

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(94) 561 final  
Brussels, 05.12.1994

94/0278 (CNS)

Proposal for a

COUNCIL REGULATION (EC)

on the certification of animals and animal products

(presented by the Commission)

## EXPLANATORY MEMORANDUM

Accurate and reliable certification has the aim of safeguarding public and animal health and animal welfare and, therefore, the functioning of the common market in live animals and animal products.

In the context of the completion of the internal market and the new legislation on veterinary checks, the dispatching Member State must ensure that veterinary checks are carried out in an appropriate manner. As further veterinary checks are no longer carried out at the internal borders of the Community, the receiving country must be able to rely completely on the integrity of the certificate.

However, since the establishment of the single market in animals and animal products, the Commission has received many reports of incidents where it is clear that certification has not been performed correctly.

For these reasons it is important that competent authorities and certifying officers designated by them are legally bound by their obligations in signing certificates and that certifying officers are aware of the significance of the contents of each certificate which they sign.

As the establishment and management of the single market in animals and animal products is an exclusive Community competence, and as Member States cannot legislate on the activities of the competent authorities of other Member States, it is necessary for action to be taken at Community level.

The proposed Regulation applies to all certification required by Community veterinary legislation. Rules are laid down in respect of the obligations of certifying-officers-and-of-competent-authorities, with a view to ensuring that certification is accurate and reliable. There is a requirement for appropriate penalties to be imposed for misleading or false certification, and for measures to be taken to prevent the repetition of false certification.

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**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<sup>(1)</sup>,

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

Having regard to the opinion of the Economic and Social Committee<sup>(3)</sup>,

Whereas Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market<sup>(4)</sup>, as last amended by Council Directive 92/118/EEC<sup>(5)</sup> and Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and animal products with a view to the completion of the internal market<sup>(6)</sup>, as last amended by Council Directive 92/118/EEC, put the responsibility on the Member State of production or dispatch to ensure that veterinary checks and, where applicable, certification, are carried out in an appropriate manner;

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(1) OJ N° C .....

(2) OJ N° C .....

(3) OJ N° C .....

(4) OJ N° L 395, 30.12.1989, p. 13

(5) OJ N° L 62, 15.03.1993, p. 49

(6) OJ N° L 224, 18.08.1990, p. 29

Whereas to ensure the smooth functioning of the internal market in live animals and animal products, Member States should be able to rely completely on the integrity of certification at the places of production and dispatch;

Whereas this objective cannot be achieved by the individual Member States; whereas, therefore, common rules should be adopted on the obligations of competent authorities and certifying officers and with respect to the certification of animals and animal products in accordance with Community legislation;

Whereas effective measures must be taken to prevent misleading or fraudulent certification;

HAS ADOPTED THE FOLLOWING REGULATION:

#### Article 1

This Regulation applies to certification required by veterinary legislation covering the placing on the market of, and trade in, animals and animal products.

#### Article 2

1. Veterinary legislation means the legislation listed in Annex A of Directive 89/662/EEC and Annexes A and B of Directive 90/425/EEC.
2. Certifying officer means a person authorized by the competent authority to sign certificates required by the veterinary legislation.
3. In addition, the definitions contained in Article 2 of Directives 89/662/EEC and 90/425/EEC shall apply *mutatis mutandis*.

### Article 3

1. Certifying officers shall not certify matters which are outwith their personal knowledge or which cannot be ascertained by them. Where appropriate, certificates shall be accompanied, when presented to the certifying officer, by notes of guidance indicating the extent of any enquiries, tests or examinations expected to be carried out.
2. Certifying officers shall not sign blank or incomplete certificates, or sign certificates relating to animals or products which they have not inspected or which have passed out of their control. Where a certificate is signed on the basis of another certificate or attestation, the certifying officer shall be in possession of that document before signing.
3. Certifying officers shall have a status which ensures their impartiality and they shall in particular have no direct commercial interest in the animals or products being certified.

### Article 4

1. Competent authorities shall take all necessary steps to ensure the integrity of certification. In particular they shall ensure that certifying officers designated by them are legally bound by their obligations and are made fully aware of the significance of the contents of each certificate which they sign.
2. Each competent authority shall maintain an up-to-date register of the signatures of its certifying officers and shall keep copies of all certificates issued in its name for an appropriate period.

Article 5

1. Competent authorities shall investigate, and take appropriate measures to penalize, any instances of false or misleading certification which are brought to their attention. Penalties shall be at least sufficient to eliminate any financial benefit wrongly obtained.
2. If it is found that a certifying officer has knowingly issued a fraudulent certificate the competent authority shall take all necessary steps, without prejudice to other legal proceedings, to ensure that the person concerned cannot repeat the offence.

Article 6

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council  
The President

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# DOCUMENTS

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