicable to the import of these products shall not be more favourable than those which result from this Directive.

Article 13

The Member States shall bring into force the measures necessary to comply with:

- the second indent of Article 3, on the date provided for in the second subparagraph of Article 32 (2) of Directive 72/462/EEC,
- the other provisions of this Directive, by 31 December 1980 at the latest,

and shall forthwith inform the Commission thereof.

Article 14

This Directive is addressed to the Member States.

Done at Brussels, 22 January 1980.

For the Council

The President

G. MARCORA