

COMMISSION DECISION
of 16 May 2003
concerning protection measures in relation to of avian influenza in Germany

(notified under document number C(2003) 1690)

(Only the German text is authentic)

(Text with EEA relevance)

(2003/358/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-community trade in certain live animals and products with a view to the completion of the internal market ⁽¹⁾, as last amended by Directive 2002/33/EC of the European Parliament and of the Council ⁽²⁾, and, in particular, Article 10(4) thereof,

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market ⁽³⁾, as last amended by Directive 92/118/EEC ⁽⁴⁾, in particular Article 9 thereof,

Having regard to Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption ⁽⁵⁾, and in particular Article 4(1) and (3) thereof,

Whereas:

- (1) On 9 May the veterinary authorities of Germany informed the Commission about a strong suspicion of highly pathogenic avian influenza in a poultry flock in the *Land* of North Rhine-Westphalia, which was confirmed on 13 May 2003.
- (2) Avian influenza is a highly contagious poultry disease that can pose a serious threat for the poultry industry.
- (3) The German authorities immediately, before the official confirmation of the disease, implemented the measures laid down in Council Directive 92/40/EEC ⁽⁶⁾ introducing Community measures for the control of avian influenza.

(4) Council Directive 92/40/EEC sets out the minimum control measures to be applied in the event of an outbreak of avian influenza. The Member State may take more stringent action in the field covered by this Directive if deemed necessary and proportionate to contain the disease, taking into account the particular epidemiological, animal husbandry, commercial and social conditions prevailing.

(5) The German authorities have in cooperation with the Commission, put in place a standstill in the *Land* of North Rhine-Westphalia for transport of live poultry and hatching eggs, which includes a prohibition of dispatch of live poultry and hatching eggs. However, in view of the specificity of poultry production, movements of hatching eggs, day-old chicks, ready-to-lay pullets and poultry for immediate slaughter may be authorised within the *Land* of North Rhine-Westphalia. Furthermore the dispatch to other parts of Germany, other Member States and third countries of fresh, unprocessed manure and litter of poultry should also be prohibited from the *Land* of North Rhine-Westphalia.

(6) For the sake of clarity and transparency, the Commission, after consultation with the German authorities, adopted Decision 2003/333/EC of 12 May 2003 concerning protection measures in relation to strong suspicion of avian influenza in Germany ⁽⁷⁾, thereby reinforcing the measures taken by the German authorities.

(7) Fresh poultry meat destined for intra-Community trade has to be marked with a health mark in accordance with the health mark set out in Chapter XII of Annex I to Directive 71/118/EEC ⁽⁸⁾, as last amended by Council Directive 97/79/EC ⁽⁹⁾. In order to allow the marketing on the German market of fresh poultry meat obtained from poultry originating from the established surveillance zones special provisions for its health marking shall be laid down.

(8) The German authorities should reinforce bio-security and hygiene measures including cleaning and disinfection procedures to prevent the further spread of the disease at all levels of poultry and egg production.

⁽¹⁾ OJ L 224, 18.8.1990, p. 29.

⁽²⁾ OJ L 315, 19.11.2002, p. 14.

⁽³⁾ OJ L 395, 30.12.1989, p. 13.

⁽⁴⁾ OJ L 62, 15.3.1993, p. 49.

⁽⁵⁾ OJ L 18, 23.1.2003, p. 11.

⁽⁶⁾ OJ L 167, 22.6.1992, p. 1.

⁽⁷⁾ OJ L 116, 13.5.2003, p. 28.

⁽⁸⁾ OJ L 55, 8.3.1971, p. 23.

⁽⁹⁾ OJ L 13, 16.1.1997, p. 18.

- (9) Council Decision 90/424/EEC on expenditure in the veterinary field ⁽¹⁾, as last amended by Decision 2001/572/EC ⁽²⁾, establishes in Article 3(4) that the Commission may lay down any measures which the Member State concerned must take in order to ensure the success of the action; it appears appropriate that taking into account the existing situation in Germany, all poultry within a surrounding zone of an outbreak of avian influenza should be preventively depopulated.
- (10) To better understand the epidemiology of the disease a serological survey shall be carried out in pigs that are kept on holdings where poultry have been found infected with avian influenza.
- (11) The German authorities should furthermore ensure that precautionary measures are taken for persons at risk.
- (12) The other Member States have already adjusted the measures they apply to trade, and they are sufficiently informed by the Commission, and in particular in the context of the Standing Committee on the Food Chain and Animal Health on the appropriate period for their implementation.
- (13) The situation shall be reviewed at the meeting of the Standing Committee on the Food Chain and Animal Health scheduled for 28 May 2003.
- (14) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

1. Without prejudice to the measures taken by Germany within the framework of Council Directive 92/40/EEC applied to the surveillance zones, the German veterinary authorities shall ensure that no live poultry, hatching eggs and fresh, unprocessed, and non-heat-treated poultry manure or litter, are dispatched from the area described in Annex to other parts of Germany, to other Member States and third countries.

2. Without prejudice to paragraph 1, animal health certificates accompanying consignments of live poultry and hatching eggs originating from Germany not listed in the Annex, shall include the words: 'The animal health conditions of this consignment are in accordance with Decision 2003/358/EC'.

3. Without prejudice to the measures taken by Germany within the framework of Council Directive 92/40/EEC within the surveillance zones, the German veterinary authorities shall ensure that no live poultry and hatching eggs are transported within the area described in the Annex.

4. By way of derogation from paragraph 3, the competent veterinary authority, taking all appropriate bio-security measures in accordance with Articles 4 and 5 to avoid the spread of avian influenza, may authorise the transport within the area described in the Annex from areas situated outside the surveillance zones of:

- (a) poultry for immediate slaughter, including spent laying hens, to a slaughterhouse that has been designated by the competent veterinary authority;
- (b) day-old chicks and ready-to-lay pullets, to a holding under official control where no other poultry is kept;
- (c) hatching eggs, to a hatchery under official control.

If live poultry transported in accordance with point (a) or (b) originate in a part of Germany outside of the Annex or in another Member State or third country, the transport has to be authorised by the German authorities and by the competent authority of the Member State or third country of dispatch.

5. By way of derogation from paragraph 3 the competent veterinary authority, taking all appropriate bio-security measures to avoid the spread of avian influenza, may authorise transport of live poultry and hatching eggs not prohibited by Council Directive 92/40/EEC, and in particular in respect to movements of day-old chicks in accordance with the provisions of its Article 9(4)(a), (b) and (c), which shall be transported under official control to holdings within the area described in the Annex.

6. (a) By way of derogation from paragraphs 1 and 4(a) and (b) the competent authorities of Germany may authorise the transport and dispatch from the area in Annex, part B, to other parts of Germany not listed in the Annex, of:

- poultry for immediate slaughter to a slaughterhouse that has been designated by the competent veterinary authorities,
- day-old chicks to a holding or shed under official control, where no other poultry is kept.

(b) The competent authorities shall ensure that the transport and dispatch according to paragraph (a):

- is carried out taking all appropriate bio-security measures in accordance with Articles 4 and 5 to avoid the spread of avian influenza,
- is authorised by the competent authorities of dispatch and of destination,
- is carried out on a prescribed route directly from the place of loading to the place of destination without any further loading or unloading of poultry and other material liable to spread the disease.

⁽¹⁾ OJ L 224, 18.8.1990, p. 19.

⁽²⁾ OJ L 203, 28.7.2001, p. 16.

- (c) The dispatched poultry and day-old chicks must undergo a clinical examination at the place of dispatch and at the place of destination according to the protocols issued by the competent authorities.

Article 2

Fresh poultry meat obtained from slaughter poultry transported by taking all appropriate bio-security measures in accordance with Articles 4 and 5 and originating from the established surveillance zones:

- (a) shall be marked with a round format mark in accordance with the further requirements of the competent authorities;
- (b) shall not be dispatched to other Member States or third countries;
- (c) must be obtained, cut, stored and transported separately from other fresh poultry meat destined for intra-Community trade and for exports to third countries, and must be used in such a way as to avoid it being introduced into meat products or meat preparations intended for intra-Community trade or for export to third countries, unless it has undergone the treatment specified in table 1(a), (b) or (c) of Annex III to Directive 2002/99/EC.

Article 3

Without prejudice to the measures already taken in the framework of Directive 92/40/EEC, the competent authorities of Germany shall ensure that the preventive depopulation of poultry holdings at risk within the restricted zones and the culling of other poultry and birds kept in these areas which are considered to be at risk is completed as soon as possible.

The precautionary measures referred to in the first subparagraph shall be taken without prejudice to Council Decision 90/424/EEC.

Article 4

In order to enhance bio-security in the poultry sector, the competent veterinary authority of Germany shall ensure that in the area described in Annex:

- (a) table eggs shall only be transported from a holding to a packing station either in disposable packaging or in containers, trays and other non-disposable equipment, which must be cleaned and disinfected before and after each use in accordance with point (d). In addition, in case of table eggs originating from an area outside of the Annex or another Member State, the competent veterinary authority shall ensure that the packaging, containers, trays and other non-disposable equipment used for their transport are directly returned after having been cleaned and disinfected in accordance with point (d) or shall be handled

otherwise under official supervision and according to the instructions of the competent authority to avoid cross contamination;

- (b) slaughter poultry intended for immediate slaughter shall be transported with trucks and in crates or cages which must be cleaned and disinfected before and after each use in accordance with point (d). In addition, in case of slaughter poultry originating from an area outside the Annex or another Member State, the competent veterinary authority shall ensure that the crates, cages and containers are directly returned after having been cleaned and disinfected in accordance with point (d) or shall be handled otherwise under official supervision and according to the instructions of the competent authority to avoid cross contamination;
- (c) day-old chicks are transported in disposable packing material to be destroyed after use;
- (d) the disinfectants and the method of cleaning and disinfection must be approved by the competent authority.

Article 5

The competent veterinary authority of Germany shall ensure that, in the area described in the Annex, stringent bio-security measures are taken at all levels of poultry and egg production in order to avoid risky contacts that may cause the spread of avian influenza between farms. These measures shall aim in particular at avoiding risky contacts of poultry, transport means, equipment and people entering or leaving poultry farms, egg packing stations, hatcheries, slaughterhouses, feed mills, litter processing and rendering plants. For this purpose all poultry farmers shall keep a register of all professional visits to their farms as well as their professional visits to other poultry holdings.

Article 6

1. The German authorities shall ensure that appropriate precautionary measures are adopted as regards the prevention of influenza infections in poultry workers and other persons at risk. These measures may include:

- (a) the use of protective clothing, gloves and glasses;
- (b) vaccination against human influenza;
- (c) prophylactic antiviral treatment.

2. The German authorities shall regularly inform the Commission in the framework of the Standing Committee of the Food Chain and Animal Health of the measures adopted.

Article 7

1. The German authorities shall carry out serological investigations in pigs kept on all holdings where poultry have been found infected with avian influenza.

2. In case of positive findings, the pigs may only be moved to other pig holdings or a slaughterhouse following authorisation by the competent veterinary authority if subsequent appropriate tests have revealed that the risk of spread of avian influenza viruses is negligible.

3. Movement to other pig holdings may take place only after all restrictions related to avian influenza in the holding of origin have been lifted.

4. The German authorities shall regularly inform the Commission in the framework of the Standing Committee of the Food Chain and Animal Health of the results of the survey.

Article 8

This Decision shall apply until 24.00 on 30 May 2003.

Article 9

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 16 May 2003.

For the Commission

David BYRNE

Member of the Commission

ANNEX

The *Land* of North Rhine-Westphalia in the German territory consisting of:
part A: area situated west of the Rhine,
part B: area situated east of the Rhine.
