COMMISSION DECISION

of 12 May 2003

concerning protection measures in relation to a strong suspicion of avian influenza in Germany

(notified under document number C(2003) 1591)

(Text with EEA relevance)

(2003/333/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,

Whereas:

(1) On 9 May 2003 the veterinary authorities of Germany have informed the Commission about a strong suspicion of avian influenza in a poultry flock in the *Land* of North Rhine-Westphalia.

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

(3) The German authorities have immediately, before the official confirmation of the disease, implemented the measures foreseen in Council Directive 92/40/EEC of 19 May 1992 introducing Community measures for the control of avian influenza [5], while further confirmatory diagnostic procedures are carried out.

(4) 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 of fresh, unprocessed manure and litter of poultry should also be prohibited from the *Land* of North Rhine-Westphalia.

(6) Fresh poultry meat 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 to Council Directive 71/118/EEC [6], as last amended by Directive 97/79/EC [7]. 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 in accordance to Article 4(1) and (3) of 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 [8].

(7) 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.

(8) 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.

(9) The German authorities should furthermore ensure that precautionary measures are taken for persons at risk.

(10) In order to avoid the spread of the infection and after evaluation of the epidemiological situation the preventive culling of poultry at risk may be appropriate and decided by the German authorities.

(11) These measures should be urgently adopted by the Commission for the sake of clarity and transparency, in collaboration with the German authorities.

(12) The situation shall be reviewed at the meeting of the Standing Committee on the Food Chain and Animal Health scheduled for 15 May 2003,

[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 167, 22.6.1992, p. 1.
[6] OJ L 55, 8.3.1971, p. 23.
[7] OJ L 24, 30.1.1998, p. 31.
[8] OJ L 18, 23.1.2003, p. 11.

HAS ADOPTED THIS DECISION:

Article 1

1. Without prejudice to the measures taken by Germany within the framework of 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 the Annex to other parts of Germany, to other Member States and third countries.

2. Without prejudice to the measures taken by Germany within the framework of 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.

3. By way of derogation from paragraph 2 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 (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.

4. By way of derogation from paragraph 2 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 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.

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, Germany shall ensure that the preventive emptying and culling of poultry in holdings and areas at risk is completed as soon as possible.

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

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 the 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 (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 returned;

(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 (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 returned;

(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, feedmills, 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.

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

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 hours on 16 May 2003.

Article 9

Member States 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 10

This Decision is addressed to the Member States.

Done at Brussels, 12 May 2003.

For the Commission

David BYRNE

Member of the Commission

ANNEX

In Germany the *Land* of North Rhine-Westphalia.