

Council Directive 93/120/EC of 22 December 1993 amending Directive 90/539/EEC on animal health conditions governing intra-Community trade in and imports from third countries of poultry and hatching eggs
Official Journal L 340, 31 December 1993, pp. 35-38

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 in the light of developments in the poultry industry with larger and more intensive units there is a need to adjust certain aspects of Directive 90/539/EEC on animal health conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs (4) to clarify requirements and to simplify their application by Member States;

Whereas the Council has adopted Directive 92/66/EEC introducing Community measures for the control of Newcastle disease (5) and Directive 92/40/EEC introducing Community measures for the control of avian influenza (6), thus allowing a simplification of Directive 90/539/EEC;

Whereas, taking account of the report from the Commission to the Council on the risks of transmission of Newcastle disease and the requirements to be met by Newcastle disease vaccines, provision should be made for certain Member States or regions to be approved as Newcastle disease non-vaccinating, if appropriate; whereas, however, provision should also be made for this Newcastle disease non-vaccinating status to be withdrawn if necessary;

Whereas it is necessary to amend the trading rules as applied to third countries to ensure they are equivalent to those applied in Member States, particularly as Newcastle disease and avian influenza,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 90/539/EEC is hereby amended as follows:

1. Article 2 (3) shall be replaced by the following:

'3. "day-old chicks" shall mean all poultry less than 72 hours old, not yet fed; however, muscovy ducks (*Cairina moschata*) or their crosses may be fed; '

2. Article 2 (7) shall be replaced by the following:

'7. "flock" shall mean all poultry of the same health status kept on the same premises or in the same enclosure and constituting a single epidemiological unit. In housed poultry this will include all birds sharing the same airspace; '

3. Article 2 (9)(c) shall be replaced by the following:

'(c) rearing establishment:

(i) either a breeding poultry rearing establishment which is an establishment which rears breeding poultry prior to the reproductive stage;

or

(ii) a productive poultry rearing establishment which is an establishment which rears egg-laying productive poultry prior to the laying stage; '

4. Article 2 (15) shall be deleted.

5. Article 5 shall be replaced by the following:

'Article 5

In order to be traded in the Community:

(a) hatching eggs, day-old chicks, breeding poultry and productive poultry must satisfy the conditions laid down in Articles 6, 12, 15 and 17. They must also satisfy any conditions laid down pursuant to Articles 13 and 14.

In addition:

- hatching eggs must satisfy the conditions laid down in Article 7,
 - day-old chicks must satisfy the conditions laid down in Article 8,
 - breeding poultry and productive poultry must satisfy the conditions laid down in Article 9;
- (b) Slaughter poultry must fulfil the conditions set out in Articles 10, 12, 15 and 17 and those laid down pursuant to Articles 13 and 14;
- (c) Poultry (including day-old chicks) intended for restocking supplies of game must fulfil the conditions set out in Articles 10a, 12, 15 and 17 and those laid down pursuant to Articles 13 and 14.'

6. Article 6 (1)(c) shall be replaced by the following:

'(c) they must not be located in an area which for animal health reasons is subject to restrictive measures in accordance with Community legislation as a result of the outbreak of a disease to which poultry is susceptible; '.

7. Article 6 (2) shall be replaced by the following:

'2. A flock which at the time of consignment presents no clinical sign or suspicion of contagious poultry disease; '.

8. Article 7 shall be replaced by the following:

'Article 7

At the time of consignment, hatching eggs must:

1. come from flocks which:

- have been held for more than six weeks in one or more Community establishments as defined in Article 6 (1)(a),
 - if vaccinated, have been vaccinated in accordance with the vaccination conditions in Annex III;
 - have either undergone an animal health examination carried out by an official veterinarian or an authorized veterinarian during the 72 hours preceding consignment and, at the time of the examination, have shown no clinical sign or suspicion of contagious disease,
 - or have had a monthly health inspection visit by an official veterinarian or an authorized veterinarian, the most recent visit having been within 31 days of consignment. If this option is chosen there must also be an examination by the official veterinarian or authorized veterinarian of the records of the health status of the flock and an evaluation of its current health status as assessed by up-to-date information supplied by the person in charge of the flock during the 72 hours preceding consignment. In a case where records or other information give rise to suspicion of disease, the flocks must have had an animal health examination by the official veterinarian or authorized veterinarian that has ruled out the possibility of contagious poultry disease;
2. be marked in accordance with Commission Regulation (EEC) No 1868/77;
3. have been disinfected in accordance with the instructions of the official veterinarian.

In addition, if contagious poultry diseases which may be transmitted through eggs develop in the flock which supplied the hatching eggs during the period of their incubation, the hatchery involved and the authority or authorities responsible for the hatchery and the flock of origin must be notified.'

9. Article 8(b) shall be replaced by the following:

'(b) satisfy the vaccination conditions in Annex III, if they have been vaccinated; '.

10. Article 9(b) shall be replaced by the following:

'(b) satisfy the vaccination conditions in Annex II, if they have been vaccinated; '.

11. Article 9(c) shall be replaced by the following:

'(c) have been submitted to a health examination by an official veterinarian or authorized veterinarian during the 48 hours preceding consignment and, at the time of the examination, have presented no clinical sign or suspicion of contagious poultry disease; '.

12. Article 10(c) shall be replaced by the following:

'(c) where the health examination carried out by the official veterinarian or authorized veterinarian during the 5 days preceding dispatch on the flock from which the consignment to be slaughtered is to be drawn has not revealed within that flock any clinical sign or suspicion of contagious poultry disease; '

13. Article 10(d) shall be replaced by the following:

'(d) which is not located in an area which for animal health reasons is subject to restrictive measures in accordance with Community legislation as a result of the outbreak of a disease to which poultry is susceptible.'

14. The following Article shall be inserted:

'Article 10a

1. At the time of consignment, poultry over 72 hours old intended for restocking supplies of wild game must have come from a holding:

(a) where it has been held since hatching or for more than 21 days and where it has not been placed in contact with newly-arrived poultry during the two weeks preceding consignment;

(b) which is not the subject of any animal health restrictions applicable to poultry;

(c) where the health examination carried out by the official veterinarian or authorized veterinarian during the 48 hours preceding dispatch on the flock from which the consignment is to be drawn has not revealed within that flock any clinical sign or suspicion of contagious poultry disease;

(d) which is not located in an area which for animal health reasons is subject to prohibition in accordance with Community legislation as a result of an outbreak of disease to which poultry is susceptible.

2. Articles 6 and 9a shall not apply to the poultry referred to in paragraph 1.'

15. In Article 11 (2) the third indent shall be replaced by the following:

'- satisfy the vaccination conditions in Annex III, if they have been vaccinated; '

16. In Article 11 (2) the fifth indent shall be replaced by the following:

'- are not located in an area which for animal health reasons is subject to restrictive measures in accordance with Community legislation as a result of an outbreak of disease to which poultry is susceptible; '

17. in Article 11 (2) the last indent shall be replaced by the following:

'All birds in the consignment must have been found negative in serological tests for *Salmonella pullorum* and *Salmonella gallinarum* antibodies, in accordance with Annex II, Chapter III, in the month preceding the consignment. In the case of hatching eggs or day-old chicks, the flock of origin must be tested serologically for *Salmonella pullorum* and *Salmonella gallinarum* in the three months preceding the consignment at a level which gives 95 % confidence of detecting infection at 5 % prevalence.'

18. Article 12 (2) and (3) shall be replaced by the following:

'2. If a Member State or a region or regions of a Member State wish to be established as Newcastle disease non-vaccinating they can present a programme as laid down in Article 13 (1). The Commission shall examine the programmes presented by the Member States. The programmes may be approved, in compliance with the criteria referred to in Article 13 (1), in accordance with the procedure laid down in Article 32. Any additional guarantees, general or specific, which may be required in intra-Community trade may be defined in accordance with the same procedure.

Where a Member State or a region of a Member State considers it has achieved Newcastle disease non-vaccinating status, an application may be made to the Commission for Newcastle disease non-vaccinating status to be established in accordance with the procedure laid down in Article 32. The elements to be taken into account for determination of a Member State's or region's status as Newcastle disease non-vaccinating shall be the data referred to in Article 14 (1) and, in particular, the following criteria:

- vaccination against Newcastle disease in the poultry referred to in Article 1 shall not have been authorized for the preceding 12 months, except for the compulsory vaccination of racing pigeons referred to in Article 17 (3) of Directive 92/66/EEC,

- breeding flocks shall have been serologically monitored at least once a year for the presence of Newcastle disease according to the detailed rules adopted under the procedure laid down in Article 32,

- the holdings shall contain no poultry which has been vaccinated against Newcastle disease in the previous 12 months, with the exception of racing pigeons vaccinated pursuant to Article 17 (3) of Directive 92/66/EEC.

3. The Commission may suspend Newcastle disease non-vaccinating status in accordance with the procedure laid down in Article 32 in the event of:

(i) either a serious epizootic of Newcastle disease which is not being brought under control;

(ii) or the removal of the legislative restrictions prohibiting systematic recourse to routine vaccination against Newcastle disease.

4. The conditions referred to in paragraph 1 will be reviewed by the Council acting by a qualified majority on a proposal from the Commission before legislation harmonizing the use of Newcastle disease vaccines enters into force and not later than 31 December 1994.'

19. Article 15 (1) shall be replaced by the following:

'1. "Day-old chicks" and hatching eggs must be transported in:

- either unused purpose-designed disposable containers to be used only once and then destroyed,

- or containers which may be re-used provided they are cleaned and disinfected beforehand.

In any event such containers must:

(a) contain only day-old chicks or hatching eggs of the same species, category and type of poultry, coming from the same establishment;

(b) be labelled with:

- the name of the Member State and region of origin,

- the establishment of origin's approval number as provided for in Annex II, Chapter I (2),

- the number of chicks or eggs in each box,

- the poultry species to which the eggs or chicks belong.'

20. In Article 15 (3) the third indent shall be deleted.

21. In Article 15 (4) the following point shall be added:

'(c) poultry intended for restocking supplies of game must be conveyed without delay to the point of destination without coming into contact with other poultry except poultry intended for restocking supplies of game satisfying the conditions laid down in this Directive.'

22. In Article 17 the last indent shall be replaced by the following:

'- bears a stamp and a signature of a different colour from that of the certificate.'

23. Article 19 shall be deleted.

24. Article 22 shall be replaced by the following:

'Article 22

1. Poultry and hatching eggs must come from third countries:

(a) in which avian influenza and Newcastle disease, as defined in Council Directives 92/40/EEC and 92/66/EEC respectively, are legally notifiable diseases;

(b) free from avian influenza and Newcastle disease,

or

which, although they are not free from these diseases, apply measures to control them which are at least equivalent to those laid down in Directives 92/40/EEC and 92/66/EEC respectively.

2. Additional criteria for classifying third countries in respect of paragraph 1(b), particularly as regards the type of vaccine used, shall be adopted in accordance with the procedure laid down in Article 32 before 1 January 1995.

3. The Commission may, in accordance with the procedure laid down in Article 32, decide under which conditions paragraph 1 is to apply only to a part of the territory of third countries.'

25. Article 24(h) shall be replaced by the following:

'(h) bear a stamp and a signature of a different colour from that of the certificate.'

26. Article 35 shall be deleted.

27. In Annex I the national reference laboratory for Denmark is changed to the following:

'National Veterinary Laboratory, Poultry Disease Division, Hangoevej 2, DK-8200 Aarhus N'.

28. In Annex IV, Model 5, point 14(a) shall be replaced by:

'(a) the birds described above comply with the provisions of Articles 10 and 15 of Directive 90/539/EEC; '.

29. In Annex IV, Model 6, point 14(a) is replaced by:

'(a) the birds described above comply with the provisions of Articles 10a and 15 of Directive 90/539/EEC; '.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than 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 Member States.

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

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 22 December 1993.

For the Council

The President

J.-M. DEHOUSSE

(1) OJ No C 89, 31. 3. 1993, p. 8.

(2) OJ No C 176, 28. 6. 1993, p. 26.

(3) OJ No C 201, 26. 7. 1993, p. 50.

(4) OJ No L 303, 31. 9. 1990, p. 6.

(5) OJ No L 260, 5. 9. 1992, p. 1.

(6) OJ No L 167, 22. 6. 1992, p. 1.