

COMMISSION REGULATION (EC) No 1993/2004
of 19 November 2004
amending Regulation (EC) 999/2001 of the European Parliament and of the Council as regards
Portugal
(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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⁽¹⁾, and in particular Article 9(4) thereof,

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 completion of the internal market⁽²⁾, and in particular Article 10(4) thereof,

Having regard to Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies⁽³⁾, and in particular the first paragraph of Article 23 thereof,

Whereas:

(1) Commission Decision 2001/376/EC of 18 April 2001 concerning measures made necessary by the occurrence of bovine spongiform encephalopathy in Portugal and implementing a date-based export scheme⁽⁴⁾ prohibits the dispatch from Portugal of live bovine animals and certain products derived therefrom. That Decision replaced and repealed Commission Decision 98/653/EC⁽⁵⁾ which was adopted because of the high bovine spongiform encephalopathy (BSE) incidence rate and the lack of adequate management of that disease in Portugal at that time.

⁽¹⁾ OJ L 395, 30.12.1989, p. 13. Directive as last amended by Directive 2004/41/EC of the European Parliament and of the Council (OJ L 157, 30.4.2004, p. 33).

⁽²⁾ OJ L 224, 18.8.1990, p. 29. Directive as last amended by Directive 2002/33/EC of the European Parliament and of the Council (OJ L 315, 19.11.2002, p. 14).

⁽³⁾ OJ L 147, 31.5.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 1492/2004 (OJ L 274, 24.8.2004, p. 3).

⁽⁴⁾ OJ L 132, 15.5.2001, p. 17. Decision as last amended by Decision 2004/653/EC (OJ L 298, 23.9.2004, p. 25).

⁽⁵⁾ OJ L 311, 20.11.1998, p. 23.

(2) The Scientific Steering Committee (SSC) recognised three major issues for considering the risk of BSE. First, the risk of human exposure arising from the direct consumption of potentially infective material; secondly, the risk to man from ingesting or being exposed to processed, potentially infective material; and thirdly, the risk of propagating the infection by recycling the infective material through animal feed. The International Animal Health Organisation (OIE) has also proposed that the assessment of the risk to human and animal health in countries be based on a combination of the spread of BSE and the application of measures to control the risk.

(3) At its general session in May 2003, the OIE amended the Animal Health Code Chapter on BSE and altered the criteria defining the limit between moderate-risk and high-risk countries. The limit is now set at a BSE incidence rate calculated over the previous 12 months of 200 cases per million animals within the cattle population over 24 months of age, for countries carrying out active surveillance.

(4) In Portugal, 103 cases of BSE were notified between 1 September 2003 and 31 August 2004. Accordingly, that results in a BSE incidence rate calculated over the previous 12 months of 131,7. In addition, the results of the active monitoring and passive surveillance indicate that the BSE incidence rate is decreasing in that Member State.

(5) Therefore, the BSE incidence rate is below the upper limit for a moderate BSE risk country as set out in the OIE Animal Health Code. The favourable evolution of the BSE incidence rate indicates the effectiveness of the measures taken by Portugal.

(6) A ban on the feeding of mammalian protein to farmed animals and of mammalian fat to ruminants was introduced in Portugal on 4 December 1998. At the same time the keeping, storage and marketing of mammalian protein and certain fats was prohibited and the recall of existing stocks was organised.

(7) A mission carried out in Portugal by the Food and Veterinary Office (FVO) in June 1999 concluded that the recall of those existing stocks was completed and that the controls on the effectiveness of the feed ban were applied properly. The ban was considered to be effective from 1 July 1999.

- (8) A ban on the use of specified risk materials in human food or animal feed was introduced in Portugal on 4 December 1998. That ban was extended in accordance with Regulation (EC) No 999/2001.
- (9) A centralised national system for the identification and registration of bovine animals was introduced in Portugal as of 1 July 1999.
- (10) Regulation (EC) No 999/2001 provides for measures targeting all animal and public health risks resulting from all animal TSE, and governing the entire chain of production and placing on the market of live animals and products of animal origin. In particular, it lays down rules at Community level on the systematic monitoring of BSE, the removal of specified risk materials and on prohibitions concerning animal feeding.
- (11) Regulation (EC) No 999/2001 has been applied from 1 July 2001. Several FVO missions in Portugal have evaluated the implementation of the measures laid down in that Regulation which are aimed at the eradication, control and prevention of TSEs.
- (12) A mission by the FVO in February 2004 showed that Portugal had taken all the necessary actions and addressed satisfactorily all the recommendations as regards the implementation of the protection measures against BSE laid down in Regulation (EC) No 999/2001, and in particular those related to BSE surveillance, removal of specified risk materials and to the feed ban.
- (13) The three major issues for considering the risk of BSE: first, the risk of human exposure arising from the direct consumption of potentially infective material; secondly, the risk to man from ingesting or being exposed to processed, potentially infective material; and, thirdly, the risk of propagating the infection by recycling the infective material through animal feed, as recognised by the SSC; now appear to be adequately managed by Portugal.
- (14) Accordingly, it is appropriate to repeal Decision 2001/376/EC.
- (15) Under Regulation (EC) No 999/2001, the vertebral column of bovine animals over the age of 12 months is considered as specified risk material. Portugal benefits from a derogation allowing the use of vertebral column derived from bovine animals under the age of 30 months. In addition, that Regulation establishes for Portugal an extended list of specified risk material.
- (16) In the interests of harmonisation of trade, the age limit for the removal of the vertebral column of bovine animals and the list of specified risk materials applicable in the other Member States should also apply in Portugal. Regulation (EC) No 999/2001 should be amended accordingly.
- (17) In the interest of clarity and coherence of Community legislation, Commission Decision 2000/345/EC of 22 May 2000 setting the date on which dispatch from Portugal to Germany of certain products for the purpose of incineration may commence by virtue of Article 3(6) of Decision 98/653/EC⁽¹⁾, Commission Decision 2000/371/EC of 6 June 2000 setting the date on which dispatch of fighting bulls from Portugal to France may commence by virtue of Article 3(7) of Decision 98/653/EC⁽²⁾, and Commission Decision 2000/372/EC of 6 June 2000 setting the date on which dispatch of fighting bulls from Portugal to Spain may commence by virtue of Article 3(7) of Decision 98/653/EC⁽³⁾, should be repealed.
- (18) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

Annex XI to Regulation (EC) No 999/2001 is amended in accordance with the Annex to this Regulation.

Article 2

Decisions 2000/345/EC, 2000/371/EC, 2000/372/EC and 2001/376/EC are repealed.

Article 3

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

⁽¹⁾ OJ L 121, 23.5.2000, p. 9.

⁽²⁾ OJ L 134, 7.6.2000, p. 34.

⁽³⁾ OJ L 134, 7.6.2000, p. 35.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 19 November 2004.

For the Commission
David BYRNE
Member of the Commission

ANNEX

Annex XI is amended as follows:

1. In Annex XI, Part A, points 1 and 2 are replaced by the following:

1. (a) The following tissues are designated as specified risk material:

- (i) the skull excluding the mandible and including the brain and eyes, the vertebral column excluding the vertebrae of the tail, the spinous and transverse processes of the cervical, thoracic and lumbar vertebrae and the median sacral crest and wings of the sacrum, but including the dorsal root ganglia, and the spinal cord of bovine animals aged over 12 months, and the tonsils, the intestines from the duodenum to the rectum and the mesentery of bovine animals of all ages;
- (ii) the skull including the brain and eyes, the tonsils and the spinal cord of ovine and caprine animals aged over 12 months or which have a permanent incisor erupted through the gum, and the spleen and ileum of ovine and caprine animals of all ages.

The age specified in (i) for the removal of the bovine vertebral column may be adjusted by amending this Regulation in the light of the statistical probability of the occurrence of BSE in the relevant age groups of the Community's bovine population, based on the results of BSE monitoring as established by Chapter A.I of Annex III.

(b) In addition to the specified risk material listed in (a), the following tissues must be designated as specified risk material in the United Kingdom of Great Britain and Northern Ireland: the entire head excluding the tongue, including the brain, eyes and trigeminal ganglia; the thymus, the spleen and the spinal cord of bovine animals aged over six months.

2. By way of derogation from point 1(a)(i), a decision may be taken in accordance with the procedure referred to in Article 24(2) to allow the use of the vertebral column and dorsal root ganglia from bovine animals:

- (a) born, continuously reared and slaughtered in Member States for which a scientific evaluation established that the occurrence of BSE in native bovine animals is highly unlikely, or unlikely but not excluded; or
- (b) born after the date of effective enforcement of the prohibition on the feeding of mammalian protein to ruminants in Member States with reported BSE in native animals or for which a scientific evaluation established that the occurrence of BSE in native bovine animals is likely.

The United Kingdom and Sweden may benefit from this derogation on the basis of previously submitted and evaluated evidence. Other Member States may apply for this derogation by submitting conclusive supporting evidence to the Commission regarding point (a) or (b), as appropriate.

Member States benefiting from this derogation shall, in addition to the requirements laid down in Annex III, Chapter A, Section I, ensure that one of the approved rapid tests listed in Annex X, Chapter C, point 4, is applied to all bovine animals over 30 months of age which:

- (i) have died on the farm or in transport, but which have not been slaughtered for human consumption, with the exception of those dead animals in remote areas with a low animal density situated in Member States where the occurrence of BSE is unlikely;
- (ii) were subject to normal slaughter for human consumption.

This derogation shall not be granted to allow the use of vertebral column and dorsal root ganglia from bovine animals aged over 30 months from the United Kingdom.

Experts from the Commission may carry out on-the-spot checks to further verify the submitted evidence in accordance with Article 21.'

2. In Annex XI, Part D, point 1, the references to Decisions 2000/345/EC, 2000/371/EC, 2000/372/EC and 2001/376/EC are deleted.
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