

COMMISSION DECISION

of 4 February 1998

laying down certain detailed rules concerning on-the-spot checks carried out in the veterinary field by Commission experts in third countries

(Text with EEA relevance)

(98/140/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 71/118/EEC of 15 February 1971 on health problems affecting the production and placing on the market of fresh poultrymeat ⁽¹⁾, as last amended by Directive 96/23/EC ⁽²⁾, and in particular Article 14 thereof, and to the corresponding provisions of the other Directives in the veterinary field concerning health rules and the health requirements applying to imports of various animal species or products of animal origin,

Whereas the Commission should adopt the general implementing rules establishing the conditions under which on-the-spot checks in the veterinary field in third countries should take place, in collaboration with the Member States;

Whereas some rules relating to on-the-spot checks by Commission experts should be common to all the legislation in this field; whereas, therefore, they should be laid down in a single Decision; whereas, however, Commission Decision 86/474/EEC of 11 September 1986 on the implementation of the on-the-spot inspections to be carried out in respect of the importation of bovine animals and swine and fresh meat ⁽³⁾ should continue to apply;

Whereas application of the plans that third countries must submit pursuant to Council Directive 92/117/EEC of 17 December 1992 concerning measures for protection against specified zoonoses and specified zoonotic agents in animals and products of animal origin in order to prevent outbreaks of food-borne infections and intoxications ⁽⁴⁾, as last amended by Directive 97/22/EC ⁽⁵⁾, should be verified during the on-the-spot checks;

Whereas, when approved establishments or those undergoing approval for the purpose of exporting fresh meat to the Community are being inspected, the slaughtering conditions should also be checked in accordance with Article 15 of Council Directive 93/119/EC of 22 December 1993 on the protection of animals at the time of slaughter or killings ⁽⁶⁾;

Whereas, in the interests of efficiency, deadlines should be established for the despatch by the Commission of the results of on-the-spot checks to the third countries in which the checks were undertaken;

Whereas, where this is necessary to ensure the uniform application of the Community legislation, the on-the-spot checks should be included in programmes established after discussion with the Member States and an exchange of views in the Standing Veterinary Committee;

Whereas that collaboration should continue during the on-the-spot checks carried out by Commission experts, accompanied by experts of the Member States appointed by the Commission; whereas the Member States' experts should be subject to certain obligations and be reimbursed their travel and subsistence expenses;

Whereas, following on-the-spot checks, it is necessary to ensure that Member States are informed of the results and for appropriate measures to be proposed in accordance with Community legislation;

Whereas, in the interests of transparency, the European Parliament, the consumer and the producer should be kept informed within the limits of the Treaty and in particular the need to respect the obligation of professional secrecy laid down in Article 214 of the Treaty, of the findings of, and recommendations for action following from, the on-the-spot checks;

Whereas, the World Trade Organisation Agreement on the Application of Sanitary and Phytosanitary Measures, and in particular Article 8 and Annex C, paragraph 1(d), requires that the confidentiality of information arising from the operation of control, inspection and approval procedures is respected in a way that legitimate commercial interests are protected;

Whereas, in the interests of clarity, Commission Decision 97/134/EC ⁽⁷⁾ should be repealed;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

⁽¹⁾ OJ L 55, 8. 3. 1971, p. 23.

⁽²⁾ OJ L 125, 23. 5. 1996, p. 10.

⁽³⁾ OJ L 279, 30. 9. 1986, p. 55.

⁽⁴⁾ OJ L 62, 15. 3. 1993, p. 38.

⁽⁵⁾ OJ L 113, 30. 4. 1997, p. 9.

⁽⁶⁾ OJ L 340, 31. 12. 1993, p. 21.

⁽⁷⁾ OJ L 51, 21. 2. 1997, p. 54.

HAS ADOPTED THIS DECISION:

Article 1

1. This Decision lays down certain rules relating to the on-the-spot checks carried out in the veterinary field in third countries by Commission experts accompanied by Member State experts.

For the purposes of this Decision, 'on-the-spot checks in the veterinary field' (hereinafter referred to as 'checks') means auditing and inspection measures necessary to ensure that, without prejudice to the control of the application of existing veterinary legislation, the public and animal health and animal protection guarantees offered by third countries as regards production conditions and placement on the market may be regarded as at least equivalent to those applied in the Community.

2. The checks shall permit, according to the legislation concerned, the establishment or amendment of, in particular:

- the list of third countries or parts of third countries from which the Member States shall authorise imports,
- the import conditions specific to each third country, including any health certificate that must accompany all consignments intended for the Community,
- the list of establishments from which the Member States shall authorise imports.

3. The provisions of this Decision shall apply without prejudice to the provisions of any agreements on sanitary measures applicable to trade in live animals and animal products reached between the European Community and third countries.

Article 2

1. The Commission shall establish a general programme of checks for the legislation and third countries concerned and submit it for an exchange of views in the Standing Veterinary Committee.

The general programme shall include information on the content and frequency of the measures to be taken by the Commission in the context of the checks.

2. The Commission may defer or bring forward certain checks or carry out additional checks when it regards that as necessary, in particular for health reasons or on the basis of the results of previous checks, after consulting the Member States in the Standing Veterinary Committee.

Article 3

1. The Commission's experts may be accompanied during the checks by one or more experts, listed in accordance with paragraph 2, from one or more Member States.

2. Each Member State shall propose to the Commission at least two experts with specific expertise in designated areas of competence, and shall communicate to it their names, their fields of expertise, their exact official addresses, fax and telephone numbers.

The Commission shall maintain a list of those experts and shall consult the competent authority of the Member State of the expert before issuing an invitation to the expert to accompany the Commission's experts during the checks referred to in paragraph 1.

Where a Member State considers that one of the experts proposed by it should no longer be included in the list, it shall so inform the Commission. If the number of experts would thereby fall below the minimum required, the Member State shall propose one or more replacements to the Commission.

Article 4

1. During the checks, the expert or experts from one or more Member States appointed by the Commission to accompany its experts shall comply with the Commission's administrative instructions.

Information gathered or conclusions made by the Member State expert or experts during the course of the checks may on no account be used for personal purposes or divulged to persons outside the competent departments of the Commission or the Member States.

2. The travel and subsistence expenses incurred by the Member State expert or experts appointed by the Commission shall be reimbursed in accordance with its rules governing travel and subsistence expenses incurred by persons not belonging to the Commission who are called on to act as experts.

Article 5

Once the checks are concluded, the Commission's experts shall inform the third country orally of their conclusions and, where necessary, of the corrective measures they deem necessary and their degree of urgency.

The Commission shall confirm the results of the checks within 20 working days in a written report, subject to the receipt of any additional information requested during the checks but not available at that time.

However, in the event of an emergency, or where a significant health risk has been identified during the on-the-spot check, the third country shall be informed of the findings of the mission in a written report as quickly as possible and in any case within ten working days of the end of the mission.

In providing information on the findings of missions, the Commission shall in particular comply with the requirements laid down in Article 214 of the Treaty.

These provisions are without prejudice to the powers of the Commission to take interim protection measures under the provisions of Community legislation in the veterinary sector.

Article 6

1. The Commission shall inform, by written reports, the Member States in the Standing Veterinary Committee of the findings of, and recommendations for action following from, the on-the-spot checks carried out in each third country.

The reports shall indicate, as appropriate, and if the legislation concerned so provides, whether it is necessary:

- to amend any of the lists referred to in the first indent of Article 1(2),
- to establish or amend the import conditions referred to in the second indent of Article 1(2),
or
- to establish or amend the lists of establishments referred to in the third indent of Article 1(2).

The Commission shall inform the European Parliament of those findings and recommendations.

The Commission shall also make those findings and recommendations publicly available on a regular basis.

2. In undertaking the actions provided for in this Article, the Commission and the Member States shall in particular comply with the requirements laid down in Article 214 of the Treaty.

Article 7

The provisions of this Decision shall be re-examined before 31 December 1998 on the basis of a report by the Commission to the Member States.

Article 8

Decision 97/134/EC is hereby repealed.

Article 9

This Decision is addressed to the Member States.

Done at Brussels, 4 February 1998.

For the Commission

Emma BONINO

Member of the Commission
