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COMMISSION IMPLEMENTING DECISION

of 12 November 2013

concerning certain protection measures in relation to highly pathogenic avian influenza of the subtype H5N1 to be applied in the event of an outbreak of that disease in Switzerland and repealing Decision 2009/494/EC

(notified under document C(2013) 7505)

(Text with EEA relevance)

(2013/657/EU)

(OJ L 305, 15.11.2013, p. 19)

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**COMMISSION IMPLEMENTING DECISION****of 12 November 2013****concerning certain protection measures in relation to highly pathogenic avian influenza of the subtype H5N1 to be applied in the event of an outbreak of that disease in Switzerland and repealing Decision 2009/494/EC***(notified under document C(2013) 7505)***(Text with EEA relevance)**

(2013/657/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 Decisions 2006/265/EC ⁽³⁾ and 2006/533/EC ⁽⁴⁾ were adopted following positive findings for highly pathogenic avian influenza of subtype H5N1 in wild birds in Croatia and Switzerland. Those Decisions provided that Member States were 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.
- (2) Commission Decision 2006/415/EC ⁽⁵⁾ 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.
- (3) Commission Decision 2006/563/EC ⁽⁶⁾ lays down certain protection measures to prevent the spread of that disease from

⁽¹⁾ OJ L 268, 24.9.1991, p. 56.

⁽²⁾ OJ L 24, 30.1.1998, p. 9.

⁽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 (OJ L 95, 4.4.2006, p. 9).

⁽⁴⁾ Commission Decision 2006/533/EC of 28 July 2006 concerning certain temporary protection measures in relation to highly pathogenic avian influenza in Croatia (OJ L 212, 2.8.2006, p. 19).

⁽⁵⁾ 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 (OJ L 164, 16.6.2006, p. 51).

⁽⁶⁾ 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 (OJ L 222, 15.8.2006, p. 11).

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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.

- (4) The protection measures laid down in Decisions 2006/265/EC and 2006/533/EC expired on 30 June 2007. However, in the light of the epidemiological situation as regards highly pathogenic avian influenza of subtype H5N1 in the Union and in third countries, the protection measures laid down in those Decisions were included in Commission Decision 2008/555/EC ⁽¹⁾. Decision 2008/555/EC was replaced by Commission Decision 2009/494/EC ⁽²⁾, which applies until 31 December 2013.
- (5) In view of Croatia's accession to the Union on 1 July 2013, the measures provided for in Decision 2009/494/EC no longer apply to that Member State. However, in the light of the epidemiological situation with respect to the risks posed by the highly pathogenic avian influenza virus of the subtype H5N1, it is appropriate to maintain the protection measures with respect to Switzerland until 31 December 2015.
- (6) Switzerland 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 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 ⁽³⁾.
- (7) The Commission will immediately inform the Member States and forward any such information received from the competent authority of Switzerland to them.
- (8) In the light 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 be 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.
- (9) Commission Decision 2007/777/EC ⁽⁴⁾ lays down the list of third countries from which Member States may authorise the

⁽¹⁾ Commission Decision 2008/555/EC of 26 June 2008 concerning certain protection measures in relation to highly pathogenic avian influenza of subtype H5N1 in Croatia and Switzerland (OJ L 179, 8.7.2008, p. 14).

⁽²⁾ Commission Decision 2009/494/EC of 25 June 2009 concerning certain protection measures in relation to highly pathogenic avian influenza of subtype H5N1 in Croatia and Switzerland (OJ L 166, 27.6.2009, p. 74).

⁽³⁾ OJ L 114, 30.4.2002, p. 132.

⁽⁴⁾ 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 and repealing Decision 2005/432/EC (OJ L 312, 30.11.2007, p. 49).

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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 Switzerland be granted, provided the products have been treated with certain specific treatments set out in Part 4 of Annex II to Decision 2007/777/EC.

- (10) Commission Regulation (EC) No 798/2008⁽¹⁾ lays down veterinary certification conditions for imports into and transit through the Union of poultry and certain products thereof. In the interests of clarity and consistency of Union legislation, it is appropriate that the definitions of poultry and hatching eggs laid down in that Regulation be taken into account for the purposes of this Decision.
- (11) Commission Implementing Regulation (EU) No 139/2013⁽²⁾ lays down the animal health conditions for imports of certain birds into the Union from third countries and parts thereof. In the interests of clarity and consistency of Union rules, it is appropriate that the definition of birds laid down in that Regulation be taken into account for the purposes of this Decision.
- (12) For the sake of clarity and simplification of Union legislation, it is appropriate to repeal Decision 2009/494/EC and replace it with this Decision.
- (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 into the Union from all areas of the territory of Switzerland for which the competent authorities of Switzerland formally apply protection measures that are equivalent to those laid down in Decisions 2006/415/EC and 2006/563/EC of the following commodities:

- (a) poultry as defined in point (1) of Article 2 of Regulation (EC) No 798/2008;
- (b) hatching eggs as defined in point (2) of Article 2 of Regulation (EC) No 798/2008;
- (c) birds as defined in point (a) of the second paragraph of Article 3 of Implementing Regulation (EU) No 139/2013 and their hatching eggs;

⁽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 (OJ L 226, 23.8.2008, p. 1).

⁽²⁾ Commission Implementing Regulation (EU) No 139/2013 of 7 January 2013 laying down animal health conditions for imports of certain birds into the Union and the quarantine conditions thereof (OJ L 47, 20.2.2013, p. 1).

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- (d) meat, minced meat, meat preparations, and 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. By way of derogation from paragraph 1(e), Member States shall authorise imports into the Union 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 point B, C or D in Part 4 of Annex II to Decision 2007/777/EC.

Article 2

Member States shall, immediately upon receipt of information from the Commission on the change in the animal health status of Switzerland with regard to highly pathogenic avian influenza of the subtype H5N1 take the necessary measures to comply with Article 1 of this Decision and publish those measures.

Article 3

Decision 2009/494/EC is repealed.

Article 4

This Decision shall apply until ► **M1** 31 December 2017 ◀.

Article 5

This Decision is addressed to the Member States.