L.N. 356 of 2003

VETERINARY SERVICES ACT, 2001
(ACT NO. XXIII OF 2001)

Principles Governing the Organisation of Veterinary Checks on Products Entering the Territory of Malta from Third Countries Regulations, 2003

IN exercise of the powers conferred by article 16 of the Veterinary Services Act, the Minister for Rural Affairs and the Environment has made the following regulations:-

Commencement, title and scope

1. (1) The title of these regulations is Principles Governing the Organisation of Veterinary Checks on Products Entering the Territory of Malta from Third Countries Regulations, 2003.

(2) Veterinary checks on products from third countries introduced into the territory of Malta shall be carried out in accordance with these regulations.

(3) The scope of these regulations is to implement the rules found under European Union Council Directive 97/78/EC laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries.

Definition

2. (1) For the purposes of these regulations, the definitions contained in article 2 of European Union Council Directive 89/662/EEC and article 2 of European Union Council Directive 90/425/EEC shall apply as necessary.

(2) In addition –

(a) "Border inspection post" means any inspection post, designated and approved in accordance with regulation 6, for the carrying out of veterinary checks on products arriving from third countries at the border of the territory of Malta;

(b) "Competent authority" means for the territory of Malta the Veterinary Services and for Member States the central authority empowered to carry out veterinary checks, or any authority to which it has delegated such powers;

(c) "Consignment" means a quantity of products of the same type, covered by the same veterinary certificate(s) or veterinary document(s), or other document(s) provided for by veterinary legislation, conveyed by the same means of transport and coming from the same third country or part of such country;

(d) “Customs-approved treatment for use” means -

(i) the placing of goods under a customs procedure;

(ii) their entry into a free zone or free warehouse;

(iii) their re-exportation from the customs territory of Malta;

(iv) their destruction;

(v) their abandonment to the Government.

(e) “Documentary check” means the examination of the veterinary certificate(s) or veterinary document(s), or other document(s) accompanying a consignment;

(f) “Identity check” means a check by visual inspection to ensure that the veterinary certificate(s) or veterinary document(s) or other document(s) provided for by veterinary legislation tally with the product itself;

(g) “Import” means the free circulation of products and the intention to release products for free circulation in the territory of Malta;

(h) “Import conditions” means veterinary requirements for products to be imported, as laid down in veterinary legislation;

(i) “Person responsible for the load” means any natural or legal person who, in accordance with the provisions of customs rules, has responsibility for the development of the various situations covered by the said regulation in which the consignment may be, and also the representative referred to in the said regulation who assumes such responsibility for following up the checks laid down in these regulations;

(j) “Physical check” means a check on the product itself, which may include checks on packaging and temperature and also sampling and laboratory testing;

(k) “Products” means the products of animal origin referred to in European Union Council Directives 89/662/EEC and 90/425/EEC, including by-products of animal origin not covered by other regulation, and the plant products referred to in regulation 17;

(l) “Trading Partner” in the meaning of article 2 of the Veterinary Services Act shall mean –

(i) Member States of the European Community;

(ii) Third countries to the European Community;

where relevant.

CHAPTER I
Organisation and effects of checks

Organisation and effects of checks.

3. (1) No consignment from a third country is introduced into the territory of Malta without having been subjected to the veterinary checks required by these regulations.

(2) Consignments are introduced into the territory of Malta via a border inspection post.

(3) In the territory of Malta persons responsible for the load are obliged to forward information in advance by duly completing where applicable the certificate referred to in regulation 5(1), or provide a detailed description in writing or in computerised form of the consignment referred to in sub-regulation (1), including the products referred to in regulations 9 and 17 (1), to the veterinary staff of the border inspection post to which the products are to be submitted. Veterinary Services may inspect the manifests of vessels and aircraft and check that they tally with the above-mentioned statements and documents.

(4) The customs authorities on whom the border inspection post is geographically dependent shall allow the intended customs-approved treatment or use of the consignments only in accordance with the conditions set out in the certificate referred to in regulation 5 (1).

(5) Detailed rules for the application of this regulation, in particular the list of products to be subjected to a veterinary check, shall be adopted in accordance with the procedure laid down in article 16 (2) of the Veterinary Services Act and in accordance with European Community rules.

Veterinary checks on each consignment at border inspection posts

4. (1) Each consignment shall be subject to veterinary checks in the border inspection post referred to in regulation 3(2) by the Veterinary Services under the responsibility of the official veterinarian in accordance with regulation 6(1)(b).

(2) For each consignment the official veterinarian shall, on the basis of the information referred to in regulation 3 (3), consult any database or document to be informed on possible rejected consignments by other border inspection post in Malta or in Member States. Furthermore, for each consignment intended for import into the territory of Malta, he shall, if necessary, consult the EU database or document to be informed on the import requirements concerning imports from third countries. The official veterinarian shall ensure that all the operations required to maintain these databases or documents are carried out.

(3) Each consignment shall be subject to a documentary check irrespective of the customs-approved treatment or use in order to establish-

(a) that the information in the certificates or documents referred to in

regulation 7 (1) corresponds to the information forwarded in advance in accordance with regulation 3(3);

(b) in the case of imports, that the particulars contained in the certificates or documents referred to in regulation 7(1) or other documents afford the guarantees required.

(4) Apart from the specific cases stipulated in regulations 9 to 14, the official veterinarian shall carry out the following checks -

(a) an identity check on each consignment to ascertain that the products correspond to the information given in the accompanying certificates or documents. Apart from bulk consignments as provided for in European Union Council Directive 92/118/EEC , this procedure shall comprise –

(i) where products of animal origin arrive in containers, verification that the seals fixed by the official veterinarian (or the competent authority), where required by veterinary legislation, are intact and that the information appearing thereon corresponds to that given in the accompanying document or certificate;

(ii) in other cases

- for all types of product, a check that the stamps, official marks and health marks identifying the country and establishment of origin are present and conform to those on the certificate or document,

- in addition, for wrapped or packaged products, a check on the specific labelling provided for in veterinary legislation,

(b) a physical check on each consignment -

(i) in order to ascertain that the products satisfy the requirements of European Community veterinary legislation and are in a fit state to be used for the purpose specified in the accompanying certificate or document. These checks must be carried out in accordance with the criteria laid down in Schedule II;

(ii) prior to carrying out, in accordance with the frequencies to be established, using European Community rules and the procedure laid down in article 16 (5) of the Veterinary Services Act -

- any laboratory tests on the spot,

- any official sampling required for earliest possible analysis.

(5) Detailed rules for the application of this regulation shall be adopted in accordance with European Community rules and the procedure laid down in article 16 (2) and (5) of the Veterinary Services Act.

Certificate which must be issued upon completion of veterinary checks

5. (1) After completion of the required veterinary checks the official veterinarian shall issue a certificate for the consignment of products concerned certifying the results of the checks in accordance with the model provided in Annex B to European Union Council Directive 93/13/EEC laying down the procedures for veterinary checks at border inspection posts on products from third countries, adapted where appropriate in accordance with sub-regulation (4).

(2) The certificate referred to in sub-regulation (1) shall accompany the consignment –

(a) as long as the consignment remains under customs supervision, in which case the said document shall refer to the customs document;

(b) in the case of importation, as far as the first establishment as referred to in European Union Council Directive 89/662/EEC, or as far as the first centre or organisation of destination as referred to in European Union Council Directive 90/425/EEC.

(3) If the consignment is split, the provisions of sub-regulation (1) and (2) shall apply to each part.

(4) Detailed rules for the application of this regulation, including the adaptations of Annex B to European Union Council Directive 93/13/EEC shall be adopted in accordance with European Community rules and implemented according to the procedure laid down in article 16 (2) of the Veterinary Services Act.

Border inspection posts

6. (1) Border inspection posts must –

(a) be located in the immediate vicinity of the point of entry into one of the territories of Malta, and in an area which is designated in consultation with the customs authorities;

(b) be placed under the authority of an official veterinarian, who shall be effectively responsible for the checks. The official veterinarian may be assisted by specially trained auxiliary staff. He shall ensure that all updating of the data referred to in regulation 4 (2) of these regulations is carried out.

(2) In accordance with the procedure laid down in article 16 (6) of the Veterinary Services Act and under European Community rules, the list of border inspection posts in force is drawn up and may subsequently be amended or supplemented –

(a) by the recording of any new border inspection posts –

(i) proposed by the Veterinary Services, once they have checked that it complies with the requirements of Schedule I to these regulations and of

European Union Commission Decision 2000/812/EC laying down requirements for the approval of border inspection posts responsible for veterinary checks on products introduced from third countries,

(ii) inspected by the European Commission in collaboration with the Veterinary Services. In their proposal, Veterinary Services must take in due account the remarks of European Commission especially concerning those in relation with the harmonisation of requirements for the approval of border inspection posts in Member States;

(b) by withdrawal of a border inspection post, where it is found not to be complying with the conditions laid down in Schedule I, either during a check carried out by the Veterinary Services or following the remarks of the European Commission mentioned in (a) or in cases where the inspections have resulted in a serious public or animal health risk.

(3) Veterinary Services must, in serious cases, particularly on public or animal health grounds, suspend approval of a border inspection post situated in the territory of Malta. It shall inform the European Commission and the Member States of such suspension and of its reasons. The border inspection post may be restored to the list only in accordance with sub-regulation (2)(a).

(4) The European Commission shall draw up and publish a list of approved border inspection posts, including cases where approval has been temporarily suspended.

(5) Detailed rules for the application of this regulation shall be adopted in accordance with European Community rules and implemented according to the procedure laid down in article 16 (6) of the Veterinary Services Act.

Consignments which must be accompanied by original veterinary certificates or documents

7. (1) Each consignment intended for import into one of the territories of the European Community shall be accompanied by the original veterinary certificates or original veterinary documents or other original documents as required by veterinary legislation. The original certificates or documents shall remain at the border inspection post.

(2) Each consignment of products from a third country intended for import into the territory of Malta shall be subject to an identity check and a physical check as provided for in regulation 4(4).

(3) The customs authorities shall not allow the importation of consignments of products unless –

(a) without prejudice to the customs regulations and to the special provisions to be adopted in accordance with European Community rules.

(b) proof has been supplied that the relevant veterinary checks have been

carried out with satisfactory results, that the relevant certificate has been issued in accordance with regulation 5(1) and that the competent authority has a guarantee that the inspection fees referred to in article 20 of the Veterinary Services Act have been or will be paid, in accordance with the provisions of the Act.

(4) If the consignment complies with the import conditions, the official veterinarian shall provide the person concerned with an authenticated copy of the original certificates or documents and shall, in accordance with regulation 5(1), issue a certificate declaring that the consignment complies with those conditions on the basis of the veterinary checks carried out at the border inspection post.

(5) Trade in the products referred to in article 15 of the Veterinary Services Act and allowed into the territory of Malta and the territories of Member States under sub-regulation (3) of this regulation shall be conducted in accordance with the rules laid down in the said article.

(6) Detailed rules for the application of this regulation shall be adopted in accordance with European Community rules and the procedure laid down in articles 16 (2) and 20 of the Veterinary Services Act.

Documentary, identity and physical checks on consignment of products

8. (1) Where -

(a) products subject to specific requirements in the framework of Community veterinary legislation or are intended for a Member State or an area having obtained specific requirements in the framework of its veterinary legislation,

(b) samples have been taken but the results are not known when the means of transport leaves the border inspection post,

(c) imports authorised for specific purposes are involved, in the cases provided for by veterinary legislation, additional information must be communicated to the competent authority of the place of destination by means of the ANIMO network.

(2) Each consignment of products referred to in (a) and (c) of sub-regulation (1) and destined for a Member State shall undergo the documentary, identity and physical checks laid down in regulation 4 (3) and (4) at the border inspection post situated in the territory of Malta, to verify in particular whether the products concerned comply with the veterinary rules applicable to the Member State or area of destination.

However, furred wild game imported unskinned shall undergo an identity or physical check, apart from the health check and residue search provided for in European Union Council Directive 96/23/EC, which should be carried out in accordance with European Union Council Directive 92/45/EEC in the establishment of destination where the meat must be delivered under customs supervision in accordance with the

sub-regulation (4)(a) of this regulation of this regulation and in conjunction with the certificate referred to in regulation 5(1).

The results of the checks should be forwarded to the veterinary authority responsible for the border inspection post at which the products entered. Depending on the outcome, the measures laid down in regulation 21 shall if necessary be implemented.

(3) The Veterinary Services shall ensure that, in the case of products referred to in sub-regulation (1)(a) and (c) of this regulation and introduced into a border inspection post situated in the territory of Malta, all measures shall be taken to ensure that the consignment involved reaches the intended Member State of destination.

(4) Products which are to be monitored pursuant to veterinary legislation from the border inspection post of arrival to the establishment at the place of destination shall be forwarded under the following conditions -

(a) the consignments in question shall be dispatched from the border inspection post of arrival to the establishment at the place of destination under the supervision of the Veterinary Services in leak-proof vehicles or containers sealed by the Veterinary Services. The products referred to in sub-regulation (1) (c) shall remain under customs supervision until they reach the place of destination in accordance with custom procedure, in conjunction with the certificate provided for in regulation 5(1) stipulating the authorised destination and if appropriate citing the type of processing intended,

(b) the official veterinarian at the border inspection post concerned shall inform the central veterinary authority in charge of the establishment at the place of destination - of the consignment of the place of origin and the place of destination of the product via the ANIMO network,

(c) the products shall undergo, in the establishment at the place of destination, the treatment defined in the relevant veterinary legislation,

(d) the official veterinarian at the place of destination or, in the cases provided for in Chapter 10 of Annex I to European Union Council Directive 92/118/EEC, the official veterinarian responsible for an intermediate warehouse, shall be informed by the management of the establishment of destination or of the intermediate warehouse of the arrival of the product at its destination, and shall within 15 days notify the official veterinarian at the border inspection post who notified him of the shipment. He shall carry out regular checks to ensure that the products have arrived at the establishment of destination, in particular by checking the entry records.

(5) If proof is given to the Veterinary Services of the border inspection post of entry, without prejudice to the provisions of regulation 18, that the products declared as being intended for an approved establishment never arrived at their destination, the veterinary authority shall take appropriate measures *vis-à-vis* the person responsible for the load.

(6) The European Commission shall publish the list of approved

establishments in the territory of Malta as referred to in sub-regulation (4) for the products concerned in accordance with the relevant Veterinary legislation.

Where an establishment fails to comply with the notification requirements, the approval may be withdrawn and necessary penalties shall be imposed in keeping with the nature of the risk incurred.

The Veterinary Services shall publish the list of approved establishments and shall arrange for its updating and communication to the Member States and to the European Commission.

(7) Detailed rules for the application of this regulation, drawn up after consultation with the customs authorities, shall be adopted in accordance with the procedure laid down in article 16 (2) of the Veterinary Services Act and under European Community rules.

Identity and physical check of consignments intended for import which arrive at one border inspection post but are intended for import via another border inspection post

9. (1) Consignments intended for import which arrive at one border inspection post but are intended for import via another border inspection post situated in the territory of Malta, or situated in the territory of a Member State, shall be subject to an identity check and a physical check at the border inspection post of destination, provided that the transport takes place by sea or air. The following procedures shall be carried out in the border inspection post of introduction -

(a) if the consignment is transhipped from one aircraft to another or from one vessel to another within the customs area of the same port or airport either directly or after being unloaded on the quayside or the tarmac for a period shorter than the minimum period referred to in (b), the competent authority shall be informed by the person responsible for the load. It may, exceptionally if there is a risk to animal or public health, carry out a documentary check of the products on the basis of the certificate or veterinary document of origin or any other original document accompanying the consignment concerned or an authenticated copy thereof;

(b) if the consignment is otherwise unloaded, it must -

(i) be stored for a maximum and minimum period and under conditions to be determined according to the procedure laid down in sub-regulation (2), under the supervision of the competent authority, in the customs area of the port or airport pending forwarding to another border inspection post by sea or air;

(ii) be subjected to a documentary check of the products in relation to the documents referred to in (a);

(iii) without prejudice to regulation 18, be subjected exceptionally to

an identity check and a physical check if there is any possibility of danger to public or animal health.

(2) Detailed rules for the application of this regulation shall be adopted in accordance with the procedure laid down in article 16 (2) of the Veterinary Services Act and under European Community rules.

Authorisation of transit of consignments from third country to another third country

10. (1) The transit of consignments from a third country to another third country may only be authorise if -

(a) such consignments come from a third country whose products are not prohibited entry on to the territory of Malta and are intended for another third country. The Veterinary Services may waive this requirement for transhipments carried out in accordance with regulation 9(1)(a) of consignments from one aircraft to another or from one vessel to another within the customs area of the same port or airport for the purpose of re-dispatch without further stop on the territory of the territory of Malta following general criteria to be fixed in accordance with sub-regulation (4);

(b) such transit has been previously authorised by the official veterinarian of the border inspection post where the consignment first arrives in the territory of Malta;

(c) the person responsible for the load undertakes beforehand to repossess the consignment if the products concerned are rejected and to dispose of it in accordance with regulation 16.

(2) The authorisation referred to in sub-regulation (1) shall be subject to compliance with the following conditions -

(a) consignments presented for transit at the border inspection post shall be accompanied by the documents referred to in regulation 7(1) together, if necessary, with authenticated translations of such documents;

(b) the consignment of products must be presented at the said border inspection post in order to undergo the documentary check and identity check. Derogation from the documentary and identity checks may be granted by the veterinary authority for sea or air transport where the consignment -

(i) is not unloaded. In this case, and without prejudice to regulation 18, documentary checks will be confined to examination of the on-board manifest,

(ii) is transhipped as described in regulation 9(1)(a) from one aircraft to another or from one vessel to another within the customs area of the same port or airport.

In exceptional cases which may present a public health or animal health risk or when irregularities are suspected, additional physical checks must be carried out;

(c) in the case of passage by road or by waterway through the territories of Member States, such a consignment shall -

(i) be sent under customs supervision, in accordance with the T1 procedure laid down in European Union Regulation No 2913/92/EEC to the point of exit from the European Community, together with the document required under sub-regulation (2)(a) and the certificate referred to in regulation 5(1) certifying the border inspection post where the consignment will leave the European Community;

(ii) be transported, without the products being unloaded or split after leaving the border inspection post of arrival, in vehicles or containers sealed by the authorities. No handling shall be authorised during transport;

(iii) leave the Community via a border inspection post within a maximum of 30 days following departure from the border inspection post of entry, except where a general exemption is granted in accordance with the procedure laid down in sub-regulation (4) to take account of duly substantiated cases of geographical remoteness;

(d) the official veterinarian who authorises the transport shall inform the official veterinarian of the border inspection post of exit via the ANIMO network;

(e) the official veterinarian at the border inspection post of exit shall declare on the certificate referred to in regulation 5(1) that the consignments concerned have left the territory of Malta and shall send a copy of the document to the Veterinary Services.

Should the Veterinary Services not have been informed of the exit of the products from the territory of Malta within the period specified, he shall refer the matter to the competent custom authority, which shall investigate as necessary to determine the actual destination of the products.

(3) All expenditure incurred pursuant to this regulation shall be chargeable to the person responsible for the load or his representative, without indemnification by the State, in accordance with the principles deriving from article 20 of the Veterinary Services Act.

(4) Detailed rules for the application of this regulation shall be adopted in accordance with the procedure laid down in articles 16 (2) and 20 of the Veterinary Services Act and under European Community rules.

Rules applicable to consignments coming from a third country and intended for a free zone, a free warehouse or a customs warehouse

11. (1) Consignments coming from a third country and intended for a free zone, a free warehouse or a customs warehouse may, in accordance with customs rules, be admitted by the Veterinary Services only if the person responsible for the load has declared beforehand that the products concerned are destined ultimately for release into free circulation on the territory of Malta or on the territory of a Member State or if there is some other end-use to be specified, and whether or not the products comply with the import conditions.

In the absence of a clear indication of their end-use, products must be considered as intended for release into free circulation on the territory of Malta or on the territory of a Member State.

(2) Such consignments shall undergo, at the border inspection post of introduction, a documentary, identity and physical check in order to determine whether or not the products comply with the said import conditions. A physical check shall however not be required - except on suspicion of an animal health or public health risk - should it appear from the documentary check that the products do not meet veterinary requirements.

Such consignments shall be accompanied by the documents referred to in regulation 7(1). If necessary, authenticated translations of such documents shall be attached.

(3) If, following the checks referred to in sub-regulation (2), it is found that veterinary requirements have been met, the official veterinarian of the border inspection post shall issue the certificate referred to in regulation 5(1) in conjunction with the customs documents. The veterinary and customs authorities of the border inspection post shall authorise entry to a warehouse in a free zone, to a free warehouse or to a customs warehouse. Such products shall from a veterinary point of view be declared fit for subsequent release into free circulation.

(4) If, following the checks referred to in sub-regulation (2), it is found that the products concerned do not meet European Community veterinary requirements the official veterinarian of the border inspection post shall issue the certificate referred to in regulation 5(1) in conjunction with the official customs documents. The customs and veterinary authorities of the border inspection post may in such cases only authorise entry to a warehouse in a free zone, to a free warehouse or to a customs warehouse if, without prejudice to regulation 15, the following requirements are met –

(a) products must not come from a third country subject to a prohibition as laid down in regulation 10(1)(a), first sentence;

(b) warehouses in free zones and free warehouses or customs warehouses must be approved by the Veterinary Services for the storage of the products. In order to be approved, they must meet the following requirements -

(i) they must consist of a closed space with entry and exit points subject to permanent control by the management of the warehouse. If a

warehouse is located in a free zone, the entire zone must be closed and placed under permanent customs control;

(ii) they must meet the conditions of approval laid down in veterinary legislation as regards warehouses storing the product(s) concerned;

(iii) they must have arrangements for the daily logging of all consignments entering or leaving the warehouse, with details of the nature and quantity of the products per consignment and the name and address of the recipient. Such records must be kept for at least three years;

(iv) they must possess storage and, or refrigeration rooms allowing for separate storage of products which do not comply with veterinary legislation. The Veterinary Services may, however, in the case of existing warehouses, authorise separate storage of such products on the same premises when products not complying with veterinary standards are stored in lockable enclosures;

(v) they must have available premises reserved for the staff carrying out the veterinary checks.

If the checks referred to in sub-regulation (2) show that the person responsible for the load has made a false declaration pursuant to sub-regulation (1), he shall be obliged to dispose of the goods in accordance with regulation 16.

(5) The Veterinary Services shall take all necessary steps –

(a) to ensure that the conditions for approval of warehouses are maintained;

(b) to prevent products which do not comply with veterinary requirements from being stored in the same rooms or enclosures as those which do so comply;

(c) to ensure an effective check on entries and exits from the warehouse and, during the hours of access, to ensure supervision by the veterinary authority. They must in particular ensure that products not meeting Veterinary requirements cannot leave the rooms or units where they are stored without the agreement of the Veterinary Services;

(d) to carry out all checks necessary to avoid any alteration, substitution of products stored in the warehouse or any change of packaging, market preparation or processing.

(6) Veterinary Services may, on grounds of animal or public health, refuse entry to a customs warehouse, free warehouse or free zone to products if they do not meet the conditions laid down in Veterinary legislation.

(7) Consignments must not enter a free zone, free warehouse or customs warehouse unless protected by customs seals.

(8) The consignments referred to in sub-regulation (4) may only leave a free zone, a free warehouse or a customs warehouse, in order to be dispatched to a third country or to a warehouse as referred to in regulation 12, or to be destroyed, provided that -

(a) despatch to a third country is in accordance with the requirements of regulations 10(1)(c) and 10(2)(a), (c), (d) and (e);

(b) transfer to a warehouse as referred to in regulation 12 is carried out under cover of customs control form, with the name and location of the warehouse mentioned in the accompanying certificate provided for in that regulation;

(c) transport to a place of destruction takes place after the products concerned have been denatured.

The consignments in question shall subsequently be forwarded under such conditions as to ensure that transport is carried out, without the goods being unloaded, under the supervision of the Veterinary Services in leak-proof vehicles or containers sealed by the Veterinary Services.

Such consignments may not be transferred between the warehouses referred to in this regulation.

(9) All expenditure incurred pursuant to this regulation, including the costs of inspection and checks required thereby, shall be chargeable to the person responsible for the load or his representative, without indemnification by the State, in accordance with the principles deriving from article 20 of the Veterinary Services Act.

(10) Veterinary Services shall submit to the Commission the list of -

(a) free zones, free warehouses and customs warehouses as referred to in sub-regulation (4);

(b) operators as referred to in regulation 12.

(11) In the event of failure to comply with the conditions set out in sub-regulations (1) to (10) and insofar as those conditions apply to the warehouse, the Veterinary Services shall suspend or withdraw its approval as referred to in sub-regulation (4)(b). It shall inform the European Commission and the other Member States of any such withdrawal.

Where irregularities, either deliberate or due to serious negligence, are found, the penalties laid down by the national law shall be applied to the person responsible for the transport of the consignment after it has left the warehouse.

(12) Detailed rules for the application of this regulation, in particular the checking procedures to be carried out on the arrival and on the departure of consignments to and from such zones or warehouses, the transport of consignments between such zones or such warehouses, the form of storage of the products and the

handling allowed, shall be adopted in accordance with European Community rules and the procedure laid down in article 16 (2) of the Veterinary Services Act.

Rules on operators who directly supply cross-border means of sea transport

12. (1) Operators who directly supply cross-border means of sea transport with products referred to regulation 11(4) for the purposes of consumption by staff and passengers must, in addition to meeting the requirements of regulation 11(1), (2), (4)(a), (b), (5), (6), (7) and (9) -

(a) be authorised beforehand by the Veterinary Services as operators;

(b) acquire supplies of products which cannot be processed unless the raw material complies with veterinary requirements;

(c) possess closed premises whose entry and exit points are under permanent control of the person responsible. Where a warehouse is located in a free zone, the requirements of regulation 11(4)(b), shall apply;

(d) undertake not to release the products referred to in regulation 11(4) for consumption on one of the territories of the European Community;

(e) notify the Veterinary Services as soon as possible of the arrival of the products at a warehouse as referred to in (c).

(2) The operators referred to in sub-regulation (1) must-

(a) carry out deliveries directly on board the means of sea transport or to a specially approved warehouse in the port of destination, provided that measures are taken to ensure that the products concerned under no circumstances leave the port zone for another destination. The transport of products from the warehouse of origin to the port of destination must be carried out under customs supervision in accordance with custom procedure and be accompanied by a veterinary certificate formulated in accordance with the procedure in sub-regulation (6);

(b) notify in advance the Veterinary Services of the port zone of the Member State from which the products are delivered and the competent authorities of the port of the Member State of destination of the date of dispatch of the products together with details of their place of destination;

(c) provide official proof that the products have reached their final destination;

(d) keep a register of entries and dispatches for at least three years. The register must enable a check to be made on portions of consignments remaining in the warehouse.

(3) Operators should ensure that they do not supply vessels with products not complying with community veterinary requirements except to supply passengers and crew outside the coastal areas of the territory of Malta or other Member States, as

defined by national regulations.

(4) The Veterinary Services of the port zone from which the products are supplied shall notify the Veterinary Services and if necessary, the competent authority of the port zone of the Member State of destination not later than the time of dispatch of the products and shall inform them of the place of destination of the products via the ANIMO network.

(5) In the event of failure to comply with the conditions of this regulation, the Veterinary Services must withdraw the authorisation referred to in sub-regulation (1)(a). It shall inform the Commission and the other Member States of any such withdrawal.

(6) Detailed rules for the application of this regulation, in particular the checking procedures to be carried out on the departure and during the transport and delivery of the products due to be delivered directly on board means of sea transport, including proof that such products have reached their legal destination, shall be adopted in accordance with European Community rules and the procedure laid down in article 16 (2) of the Veterinary Services Act.

Products which require customs approved treatment

13. (1). Products for which the customs-approved treatment or use is other than as provided for in regulations 7 and 11(3) of these regulations, shall, unless they are destroyed or returned, undergo an identity check and a physical check in order to determine whether or not they comply with the import conditions.

(2) Detailed rules for the application of this regulation shall be adopted, where necessary, in accordance with European Community rules and the procedure laid down in article 16 (2) of the Veterinary Services Act.

Re-importation of a consignment originating from Malta or a Member State which was refused by a third country

14. (1) The re-importation of a consignment of products originating from Malta or a Member State which was refused by a third country, shall be authorised if –

(a) the products are accompanied -

(i) either by the original certificate or a copy authenticated by the competent authority which issued the certificate accompanying the products, together with details of the reasons for refusal and a guarantee that the conditions governing the storage and transport of products have been observed, stating that the products concerned have not undergone any handling;

(ii) in the case of sealed containers, by a certificate from the carrier stating that the content has not been handled or unloaded;

(b) the products in question undergo a documentary and identity check and, in the cases provided for in regulation 18, a physical check;

(c) the consignment is directly returned, under the conditions provided for in regulation 8(4) to the establishment of origin in the territory of Malta or in another Member State where the certificate was issued and that in this latter case it has been previously authorised by the official veterinarian of the border inspection post where the consignment first arrives on behalf of all Member States through which the consignment will transit.

(2) Veterinary Services cannot oppose the reintroduction of a consignment of products originating from the territory of Malta or from another Member State, refused by a third country if the competent authority which issued the original certificate has agreed to take back the consignment and the conditions laid down in sub-regulation (1)(b) have been met.

(3) In the circumstances envisaged in sub-regulation (1) and (2), the products in question shall be forwarded under such conditions as to ensure that transport is carried out as far as the establishment of origin in accordance with the procedure laid down in regulation 8(4) in leak-proof means of transport, identified and sealed by the Veterinary Services so that the seals will be broken whenever the container is opened.

(4) The official veterinarian who authorises the transport shall inform the competent authority of the place of destination via the ANIMO network.

(5) All expenditure incurred pursuant to this regulation, including the costs of inspection and checks required thereby, shall be chargeable to the person responsible for the load or his representative, without indemnification by the State, in accordance with the principles deriving from article 1 of European Union Council Directive 85/73/EEC.

(6) Detailed rules for the application of this regulation shall be adopted in accordance with European Community rules and the procedure laid down in article 16 (2) of the Veterinary Services Act.

Non-applicability of this chapter

15. (1) This Chapter shall not apply to products which -

(a) form part of travellers' personal luggage and are intended for their personal consumption, insofar as the quantity does not exceed a quantity to be defined in accordance with sub-regulation (3) and provided that the products come from a Member State or a third country or part of a third country appearing on the list adopted in accordance with veterinary rules, and from which imports are not prohibited;

(b) are sent as small consignments to private persons, provided that the products are not being imported by way of trade, insofar as the quantity sent does not exceed a quantity to be defined in accordance with sub-regulation (3) and provided that the products come from a third country or part of a third

country appearing on a list drawn up in accordance with veterinary rules, and from which imports are not prohibited;

(c) are on board means of transport operating internationally and are intended for consumption by the crew and passengers, provided that they are not introduced into the territory of Malta or one of the territories of Member States.

Where such products or their kitchen waste are unloaded, they must be destroyed. It is not, however, necessary to destroy products when they are transferred directly from one means of transport operating internationally to another at the same port and under customs supervision;

(d) have, where quantities not exceeding a figure to be fixed in accordance with sub-regulation (3) are involved, undergone heat treatment in a hermetically sealed container to an F0 value of 3,00 or more and –

(i) form part of travellers' personal luggage and are intended for their personal consumption;

(ii) are sent as small consignments to private persons, provided that the products are not being imported by way of trade;

(e) are sent as trade samples or are intended for exhibitions provided that they are not intended to be marketed and have been authorised in advance for that purpose by the Veterinary Services;

(f) are intended for particular studies or analyses insofar as it is possible to determine from the official inspection that such products are not supplied for human consumption and that, when the exhibition is finished or when the particular studies or analyses have been carried out, these products, with the exception of the quantities used for the analyses, are destroyed or re-dispatched under certain conditions to be laid down by the Veterinary Services.

In the case referred to under (e) the Veterinary Services shall ensure that the products concerned cannot be used for purposes other than those for which they were imported into the territory of Malta.

(2) Sub-regulation (1) shall not affect the rules applicable to fresh meat and meat products in accordance with article 1(2) of European Union Council Directive 72/462/EEC .

(3) The implementing rules and in particular the weight limits for the different products liable to be covered by the derogation referred to in sub-regulation (1), shall be determined in accordance with European Community rules and the procedure laid down in article 16 (2) of the Veterinary Services Act.

Rules on consignments which have been introduced into the territory of Malta without being presented for veterinary checks

16. (1) Consignments which have been introduced into the territory of Malta without being presented for veterinary checks in accordance with the requirements of regulations 3 and 4 of these regulations shall be seized and the Veterinary Services shall decide either to destroy them in accordance with sub-regulation (2)(b) or to re-dispatch them in accordance with sub-regulation (2)(a).

(2) Where the checks referred to in these regulations show the Veterinary Services that the product does not satisfy the import conditions, or where such checks reveal an irregularity, the Veterinary Services, in consultation with the person responsible for the load or his representative, shall decide -

(a) either to re-dispatch the product outside the territories of Member States from the same border inspection post to a destination agreed with the person responsible for the load, using the same means of transport, within a maximum time limit of 60 days, where this is not precluded by the results of the veterinary inspection and health requirements.

In this case, the official veterinarian of the border inspection post must -

(i) activate the information procedure provided for in regulation 4(2) of these regulations,

(ii) under arrangements to be defined in accordance with the procedure referred to in sub-regulation (6), invalidate the veterinary certificates or documents accompanying the rejected products so that it is not possible to reintroduce the rejected products via another border inspection post;

(b) or, if re-dispatch is impossible or the 60-day time limit referred to in (a) has elapsed or the person responsible for the load gives his immediate agreement, destroy the products in the facilities provided for that purpose nearest to the border inspection post in accordance with European Union Council Directive 90/667/EEC.

Pending re-dispatch of the products referred to in this point or confirmation of the reasons for rejection, the Veterinary Services shall store the products in question under the supervision of the Veterinary Services at the expense of the person responsible for the load.

(3) The provisions of regulations 20 and 21 shall apply where the checks referred to in sub-regulations (1) and (2) reveal that a serious infringement or repeated infringements of veterinary legislation has or have been committed.

(4) Sub-regulation (2) shall not apply where an authorisation has been given by the Veterinary Services in order to permit the use of products in accordance with European Union Council Directive 90/667/EEC, provided that there is no risk to public or animal health.

(5) The person responsible for the load or his representative shall be liable for the costs incurred in the process of re-dispatching or destroying the consignment or using the product for other purposes. Furthermore, where an irregularity has been found to be the result of serious negligence or a deliberate infringement, the State must impose the penalties provided for in Part IX of the Veterinary Services Act on the person responsible for the load.

(6) Detailed rules for the application of sub-regulation (1) to (3), particularly the standardisation of the assessment criteria for deciding on refusal, seizure or destruction, shall be adopted in accordance with European Community rules and the procedure laid down in article 16 (2) of the Veterinary Services Act.

List of plant products which may give rise to the risk of spreading infectious or contagious animal diseases

17. (1) In accordance with European Community rules and the procedure laid down in article 16 (2) of the Veterinary Services Act, the Maltese competent authorities shall draw up a list of plant products which, in particular on account of their subsequent destination, may give rise to the risk of spreading infectious or contagious animal diseases and on that account are to be subjected to the veterinary checks laid down by these regulations, and in particular those provided for in regulation 4, in order to verify the origin and planned destination of such plant products. The following shall be adopted in accordance with the same procedure -

(a) the animal health conditions which third countries must comply with and the guarantees which must be offered, in particular the nature of any processing to be required in the light of their animal health situation;

(b) a list of the third countries which, in the light of the guarantees, may be authorised to export to the territory of Malta the plant products referred to in the first paragraph;

(c) any specific inspection procedures, in particular with reference to sampling, which may be applied to these products, especially in the case of imports in bulk.

(2) Fresh fishery products immediately landed from a fishing vessel flying a third-country flag shall, and before they can be imported into the territory of Malta, undergo the veterinary checks laid down in respect of fish immediately landed by fishing vessels flying the flag of the territory of Malta or a Member State.

However, by way of derogation from regulation 3(2) the Veterinary Services may, as under European Community rules and according to the procedure provided for in article 16 (2) of the Veterinary Services Act, be authorised to carry out the checks laid down by these regulations in the case of frozen and deep-frozen tuna that has been landed directly without having been beheaded or gutted from a vessel belonging to joint enterprises registered in accordance with the relevant veterinary provisions, provided that -

(a) such checks are carried out by the Veterinary Services of the nearest border inspection post in the industry of destination approved for the processing of those products,

(b) the processing industry is located in the territory of Malta,

(c) the products are transferred under customs control, in accordance with the procedure laid down in the first indent of regulation 8(4), from the point of landing to the industry of destination.

(3) In accordance with European Community rules and the procedure laid down in article 16 (2) of the Veterinary Services Act, derogation may be granted from the provisions of regulation 6(1)(b) and, as regards the staff responsible for carrying out the checks and for issuing certificates, from those of regulation 4(1) and regulation 5(1) for border inspection posts where fish are presented in accordance with European Union Council Directive 91/493/EEC.

Products which have been checked must remain under the supervision of the Veterinary Services

18. (1) The products checked must remain under the supervision of the Veterinary Services until the results of the checks are obtained.

If the suspicions are confirmed, checks on products of the same origin must be intensified in accordance with regulation 16(3) of these regulations.

(2) Detailed rules for the application of this regulation shall be adopted in accordance with European Community rules and the procedure laid down in article 16 (2) of the Veterinary Services Act.

CHAPTER II
Safeguard provisions

Diseases referred to in Schedule II of the Veterinary Services Act

19. (1) If, in the territory of a third country, a disease referred to in Schedule II of the Veterinary Services Act, a zoonosis or other disease or any other phenomenon or circumstance liable to present a serious threat to animal or public health manifests itself or spreads, or if any other serious animal health or public health reason so warrants, in particular in the light of the findings of its veterinary experts or in the checks carried out in a border inspection post, the Commission shall, acting on its own initiative or at the request of a Member State, adopts one of the following measures without delay, depending on the gravity of the situation: -

(a) suspend imports from all or part of the third country concerned, and where appropriate from the third country of transit,

(b) set special conditions in respect of products coming from all or part of the third country concerned,

(c) draw up, on the basis of actual findings, requirements for appropriate checks, which may include specifically looking for risks to public or animal health and, depending on the result of those checks, increase the frequency of the physical checks.

(2) If any one of the checks provided for in these regulations indicates that a consignment of products is likely to constitute a danger to animal or human health, the Veterinary Services shall immediately take the following measures –

(a) it shall seize and destroy the consignment in question,

(b) it shall immediately inform the other border inspection posts of the territory of Malta and Member States and the Commission of the findings and of the origin of the products.

(3) In the case provided for in sub-regulation (1), the Commission may take provisional safeguard measures in respect of products covered by regulations 10, 11 and 12.

(4) When such safeguard measures have been taken in respect of a third country or an establishment in a third country under this paragraph, Veterinary Services shall inform the Member States and the European Commission on these measures.

(5) Decisions to amend, repeal or extend measures decided on under sub-regulations (1), (2), (3) and (4) shall be taken in accordance with the procedure laid down in the Veterinary Services Act and according to European Community rules.

CHAPTER III
Inspection and checks

Verification and checks by veterinary experts from the European Commission

20. (1) Veterinary experts from European Commission may, in conjunction with the Veterinary Services –

(a) verify that the implementation by the territory of Malta of the requirements laid down in these regulations are applied in the similar way than same requirements in the European Union;

(b) make on-the-spot checks to ensure that the checks are carried out in accordance with these regulations.

(2) Veterinary Services shall provide the veterinary experts from the Commission with any assistance they may require in the performance of their tasks.

Serious or repeated infringements of veterinary legislation

21. (1) Where the checks provided by these regulations give grounds for

believing that Community veterinary legislation has been seriously or repeatedly infringed the Veterinary Services shall take the following measures in respect of products involved in such use or in the origin of such products –

(a) it shall inform the European Commission of the nature of the products used and the consignment concerned;

(b) Veterinary Services 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 Schedule II.

Where such additional checks confirm non-compliance with Veterinary legislation, the offending consignment or part thereof must be disposed of in accordance with regulation 16(2)(a) and (b),

(c) the Veterinary Services shall inform the European Commission 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 (1)(b) above.

Non-compliance of regulations at border-inspection posts, customs warehouse, free zone or free warehouse by Member States on marketed products

22. (1) Where, on the basis of the checks carried out at the point where the products are marketed, Veterinary Services considers that these regulations is not being complied with at a border inspection post, or in a customs warehouse, free zone or free warehouse referred to in regulation 11, of a Member State, they shall contact the competent central authority of that Member State without delay.

Pending the possible Member States' findings, the Veterinary Services may, for its part, intensify checks on products coming from these sources.

(2) Rights of appeal available under the laws in force in the territory of Malta against decisions by the Veterinary Services shall not be affected by these regulations.

Decisions taken by the Veterinary Services 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, and also the procedure and time-limits applicable.

(3) Detailed rules for the application of this regulation shall be adopted in accordance with European Community rules and the procedure laid down in article 16 (2) of the Veterinary Services Act and if the Commission has signed agreements on reduced frequencies (equivalence agreements).

Inspections and checks which may be ordered or carried out by the European Commission

23. (1) 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 -

(a) send an inspection team to the Member State in question in conjunction with the competent national authorities;

(b) 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 European Commission must, in accordance with European Community rules, take the appropriate measures. Those measures must be confirmed or reviewed as soon as possible in accordance with the same procedure.

The latter shall take all the necessary measures and inform the competent authority of the Member State of the nature of the checks made, the decisions taken and the reasons for such decisions. If the competent authority of the Member State believes the measures are insufficient, it may examine, with the Veterinary Services, the possible ways and means of remedying the situation, where necessary by visiting the border inspection post, or the customs warehouse, free zone or free warehouse situated in the territory of Malta.

(2) Detailed rules for the application of this regulation shall be adopted in accordance with European Community rules and the procedure laid down in article 16 (2) of the Veterinary Services Act.

SCHEDULE I
Approved requirements for border inspection posts

In order to obtain approval, border inspection posts must have:

A. The staff necessary to check the documents (public health and animal health certificates or any other document laid down by veterinary legislation) accompanying the products,

B. Sufficient numbers, in relation to the quantity of products dealt with by the border inspection post, of veterinary and auxiliary staff specially trained to carry out checks that products correspond to the accompanying documents and systematic physical checks of each product consignment,

C. Sufficient staff to take and process random samples of product consignments presented at a given border inspection post,

D. Sufficiently large premises available to the staff responsible for carrying out veterinary checks,

E. Appropriate hygienic premises and facilities for carrying out routine analyses and taking samples in accordance with these regulations,

F. Appropriate hygienic premises and facilities for taking and processing the samples for the routine checks laid down in veterinary rules (microbiological standards),

G. The services of a specialised laboratory able to carry out special analyses on the samples taken at that post,

H. Premises and cold stores for the storage of part of the consignments taken for analysis and products whose release for free circulation has not been authorised by the veterinary officer responsible for the border inspection post,

I. Appropriate equipment for the rapid exchange of information, in particular with other border inspection posts (through the computerised system ANIMO),

J. The services of an establishment qualified to carry out the treatment provided for in European Union Council Directive 90/667/EEC.

SCHEDULE II
Physical check of the products

The aim of the physical check of the animal products is to ensure that the products still meet the purpose mentioned on the veterinary certificate or document:
the guarantees of origin certified by the third country must accordingly be verified while ensuring that the subsequent transport of the product has not altered the original guaranteed condition, by means of -

(a) sensory examinations -
smell, colour, consistency, taste;

(b) simple physical or chemical tests -
cutting, thawing, cooking;

(c) laboratory tests to detect -
residues, pathogens, contaminants, evidence of alteration.

Whatever the type of product, the following must be carried out -

(i) a check on the conditions and means of transport to identify in particular any shortcomings or breaks in the cold chain;

(ii) the real weight of the consignment and that indicated on the veterinary certificate or document must be compared, and the whole consignment weighed where necessary;

(iii) the wrapping materials and all markings (stamps, lavels) thereon must be checked to ensure their conformity with veterinary legislation;

(iv) the temperature required by veterinary legislation must be checked to ensure compliance during transport;

(v) entire set of packages, or samples in the case of bulk products must be examined before undergoing sensory examination and physical, chemical and laboratory tests. The tests must be carried out on a whole range of samples drawn from the entire consignment, which may be partially unloaded where necessary to ensure that all parts of it are reached. The examination must cover 1% of the items or packages in a consignment, from a minimum of two items/packages to a maximum of ten. However, depending on the products and the circumstances, the Veterinary Services may insist on more extensive checks. In the case of bulk goods, at least five samples must be taken from various parts of the consignment;

(vi) where random laboratory tests are undertaken which cannot provide immediate results, and there is no immediate danger to public or animal health, the consignment may be released. However, where the laboratory tests have been carried out because of a suspicion of irregularity or previous tests have given positive results, the consignments may not be released until the test results are negative;

(vii) the means of transport must be fully unloaded only in the following cases:

- loading was done in such a way as to make access to the entire consignment impossible by partial unloading alone,

- sample checks have revealed irregularities,

- the previous consignment has shown irregularities,

- the official veterinarian suspects irregularities;

(viii) once the physical check has been completed, the competent authority must certify the check by closing and officially stamping all the opened packages and by resealing all the containers, the number of the seal being then entered on the border transit document.

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