

COUNCIL DIRECTIVE 93/118/EC

of 22 December 1993

amending Directive 85/73/EEC on the financing of health inspections and controls of fresh meat and poultrymeat

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 animal products are included in the list of products contained in Annex II to the Treaty; whereas the marketing of those products constitutes a significant source of income for a large part of the agricultural population;

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 ⁽⁴⁾, laid down in particular the requirements for veterinary checks to be carried out in the Member State of dispatch for a large number of animal products;

Whereas Council 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 ⁽⁵⁾ laid down in particular the requirements for checks to be carried out on animal products from third countries;

Whereas Directive 85/73/EEC ⁽⁶⁾ laid down harmonized rules on the financing of health inspections and controls in relation to fresh meat of certain animal species; whereas that Directive lays down in particular that a fee is to be collected for inspections and controls;

Whereas Directive 85/73/EEC should be amended to take account of the new provisions concerning controls;

Whereas the principles laid down by Directive 85/73/EEC, and in particular the principle of charging fees, should be extended; whereas such an extension is justified by the concern to ensure that the control arrangements operate effectively and distortions of competition are avoided;

Whereas the necessary rules should now be laid down to ensure the financing of the checks on meat covered by Directives 64/433/EEC ⁽⁷⁾, 71/118/EEC ⁽⁸⁾ and 72/462/EEC ⁽⁹⁾;

Whereas for the other products of animal origin detailed rules will be established at a later date taking account of the specific nature of the products to be checked, the nature of the checks to be made and the advisability, having regard to the rules of competition, of setting a Community fee;

Whereas the Community provisions on the matter must be presented homogeneously,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 85/73/EEC is hereby amended as follows:

1. The title shall be replaced by the following:

'Council Directive 85/73/EEC on the financing of veterinary inspections and controls of animal products covered by Annex A to Directive 89/662/EEC and by Directive 90/675/EEC'.

2. Article 1 shall read as follows:

'Article 1

1. The Member States shall ensure

- the collection of a Community fee for the costs occasioned by health inspections and controls on the meat referred to in Directives 64/433/EEC, 72/462/EEC and 71/118/EEC, including the expenses entailed by the checks referred to in Directive 86/469/EEC, as well as those resulting from monitoring the rules laid down in Directive 93/118/EC ^(*),

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

⁽⁸⁾ OJ No L 55, 8. 3. 1971, p. 23.

⁽⁹⁾ OJ No L 302, 31. 12. 1972, p. 28.

⁽¹⁾ OJ No C 325, 14. 12. 1991, p. 21.

⁽²⁾ OJ No C 94, 13. 4. 1992, p. 326.

⁽³⁾ OJ No C 106, 27. 4. 1992, p. 17.

⁽⁴⁾ OJ No L 395, 30. 12. 1989, p. 13. Directive last amended by Directive 92/118/EEC (OJ No L 62, 15. 3. 1993, p. 49).

⁽⁵⁾ OJ No L 373, 31. 12. 1990, p. 1. Directive last amended by Directive 92/118/EEC (OJ No L 62, 15. 3. 1993, p. 49).

⁽⁶⁾ OJ No L 32, 5. 2. 1985, p. 14. Directive amended by Directive 88/409/EEC (OJ No L 194, 22. 7. 1988, p. 28).

- the financing of:
 - other veterinary inspections and controls laid down for the products referred to in the Directives listed in Annex A to Directive 89/662/EEC,
 - the controls provided for by Directive 90/675/EEC for products of animal origin other than the meat referred to in the first indent, including controls to detect the presence of residues.

2. The fees referred to in paragraph 1 shall be fixed so as to cover the costs incurred by the competent authority for

- salary costs, including social-security costs,
- administrative costs, which may include the expenditure required for in-service training of inspectors

for carrying out the controls and inspections referred to in paragraph 1.

3. Any direct or indirect refund of the fees provided for by this Directive shall be prohibited.

(¹) OJ No L 340, 31. 12. 1993, p. 15¹.

3. Articles 2, 2a, and 3 shall be replaced by the following Articles:

Article 2

1. The Member States shall ensure, for the purpose of financing the controls carried out pursuant to the Directives referred to in Article 1 by the competent authorities and for that purpose only, the collection

- for the types of meat referred to in Directives 64/433/EEC, 71/118/EEC and 72/462/EEC, with effect from 1 January 1994, of the Community fees following the procedures laid down in the Annex,
- from a date to be set at the time of adoption of the decisions provided for by Article 6, of a Community fee for the controls carried out on products of animal origin referred to in Article 1 (1), second indent.

2. Pending the decisions referred to in the second indent of paragraph 1, the Member States may collect national fees with due regard to the relevant principles governing the setting of Community fees.

3. Member States shall be authorized to collect an amount exceeding the level or levels of the Community fees, provided that the total fee collected by each Member State is not greater than the actual figure for inspection costs.

4. The Community fees shall replace all other health inspection charges or fees levied by the

national, regional or local authorities of the Member States for the inspections and controls referred to in Article 1 and the certification thereof. However, until 31 December 1995, the Member States shall be authorized to collect registration costs for establishments approved in accordance with the rules referred to in Annex A to Directive 89/662/EEC.

This Directive shall not preclude Member States from collecting a fee for combating epizootic diseases.

5. The Member States shall forward information — initially two years after the introduction of the new system and subsequently at the Commission's request — to the Commission concerning the distribution and use of the fees and must be able to justify their method of calculation.

Article 3

1. As part of the checks provided for in Article 12 of Directive 64/433/EEC, Article 10 of Directive 71/118/EEC and Article 20 of Directive 90/675/EEC, the Commission may, by random spot checks, verify whether the provisions of this Directive are being applied.

2. Where a Member State considers that the controls in another Member State are carried out in such a way that the fees provided for in this Directive do not correspond to the actual costs of the controls, it shall have recourse to the relevant provisions of Directive 89/608/EEC and, in particular, Articles 10 and 11 thereof.

Article 4

The fees shall be payable by the operator or owner of the establishment carrying out the operations referred to in the Directives listed in Annex A to Directive 89/662/EEC, who shall have the option of passing on the cost of the fee for the operation concerned to the natural or legal person on whose behalf the said operations are carried out. For imports the fees shall be payable by the importer or the customs agent acting for the importer.

Article 5

The rate of conversion into national currency of the amounts in ecus specified in this Directive shall be that published annually on the first working day of the month of September in the C series of the *Official Journal of the European Communities*.

This rate shall apply from 1 January of the following year.

However, the Member States shall apply for 1994 the rate of conversion applicable on 1 September 1992 and, for 1995, the average of the conversion rates published in accordance with the first paragraph for the last three years.

Article 6

1. The Council, acting by a qualified majority on a proposal from the Commission, may supplement this Directive with specific Annexes, so as to set the standard levels of the Community fees and determine the rules and principles for the application of this Directive, including exceptions to be made, as required for the implementation of the checks laid down in the Directives referred to in Annex A to Directive 89/662/EEC and in Directive 90/675/EEC.

2. The Annex to this Directive may be amended or supplemented by the procedure provided for in paragraph 1.

3. Before 1 January 1996, the Council shall review this Directive on the basis of a report from the Commission, accompanied by proposals where appropriate.

Article 7

The Member States shall inform the Commission

- of the conversion rates adopted each year in accordance with Article 5,
- of the place or places where fees are charged, in accordance with Chapter I.6 of the Annex, giving any necessary explanations.

Article 8

1. Greece shall be authorized to derogate from the principles laid down in this Directive where, because of geographical characteristics, the costs of collecting a fee in geographically remote regions are greater than the yield from the fee.

The Greek authorities shall inform the Commission of the territorial extent of the derogations granted.

The information shall be accompanied by any necessary explanations.

2. In the case of other outermost regions, other Member States may be authorized, in accordance with the procedure provided for in Article 18 of Directive 89/662/EEC, to benefit from the same derogations.

4. The existing Articles 4 and 5 shall become Articles 9 and 10 respectively.

5. The Annex attached to this Directive is hereby added.

Article 2

Decision 88/408/EEC is hereby repealed with effect from 1 January 1994.

Article 3

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 31 December 1993 as regards the requirements in the Annex and in Article 5, and not later than 31 December 1994 as regards the other provisions.

Portugal shall be allowed an additional period of one year to comply with the new provisions in Chapter I of the Annex.

Member States shall forthwith inform the Commission of the provisions adopted.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by Member States.

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 22 December 1993.

For the Council
The President
J.-M. DEHOUSSE

ANNEX

'ANNEX

FEES APPLYING TO MEAT COVERED BY DIRECTIVES 64/433/EEC, 71/118/EEC AND 72/462/EEC

CHAPTER I

Meat covered by Directives 64/433/EEC and 71/118/EEC

The fee referred to in Article 1 (1), first indent, is fixed in accordance with Article 1 (2) as follows:

1. Without prejudice to the application of points 4 and 5, Member States will collect for inspection costs relating to slaughter

— the following standard amounts:

- (a) beef and veal
 - adult bovine animals: ECU 4,75 per animal,
 - young bovine animals: ECU 2,5 per animal;
- (b) solipeds/equidae: ECU 4,4 per animal;
- (c) pigs: ECU 1,3 per animal;
- (d) sheepmeat and goatmeat: animals of a carcase weight
 - (i) of less than 12 kilograms: ECU 0,175 per animal;
 - (ii) of between 12 and 18 kilograms: ECU 0,35 per animal;
 - (iii) of more than 18 kilograms: ECU 0,5 per animal.

Pending a review of the rules governing inspection for lambs, goats and piglets of less than 12 kilograms, and until 31 December 1995 at the latest, the Member States may collect an amount corresponding to the actual cost of inspection for the inspection of those slaughtered animals;

- (e) Until 31 December 1995, the minimum amount to be collected for the ante-mortem and post-mortem inspection provided for in Directive 71/118/EEC shall be fixed:

- (i) either at a standard rate as follows:
 - for broilers, other young poultry for fattening weighing less than two kilograms and for cast hens: ECU 0,01 per animal,
 - other young poultry for fattening of a carcase weight of more than two kilograms: ECU 0,02 per animal,
 - other heavy adult poultry weighing more than five kilograms: ECU 0,04 per animal;
- (ii) or, where a Member State decides not to make the distinction between categories of poultry as in (i), at ECU 0,03 per bird;

— a share of the fees for

- (a) administrative costs may not be lower than ECU 0,725 per tonne;
- (b) examination for the presence of residues may not be lower than ECU 1,35 per tonne.

2. The controls and inspections connected with the cutting operations referred to in Article 3 (1)(B) of Directive 64/433/EEC and Article 3 (1)(B) of Directive 71/118/EEC shall be covered

- (a) either at a standard rate by the addition of a standard amount of ECU 3 per tonne on meat entering a cutting plant.

This amount is added to the amounts referred to in point 1 above;

- (b) or by collecting the actual costs of inspection per hour worked, any hour started being counted as an hour worked.

Where the cutting operations are carried out in the establishment where the meat is obtained, the amounts laid down in the first subparagraph may be reduced by up to 55%.

3. Member States shall collect an amount corresponding to the actual expenditure necessary for controls or inspections of the meat being stored, pursuant to Article 3 (1)(D) of Directive 64/433/EEC and Article 3 (1)(C) of Directive 71/118/EEC.

The rules of application of this point may be fixed under the procedure provided for in Article 16 of Directive 64/433/EEC or Article 21 of Directive 71/118/EEC, with a view in particular to settling the cases of intervention meat and meat subject to short-term storage in successive coldstores.

4. In order to cover increased costs, Member States may,

- (a) increase the standard amounts for fees pursuant to points 1 and 2(a) for individual establishments;

This would be subject, for example, to one or more of the following conditions (apart from the condition laid down in 5(a)):

- higher inspection costs due to a particular lack of uniformity in the animals for slaughter from the point of view of age, size, weight and state of health,
- longer waiting and otherwise non-productive periods for inspection staff owing to inadequate advance planning by the establishment of animal deliveries or technical inadequacies or failures, for example in older establishments,
- frequent delays in the slaughtering process, e.g. as a result of insufficient slaughter staff and hence under-employment of inspection staff,
- higher costs due to special travelling times,
- more time taken up on inspections due to frequently changing slaughter periods beyond the control of inspection staff,
- frequent interruptions in the slaughtering process to meet cleaning and disinfecting requirements;
- inspections of animals which, at the request of the owner, are slaughtered outside normal slaughtering hours.

The amount of the increases in the central standard rate for fees shall depend on the level of the costs to be covered;

- (b) or collect a special fee covering actual costs.

5. Member States in which salary costs, the structure of establishments and the relationship between veterinarians and inspectors diverge from the Community average taken as a basis for calculation of the standard amounts fixed in points 1 and 2(a) may exceptionally reduce them to meet the real costs of inspection:

- (a) in general, where there are substantial differences in the cost of living and salary costs;

- (b) for individual establishments, where the following conditions are met:

- a minimum daily slaughter rate must enable the deployment of the relevant inspection staff to be planned in advance,
- the number of slaughtered animals must be constant, so that animal deliveries may be planned in advance thus enabling rational use to be made of the inspection staff,
- strict organization and planning must prevail within the establishment together with a rapid slaughter rate and optimum use of inspection staff,
- there must be no waiting or otherwise non-productive periods for inspection staff,
- the animals for slaughter must so far as possible be uniform in age, size, weight and state of health.

In no case should the application of these exemptions result in reductions of more than 55 % of the levels indicated in point 1.

6. The fees referred to in points 1 to 4 shall be collected, as appropriate, at the slaughterhouse, cutting plant or cold store.

By way of exception to the first paragraph, in the case of establishments carrying out more than one operation and of chains of production covering more than one operation, the Member States may collect a total aggregate fee including the various amounts simultaneously and at a single location.

However, if the fee collected at the slaughterhouse covers the whole of the inspection costs referred to in the first paragraph, the Member States shall not collect any fee at the cutting-plant or the cold store.

CHAPTER II

Meat falling under Directive 72/462/EEC

1. The fee referred to in the first indent of Article 1 (1) is fixed in accordance with Article 1 (2) at the minimum standard level of ECU 5 per tonne, with a minimum amount of ECU 30 per consignment; that minimum is not however charged in the case of small consignments imported in cross-border trade.

However, Member States may exceptionally increase this amount to meet real costs.

2. Until 1 July 1994 Member States may however continue to collect a reduced amount for third country meat to which on 1 July 1993 they applied a reduced frequency of controls. This reduction may not exceed 55 % of the standard level referred to in point 1.
3. When the decisions provided for in Article 8 (3) of Directive 90/675/EEC are adopted and under the same procedure, the amounts laid down in point 1 may be adapted, taking account of the reduction in the frequency of controls decided on.

When taking these decisions the Commission will take account in particular of the guarantees given by the third countries concerning acceptance of the principle of regionalization and of the other Community principles.

4. As from 1 July 1994, in the absence of a decision in accordance with point 3, the Member States shall apply an amount reduced in line with the reduction in frequency of controls decided on within the framework of any agreement the Community has concluded in that respect with a third country or, in the absence of any such agreement, the amounts referred to in point 1.
 5. The fee referred to in point 1 is payable by the importer and collected at the customs office responsible for the border inspection post.
 6. Member States may allocate part of the yield of the fees provided for in this Chapter to a health solidarity fund designed to strengthen the veterinary services to allow them to react more effectively to any appearance of an exotic disease.
-