

COMMON POSITION (EC) No 4/2000**adopted by the Council on 15 November 1999****with a view to adopting Directive 2000/.../EC of the European Parliament and of the Council ...
amending Council Directive 95/53/EC fixing the principles governing the organisation of official
inspections in the field of animal nutrition**

(2000/C 17/02)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 152(4) thereof,

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

Having regard to the opinion of the Economic and Social Committee⁽²⁾,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁽³⁾,

Whereas:

(1) Council Directive 95/53/EC of 25 October 1995 fixing the principles governing the organisation of official inspections in the field of animal nutrition⁽⁴⁾ lays down the principles in accordance with which official inspections must be carried out; experience has shown that, where appropriate, there should be the possibility of defining those principles more precisely at Community level in order to establish a reliable harmonised procedure and to introduce the new inspection system for products from third countries used in animal nutrition;

(2) In order to adequately protect human and animal health and the environment, Commission and Member State experts should be able to carry out on-the-spot inspections not only in the Community but also in third countries, in particular following the appearance in a third country of any problem likely to affect the health of animal feedingstuffs put into circulation in the Community;

(3) The Commission should furthermore be given the possibility of, where necessary, sending experts to carry out on-the-spot inspections in the Community to check that Community rules are being applied and, where appropriate, adopting Community measures;

(4) For the same reason, a system of protective measures should be laid down; under that system the Commission must be able to act by adopting measures appropriate to the situation;

(5) By Directive 95/53/EC, the Council laid down the principle of organising annual, coordinated Community inspection programmes based on a recommendation from the Commission;

(6) In particular cases justified on human or animal health grounds, the inspections carried out by and in the Member States should be stepped up; to ensure that the inspections and checks are uniformly and effectively applied across the Community in such cases, the Commission should be given responsibility for adopting specific coordinated inspection programmes;

(7) Directive 95/53/EC should be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 95/53/EC is amended as follows:

1. The following paragraph shall be added to Article 5:

'Where appropriate, detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 23.'

⁽¹⁾ OJ C 346, 14.11.1998, p. 9.

⁽²⁾ OJ C 138, 18.5.1999, p. 17.

⁽³⁾ Opinion of the European parliament of 16 December 1998 (OJ C 98, 9.4.1999, p. 150), Council Common Position of 15 November 1999 and Decision of the European Parliament of ... (not yet published in the Official Journal).

⁽⁴⁾ OJ L 265, 8.11.1995, p. 17. Directive as amended by Directive 1999/20/EC (OJ L 80, 25.3.1999, p. 20).

2. The following paragraph shall be added to Article 7:

'Where appropriate, detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 23.'

3. The following Articles shall be inserted:

Article 9a

1. Where a problem likely to pose a serious risk to human or animal health or the environment appears or spreads on the territory of a third country, the Commission, on its own initiative or at the request of a Member State, shall immediately take the following measures, in accordance with the procedure laid down in Article 23a:

- suspend imports of products from all or part of the third country concerned or from one or more specific production establishments and, where appropriate, any third country of transit, and/or
- lay down special conditions for products intended for import from all or part of the third country concerned.

2. Where a Member State officially informs the Commission of the need to take protective measures and where the Commission has not acted in accordance with paragraph 1, that Member State may adopt temporary protective measures with regard to imports. Where a Member State adopts temporary protective measures, it shall immediately inform the other Member States and the Commission. The Commission shall submit the matter to the Standing Committee on Feedingstuffs within 10 working days, for its opinion in accordance with the procedure laid down in Article 23 with a view to the extension, amendment or repeal of the national temporary protective measures.

Article 9b

1. Where necessary, on-the-spot inspections may be carried out by Commission and Member State experts in third countries to verify whether guarantees, offered by those countries, regarding the conditions for the production and putting into circulation of products can be considered as at least equivalent to those required in the Community.

2. The inspections referred to in paragraph 1 shall be carried out on behalf of the Community, which shall bear the costs thereof.

3. The Commission shall inform the Member States of the results of the inspections referred to in paragraph 1.

4. Where necessary, detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 23.'

4. The title of Chapter IV shall be replaced by the following:

'GENERAL PROVISIONS AND INSPECTIONS'

5. The following Article shall be inserted:

Article 17a

1. Without prejudice to Article 15, and in so far as is necessary for the uniform application of the requirements of this Directive, Commission and Member State experts may carry out on-the-spot inspections to verify that the provisions of this Directive, and in particular Articles 4, 5, 7, 11 and 12, are being applied.

The Commission shall appoint Member State experts on a proposal from the Member States.

2. The Member State on whose territory an inspection is carried out shall afford the Commission and Member State experts any assistance necessary to carry out their duties.

3. The outcome of the inspections made shall be discussed with the competent authority of the Member State concerned before a final report is drawn up and circulated.

The Commission shall inform the Member States of the results of inspections carried out.

4. Where the Commission or a Member State considers that the results of an inspection justify it, these shall be examined in the Standing Committee on Feedingstuffs. The Commission may adopt any necessary decisions in accordance with the procedure laid down in Article 23.

5. The Commission shall monitor the situation and amend or repeal the decisions referred to in paragraph 4 in accordance with the procedure laid down in Article 23.

6. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 23.'

6. The following paragraph shall be added to Article 22:

'4. Without prejudice to paragraphs 1, 2 and 3, where the protection of human or animal health or the environment requires the prompt introduction of limited, specific, coordinated programmes of inspections at Community level, the Commission shall take the necessary measures in accordance with the procedure laid down in Article 23.

These programmes shall in particular serve in situations provoked by a specific incident.'

7. The following Article shall be inserted:

‘Article 23a

1. The Commission shall be assisted by a Committee (hereinafter referred to as “the Committee”).

2. Where reference is made to this Article, Articles 5 and 7 of Decision 1999/468/EC shall apply, without prejudice to Article 8 thereof.

The period provided for in Article 5(6) of Decision 1999/468/EC shall be 15 days.

3. The Committee shall draw up its rules of procedure.’

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive from ... (*) at the latest. They shall forthwith inform the Commission thereof.

2. 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 publication. The methods of making such reference shall be laid down by the Member States.

3. Member States shall communicate to the Commission the text of the main provisions of national law they adopt in the field covered 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 ...

For the European Parliament

For the Council

The President

The President

(1) 12 months after the entry into force of this Directive.

STATEMENT OF THE COUNCIL'S REASONS

I. INTRODUCTION

1. On 4 November 1998, the Commission submitted to the Council a proposal based on Article 100a of the EC Treaty, amending Directive 95/53/EC fixing the principles governing the organisation of official inspections in the field of animal nutrition ⁽¹⁾.
2. The European Parliament delivered a first opinion on the Commission proposal on 16 December 1998, and approved it without amendment ⁽²⁾. The Economic and Social Committee delivered its opinion on 28 January 1999 ⁽³⁾. On the entry into force of the Amsterdam Treaty on 1 May 1999, the Commission changed the legal basis of the proposal Article 152 EC. The Committee of the Regions waived its right to present an opinion on 15 September 1999.
3. At its meeting on 15 November 1999, the Council adopted its common position in accordance with Article 251 of the EC Treaty.

II. OBJECTIVES

4. Directive 95/53/EC fixes the principles on the basis of which Member States must carry out official inspections in the field of animal nutrition. It covers products originating in the Community as well as products from third countries. The Directive entered into force in May 1998.
5. The aim of the present proposal is to amend Directive 95/53/EC for the following reasons:
 - provide a legal basis for the possible future adoption of application measures to establish a reliable, harmonised procedure for documentary, identity, and physical checks for all products imported from third countries,
 - provide for inspection measures for products imported from third countries, in the event of a risk to public health, including provisions to permit on-the-spot inspections to be carried out in third countries with their consent when so required,
 - provide for inspection measures for application in the Community, to ensure the uniform implementation of the requirements of the present Directive,
 - provide a system allowing for specific inspection programmes when so required in addition to the general programmes already provided for by the Directive.

III. ANALYSIS OF THE COMMON POSITION

6. The Council approved the substance of the Commission proposal with only one amendment. In addition, editorial changes have been made throughout the text with the aim of clarifying the intention of the measure. The most noteworthy of these editorial changes has been made in Article 1, where the contents of Article 9a and 9b have been interchanged.

⁽¹⁾ OJ C 346, 14.11.1998, p. 9.

⁽²⁾ OJ C 98, 9.4.1999, p. 143.

⁽³⁾ OJ C 138, 18.5.1999, p. 17.

7. As regards the substantive change, the Council agreed to amend Article 1(4) of the original Commission proposal, and to add Article 1(8) to the proposed amendments (a new Article 23a).

Originally, this provision allowed the Commission, in cases of emergency, to take immediate, protective measures against imports from third countries, and to arrange for on-the-spot inspections in third countries with their consent, based on Article 3 of Decision 87/373/EEC which has since been replaced by Decision 1999/468/EC⁽¹⁾.

Taking various considerations into account, including the new arrangements on comitology, the Council agreed to insert the Regulatory Procedure as set out in Article 5 of Decision 1999/468/EC.

IV. GENERAL CONCLUSION

The Council has adopted as its common position the Commission proposal, as approved by the European Parliament, subject to the change described above and certain editorial improvements.

⁽¹⁾ Council Decision of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999).