

COMMISSION

COMMISSION DECISION

of 30 November 2005

amending Decisions 2005/759/EC and 2005/760/EC relating to measures to combat avian influenza in birds other than poultry

(notified under document number C(2005) 4663)

(Text with EEA relevance)

(2005/862/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⁾, and in particular Article 10(3) thereof,

Having regard to Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organisation of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC ⁽²⁾, and in particular Article 18(1) thereof,

Having regard to Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries ⁽³⁾, and in particular Article 22(1) thereof,

Having regard to Regulation (EC) No 998/2003 of the European Parliament and of the Council of 26 May 2003 on the animal health requirements applicable to the non-commercial movement of pet animals and amending Council Directive 92/65/EEC ⁽⁴⁾, and in particular Article 18 thereof,

Whereas:

(1) Avian influenza is an infectious viral disease in poultry and other birds, causing mortality and disturbances which can quickly take epizootic proportions liable to

present a serious threat to animal and public health and to reduce sharply the profitability of poultry farming. There is a risk that the disease agent might be introduced via international trade in live birds other than poultry, including birds accompanying their owners (pet birds).

(2) Commission Decision 2000/666/EC of 16 October 2000 laying down the animal health requirements and the veterinary certification for the import of birds, other than poultry and the conditions for quarantine ⁽⁵⁾ provides that Member States shall only authorise the import of birds from the third countries listed as members of the World Organisation for Animal Health (OIE).

(3) Highly pathogenic avian influenza was detected in imported birds in quarantine in a Member State, and the Commission adopted Decision 2005/759/EC of 27 October 2005 concerning certain protection measures in relation to highly pathogenic avian influenza in certain third countries and the movement from third countries of birds accompanying their owners ⁽⁶⁾, and Decision 2005/760/EC of 27 October 2005 concerning certain protection measures in relation to highly pathogenic avian influenza in certain third countries for the import of captive birds ⁽⁷⁾.

(4) New cases of avian influenza have been reported in certain member countries of the OIE. The suspension of movement of pet birds and of imports of other birds from certain areas at risk should therefore be extended.

⁽¹⁾ 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).

⁽²⁾ OJ L 268, 24.9.1991, p. 56. Directive as last amended by the 2003 Act of Accession.

⁽³⁾ OJ L 24, 30.1.1998, p. 9. Directive as last amended by the 2003 Act of Accession.

⁽⁴⁾ OJ L 146, 13.6.2003, p. 1. Regulation as last amended by Commission Regulation (EC) No 1193/2005 (OJ L 194, 26.7.2005, p. 4).

⁽⁵⁾ OJ L 278, 31.10.2000, p. 26. Decision as last amended by Decision 2002/279/EC (OJ L 99, 16.4.2002, p. 17).

⁽⁶⁾ OJ L 285, 28.10.2005, p. 52.

⁽⁷⁾ OJ L 285, 28.10.2005, p. 60.

- (5) Regulation (EC) No 998/2003 provides for different veterinary control regimes depending on the number and the country of origin of the animals. It is appropriate to use the list of third countries in Section 2 of Part B of Annex II to that Regulation in combination with the list of countries provided for in Article 1(4) of Commission Regulation (EC) No 745/2004 of 16 April 2004 laying down measures with regard to imports of products of animal origin for personal consumption⁽¹⁾ in order to provide for derogations in this Decision.
- (6) Pursuant to Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption⁽²⁾, the placing on the market of a range of animal by-products, such as gelatine for technical use, materials for pharmaceutical use and others, originating in areas of the Community under animal health restrictions is authorised, as such products are considered safe due to the specific conditions of production, processing and utilisation that effectively inactivate possible pathogens or prevent contact to susceptible animals. In accordance with point 7 of Part B of Section II in Chapter III of Annex VIII to that Regulation, the placing on the market of guano is not subject to any animal health conditions.
- (7) In accordance with Article 21 of Regulation (EC) No 1774/2002, safeguard measures in relation to products covered by Annexes VII and VIII to that Regulation are adopted in accordance with Article 10 of Directive 90/425/EEC.
- (8) Decisions 2005/759/EC and 2005/760/EC should therefore be amended accordingly.
- (9) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,
- (a) the birds come from an OIE member country falling within the competence of a Regional Commission listed in Part A of Annex I; or
- (b) the birds come from an OIE member country falling within the competence of a Regional Commission listed in Part B of Annex I on condition that the birds:
- (i) have undergone isolation for 30 days prior to export at the place of departure in a third country listed in Decision 79/542/EEC, or
- (ii) undergo quarantine for 30 days after import in the Member State of destination on premises approved in accordance with Article 3(4) of Decision 2000/666/EC, or
- (iii) have, within the last six months and not later than 60 days prior to dispatch from the third country, been vaccinated, and at least on one occasion re-vaccinated, against avian influenza using an H5 vaccine approved for the species concerned in accordance with the manufacturer's instructions; or
- (iv) have been in isolation for at least 10 days prior to export and have undergone a test to detect the H5N1 antigen or genome as laid down in Chapter 2.7.12 of the Manual of Diagnostic Tests and Vaccines for Terrestrial Animals carried out on a sample taken not earlier than the third day of isolation.

HAS ADOPTED THIS DECISION:

Article 1

Decision 2005/759/EC is amended as follows:

1. Article 1 is replaced by the following:

'Article 1

Movement from third countries

1. Member States shall authorise the movement from third countries of live pet birds solely where the consignment consists of not more than five birds and:

2. Compliance with the conditions in paragraph 1 shall be certified by an official veterinarian, in the case of the conditions provided for in paragraph 1(b)(ii) based on owners' declaration, in the third country of dispatch in accordance with the model certificate provided for in Annex II.

3. The veterinary certificate shall be complemented by

(a) a declaration of the owner or the representative of the owner in accordance with Annex III,

(b) a confirmation as follows:

'Pet birds in accordance with Article 1 of Decision 2005/759/EC.'

⁽¹⁾ OJ L 122 , 26.4.2004, p. 1.

⁽²⁾ OJ L 273, 10.10.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 416/2005 (OJ L 66, 12.3.2005, p. 10).

2. Article 3 is replaced by the following:

'Article 3

This Decision shall not apply to the movement onto Community territory of live pet birds accompanying their owners from Andorra, the Faeroe Islands, Greenland, Iceland, Liechtenstein, Monaco, Norway, San Marino, Switzerland and the Vatican City State.'

3. In Article 5, the date '30 November 2005' is replaced by '31 January 2006'.

4. Annex I is amended in accordance with the Annex to this Decision.

Article 2

Decision 2005/760/EC is amended as follows:

1. Article 2 is replaced by the following:

'Article 2

1. By way of derogation from Article 1(1)(a), Member States shall authorise imports of birds from bodies, institutes and centres and destined for bodies, institutes and centres approved by the competent authority of the Member State of destination in compliance with Directive 92/65/EEC.

2. By way of derogation from Article 1(1)(b), Member States shall authorise imports of:

(a) hatching eggs of the species referred to in Article 1(1)(a), provided that the eggs are destined for:

(i) the approved bodies, institutes and centres referred to in paragraph 1, or

(ii) dedicated hatcheries approved by the competent authority for that purpose, which are not at the same time engaged in hatching eggs for poultry and in which eggs are placed only after fumigation effectively to decontaminate the shells;

(b) specimens collected from any species of birds and which are safely packaged and sent directly to an approved laboratory in a Member State for laboratory diagnosis under the responsibility of the competent authorities of a dispatching country listed in the Annex;

(c) products derived from those species complying with the conditions provided for in Chapter II(C), Chapter III(C), Chapter IV(B), Chapter VI(C) and Chapter X(B) of Annex VII, and Chapter II(C), Chapter III(II)(B), Chapter VII(A)(1)(a), Chapter VII(B)(5) and Chapter X of Annex VIII to Regulation (EC) No 1774/2002;

(d) products derived from those species which, in accordance with Community legislation, are not subject to any animal health conditions or which are not subject to any ban or restriction for reason of animal health, including the products referred to in Chapter III(III) of Annex VIII to Regulation (EC) No 1774/2002, as far as regards mineralized bird guano coming from countries which have not declared the presence of highly pathogenic avian influenza caused by influenza A virus of subtype H5N1 during the last 12 months.'

2. In Article 6, the date '30 November 2005' is replaced by '31 January 2006'.

Article 3

Member States shall take the necessary measures to comply with this Decision and publish those measures. They shall immediately inform the Commission thereof.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 30 November 2005.

For the Commission
Markos KYPRIANOU
Member of the Commission

ANNEX

Annex I to Decision 2005/759/EC is replaced by the following:

‘ANNEX I

PART A

OIE member countries falling within the competence of the OIE Regional Commissions referred to in Article 1(1)(a):

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PART B

OIE member countries falling within the competence of the OIE Regional Commissions referred to in Article 1(1)(b) of:

- Africa,
 - Americas,
 - Asia, Far East and Oceania,
 - Europe, except countries mentioned in Article 3, and
 - Middle East.’
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