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COMMISSION DECISION

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

(notified under document number C(2005) 191)

(Text with EEA relevance)

(2005/92/EC)

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(Text with EEA relevance)

(2005/92/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,

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 free zones, free warehouses or premises of operators supplying cross-border means of sea transport for the products which do not comply with Community animal health import conditions.

(2) 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], 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) Directive 2002/99/EC also provides for the establishment of animal health rules and certificates for products in transit immediately or after storage. Accordingly, such rules and certificates for consignments of meat, including game and poultry, and meat products, meat preparations and milk and milk products for human consumption either destined for a third country or to supply cross border means of sea transport whether by transit immediately or after storage are laid down in Council Decision 79/542/EEC [3] and Commission Decisions 94/984/EC [4], 97/221/EC [5], 2000/572/EC [6], 2000/585/EC [7], 2000/609/EC [8], 2003/779/EC [9] and 2004/438/EC [10] (the relevant Community acts).

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[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).

[2] OJ L 18, 23.1.2003, p. 11.

[3] OJ L 146, 14.6.1979, p. 15. Decision as last amended by Commission Decision 2004/882/EC (OJ L 373, 21.12.2004, p. 52).

[4] OJ L 378, 31.12.1994, p. 11. Decision as last amended by Decision 2004/118/EC (OJ L 36, 7.2.2004, p. 34).

[5] OJ L 89, 4.4.1997, p. 32. Decision as last amended by Decision 2004/427/EC (OJ L 154, 30.4.2004, p. 8).

[6] OJ L 240, 23.9.2000, p. 19. Decision as last amended by Decision 2004/437/EC (OJ L 154, 30.4.2004, p. 66).

[7] OJ L 251, 6.10.2000, p. 1. Decision as last amended by Decision 2004/413/EC (OJ L 151, 30.4.2004, p. 57).

[8] OJ L 258, 12.10.2000, p. 49. Decision as last amended by Decision 2004/415/EC (OJ L 151, 30.4.2004, p. 73).

[9] OJ L 285, 1.11.2003, p. 38. Decision as last amended by Decision 2004/414/EC (OJ L 151, 30.4.2004, p. 65).

[10] OJ L 154, 30.4.2004, p. 73.

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(4) Accordingly, from 1 January 2005, consignments of products of animal origin falling within the scope of the relevant Community acts, are to comply with the rules and are to be accompanied by the appropriate animal health certificate laid down in the relevant Community acts, when presented for introduction into free zones, free warehouses or premises of operators supplying cross border means of sea transport, thereby ensuring that animal health requirements are met.

(5) Therefore, those consignments introduced into the Community for storage in free zones, free warehouses or premises of operators supplying cross-border means of sea transport before 1 January 2005 and which do not comply with the relevant Community acts should be dealt with in a harmonised and transparent way in order to avoid unnecessary problems for the businesses involved, whilst ensuring that there is a final fixed end date for such product to be retained in the Community.

(6) For that reason, a transitional period of 12 months should be laid down for businesses to dispose of those products introduced into free zones, free warehouses or premises of operators supplying cross-border means of sea transport before 1 January 2005.

(7) It is appropriate to ensure that from 1 January 2006 any such products still stored in free zones, free warehouses or premises of operators supplying cross border means of sea transport in the Community territory that do not comply with the relevant Community acts should be destroyed under control of the competent authority. All costs of such procedure should be chargeable to the owner of the consignment.

(8) For animal health reasons, it is necessary for this Decision to apply from 1 January 2005.

(9) 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

From 1 January 2005, consignments of products falling within the scope of Decisions 79/542/EEC, 94/984/EC, 97/221/EC, 2000/572/EC, 2000/585/EC, 2000/609/EC, 2003/779/EC and 2004/438/EC shall be accompanied by the appropriate animal health certificate laid down in those acts, when presented for introduction into free zones, free warehouses or premises of operators supplying cross-border means of sea transport, approved in accordance with Article 12(4)(b) and Article 13(1) of Directive 97/78/EC, thereby ensuring that the Community animal health requirements are met.

Article 2

Until 31 December 2005, consignments of products referred to in Article 1 which were introduced into free zones, free warehouses or premises of operators supplying cross-border means of sea transport before 1 January 2005, shall be allowed to leave those zones, warehouses or premises where they are stored, to be delivered either in whole or in part to their destinations, as provided for in Article 12(8) or Article 13(2)(a) of Directive 97/78/EC, without being accompanied by the appropriate animal health certificate as provided for in the relevant Community acts.

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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

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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.

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Article 3

From 1 January 2006, any consignments of products referred to in Article 2 remaining in storage shall be destroyed under the control of the competent authority.

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

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Article 4

This Decision shall apply from the date of notification.

Article 5

This Decision is addressed to the Member States.