COMMISSION DECISION

of 16 May 2003

laying down requirements for the prevention of avian influenza in susceptible birds in certain Member States

(notified under document number C(2003) 1691)

(Text with EEA relevance)

(2003/359/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,

Whereas:

(1) Council Directive 92/40/EEC of 19 May 1992 introducing Community measures for the control of avian influenza [3], as amended by the Act of Accession of Austria, Finland and Sweden, sets out the minimum control measures to be applied in the event of an outbreak of avian influenza in poultry, without prejudice to Community provisions governing intra-Community trade.

(2) Council Directive 92/65/EEC of 13 July 1992 laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A(I) to Directive 90/425/EEC [4], as last amended by Commission Regulation (EC) No 1282/2002 [5], and in particular Article 3 thereof, provides that trade in and imports of the animals, semen, ova and embryos concerned must not be prohibited or restricted for animal health reasons, other than those arising from the application of Community legislation, and in particular any safeguard measures taken.

(3) Council Directive 1999/22/EC of 29 March 1999 relating to the keeping of wild animals in zoos [6], and in particular Article 2 thereof, sets out the definition of a zoo.

(4) Since 28 February 2003, the Netherlands has declared several outbreaks of avian influenza. Several outbreaks have also been declared since 16 April 2003 by Belgium. On 9 May 2003, the veterinary authorities of Germany informed the Commission about a strong suspicion, which was confirmed on 13 May 2003, of avian influenza in a poultry flock in the *Land* of North Rhine-Westphalen.

(5) 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 competent authorities of the Member States concerned.

(6) The Member States concerned took immediate action as provided for by Council Directive 92/40/EEC before the disease was officially confirmed.

(7) For the sake of clarity and transparency, the Commission, after consultation with the authorities of the concerned Member States, has taken several Decisions reinforcing the measures taken by the Member States.

(8) On basis of Decision 2003/214/EC of 27 March 2003 concerning protective measures in relation to avian influenza in the Netherlands [7], of Decision 2003/275/EC of 16 April 2003 concerning protection measures in relation to a strong suspicion of avian influenza in Belgium [8], and of Decision 2003/333/EC of 12 May 2003 concerning protection measures in relation to a strong suspicion of avian influenza in Germany [9], respectively, the Dutch, the Belgian and German authorities have started preventive emptying and culling of poultry in holdings and areas at risk, in order to avoid further spreading of the virus.

(9) Directive 92/40/EEC does not apply where avian influenza is detected in other birds. However, in this case, the Member State concerned must inform the Commission of any measure it takes.

(10) In order to protect rare poultry breeds and birds threatened with extinction, and to conserve bio-diversity, the Member States concerned may decide to carry out an emergency vaccination against avian influenza of these susceptible birds.

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[1] OJ L 224, 18.8.1990, p. 29.
[2] OJ L 315, 19.11.2002, p. 14.
[3] OJ L 167, 22.6.1992, p. 1.
[4] OJ L 268, 14.9.1992, p. 52.
[5] OJ L 187, 16.7.2002, p. 3.
[6] OJ L 94, 9.4.1999, p. 24.
[7] OJ L 81, 28.3.2003, p. 48.
[8] OJ L 99, 17.4.2003, p. 57.
[9] OJ L 116, 13.5.2003, p. 28.

(11) To this end and in the light of the evolution of the avian influenza situation in the Netherlands and Belgium, Commission Decision 2003/291/EC of 25 April 2003 laying down the requirements for the prevention of avian influenza in susceptible birds kept in zoos in Belgium and the Netherlands [1], was adopted, establishing the measures applicable in case the Member States concerned decide to carry out an emergency vaccination against avian influenza of susceptible birds.

(12) The emergency vaccination, even though limited to special categories of animals not primarily concerned by trade, may contribute to jeopardising the avian influenza status in terms of international trade, not only for the Member State nor for the part of its territory where vaccination is carried out.

(13) Therefore special requirements should be laid down regarding trade of the vaccinated birds, and it is appropriate to provide that essential information concerning the emergency vaccination should be specified in a programme to be submitted by the Member States concerned to the Commission and the other Member States.

(14) The requirements in this Decision should apply to zoos as defined in Directive 1999/22/EC and also to other bodies, which may keep rare susceptible birds.

(15) For the sake of clarity, it is appropriate to repeal Decision 2003/291/EC and to replace it by this Decision.

(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

For the purpose of this Decision the following definitions shall apply:

— 'zoo': an establishment as referred to in Article 2 of Council Directive 1999/22/EC,

— 'approved body, institute or centre': as referred to in Article 2(1)(c) of Council Directive 92/65/EEC,

— 'susceptible bird': any bird species likely susceptible to avian influenza, kept in a zoo or an approved body, institute or centre.

Article 2

The competent veterinary authorities of the Member States listed in Annex I, shall ensure that stringent bio-security measures are taken in zoos and approved bodies, institutes or centres, where susceptible birds are kept, in order to avoid risky contacts that may cause the introduction and spread of avian influenza. These measures shall aim in particular at avoiding risky contacts with the public and with poultry holdings.

Article 3

The competent veterinary authority of the Member States, listed in Annex I, may decide to apply emergency vaccination in zoos or approved bodies, institutes or centres against avian influenza to susceptible birds, that are considered to be at risk from the disease, on their territory in the areas set out in Annex II, and in accordance with the requirements set out in the Annex III to this Decision.

Article 4

The Member States concerned shall present officially in the Standing Committee on the Food Chain and Animal Health, a programme on the emergency vaccination against avian influenza, as referred to in Article 3, to the other Member States and the Commission. The programme shall at least comprise detailed information on:

— the exact address and location of the zoos and approved bodies, institutes or centres where the vaccination is to be carried out,

— the specific identification and number of susceptible birds,

— the individual identification of the birds to be vaccinated,

— the type of vaccine to be used, the vaccination scheme and the timing of the vaccination,

— the motivation of the decision to implement the measures,

— the timetable of the vaccinations to be carried out.

Article 5

Member States listed in Annex I shall implement national measures in compliance with this Decision and shall inform immediately the Commission thereof.

Article 6

Decision 2003/291/EC is repealed. References made to the repealed Decision shall be construed as being made to this Decision.

Article 7

This Decision is addressed to the Member States.

Done at Brussels, 16 May 2003.

For the Commission

David BYRNE

Member of the Commission

[1] OJ L 105, 26.4.2003, p. 34.

ANNEX I

— Belgium

— Germany

— the Netherlands

ANNEX II

— The whole territory of Belgium

— In Germany, the territory in the *Land* of North Rhine-Westphalen, delimited in the east by the Rhine and in the west by the borders with the Netherlands, Belgium and the *Land* of Rhineland-Palatinate

— The whole territory of the Netherlands

ANNEX III

REQUIREMENTS FOR THE USE OF EMERGENCY VACCINATION IN THE CONTROL AND ERADICATION OF AVIAN INFLUENZA

1. Extent of the vaccination to be carried out	The vaccination shall only take place on susceptible birds in a zoo or an approved body institute or centre.
2. Species of the animals to be vaccinated	A list of all the birds to be vaccinated together with the individual identification shall be laid down and kept for at least 10 years.
3. Duration of the vaccination	All birds to be vaccinated shall be vaccinated as quickly as possible. In any case each vaccination shall be completed within 96 hours.
4. Specific standstill of vaccinated animals and products of vaccinated animals	Vaccinated animals shall not be traded or moved unless under official supervision between zoos or approved bodies, institutes or centres in the same Member State, or after specific authorisation, of another Member State. Animal products from such animals shall not enter the food chain.
5. Special identification and special registration of the vaccinated animals	Vaccinated animals must be individually identifiable and the identity records of these animals must be clearly annotated accordingly. An indelible identification indicating the animals that have been vaccinated shall be applied at the time of vaccination wherever possible.
6. Other matters appropriate to the emergency vaccination	
6.1. Execution of the vaccination programme	Vaccination shall be carried out under the supervision of an official veterinarian of the competent authorities. Necessary measures must be in place to avoid possible spread of the virus. Any residual quantities of vaccine shall be returned to the point of vaccine distribution with a written record on the number of animals vaccinated and the number of doses used. Wherever possible blood samples shall be taken prior to and at least 30 days after vaccination for serological testing for avian influenza. A record of the test results must be kept for at least 10 years.
6.2. Vaccine to be used	The inactivated vaccine to be used shall be suitably formulated and be effective against the type of virus circulating. It shall be used in accordance with the instructions of the manufacturer and/or the veterinary authorities.
6.3. Information on implementation of this programme to the Commission	A detailed report on the execution of the programme including results of testing carried out shall be provided to the Commission and the Member States in the framework of the Standing Committee on the Food Chain and Animal Health.