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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 3382/94

of 19 December 1994

on certain procedures for applying the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part

THE COUNCIL OF THE EUROPEAN COMMUNITIES;

Having regard to the Treaty establishing the European Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Whereas a Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part, hereinafter referred to as 'the Agreement', was signed in Brussels on 1 February 1993;

Whereas pending the entry into force of the Europe Agreement, its provisions on trade and trade-related matters have been given effect since 1 May 1993 by an Interim Agreement on trade and trade-related matters between the European Economic Community and the European Coal and Steel Community, of the one part, and Romania, of the other part, signed in Brussels on 1 February 1993 ⁽¹⁾;

Whereas pursuant to the conclusions of the Copenhagen European Council on 21 and 22 June 1993 regarding new trade concessions for the central and eastern European countries, an Additional Protocol to the Interim Agreement was concluded on 20 December 1993 ⁽²⁾ by the European Community and the European Coal and Steel Community, of the one part, and Romania, of the other part;

Whereas it is necessary to lay down the procedures for applying certain provisions of the Agreement;

Whereas, with regard to trade protection measures, it is appropriate, where the provisions of the Agreement

render it necessary, to lay down specific provisions concerning the general rules provided for in particular in Council Regulation (EC) No 518/94 of 7 March 1994 on common rules for imports ⁽³⁾ and in Council Regulation (EC) No 521/94 of 7 March 1994 on protection against dumped or subsidized imports from countries not members of the European Community ⁽⁴⁾;

Whereas account should be taken of the undertakings set out in the Agreement when examining whether a safeguard measure should be introduced;

Whereas the procedures concerning safeguard clauses provided for in the Treaty establishing the European Community are also applicable;

Whereas specific provisions have been adopted for safeguard measures concerning the textile products covered by Protocol 1 of the Agreement;

Whereas certain special procedures should be introduced for the application of safeguard measures in the agricultural sectors,

HAS ADOPTED THIS REGULATION:

TITLE I

Agricultural products

Article 1

Provisions for the application of Article 21 (2) and (4) of the Agreement concerning agricultural products falling

⁽¹⁾ OJ No L 81, 2. 4. 1993, p. 2.

⁽²⁾ OJ No L 25, 29. 1. 1994, p. 21.

⁽³⁾ OJ No L 67, 10. 3. 1994, p. 77.

⁽⁴⁾ OJ No L 66, 10. 3. 1994, p. 7.

within Annex II of the Treaty and subject in the framework of the common market organization to a regime of levies, and concerning products falling within CN codes 0711 90 50 and 2003 10 10, shall be adopted in accordance with the procedure provided for in Article 23 of Regulation (EC) No 1766/92⁽¹⁾ or in the corresponding provisions of other regulations establishing a common organization of the agricultural markets. These provisions may provide for the introduction of a system of import certificates in those sectors in which such certificates are not provided for by the common organization of agricultural markets.

TITLE II

Protective measures

Article 2

The Council may, in accordance with the procedures provided for in Article 113 of the Treaty, decide to refer to the Association Council established by the Agreement with regard to the measures provided for in Articles 29 and 119 (2) of the Agreement. Where necessary, the Council shall adopt these measures in accordance with the same procedure.

The Commission may, on its own initiative or at the request of a Member State, present the necessary proposals to this end.

Article 3

1. In the case of a practice that may justify application by the Community of the measures provided for in Article 64 of the Agreement, the Commission, after examining the case, on its own initiative or at the request of a Member State, shall decide whether such practice is compatible with the Agreement. Where necessary, it shall propose the adoption of safeguard measures to the Council, which shall act in accordance with the procedure laid down in Article 113 of the Treaty, except in the cases of aid to which Regulation (EC) No 521/94 applies, when measures shall be taken according to the procedures laid down in that Regulation. Measures shall be taken only under the conditions set out in Article 64 (6) of the Agreement.

2. In the case of a practice that may cause measures to be applied to the Community by Romania on the basis of Article 64 of the Agreement, the Commission, after examining the case, shall decide whether the practice is compatible with the principles set out in the Agreement. Where necessary, it shall take appropriate decisions on the basis of the criteria which result from the application of Articles 85, 86 and 92 of the Treaty.

Article 4

In the case of a practice which is liable to warrant the application, by the Community, of the measures provided for in Article 30 of the Agreement, the introduction of anti-dumping measures shall be decided upon in accordance with the provisions laid down in Regulation (EC) No 521/94 and the procedure provided for in Article 34 (2) and (3) (b) or (d) of the Agreement.

Article 5

1. Where a Member State requests the Commission to apply safeguard measures as provided for in Articles 31 or 32 of the Agreement, it shall provide the Commission, in support of its request, with the information needed to justify it. If the Commission decides not to apply safeguard measures, it shall inform the Council and the Member States accordingly within five working days of receipt of the request from the Member State.

Any Member State may refer this decision of the Commission to the Council within 10 working days of its notification.

If the Council, acting by the qualified majority, indicates its intention to adopt a different decision, the Commission shall inform Romania thereof forthwith and shall notify it of the opening of the consultations within the Association Council as provided for in Article 34 (2) and (3) of the Agreement.

The Council, acting by a qualified majority, may take a different decision within 20 working days of the conclusion of the consultations with Romania within the Association Council.

2. The Commission shall be assisted by the committee established by Regulation (EC) No 3491/93⁽²⁾ (hereinafter referred to as 'the Committee').

The Committee shall meet when convened by its chairman. The latter shall communicate any appropriate information to the Member States at the earliest opportunity.

3. Where the Commission, at the request of a Member State or on its own initiative, decides that the safeguard measures provided for in Articles 31 or 32 of the Agreement should be applied:

- it shall inform the Member States forthwith if acting on its own initiative or, if it is responding to a Member State's request, within five working days of the date of receipt of that request,
- it shall consult the Committee,

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No 319, 21. 12. 1993, p. 1.

- it the same time it shall inform Romania and notify the Association Council of the opening of consultations as referred to in Article 34 (2) and (3) of the Agreement,
- at the same time it shall provide the Association Council with all the information necessary for these consultations.

4. In any event, the consultations within the Association Council shall be deemed to be completed 30 days after the notification referred to in the fourth subparagraph of paragraph 1 and in paragraph 3.

At the end of the consultations or on expiry of the period of 30 days, and if no other arrangement proves possible, the Commission, after consulting the Committee, may take appropriate measures to implement Articles 31 and 32 of the Agreement.

5. The decision referred to in paragraph 4 shall be notified forthwith to the Council, the Member States and Romania; it shall also be notified to the Association Council.

The decision shall be applicable immediately.

6. Any Member State may refer the Commission decision referred to in paragraph 4 to the Council within 10 working days of receiving notification of the decision.

7. If the Commission has not taken a decision within the meaning of the second subparagraph of paragraph 4 within 10 working days of the end of the consultations with the Association Council or, as the case may be, the end of the period of 30 days, any Member State which has referred the matter to the Commission in accordance with paragraph 3 may refer it to the Council.

8. In the cases referred to in paragraphs 6 and 7 the Council, acting by a qualified majority, may adopt a different decision within two months.

Article 6

1. Where exceptional circumstances arise within the meaning of Article 34 (3) (d) of the Agreement, the Commission may take immediate safeguard measures in the cases referred to in Articles 31 and 32 of the Agreement.

2. If the Commission receives a request from a Member State, it shall take a decision thereon within five working days of receipt of the request.

The Commission shall notify the Council and the Member States of its decision.

3. Any Member State may refer the Commission's decision to the Council in accordance with the procedure provided for in Article 5 (6).

The procedure set out in Article 5 (7) and (8) shall be applicable.

If the Commission has not taken a decision within the time limit mentioned in paragraph 2, any Member State which has referred the matter to the Commission may refer it to the Council in accordance with the procedures laid down in the first and second subparagraphs of this paragraph.

Article 7

The procedures laid down in Articles 5 and 6 shall not apply to products covered by Protocol 1 of the Agreement.

Article 8

By way of derogation from Articles 5 and 6, if the circumstances demand that measures are taken concerning agricultural products on the basis of Articles 22 or 31 of the Agreement or on the basis of provisions in the Annexes covering these products, such measures shall be taken according to procedures provided for by the rules establishing a common organization of the agricultural markets, or in specific provisions adopted pursuant to Article 235 of the Treaty and applicable to products resulting from the processing of agricultural products, provided that the conditions established pursuant to Article 22 or Article 34 (2) and (3) of the Agreement are met.

Article 9

Notification to the Association Council as required by the Agreement shall be the responsibility of the Commission, acting on behalf of the Community.

Article 10

This Regulation does not preclude the application of safeguard measures provided for in the Treaty establishing the European Community, in particular in Articles 109h and 109i, according to the procedures laid down therein.

Article 11

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

It shall apply from the entry into force of the Europe Agreement.

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

Done at Brussels, 19 December 1994.

For the Council

The President

K. KINKEL

COUNCIL REGULATION (EC) No 3383/94

of 19 December 1994

on certain procedures for applying the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Whereas a Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part, hereinafter referred to as 'the Agreement', was signed in Brussels on 8 March 1993;

Whereas pending the entry into force of the Europe Agreement, its provisions on trade and trade-related matters have been given effect since 31 December 1993 by an Interim Agreement on trade and trade-related matters between the European Economic Community and the European Coal and Steel Community, of the one part, and the Republic of Bulgaria, of the other part, signed in Brussels on 8 March 1993 ⁽¹⁾;

Whereas pursuant to the conclusions of the Copenhagen European Council on 21 and 22 June 1993 regarding new trade concessions for the central and eastern European countries, an Additional Protocol to the Interim Agreement was concluded on 20 December 1993 ⁽²⁾ by the European Community and the European Coal and Steel Community, of the one part, and the Republic of Bulgaria, of the other part;

Whereas it is necessary to lay down the procedures for applying certain provisions of the Agreement;

Whereas, with regard to trade protection measures, it is appropriate, where the provisions of the Agreement render it necessary, to lay down specific provisions concerning the general rules provided for in particular in Council Regulation (EC) No 518/94 of 7 March 1994 on common rules for imports ⁽³⁾ and in Council Regulation

(EC) No 521/94 of 7 March 1994 on protection against dumped or subsidized imports from countries not members of the European Community ⁽⁴⁾;

Whereas account should be taken of the undertakings set out in the Agreement when examining whether a safeguard measure should be introduced;

Whereas the procedures concerning safeguard clauses provided for in the Treaty establishing the European Community are also applicable;

Whereas specific provisions have been adopted for safeguard measures concerning the textile products covered by Protocol 1 of the Agreement;

Whereas certain special procedures should be introduced for the application of safeguard measures in the agricultural sectors,

HAS ADOPTED THIS REGULATION:

TITLE I

Agricultural products

Article 1

Provisions for the application of Article 21 (2) and (4) of the Agreement concerning agricultural products falling within Annex II of the Treaty and subject in the framework of the common market organization to a regime of levies, and concerning products falling within CN codes 0711 90 50 and 2003 10 10, shall be adopted in accordance with the procedure provided for in Article 23 of Regulation (EC) No 1766/92 ⁽⁵⁾ or in the corresponding provisions of other regulations establishing a common organization of the agricultural markets. These provisions may provide for the introduction of a system of import certificates in those sectors in which such certificates are not provided for by the common organization of agricultural markets.

⁽¹⁾ OJ No L 81, 2. 4. 1993, p. 2.

⁽²⁾ OJ No L 25, 29. 1. 1994, p. 26.

⁽³⁾ OJ No L 67, 10. 3. 1994, p. 77.

⁽⁴⁾ OJ No L 66, 10. 3. 1994, p. 7.

⁽⁵⁾ OJ No L 181, 1. 7. 1992, p. 21.

TITLE II

Protective measures

Article 2

The Council may, in accordance with the procedures provided for in Article 113 of the Treaty, decide to refer to the Association Council established by the Agreement with regard to the measures provided for in Articles 29 and 118 (2) of the Agreement. Where necessary, the Council shall adopt these measures in accordance with the same procedure.

The Commission may, on its own initiative or at the request of a Member State, present the necessary proposals to this end.

Article 3

1. In the case of a practice that may justify application by the Community of the measures provided for in Article 64 of the Agreement, the Commission, after examining the case, on its own initiative or at the request of a Member State, shall decide whether such practice is compatible with the Agreement. Where necessary, it shall propose the adoption of safeguard measures to the Council, which shall act in accordance with the procedure laid down in Article 113 of the Treaty, except in the cases of aid to which Regulation (EC) No 521/94 applies, when measures shall be taken according to the procedures laid down in that Regulation. Measures shall be taken only under the conditions set out in Article 64 (6) of the Agreement.

2. In the case of a practice that may cause measures to be applied to the Community by *Bulgaria* on the basis of Article 64 of the Agreement, the Commission, after examining the case, shall decide whether the practice is compatible with the principles set out in the Agreement. Where necessary, it shall take appropriate decisions on the basis of the criteria which result from the application of Articles 85, 86 and 92 of the Treaty.

Article 4

In the case of a practice which is liable to warrant the application, by the Community, of the measures provided for in Article 30 of the Agreement, the introduction of anti-dumping measures shall be decided upon in accordance with the provisions laid down in Regulation (EC) No 521/94 and the procedure provided for in Article 34 (2) and (3) (b) or (d) of the Agreement.

Article 5

1. Where a Member State requests the Commission to apply safeguard measures as provided for in Articles 31

or 32 of the Agreement, it shall provide the Commission, in support of its request, with the information needed to justify it. If the Commission decides not to apply safeguard measures, it shall inform the Council and the Member States accordingly within five working days of receipt of the request from the Member State.

Any Member State may refer this decision of the Commission to the Council within 10 working days of its notification.

If the Council, acting by the qualified majority, indicates its intention to adopt a different decision, the Commission shall inform Bulgaria thereof forthwith and shall notify it of the opening of the consultations within the Association Council as provided for in Article 34 (2) and (3) of the Agreement.

The Council, acting by a qualified majority, may take a different decision within 20 working days of the conclusion of the consultations with Bulgaria within the Association Council.

2. The Commission shall be assisted by the committee established by Regulation (EC) No 3491/93 ⁽¹⁾ (hereinafter referred to as 'the Committee').

The Committee shall meet when convened by its chairman. The latter shall communicate any appropriate information to the Member States at the earliest opportunity.

3. Where the Commission, at the request of a Member State or on its own initiative, decides that the safeguard measures provided for in Articles 31 or 32 of the Agreement should be applied:

- it shall inform the Member States forthwith if acting on its own initiative or, if it is responding to a Member State's request, within five working days of the date of receipt of that request,
- it shall consult the Committee,
- at the same time it shall inform Bulgaria and notify the Association Council of the opening of consultations as referred to in Article 34 (2) and (3) of the Agreement,
- at the same time it shall provide the Association Council with all the information necessary for these consultations.

4. In any event, the consultations within the Association Council shall be deemed to be completed 30 days after the notification referred to in the fourth subparagraph of paragraph 1 and in paragraph 3.

At the end of the consultations or on expiry of the period of 30 days, and if no other arrangement proves possible,

⁽¹⁾ OJ No 319, 21. 12. 1993, p. 1.

the Commission, after consulting the Committee, may take appropriate measures to implement Articles 31 and 32 of the Agreement.

5. The decision referred to in paragraph 4 shall be notified forthwith to the Council, the Member States and Bulgaria; it shall also be notified to the Association Council.

The decision shall be applicable immediately.

6. Any Member State may refer the Commission decision referred to in paragraph 4 to the Council within 10 working days of receiving notification of the decision.

7. If the Commission has not taken a decision within the meaning of the second subparagraph of paragraph 4 within 10 working days of the end of the consultations with the Association Council or, as the case may be, the end of the period of 30 days, any Member State which has referred the matter to the Commission in accordance with paragraph 3 may refer it to the Council.

8. In the cases referred to in paragraphs 6 and 7 the Council, acting by a qualified majority, may adopt a different decision within two months.

Article 6

1. Where exceptional circumstances arise within the meaning of Article 34 (3) (d) of the Agreement, the Commission may take immediate safeguard measures in the cases referred to in Articles 31 and 32 of the Agreement.

2. If the Commission receives a request from a Member State, it shall take a decision thereon within five working days of receipt of the request.

The Commission shall notify the Council and the Member States of its decision.

3. Any Member State may refer the Commission's decision to the Council in accordance with the procedure provided for in Article 5 (6).

The procedure set out in Article 5 (7) and (8) shall be applicable.

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

Dona at Brussels, 19 December 1994.

If the Commission has not taken a decision within the time limit mentioned in paragraph 2, any Member State which has referred the matter to the Commission may refer it to the Council in accordance with the procedures laid down in the first and second subparagraphs of this paragraph.

Article 7

The procedures laid down in Articles 5 and 6 shall not apply to products covered by Protocol 1 of the Agreement.

Article 8

By way of derogation from Articles 5 and 6, if the circumstances demand that measures are taken concerning agricultural products on the basis of Articles 22 or 31 of the Agreement or on the basis of provisions in the Annexes covering these products, such measures shall be taken according to procedures provided for by the rules establishing a common organization of the agricultural markets, or in specific provisions adopted pursuant to Article 235 of the Treaty and applicable to products resulting from the processing of agricultural products, provided that the conditions established pursuant to Article 22 or Article 34 (2) and (3) of the Agreement are met.

Article 9

Notification to the Association Council as required by the Agreement shall be the responsibility of the Commission, acting on behalf of the Community.

Article 10

This Regulation does not preclude the application of safeguard measures provided for in the Treaty establishing the European Community, in particular in Articles 109h and 109i, according to the procedures laid down therein.

Article 11

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

It shall apply from the entry into force of the Europe Agreement.

For the Council

The President

K. KINKEL

COUNCIL DIRECTIVE 94/64/EC

of 14 December 1994

amending the Annex to 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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 85/73/EEC of 29 January 1985 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 ⁽¹⁾, and in particular Article 6 (1) and (2) thereof,

Having regard to the proposal from the Commission,

Whereas, for products of animal origin other than meat referred to in Directive 64/433/EEC ⁽²⁾, Directive 71/118/EEC ⁽³⁾ and Directive 72/462/EEC ⁽⁴⁾, it remains to lay down the necessary detailed rules for ensuring the financing of veterinary inspections;

Whereas, for meat from third countries, a link should be established with the date as from which agreements should be concluded on the reduced frequency of physical checks on consignments of certain products to be imported from third countries, under Directive 90/675/EEC ⁽⁵⁾,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Chapter II of the Annex to Directive 85/73/EEC is hereby amended as follows:

(a) Point 2 shall be replaced by the following:

⁽¹⁾ OJ No L 32, 5. 2. 1985, p. 14. Directive as last amended by Directive 93/118/EEC (OJ No L 340, 31. 12. 1993, p. 15).

⁽²⁾ OJ No L 121, 29. 7. 1964, p. 2012/64. Directive as last amended by Directive 92/5/EEC (OJ No L 57, 2. 3. 1992, p. 1).

⁽³⁾ OJ No L 55, 8. 3. 1971, p. 23. Directive as last amended by Directive 92/116/EEC (OJ No L 62, 15. 3. 1993, p. 1).

⁽⁴⁾ OJ No L 302, 31. 12. 1972, p. 28. Directive as last amended by Regulation EEC No 1601/92 OJ No L 173, 27. 6. 1992, p. 13.

⁽⁵⁾ OJ No L 158, 25. 6. 1994, p. 41.

'2. However, for imports from any of the countries which as at 31 December 1994 have begun exploratory talks with the Community with a view to concluding a comprehensive agreement on the equivalence of veterinary guarantees (animal health and public health) based on the principle of reciprocal treatment, Member States may, until such an agreement is concluded or until 30 June 1995 at the latest, maintain the reduced level of fees which they applied as at 1 January 1994.

This reduction may not exceed 55 % of the standard levels referred to in point 1.

The amount of the fee to be charged on imports from any of the third countries referred to in the first subparagraph will be fixed, following the conclusion of the comprehensive equivalence agreement with the said third country, by the procedure referred to in point 3, taking into account the following principles:

- the frequency level of checks,
- the level of the fee applied by the said third country to imports originating in the Community,
- abolition of other charges levied by the third country, such as compulsory loading or collection of a health bond;

(b) point 4 shall be deleted.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than two days after the date of its publication in the *Official Journal of the European Communities*. 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 at the time of their official publication. The methods of making such reference shall be adopted by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which 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 Brussels, 14 December 1994.

For the Council

The President

J. BORCHERT

COUNCIL DIRECTIVE 94/65/EC

of 14 December 1994

laying down the requirements for the production and placing on the market of minced meat and meat preparations

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 minced meat and meat preparations are included in the list of products in Annex II to the Treaty; whereas the production of and trade in minced meat and meat preparations constitute an important source of income for part of the farming population;

Whereas in order to ensure the rational development of the industry producing such meat and to increase productivity, public health rules for the production and placing on the market of such meat must be laid down at Community level;

Whereas the laying down of such rules improves the protection of public health and consequently facilitates the completion of the internal market;

Whereas, to achieve this purpose, it is necessary to repeal Council Directive 88/657/EEC of 14 December 1988 laying down the requirements for the production of, and trade in, minced meat, meat in pieces of less than 100 grams and meat preparations and amending Directives 64/433/EEC, 71/118/EEC and 72/462/EEC ⁽⁴⁾, and to replace it by this Directive;

Whereas meat which has not undergone any treatment — other than cold treatment — is subject to the requirements of Directives 64/433/EEC ⁽⁵⁾ and 71/118/EEC ⁽⁶⁾; whereas products which have undergone

treatment modifying the characteristics of fresh meat are regulated by Directive 77/99/EEC ⁽⁷⁾; whereas the production of other products, whether they are presented in the form of minced meat or meat preparations, should as a result be subject to the requirements of this Directive;

Whereas to take account of consumption habits in some Member States, and of the risk presented by some of those products if they are eaten lightly cooked, very strict requirements should be maintained for minced meat and preparations which may be traded;

Whereas the fundamental criterion which the Community must adopt as regards the functioning of the internal market is that of a high standard of consumer protection;

Whereas Council Directive 79/112/EEC of 18 December 1978 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs ⁽⁸⁾ and Council Directive 89/396/EEC of 14 June 1989 on indications or marks identifying the lot to which a foodstuff belongs ⁽⁹⁾ are applicable;

Whereas a system of approval should be introduced for the establishments which meet the health requirements laid down by this Directive, together with a Community inspection procedure to ensure that the conditions for such approval are observed;

Whereas that system should be based on the principle of self-monitoring by the establishments;

Whereas health marking of meat products is the best way of satisfying the competent authority of the place of destination that a consignment complies with the provisions of this Directive; whereas the health certificate should be maintained for the purposes of verifying the destination of certain products;

Whereas the rules, principles and safeguard measures established by Council Directive 90/675/EEC of 10

⁽¹⁾ OJ No C 84, 2. 4. 1990, p. 120 and OJ No C 288, 6. 11. 1991, p. 3.

⁽²⁾ OJ No C 183, 15. 7. 1991, p. 59.

⁽³⁾ OJ No C 225, 10. 9. 1990, p. 1.

⁽⁴⁾ OJ No L 382, 31. 12. 1988, p. 3.

⁽⁵⁾ OJ No L 121, 29. 7. 1964, p. 2012/64.

⁽⁶⁾ OJ No L 55, 8. 3. 1971, p. 23.

⁽⁷⁾ OJ No L 26, 31. 1. 1977, p. 85.

⁽⁸⁾ OJ No L 33, 8. 2. 1979, p. 1.

⁽⁹⁾ OJ No L 186, 30. 6. 1989, p. 21.

December 1990 laying down the principles governing the organization of veterinary checks on products entering the Community from third countries⁽¹⁾ should apply here;

Whereas, in the context of intra-Community trade, the rules laid down in Directive 89/662/EEC⁽²⁾ should also be applied;

Whereas the rules applicable to imports from third countries should be defined;

Whereas the Commission should be entrusted with the task of adopting certain measures for implementing this Directive; whereas, to that end, procedures should be laid down establishing close and effective cooperation between the Commission and the Member States within the Standing Veterinary Committee,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I

Article 1

1. This Directive lays down rules for the production, placing on the market in the Union and importing of meat preparations and minced meat.

2. This Directive shall not apply to meat preparations and minced meat which are produced in retail shops or in premises adjacent to sales points, with a view to sale there directly to the final consumer, such operations remaining subject to the health checks required by national rules governing supervision of the retail trade.

3. This Directive shall not apply to mechanically recovered meat for industrial use which undergoes heat treatment in establishments approved in accordance with Directive 77/99/EEC.

4. National rules applicable to the production and placing on the market of minced meat intended for use as raw material for the manufacture of the products referred to in Article 21 (a) shall be unaffected by this Directive.

Article 2

For the purposes of this Directive:

1. the definitions contained in Article 2 of Directives 64/433/EEC, 71/118/EEC and 72/462/EEC⁽³⁾ shall apply as necessary;
2. the following definitions shall apply;
 - (a) minced meat: meat which has been minced into fragments or passed through a spiral-screw mincer;
 - (b) meat preparations: meat within the meaning of Article 2 of Directives 64/433/EEC, 71/118/EEC and 92/45/EEC⁽⁴⁾, and meat satisfying the requirements of Articles 3, 6 and 8 of Directive 91/495/EEC⁽⁵⁾ which has had foodstuffs, seasonings or additives added to it or which has undergone a treatment insufficient to modify the internal cellular structure of the meat and thus to cause the characteristics of the fresh meat to disappear;
 - (c) seasonings: salt intended for human consumption, mustard, spices and aromatic spice extracts, aromatic herbs and aromatic extracts thereof;
 - (d) production plant: any plant in which minced meat or meat preparations are produced:
 - which is located in a cutting plant and satisfies the requirements of Chapter I of Annex I to this Directive,
 - which in the case of the production of meat preparations, is located in an establishment fulfilling the requirements of Chapter III of Annex I to this Directive,
 - which, if it is not located on the premises of, or in an annex to, an establishment approved under Directives 64/433/EEC, 71/118/EEC or 77/99/EEC, fulfils the requirements of point 2 of Chapter I or point 2 of Chapter III of Annex I to this Directive;
 - (e) trade: trade between Member States within the meaning of Article 9 (2) of the Treaty;
 - (f) competent authority: the central authority of a Member State competent to carry out veterinary checks or any authority to which it has delegated that power.

CHAPTER II

Placing on the market of minced meat

Article 3

1. Each Member State shall ensure that only fresh meat obtained from bovine animals, pigs, sheep or goats and presented in the form of minced meat, which meets the following requirements is traded:

⁽¹⁾ OJ No L 373, 31. 12. 1990, p. 1.

⁽²⁾ OJ No L 395, 30. 12. 1989, p. 13.

⁽³⁾ OJ No L 302, 31. 12. 1972, p. 28.

⁽⁴⁾ OJ No L 268, 14. 9. 1992, p. 35.

⁽⁵⁾ OJ No L 268, 24. 9. 1991, p. 41.

(a) it must have been prepared from striated muscle ^(*) — except heart muscle — which meets the requirements of:

- (i) Article 3 of Directive 64/433/EEC; or
- (ii) Directive 72/462/EEC;

and has been inspected in accordance with Directive 90/675/EEC.

In the case of fresh pigmeat, it must furthermore have been examined for trichinae in accordance with Article 2 of Directive 77/96/EEC ⁽¹⁾ or have undergone cold treatment as referred to in Annex IV to that Directive;

(b) it must have been prepared, in accordance with the requirements of Chapter II of Annex I in a plant which:

- (i) meets the requirements of points 1, 2 and 3 of Chapter I of Annex I, and
- (ii) has been approved and is included on the list(s) drawn up in accordance with Article 8 (1);

(c) it must have been inspected in accordance with Chapter V of Annex I and with Article 8;

d) it must be marked and labelled in accordance with Chapter VI of Annex I;

(e) it must have been wrapped, packaged and stored in accordance with the respective provisions of Chapters VII and VIII of Annex I;

(f) it must be transported in accordance with Chapter IX of Annex I;

(g) it must, during transport, be accompanied by:

- (i) an accompanying commercial document which must:
 - be drawn up by the dispatching establishment,
 - bear the veterinary approval number of the approved production plant and in the case of frozen minced meat, the month and year of freezing in clear,
 - for minced meat intended for Finland and Sweden, bear one of the indications provided for in the third indent of Part IV of Annex IV,
 - be kept by the consignee so that it can be produced at the request of the competent authority. Computer data must be printed out at the request of the aforesaid authority.

However, at the request of the competent authority in the Member State of destination,

veterinary certification must be provided when meat is intended for export to a third country after mincing. The cost of such certification shall be borne by the operators:

- (ii) a health certificate in accordance with Chapter III of Annex I, in the case of minced meat from a production plant situated in a restricted region or area or minced meat to be sent to another Member State, after transit through a third country in a sealed lorry.

2. Minced meat must meet the following requirements in addition to those listed in paragraph 1:

(a) the fresh meat from which it is obtained must:

- (i) where it has been frozen or deep-frozen, be obtained from fresh boned meat which has been stored for no longer than 18 months for beef and veal, 12 months for sheepmeat and six months for pigmeat, after freezing or deep-freezing, in a cold store approved in accordance with Article 10 of Directive 64/433/EEC. However, the competent authority may authorize the boning of pigmeat and sheepmeat on the spot immediately before mincing where this operation is carried out in satisfactory conditions of hygiene and quality;

(ii) where it has been chilled, be used:

- within no more than six days after slaughter of the animals, or
- within no more than 15 days after slaughter of the animals in the case of boned, vacuum-packed beef and veal;

(b) the minced meat must have undergone cold treatment within a period of not more than one hour after portioning and wrapping, except where processes requiring the lowering of the internal temperature of the meat during production are used;

(c) the minced meat must be packaged and presented in one of the following forms:

- (i) chilled and in this case obtained from meat as described in (a) (ii) and cooled to an internal temperature below + 2°C in the shortest time possible.

However, the addition of a limited quantity of frozen meat satisfying the conditions laid down in (a) (i) shall be authorized to accelerate the refrigeration process provided that this addition is mentioned on the label. In such cases, the period referred to above must not exceed one hour;

^(*) Including the adjoining fatty tissues.

⁽¹⁾ OJ No L 26, 31. 1. 1977, p. 67.

- (ii) deep-frozen, and in this case obtained from meat as described in (a) and cooled to an internal temperature below - 18°C as quickly as possible, in accordance with Article 1 (2) of Directive 89/108/EEC ^(a);

- (d) the minced meat must not have been subjected to ionizing radiation or ultraviolet treatment;
- (e) the designations in Section 1 of Annex II, possibly combined with the name of the species of animal from which the meat was obtained, may be used on packages only if the requirements set out in Section 1 of Annex II are met for those designations.

3. Minced meat to which not more than 1 % salt has been added shall be subject to the requirements of paragraphs 1 and 2.

Article 4

1. In order to take account of particular habits of consumption and while ensuring that the health requirements of this Directive are observed, Member States may authorize the production and placing on the market of minced meat to be sold in their territory only obtained:

- a) from meat referred to in Article 2 (b);
- b) from production plants which are approved or registered and have the premises referred to in Annex I;
- c) by derogation from
 - i) point 4 of Chapter VI of Annex I;
 - ii) Article 3 (1) (f) and (g) and Article 3 (2), except for the first, second and third indents of Annex II, point 1;

2. Minced meat obtained in accordance with this Article must not bear the health mark provided for in Chapter VI of Annex I.

3. A Member State which wishes to make use of the provisions of paragraph 1 shall notify the Commission of the nature of the derogations it intends to grant.

Should the Commission, after consulting the Member State concerned, consider that the derogations fail to guarantee the health standard provided for by the Directive, appropriate steps shall be taken in accordance with the procedure laid down in Article 20.

Otherwise, the Commission shall inform the other Member States of the measures notified to it.

CHAPTER III

Placing on the market of meat preparations

Article 5

1. Meat preparations within the meaning of Article 2 (2) (b) may be traded only if:

- (a) they have been prepared from fresh meat, other than meat from solipeds, which:

- (i) complies with Article 3 of the Directives referred to in Article 2 (2) (b);

- (ii) in the case of imported meat, complies with Directive 72/462/EEC or Chapter III of Directives 71/118/EEC and 92/45/EEC and the requirements laid down in Articles 3, 6 and 8 of Directive 91/495/EEC, or Chapter 11 of Annex I to Directive 92/118/EEC ⁽¹⁾ and be inspected in accordance with Directive 90/675/EEC. In the case of fresh meat from pigs, it must have been examined for trichinae in accordance with Article 2 of Directive 77/96/EEC or have undergone cold treatment in accordance with Annex IV to that Directive;

- (b) they have been prepared in one of the establishments referred to in Article 2 (2) (d) which:

- (i) meets the requirements of Chapter III of Annex I; and

- (ii) has been approved and is included on the list(s) drawn up in accordance with Article 8 (1).

- (c) they have been obtained from meat which, if it has been deep-frozen, must be used within a maximum period after slaughter of 18 months for beef and veal, 12 months for sheepmeat and goatmeat, poultrymeat, rabbit meat and farmed game meat and six months for meat from other species;

However, the competent authority may authorize boning of pigmeat and sheepmeat on the spot immediately before preparation, provided this operation is carried out in satisfactory conditions of hygiene and quality.

- (d) they have been packaged and where they are to be placed on the market:

- (i) chilled, they must be cooled as quickly as possible to an internal temperature below + 2°C for meat preparations obtained from minced meat, + 7°C for preparations obtained from fresh meat, + 4°C for preparations of poultry meat and + 3°C for preparations containing offal;

^(a) OJ No L 40, 11. 2. 1989, p. 34.

⁽¹⁾ OJ No L 62, 15. 3. 1993, p. 46.

- (iii) deep-frozen, they must be cooled to an internal temperature below - 18°C as quickly as possible, in accordance with Article 1 (2) of Directive 89/108/EEC.

2. Meat preparations must fulfil the following requirements in addition to those laid down in paragraph 1:

- (a) they must have been prepared in accordance with Chapter IV of Annex I;
- (b) they must have been inspected in accordance with Article 8 and Chapter V of Annex I;
- (c) they must be marked and labelled in accordance with Chapter VI of Annex I;
- (d) they must be wrapped and packaged in accordance with the requirements of Chapter VII of Annex I and stored in accordance with Chapter VIII of Annex I;
- (e) they must be transported in accordance with Chapter IX of Annex I;
- (f) they must during transport be accompanied by a health certificate in accordance with Annex V, which must be kept by the consignee for a period of not less than one year for presentation on request to the competent authority.

3. With the exception of fresh sausages and sausage meat, meat preparations obtained from minced meat of slaughter animals may be traded only if they fulfil the requirements of Article 3.

4. Pending the possible introduction of Community rules on ionization, meat preparations must not have been subjected to ionizing radiation. This provision shall not affect national rules applicable to ionization for medical purposes.

5. Member States may, for the purpose of their approval, grant manufacturing plants manufacturing meat preparations without an industrial structure or production capacity derogations from the requirements of Chapter I of Annex I to this Directive and from those of Chapter I of Annex B to Directive 77/99/EEC and of Chapter I (2) (a) (as regards taps) and point 11 (as regards lockers) of Annex A to Directive 64/433/EEC.

Moreover, derogations may be granted from point 7 of Chapter I of Annex B to Directive 77/99/EEC as regards rooms where raw materials and finished products are stored. However, in this case, the establishment must have at least:

- (i) a room or secure place for the storage of raw materials, if such storage takes place;
- (ii) a refrigerated room or secure place for the storage of finished products, if such storage takes place.

Article 6

1. In order to take account of particular habits of consumption and while ensuring that the health requirements of this Directive are observed, Member States may authorize the production and placing on the market of minced meat to be sold in their territory only obtained:

- (a) from meat referred to in Article 2 (b);
- (b) from production plants which are approved or registered and have the premises referred to in Annex III;
- (c) by derogation from:
 - points (b) and (d) of Chapter IV of Annex I,
 - Article 5 (1) (c) and (d),
 - point 4 of Chapter VI of Annex I,
 - Article 5 (2) (e) and (f) and Article 5 (3).

2. Meat preparations obtained in accordance with paragraph 1 must not bear the health mark provided for in Chapter VI of Annex I.

3. A Member State which wishes to make use of the provisions of paragraph 1 shall notify the Commission of the nature of the derogations it intends to grant.

Should the Commission, after consulting the Member State concerned, consider that the derogations fail to guarantee the health standard provided for by the Directive, appropriate steps shall be taken in accordance with the procedure laid down in Article 20.

Otherwise, the Commission shall inform the other Member States of the measures notified to it.

CHAPTER IV

Common provisions

Article 7

1. Member States shall ensure that the operator or manager of the production plant takes all necessary measure to ensure that, at all stages of production, the provisions of this Directive are complied with.

To that end, the said persons must comply with the requirements of Articles 3 and 6 of Directive 93/43/EEC ⁽¹⁾ and, in addition, constantly carry out their own checks in compliance with the following principles:

⁽¹⁾ OJ No L 175, 19. 7. 1993, p. 2.

- checking raw materials entering the establishment to ensure compliance with the criteria in Annexes II and IV in respect of the final product,
- checking cleaning and disinfection methods,
- taking samples for analysis in a laboratory recognized by the competent authority,
- keeping written or recorded track of the information required in accordance with the preceding indent with a view to submitting it to the competent authority. The results of the different checks and tests shall in particular be kept for a period of at least two years, save in the case of chilled products for which this period may be reduced to six months after the use-by date of the product,
- providing guarantees for the competent authority as regards the administration of the health marking, particularly the labels bearing the health mark,
- when the laboratory examination or any other information at their disposal reveals that there is a health risk, informing the competent authority thereof,
- in the event of an immediate human health risk, withdrawing from the market the quantity of products obtained in technologically similar conditions and likely to present the same risk. This withdrawn quantity must stay under the supervision and control of the competent authority until it is destroyed, used for purposes other than human consumption or, after authorization by the competent authority, reprocessed in an appropriate manner to ensure its safety.

2. For inspection purposes, the operator or manager of the establishment must ensure that the packaging of the products bears a clear and legible indication of the temperature at which the products must be transported and stored, as well as the use-by date for deep-frozen products or the minimum conservation date for chilled products.

The operator or manager of the establishment must arrange or establish a staff training programme enabling workers to comply with conditions of hygienic production adapted to the production structure, unless such staff already have adequate qualifications attested by diplomas.

The competent authority responsible for the establishment must be involved in the planning and implementation of the programme.

3. Microbiological tests must be carried out on minced meat as referred to in Article 3 and minced-meat preparations as referred to in Article 5 on a daily basis and at least weekly on other minced meat and meat preparations. These tests must be carried out either in the production plant, if it is recognized by the competent authority, or in an approved laboratory.

The sample taken for analysis must comprise five units and be representative of daily production. Samples of meat preparations must be taken from deep in the muscle after the skin has been cauterized.

The microbiological checks must be carried out in accordance with proven methods which are scientifically recognized, in particular those laid down in Community directives or other international standards.

The results of the microbiological checks must be assessed using the criteria for interpretation laid down in Annex II in the case of minced meat and meat preparations obtained from minced meat of slaughter animals, except for fresh sausages and sausage meat, in accordance with the criteria in Annex IV in the case of other meat preparations.

In the event of disputes arising in trade, Member States shall recognize the EN methods as reference methods.

4. The requirements as regards self-monitoring must have been drawn up in conjunction with the competent authority, which must regularly monitor compliance therewith.

5. The arrangements for implementing this Article, in particular in cases where paragraph 1 applies, shall be detailed in accordance with the procedure laid down in Article 20.

Article 8

1. Each Member State shall draw up a list of establishments producing minced meat or meat preparations, making a distinction between those approved under Articles 3 and 5 and those registered under Articles 4 and 6. It shall send a list of the production plants approved under Articles 3 and 5 to the other Member States and to the Commission.

It shall assign to each production plant the approval number of the establishment approved in accordance with Directives 64/433/EEC, 71/118/EEC, 77/99/EEC, 91/495/EEC or 92/45/EEC with an indication that it has been approved for the production of minced meat or meat preparations, and to each independent production unit an individual approval number.

A single approval number may be given to:

- (i) an establishment making preparations obtained from or with raw materials covered by more than one of the Directives referred to in the following subparagraph:
- (ii) an establishment located on the same site as an establishment approved in accordance with Article 2 of one of the above Directives.

Production plants thus approved shall be entered either for the production of minced meat or for that of meat preparations in a separate column in the list of establishments referred to in Article 10 of Directive 64/433/EEC, Article 6 of Directive 71/118/EEC, Article 8 of Directive 77/99/EEC or that referred to in Article 7 of Directive 92/45/EEC and, in the case of an independent production unit, on a separate list drawn up according to the same criteria.

The competent authority shall not approve an establishment unless it is satisfied that it complies with this Directive with respect to the nature of its activities. However, if an establishment seeking approval pursuant to this Directive forms an integral part of an establishment approved under Directives 64/433/EEC, 71/118/EEC, 79/99/EEC or 92/45/EEC, the premises, equipment and installations for staff and, generally, all premises where there is no risk of contamination of raw materials or unwrapped products may be common to both establishments.

2. Production plants must remain under the control of the competent authority, which shall inspect and monitor them with the following frequency:

- for production plants attached to cutting plants: same frequency as for the said cutting plants,
- for approved production plants producing the products referred to in Article 3: at least once a day during the production of minced meat,
- for other production plants: the need for permanent or periodic presence of the competent authority in a given establishment will depend on the size of the establishment, the type of product manufactured, risk assessment and the guarantees offered in accordance with the second subparagraph of Article 7 (1).

The competent authority must at all times have free access to all parts of establishments in order to ensure that this Directive is being complied with and, where there is doubt as to the origin of meat, to accounting documents which enable the slaughterhouse or establishment of origin of the raw material to be traced and, as regards compliance with the criteria laid down in Annexed II and IV, to the results of the self-monitoring

provided for in Article 7, including the result of checks on raw materials. In the case of computer data, they must be printed out at the request of the competent authority.

The competent authority must regularly analyse the results of the checks provided for in Article 7. It may, on the basis of these analyses, conduct further examinations at all stages of production or on the products.

The nature of these checks, their frequency and the methods of sampling and of carrying out microbiological examinations shall be established under the procedure laid down in Article 20.

The results of these analyses shall be set out in a report, the conclusions or recommendations of which shall be notified to the operator or manager of the establishment, who shall be obliged to rectify the shortcomings noted with a view to improving hygiene.

The competent authority may, when carrying out the said checks, be helped by assistants who hold the professional qualifications specified in Annex III to Directive 64/433/EEC or in Annex III to Directive 71/118/EEC.

3. Where the competent authority finds, in the course of checks carried out in accordance with Chapter V of Annex I, that there is repeated non-compliance during self-monitoring with the criteria laid down in Annexes II and IV, it shall intensify the measures for monitoring the production of the establishment in question, and may seize the labels and other items bearing the health mark referred to in Chapter VI of Annex I.

If, after the expiry of 15 days, the output from production plants still fails to meet the above standards, the competent authority shall take all appropriate measures to make good the shortcomings noted and shall if necessary require products from the establishment in question to undergo heat treatment. If these measures are not adequate, the establishment's approval shall be suspended.

4. Where the competent authority finds an obvious failure to comply with the hygiene rules laid down by this Directive or obstacles to an adequate health inspection:

- (i) it shall be empowered to act in respect of the use of equipment or premises and to take any requisite measures which may go as far as reducing the rate of production or temporarily suspending the production process;
- (ii) where these measures or the measures provided for in the final indent of Article 7 (1) have proved insufficient to remedy the situation, it shall temporarily suspend approval, if appropriate, for the type of production in question.

If the operator or manager of the establishment does not make good the shortcomings noted within the period fixed by the competent authority, the latter shall withdraw approval.

The competent authority in question shall in particular be obliged to comply with the conclusions of any check carried out in accordance with Article 9.

The other Member States and the Commission shall be informed of the suspension or withdrawal of approval.

5. In the event of repeated shortcomings, checks shall be increased and, where appropriate, labels, seals or other items bearing the health mark shall be removed.

6. The arrangements for implementing this Article, in particular details of help by assistants, shall be adopted in accordance with the procedure laid down in Article 20.

Article 9

Experts from the Commission may, in so far as is necessary for the uniform application of this Directive and in cooperation with the competent authorities, make on-site checks. To do this, they may verify, by checking a representative percentage of production plants, whether the competent authorities are, in a uniform manner, ensuring that such plants are complying with the provisions of this Directive, and in particular with Article 7 (self-monitoring).

These checks may be carried out when other checks are being made by Commission experts pursuant to Community legislation.

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

A Member State in whose territory a check is being carried out shall give all the necessary assistance to the experts in carrying out their duties.

The general provisions for applying this Article — in particular those aimed at regulating procedures for cooperation with national authorities — shall be adopted in accordance with the procedure laid down in Article 20.

Article 10

The provisions of 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 shall apply, in particular with respect to the organization of and the action to be taken on the checks carried out by the Member State of destination and the safeguard measures to be applied.

Article 11

Any addition of additives to the minced meat or meat preparations covered by this Directive shall take place in compliance with Directive 94/36/EEC ⁽¹⁾.

Article 12

1. Without prejudice to the specific provisions of this Directive, the competent authority shall, where it is suspected that the provisions of this Directive have not been complied with or there is doubt as to whether the products referred to in Article 1 are fit for consumption, carry out any checks it deems appropriate.

2. Each Member State shall determine the penalties to be applied in the event of infringement of the provisions of this Directive.

CHAPTER V

Provisions applicable to imports into the Community of meat preparations and minced meat

Article 13

I. Member States shall ensure that imports of minced meat satisfying the requirements of Article 3 which has been deep-frozen at the production plant of origin and preparations satisfying the requirements of Article 5 which have been deep-frozen at the production plant of origin are not authorized unless they meet the requirements of this chapter.

A. The guarantees provided by the production plant of origin and confirmed by the competent authority of the third country regarding compliance with the requirements laid down for the placing on the market of products of Community origin obtained in accordance with Articles 3 and 5 must be approved in accordance with the procedure laid down in Article 20.

B. For the purposes of uniform application of A, the provisions of the following paragraphs shall apply.

1. In order to be imported into the Community, deep-frozen minced meat as referred to in Article 3 and deep-frozen meat preparations as referred to in Article 5 must:

(a) come from third countries or parts of third countries from which imports are not prohibited on animal health grounds in accordance with Directive 91/494/EEC ⁽²⁾, 92/118/EEC, 72/462/EEC and 92/45/EEC;

(b) come from a third country on the lists drawn up in accordance with the Directives governing health and animal health aspects to be complied with for

⁽¹⁾ OJ No L 22, 27. 1. 1994, p. 43.

⁽²⁾ OJ No L 268, 24. 9. 1991, p. 35.

imports of meat used in meat preparations and offering the guarantees provided for in this Directive;

- (c) be accompanied by the animal and public health certificate which is to be drawn up in accordance with the procedure laid down in Article 20 supplemented by a declaration signed by the official veterinarian to the effect that this minced meat and these preparations fulfil respectively the requirements laid down in Articles 3 and 5, come from establishments offering the guarantees provided for in Annex I, and have been deep-frozen at the production plant of origin.
2. The following shall be established in accordance with the procedure laid down in Article 20:
 - (a) a Community list of establishments which satisfy the requirements in (b). Pending the compilation of that list, Member States are authorized to maintain the controls provided for in Article 11 (2) of Directive 90/675/EEC and the national health certificate required for establishments which have been the subject of national approval;
 - (b) the specific conditions relating to the requirements of this Directive, other than those enabling meat to be excluded from human consumption in accordance with Directive 64/433/EEC and 71/118/EEC. Such conditions and guarantees may not be less stringent than those laid down in Articles 3 and 5.

Pending the decisions referred to in (a) and (b), imports from establishments approved under Directive 72/462/EEC with respect to which the competent authorities are able to guarantee that the requirements of this Directive are complied with, may be authorized as from the date laid down in Article 22.

3. Experts from the Commission shall, in cooperation with the competent authorities of the Member States, carry out on-the-spot inspections to check:
 - (a) the guarantees given by the third country regarding the conditions of production and placing on the market;
 - (b) whether the conditions of paragraphs 1 and 2 are fulfilled.

The experts from the Member States responsible for these inspections shall be appointed by the Commission, acting on a proposal from the Member States.

These inspections shall be made on behalf of the Community, which shall bear the cost of any expenditure in this connection. The frequency of and procedure for these inspections shall be determined in accordance with the procedure laid down in Article 20.

4. Pending the organization of the inspections referred to in paragraph 3, national rules applicable to inspection in third countries shall continue to apply, subject to notification through the Standing Veterinary Committee of any failure to comply with hygiene rules found during these inspections.
- II. Under the procedure laid down in Article 19, derogations may be made from the requirements of this Article.

Article 14

The lists provided for in Article 13 (I) (B) (2) may include only third countries or parts of third countries:

- (a) from which imports are not prohibited pursuant to Articles 9 to 12 of Directive 91/494/EEC and Articles 14, 17 and 20 of Directive 72/462/EEC;
- (b) which, in view of their legislation and the organization of their veterinary services and of their inspection services, the powers of such services and the supervision to which they are subject, have been recognized, in accordance with Article 3 (2) of Directive 72/462(EEC) of Article 9 (2) of Directive 91/494/EEC, as 'capable of guaranteeing and supervising the implementation of their legislation in force, or the veterinary services of which are able to guarantee that health requirements at least equivalent to those laid down in Articles 3 and 5 are being complied with.

Article 15

1. Member States shall ensure that deep-frozen minced meat as referred to in Article 3 and deep-frozen meat preparations as referred to in Article 5 are imported into the Community only if they:

- are accompanied by the certificate provided for in Article 13 (1) (B) (1) (c),
- have satisfied the checks required by Directive 90/675/EEC.

2. Pending the establishment of detailed rules for implementing this chapter:

- the import of minced meat remains prohibited,
- the national rules applicable to imports of meat preparations from third countries for which such requirements have not been adopted at Community level shall continue to apply, provided that they are not more favourable than those laid down in Article 5,

- imports must take place under the conditions laid down in Article 11 of Directive 90/675/EEC.

Article 16

The principles and rules laid down in Directive 90/675/EEC shall apply, with particular reference to the organization of and follow-up to the inspections to be carried out by the Member States and the safeguard measures to be implemented.

Pending implementation of the decisions provided for in Article 8 (3) of Directive 90/675/EEC, imports must take place in accordance with Article 11 (2) that Directive.

CHAPTER VI

Final provisions

Article 17

1. The following paragraph 3 shall be added to Article 5 of Directive 71/118/EEC:

'3. Member States shall ensure that mechanically recovered meat may be traded only if it has previously undergone heat treatment in accordance with Directive 77/99/EEC in the establishment of origin or any other establishment designated by the competent authority.'

2. The following paragraph 4 shall be added to Article 6 of Directive 91/495/EEC:

'4. Member States shall ensure that mechanically recovered meat may be traded only if it has previously undergone heat treatment in accordance with Directive 77/99/EEC in the establishment of origin or any other establishment designated by the competent authority.'

Article 18

1. The provisions of the Annexes shall not apply to production plants situated on certain islands of the Hellenic Republic or in certain French Overseas Departments and territories where the production of such establishments remains exclusively reserved for local consumption.

2. The arrangements for applying paragraph 1 shall be adopted in accordance with the procedure provided for in Article 20.

Under the same procedure it may be decided to amend paragraph 1 with a view to the progressive extension of Community standards to all production plants situated in the abovementioned islands and parts of territories.

Article 19

The Annexes shall be amended by the Council acting by a qualified majority on a proposal from the Commission, in particular to adapt them to technological and scientific progress.

Article 20

1. Where the procedure laid down in this Article is to be followed, matters shall be referred without delay to the Standing Veterinary Committee (hereinafter referred to as 'the Committee') set up by Decision 68/361/EEC ⁽¹⁾ by its chairman, either on his own initiative or at the request of a Member State.

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 the 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 148 (2) of the Treaty in the case of decisions 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. (a) The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

- (b) 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. The Council shall act by a qualified majority.

If, within three months from the date of referral to the Council, the Council has not acted, the Commission shall adopt the proposed measures save where the Council has rejected the said measures by a simple majority.

Article 21

The Council, acting by a qualified majority on a proposal from the Commission, shall before 1 January 1996 lay down the health rules applicable to:

- (a) the production and placing on the market of sausage meat intended for the subsequent production of a meat-based product;
- (b) the production and use of mechanically recovered meat.

⁽¹⁾ OJ No L 255, 18. 10. 1968, p. 23.

Article 22

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 1 January 1996. 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 publication. The methods of making such reference shall be laid down by Member States.

The Member States shall communicate to the Commission the main provisions of national law which they adopt in the field covered by this Directive.

Article 23

Directive 88/657/EEC shall be repealed with effect from 1 January 1996.

Article 24

This Directive is addressed to the Member States.

Done at Brussels, 14 December 1994.

For the Council

The President

J. BORCHERT

ANNEX I

CHAPTER I

Special conditions for the approval of establishments producing minced meat

1. Production plants within the meaning of Article 2 (2) (d).

Over and above compliance with the conditions laid down in Annex I, Chapters I and III, to Directive 64/433/EC, production plants must have at least:

- (a) a room for mincing and wrapping separate from the cutting room and equipped with a recording thermometer or recording telethermometer.

However, the competent authority may authorize the mincing of meat in the cutting room provided that the mincing is carried out in specific area that is clearly separate;

- (b) a room for packaging, unless the conditions laid down in point 63 of Chapter XII of Annex I to Directive 64/433/EEC are fulfilled;
- (c) a room or cabinets for storing salt;
- (d) refrigeration equipment enabling the temperatures laid down in this Directive to be adhered to.

2. Over and above the general conditions laid down in Chapter I of Annex A to Directive 77/99/EEC, independent production units must have at least:

- (a) rooms in accordance with point 1 of Chapter I of Annex B to Directive 77/99/EEC; and
- (b) rooms as described in point 1.a of this chapter.

3. The rules laid down in Chapter V of Annex I to Directive 64/433/EEC shall apply as regards the hygiene of the staff, premises and equipment in the establishments.

Staff engaged in the manual preparation of minced meat must in addition wear masks covering the mouth and nose. The competent authority may also oblige staff to wear smooth, moisture-proof gloves, either for once-only use or capable of being cleaned and disinfected.

CHAPTER II

Conditions for the production of minced meat

1. Meat must be examined before mincing or cutting up, in accordance with Article 7. All soiled and suspect parts shall be removed and condemned before the meat is minced.
2. Minced meat may not be obtained from scrap cuttings, scrap trimmings or from mechanically recovered meat.

In particular, it may not be prepared from the meat referred to in Article 5 of Directive 64/433/EEC or from meat from the following parts of bovine animals, pigs, sheep or goats: muscles from the head, with the exception of the masseters, and the non-muscular part of the linea alba, the carpus and tarsus region and bone scrapings. The muscles of the diaphragm — after removal of serosa — and of the masseters may be used only after an investigation for cysticercosis has been carried out. The fresh meat must not contain any bone fragments.

Where the operations carried out from the time when the meat enters the room referred to in Chapter I to the time when the finished product undergoes the chilling or deep-freezing process are performed within a maximum period of one hour, the internal temperature of the meat must be no higher than +7 °C and the temperature of the production premises must be no higher than +12 °C. The competent authority may authorize a longer time limit in individual cases where the addition of salt justifies this on technical grounds, provided that health rules are not affected by that derogation.

Where the duration of these operations is over one hour or over the period authorized by the competent authority in accordance with the preceding subparagraph, the fresh meat may not be used until the internal temperature of the meat has been reduced to a maximum of +4 °C.

3. Minced meat may be deep-frozen only once.
4. Immediately after production the minced meat must be hygienically wrapped and, after packaging, be cooled to and stored at the temperatures laid down in Article 3 (2) (c).

CHAPTER III

Special conditions for the approval of establishments producing meat preparations

1. Production plants within the meaning of Article 2 (2) (d) must have premises which at least meet the requirements of:
 - (a) Chapters I and III of Annex I to Directive 64/433/EEC; or
 - (b) Chapters I and III of Annex I to Directive 71/118/EEC; or
 - (c) Chapters I and IV, point 1, of Annex I to Directive 92/45/EEC;

as well as having:

- a room separate from the cutting room for the production of meat preparations, the addition of other foodstuffs and wrapping, equipped with a recording thermometer or recording telethermometer.

However, the competent authority may authorize the production of meat preparations in the cutting room provided that the production is carried out on a specific area that is clearly separate. The addition of seasonings to whole poultry carcasses may be authorized in a specific room that is clearly separate from the slaughter premises,

- a room for packaging, unless the conditions laid down in point 63 of Chapter XII of Annex I to Directive 64/433/EEC or point 74 of Chapter XIV of Annex I to Directive 71/118/EEC or point 5 of Chapter VIII of Annex I to Directive 92/45/EEC are fulfilled,
 - a room for storing seasonings and other cleaned foodstuffs ready for use,
 - refrigerated rooms for the storage of:
 - fresh meat as referred to in Article 5 (1) (a),
 - meat preparations,
 - refrigeration equipment enabling the temperatures laid down in this Directive to be adhered to.
2. Independent production units must meet the requirements of Chapter I of Annex A and Chapter I of Annex B to Directive 77/99/EEC.
 3. The rules laid down in Chapter V of Annex I to Directives 64/433/EEC or 71/118/EEC or those of Chapter II of Directive 92/45/EEC shall apply by analogy as regards the hygiene of the staff, premises and equipment in the establishments.

Staff engaged in the manual production of meat preparations must also wear masks covering their noses and mouths. The competent authority may also require such staff to wear smooth, moisture-proof gloves, either of once-only use or capable of being cleaned and disinfected.

CHAPTER IV

Special requirements for the production of meat preparations

Over and above compliance with the general requirements of Chapter III, and depending on the type of production concerned:

- (a) the production of meat preparations must take place under conditions of temperature control;
- (b) meat preparations must be wrapped in dispatch units in such a way as to obviate any risk of contamination;
- (c) meat preparations may be deep-frozen only once and may be traded only within a period not exceeding 18 months;

- (d) meat preparations must, immediately after the production process, be wrapped in accordance with Chapter VII and, after packaging, be cooled to the relevant temperature laid down in Article 5 (1) (d).

CHAPTER V

Inspection

1. Production plants which produce minced meat and meat preparations shall be subject to monitoring by the competent authority, which must ensure that the requirements of this Directive are met and in particular must:
 - (a) check:
 - (i) the cleanliness of the premises and equipment and staff hygiene;
 - (ii) the efficacy of the checks carried out by the establishment, in accordance with Article of this Directive, in particular by examining the results and taking samples;
 - (iii) the microbiological and hygienic condition of the minced meat and the meat preparations;
 - (iv) the appropriate health marking of the minced meat and the meat preparations;
 - (v) storage and transport conditions;
 - (b) within the framework of the official checks, take any samples required for laboratory tests to confirm the results of the self-monitoring;
 - (c) make any other checks it considers necessary to ensure compliance with this Directive, it being understood that the results of the microbiological tests must be evaluated by the competent authority on the basis of the criteria laid down in Annex II for minced meat and in Annex IV for meat preparations.
2. The competent authority must have free access at all times to the cold stores and all working premises to check that these provisions are being strictly complied with.

CHAPTER VI

Marking and labelling

1. Minced meat and meat preparations must be marked on the wrapping or packaging with a health mark.
2. Only minced meat obtained in accordance with Article 3 and meat preparations obtained in accordance with Article 5 and produced in a production plant approved in accordance with Article 8, may be given the Community health mark. That health mark must correspond:
 - (a) to point 50 of Chapter XI of Annex I to Directive 64/433/EEC for minced meat;
 - (b) for meat preparations:
 - (i) of fresh meat of slaughter animals or farmed game meat, to point 50 of Chapter XI of Annex I to Directive 64/433/EEC;
 - (ii) of poultrymeat or small feathered or furred farmed game, to point 66 of Chapter XII of Annex I to Directive 71/118/EEC;
 - (iii) of killed game, to point 2 of Chapter VII of Annex I to Directive 92/45/EEC.
3. Where minced meat or meat preparations are produced in an independent production unit, the health mark must include the approval number assigned by the competent authority pursuant to Article 8 (1).
4. Without prejudice to Directive 79/112/EEC, in the case of meat preparations the following information must be visibly and legibly displayed for inspection purposes on the packaging, where it is not clear from the sales description or from the list of ingredients in accordance with Directive 79/112/EEC: the species from which the meat was obtained and, in the case of a mixture, the percentage of each species and, for packaging not intended for the final consumer, the date of preparation.

In the case of minced meat and meat preparations made from minced meat except for fresh sausages and sausage meat bearing the healthmark provided for in this chapter, the labelling must also display the following words:

- 'percentage of fat under ...',
- 'Collagen: meat protein ratio under ...'.

CHAPTER VII

Wrapping and packaging

1. Packaging (for example packing cases, paperboard boxes) must fulfil all rules of hygiene, and in particular:
 - must not alter the organoleptic characteristics of the minced meat or meat preparations,
 - must not be capable of transmitting to the minced meat or meat preparations substances harmful to human health,
 - must be strong enough to ensure effective protection of the minced meat or meat preparations during transport and handling.
2. Packaging must not be reused for minced meat or meat preparations unless it is made of corrosion-resistant materials which are easy to clean and has been previously cleaned and disinfected.
3. Wrapped minced meat or meat preparations must be packaged.
4. However, when wrapping fulfils all the protective conditions of packaging it need not be transparent and colourless and placing in a second container is not necessary provided that the other conditions of point 1 above are fulfilled.

CHAPTER VIII

Storage

1. Minced meat and meat preparations must be chilled immediately after wrapping and/or packaging. Minced meat must be stored at the temperatures indicated in Article 3 (2) (c) and meat preparations at the temperatures indicated in Article 5 (1) (d).
2. Minced meat and meat preparations may be deep-frozen only in rooms of the production establishment or independent production unit or in approved cold stores.
3. In cold stores, minced meat and meat preparations may be stored together with other foodstuffs only if it is ensured by means of packaging that the minced meat or meat preparations cannot be affected unfavourably.

CHAPTER IX

Transport

1. Minced meat and meat preparations must be dispatched in such a way that during transport they are protected from anything liable to contaminate them or to affect them unfavourably, having regard to the duration and conditions of transport and to the means of transport employed. In particular, vehicles used to transport minced meat and meat preparations must be equipped in such a way as to ensure that the temperatures laid down in this Directive are not exceeded during transport and they must be equipped with a recording thermometer to record that the latter requirement is fulfilled.
2. Member States may, by way of derogation from paragraph 1, authorize the transport of meat preparations originating in the establishments referred to in Article 5 (5) at temperatures higher than those laid down in this Directive from a production plant or independent production unit to nearby retail premises or local communities, provided that such transportation takes not more than one hour.
3. In the case of transit through a third country and where the production plant is situated in an area subject to restrictions for animal health reasons, the means of transport must remain sealed.

ANNEX II

COMPOSITION CRITERIA AND MICROBIOLOGICAL CRITERIA

I. Composition criteria checked on the basis of a daily average

	Fat content	Collagen: meat protein ratio
— lean minced meat	$\leq 7 \%$	≤ 12
— minced pure beef	$\leq 20 \%$	≤ 15
— minced meat containing pigmeat	$\leq 30 \%$	≤ 18
— minced meat of other species	$\leq 25 \%$	≤ 15

II. Microbiological criteria

Production plants and independent production units must ensure that, during the checks provided for in Article 7 (3) and in accordance with the methods of interpretation set out below, minced meat complies with the following criteria:

	M ^(a)	m ^(b)
Aerobic mesophile bacteria n ^(c) = 5; c ^(d) = 2	$5 \times 10^6/\text{g}$	$5 \times 10^5/\text{g}$
<i>Escherichia coli</i> n = 5; c = 2	$5 \times 10^2/\text{g}$	50/g
Salmonella n = 5; c = 0	absence in 10 g	
<i>Staphylococcus aureus</i> n = 5; c = 2	$5 \times 10^3/\text{g}$	$10^2/\text{g}$

^(a) M = acceptability threshold, above which results are no longer considered satisfactory where M equals 10 m where the count is made in a solid medium and M equals 30 M where the count is made in a liquid medium.

^(b) m = threshold below which all results are considered satisfactory.

^(c) n = number of units making up the sample.

^(d) c = number of units in the sample giving values between m and M.

The results of the microbiological analyses must be interpreted according to:

A. Three categories of contamination for aerobic mesophile bacteria, *Escherichia coli* and *Staphylococcus aureus*, viz.:

- up to and including the criterion m,
- between the criterion m and the threshold M,
- above the threshold M.

1. The quality of the consignment shall be considered:

(a) satisfactory, where all the values observed are equal to or less than 3 m where a solid medium has been used or 10 m where a liquid medium has been used;

(b) acceptable, where all the values observed are between:

(i) 3 m and 10 m (= M) in a solid medium;

(ii) 10 m and 30 m (= M) in a liquid medium;

and where c/n is equal to or less than $\frac{2}{5}$ where n = 5 and c = 2 or any other figures of equivalent or greater reliability to be recognized by the Council, acting in accordance with the procedure laid down in Article 19.

2. The quality of the consignment shall be considered unsatisfactory;

- in all cases where values in excess of M are observed,
- when c/n is $> 2/3$.

However, where this latter threshold has been exceeded for aerobic micro-organisms at $+ 30\text{ }^{\circ}\text{C}$ while all the other criteria have been fulfilled, this exceeding of the threshold must be the subject of a further interpretation, in particular in the case of raw products.

In any event, the product must be considered toxic or tainted when contamination reaches the microbic limit value S, which for general purposes is set at 10^3 m.

In the case of *Staphylococcus aureus*, the value of S must never be allowed to exceed 5×10^4 .

Tolerances related to analytical techniques shall not apply to the values M and S.

B. Two categories for salmonella, with no category tolerance permitted:

- 'Absence in': the result is considered satisfactory.
 - 'Presence in': the result is considered unsatisfactory.
-

ANNEX III

HEALTH CERTIFICATE FOR MINCED MEAT ⁽¹⁾

No

Exporting country:

Ministry:

Department concerned:

Reference ⁽²⁾:

I. Identification of minced meat

Products prepared with meat from:
(Animal species)Nature of products ⁽³⁾:

Nature of packaging:

Number of individual items or packages:

Storage and transport temperature:

Storage life:

Net weight:

II. Origin of minced meat

Address(es) and approval number(s) of approved manufacturing establishment(s):

.....

.....

If necessary:

Address(es) and approval number(s) of approved cold store(s):

.....

.....

.....

III. Destination of minced meat

The minced meat is to be sent

from:
(Place of dispatch)to:
(Country of destination)by the following means of transport: ⁽⁴⁾⁽¹⁾ Within the meaning of Article 2 of Directive 94/65/EC.⁽²⁾ Optional.⁽³⁾ To be completed with the words provided for in Article 3 (2) (e) of Directive 94/65/EC.⁽⁴⁾ Indicate the number or registration number (railway wagons and lorries), the flight number (aircraft) or the name (ship). This information must be updated in the event of transshipment.

Name and address of consignor:

.....

.....

Name and address of consignee:

.....

.....

IV. Health attestation

I, the undersigned, certify that the minced meat described above:

(a) was manufactured from fresh meat under the specific conditions laid down in Directive 94/65/EC;

(b) is intended for the Hellenic Republic ⁽¹⁾.

Done at, on
(place) (date)

.....
(Stamp and signature of official veterinarian)
(Name in capital letters)

⁽¹⁾ If appropriate.

ANNEX IV

MICROBIOLOGICAL CRITERIA

Production plants and independent production units must ensure that, during the checks provided for in Article 7 (3) and in accordance with the methods of interpretation specified in Annex II, meat preparations comply with the following criteria:

Meat preparations	M ⁽¹⁾	m ⁽²⁾
<i>Escherichia coli</i> n = 5; c = 2	$5 \times 10^3/\text{g}$	$5 \times 10^2/\text{g}$
<i>Staphylococci aurei</i> n = 5; c = 1	$5 \times 10^3/\text{g}$	$5 \times 10^2/\text{g}$
Salmonella n = 5; c = 0	absence in 1 g	

(¹) M = acceptability threshold, above which results are no longer considered satisfactory where M equals 10 m where the count is made in a solid medium and M equals 30 m where the count is made in a liquid medium.

(²) m = threshold below which all results are considered satisfactory.

The Council acting on a Commission proposal shall, before 31 December 1995, review the criteria applicable to meat preparations as regards the absence of salmonella.

ANNEX V

HEALTH CERTIFICATE FOR MEAT PREPARATIONS ⁽¹⁾

No

Exporting country:

Ministry:

Department concerned:

Reference ⁽²⁾:

I. Identification of meat preparations

Products prepared with meat from:
(Animal species)Nature of products ⁽³⁾:

Nature of packaging:

Number of individual items or of packages:

Storage and transport temperature:

Storage life:

Net weight:

II. Origin of meat preparations

Address(es) and approval number(s) of approved production plant(s):

.....

.....

If necessary:

Address(es) and approval number(s) of approved cold store(s):

.....

.....

.....

III. Destination of meat preparations

The preparations are to be sent

from:
(Place of dispatch)to:
(Country of destination)by the following means of transport ⁽⁴⁾⁽¹⁾ Within the meaning of Article 2 of Directive 94/65/EC.⁽²⁾ Optional.⁽³⁾ Mention any ionizing radiation for medical reasons.⁽⁴⁾ Indicate the number or registration number (railway wagons and lorries), the flight number (aircraft) or the name (ship). This information must be updated in the event of transshipment.

Name and address of consignor:

.....

.....

Name and address of consignee:

.....

.....

IV. Health attestation

I, the undersigned, certify at the meat preparations described above

- a) were manufactured from fresh meat under the specific conditions laid down in Directive 94/65/EC;
- b) are intended for the Hellenic Republic ⁽¹⁾.

Done at, on
(place) (date)

.....
(Stamp and signature of official veterinarian)
(Name in capital letters)

⁽¹⁾ If appropriate.

COUNCIL DIRECTIVE 94/70/EC

of 13 December 1994

amending Council Directive 92/120/EEC on the conditions for granting temporary and limited derogations from specific Community health rules on the production and marketing of certain products of animal origin

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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, under Directive 92/120/EEC of 17 December 1992 ⁽⁴⁾, the minimum output for slaughterhouses benefiting from the derogation was increased to 20 livestock units per week and 1 000 livestock units per year respectively, until 31 December 1994;

Whereas the Commission has submitted to the Council a proposal the purpose of which is to review the provisions applicable to small establishments benefiting from the derogation and whereas the Council has been unable to act on the proposal by 31 December 1994; whereas that provision should therefore be maintained pending the Council's decision,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The date '31 December 1994' in Article 2 (2) of Directive 92/120/EEC shall be replaced by '28 February 1995'.

Article 2

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 1 January 1995. 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 publication. The methods of making such reference shall be laid down by the Member States.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 13 December 1994.

For the Council

The President

J. BORCHERT

⁽¹⁾ OJ No C 84, 2. 4. 1990, p. 100.

⁽²⁾ OJ No C 183, 15. 7. 1991.

⁽³⁾ OJ No C 332, 31. 12. 1990, p. 62.

⁽⁴⁾ OJ No L 62, 15. 3. 1993, p. 86.

COUNCIL DIRECTIVE 94/71/EC

of 13 December 1994

amending Directive 92/46/EEC laying down the health rules for the production and placing on the market of raw milk, heat-treated milk and milk-based products

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 92/46/EEC of 16 June 1992 laying down the health rules for the production and placing on the market of raw milk, heat-treated milk and milk-based products⁽¹⁾, and in particular Article 21 thereof,

Having regard to the proposal from the Commission,

Whereas, following a detailed study of certain provisions in the Annexes to Directive 92/46/EEC, it has been found necessary to make certain technical adjustments in order to ensure better application; whereas such amendments concern, in particular, the collection temperatures for raw milk, the rules on equipment in treatment or processing establishments and the manufacture of heat-treated milk and milk-based products,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 92/46/EEC is hereby amended as follows:

1. in Annex A, Chapter I (1):

- (i) the following phrase shall be added to point (b) (i):

'except where the milk is intended for the manufacture of cheese with a maturation period of at least two months';

- (ii) the following subparagraph shall be added:

'Milk and milk-based products must not come from a surveillance zone established under Directive 85/511/EEC (*), unless the milk has undergone, under the supervision of the competent authority, initial pasteurization (71,7 °C for 15 seconds) followed by:

- (a) a second heat treatment resulting in a negative reaction to the peroxidase test; or

- (b) a drying procedure including heating having an effect equivalent to the heat treatment provided for in (a); or

- (c) a second treatment whereby pH is reduced and kept for at least one hour at less than 6.

(*) Council Directive 85/511/EEC of 18 November 1985 introducing Community measures for the control of foot-and-mouth disease (OJ No L 315, 26. 11. 1985, p. 11). Directive as last amended by Commission Decision 92/380/EEC (OJ No L 198, 17. 7. 1992).';

2. in Annex A, Chapter III (A) (2) shall be replaced by the following:

2. Immediately after milking, the milk must be placed in a clean place which is so equipped as to avoid adverse effects on the quality of the milk. If the milk is not collected within two hours of milking, it must be cooled to a temperature of 8 °C or lower in the case of daily collection or 6 °C if collection is not daily. While the milk is being transported to the treatment and/or processing establishment, the temperature of the cooled milk must not exceed 10 °C unless the milk has been collected within two hours of milking.

For technological reasons concerning the manufacture of certain milk-based products, the competent authorities may authorize derogations from the temperatures laid down in the first subparagraph provided the end product meets the standards set out in Chapter II of Annex C.;

3. in Annex A, Chapter IV:

- (a) the title shall be replaced by the following:

'Standards to be met at the time of collection from the production holding for acceptance of raw milk at treatment or processing establishments';

(¹) OJ No L 268, 14. 9. 1992, p. 1. Directive as last amended by Commission Decision 94/330/EC (OJ No L 146, 11. 6. 1994, p. 23).

- (b) the following introductory sentence shall be inserted before Section A:

'For compliance with these standards, a separate test shall be carried out on a representative sample of the raw milk collected from each production holding.');

- (c) in points A.1 and A.2, note (b) shall be replaced by the following:

'(b) Geometric average over a period of three months, with at least one sample a month. Where production levels vary considerably according to season, Member States may be authorized, in accordance with the procedure laid down in Article 31 of this Directive, to apply a different method of calculating results during the low lactation period';

4. in Annex A, Chapter IV, section C shall be replaced by the following:

'C. Raw goat's, sheep's and buffalo's milk must meet the following standards:

1. if it is intended for the manufacture of heat-treated drinking milk or heat-treated milk-based products:

	From 1. 1. 1995	From 1. 2. 1999
Plate count at 30 °C (per ml)	≤ 3 000 000	< 1 500 000 (*)

(*) without prejudice to the result of the re-examination to be carried out in accordance with Article 21.'

2. if it is intended for the manufacture of products made with raw milk by a process which does not involve any heat treatment:

	From 1. 1. 1995	From 1. 1. 1999
Plate count at 30 °C (per ml)	≤ 1 000 000	< 500 000

5. In Annex B, Chapter 1, the introductory wording of 3 shall be replaced by the following:

'3. in rooms where the raw materials and the products covered by this Directive are stored, the same conditions as those at 2 (a) to (f), except:';

6. in Annex B, Chapter II (A) (3) shall be replaced by the following:

'3. Working areas, instruments and working equipment must be used only for work on products for which approval has been granted.

However, following authorization by the competent authority, they may be used at the same time or other times for work on other foodstuffs fit for human consumption or other products based on milk for human consumption but intended for use other than human consumption, provided they do not create contamination of the products for which approval has been given.;

7. in Annex B, the title of Chapter III shall be replaced by:

'Special requirements for approval of collection centres';

8. In Annex B, the title of Chapter IV shall be replaced by:

'Special requirements for approval of standardization centres'

9. in Annex B, Chapter V(a) shall be replaced by the following:

'(a) equipment for the mechanical filling and proper automatic sealing of containers which are to be used for packaging heat-treated drinking milk and milk-based products in liquid form, after filling, in so far as such operations are carried out there. This requirement does not apply to churns, tanks and bulk packaging of more than 4 litres.

However, in the case of limited production of liquid milk intended for drinking, the competent authorities may authorize alternative methods using means of filling and sealing which are not automatic, provided that such methods carry equal assurances with regard to hygiene.;

10. in Annex B, Chapter V(b), the reference: 'in the cases provided for in Annex A, Chapters III and IV', shall be replaced by the reference: 'in the cases provided for in Chapters II and IV.;

11. in Annex B, Chapter V(f) shall be replaced by the following:

'(f) 1. in the case of treatment establishments, heat-treatment equipment approved or authorized by the competent authority, fitted with:

- an automatic temperature control,
- a recording thermometer,
- an automatic safety device preventing insufficient heating,
- an adequate safety system preventing the mixture of heat-treated milk with incompletely heated milk,
- an automatic recording device for the safety system referred to in the preceding indent or a procedure for monitoring the system's effectiveness.

However, when approving establishments, the competent authorities may authorize different equipment with equivalent performance guarantees and equal assurances with regard to hygiene.

2. in the case of processing establishments, in so far as such operations are carried out there, equipment and methods for heating, thermization or heat treatment, meeting the hygiene requirements.';
12. in Annex B, Chapter VI (3) shall be replaced by the following:
 - '3. Equipment, containers and installations which come into contact with milk or milk-based products or other perishable raw materials during production must be cleaned and if necessary disinfected according to a frequency and procedures consistent with the principles referred to in Article 14 (1).';
 13. in Annex B, Chapter VI (4) shall be replaced by the following:
 - '4. The treatment premises must be cleaned according to a frequency and procedures consistent with the principles referred to in Article 14 (1).';
 14. in Annex C, in the first sentence of the second subparagraph of Chapter I (A) (2), the word 'cow's' shall be inserted between 'raw' and 'milk';
 15. in Annex C, the first indent of Chapter I (A) (3) (a) shall be replaced by the following:
 - raw milk, if it is not treated within 36 hours of acceptance, does not exceed immediately before heat treatment a plate count at 30 °C of 300 000 per ml in the case of cow's milk,';
 16. in Annex C, the following shall be added to Chapter I (A) (4) (d):

'Pasteurized milk may be produced in the same conditions from raw milk which has undergone only initial thermization.';

17. in Annex C, Chapter I (B) (1) shall be replaced by the following:

- '1. The operator or manager of the processing establishment must take all necessary steps to ensure that the raw milk is heat treated or used, in the case of products made with raw milk':
 - as soon as possible after acceptance if the milk has not been refrigerated,
 - within 36 hours of acceptance if the milk is kept at a temperature not exceeding 6 °C,
 - within 48 hours of acceptance if the milk is kept at a temperature not exceeding 4 °C,
 - within 72 hours for buffalo's, sheep's and goat's milk.

However, for technological reasons concerning the manufacture of certain milk-based products, the competent authorities may authorize the times and temperatures referred to in the above indents to be exceeded.

They shall inform the Commission of these derogations, and of the technical reasons for them.';

18. in Annex C, Chapter I (B) (3) (a) (i) shall be replaced by the following:

- '(i) have been obtained from raw milk which, if it is not treated within 36 hours of acceptance by the establishment, has a plate count at 30 °C prior to thermization which does not exceed 300 000 per ml in the case of cow's milk';

19. in Annex C, Chapter II(A):

- in the table in paragraph 1, opposite heading '*Salmonella* spp.', in the 'Standard' column, the words 'Absent in 25 g(c)' shall be replaced in both cases where they occur by 'Absent in 1g',
- the last two subparagraphs of point 2 shall be replaced by the following:

'In addition, whenever the standard M is exceeded in the case of cheese made from raw milk and from thermized milk and soft cheese, testing must be carried out for the possible presence of strains of enterotoxinogenic *S. aureus* or *E. coli* that are presumed to be pathogenic and also, if necessary, the possible presence of staphylococcal toxins in such products by means of methods to be determined in accordance with the procedure laid down in Article 31 of this

Directive. If the abovementioned strains are identified and/or staphylococcal enterotoxins are found, all the batches involved shall be withdrawn from the market. In this case, the competent authority shall be informed of the findings, pursuant to the fifth indent of the second subparagraph of Article 14 (1) of this Directive, and of the action taken to withdraw the suspect batches and the corrective procedures introduced into the production monitoring system.';

20. in Annex C, the first sentence of Chapter II (A) (4) shall be replaced by the following:

'In addition, milk-based products in liquid or gel form which have undergone UHT treatment or sterilization which are intended for conservation at room temperature must meet the following standards after incubation for 15 days at 30 °C:';

21. in Annex C, the following shall be added to Chapter III (3):

'However, in the case of limited production, the competent authorities may authorize non-automatic sealing methods provided that these provide equal assurances with regard to hygiene.';

22. in Annex C, the second subparagraph of Chapter III (4) shall be replaced by the following:

'Sealing must be carried out in the establishment in which the last heat treatment of drinking milk and/or milk-based products in liquid form has been carried out, immediately after filling, by means of sealing devices which ensure that the milk is protected from any adverse effects of external origin on its characteristics. The sealing system must be so designed that once the container has been opened, the evidence that it has been opened remains clear and easy to check.';

23. in Annex C, Chapter III (5) shall be replaced by the following:

'5. The operator or manager of the establishment must ensure for control purposes that, in addition to the information required by Chapter IV, the following information is visibly and legibly displayed on the packaging of the heat-treated milk and milk-based products in liquid form:

- the nature of the heat treatment which the milk has undergone,
- an indication, in code or not, whereby the date of the last heat treatment may be established,

— in the case of pasteurized milk, the temperature at which the product must be stored.

However, these details need not appear on the reusable glass bottles referred to in Article 11 (6) of Directive 79/112/EEC.';

24. in Annex C, the last sentence of Chapter IV (A) (1) shall be replaced by the following:

'However, where small products are individually wrapped and then packaged together or where such small individually wrapped portions are supplied to the final consumer, it will suffice for the health mark to be applied to their collective packaging.';

25. in Annex C, Chapter IV, Section A, (3) (a):

(a) the following paragraph shall be added:

'(iii) or

— above: the name or initial letter or letters of the consigning country in capitals, i.e. for the Community, the letters,

B - DK - D - EL - E - F - IRL - I - L - NL - P - UK,

— in the centre: a reference to where the approval number of the establishment is shown,

— below: one of the following sets of initials:

CEE - EØF - EWG - EOK - EEC - EEG';

- (b) the following sentence shall be added as second subparagraph:

'In the case of the bottles, packaging and containers referred to in Article 11 (4) and (6) of Directive 79/112/EEC, the health mark may indicate only the initials of the consigning country and the approval number of the establishment.';

26. in Annex C, the last sentence of Chapter IV (A) (3) (b) shall be deleted;

27. in Annex C, the following shall be added to Chapter IV (A):

'4. To take account of the disposal of existing packaging, application of the health mark on packaging shall be compulsory only from 1 January 1996. However, the information to be given on the health mark must be shown on the accompanying commercial document provided

for in Article 5 (8) and the last subparagraph of Article 7 (A) (9) of this Directive';

28. in Annex C, the following shall be added to Chapter V (7):

'and authorize a tolerance of +2 °C during deliveries to retail establishments'.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provision necessary to comply with this Directive before 1 July 1995. They shall forthwith inform the Commission thereof.

Member States which have opted for a somatic cell content control when raw milk enters the treatment or processing establishment shall have an additional period of 24 months in order to comply with the requirement introduced by Article 1 point 3 (b) of this Directive.

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 Member States.

2. Member States shall communicate to the Commission the text of the main 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, 13 December 1994.

For the Council

The President

T. BORCHERT

COUNCIL DIRECTIVE 94/80/EC

of 19 December 1994

laying down detailed arrangements for the exercise of the right to vote and to stand as a candidate in municipal elections by citizens of the Union residing in a Member State of which they are not nationals

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 8b (1) thereof,

Having regard to the proposal from the Commission,

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

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

Having regard to the opinion of the Committee of the Regions ⁽³⁾,

Whereas the Treaty on European Union marks a new stage in the process of creating an ever-closer union among the peoples of Europe; whereas one of the Union's tasks is to organize, in a manner demonstrating consistency and solidarity, relations between the peoples of the Member States; whereas its fundamental objectives include a strengthening of the protection of the rights and interests of the nationals of its Member States through the introduction of a citizenship of the Union;

Whereas to that end Title II of the Treaty on European Union introduces a citizenship of the Union for all nationals of the Member States and confers on such nationals on that basis a number of rights;

Whereas the right to vote and to stand as a candidate in municipal elections in the Member State of residence, embodied in Article 8b (1) of the Treaty establishing the European Community, is an instance of the application of the principle of equality and non-discrimination between nationals and non-nationals and a corollary of the right to move and reside freely enshrined in Article 8a of that Treaty;

Whereas application of Article 8b (1) does not presuppose complete harmonization of Member States' electoral systems; whereas the aim of that provision is essentially to abolish the nationality requirement to which most Member States currently make the exercise of the right to vote and to stand as a candidate subject; whereas, moreover, to take account of the principle of

proportionality set out in the third paragraph of Article 3b of the Treaty, the content of Community legislation in this sphere must not go beyond what is necessary to achieve the objective of Article 8b(1) of the Treaty;

Whereas the purpose of Article 8b (1) is to ensure that all citizens of the Union, whether or not they are nationals of the Member State in which they reside, can exercise in that State their right to vote and to stand as candidates in municipal elections under the same conditions; whereas the conditions applying to non-nationals, including those relating to period and proof of residence, should therefore be identical to those, if any, applying to nationals of the Member State concerned; whereas non-nationals must not be required to fulfil any special conditions unless, exceptionally, different treatment of nationals and non-nationals is justified by circumstances specific to the latter distinguishing them from the former;

Whereas Article 8b(1) of the Treaty recognizes the right to vote and to stand as a candidate in municipal elections in the Member State of residence, without actually substituting it for the right to vote and to stand as a candidate in the Member State of which the Union citizen is a national; whereas the freedom of Union citizens to choose whether or not to take part in municipal elections in the Member State in which they reside must be respected; whereas it is appropriate that those citizens may express their wish to exercise their right to vote there; whereas provision may be made for those citizens to be registered automatically on the electoral roll in those Member States where voting is not compulsory;

Whereas the way in which local government operates in the different Member States is a reflection of different political and legal traditions and is characterized by an abundance of structures; whereas the term 'municipal election' does not mean the same thing in every Member State; whereas the object of this Directive must therefore be clarified by defining the term; whereas municipal elections are elections by direct universal suffrage at the level of basic local government units and their subdivisions; whereas the term covers elections by direct universal suffrage both to representative councils of municipalities and of members of a municipal executive;

Whereas disqualification may be ordered by an individual decision of the authorities either of the Member State of

⁽¹⁾ OJ No C 323, 21. 11. 1994.

⁽²⁾ Opinion delivered on 14 September 1994 (not yet published in the Official Journal).

⁽³⁾ Opinion delivered on 28 September 1994 (not yet published in the Official Journal).

residence or of the home Member State; whereas, in view of the political significance of the holding of elected municipal office, Member States should be entitled to take the steps necessary to ensure that a person who has been deprived of his right to stand as a candidate in his home Member State is not enabled to recover that right merely by virtue of his residence in another Member State; whereas this problem, which is specific to non-national candidates, is important enough to justify a provision under which those Member States which consider it necessary are allowed to make such candidates subject not only to the rules on disqualification of the Member State of residence but also to those of the home Member State; whereas, in view of the principle of proportionality, it will be sufficient if the right to vote is made subject only to the rules on disqualification from voting of the Member State of residence;

Whereas, since the duties of the leadership of basic local government units may involve taking part in the exercise of official authority and in the safeguarding of the general interest, Member States should be able to reserve these offices for their nationals; whereas Member States should also be able to take appropriate measures for that purpose; whereas such measures may not restrict more than is necessary for the achievement of that objective the possibility for other Member States' nationals to be elected;

Whereas, it should likewise be possible for participation by elected municipal officers in the election of a parliamentary assembly to be reserved for own nationals;

Whereas, where Member States' laws provide that the holding of elected municipal office is incompatible with holding other offices, Member States should be able to extend their scope to include equivalent offices held in other Member States;

Whereas any derogation from the general rules of this Directive must be warranted, pursuant to Article 8b (1) of the Treaty, by problems specific to a Member State; whereas any derogation must, by its very nature, be subject to review;

Whereas such specific problems may arise in a Member State in which the proportion of citizens of the Union of voting age, who reside in it but are not nationals of it, is very significantly above average; whereas derogations are warranted where such citizens form more than 20 % of the total electorate; whereas such derogations must be based on the criterion of period of residence;

Whereas citizenship of the Union is intended to enable citizens of the Union to integrate better in their host country; whereas in this context it is in accordance with

the intentions of the authors of the Treaty to avoid any polarization between lists of national and non-national candidates;

Whereas this risk of polarization concerns in particular a Member State in which the proportion of non-national citizens of the Union of voting age exceeds 20 % of the total number of citizens of the Union of voting age who reside there; whereas it is important, therefore, that this Member State be able to lay down, in compliance with Article 8b of the Treaty, specific provisions concerning the composition of lists of candidates;

Whereas account must be taken of the fact that in certain Member States residents who are nationals of other Member States have the right to vote in elections to the national parliament and whereas the formalities provided for in this Directive can consequently be eased;

Whereas the Kingdom of Belgium is characterized by specific features and balances linked to the fact that Articles 1 to 4 of its Constitution provide for three official languages and a territorial division into regions and communities, as a result of which full application of this Directive in certain communes might have effects such as to necessitate providing for the possibility of a derogation from the provisions of this Directive in order to take account of those specific features and balances;

Whereas the Commission will assess the application of the Directive in law and in fact, including any changes in the electorate which have taken place since its entry into force; whereas the Commission will submit a report in this connection to the European Parliament and to the Council,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I

General provisions

Article 1

1. This Directive lays down the detailed arrangements whereby citizens of the Union residing in a Member State of which they are not nationals may exercise the right to vote and to stand as a candidate there in municipal elections.

2. Nothing in this Directive shall affect each Member State's provisions concerning the right to vote or to stand as a candidate either of its nationals who reside outside its territory or of third country nationals who reside in that State.

Article 2

1. For the purposes of this Directive:

- (a) 'basic local government unit' means the administrative entities listed in the Annex which, in accordance with the laws of each Member State, contain bodies elected by direct universal suffrage and are empowered to administer, at the basic level of political and administrative organization, certain local affairs on their own responsibility;
- (b) 'municipal elections' means elections by direct universal suffrage to appoint the members of the representative council and, where appropriate, under the laws of each Member State, the head and members of the executive of a basic local government unit;
- (c) 'Member State of residence' means the Member State in which a citizen of the Union resides but of which he is not a national;
- (d) 'home Member State' means the Member State of which a citizen of the Union is a national;
- (e) 'electoral roll' means the official register of all voters entitled to vote in a given basic local government unit or in one of its subdivisions, drawn up and kept up-to-date by the competent authority under the electoral law of the Member State of residence, or the population register if it indicates eligibility to vote;
- (f) 'reference date' means the day or days on which citizens of the Union must satisfy, under the law of the Member State of residence, the requirements for voting or for standing as a candidate in that State;
- (g) 'formal declaration' means a declaration by the person concerned, inaccuracy in which makes that person liable to penalties, in accordance with the national law applicable.

2. A Member State shall notify the Commission if any local government unit referred to in the Annex is, by virtue of a change in its domestic law, replaced by another unit having the functions referred to in paragraph 1 (a) of this Article or if, by virtue of such a change, any such unit is abolished or further such units are created.

Within three months of receipt of such a notification, together with a Member State's assurance that no person's rights under this Directive will be prejudiced, the Commission shall adapt the Annex by making appropriate substitutions, deletions or additions. The Annex so revised shall be published in the Official Journal.

Article 3

Any person who, on the reference date:

- (a) is a citizen of the Union within the meaning of the second subparagraph of Article 8 (1) of the Treaty; and
- (b) is not a national of the Member State of residence, but in any event satisfies the same conditions in respect of the right to vote and to stand as a candidate as that State imposes by law on its own nationals,

shall have the right to vote and to stand as a candidate in municipal elections in the Member State of residence in accordance with this Directive.

Article 4

1. If, in order to vote or to stand as candidates, nationals of the Member State of residence must have spent a certain minimum period as a resident in the territory of that State, voters and persons entitled to stand as candidates within the scope of Article 3 shall be deemed to have fulfilled that condition where they have resided for an equivalent period in other Member States.

2. If, under the laws of the Member State of residence, its own nationals may vote or stand as candidates only in the basic local government unit in which they have their principal residence, voters and persons entitled to stand as candidates within the scope of Article 3 shall also be subject to this condition.

3. Paragraph 1 shall not affect the provisions of each Member State under which the exercise by any person of the right to vote and to stand as a candidate in a given basic local government unit is subject to his having spent a minimum period as a resident in that unit.

Nor shall paragraph 1 affect any national provision already in force on the date of adoption of this Directive, whereby the exercise by any person of such right to vote and to stand as a candidate is subject to his having spent a minimum period in the constituent part of the Member State of which the basic local government unit forms a part.

Article 5

1. Member States of residence may provide that any citizen of the Union who, through an individual decision under civil law or a criminal law decision, has been deprived of his right to stand as a candidate under the law of his home Member State, shall be precluded from exercising that right in municipal elections.

2. An application from any citizen of the Union to stand as a candidate in municipal elections in the Member State of residence may be declared inadmissible where that citizen is unable to produce the declaration referred to in Article 9 (2) (a) or the attestation referred to in Article 9 (2) (b).

3. Member States may provide that only their own nationals may hold the office of elected head, deputy or member of the governing college of the executive of a basic local government unit if elected to hold office for the duration of his mandate.

The Member States may also lay down that the temporary or interim performance of the functions of a head, deputy or member of the governing college of the executive of a basic local government unit may be restricted to own nationals.

Having regard to the Treaty and to general legal principles, Member States may take appropriate, necessary and proportional measures to ensure that the offices referred to in the first subparagraph can only be held and the interim functions referred to in the second subparagraph can be performed only by their own nationals.

4. Member States may also stipulate that citizens of the Union elected as members of a representative council shall take part in neither the designation of delegates who can vote in a parliamentary assembly nor the election of the members of that assembly.

Article 6

1. Persons entitled to stand as candidates within the scope of Article 3 shall be subject to the same conditions concerning incompatibility as apply, under the laws of the Member State of residence, to nationals of that State.

2. Member States may provide that the holding of elected municipal office in the Member State of residence is also incompatible with the holding of offices in other Member States which are equivalent to those which give rise to incompatibility in the Member State of residence.

CHAPTER II

Exercise of the right to vote and the right to stand as a candidate

Article 7

1. A voter within the scope of Article 3 shall exercise his right to vote in municipal elections in the Member State of residence if he has expressed the wish to do so.

2. If voting is compulsory in the Member State of residence, voters within the scope of Article 3 who have been entered on the electoral roll there shall also be obliged to vote.

3. Member States where voting is not compulsory may provide for the automatic registration of voters within the scope of Article 3 on the electoral roll.

Article 8

1. Member States shall take the necessary measures to enable a voter within the scope of Article 3 to be entered on the electoral roll sufficiently in advance of polling day.

2. In order to have his name entered on the electoral roll, a voter within the scope of Article 3 shall produce the same documents as a voter who is a national.

The Member State of residence may also require a voter within the scope of Article 3 to produce a valid identity document, along with a formal declaration stating his nationality, an his address in the Member State of residence.

3. Voters within the scope of Article 3 who have been entered on an electoral roll in the Member State of residence shall remain thereon, under the same conditions as voters who are nationals, until such time as they are removed automatically because they no longer satisfy the requirements for exercising the right to vote.

Voters who have been entered on the electoral roll at their request can also be removed from it if they so request.

If such voters move to another basic local government unit in the same Member State, they shall be entered on the electoral roll of that unit under the same conditions as voters who are nationals.

Article 9

1. When he submits his application to stand as a candidate, a person entitled to stand as a candidate within the scope of Article 3 shall produce the same supporting documents as a candidate who is a national. The Member State of residence may require him to produce a formal declaration stating his nationality and his address in the Member State of residence.

2. the Member State of residence may also require a person entitled to stand as a candidate within the scope of Article 3 to:

- (a) state in the formal declaration which he produces in accordance with paragraph 1 when submitting his application to stand as a candidate that he has not been deprived of the right to stand as a candidate in his home Member State;
- (b) in case of doubt regarding the content of the declaration pursuant to (a), or where required under the legal provisions of a Member State, to produce before or after the election an attestation from the competent administrative authorities in his home Member State certifying that he has not been deprived of the right to stand as a candidate in that State or that no such disqualification is known to those authorities;

- (c) produce a valid identity document;
- (d) state in the formal declaration he produces in accordance with paragraph 1 that he holds no office which is incompatible within the meaning of Article 6 (2);
- (e) indicate his last address in his home Member State, in so far as he has had one.

Article 10

1. The Member State of residence shall inform the person concerned in good time of the action taken on his application for entry on the electoral roll or of the decision concerning the admissibility of his application to stand as a candidate.

2. Should a person not be entered on the electoral roll or have his application for entry refused or have his application to stand as a candidate rejected, the person concerned shall be entitled to legal remedies on similar terms as the laws of the Member State of residence prescribe for voters and persons entitled to stand as candidates who are its nationals.

Article 11

The Member State of residence shall inform voters and persons entitled to stand as candidates within the scope of Article 3 in good time and in an appropriate manner of the conditions and detailed arrangements for the exercise of the right to vote and to stand as a candidate in elections in that State.

CHAPTER III

Derogations and transitional provisions

Article 12

1. Where, on 1 January 1996, in a given Member State, the proportion of citizens of the Union of voting age who reside in it but are not nationals of it exceeds 20 % of the total number of citizens of the Union residing there who are of voting age, that Member State may, by way of derogation from this Directive:

- (a) restrict the right to vote to voters within the scope of Article 3 who have resided in that Member State for a minimum period, which may not be longer than the term for which the representative council of the municipality is elected;
- (b) restrict the right to stand as a candidate to persons entitled to stand as candidates within the scope of Article 3 who have resided in that Member State for a minimum period, which may not be longer than twice the term for which the representative council of the municipality is elected; and

- (c) take appropriate measures with regard to the composition of lists of candidates to encourage in particular the integration of citizens of the Union, who are nationals of another Member State.

2. The Kingdom of Belgium may, by way of derogation from the provisions of this Directive, apply the provisions of paragraph 1 (a) to a limited number of local government units, the list of which it shall communicate at least one year before the local government unit elections for which it intends to invoke the derogation.

3. Where, on 1 January 1996, the laws of a Member State prescribe that the nationals of another Member State who reside there have the right to vote for the national parliament of that State and, for that purpose, may be entered on the electoral roll of that State under exactly the same conditions as national voters, the first Member State may, by way of derogation from this Directive, refrain from applying Articles 6 to 11 in respect of such persons.

4. By 31 December 1998 and every six years thereafter, the Commission shall submit to the European Parliament and to the Council a report in which it shall check whether the grant to the Member States concerned of a derogation pursuant to Article 8b (1) of the Treaty is still warranted and shall propose that any necessary adjustments be made. Member States which invoke derogations under paragraphs 1 and 2 shall furnish the Commission with all the necessary background information.

CHAPTER IV

Final provisions

Article 13

The Commission shall submit a report to the European Parliament and the Council on the application of this Directive, including any changes in the electorate which have taken place since its entry into force, within a year of the holding in all the Member States of the municipal elections organized on the basis of the above provisions, and shall, where appropriate, propose appropriate adjustments.

Article 14

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 1 January 1996. They shall immediately inform the Commission thereof.

When Member States adopt these provisions, these shall contain a reference to this Directive or shall be

accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

Article 15

This Directive shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Communities*.

Article 16

This Directive is addressed to the Member States.

Done at Brussels, 19 December 1994.

For the Council

The President

K. KINKEL

ANNEX

'Basic local government unit' within the meaning of Article 2 (1) (a) of this Directive means any of the following:

in Denmark:

amtskommune, Københavns kommune, Frederiksberg kommune, primærkommune,

in Belgium:

commune/gemeente/Gemeinde,

in Germany:

kreisfreie Stadt bzw. Stadtkreis; Kreis;
Gemeinde, Bezirk in der Freien und Hansestadt Hamburg und im Land Berlin;
Stadtgemeinde Bremen in der Freien Hansestadt Bremen,
Stadt-, Gemeinde-, oder Ortsbezirke bzw. Ortschaften,

in Greece:

κοινότητα;
δήμος;

in Spain:

municipio,
entidad de ámbito territorial inferior al municipal,

in France:

commune,
arrondissement dans les villes déterminées par la législation interne, section de commune

in Ireland:

country, county borough
borough, urban district, town,

in Italy:

comune,
circonscrizione,

in Luxembourg:

commune,

in the Netherlands:

gemeente,
deelgemeente

in Portugal:

município,
freguesia,

in the United Kingdom:

counties in England; counties, county boroughs and communities in Wales; regions and Islands in Scotland;
districts in England, Scotland and Northern Ireland; London boroughs; parishes in England; the City of
London in relation to ward elections for common councilmen.

Statement in the minutes by the German delegation re Article 2 (1) (b)

The Federal Republic of Germany assumes that the definition in Article 2 (1) (b) regarding the election of the head and members of the executive of a basic local government unit may also be extended to include removal from office by electoral process ('Abwahl').

The Federal Republic of Germany would point out that under German constitutional law the rules governing municipal elections apply *mutatis mutandis* to local assemblies where these take the place of an elected representative council.

Statement in the minutes by the Council and the Commission re Article 3

Article 3 does not rule out the possibility for a Member State of ensuring in a non-discriminatory manner that a voter within the scope of Article 3 is not deprived of the right to vote in a Member State other than the Member State of residence if that same condition applies to its own nationals.

Statement in the minutes by the Luxembourg delegation on the Council and Commission statement re Article 3

The Luxembourg authorities interpret the word 'ensuring' as tantamount to a statement on his honour made by a voter within the scope of Article 3 when he is entered on the electoral roll.

Statement in the minutes by the Council and the Commission re the third subparagraph of Article 5 (3)

The measures referred to in the third subparagraph of Article 5 (3) may not restrict more than is necessary for the achievement of the objectives set out in the first and second subparagraphs of Article 5 (3) the possibility for other Member States' nationals to be elected.

Statement in the minutes by the French delegation re Article 5 (4)

The possibility of excluding citizens of the Union who are nationals of other Member States from the election of or election to the college which elects the French Senate, pursuant to Article

5 (4), in no way jeopardizes the right to vote or stand in municipal elections arising out of Article 8b (1) of the Treaty establishing the European Community.

Statement in the minutes by the Council on the statement by the Belgian delegation re Article 12 (2)

The Council takes note of the following statement by the Belgian delegation:

Statement in the minutes by the Belgian delegation re Article 12 (2)

Belgium states that if it were to make use of the derogation provided for in Article 12 (2) that derogation would be applied to only some of the local government units in which the number of voters within the scope of Article 3 exceeded 20 % of all voters where the Belgian Federal Government regarded the specific situation as justifying an exceptional derogation of that kind.

Statement in the minutes by the Council on the Commission statement re Article 13

The Council notes the following statement by the Commission

Statement in the minutes by the Commission re Article 13

The Commission states that it will pay particular attention to the changes in the electorate following the entry into force of Directive which could create specific problems for certain Member States.

Statement in the minutes by the Greek delegation re Article 13

In view of its geographical position, Greece attaches particular importance to the report that the Commission will be drawing up pursuant to Article 13.

It expects that the Commission, bearing in mind changes in the electorate in the Member States, will assess the specific problems they may well face following the entry into force of the Directive.

Statement in the minutes by the Spanish delegation re Gibraltar

The Kingdom of Spain states that if, under the terms of Council Directive 94/80/EC of 19 December 1994 laying down detailed arrangements for the exercise of the right to vote and to stand as a candidate in municipal elections by citizens of the Union residing in a Member State of which they are not nationals, the United Kingdom decides to extend its application to Gibraltar, such application will be deemed to be without prejudice to Spain's position with respect to Gibraltar.
