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 (Text with EEA relevance)

COMMISSION REGULATION (EC) No 798/2008

of 8 August 2008

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(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/539/EEC of 15 October 1990 on animal health conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs[(1)], and in particular Article 21(1), Article 22(3) Article 23, Article 24(2) and Articles 26 and 27a thereof,

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[(2)], and in particular Articles 10 and 18 thereof,

Having regard to Council Directive 96/23/EC of 29 April 1996 on measures to monitor certain substances and residues thereof in live animals and animal products and repealing Directives 85/358/EEC and 86/469/EEC and Decisions 89/187/EEC and 91/664/EEC[(3)], and in particular the fourth subparagraph of Article 29(1), 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[(4)], and in particular Article 22(1) thereof,

Having regard to 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[(5)], and in particular Article 8, Article 9(2)(b) and Article 9(4) thereof,

Having regard to Regulation (EC) No 2160/2003 of the European Parliament and of the Council of 17 November 2003 on the control of salmonella and other specified food-borne zoonotic agents[(6)], and in particular Article 10(2) thereof,

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EC) No 798/2008. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Having regard to Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin[7], and in particular Article 9 thereof,

Having regard to Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption[8], and in particular Article 11(1) thereof,

Whereas:

(1) Directive 90/539/EEC lays down animal health conditions governing imports into the Community from third countries of poultry and hatching eggs. It provides that poultry and hatching eggs are to satisfy the conditions laid down therein and originate in a third country or part thereof included on a list drawn up in accordance with that Directive.

(2) Directive 2002/99/EC lays down rules governing the introduction from third countries of products of animal origin and products obtained there from intended for human consumption. It provides that such products are only to be imported into the Community if they comply with the requirements applicable to all stages of the production, processing and distribution of those products in the Community or if they offer equivalent animal health guarantees.

(3) Commission Decision 2006/696/EC of 28 August 2006 laying down a list of third countries from which poultry, hatching eggs, day-old chicks, meat of poultry, ratites and wild game-birds, eggs and egg products and specified pathogen-free eggs may be imported into and transit through the Community and the applicable veterinary certification conditions[9] sets out a list of third countries from which the commodities concerned may be imported into, and transit through, the Community and lays down the veterinary certification conditions.

(4) Commission Decision 93/342/EEC of 12 May 1993 laying down the criteria for classifying third countries with regard to avian influenza and Newcastle disease in relation to imports of live poultry and hatching eggs[10] and Commission Decision 94/438/EC of 7 June 1994 laying down the criteria for classifying third countries and parts thereof with regard to avian influenza and Newcastle disease in relation to imports of fresh poultrymeat[11] lay down criteria for classifying third countries with regard to avian influenza and Newcastle disease in relation to imports of live poultry, hatching eggs and poultrymeat.

(5) Community legislation for the control of avian influenza has recently been updated by Council Directive 2005/94/EC of 20 December 2005 on Community measures for the control of avian influenza[12], to take account of the most recent scientific knowledge and developments on the epidemiology of avian influenza in the Community and worldwide. The scope of the control measures to be applied in the event of an outbreak has been extended from highly pathogenic avian influenza (HPAI) to deal also with outbreaks of low pathogenic avian influenza (LPAI), and to introduce compulsory active surveillance for avian influenza and a wider use of vaccination against this disease.

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(6) Imports from third countries should therefore meet conditions equivalent to those applied within the Community and which are in line with the revised requirements for international trade in poultry and poultry products laid down by the standards of the Terrestrial Animal Health Code of the World Organisation for Animal health (OIE)[(13)] and the Manual of Diagnostic Tests and Vaccines for Terrestrial Animals[(14)] of the OIE.

(7) Argentina and Israel have submitted their avian influenza surveillance programmes to the Commission for evaluation. The Commission has examined these programmes and they conform to the relevant Community provisions and therefore a positive evaluation of these programmes should be indicated in the column 7 of part 1 of Annex I to this Regulation.

(8) Article 21(2) of Directive 90/539/EEC sets out certain matters that are to be taken into account when deciding whether or not a third country or part thereof maybe included in the list of third countries from which poultry and hatching eggs may be imported into the Community, such as the state of health of poultry, the regularity and rapidity of the supply of information by a third country relating to the existence of certain contagious animal diseases, including avian influenza and Newcastle disease and the rules for animal disease prevention and control in the third country concerned.

(9) Article 8 of Directive 2002/99/EC provides that when drawing up lists of third countries or regions of third countries thereof from which imports of specified products of animal origin are permitted into the Community, particular account is to be taken of certain matters, such as the health status of livestock, the regularity, speed and accuracy with which the third country supplies information on the existence of certain infectious or contagious animal diseases in its territory, in particular avian influenza and Newcastle disease and the general health situation in the third country concerned which might pose a risk to public or animal health in the Community.

(10) In the interests of animal health, this Regulation should provide that commodities should only be imported into the Community from third countries, territories, zones or compartments which have in place avian influenza surveillance programmes and avian influenza vaccination plans, where such vaccination is carried out.

(11) Pursuant to Regulation (EC) No 2160/2003, admission to or retention on the lists of third countries provided for in Community legislation from which Member States are authorised to import certain poultry commodities covered by that Regulation is subject to the submission to the Commission by the third country concerned of a programme equivalent to national control programmes for *Salmonella* to be established by the Member States, and its approval by the Commission. A positive evaluation of these programmes should be indicated in part 1 of Annex I to this Regulation.

(12) The Community and certain third countries wish to permit trade in poultry and poultry products coming from approved compartments and therefore the principle of compartmentalisation for imports of poultry and poultry products should be further laid down in Community legislation. The compartmentalisation principle has been laid down recently by the OIE in order to facilitate world wide trade in poultry and poultry products and therefore it should be incorporated into Community legislation.

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(13) Currently Community legislation does not provide for certificates for the import into the Community of minced meat and mechanically separated meat of poultry, ratites and wild game-birds, for certain health reasons, in particular the traceability of meat used for its production. Accordingly, model veterinary certificates covering those commodities should be provided for in this Regulation following further scientific investigations.

(14) In order to provide more flexibility in certain situations for the competent authorities for veterinary certificates purposes, and based on several requests from third countries exporting day-old chicks of poultry and ratites to the Community, this Regulation should provide that such commodities should be examined at the time of dispatch of the consignment instead of at the time of issue of the veterinary certificate.

(15) In order to avoid any interruption in trade, imports into the Community of commodities that have been produced before the introduction of animal health restrictions, as set out in Part 1 of Annex I to this Regulation, should continue to be permitted for 90 days following the introduction of import restrictions for the commodity concerned.

(16) Specific conditions for transit via the Community of consignments to and from Russia should be provided for owing to the geographical situation of Kaliningrad which affects only Latvia, Lithuania and Poland.

(17) Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)[(15)] set out general Community health rules applicable to the import into, and transit through, the Community of the commodities covered by the Regulation.

(18) In addition, Council Directive 96/93/EC of 17 December 1996 on the certification of animals and animal products[(16)] lays down standards of certification which are necessary to ensure valid certification and to prevent fraud. It is, therefore, appropriate to ensure in this Regulation that the rules and principles applied by third country certifying officers provide guarantees that are equivalent to those laid down in that Directive and that the model veterinary certificates laid down in this Regulation reflect only such facts as may be attested at the time the certificate is issued.

(19) In the interests of clarity and coherence of Community legislation, Decisions 93/342/EEC, 94/438/EC and 2006/696/EC should be repealed and replaced by this Regulation.

(20) It is appropriate to provide for a transitional period to permit Member States and industry to take the necessary measures to comply with the applicable veterinary certification requirements laid down in this Regulation.

(21) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

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CHAPTER I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

Subject matter and scope

1 This Regulation lays down veterinary certification requirements for imports into and transit, including storage during transit, through the Community of the following commodities (the commodities):

a poultry, hatching eggs, day-old chicks and specified pathogen-free eggs;

b meat, minced meat and mechanically separated meat of poultry, including ratites and wild game-birds, eggs and egg products.

It lays down a list of third countries, territories, zones or compartments from which the commodities may be imported into the Community.

2 This Regulation shall not apply to poultry for exhibitions, shows or contests.

3 This Regulation shall apply without prejudice to specific certification requirements provided for in Community agreements with third countries.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

(1) ‘poultry’ means fowl, s, guinea fowl, ducks, geese, quails, pigeons, pheasants, partridges and ratites (*ratitae*), reared or kept in captivity for breeding, the production of meat or eggs for consumption, or for restocking supplies of game;

(2) ‘hatching eggs’ means eggs for incubation, laid by poultry;

(3) ‘day-old chicks’ means all poultry less than 72 hours old, not yet fed and muscovy ducks (*Cairina moschata*) or their crosses, less than 72 hours old whether or not fed;

(4) ‘breeding poultry’ means poultry 72 hours old or more, intended for the production of hatching eggs;

(5) ‘productive poultry’ means poultry 72 hours old or more, reared for:

(a) the production of meat and/or eggs for consumption; or

(b) the restocking of supplies of game;

(6) ‘specified pathogen-free eggs’ means hatching eggs which are derived from ‘chicken flocks free from specified pathogens’, as described in the European Pharmacopoeia[17], and which are intended solely for diagnostic, research or pharmaceutical use;

(7) ‘meat’ means edible parts of the following animals:

(a) poultry, which, when relating to meat, means farmed birds, including birds that are farmed as domestic animals without being considered as such, with the exception of ratites;