COMMISSION DECISION

of 25 October 2005

amending Decisions 2005/92/EC and 2005/93/EC concerning export to third countries of certain products

(notified under document number C(2005) 4134)

(Text with EEA relevance)

(2005/755/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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 [1], and in particular Articles 12(12), and 13(6) 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 [2], and in particular Article 13(3) thereof,

Whereas:

(1) Directive 97/78/EC lays down requirements for veterinary checks on consignments of certain products of animal origin coming from a third country and provides, *inter alia*, for the storage in customs warehouses, free zones, free warehouses or premises of operators supplying cross-border means of sea transport for products which do not comply with Community animal health import conditions.

(2) Council Directive 2002/99/EC provides that Member States are to take measures to ensure that from 1 January 2005 products of animal origin, intended for human consumption, are introduced from third countries only if they comply with the rules laid down in that Directive.

(3) Commission Decision 2005/92/EC of 2 February 2005 as regards animal health conditions, certification and transitional provisions concerning the introduction and storage period for consignments of certain products of animal origin in free zones, free warehouses and premises of operators supplying cross border means of sea transport in the Community [3] and Commission Decision 2005/93/EC of 2 February 2005 as regards transitional provisions concerning the introduction and the storage period for consignments of certain products of animal origin in customs warehouses in the Community [4] provide for the continued storage during a transitional period until 1 January 2006 of products not complying with Community animal health rules, that were introduced into the Community before 1 January 2005, until the products are sent to their final destination in a third country.

(4) There is a real risk that products not complying with Community animal health conditions now stored in the Community may pose a significant animal health threat to both the Community and to neighbouring third countries, and, could be sent to third countries without the consent of the competent veterinary authority of the third country of destination or transit.

(5) Decisions 2005/92/EC and 2005/93/EC provide that from 1 January 2006 any consignments of products covered by those Decisions remaining in storage, are to be destroyed. In order to safeguard both the Community and neighbouring third countries pending such destruction, tighter controls should be put in place to ensure that consignments, not fully complying with Community animal health rules, despatched from storage in the Community have the express consent of the third country of destination and of any third country of transit.

(6) Decisions 2005/92/EC and 2005/93/EC should therefore be amended to only permit the movements of products covered by those Decisions to a third country of destination or transit through a third country, or to vessels acting as cross border sea transport, with the express written authorisation of the competent authority of those countries, or of a responsible officer on board the vessel.

[1] OJ L 24, 30.1.1998, p. 9. Directive as last amended by Regulation (EC) No 882/2004 of the European Parliament and of the Council (OJ L 165, 30.4.2004, p. 1). Corrected version: OJ L 191, 28.5.2004, p. 1.
[2] OJ L 18, 23.1.2003, p. 11.
[3] OJ L 31, 4.2.2005, p. 62.
[4] OJ L 31, 4.2.2005, p. 64.

(7) It is appropriate to provide that the person responsible for the movements of the products concerned obtains and presents the necessary written authorisations to the competent authority of the Member State in which the products are stored, before the competent authority permits the exit of the products to the final destination or for transit to such destination.

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

HAS ADOPTED THIS DECISION:

Article 1

Decision 2005/92/EC is amended as follows:

1. the following Article 2a is inserted:

'*Article 2a*

Member States shall ensure that any consignment of products referred to in Article 1, not accompanied by the appropriate animal health certificate, and currently stored in a free zone, free warehouse or premises of an operator supplying cross-border means of sea transport in a Member State, are not released from storage for movement to a border inspection post of exit for further transport to a destination, unless the person responsible for any such consignment submits written authorisation confirming that the introduction of such products will be accepted through or onto its territory or onto the vessel from:

(i) the competent authority of the third country of destination and of any third country of transit; or

(ii) the responsible officer on the vessel being supplied.';

2. in Article 3, the second paragraph is replaced by the following:

'All costs of such destruction shall be chargeable to the person responsible for the consignment.'

Article 2

Decision 2005/93/EC is amended as follows:

1. the following Article 1a is inserted:

'*Article 1a*

Member States shall ensure that any consignment of products referred to in Article 1, not accompanied by the appropriate animal health certificate, and currently stored in a customs warehouse in a Member State, are not released from storage for movement to a border inspection post of exit for further transport to a destination, unless the person responsible for any such consignment submits written authorisation from the competent authority of the country of destination and of any third country of transit, confirming that the introduction of such products will be accepted through or onto its territory.';

2. in Article 2, the second paragraph is replaced by the following:

'All costs of such destruction shall be chargeable to the person responsible for the consignment.'

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 25 October 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission