COMMISSION REGULATION (EC) No 872/2003

of 20 May 2003

on special measures derogating from Regulations (EC) No 1371/95, (EC) No 1372/95, (EC) No 800/1999 and (EC) No 1291/2000 in the egg and poultrymeat sectors

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organisation of the market in eggs [1], as last amended by Commission Regulation (EC) No 493/2002 [2], and in particular Article 3(2), Article 8(12) and Article 15 thereof,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organisation of the market in poultrymeat [3], as last amended by Regulation (EC) No 493/2002, and in particular Article 3(2), Article 8(12) and Article 15 thereof,

Whereas:

(1) As a result of the cases of avian influenza have occurred in the Netherlands, protective measures have been adopted under 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 [4], as last amended by Directive 2002/33/EC of the European Parliament and of the Council [5], and under 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 [6]. The Commission has adopted Decision 2003/153/EC of 3 March 2003 concerning protection measures in relation to strong suspicion of avian influenza in the Netherlands [7], as amended by Decision 2003/156/EC [8].

(2) Council Regulation (EEC) No 565/80 [9], as last amended by Commission Regulation No 444/2003 [10], lays down general rules on the advance payment of export refunds in respect of agricultural products.

(3) Commission Regulation (EC) No 800/1999 [11], as last amended by Regulation (EC) No 444/2003, lays down detailed rules for applying the system of export refunds on agricultural products.

(4) Commission Regulation (EC) No 1291/2000 [12], as last amended by Regulation (EC) No 325/2003 [13], lays down common detailed rules for applying the system of import and export licences and advance fixing certificates for agricultural products.

(5) Commission Regulation (EC) No 1371/95 [14], as last amended by Regulation (EC) No 2260/2001 [15], and Commission Regulation (EC) No 1372/95 [16], as last amended by Regulation (EC) No 1383/2001 [17], lay down rules for implementing the system of export licences in the eggs and poultrymeat sectors, respectively.

(6) The occurrence of cases of avian influenza has led the authorities of certain third countries to take health measures with regard to exports of eggs and poultry products from the Netherlands and other Member States. Those measures have seriously affected the financial interests of exporters. The situation thus created has seriously affected export opportunities under the conditions laid down in Regulations (EC) No 1371/95, (EC) No 1372/95, (EC) No 800/1999 and (EC) No 1291/2000.

(7) Those adverse effects should be mitigated by the adoption of special measures, in particular the cancellation of export licences issued and the extension of certain time limits laid down in Regulations (EC) No 1371/95, (EC) No 1372/95, (EC) No 800/1999 and (EC) No 1291/2000 relating to certain export operations which could not be carried out because of the health measures taken. In particular, operators who have already completed customs export formalities or placed their products under customs supervision should be allowed the same benefits as stem from extension of the term of validity of licences by extending the time limit for transport provided for in Regulation (EC) No 800/1999.

(8) The special measures provided for in this Regulation should apply only to those operators who can prove, on the basis of the documents referred to in Article 1(2) of Council Regulation (EEC) No 4045/89 [18], as last amended by Regulation (EC) No 2154/2002 [19], that they were unable to carry out the export operations within the prescribed time limits as a result of the health measures taken to combat avian influenza.

[1] OJ L 282, 1.11.1975, p. 49.
[2] OJ L 77, 20.3.2002, p. 7.
[3] OJ L 282, 1.11.1975, p. 77.
[4] OJ L 224, 18.8.1990, p. 29.
[5] OJ L 315, 19.11.2002, p. 14.
[6] OJ L 18, 23.1.2003, p. 11.
[7] OJ L 59, 4.3.2003, p. 32.
[8] OJ L 64, 7.3.2003, p. 36.
[9] OJ L 62, 7.3.1980, p. 5.
[10] OJ L 67, 12.3.2003, p. 3.
[11] OJ L 102, 17.4.1999, p. 11.
[12] OJ L 152, 24.6.2000, p. 1.
[13] OJ L 47, 21.2.2003, p. 21.
[14] OJ L 133, 17.6.1995, p. 16.
[15] OJ L 305, 22.11.2001, p. 11.
[16] OJ L 133, 17.6.1995, p. 26.
[17] OJ L 186, 7.7.2001, p. 26.
[18] OJ L 388, 30.12.1989, p. 18.
[19] OJ L 328, 5.12.2002, p. 4.