

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 25 November 1998

amending Decision 98/256/EC as regards certain emergency measures to protect against bovine spongiform encephalopathy

(notified under document number C(1998) 3773)

(Text with EEA relevance)

(98/692/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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⁽¹⁾, as last amended by Directive 92/118/EEC⁽²⁾, and in particular Article 9(4) thereof,

(1) Whereas Council Decision 98/256/EC of 16 March 1998 concerning emergency measures to protect against bovine spongiform encephalopathy, amending Decision 94/474/EC and repealing Decision 96/239/EC⁽³⁾, as amended by Commission Decision 98/564/EC⁽⁴⁾, provided for a step-by-step approach to the lifting of the ban on the dispatch to other Member States and third countries of products from bovine animals slaughtered in the United Kingdom; whereas the first step was the lifting of the prohibitions on the dispatch of products from bovine animals slaughtered, cut, processed and stored in establishments exclusively used for products destined for dispatch to other Member States

and third countries, and located in Northern Ireland; whereas subsequent steps will include the lifting of the prohibition on the processing of eligible meat from Northern Ireland in Great Britain, under conditions which will be laid down at a later stage; whereas the Commission will immediately start investigating, with the authorities of the United Kingdom, by what means and under what conditions those restrictions may be further relaxed;

- (2) Whereas the date on which the dispatch of products under the Export Certified Herds Scheme (ECHS) could commence was set at 1 June 1998 by Commission Decision 98/351/EC⁽⁵⁾;
- (3) Whereas the United Kingdom put forward a first proposal for a Date-Based Export Scheme (DBES) with a view to permitting, subject to certain conditions, the dispatch of products from animals born after a certain date to the Commission on 2 October 1997; whereas the Scientific Steering Committee concluded at its meetings of 8 and 9 December 1997 and 22 and 23 January 1998 that

⁽¹⁾ OJ L 395, 30. 12. 1989, p. 13.

⁽²⁾ OJ L 62, 15. 3. 1993, p. 49.

⁽³⁾ OJ L 113, 15. 4. 1998, p. 32.

⁽⁴⁾ OJ L 273, 9. 10. 1998, p. 37.

⁽⁵⁾ OJ L 157, 30. 5. 1998, p. 110.

that proposal was not adequate; whereas the United Kingdom put forward a modified proposal dated 27 January 1998; whereas the Scientific Steering Committee issued an opinion on that revised proposal on 20 February 1998 stating that the revised proposal responded to the suggestions and questions formulated by the Scientific Steering Committee;

- (4) Whereas the feeding of ruminant protein to ruminants has been illegal in the United Kingdom since January 1989; whereas a total ban on the feeding of mammalian meat-and-bone meal was introduced in 1994; whereas the feeding of any mammalian meat-and-bone meal to all farmed livestock was banned on 4 April 1996; whereas by 1 August 1996 all feed containing mammalian meat-and-bone meal in the United Kingdom had been recalled and premises in which it had been stored were required to be cleansed and disinfected; whereas from that date it became a legal offence to sell or supply any mammalian meat-and-bone meal for incorporation into livestock feed or to feed livestock any feed containing mammalian meat-and-bone meal or to possess mammalian meat-and-bone meal wherever farm feed was stored or prepared; whereas the monitoring programme, in existence since 1 February 1996, to check that no mammalian meat-and-bone meal was being incorporated in livestock feed after 1 August 1996 has been extended; whereas the results of that programme demonstrated adequate compliance with the prohibition on incorporating mammalian meat-and-bone meal or protein in ruminant feedingstuffs from 1 August 1996; whereas therefore, adequate guarantees have been given that cattle born after 1 August 1996 have not been exposed to a risk of infection in feed;
- (5) Whereas a mission of the Veterinary and Phytosanitary Inspection and Control Office of the Commission to the United Kingdom from 22 to 26 July 1996 assessing the effectiveness of the feed ban and the feed recall scheme confirmed that adequate guarantees on compliance were given;
- (6) Whereas the United Kingdom is required to ensure that all offspring born after 1 August 1996 of bovine spongiform encephalopathy (BSE) cases are slaughtered and destroyed with a view to subsequent incineration before dispatch under the DBES can commence; whereas the United Kingdom is also required to ensure that the dams of eligible animals have not contracted BSE at the time of slaughter of the eligible animal and have been alive for six months after the birth of the eligible animal;
- whereas those measures adequately address the risk of maternal transmission of BSE to an eligible animal;
- (7) Whereas the United Kingdom has introduced a bovine passport system in Great Britain for bovine animals born on or after 1 July 1996; whereas that system allows accurate verification of the identity of eligible animals, their date of birth and their dam; whereas the veterinary inspection services of the Commission assessed the effective implementation of that passport system during a mission from 30 September to 4 October 1996; whereas the United Kingdom intends to introduce a system of official controls and evidence provided by farmers to verify the survival of dams for six months;
- (8) Whereas this Decision should lay down a system of special approval of meat plants participating in the DBES; whereas an establishment approved under the DBES should not be allowed to slaughter bovine animals and process and handle meat ineligible for dispatch to the other Member States or third countries under the rules concerning the DBES, the ECHS and the redispach of meat from animals slaughtered outside the United Kingdom; whereas cold-stores approved under the DBES should store meat eligible for dispatch in dedicated chambers;
- (9) Whereas the strict control provisions, including the additional health mark laid down in Decision 98/256/EC for the processing and dispatch of imported meat and for the ECHS should also apply to meat and meat products eligible under the DBES;
- (10) Whereas the United Kingdom has guaranteed that at least one official veterinarian will be permanently present in slaughterhouses approved under the DBES throughout *ante-mortem* and *post-mortem* examinations; whereas the United Kingdom has undertaken to ensure the daily presence of an official veterinarian in cutting-plants approved under the DBES;
- (11) Whereas the Food and Veterinary Office of the Commission conducted a mission to the United Kingdom from 20 to 24 July to assess the DBES; whereas the mission report recommended that the United Kingdom clarify the method of verification of the survival of the dam for six months, and the information becoming available after slaughter which would render the meat and products thereof ineligible; whereas the United Kingdom has agreed to further improvements to comply with those

recommendations; whereas it was also recommended that the conditions of the proposal be clarified with respect to the offspring cull in order to take into account both the intention of the UK to directly incinerate the animals and the foreseeable fact that not all offspring (100 %) will be traceable; whereas minor amendments have been made to the proposal to comply with those recommendations;

(12) Whereas the measures for implementation of the DBES and the offspring cull will be examined by a mission of the Food and Veterinary Office of the Commission before the dispatch of meat and meat products may commence; whereas if that examination is satisfactory the Commission will set the date on which dispatch may commence;

(13) Whereas animals presented for slaughter under the ECHS or the DBES must meet all of the relevant conditions laid down in this Decision; whereas, if it is discovered after slaughter of an animal under one of those schemes that it should have been considered ineligible, the competent authority must take the necessary measures to prevent the dispatch of products from that animal; whereas if any product from an animal subsequently found to be ineligible has been dispatched, the measures laid down in Article 9 of Directive 89/662/EEC must be applied;

(14) Whereas it is therefore appropriate to lay down the rules for the DBES as a step to lifting the prohibition on the dispatch of fresh deboned meat and certain products made from that fresh deboned meat, from bovine animals slaughtered in the United Kingdom;

(15) Whereas a revision of the Animal Health Code of the Office International des Epizooties (OIE) on BSE (OIE Code on BSE) was adopted in the general assembly of the OIE in Paris on 29 May 1998; whereas Article 3.2.13.9. of that Code recommends conditions for the import of deboned meat and meat products from cattle from a country or zone with a high incidence of BSE; whereas the conditions laid down in this Decision are in conformity with that Article of the OIE Code on BSE;

(16) Whereas Article 3.2.13.9. of the OIE Code on BSE requires Veterinary Administrations, when goods are imported from a country or zone with a high incidence of BSE, to require the presentation of an international certificate attesting that the condi-

tions of that Article are complied with; whereas adequate guarantees should be provided on re-entry into the Community of meat originating from bovine animals slaughtered in the United Kingdom that when the corresponding consignments were exported, the Community requirements were met; whereas, therefore, the certificate referred to in Article 3.2.13.9. of the OIE Code on BSE should accompany the consignment on exportation;

(17) Whereas, in view of the low level of risk, it is appropriate to authorise, subject to certain conditions, the dispatch of food for domestic carnivores;

(18) Whereas the scope of the provisions relating to cold store chambers, to the separation requirements for eligible animals and products during slaughter, cutting, processing and cold storage, and to identification of serial numbers should be clarified;

(19) Whereas Decision 98/256/EC should therefore be amended accordingly;

(20) Whereas the Standing Veterinary Committee has not given a favourable opinion; whereas the Commission has therefore proposed these measures to the Council on 13 November 1998 in accordance with Article 17 of Directive 89/662/EEC, the Council being required to act within 15 days;

(21) Whereas, however, the Council has not acted within the required time limit; whereas the Council has not decided against the proposed measures by simple majority within the same time limit; whereas these measures should now be adopted by the Commission,

HAS ADOPTED THIS DECISION:

Article 1

Decision 98/256/EC is amended as follows:

(1) Article 6 is replaced by the following:

Article 6

1. By way of derogation from Article 3, the United Kingdom may authorise the dispatch to other Member States or to third countries of the following products derived from bovine animals born and reared in the United Kingdom which have been slaughtered

in the United Kingdom in slaughterhouses which are not used for the slaughter of any ineligible bovine animal, in accordance with the conditions laid down in this Article, Article 7, Articles 9 to 12 and Annex II or, as appropriate, Annex III:

- (a) "fresh meat" as defined by Directive 64/433/EEC;
- (b) "minced meat" and "meat preparations" as defined by Council Directive 94/65/EC (*);
- (c) "meat products" as defined by Council Directive 77/99/EEC (**);
- (d) food which is destined for domestic carnivores.

2. The fresh meat referred to in paragraph 1(a) shall be deboned and all adherent tissues, including obvious nervous and lymphatic tissues, shall be removed in cutting plants in the United Kingdom which are not used for cutting any ineligible bovine products. Cold storage shall take place in the United Kingdom in chambers which are not used for storing any ineligible bovine products and are kept locked under the seal of the competent authority when the latter is not present. Cutting, storage and transport shall be carried out in accordance with the conditions laid down in Article 7, Articles 9 to 12 and Annex II or, as appropriate, Annex III.

3. The fresh meat referred to in paragraph 1(a) may be used for the production of products referred to in paragraph 1(b), (c) and (d) in establishments in the United Kingdom which are not used for the production of any ineligible bovine products, in accordance with the conditions laid down in this Article, in Article 7, Articles 9 to 12 and Annex II or, as appropriate, Annex III.

4. For the purposes of this Article, eligible products means products referred to in paragraph 1 and products derived from bovine animals not slaughtered in the United Kingdom which comply with the conditions laid down in Articles 9 to 13.

5. The Commission, after having verified the application of all the provisions of this Decision on the basis of Community inspections and after having informed the Member States, shall set the date on which dispatch of the products referred to in Annex III may commence.

6. The Commission shall review the provisions of this Article at least every three months and shall take appropriate measures in accordance with the procedure laid down in Article 17 of Directive 89/662/EEC.

7. For the purpose of this Decision "chamber" shall mean a room or any other structure within a room which provides a secure lockable physical barrier.

(*) OJ L 368, 31.12.1994, p. 10.

(**) OJ L 26, 31.1.1977, p. 85.

(2) Article 10 is amended as follows:

(a) In point (b) of paragraph 1 the words 'Articles 9, 11, 12 and 13' are replaced by the words 'Articles 6, 9, 11, 12 and 13';

(b) Paragraph 3 is amended as follows:

(i) In the second subparagraph the words 'their serial numbers in the consignment' are replaced by the words 'the relevant numbers in the consignment ensuring traceability of each individual unit';

(ii) In the third subparagraph the words 'their serial numbers in the consignment' are replaced by the words 'the relevant numbers in the consignment ensuring traceability of each individual unit';

(iii) The following subparagraph is added:

'Where those products are dispatched to third countries, they shall be accompanied by a health certificate, issued by an official veterinarian, stating that the conditions laid down in Decision 98/256/EC have been complied with'.

(3) Annex II is replaced by the text in Annex I to this Decision.

(4) Annex III, as set out in Annex II to this Decision, is added.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 25 November 1998.

For the Commission

Franz FISCHLER

Member of the Commission

*ANNEX I**ANNEX II***EXPORT CERTIFIED HERDS SCHEME (ECHS)**

1. Deboned fresh meat and products referred to in Article 6(1)(b), (c) and (d) from that meat derived from bovine animals slaughtered in Northern Ireland may be dispatched from the United Kingdom in application of the provisions of Article 6 when obtained from ECHS-eligible animals which originate from ECHS-eligible herds.

ECHS-eligible herds

2. A herd is a group of animals forming a separate and distinct unit, that is a group of animals which were managed, housed and kept separately from any other group of animals and which were identified with unique herd and animal identification numbers.
3. A herd is ECHS-eligible when for at least eight years, there has been no confirmed case of BSE, nor a suspect case for which the diagnosis of BSE has not been ruled out, in any animal which was still in or had moved through or from the herd.
4. A herd that has been in existence for less than eight years may be considered ECHS-eligible, after a thorough epidemiological investigation by the competent veterinary authority, on condition that:
 - (a) all animals born or moved into the newly established herd complied with the conditions set out in point 6(a), (c), (d) and (e); and,
 - (b) the herd has complied with the conditions set out in point 3 during its entire existence.
5. If a herd is newly established on a holding which experienced a confirmed case of BSE in any animal which was still in or had moved through or from a herd on that holding, the newly established herd can only be ECHS-eligible after a thorough epidemiological investigation by the competent veterinary authority, taking into account compliance with each of the following conditions to the satisfaction of the competent veterinary authority:
 - (a) all animals of the affected herd previously established on the same holding have been removed or killed;
 - (b) all feed has been removed and destroyed and all feed containers thoroughly cleansed;
 - (c) all buildings have been emptied and thoroughly cleansed before the new animals were admitted;
 - (d) all conditions set out in point 4 have been complied with.

ECHS-eligible animals

6. A bovine animal is ECHS-eligible if it has been born and reared in Northern Ireland and at the time of slaughter:
 - (a) the animal has been clearly identifiable throughout its life, enabling it to be traced back to the herd and dam of origin; all records of its birth, identity and movements are recorded on an official computerised tracing system;
 - (b) it is more than six months but less than 30 months of age, determined by reference to an official computer record of its date of birth;
 - (c) its dam has lived for at least six months after its birth;
 - (d) its dam has not developed BSE and is not suspected of having contracted BSE;
 - (e) the herd of birth of the animal and all herds through which it has ever moved are ECHS-eligible.
7. The official computerised tracing system referred to in point 6(a) will be accepted only where it has been in operation for sufficient time to contain all the information relating to the lifetime and movements of the animals needed to check compliance with the requirements of this Decision, and only in respect of animals born after the system came into operation. Historical data loaded into a computer for any period before the system was operational will not be accepted for this purpose.

Controls

8. If any animal presented for slaughter or any circumstance surrounding its slaughter does not meet all of the requirements of this Decision, the animal must be automatically rejected. If that information becomes available after slaughter, the competent authority must immediately cease issuing certificates, and cancel issued certificates. If dispatch has already taken place, the competent authority must notify the competent authority of the place of destination. The competent authority of the place of destination must take the appropriate measures.
9. Slaughter of ECHS-eligible animals must take place in slaughterhouses, in Northern Ireland, which are not used for slaughter of any bovine animal which is not eligible under the Date-based Export Scheme (DBES) or under the ECHS.
10. The competent authority must ensure that procedures used in the cutting plants ensure that the following lymph nodes have been removed:
popliteal, ischiatic, superficial inguinal, deep inguinal, medial and lateral iliac, renal prefemoral, lumbar, costocervical, sternal, prescapular, axillary and caudal deep cervical.
11. Meat must be traceable back to the herd of the ECHS-eligible animal, or after cutting, to the animals cut in the same batch, by means of the computerised tracing system until the time of slaughter. After slaughter, labels must be capable of tracing fresh meat and products referred to in Article 6(1)(b) and (c) back to the herd to enable the consignment concerned to be recalled. Food for domestic carnivores must be traceable by means of accompanying documents and records.
12. All approved ECHS-eligible carcasses must have individual numbers correlated with the ear tag number.
13. The United Kingdom must have detailed protocols in place covering:
 - (a) tracing and controls prior to slaughter;
 - (b) controls during slaughter;
 - (c) controls during processing of food for domestic carnivores;
 - (d) all labelling and certification requirements after slaughter to the point of sale.
14. The competent authority must set up a system for recording checks on compliance so that control can be demonstrated.

The establishment

15. To obtain approval, the establishment must, in addition to all other requirements of this Decision, devise and implement a system whereby the ECHS-eligible meat and/or ECHS-eligible product is identifiable and all meat can be traced back to its herds of origin, or after cutting, to the animals cut in the same batch. The system must facilitate full traceability of the meat or products at all stages and records must be retained for at least two years. Details of the system to be employed must be given, in writing, by the management of the establishment to the competent authority.
 16. The competent authority must assess, approve and monitor the system provided by the establishment in order to ensure that it provides full segregation and traceability both backwards and forwards.
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*ANNEX II**ANNEX III***DATE-BASED EXPORT SCHEME (DBES)**

1. Deboned fresh meat and products referred to in Article 6(1)(b), (c) and (d) from that meat derived from bovine animals slaughtered in the United Kingdom may be dispatched from the United Kingdom in application of the provisions of Article 6 when obtained from DBES-eligible animals born after 1 August 1996.
2. Before dispatch pursuant to point 1 may commence, the United Kingdom must have implemented and effectively enforced a programme for the killing and incineration of all offspring born after 1 August 1996 of dams in which BSE has been confirmed before 25 November 1998, and must have killed and incinerated all cattle found alive which were identified under this programme.

Should confirmation take place after 25 November 1998, offspring born after 1 August 1996 of dams in which BSE has been confirmed, must be identified, slaughtered and incinerated without delay.

DBES-eligible animals

3. A bovine animal is DBES-eligible if it has been born and reared in the United Kingdom and at the time of slaughter the following conditions are shown to have been met:
 - (a) the animal has been clearly identifiable throughout its life, enabling it to be traced back to the dam and herd of origin; its unique eartag number, date and holding of birth and all movements after birth are recorded either in the animal's official passport or on an official computerised identification and tracing system; the identity of its dam is known;
 - (b) the animal is more than six months but less than 30 months of age, determined by reference to an official computer record of its date of birth, and in the case of animals from Great Britain, the animal's official passport;
 - (c) the competent authority has obtained and verified positive official evidence that the dam of the animal has lived for at least six months after the birth of the eligible animal;
 - (d) the dam of the animal has not developed BSE and is not suspected of having contracted BSE.

Controls

4. If any animal presented for slaughter or any circumstance surrounding its slaughter does not meet all of the requirements of this Decision, the animal must be automatically rejected. If that information becomes available after slaughter, the competent authority must immediately cease issuing certificates, and cancel issued certificates. If dispatch has already taken place, the competent authority must notify the competent authority of the place of destination. The competent authority of the place of destination must take the appropriate measures.
5. Slaughter of DBES-eligible animals must take place in slaughterhouses which are not used for slaughter of any bovine animal which is not eligible under the DBES when located in Great Britain, or under the DBES as well as under the ECHS when located in Northern Ireland. Slaughter of DBES-eligible animals originating from Great Britain in Northern Ireland, or, *vice versa*, originating from Northern Ireland in Great Britain, is only authorised if access to all relevant data is ensured.
6. The competent authority must ensure that procedures used in the cutting plants ensure that the following lymph nodes have been removed:

popliteal, ischiatic, superficial inguinal, deep inguinal, medial and lateral iliac, renal prefemoral, lumbar, costocervical, sternal, prescapular, axillary and caudal deep cervical.

7. Meat must be traceable back to the DBES-eligible animal, or after cutting, to the animals cut in the same batch, by means of an official tracing system until the time of slaughter. After slaughter, labels must be capable of tracing fresh meat and products referred to in Article 6(1)(b) and (c) back to the eligible animal to enable the consignment concerned to be recalled. Food for domestic carnivores must be traceable by means of accompanying documents and records.
8. All approved DBES-eligible carcasses must have individual numbers correlated with the ear tag number.
9. The United Kingdom must have detailed protocols in place covering:
 - (a) tracing and controls prior to slaughter;
 - (b) controls during slaughter;
 - (c) controls during processing of food for domestic carnivores;
 - (d) all labelling and certification requirements after slaughter to the point of sale.
10. The competent authority must set up a system for recording checks on compliance so that control can be demonstrated.

The establishment

11. To obtain approval, the establishment must, in addition to all other requirements of this Decision, devise and implement a system whereby the DBES-eligible meat and/or DBES-eligible product is identifiable and all meat can be traced back to the DBES-eligible animal, or after cutting, to the animals cut in the same batch. The system must facilitate full traceability of the meat or products at all stages and records must be retained for at least two years. Details of the system to be employed must be given, in writing, by the management of the establishment to the competent authority.
 12. The competent authority must assess, approve and monitor the system provided by the establishment in order to ensure that it provides full segregation and traceability both backwards and forwards.'
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