COMMISSION DECISION

of 23 March 2004

concerning protection measures in relation to highly pathogenic avian influenza in the United States of America

(notified under document number C(2004) 1097)

(Text with EEA relevance)

(2004/274/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organisation of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC [1], and in particular Article 18(6) and (7) thereof,

Having regard to Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries [2], and in particular Article 22(1) and (6) thereof,

Whereas:

(1) Avian influenza is a highly contagious viral disease in poultry and birds, which can quickly take epizootic proportions liable to present a serious threat to animal and public health and to reduce sharply the profitability of poultry farming.

(2) There is a risk that the disease agent might be introduced via international trade in live poultry and poultry products.

(3) On 23 February 2004 the United States of America have confirmed one outbreak of highly pathogenic avian influenza in a poultry flock in the State of Texas (Gonzales County), which has been detected as positive during surveillance carried out on 17 February 2004.

(4) This detected avian influenza virus strain is of subtype H5N2 and therefore different from the strain currently causing the epidemic in Asia. Current knowledge suggests that the risk for public health in relation to this subtype is inferior to the risk of the strain circulating in Asia, which is an H5N1 virus subtype.

(5) However, in view of the animal health risk of disease introduction into the Community, imports of live poultry, ratites, farmed and wild feathered game birds and hatching eggs of these species and of fresh meat of poultry, ratites, wild and farmed feathered game, meat preparations and meat products consisting of, or containing meat of those species, obtained from birds slaughtered after 27 January 2004, and imports of eggs for human consumption, have been suspended from the United States of America as of 25 February 2004 by Commission Decisions 2004/187/EC [3] and 2004/256/EC [4].

(6) In accordance with Commission Decision 2000/666/EC [5] importation of birds other than poultry is authorised from all member countries of the OIE (World Organisation for Animal Health) subject to animal health guarantees provided by the country of origin, and to strict post-import quarantine measures implemented in the Member States.

(7) However, the importation of birds other than poultry, including pet birds accompanying their owners has also been suspended from the United States of America by Decision 2004/187/EC as an additional measure in order to exclude any possible risk for disease occurrence in quarantine stations under the authority of the Member States.

(8) Commission Decision 97/222/EC [6], lays down the list of third countries from which Member States may authorise the importation of meat products, and establishes treatment regimes in order to prevent the risk of disease transmission via such products. The treatment that must be applied to the product depends on the health status of the country of origin, in relation to the species the meat is obtained from; in order to avoid an unnecessary burden on trade, imports of poultry meat products originating in the United States of America treated to a temperature of at least 70° Celsius throughout the product should continue to be authorised.

(9) Sanitary control measures applicable to raw material for the manufacture of animal feedingstuffs and pharmaceutical or technical products allow the exclusion from the scope of this Decision of channelled imports of such products.

[1] OJ L 268, 24.9.1991, p. 56, as last amended by Directive 96/43/EC (OJ L 162, 1.7.1996, p. 1).
[2] OJ L 24, 31.1.1998, p. 9.
[3] OJ L 57, 25.2.2004, p. 35.
[4] OJ L 80, 18.3.2004, p. 31.
[5] OJ L 278, 31.10.2000, p. 26, as last amended by Decision 2002/279/EC (OJ L 99, 16.4.2002, p. 17).
[6] OJ L 98, 4.4.1997, p. 39, as last amended by Decision 2003/826/EC (OJ L 311, 27.11.2003, p. 29).

(10) The United States of America have signed an Agreement with the European Community on sanitary measures to protect public and animal health in trade in live animals and animal products ([1]).

(11) The United States of America have communicated some additional information on the disease situation and the control measures taken in this respect with a view to obtain the implementation by the Community of regionalisation measures in accordance with the provisions in the Veterinary Agreement; however, the information available at present still does not allow to reduce the protection measures laid down in the present Decision to a confined area.

(12) Therefore the protection measures applicable to the whole territory of the United States of America should be prolonged and Decision 2004/256/EC should be repealed.

(13) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee of the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

Member States shall suspend the importation from the territory of the United States of:

— live poultry, ratites, farmed and wild feathered game, and hatching eggs of these species,

— birds other than poultry including pet birds accompanying their owners,

— eggs for human consumption.

Article 2

Member States shall suspend the importation from the territory of the United States of:

— fresh meat of poultry, ratites, farmed and wild feathered game,

— meat preparations and meat products consisting of, or containing meat of those species.

Article 3

1. By derogation from Article 2, Member States shall authorise the importation of the products covered by that Article which have been obtained from birds slaughtered before 27 January 2004.

2. In the veterinary certificates accompanying consignments of the products mentioned in paragraph 1 the following words as appropriate to the species concerned shall be included:

'Fresh poultry meat/Fresh ratite meat/Fresh meat of wild feathered game/Fresh meat of farmed feathered game/meat product consisting of, or containing meat of poultry, of ratites, or of farmed or wild feathered game/meat preparation consisting of, or containing meat of poultry, of ratites, or of farmed or wild feathered game (*), which has been obtained from birds slaughtered before 27 January 2004, in accordance with Article 3(1) of Decision 2004/274/EC.

(*) Delete as appropriate.'

3. By derogation from Article 2, Member States shall authorise the importation of meat products consisting of, or containing meat of poultry, of ratites, or of farmed and wild feathered game, when the meat of these species has undergone one of the specific treatments referred to under points B, C or D in part IV of the Annex to Commission Decision 97/222/EC.

Article 4

Decision 2004/256/EC is repealed.

Article 5

The Member States shall amend the measures they apply to imports 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 shall be reviewed in the light of the disease evolution and information supplied by the veterinary authorities of the United States of America.

Article 7

This Decision shall apply until 23 April 2004.

Article 8

This Decision is addressed to the Member States.

Done at Brussels, 23 March 2004.

For the Commission
David BYRNE
Member of the Commission

([1]) Council Decision 98/258/EC of 16 March 1998 published in OJ L 118, 21.4.1998, p. 1.