COMMISSION DECISION

of 16 May 2003

amending for the second time Decision 2003/289/EC concerning protection measures in relation to avian influenza in Belgium

(notified under document number C(2003) 1688)

(Only the French and Dutch texts are authentic)

(Text with EEA relevance)

(2003/356/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 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 16 April 2003 the veterinary authorities of Belgium have informed the Commission about a strong suspicion of avian influenza in the province of Limburg, which was subsequently officially confirmed.

(2) The Belgian authorities have immediately, before the official confirmation of the disease, implemented the measures foreseen in Council Directive 92/40/EEC [6] introducing Community measures for the control of avian influenza.

(3) For the sake of clarity and transparency the Commission after consultation with the Belgian authorities, has taken Decision 2003/275/EC [7] of 16 April 2003 concerning protection measures in relation to strong suspicion of avian influenza in Belgium, which has been subsequently replaced by Decision 2003/289/EC [8], as amended by Decision 2003/317/EC [9], thereby reinforcing the measures taken by Belgium.

(4) Since 27 April no further cases of avian influenza have been recorded and no suspicions have been raised in Belgium, so that it can be concluded that the disease has been successfully controlled. The poultry holdings in the established buffer zones have been depopulated and restocking will start following a waiting period after cleaning and disinfection has been carried out.

(5) Following a further waiting period until 26 May 2003, provided that no new outbreaks have been reported it would seem appropriate to limit the trade restrictions in force to the previously disease affected areas and an appropriate buffer zone around this area and to allow trade in live poultry and poultry products from the rest of the Belgian territory, which could then be considered as free of avian influenza.

(6) The animal health certificates to be possibly used as from 27 May 2003 for consignments of live poultry and hatching eggs originating from the regionalised area in Belgium and destined for another Member State or third country should be amended accordingly.

(7) The measures laid down in Decision 2003/289/EC should be further prolonged and adapted in the light of the evolution of the disease.

(8) 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

Decision 2003/289/EC is amended as follows:

1. In Article 3 the first paragraph shall be replaced by the following text:

'Without prejudice to the measures already taken in the framework of Directive 92/40/EEC, the competent authorities of Belgium shall ensure that the preventive depopulation of poultry holdings at risk within the restricted zones and the zones described in the Annex 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.'

[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 99, 17.4.2003, p. 57.
[8] OJ L 105, 26.4.2003, p. 24.
[9] OJ L 115, 9.5.2003, p. 82.

2. A new Article 7a is added as follow:

'*Article 7a*

1. However as of midnight 26 May 2003, if

(a) no further outbreaks of avian influenza are reported in Belgium before 17.00 on 26 May 2003, and

(b) all the clinical examinations and laboratory tests carried out in Belgium in relation to holdings infected, suspected or suspected to be contaminated with avian influenza have given negative results,

Article 1 shall be replaced by the following:

"*Article 1*

1. Without prejudice to the measures taken by Belgium within the framework of Council Directive 92/40/EEC applied to the surveillance zones, the Belgian 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 provinces of Antwerp and Limburg, to other parts of Belgium, other Member States and to third countries.

2. Without prejudice to the measures taken by Belgium within the framework of Council Directive 92/40/EEC within the surveillance zones the Belgian veterinary authorities shall ensure that no live poultry and hatching eggs are transported within provinces of Antwerp and Limburg.

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 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 or shed 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 another Member State or third country the transport has to be approved by the Belgian authorities and 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 Council Directive 92/40/EEC and in particular in respect to movements of day-old chicks in accordance with the provisions of Article 9 paragraph 4 (a), (b) and (c), which shall be transported to holdings within provinces of Antwerp and Limburg under official control."

2. For the purpose of paragraph 1, Belgium shall inform the Commission and the Member States on 26 May 2003 on the compliance with the conditions set up in paragraph 1.

3. Without prejudice to Article 1 paragraph 1 animal health certificates accompanying consignments of live poultry and hatching eggs originating and/or coming from the territory of Belgium with the exception of the provinces of Antwerp and Limburg to be signed as of 27 May 2003, provided the conditions laid down in paragraph 2 are fulfilled, shall include the words: "The animal health conditions of this consignment are in accordance with Decision 2003/356/EC".'

3. In Article 4 paragraph (a) and (b) the following words shall be inserted after the word 'returned':

'after having been cleaned and disinfected in accordance with d) or shall be handled otherwise under official supervision and according to the instructions of the competent authority to avoid cross contamination;'.

4. In Article 8 the time and date 'until 24.00 on 16 May 2003' are replaced by 'until 24.00 on 30 May 2003'.

Article 2

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 16 May 2003.

For the Commission

David BYRNE

Member of the Commission