COMMISSION DECISION

of 28 July 1999

amending Decision 98/653/EC concerning emergency measures made necessary by the occurrence of bovine spongiform encephalopathy in Portugal

(notified under document number C(1999) 2487)

(Text with EEA relevance)

(1999/517/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market [1], as last amended by Directive 92/118/EEC [2], and in particular Article 10(4) thereof,

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 [3], as last amended by Directive 92/118/EEC, and in particular Article 9(4} thereof,

(1) Whereas Commission Decision 98/653/EC of 18 November 1998 concerning emergency measures made necessary by the occurrence of bovine spongiform encephalopathy in Portugal [4] prohibits the dispatch of meat meal, bone meal and meat-and-bone meal of mammalian origin as well as animal feed and fertilisers containing such material from Portugal; whereas Commission Decision 97/735/EC of 21 October 1997 concerning certain protection measures with regard to trade in certain types of mammalian animal waste [5]; lays down the conditions for sending processed animal waste to other Member States for incineration or burning as fuel; whereas, however, that possibility is not open to Portugal pursuant to Decision 98/653/EC;

(2) Whereas Portugal has taken measures as notified to the Commission on 12 October 1998, including measures to destroy certain risk materials, to prohibit the incorporation of meat-and-bone meal in any animal feed, to require destruction of meat-and-bone meal, to recall and destroy any stocks of meat-and-bone meal, and of any animal feed that contains meat-and-bone meal; whereas those measures are considered to reduce the risk of exposing humans or animals directly or indirectly to the BSE agent;

(3) Whereas Portugal has informed the Commission that it does not have sufficient capacity on its territory to incinerate meat-and-bone meal, animal feed that contains meat-and-bone meal, and processed specified risk materials; whereas Portugal has proposed to the Commission that it should be possible for such material to be sent for incineration in another Member State; whereas a reduction of the amount of such material stored in Portugal would further reduce the risk of exposing humans or animals directly or indirectly to the BSE agent; whereas, therefore, Portugal should be permitted to dispatch such material from its territory to other Member States for incineration; whereas it is necessary to lay down appropriate guarantees for the controls at the place of destination;

(4) Whereas the prohibition on the dispatch from Portugal of bovine products was to apply only until 1 August 1999, provided that a risk assessment conducted on the basis of the findings of a mission of the Food and Veterinary Office, taking into account the evolution of the disease, demonstrates that appropriate measures have been taken to manage any risk, and that the relevant Community and national measures are complied with and effectively enforced;

(5) Whereas at the General Session of the World Organisation for Animal Health (International Office of Epizootic Diseases (OIE)) Committee from 17 to 21 May 1999, a proposal of the OIE International Animal Health Code Commission concerning the criteria for the determination of the BSE status of a country or zone was adopted; whereas according to those criteria, a country or zone will be classified as having a high incidence of BSE if the BSE incidence rate, calculated over the past 12 months, has been greater than 100 cases per 1 000 000 within the cattle population over 24 months of age in the country or zone; whereas the current BSE incidence rate in Portugal calculated over the past 12 months per 1 000 000 animals over 24 months of age is 211;

[1] OJ L 224, 18.8.1990, p. 29.
[2] OJ L 62, 15.3.1993, p. 49.
[3] OJ L 395, 30.12.1989, p. 13.
[4] OJ L 311, 20.11.1998, p. 23.
[5] OJ L 294, 28.10.1997, p. 7.

whereas, therefore, Portugal is to be classified as having a high incidence of BSE; 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 Portugal cannot provide guarantees that those conditions are met;

(6) Whereas missions on BSE related issues have been carried out in Portugal by the Food and Veterinary Office from 22 February to 3 March 1999 and from 19 to 23 April 1999; whereas those missions contributed to the assessment of the application and effectiveness of measures to protect against BSE; whereas those missions concluded that serious efforts and considerable progress had been made in the implementation of risk management measures in a short period, despite not all measures being adequately enforced;

(7) Whereas in those circumstances, it is appropriate to maintain the prohibition on the dispatch of bovine products;

(8) Whereas Council Directive 89/608/EEC of 21 November 1989 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of legislation on veterinary and zootechnical matters [1], and in particular Article 10 thereof, lays down the rules for the communication by the competent authorities in the Member States to the Commission of information on operations, which are, or appear to be, contrary to Decision 98/653/EC and which are of particular interest at Community level;

(9) Whereas Directive 89/662/EEC requires the Member State of destination to take appropriate measures in case of irregularities; whereas protocols should be laid down for such measures in the Member States of destination;

(10) Whereas Decision 98/653/EC should be amended accordingly;

(11) Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

[1] OJ L 351, 2.2.1989, p. 34.

HAS ADOPTED THIS DECISION:

Article 1

Decision 98/653/EC is amended as follows

1. Article 3 is replaced by the following:

'*Article 3*

1. By way of derogation from Article 2, Portugal may authorise the dispatch from its territory to:

(a) other Member States or to third countries of food destined for domestic carnivores containing material referred to in Article 2(b) provided that that material did not originate from Portugal and that the conditions laid down in Articles 8 and 9 and complied with;

(b) other Member States of material referred to in Article 2(b) and (c) for the purpose of incineration in accordance with the conditions laid down in Annex I.

2. The derogation provided for in paragraph 1(b) shall apply only if the Member State of destination has authorised the receipt of the material referred to therein.

3. Member States of destination shall inform the Commission and the other Member States of the list of incineration plants authorised to receive the material referred to in paragraph 1(b).

4. The Member State of destination shall ensure that the material referred to in paragraph 1(b) is incinerated in accordance with Annex I.

5. The Member State of destination shall keep full records demonstrating compliance with this Article.

6. The Commission, after having verified on-the-spot in the Member State of destination the application, as appropriate, of the provisions of this Article on the basis of a Community inspection and after having informed the Member States; shall set the date on which the dispatch of the material referred to in paragraph 1(b) may commence'

2. In Article 4, the words '1 August 1999' are replaced by '1. February 2000'.

3. In Article 5(1)(a), the word 'Annex' is replaced by 'Annex II'.

4. The present Annex to Decision 98/653/EC becomes 'Annex II' and Annex I as set out in the Annex to this Decision is inserted.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 28 July 1999.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

'ANNEX I

A. **Conditions for the dispatch of meat meal, bone meal and meat-and-bone meal of mammalian origin as well as animal feed and fertilisers containing such material as referred to in Article 3(1)(b)**

1. An official certificate as laid down in part B of this Annex must accompany the material.

2. All containers must be marked with the words "Not for animal consumption or incineration only" in the languages of the Member State of origin, destination and transit, and, where material is in bags inside an outer container, teh bags must be marked as above.

3. The material must be transported in officially sealed covered containers in such a way as to prevent loss an conveyed directly to an incineration plant as referred to in Article 3(3).

4. Portugal must inform by means of the ANIMO system the competent authority of the place of destination and all Member States of transit of each consignment using the codes set out in Title I, Chapter I.3, point 12(2) and Title III point D4(1) of Commission Decision 93/70/EEC [1]. The words "Not for animal consumption — For incineration only" must be contained in the ANIMO message.

5. The Member State of destination must inform the competent authority of the place of origin of the arrival of the consignment by sending a copy of the official certificate as referred to in point 1, signed by the competent authority of the place of destination, to the competent authority of the place of origin by fax or any other means.

6. The Member State of destination must have detailed protocols in place covering:

   (a) controls on arrival, storage and movement of each consigment, in particular unsealing of containers and reconciliation of weight,

   (b) controls on certificates and ANIMO messages,

   (c) the measures referred to in point 5,

   (d) controls on the cleaning of the containers,

   (e) controls on the incineration of the material,

   (f) records at the incineration plant,

   (g) measures in case of irregularities.

[1] OJ L 25, 2.2.1993, p. 34.

B. **OFFICIAL CERTIFICATE**

for meat meal, bone meal and meat-and-bone meal of mammalian origin as well as animal feed and fertilisers containing such material for the purpose of incineration

Member State of destination: .....

Reference number of the official certificate: .....

Member State of origin: .....

Responsible ministry: .....

Certifying department: .....

I. **Identification of the consignment**

Nature of packaging: .....

Number of packages: ..... [1]

Net weight: .....

II. **Origin of the consignment**

Address of the establishment: .....

III. **Destination of the consignment**

The mammalian animal waste will be sent

from: .....
(place of loading)

to: .....
(country and place of destination)

by the following means of transport:

Type: .....

Plate number or name of the vessel: .....

Number of the seal: .....

Name and address of consignor: .....

Name and address of consignee: .....

ATTESTATION:

The undersigned official veterinarian certifies that the product described above contains meat meal, bone meal or meat-and-bone meal of mammalian origin or animal feed or fertilisers containing such material, which cannot be used for purposes other than incineration.

The material does not contain material from bovine animals suspected or confirmed of having contracted BSE, nor from other bovine animals killed under a BSE eradication measure pursuant to Commission Decision 96/381/EC.

Done at ....., on .....
(place) (date)

Stamp [2]

.....
(signature of the official) [2]

.....
(name in capital letters, qualifications and title)

[1] Only applicable if not in bulk.
[2] The signature and stamp must be in a colour different to that of the printing.'