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COMMISSION DECISION

of 25 June 2009

concerning certain protection measures in relation to highly pathogenic avian influenza of subtype H5N1 in Croatia and Switzerland

(notified under document number C(2009) 4977)

(Text with EEA relevance)

(2009/494/EC)

(OJ L 166, 27.6.2009, p. 74)

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►**M1**	Commission Decision 2010/734/EU of 30 November 2010	L 316	10	2.12.2010
►**M2**	Commission Implementing Decision 2012/248/EU of 7 May 2012	L 123	42	9.5.2012

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concerning certain protection measures in relation to highly pathogenic avian influenza of subtype H5N1 in Croatia and Switzerland

(notified under document number C(2009) 4977)

(Text with EEA relevance)

(2009/494/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(1) 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) Commission Regulation (EC) No 798/2008 of 8 August 2008 laying down a list of third countries, territories, zones or compartments from which poultry and poultry products may be imported into and transit through the Community and the veterinary certification requirements [3] lays down veterinary certification conditions for imports into and transit through the Community of poultry and certain products thereof. In the interests of clarity and consistency of Community rules, it is appropriate that the definitions of poultry and hatching eggs in that Regulation be taken into account for the purposes of this Decision.

(2) Commission Regulation (EC) No 318/2007 of 23 March 2007 laying down animal health conditions for imports of certain birds into the Community and the quarantine conditions thereof [4] lays down the animal health conditions for imports of certain birds into the Community from third countries and parts thereof. In the interests of clarity and consistency of Community rules, it is appropriate that the definition of birds in that Regulation be taken into account for the purposes of this Decision.

(3) Commission Decision 2006/265/EC of 31 March 2006 concerning certain protection measures in relation to a suspicion of highly pathogenic avian influenza in Switzerland [5] and Commission Decision 2006/533/EC of 28 July 2006 concerning certain temporary protection measures in relation to highly pathogenic avian influenza in Croatia [6] were adopted

[1] OJ L 268, 24.9.1991, p. 56.
[2] OJ L 24, 31.1.1998, p. 9.
[3] OJ L 226, 23.8.2008, p. 1.
[4] OJ L 84, 24.3.2007, p. 7.
[5] OJ L 95, 4.4.2006, p. 9.
[6] OJ L 212, 2.8.2006, p. 19.

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following positive findings for highly pathogenic avian influenza of subtype H5N1 in wild birds in both of those third countries. Those Decisions provided that Member States are to suspend imports from certain parts of Croatia and Switzerland of live poultry, ratites, farmed and wild feathered game and certain other live birds, including pet birds and hatching eggs of those species, as well as certain products of birds. Decisions 2006/265/EC and 2006/533/EC have been consolidated in one act and the duration of the measures prolonged until 30 June 2009 by Commission Decision 2008/555/EC of 26 June 2008 concerning certain protection measures in relation to highly pathogenic avian influenza of the subtype H5N1 in Croatia and Switzerland ([1]).

(4) Commission Decision 2006/415/EC of 14 June 2006 concerning certain protection measures in relation to highly pathogenic avian influenza of the subtype H5N1 in poultry in the Community ([2]) lays down certain biosecurity and restriction measures to prevent the spread of that disease, including the establishment of areas A and B following a suspected or confirmed outbreak of the disease in poultry.

(5) Commission Decision 2006/563/EC of 11 August 2006 concerning certain protection measures in relation to highly pathogenic avian influenza of subtype H5N1 in wild birds in the Community ([3]) lays down certain protection measures to prevent the spread of that disease from wild birds to poultry including, based on risk assessment, the establishment of control and monitoring areas taking into account the epidemiological, geographical and ecological factors following a suspected or confirmed positive finding for that disease in wild birds.

(6) Croatia has notified the Commission that the competent authorities of that third country are applying protection measures that are equivalent to those applied by the competent authorities of the Member States, as provided in Decision 2006/563/EC, when highly pathogenic avian influenza of H5N1 subtype is suspected or confirmed in wild birds and that it will immediately notify the Commission of any future changes to its animal health status, including specifically any positive findings of that disease in wild birds.

(7) Switzerland has notified the Commission that the competent authorities of that country are applying protection measures that are equivalent to those applied by the competent authorities of the Member States, as provided for in Decisions 2006/415/EC and 2006/563/EC, when highly pathogenic avian influenza of subtype H5N1 is suspected or confirmed in poultry or wild birds and that it will immediately notify the Commission of any future changes to its animal health status, including specifically any outbreak or positive findings of that disease in poultry or wild birds. Account should also be taken of the Agreement between the European Community and the Swiss Confederation on trade in agricultural products ([4]).

([1]) OJ L 179, 8.7.2008, p. 14.
([2]) OJ L 164, 16.6.2006, p. 51.
([3]) OJ L 222, 15.8.2006, p. 11.
([4]) OJ L 114, 30.4.2002, p. 132.

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(8) The Commission will immediately inform the Member States and forward any such information received from the competent authorities of Croatia and Switzerland to them.

(9) In the light of the current epidemiological situation as regards highly pathogenic avian influenza of subtype H5N1 in the Community and in third countries, and in view of the guarantees received from Croatia, it is appropriate that in the event of a positive finding of that disease in a wild bird in the territory of Croatia, Community protection measures concerning that country are only applied to those parts of Croatia for which the competent authority of that country does apply equivalent protection measures as laid down in Decision 2006/563/EC.

(10) In view of the guarantees received from Switzerland, it is appropriate that in the event of a positive finding of avian influenza of subtype H5N1 in a wild bird or an outbreak of that disease in poultry in the territory of Switzerland, protection measures concerning that country are only applied to those parts of Switzerland for which the competent authority of that country does apply equivalent protection measures as laid down in Decisions 2006/415/EC and 2006/563/EC.

(11) Commission Decision 2007/777/EC of 29 November 2007 laying down the animal and public health conditions and model certificates for imports of certain meat products and treated stomachs, bladders and intestines for human consumption from third countries ([1]) lays down the list of third countries from which Member States may authorise the importation of meat products and treated stomachs, bladders and intestines, and establishes treatment regimes considered effective in inactivating the respective pathogens. In order to prevent the risk of disease transmission via such products, appropriate treatment must be applied depending on the health status of the country of origin and the species the products are obtained from. It is therefore appropriate that a derogation from the provision suspending imports of meat products of wild feathered game originating in Croatia and Switzerland should be granted, provided the products have been treated to a temperature of at least 70 °C throughout the products.

(12) Decision 2008/555/EC is applicable until 30 June 2009. In the light of the ongoing epidemiological situation it is appropriate to extend the measures it provided for until 31 December 2010.

(13) 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

1. Member States shall suspend imports or the introduction into the Community from that part of the territory of Croatia referred to in paragraph 2(a) and from that part of the territory of Switzerland referred to in paragraph 2(b) of the following commodities:

(a) poultry as defined in Article 2(1) of Regulation (EC) No 798/2008;

([1]) OJ L 312, 30.11.2007, p. 49.

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(b) hatching eggs as defined in Article 2(2) of Regulation (EC) No 798/2008;

(c) birds as defined in Article 3(a) of Regulation (EC) No 318/2007 and their hatching eggs;

(d) meat, minced meat, meat preparations, mechanically separated meat of wild feathered game;

(e) meat products consisting of or containing meat of wild feathered game;

(f) raw pet food and unprocessed feed material containing any parts of wild feathered game;

(g) non-treated game trophies from any birds.

2. The suspension provided for in paragraph 1 shall apply to imports or the introduction into the Community from:

(a) as regards Croatia, all areas of the territory of Croatia for which the competent authorities of Croatia do formally apply protection measures that are equivalent to those laid down in Decision 2006/563/EC;

(b) as regards Switzerland, all areas of the territory of Switzerland for which the competent authorities of Switzerland do formally apply protection measures that are equivalent to those laid down in Decisions 2006/415/EC and 2006/563/EC.

3. By way of derogation from paragraph 1(e), Member States shall authorise imports and the introduction into the Community of meat products consisting of or containing meat of wild feathered game under the condition that the meat of these species has undergone at least one of the specific treatments referred to under points B, C or D in Part 4 of Annex II to Decision 2007/777/EC.

Article 2

Member States shall immediately take the necessary measures to comply with this Decision and publish those measures. They shall immediately inform the Commission thereof.

Article 3

This Decision shall apply from 1 July 2009 until ►**M2** 31 December 2013 ◄.

Article 4

This Decision is addressed to the Member States.