Commission Regulation (EC) No 1993/2004 of 19 November 2004 amending Regulation (EC) 999/2001 of the European Parliament and of the Council as regards Portugal (Text with EEA relevance)

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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)], and in particular Article 9(4) thereof,

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 completion of the internal market[(2)], and in particular Article 10(4) thereof,

Having regard to Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies[(3)], and in particular the first paragraph of Article 23 thereof,

Whereas:

(1) Commission Decision 2001/376/EC of 18 April 2001 concerning measures made necessary by the occurrence of bovine spongiform encephalopathy in Portugal and implementing a date-based export scheme[(4)] prohibits the dispatch from Portugal of live bovine animals and certain products derived therefrom. That Decision replaced and repealed Commission Decision 98/653/EC[(5)] which was adopted because of the high bovine spongiform encephalopathy (BSE) incidence rate and the lack of adequate management of that disease in Portugal at that time.

(2) The Scientific Steering Committee (SSC) recognised three major issues for considering the risk of BSE. First, the risk of human exposure arising from the direct consumption of potentially infective material; secondly, the risk to man from ingesting or being exposed to processed, potentially infective material; and thirdly, the risk of propagating the infection by recycling the infective material through animal feed. The International Animal Health Organisation (OIE) has also proposed that the assessment of the risk to human and animal health in countries be based on a combination of the spread of BSE and the application of measures to control the risk.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1993/2004. (See end of Document for details)*

(3) At its general session in May 2003, the OIE amended the Animal Health Code Chapter on BSE and altered the criteria defining the limit between moderate-risk and high-risk countries. The limit is now set at a BSE incidence rate calculated over the previous 12 months of 200 cases per million animals within the cattle population over 24 months of age, for countries carrying out active surveillance.

(4) In Portugal, 103 cases of BSE were notified between 1 September 2003 and 31 August 2004. Accordingly, that results in a BSE incidence rate calculated over the previous 12 months of 131,7. In addition, the results of the active monitoring and passive surveillance indicate that the BSE incidence rate is decreasing in that Member State.

(5) Therefore, the BSE incidence rate is below the upper limit for a moderate BSE risk country as set out in the OIE Animal Health Code. The favourable evolution of the BSE incidence rate indicates the effectiveness of the measures taken by Portugal.

(6) A ban on the feeding of mammalian protein to farmed animals and of mammalian fat to ruminants was introduced in Portugal on 4 December 1998. At the same time the keeping, storage and marketing of mammalian protein and certain fats was prohibited and the recall of existing stocks was organised.

(7) A mission carried out in Portugal by the Food and Veterinary Office (FVO) in June 1999 concluded that the recall of those existing stocks was completed and that the controls on the effectiveness of the feed ban were applied properly. The ban was considered to be effective from 1 July 1999.

(8) A ban on the use of specified risk materials in human food or animal feed was introduced in Portugal on 4 December 1998. That ban was extended in accordance with Regulation (EC) No 999/2001.

(9) A centralised national system for the identification and registration of bovine animals was introduced in Portugal as of 1 July 1999.

(10) Regulation (EC) No 999/2001 provides for measures targeting all animal and public health risks resulting from all animal TSE, and governing the entire chain of production and placing on the market of live animals and products of animal origin. In particular, it lays down rules at Community level on the systematic monitoring of BSE, the removal of specified risk materials and on prohibitions concerning animal feeding.

(11) Regulation (EC) No 999/2001 has been applied from 1 July 2001. Several FVO missions in Portugal have evaluated the implementation of the measures laid down in that Regulation which are aimed at the eradication, control and prevention of TSEs.

(12) A mission by the FVO in February 2004 showed that Portugal had taken all the necessary actions and addressed satisfactorily all the recommendations as regards the implementation of the protection measures against BSE laid down in Regulation (EC) No 999/2001, and in particular those related to BSE surveillance, removal of specified risk materials and to the feed ban.

(13) The three major issues for considering the risk of BSE: first, the risk of human exposure arising from the direct consumption of potentially infective material; secondly, the risk

to man from ingesting or being exposed to processed, potentially infective material; and, thirdly, the risk of propagating the infection by recycling the infective material through animal feed, as recognised by the SSC; now appear to be adequately managed by Portugal.

(14) Accordingly, it is appropriate to repeal Decision 2001/376/EC.

(15) Under Regulation (EC) No 999/2001, the vertebral column of bovine animals over the age of 12 months is considered as specified risk material. Portugal benefits from a derogation allowing the use of vertebral column derived from bovine animals under the age of 30 months. In addition, that Regulation establishes for Portugal an extended list of specified risk material.

(16) In the interests of harmonisation of trade, the age limit for the removal of the vertebral column of bovine animals and the list of specified risk materials applicable in the other Member States should also apply in Portugal. Regulation (EC) No 999/2001 should be amended accordingly.

(17) In the interest of clarity and coherence of Community legislation, Commission Decision 2000/345/EC of 22 May 2000 setting the date on which dispatch from Portugal to Germany of certain products for the purpose of incineration may commence by virtue of Article 3(6) of Decision 98/653/EC[(6)], Commission Decision 2000/371/EC of 6 June 2000 setting the date on which dispatch of fighting bulls from Portugal to France may commence by virtue of Article 3(7) of Decision 98/653/EC[(7)], and Commission Decision 2000/372/EC of 6 June 2000 setting the date on which dispatch of fighting bulls from Portugal to Spain may commence by virtue of Article 3(7) of Decision 98/653/EC[(8)], should be repealed.

(18) 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:

Article 1

Annex XI to Regulation (EC) No 999/2001 is amended in accordance with the Annex to this Regulation.

Article 2

Decisions 2000/345/EC, 2000/371/EC, 2000/372/EC and 2001/376/EC are repealed.

Article 3

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 1993/2004. (See end of Document for details)*

Done at Brussels, 19 November 2004.

For the Commission

David BYRNE

Member of the Commission