COMMISSION DECISION

of 27 March 2003

concerning protective measures in relation to avian influenza in the Netherlands

(notified under document number C(2003) 1102)

(Only the Dutch text is authentic)

(Text with EEA relevance)

(2003/214/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 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 [3], and in particular Article 4(1) and (3) thereof,

Whereas:

(1) Since 28 February 2003 the Netherlands have declared several outbreaks of highly pathogenic avian influenza.

(2) The infection with avian influenza subtype H7N7 has affected several poultry flocks in an area called 'Gelderse Vallei'.

(3) Avian influenza is a highly contagious poultry disease that can pose a serious threat for the poultry industry.

(4) In view of the high mortality and the rapid spread of the infection the Netherlands took immediate action as provided for by Council Directive 92/40/EEC [4] of 19 May 1992 introducing Community measures for the control of avian influenza, as amended by the Act of Accession of Austria, Finland and Sweden, before the disease was officially confirmed.

(5) 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.

(6) Furthermore, all movements of live poultry and hatching eggs within the Netherlands and their dispatch to other Member States was prohibited.

(7) The same prohibitions should apply to exports to third countries in order to protect their health status and to prevent the risk of re-entry of such consignments in another Member State.

(8) For the sake of clarity and transparency the Commission has taken Decision 2003/153/EC [5] of 3 March 2003 concerning protection measures in relation to strong suspicion of avian influenza in the Netherlands, as amended by Decision 2003/156/EC [6], after consultation with the Dutch authorities, thereby reinforcing the measures taken by the Netherlands and granting certain specific derogations for movements of slaughter poultry and day-old chicks within the Netherlands.

(9) By Commission Decisions 2003/156/EC, 2003/172/EC [7], 2003/186/EC [8] and 2003/191/EC [9] the measures provided for in Decision 2003/153/EC were prolonged in view of the evolution of the disease and amended as necessary.

(10) The currently available epidemiological information and the first results of the surveillance programme, carried out nation-wide in the Netherlands, suggest that the occurrence of the highly pathogenic avian influenza virus appears to be restricted in the 'Gelderse Vallei'.

(11) In the light of the evolution of the disease, it is appropriate to further prolong the measures adopted under Decision 2003/191/EC. However, a derogation should also be provided for the dispatch of day-old chicks from the Netherlands to other Member States under certain conditions, unless they are originating from hatcheries or holdings within the established surveillance zones. For this purpose, additional certification requirements should be provided for.

[1] OJ L 224, 18.8.1990, p. 29.
[2] OJ L 315, 19.11.2002, p. 14.
[3] OJ L 18, 23.1.2003, p. 11.
[4] OJ L 167, 22.6.1992, p. 1.
[5] OJ L 59, 4.3.2003, p. 32.
[6] OJ L 64, 7.3.2003, p. 36.
[7] OJ L 69, 13.3.2003, p. 27.
[8] OJ L 71, 15.3.2003, p. 30.
[9] OJ L 74, 20.3.2003, p. 30.

(12) Furthermore, movements of rearing turkeys within the Netherlands but outside the restricted zones, and movements of hatching eggs within the restricted zones, should be authorised under official control.

(13) Fresh poultrymeat destined for intra-Community trade has to be marked with a health mark in accordance with the health mark foreseen in Chapter XII of Annex I of Directive 71/118/EEC [1], as last amended by Council Directive 97/79/EC [2]. In order to allow the marketing on the Dutch market of fresh poultrymeat obtained from poultry originating from the established surveillance zones special provisions for its health marking shall be laid down.

(14) Having evaluated the situation in close cooperation with the Dutch authorities in order to protect the Community poultry population and to avoid the spread of the infection outside the protection zone it is appropriate to preventively empty the poultry holdings situated in two areas particularly at risk.

(15) 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.

(16) 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 the Netherlands within the framework of Council Directive 92/40/EEC applied to the surveillance zones, the Dutch veterinary authorities shall ensure that no live poultry and hatching eggs are dispatched from the Netherlands to other Member States and to third countries.

2. By derogation from paragraph 1 the Netherlands may dispatch day old chicks, which have been hatched in a hatchery situated outside the surveillance zones and at least 25 km away from any suspected or infected hatchery or holding. The hatching eggs must originate from a holding which at the day of collection of the eggs and on the day of the hatch is situated outside the established surveillance zones and at least 25 km away from any suspected or infected hatchery or holding. The flocks from which the day-old chicks derive of must have been subjected to a serological survey with negative results. The hatching eggs must be hatched in incubators or hatchers separately from hatching eggs not complying with this paragraph.

The animal health certificates accompanying consignments of day-old chicks from the Netherlands as specified above to other Member States shall include the words:

'The animal heath conditions of this consignment are in accordance with Decision 2003/214/EC.'

The competent authority shall only allow the dispatch of day-old chicks as provided for under this paragraph following 48 hours advance notification to the central and local veterinary authorities of destination and shall dispatch the notification.

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

4. 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 the transport 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;

(c) hatching eggs to a hatchery under official control;

(d) turkeys from a rearing facility to a fattening holding under official control;

(e) day-old chicks for dispatch to other Member States and third countries in accordance with paragraph 2.

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 Article 9(4)(a), (b) and (c), which shall be transported to holdings within the Netherlands under official control.

Article 2

Fresh poultrymeat obtained from slaughter poultry 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 poultrymeat 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.

[1] OJ L 55, 8.3.1971, p. 23.
[2] OJ L 13, 16.1.1997, p. 18.

Article 3

Without prejudice to the measures already taken in the framework of Directive 92/40/EEC, the Netherlands shall as soon as possible preventively empty the poultry holdings situated in the zones described in the Annex.

The precautionary measures referred to in the first subparagraph shall be taken without prejudice to Council Decision 90/424/EEC [1] on expenditure in the veterinary field as last amended by Decision 2001/572/EC [2].

Article 4

This Decision shall apply from 28 March 2003 until 24.00 on 10 April 2003.

Article 5

The Netherlands shall amend the measures which they apply to trade so as to bring them into compliance with this Decision and they shall give immediate appropriate publicity to the measures adopted. They shall immediately inform the Commission thereof.

Article 6

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 27 March 2003.

For the Commission

David BYRNE

Member of the Commission

[1] OJ L 224, 18.8.1990, p. 19.
[2] OJ L 203, 28.7.2001, p. 16.

ANNEX

Area A:

Buffergebied pluimvee Putten de Gelderse Vallei 24-03-2003

(a) Vanaf Strand Horst de Palmbosweg volgend in zuidelijke richting tot aan de Buitenbrinkweg.

(b) Buitenbrinkweg volgend in zuidoostelijke richting tot aan de Schaapsdijk.

(c) Schaapsdijk volgend in zuidoostelijke richting tot aan de Zeeweg.

(d) Zeeweg volgend in oostelijke richting tot aan Telgterweg.

(e) Telgterweg volgend in zuidelijke richting overgaand in Telgterengweg tot aan Bulderweg.

(f) Bulderweg volgend in oostelijke richting tot aan Volenbeekweg.

(g) Volenbeekweg volgend in zuidelijke richting tot aan de Oude Telgterweg.

(h) Oude Telgterweg volgend in westelijke richting tot aan de Watervalweg.

(i) Watervalweg volgend in zuidelijke richting tot aan de kruising van de Watervalweg/Telgterweg (Ermelo).

(j) Vanaf de kruising van de Watervalweg/Telgterweg (Ermelo), de Telgterweg volgend in zuidelijke richting tot aan de Oude Rijksweg N798 (Putten).

(k) Oude Rijksweg N798 (Putten) volgend in zuidwestelijke richting tot aan de Stationsstraat.

(l) Stationsstraat volgend in westelijke richting overgaand in Zuiderzeestraatweg tot aan de Waterweg.

(m) Waterweg volgend in zuidwestelijke richting tot aan Hoornsdam.

(n) Hoornsdam volgend in westelijke richting tot aan het Nuldernauw.

(o) Nuldernauw volgend in noordoostelijke richting tot Strand Horst.

Area B:

Buffergebied pluimvee Wageningen in de Gelderse Vallei 24-03-2003

(a) Vanaf de kruising Werftweg/Veensteeg (De Kraats) de Veensteeg volgend zuidoostelijke richting tot aan Heuvelweg.

(b) Heuvelweg volgend in noordoostelijke richting tot aan Slagsteeg.

(c) Slagsteeg volgend in zuidelijke richting tot aan de Weerdjesweg.

(d) Weerdjesweg volgend in oostelijke richting tot aan Harsloweg.

(e) Harsloweg volgend in zuidelijk richting tot aan Lange Rijnsteeg.

(f) Lange Rijnsteeg volgend in oostelijke richting overgaand in Dijkgraaf overgaand in Lange Steeg tot aan Doctor Willem Dreeslaan (N781).

(g) Doctor Willem Dreeslaan (N781) volgend in zuidoostelijke richting overgaand in Mansholtlaan overgaand in de Diedenweg overgaand in Westerbergweg overgaand in Onderlangs overgaand in Veerdam tot aan de rivier de Rijn.

(h) De rivier de Rijn stroomafwaarts volgend tot aan de Rijnbrug N233 (Rhenen).

(i) De Rijnbrug (N233) volgend in noordelijke richting overgaand in Lijnweg (N233) overgaand in Cuneraweg (N233) tot aan Zuidelijke Meentsteeg.

(j) Zuidelijke Meentsteeg volgend in noordoostelijke richting overgaand in Werftweg.

(k) Werftweg volgend in oostelijke richting tot de kruising Werftweg/Veensteeg (De Kraats).