

Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries (repealed)

### CHAPTER III

### INSPECTION AND CHECKS

#### *<sup>F1</sup>Article 23*

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**Textual Amendments**

- F1** Deleted by [Regulation \(EC\) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules.](#)

#### *Article 24*

1 Where the checks provided by this Directive give grounds for believing that Community veterinary legislation has been seriously or repeatedly infringed the competent authority shall take the following measures in respect of products involved in such use or in the origin of such products:

- it shall inform the Commission of the nature of the products used and the consignment concerned; the Commission shall forthwith inform all border inspection posts,
- Member States shall carry out more stringent checks on all consignments of products from the same origin. In particular, the next 10 consignments from the same origin must be impounded, and a deposit lodged against inspection costs, at the border inspection post for a physical check, including the taking of samples and the laboratory tests provided for in Annex III.

Where such additional checks confirm non-compliance with Community legislation, the offending consignment or part thereof must be disposed of [<sup>F2</sup>in accordance with Article 17],

- the Commission shall be informed of the outcome of the more stringent checks and on the basis of this information shall make all necessary investigations, to identify the reasons for and origins of the infringements found.

2 Where the checks reveal that the maximum residue limits have been exceeded, use shall be made of the checks referred to in the second indent of paragraph 1.

3 If, in cases involving third countries which have concluded equivalence agreements with the Community or third countries whose consignments are checked less frequently, the Commission, after making enquiries of the competent authorities of the third country concerned, concludes that it has failed to fulfil its obligations and the guarantees given by the plans referred to in Article 29(1) of Directive 96/23/EC, it shall cease to allow that country, under the procedure laid down in Article 29 of this Directive, to benefit from less frequent checks for the products in question until the third country in question has made good its shortcomings. The same procedure shall be used for withdrawing the suspension.

If necessary, in order to re-establish the benefit afforded by the said agreements, a Community deputation including experts from the Member States shall visit the country concerned, at that country's expense, in order to verify that such measures have been taken.

#### Textual Amendments

- F2** Substituted by [Regulation \(EC\) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules.](#)

#### Article 25

1 Where, on the basis of the checks carried out at the point where the products are marketed, a competent authority of a Member State considers that this Directive is not being complied with at a border inspection post, or in a customs warehouse, free zone or free warehouse referred to in Article 12, of another Member State, it shall contact the competent central authority of that Member State without delay.

The latter shall take all the necessary measures and inform the competent authority of the first Member State of the nature of the checks made, the decisions taken and the reasons for such decisions.

If the competent authority of the first Member State believes the measures are insufficient, it shall examine, with the competent authority of the Member State in question, the possible ways and means of remedying the situation, where necessary by visiting the Member State in question.

Where the checks referred to in the first subparagraph show repeated non-compliance with this Directive, the competent authority of the Member State of destination shall so inform the Commission and the competent authorities of the other Member States.

The Commission may, at the request of the competent authority of the Member State of destination or on its own initiative, and taking account of the type of infringements complained of:

- send an inspection team to the Member State in question in conjunction with the competent national authorities,
- request the competent authority to step up the checks carried out at the border inspection post, customs warehouse, free zone or free warehouse in question.

Pending the Commission's findings, the Member State implicated must, at the request of the Member State of destination, step up checks at the border inspection post, customs warehouse, free zone or free warehouse concerned.

The Member State of destination may, for its part, intensify checks on products coming from these sources.

At the request of one the two Member States concerned — where the irregularities are confirmed by the inspection referred to in the first indent of the fifth subparagraph — the Commission must, in accordance with the procedure laid down in Article 28, take the appropriate measures. Those measures must be confirmed or reviewed as soon as possible in accordance with the same procedure.

2 Rights of appeal available under the laws in force in the Member States against decisions by the competent authorities shall not be affected by this Directive.

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Decisions taken by the competent authority and the reasons for such decisions shall be notified to the person responsible for the load concerned by such decisions, or to his representative.

If the person concerned responsible for the load or his representative so requests, the said decisions and reasons shall be forwarded to him in writing, together with details of the rights of appeal available to him under the law in force in the Member State performing the checks, and also the procedure and time-limits applicable.

3 Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 29.

#### *Article 26*

1 Each Member State shall draw up a programme for the exchange of officials empowered to carry out checks on products coming from third countries.

2 The Commission and the Member States shall coordinate the programmes referred to in paragraph 1 within the Standing Veterinary Committee.

3 Member States shall take all the measures necessary to allow implementation of the programmes resulting from the coordination referred to in paragraph 2.

4 Each year, in the Standing Veterinary Committee, the implementation of programmes shall be reviewed on the basis of reports drawn up by the Member States.

5 Member States shall take into account the experience gained in order to improve and develop the exchange programmes.

6 A financial contribution from the Community must be granted in order to promote the efficient development of exchange programmes. Detailed rules for the Community's financial contribution and the estimated amount to be charged to the Community budget are laid down in Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field<sup>(1)</sup>.

7 Detailed rules for the application of paragraphs 1, 4 and 5 shall be adopted where necessary, in accordance with the procedure laid down in Article 29.

#### *Article 27*

Member States shall ensure that the official veterinarians assigned to border inspection posts must participate in the special training programmes referred to in this Article.

The Commission, in accordance with the procedure laid down in Article 29, shall draw up guidelines for such programmes.

The Commission shall, at least once a year, organise seminars for those running the programmes to ensure that they are coordinated.

The measures provided for in this Article shall be financed in accordance with Title III of Decision 90/424/EEC.

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- (1) [OJ L 224, 18.8.1990, p. 19](#). Decision as last amended by Decision 94/370/EC ([OJ L 168, 2.7.1994, p. 31](#)).