

COMMISSION DECISION

of 2 August 2005

prohibiting the placing on the market of products derived from bovine animals born or reared within the United Kingdom before 1 August 1996 for any purpose and exempting such animals from certain control and eradication measures laid down in Regulation (EC) No 999/2001*(notified under document number C(2005) 2916)***(Only the English text is authentic)****(Text with EEA relevance)**

(2005/598/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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 ⁽¹⁾, and in particular the fifth subparagraph of Article 12(1), Articles 13(3) and 16(7) and Article 23 thereof,

Whereas:

- (1) The opinion of the Scientific Panel on biological hazards of the European Food Safety Authority (EFSA) of 21 April 2004 on the scientific justification for proposing amendments to the United Kingdom Date Based Export Scheme (DBES) and to the Over Thirty Months (OTM) rule, concludes that cattle born or reared in the United Kingdom before 1 August 1996 should be kept out of the food and feed chains, because of the higher bovine spongiform encephalopathy (BSE) incidence in this group. For cattle born after that date, the opinion concludes that the BSE risk to consumers is in a range comparable with that in other Member States. From 1 August 1996 all mammalian meat and bone meal was banned from feed to all farmed animals in the United Kingdom.
- (2) In those circumstances it is appropriate to prohibit the placing on the market of all products, consisting of, or incorporating materials derived from bovine animals born or reared within the United Kingdom before 1 August 1996 and to ensure that these materials are destroyed in order to avoid any risk of transmission of transmissible spongiform encephalopathy (TSE) to humans or animals.
- (3) Following scientific advice recommending that hides do not pose a risk, no conditions should be imposed in relation to their trade. Therefore it should be possible to use hides of those animals for leather production.
- (4) The placing on the market of the hides should meet the requirements of Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption ⁽²⁾, and of Commission Regulation (EC) No 878/2004 of 29 April 2004 laying down transitional measures in accordance with Regulation (EC) No 1774/2002 for certain animal by-products classified as Category 1 and 2 materials and intended for technical purposes ⁽³⁾. Since no restrictions apply on milk and milk-based products under Regulation (EC) No 999/2001, milk and milk-based products should also be excluded from the prohibition for the placing on the market.
- (5) Commission Regulation (EC) No 1326/2001 of 29 June 2001 laying down transitional measures to permit the changeover to the Regulation of the European Parliament and of the Council (EC) No 999/2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies, and amending Annexes VII and XI to that Regulation ⁽⁴⁾ has suspended the implementation of certain provisions in Regulation (EC) No 999/2001 as a transitional measure, and in particular the measures related to the placing on the market of products, laid down in its Article 16. Under the circumstances, the marketing ban on products derived from animals born or reared in the United Kingdom before 1 August 1996 should therefore be adopted as a transitional measure, pending the adoption and entry into force of a decision determining the BSE status of the United Kingdom.
- (6) Articles 12 and 13 of Regulation (EC) No 999/2001 lay down rules concerning measures to be applied following suspicion and confirmation of a TSE. Article 13 specifies that Member States, which have implemented a substitute scheme offering a level of protection equivalent to the movement restriction and cohort killing and destruction measures provided for in those articles, may, by way of derogation, apply those equivalent measures provided that they have been approved in accordance with a comitology procedure.

⁽¹⁾ OJ L 147, 31.5.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 260/2005 (OJ L 46, 17.2.2005, p. 31).

⁽²⁾ OJ L 273, 10.10.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 416/2005 (OJ L 66, 12.3.2005, p. 10).

⁽³⁾ OJ L 162, 30.4.2004, p. 62.

⁽⁴⁾ OJ L 177, 30.6.2001, p. 60. Regulation as last amended by Regulation (EC) No 1234/2003 (OJ L 173, 11.7.2003, p. 6).

- (7) On 24 May 2001 the United Kingdom applied for recognition of the measures it applies as being equivalent to the movement restrictions and cohort culling required by Article 12 and 13 of Regulation (EC) No 999/2001.
- (8) On 11 January 2002 the Scientific Steering Committee (SSC) adopted an opinion on the additional safeguard provided by different culling schemes under the current conditions in the United Kingdom and Germany. The SSC recognised that the measures in place in the United Kingdom, namely a total feed ban, the operation of the destruction scheme for over 30 month (OTM scheme) cattle and a specified risk material ban, provided they are implemented effectively, provide a level of safety that cannot be significantly improved by the killing and destruction of animals at risk as required in Article 13(1)(c) of Regulation (EC) No 999/2001.
- (9) Since no products, other than milk and milk based products as well as hides prepared for use for leather production only, derived from bovine animals born or reared within the United Kingdom before 1 August 1996 may be placed on the market, a scheme providing for the destruction of those animals at the end of their productive life in accordance with Regulation (EC) No 1774/2002 should be considered as offering equivalent safeguards to the measures laid down in Articles 12 and 13 of Regulation (EC) No 999/2001 on the basis of the SSC opinion of 11 January 2002. For animals at risk born after 31 July 1996 all the eradication measures laid down in Regulation (EC) No 999/2001 should continue to apply.
- (10) It is therefore appropriate, in parallel with the marketing ban, to exempt the United Kingdom from most of the control and eradication requirements laid down in Articles 12 and 13 of Regulation (EC) No 999/2001 in relation to animals born or reared in the United Kingdom before 1 August 1996.
- (11) 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. No products consisting of or incorporating materials, other than milk, derived from bovine animals born or reared within the United Kingdom before 1 August 1996 shall be placed on the market.

2. On the death of any bovine animal born or reared within the United Kingdom before 1 August 1996, all its body parts shall be disposed of in accordance with Regulation (EC) No 1774/2002.

3. Notwithstanding paragraphs 1 and 2, the hides of the animals referred to therein may be used for leather production, in compliance with Regulation (EC) No 1774/2002 and with Article 4(1) and Article 5 of Regulation (EC) No 878/2004.

Article 2

1. When a transmissible spongiform encephalopathy (TSE) is suspected or has been officially confirmed in a bovine animal born or reared within the United Kingdom before 1 August 1996, the United Kingdom shall be exempted from the implementation of the requirements:

(a) in Article 12 of Regulation (EC) No 999/2001 to place the remaining bovine animals from that holding other than those born in the 12 months following 1 August 1996 under official movement restriction until the results of a clinical and epidemiological examination are known;

(b) in Article 13 of Regulation (EC) No 999/2001 and Annex VII to that Regulation concerning confirmed cases, to identify and destroy animals other than the confirmed case.

2. However, the following animals shall be identified, killed and destroyed in accordance with Regulation (EC) No 999/2001:

(a) where the disease is confirmed in a female animal, all its progeny born within two years prior to, or after, clinical onset of the disease;

(b) where the disease is confirmed in an animal born in the 12 months preceding 1 August 1996, cohort animals born after 31 July 1996.

Article 3

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 2 August 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission