COMMISSION DECISION

of 17 June 2003

amending for the fourth time Decision 2003/290/EC concerning protective measures in relation to avian influenza in the Netherlands

(notified under document number C(2003) 1935)

(Only the Dutch text is authentic)

(Text with EEA relevance)

(2003/443/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) Since 28 February 2003 the Netherlands have declared several outbreaks of highly pathogenic avian influenza.

(2) The Netherlands took immediate action as provided for by Council Directive 92/40/EEC [6] 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.

(3) For the sake of clarity and transparency the Commission after consultation with the Dutch authorities, has taken Decision 2003/153/EC [7] of 3 March 2003 concerning protection measures in relation to strong suspicion of avian influenza in the Netherlands, thereby reinforcing the measures taken by the Netherlands.

(4) Subsequently Decisions 2003/156/EC [8], 2003/172/EC [9], 2003/186/EC [10], 2003/191/EC [11], 2003/214/EC [12], 2003/258/EC [13], 2003/290/EC [14], 2003/318/EC [15], 2003/357/EC [16] and 2003/387/EC [17] were adopted after consultation with the Dutch authorities and evaluation of the situation with all Member States.

(5) The last infected commercial flock has been emptied on 29 April and since 7 May no further cases of avian influenza have been recorded nor suspicions have been raised in the Netherlands, so that can be concluded that the disease is being successfully controlled. It would be appropriate, provided that it is established that no new outbreaks occur, as of 18 June 2003 to limit the geographical scope for the trade and movements restrictions currently in force to the provinces previously affected by the disease and thus to allow trade in live poultry and poultry products from the other provinces of the Dutch territory, which should then be considered as free of avian influenza.

(6) Furthermore, if no new outbreaks occur, and in light of a positive disease evolution, restriction measures should be relaxed as of the 18 of June 2003 to allow the movement of certain categories of live poultry and hatching eggs, from areas within the affected provinces that fall outside established surveillance and buffer zones to non-restricted provinces in the Netherlands. However such movements should only occur under the condition that poultry and hatching eggs originating from such provinces should not be traded within the Community, but should be confined to Dutch territory.

(7) In the light of the positive disease evolution while bearing in mind the need for continued precaution, the measures laid down in Decision 2003/290/EC should be further prolonged until 11 July 2003 in the provinces where disease has occurred.

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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 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 59, 4.3.2003, p. 32.
[8] OJ L 64, 7.3.2003, p. 36.
[9] OJ L 69, 13.3.2003, p. 27.
[10] OJ L 71, 15.3.2003, p. 30.
[11] OJ L 74, 20.3.2003, p. 30.
[12] OJ L 81, 28.3.2003, p. 48.
[13] OJ L 95, 11.4.2003, p. 65.
[14] OJ L 105, 26.4.2003, p. 28.
[15] OJ L 115, 9.5.2003, p. 86.
[16] OJ L 123, 17.5.2003, p. 53.
[17] OJ L 133, 29.5.2003, p. 91.

(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 2003/290/EC shall be amended as follows:

1. a new Article 7a is added as follows:

'*Article 7a*

1. However as of 00.00 on 18 June 2003, if the Netherlands have informed the Commission and the Member States on 17 June 2003 that:

(a) no further outbreaks of avian influenza are reported in the Netherlands before 17.00 on 17 June 2003; and

(b) all laboratory tests carried out in the Netherlands in relation to infected holdings and establishments are concluded, and all the clinical examinations and laboratory tests on suspected holdings and establishments or holdings and establishments, 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 the Netherlands within the framework of Council Directive 92/40/EEC applied within surveillance zones and within the buffer zones described in Annex III, the Dutch veterinary authorities shall ensure that:

(a) no live poultry, hatching eggs and fresh, unprocessed and non-heat-treated poultry manure or litter are dispatched from the provinces listed in Annex I, to other parts of the Netherlands, other Member States, and third countries;

(b) no live poultry and hatching eggs are transported within the provinces listed in Annex I.

2. By way of derogation from paragraph 1, the competent authority may authorise the transport within the provinces listed in Annex I, but outside the surveillance and buffer zones, and the dispatch to other provinces of the Netherlands, of:

(a) poultry for immediate slaughter, including spent laying hens, to a slaughterhouse that has been designated in advance by the competent authority;

(b) day-old chicks, ready-to-lay pullets and rearing poultry, to a holding or shed where no other poultry is kept, and where they shall remain under official control;

(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 shall be approved both by the Dutch competent authority and by the competent authority of the Member State or third country of dispatch.

3. By way of derogation from paragraph 1 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 area described in Annex I under official control."

2. Provided the conditions laid down in paragraph 1 are fulfilled, animal health certificates accompanying consignments of live poultry and hatching eggs originating and coming from the provinces of the Netherlands listed in Annex II, to be signed as of 18 June 2003, shall include the words: "The animal health conditions of this consignment are in accordance with Decision 2003/443/EC".

3. In Article 3(1) the words "in the Annex" shall be replaced by the words "in Annex III".

4. The Annex to Decision 2003/290/EC shall become Annex III and the text in the Annex to this Decision shall become Annex I and Annex II.'

2. in Article 8 the time and date 'until 24.00 on 17 June 2003' are replaced by 'until 24.00 on 11 July 2003'.

Article 2

This Decision is addressed to the Netherlands.

Done at Brussels, 17 June 2003.

For the Commission

David BYRNE

Member of the Commission

ANNEX

'ANNEX I

On the territory of the Netherlands the provinces of:
Flevoland, Gelderland, Limburg, Noord-Brabant, Utrecht.

ANNEX II

On the territory of the Netherlands the provinces of:
Drenthe, Friesland, Groningen, Noord-Holland, Overijssel, Zeeland, Zuid-Holland.'