

**COUNCIL DIRECTIVE 1999/90/EC
of 15 November 1999**

**amending Directive 90/539/EEC on animal health conditions governing intra-Community trade in
and imports from third countries of poultry and hatching eggs**

THE COUNCIL OF THE EUROPEAN UNION,

conferred on the Commission ⁽⁶⁾ to modify Directive 90/539/EEC,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

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

HAS ADOPTED THIS DIRECTIVE:

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

Article 1

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

Directive 90/539/EEC is hereby amended as follows:

Whereas:

1. In Article 11, the following paragraph shall be added as follows:

(1) Article 12(1) of Council Directive 90/539/EEC of 15 October 1990 on animal health conditions governing intra-Community trade in and imports from third countries of poultry and hatching eggs ⁽⁴⁾ lays down the rules which apply to poultry and hatching eggs destined for Member States or regions of Member States, the status of which has been recognised in accordance with Article 12(2) of the said Directive;

'3. The provisions of paragraphs 1 and 2 shall not apply to consignments containing ratites or hatching eggs of ratites.'

(2) Commission Decision 93/152/EEC of 8 February 1993 laying down the criteria for vaccines to be used against Newcastle disease in the context of routine vaccinations programmes ⁽⁵⁾ applies from 1 January 1995;

2. Article 12(1) shall be replaced by the following:

(3) It is appropriate, as a result, to modify Council Directive 90/539/EEC, in particular Article 12 thereof;

'1. In the case of consignments of poultry and hatching eggs from Member States or regions of Member States which vaccinate the poultry referred to in Article 1 against Newcastle disease to a Member state or region of a Member State, the status of which has been established in accordance with paragraph 2 below, the following rules shall apply:

(4) Article 11 of the Directive provides, for practical reasons, for a special regime for the intracommunity trade in very small consignments of poultry; whereas trade in ratites should, however, be included in the general provisions of the Directive;

(a) hatching eggs must come from flocks which are:
— not vaccinated, or
— vaccinated using inactivated vaccine, or
— vaccinated using a live vaccine, provided that vaccination has taken place at least 30 days before the collection of the hatching eggs;

(5) It is appropriate to amend the trading rules as applied to third countries by introducing the possibility of drawing up supplementary rules for imports of poultry and hatching eggs, which offer animal health guarantees at least equivalent to those laid down in Chapter II of Directive 90/539/EEC and furthermore contain provisions for the establishing of quarantine measures;

(b) day-old chicks (including chicks intended for restocking supplies of game) must not be vaccinated against Newcastle disease, and must come from:
— hatching eggs satisfying the conditions in (a), and
— a hatchery where working practice ensures that such eggs are incubated at completely separate times and locations from eggs not satisfying the conditions in (a);

(6) It is appropriate, moreover, in the light of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers

(c) breeding and productive poultry must:
— not be vaccinated against Newcastle disease, and
— have been isolated for 14 days before consignment, at either a holding or a quarantine station under the supervision of the official veterinarian. In this connection, no poultry at the holding of origin or quarantine station, as applicable, may have been vaccinated against Newcastle disease during the 21 days preceding consignment and no bird which is

⁽¹⁾ OJ C 15, 20.1.1996, p. 13.

⁽²⁾ OJ C 261, 9.9.1996, p. 187.

⁽³⁾ OJ C 153, 28.5.1996, p. 46.

⁽⁴⁾ OJ L 303, 31.10.1990, p. 6. Directive as last amended by the 1994 Act of Accession.

⁽⁵⁾ OJ L 59, 12.3.1993, p. 35.

⁽⁶⁾ OJ L 184, 17.7.1999, p. 23.

not due for consignment may have entered the holding or the quarantine station during that time; in addition, no vaccination may be carried out in the quarantine stations, and

- have undergone, during the 14 days preceding consignment, representative serological testing, with negative results, to detect Newcastle disease antibodies in accordance with detailed rules adopted pursuant to the procedure laid down in Article 32;

(d) slaughter poultry must come from flocks which:

- if not vaccinated against Newcastle disease, satisfy the requirements in the third indent of (c),
- if vaccinated have undergone, during the 14 days preceding consignment and on the basis of a representative sample, a test to isolate Newcastle disease virus complying with detailed rules adopted in accordance with the procedure laid down in Article 32.;

3. Article 12(4) shall be deleted;

4. Article 26(2) shall be replaced by the following:

'2. The Commission may, in accordance with the procedure laid down in Article 32, determine that the imported poultry, hatching eggs or poultry hatched from imported eggs is to be kept quarantined or isolated for a period which may not exceed two months.'

5. The following Article shall be added:

'Article 27a

Notwithstanding Articles 20, 22, 23 and 24, the Commission may, in accordance with the procedure laid down in Article 32, decide to permit on a case-by-case basis the importation of poultry and hatching eggs from third countries where such imports do not conform to the provisions of Articles 20, 22, 23 and 24. Detailed rules for such importation shall be drawn up concomitantly with the same procedure. Such rules shall offer animal health guarantees at least equivalent to the animal health guarantees offered by Chapter II of this Directive, involving compulsory quarantine and testing for Avian Influenza, Newcastle disease and any other relevant disease.;

6. Article 32 shall be replaced by the following:

'Article 32

1. The Commission shall be assisted by the Standing Veterinary Committee established by Decision 68/361/EEC (*), composed of representatives of the Member States and chaired by the representative of the Commission.

2. 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. The opinion shall be delivered by the majority laid down in Article 205(2) of the Treaty in the case of decisions for 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.

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

4. 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.

5. The Council, acting by qualified majority, shall act on the proposal within three months of the date of referral.

If, within that period, the Council indicates by qualified majority that it opposes the proposal, the Commission shall reconsider it. It may present an amended proposal to the Council, re-submit the same proposal or present a legislative proposal on the basis of the Treaty.

If the Council has not adopted the proposed implementing measures or has not indicated its opposition to the proposed implementing measures by the expiry of the time limit, they shall be adopted by the Commission.

(*) OJ L 255, 18.10.1968, p. 23.;

7. Article 33 shall be replaced by the following:

'Article 33

1. The Commission shall be assisted by the Standing Veterinary Committee established by Decision 68/361/EEC, composed of representatives of the Member States and chaired by the representatives of the Commission.

2. 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. The opinion shall be delivered by the majority laid down in Article 205(2) of the Treaty in the case of decisions for 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.

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

4. 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.

5. The Council, acting by qualified majority, shall act on the proposal within 15 days of the date of referral.

If, within that period, the Council indicates by qualified majority that it opposes the proposal, the Commission shall reconsider it. It may present an amended proposal to the Council, resubmit the same proposal or present a legislative proposal on the basis of the Treaty.

If the Council has not adopted the proposed implementing measures or has not indicated its opposition to the proposed implementing measures by the expiry of the time limit, they shall be adopted by the Commission.'

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 1 July 2000. They shall forthwith inform the Commission thereof.

When Member States adopt these measures they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publica-

tion. The methods of making such a reference shall be laid down by the Member States.

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

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 15 November 1999.

For the Council

The President

K. HEMILÄ
