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EUROPEAN COMMUNITY VETERINARY LEGISLATION AND CONTROLS IN THE LIGHT OF THE SINGLE MARKET

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1. INTRODUCTION

Presenting the subject of «*European Community veterinary legislation and controls*», especially to an audience not intimately familiar with Community terminology and procedures, may be a difficult as well as a challenging task. This is mainly because at the current stage of its evolution the European Union seeks to regulate in detail the rules and the procedures for all measures and actions in the veterinary sector, both in its internal affairs and in its relations with third countries. This approach has led to a vast complexity of legal provisions and applications; it is difficult to address them in their entirety in a brief and comprehensive manner.

Probably the best way to overcome this problem is to set out a general framework of ideas, identify its main objectives and sub-objectives and proceed to explain the existing policies and procedures for achieving these objectives.

In the veterinary sector, as in any other field of social and economic activity, the concept most suited to the task at hand is that of the **single internal market**, a wholesome and rational set of measures and ideas constituting the most radical and far-reaching economic and commercial reform to have taken place by peaceful means in our times.

2. THE SINGLE INTERNAL MARKET IN THE VETERINARY SECTOR

2.1 Evolution and objectives of the single market

1957 - The Treaty of Rome

The strategic objective of the **Treaty of Rome** was the creation of a single market with the free movement of goods, persons, services and capital. Specifically for live animals and their products, Article 30 of the Treaty not only prohibits quantitative restrictions in imports but also any other action which may have an equivalent result. The Treaty advanced customs' union at a fast pace but, in spite of considerable progress achieved in the free movement of goods and persons, many administrative obstacles, both natural and technical, remained in force, preventing the realization of a true single market. Indeed, Article 36 of the Treaty allows Member States, under certain conditions, to adopt unilateral restrictive measures for the trade of goods as long as such measures are justified on grounds of public order, public health or for the protection of industrial and commercial copyright.

1985 - The White Bible

The maintenance of controls of live animals and their products at the internal borders of the European Community increased administrative procedures, incurred high costs and perpetuated the inherent isolation problems of national markets. In order to overcome these problems the European Commission published a list of 282 proposals for legislation, including 100 proposals concerning the overall agricultural sector, and set a timetable for their adoption. This list was approved by Member States and is referred to as the **White Bible**. For veterinary matters, the White Bible stipulated proposals and actions in four specific sectors, namely:

- * Animal health
- * Public health
- * Animal welfare
- * Zootechnics

The objective of these proposals was the gradual abolition of controls at the internal borders of the Community so that free movement of live animals and their products could be ensured and national health standards and requirements might no longer be used as non-tariff obstacles in trade. With a view to achieving this objective the European Commission adopted an approach based on the harmonization of health conditions and requirements in the intra-community trade of live animals and products of animal origin, as well as of the rules governing the production, processing and marketing of such products. The cornerstone of this approach was the concentration, at the place of origin, of all procedures pertaining to inspection and certification, as well as the liability for correct application of these procedures.

1987 - The Single Act

The **Single Act** amended the Treaty of Rome and confirmed the objective for the realization of a single market by the year 1992, according to the timetable set out in the White Bible. The Single Act also adapted Community procedures for decision-making, and in this way facilitated the adoption of measures laid down in the White Bible. At the same time, however, it was recognized that free trade in live animals and their products favors the spread of diseases and may jeopardize animal and public health in the Community. Therefore the Single Act laid down conditions which emphasized the dependence of the single market upon the achievement and maintenance of the highest possible health standards of Community livestock.

1992 - Single Internal Market

The year 1992 was the deadline for the abolishment of all obstacles and barriers in the creation and function of a true **Single Internal Market**. The Single Market in the veterinary sector stipulates a combination of legislative measures and administrative procedures which lay down detailed Community rules for:

- * Disease control and eradication methods, as well as sanitary and safeguard measures applicable upon the outbreak of diseases in the Community
- * Means and procedures permissible in animal production, e.g. controls on the use of hormones

- * Health criteria and hygiene procedures to be compulsorily followed at all stages of production, processing and trading of edible and inedible products of animal origin
- * Health conditions, requirements and procedures applicable in the intra-Community trade of live animals, including the use of harmonized health certificates
- * Animal protection and welfare measures applicable, both for sanitary and humane reasons, to the breeding premises, the means and conditions of transport and the establishments at the final destination, e.g. slaughterhouses
- * Genetic criteria and specific certification and registration procedures and/or requirements applicable in the case of pure-bred animals

Adoption and implementation of the above measures has enabled the Member States of the EU to safeguard animal and public health in a uniform and effective manner throughout the Community and, at the same time, remove obstacles to trade for the benefit of producers and consumers alike. It is worth mentioning that the measures and actions referred to above also affect third countries which enjoy economic and commercial relations with the European Community. This indirect but strong obligation of third countries to conform to Community standards and procedures is an integral component and requisite of the single market and, in this respect, they play an important role in its smooth and safe function.

2.2 Basic principles of the single market

2.2.1 *Intra-community trade*

Council Directives 89/662/EEC¹ relating to veterinary checks on animal products in intra-Community trade, and 90/425/EEC² relating to veterinary and zootechnical checks on live animals in intra-Community trade, which are carried out in the light of the single market, provide the following framework of principles governing the single market in the veterinary sector :

- * The smooth function of the Common Organization of Markets for animals and their products depends on the elimination of barriers of veterinary and/or zootechnical nature and the promotion of intra-community trade. Indeed, the free movement of agricultural products is a fundamental precept for the Common Organization of Markets and permits the rational planning and growth of agricultural production, as well as the optimal use of production means.
- * Special emphasis is given to the veterinary checks carried out at the place of origin, while the conditions and the content of checks at the place of destination are clearly defined. This approach results in the abolition of veterinary checks at the internal borders and justifies the retention of a health certificate and/or an accompanying identification document, depending on the nature of the product.

¹ OJ No. L 395 , 30/12/89, p.13

² OJ No. L 224, 18/08/90, p.29

- * The entire system relies heavily on confidence in the veterinary checks carried out by the Member State of dispatch. The setting in operation of a computerized rapid alert system increases this confidence.
- * A procedure for the settlement of disputes is established to address all problems which may arise in intra-Community trade, and proper safeguard clauses are also introduced to deal with emergencies.
- * In the case of irregularities observed at the place of destination, follow-up actions are clearly defined and here distinction is made between the following:
 - i) Option 1. This allows the correction of irregular or incomplete health certificates and/or commercial documents accompanying animals or products of animal origin.
 - ii) Option 2. This aims to eliminate any risk arising from a major epizootic disease, a new and highly contagious disease or any other disease or cause which may jeopardize animal and/or public health.
 - iii) Option 3. This refers to cases in which animals and products do not conform to the standards and conditions set for intra-Community trade.
- * For the rules governing the single market to be effective, all species of animals and all kinds of products are subject to the same rules, and trade in them is carried on according to the same principles.

2.2.2 Imports from third countries

Council Directives 90/675/EEC¹, on the organization of veterinary checks on products of animal origin imported into the Community from third countries, and 91/496/EEC², on the organization of veterinary checks on live animals imported into the Community from third countries, lay down the following framework of principles and procedures which must be observed in the import of the respective goods:

- * The adoption at Community level of common rules and practices concerning veterinary checks on live animals and products of animal origin entering the Community from third countries facilitates the stabilization and smooth supply of national markets, and at the same time harmonizes measures aimed at the protection of public and animal health in the Community
- * All consignments of live animals and products of animal origin coming from a third country are subjected to documentary and identification checks at the point of entry into Community territory. In addition, competent authorities of the Member States apply common principles and procedures with regard to the organization, content and follow-up of physical checks carried out on imported live animals and their products.
- * An effective and uniform operation of the control regime throughout the Community is achieved and maintained through regular inspections of all Border Inspection Posts to ensure

¹ OJ No L 373, 31/12/90, p.1

² OJ No L 268, 24/09/91, p.56

compliance with well-defined Community standards for facilities and equipment. It is only after the satisfactory results of such an inspection that a Border Inspection Post is given the approval which then entitles it to admit live animals and products of animal origin into the Community.

- * The uniformity and coordination of veterinary checks at the external borders of the Community is further enhanced by the setting into operation of a computerized system for the rapid exchange of information.
- * Safeguard clauses and crash procedures have been introduced to deal with emergencies in third countries which might constitute a risk for the Community. In such an eventuality, care is taken on the one hand to protect public and/or animal health in the Community, while on the other, efforts are made to prevent too much disruption to existing trade flows and practices.

2.3 Policies and actions for the realization of the single internal market in the veterinary sector

2.3.1 Animal Health

In the field of animal health the strategic objective is to achieve and maintain the possible health status of livestock throughout the Community.

This objective serves both the health requirements and the commercial interests of the Community and can be achieved through specific actions for the eradication of major diseases, where possible, or the prevention of their spread. In the latter case the extent and the content of restrictions depend on the nature of the disease and such restrictions may cover a part of a country, a region or specific holdings. Disease control in the Community is pursued by means of the following main policies and actions:

- * The implementation of regular measures, specifically provided for in Community legislation, for the eradication of major epizootic diseases such as foot-and-mouth disease and classic swine fever
- * The implementation of extraordinary emergency measures for the control of massive outbreaks or re-incursions of serious and highly infectious diseases which occur sporadically in the Community
- * The establishment of criteria and procedures for regionalisation, with a view to preventing the spread of diseases
- * The establishment of requirements and procedures for movements of animals from a holding subject to health restrictions, to another holding of superior health status
- * The establishment of appropriate criteria and tests for the grading and maintenance of a disease-free status for holdings
- * The establishment of conditions and procedures for the hygienic disposal of infected animals
- * The establishment of commonly accepted diagnostic tests, as well as of standards to ensure the uniform application and interpretation of such tests

- * The establishment of Community reference laboratories and vaccine banks
- * The development and setting into operation of a computerized network for the immediate notification of outbreaks of major infectious diseases occurring in the Community.

In addition to the actions set out above, important duties and responsibilities have been assigned to the bodies concerned, such as cooperatives and professional organizations, in order to stimulate self-regulation.

2.3.2 *Public Health*

In the field of public health the strategic objective is the placing on the market of products, edible or non edible, of high quality and absolute safety. This objective is achieved by the establishment of general rules for hygienic practices at all stages of the production, processing, storage and marketing of products referred to in Annexes II and III to the Treaty. To this end specific actions have been undertaken in the Community, namely:

- * The establishment of standardized controls in the entire chain of distribution of products, including production, processing, storage and marketing
- * The establishment of rules for the supervision of procedures, facilities and equipment used in the production and processing of products, including criteria for compliance with good manufacturing practices
- * The development and establishment of common diagnostic tests aimed at the verification of the safety and quality of animal products (e.g. residues), as well as standards to ensure the uniform application and interpretation of such tests
- * The introduction of special provisions, through derogation, for products intended for personal consumption by the producers or restricted for consumption within a geographically limited area near the place of production
- * The establishment of Community health marks and certificates or more simplified means identifying the origin of less sensitive products.

It should be noted that the basic principles mentioned above apply equally to all products of animal origin placed on the market, either through intra-Community trade or imported from third countries.

2.3.3 *Animal Protection and Welfare*

Community veterinary legislation in this field aims to remove obstacles to the trade in live animals, while ensuring the highest possible standard of living and handling conditions for them. The Community has taken the following actions to meet this goal:

- * The establishment of rules pertaining to the conditions under which animals are transported, in particular in the case of the long-distance transport of animals for immediate slaughter

- * The establishment of rules and specifications for the breeding conditions of animals, and in particular for poultry in batteries and intensively-bred calves and pigs
- * The establishment of rules and methods for stunning animals immediately prior to slaughter
- * The establishment of rules and conditions for the use of animals for experimental or research purposes.

2.3.4 Zootechnics

Community legislation provides for specific geneological and zootechnical rules governing the trade of all species of pure-bred animals, their semen, embryos and ova.

2.4 The relation between Community and international veterinary legislation.

The European Union participates actively and regularly in international fora and Agencies which are competent to deal with veterinary matters and pass legislation thereon. As a rule, the Community is represented in these Agencies by the Member State holding the presidency, while the European Commission attends as an observer. An outstanding position among these international Agencies is held by the EU/FMD Commission of the FAO, the joint FAO/WHO Committee on *Codex Alimentarius*, the Council of Europe which deals mainly with problems of animal protection, and last but by no means least, the OIE and the WTO. The last two organisations deserve special attention due to their global appeal and increasing impact on international trade.

On 15th April 1994, 125 countries signed the «Final Act embodying the results of the Uruguay round of multilateral trade negotiations» concluded under the aegis of the GATT.

The Final Act contains a text of great significance, namely the «Agreement on the Application of Sanitary and Phytosanitary Measures» (SPS Agreement), which came into force on 1st January 1995 with the setting up of the WTO to replace the GATT. All EU Member States are signatory parties to the Final Act.

The SPS Agreement aims to minimize the negative effects of health barriers on the international trade of live animals and products of animal origin. In particular, it imposes on countries the obligation not to introduce or maintain measures resulting in a higher level of protection than the one advocated by international standards, guidelines or recommendations, except where they are able to justify the need for such measures scientifically or after a risk analysis exercise. In this respect, it is foreseen that the OIE Animal Health Code will become a tool for common understanding and gain importance for international trade in future. Another important feature of the SPS Agreement is the setting up of a procedure for the settlement of disputes, where the OIE Code is again the accepted reference text.

In the face of this new situation, the European Community on the one hand takes the recommendations and resolutions of international organizations into serious consideration, but on the other does not automatically adopt them in their entirety. This is because it is a matter of standard policy for the Community to put forward and implement its own primary legislation.

This policy is justified on the following grounds :

As a rule, pronouncements by international veterinary organizations take the form of recommendations which are not addressed to specific parties and are not legally binding. They are intended as guidelines designed to enhance a uniform but general approach to veterinary questions by a large number of countries with a wide diversity in terms of health status, infrastructure and priorities. Their only objective is to lay down a minimum level of health criteria and guarantees with a view to the facilitation of international trade; consequently, they are lacking in detail. An additional disadvantage of international legislation is that the procedure for passing or amending it is cumbersome, time-consuming, and does not always accurately reflect the current international epizootiological situation.

In contrast to the above with all its shortcomings, Community veterinary legislation takes the form of Regulations, Directives or Decisions, is legally binding on its addressees and lays down specific actions to be taken and procedures to be followed on veterinary matters. The main characteristic of Community veterinary legislation is that all Member States are considered to constitute one economic, commercial and epidemiological entity with a high health status and high consumer demand for the safety and quality of products. Furthermore, procedures for the approval and adoption of Community legislation are flexible and quite rapid, especially in the case of an emergency.

The practical conclusion which emerges here is that Community veterinary legislation, both in its detailed provisions and in its philosophy, is an important point of reference not only for Member States but also for third countries which enjoy economic and commercial relations with the European Union.

3. VETERINARY CHECKS IN THE LIGHT OF THE SINGLE MARKET

Live animals and products of animal origin, both edible and inedible, are subject to veterinary checks in order to ensure compliance with the relevant health requirements and conditions governing their trade. The overwhelming majority of these conditions have already been harmonized at Community level, and in the near future the few national provisions remaining in force will be substituted by Community ones.

In the framework of current Community legislation some distinctions are being made with regard to the frequency, character, object and place where veterinary checks are carried out, depending on the nature and the origin of the items to be checked. The main modules of Community veterinary checks are summarized below.

3.2. Veterinary checks in intra-community trade

3.2.1 Principles and procedures

In the context of the single internal market, liability for compliance with Community veterinary requirements pertaining to the intra-Community trade of live animals and products of animal origin lies with the Member State of origin, which is obliged to carry out regular and extraordinary checks and inspections prior to the dispatch of any consignment.

Inasmuch as live animals are concerned, veterinary and zootechnical checks are carried out at the holdings of origin, the approved assembly points such as markets, fairs etc., the means of transportation, and the slaughterhouses.

For products of animal origin, veterinary checks are carried out at the establishments engaged in production, processing, storage and marketing. It goes without saying that no veterinary checks are carried out at the internal borders of the Community.

Under these conditions, checks may only be carried out at the place of final destination on a random-sampling, non-discriminative basis. If, however, there are grounds for suspicion that irregularities or serious infringements of Community legislation have occurred, exhaustive veterinary checks may be carried out at any time and place. As a rule, only documentary and identification checks are carried out at the place of destination. On this occasion, however, samples may be collected for detailed physical checks or laboratory tests.

An important element of the system is the legal obligation placed upon recipients of animals or products, who are partially responsible for keeping detailed records of all incoming consignments, are aware of Community veterinary rules and are required to alert the competent national authority in the case of suspected irregularity or non-conformity with these rules.

3.2.2 Related measures - The ANIMO system

The ANIMO system facilitates veterinary checks at the place of destination and is a fundamental prerequisite for the smooth functioning of the single market because it provides a computerized on-line link among local, border and central veterinary services throughout the Community.

The objective of the system is, by means of P/Cs and modems, to connect veterinary services at all possible places of origin which are responsible for carrying out checks and issuing a health certificate to accompany live animals or products, with veterinary services at all possible places of destination, whose responsibility it is to examine the health certificates and carry out random checks. Naturally, the only way to manage a large-scale flow of information covering the entire territory of the Community was to rely on state-of-the-art communication technology. Analysis of veterinary requirements and trade flow patterns in the Community indicated that the system should include a common host centre, capable of handling messages from and to any area in the Community. Specifically, the system's software performs the following functions:

- a) It registers on file all consignments of animals and products leaving an area
- b) It forwards this file to the respective places of destination
- c) It registers in file all consignments of animals or products arriving in an area
- d) It delivers a print-out of consignments en route to every destination.

The ANIMO system was officially inaugurated on 1st April 1994.

3.3. Veterinary checks on imports from third countries

3.3.1. Principles and procedures.

Since 1st January 1993 a new common system for administering veterinary checks of live animals and products of animal origin entering the Community from third countries has been in place.

The main elements of this system are the following:

- * Every consignment of live animals or products imported into Community territory from third countries is subject to compulsory veterinary checks, irrespective of its customs status and final destination
- * Veterinary inspection of all goods is carried out upon arrival at, and before entry into, the integrated Community territory
- * Veterinary checks are carried out in purpose-built facilities which have the infrastructure and equipment required by the Community and approved by it for specific species of animals and/or categories of products. These facilities are known as Border Inspection Posts (BIPs).

Veterinary checks are carried out at several stages, depending on the customs status and the subsequent destination of the goods; effectively they commence with the collection and validation of pre-notifications of the pending arrival of consignments. For this purpose BIPs are equipped with modern communication facilities and work in close cooperation with the customs authorities and the importers themselves. Another source of information is constituted by the import permits which are issued by the importing country and automatically copied to the respective national BIP. As far as the nature and the content of veterinary checks are concerned they are composed of the following distinct levels:

- i) Documentary checks, involving the inspection and verification of health certificates and/or commercial documents accompanying the consignment. Checks are carried out on the original certificate which must consist of a single sheet of paper, be issued by and addressed to one individual veterinary service and cover only the one consignment described in detail therein. Documentary checks concern the quality, format, content and completeness of the certificate, as well as the signature and the stamp of the certifying official veterinarian.
- ii) Identity checks, which aim to verify that the actual consignment covered by a certificate corresponds to and conforms with all the relevant details provided in the certificate at the stations. In the case of animals, identity checks particularly include the species, number and individual identification by ear-tags. For products, identity checks are concerned with the stamp numbers when transport is in containers, or the marks on individually packaged products, and their particular aim is to confirm that the establishment of origin corresponds to that mentioned in the certificate.
- iii) Physical checks of live animals, involving the collection of samples or pathological material for specific laboratory tests. The inspection of conditions and means of transportation of animals falls under this category of checks. Where products are concerned, the checks include organoleptic inspection, simple physical and chemical tests performed on the spot, and specialized laboratory tests to detect pathogens, residues and tell-tale signs of contamination. Checks also cover the conditions and means of transport, as well as the materials and the condition of the containers. In any event, physical checks are entirely at the discretion of the inspecting veterinarian, who may decide to extend them at will, in order to satisfy himself

that the animals or products meet all Community requirements and present no risk to human or animal health.

Related measures - SHIFT system.

The SHIFT system aims to register and follow all consignments of live animals and products imported from third countries from the first point of entry into Community territory to their final destination. The system provides a computerized link among all BIPs and is designed to exchange, through a common host centre, information concerning:

- * Veterinary checks of specific consignments of animals and products, as well as the results of these checks
- * The terms for the acceptance or the reasons for the rejection of consignments of animals or products
- * Pending arrivals of consignments intended for import or transit, and destined for a different Member State to that in which checks are carried out.