



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 19 July 2005**

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**Interinstitutional File:  
2005/0062 (CNS)  
2005/0063 (CNS)**

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**11180/05**

**LIMITE**

**AGRILEG 107**

**PUBLIC**

**MEETING DOCUMENT**

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from :            Presidency  
to :                Working Party of Chief Veterinary Officers  
Subject :         Draft Council Directive on Community measures for the control of Avian  
                      Influenza

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Delegations will find in Annex a draft text following the technical examination of the above proposal (most recently at the meeting of the Working Party of Veterinary experts on 15 July 2005).

Nota Bene

1. Text in normal character has been agreed
2. Text in italics (and where appropriate underlined) : text to be discussed at further Working Party of Veterinary experts / CVO's

Draft

**COUNCIL DIRECTIVE**

**on Community measures for the control of Avian Influenza**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission<sup>1</sup>,

Having regard to the opinion of the European Parliament<sup>2</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>3</sup>,

Having regard to the opinion of the Committee of the Regions<sup>4</sup>,

*Whereas:*

- (1) *Avian influenza is a serious, highly contagious disease of poultry and other birds caused by different types of influenza viruses. Those viruses may also spread to mammals, including pigs and humans.*
- (2) *Since live poultry is listed in Annex I of the Treaty, one of the Community's tasks in the veterinary field is to improve the health status of poultry, thereby facilitating trade in poultry and poultry products and ensuring the development of this sector. Furthermore, a high level of human health protection is to be ensured when defining and implementing Community policies and activities.*
- (3) *Community measures for the control of avian influenza were established by Council Directive 92/40/EEC of 19 May 1992 introducing Community measures for the control of avian influenza<sup>5</sup>, in order to ensure the protection of animal health and contribute to the development of the poultry sector.*

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

<sup>3</sup> OJ C , , p. .

<sup>4</sup> OJ C , , p. .

<sup>5</sup> OJ L 167, 22.6.1992, p. 1. Directive as last amended by the 2003 Act of Accession.

- (4) *The measures laid down in Directive 92/40/EEC should be fundamentally reviewed in the light of recent scientific knowledge on the risks of avian influenza for animal and public health, development of new laboratory tests and vaccines and the lessons learnt during recent outbreaks of this disease in the Community as well as in third countries.*
- (5) *The new Community measures should also take account of the most recent opinions delivered by the Scientific Committee on Animal Health and Animal Welfare and the changes in the Terrestrial Animal Health Code and the Manual of Diagnostic Tests and Vaccines for Terrestrial Animals of the World Organization for Animal Health (O.I.E.) on avian influenza.*
- (6) *Influenza viruses include a large number of different virus strains. The level of risks posed by the different strains of influenza viruses for animal and public health is very variable and to some extent unpredictable, due to rapid virus mutation and possible re-assortment of the genetic material between different strains.*
- (7) *The infection with certain strains of influenza viruses of avian origin may trigger outbreaks in domestic birds of epizootic proportions, causing mortality and disturbances of poultry on a scale, which can threaten in particular the profitability of poultry farming as a whole. Avian influenza viruses may also affect humans and may pose a serious risk to public health.*
- (8) *Current knowledge indicates that the health risks posed by the so-called low pathogenic avian influenza viruses are inferior to the one posed by highly pathogenic avian influenza viruses, which originate from a mutation of certain low pathogenic viruses.*
- (9) *Community legislation for the control of avian influenza should give the possibility for the Member States to adopt disease control measures in a proportionate and flexible manner, taking into account the various levels of risk posed by different virus strains, the likely social and economic impact of the measures in question on the agriculture sector and other sectors involved while at the same time ensuring that the measures taken for each specific disease scenario are the most appropriate.*
- (10) *With a view to preventing and anticipating the public health problems which may be posed by avian influenza, effective communication and close co-operation should be sought between the animal and public health services in the Member States, so that appropriate measures to safeguard human health can also be taken by the competent authorities, whenever necessary.*
- (11) *In view of the potential of low pathogenic avian influenza viruses to mutate into highly pathogenic avian influenza viruses, provision should be made for the early detection of infection in poultry aimed at a quick reaction and the adoption of appropriate measures which should include a system of active surveillance to be carried out by Member States. That surveillance should follow general guidelines which should be adapted in the light of further knowledge and developments in this field.*

- (12) *Any suspicion of avian influenza infection which may arise from clinical or laboratory investigations or any other reason that leads to the suspicion of the presence of infection should set in motion immediate official investigations so that prompt and effective action can be taken, as appropriate. Those measures should be reinforced as soon as the presence of infection is confirmed to include depopulation of the holdings infected and of those which are at risk of infection.*
- (13) *In the case of detection of infection with low pathogenic avian influenza virus, or in the case of serological evidence of infection, where the presence of the virus cannot be confirmed by virus isolation tests, control measures may differ from those which should apply in the case of detection of highly pathogenic avian influenza virus, taking into account the different levels of risk posed by these two conditions.*
- (14) *Disease control measures and in particular the establishment of restriction zones should also be modulated taking into account the density of the poultry population as well as other risk factors in the area, in which the infection has been detected.*
- (15) *If an outbreak occurs it is also necessary to prevent any further spread of infection by carefully monitoring and restricting movements of poultry and the use of products liable to be contaminated, by tightening biosecurity measures at all levels of poultry production, by cleansing and disinfection of the infected premises, by establishing protection and surveillance zones around the outbreak and, if necessary, by vaccination.*
- (16) *Community measures for the control of highly pathogenic avian influenza should be based first on the depopulation of the infected flocks, in accordance with Community legislation on animal welfare.*
- (17) *Vaccination against avian influenza can be an effective tool to supplement disease control measures and to avoid massive killing and destruction of poultry and birds. Current knowledge suggests that vaccination may be useful not only in emergencies but also to prevent disease in situations of higher risk of introduction of avian influenza viruses from wild life or other sources. Provisions should therefore be established for both emergency and protective vaccination.*
- (18) *Vaccinated poultry although protected against the clinical signs of disease, may become infected and may thus contribute to the further spread of the infection. Vaccination must therefore be accompanied by appropriate surveillance and restriction measures established at Community level. Therefore, the vaccination strategy should allow differentiation between infected and vaccinated animals. Products of vaccinated poultry, such as meat and table eggs, should be then placed on the market in accordance with the relevant Community legislation including this Directive.*
- (19) *The Community and the Member States should also have the possibility to establish reserves of vaccine against avian influenza to be used in poultry and other birds in case of an emergency.*
- (20) *Provisions should be made to ensure that harmonised procedures and methods are used for the diagnosis of avian influenza, including the functioning of a Community reference laboratory as well as reference laboratories in the Member States.*

- (21) Provisions should be made to ensure the necessary level of preparation by the Member States to effectively tackle emergency situations caused by one or more outbreaks of avian influenza, in particular by drawing up contingency plans and setting up control centres. Such contingency plans should take account of the public health risk posed by avian influenza to poultry workers and other personnel.
- (22) If avian influenza is detected during importation in a quarantine facility or centre, as provided for in Commission Decision 2000/666/EC of 16 October 2000 laying down the animal health requirements and the veterinary certification for the import of birds, other than poultry and the conditions for quarantine<sup>6</sup>, it should be reported to the Commission. However, reporting as provided for by Council Directive 82/894/EEC of 21 December 1982 on the notification of animal diseases within the Community<sup>7</sup>, in cases of outbreaks in Member States would not be appropriate.
- (23) Cleansing and disinfection should be an integrated part of the Community control policy for avian influenza. Disinfectants should be used in compliance with Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market<sup>8</sup>.
- (24) 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<sup>9</sup> lays down the rules on the collection, transport, storage, handling, processing and use or disposal of animal by-products including animals killed to eradicate epizootic diseases, to prevent them from presenting a risk to animal and public health. That Regulation and its implementing measures provide for a general framework for the disposal of dead animals. It is necessary to provide for the adoption by comitology of specific, additional or different measures where necessary to enhance further avian influenza control measures.
- (25) 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<sup>10</sup> and Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs<sup>11</sup> may be applied under certain conditions to eggs originating from holdings where poultry suspected of being infected with avian influenza is kept.

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<sup>6</sup> OJ L 278, 31.10.2000, p. 26. Decision as last amended by Decision 2002/279/EC (OJ L 99, 16.4.2002, p. 17).

<sup>7</sup> OJ L 378, 31.12.1982, p. 58. Directive as last amended by Commission Decision 2004/216/EC (OJ L 67, 5.3.2004, p. 27).

<sup>8</sup> OJ L 123, 24.4.1998, p. 1. Directive as last amended by Regulation (EC) No 1822/2003 (OJ L 284, 31.10.2003, p. 1).

<sup>9</sup> OJ L 273, 10.10.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 668/2004 (OJ L 112, 19.4.2004, p. 1).

<sup>10</sup> OJ L 226, 25.6.2004, p. 22.

<sup>11</sup> OJ L 139, 30.4.2004, p. 7.

- (26) *Member States should lay down rules on penalties applicable to infringements of the provisions of this Directive and ensure that they are implemented. Those penalties must be effective, proportionate and dissuasive.*
- (27) *Provision should be made for the possibility for amendments to be made to the Annexes to this Directive when necessary without delay in order to take account of developments in scientific and technical knowledge.*
- (28) *Taking into account the unpredictability of influenza viruses, it is necessary to ensure that a swift procedure is also in place for a rapid adoption at Community level of additional or more specific measures to control any infection of poultry, other birds or other animals caused by any avian influenza viruses posing a serious threat to animal or public health, whenever such measures are necessary.*
- (29) *This Directive sets out the minimum control measures to be applied in the event of an outbreak of avian influenza in poultry and other birds. However, Member States are free to take more stringent administrative and sanitary action in the field covered by this Directive. In addition, this Directive provides that Member States authorities may apply measures proportionate to the health risk posed by different disease situations.*
- (30) *In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objective of ensuring the development of the poultry sector and contributing to the protection of animal health, to lay down rules on specific measures and minimum measures aimed at the prevention and control of avian influenza. This Directive does not go beyond what is necessary in order to achieve the objectives pursued, in accordance with the third paragraph of Article 5 of the Treaty.*
- (31) *The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>12</sup>.*
- (32) *In the interests of clarity and rationality of Community legislation, Directive 92/40/EEC should be repealed and replaced by this Directive.*

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<sup>12</sup> OJ L 184, 17.7.1999, p. 23.

HAS ADOPTED THIS DIRECTIVE:

## CHAPTER I

### SUBJECT MATTER, SCOPE AND DEFINITIONS

#### *Article 1*

#### **Subject matter and scope**<sup>13</sup>

1. This Directive sets out:
  - (a) certain preventative measures relating to the surveillance and the early detection of avian influenza and increasing the level of awareness and preparation of the competent authorities and the farming community to the risks of that disease;
  - (b) the minimum control measures to be applied in the event of an outbreak of avian influenza in poultry or other birds and the early detection of possible spread of avian influenza viruses to mammals;
  - (c) other measures to be applied where a serious threat to animal or public health is identified in relation to any infection of birds or mammals caused by any influenza viruses of avian origin and to prevent the transmission of infection from those animals to humans.
2. Member States shall remain free to take more stringent measures in the field covered by this Directive.

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<sup>13</sup> DK wish to extend the scope to include additional biosecurity preventive measures. To be referred to the CVOs for consideration.

## Article 2

### Definitions of avian influenza, highly pathogenic avian influenza and low pathogenic avian influenza

For the purposes of this Directive, the following definitions<sup>14</sup> shall apply:

1. “avian influenza” means an infection of poultry *or other birds* caused by any influenza A virus:
  - (a) of the subtypes H5 or H7; or
  - (b) with an intravenous pathogenicity index (IVPI) in six-week old chickens greater than 1.2;
2. “highly pathogenic avian influenza (HPAI)” means an infection of poultry or other birds caused by:
  - (a) avian influenza viruses of the subtypes H5 and H7 with a genome sequences codifying for multiple basic amino acids at the cleavage site of the haemagglutinin molecule similar to that observed for other HPAI viruses, indicating that the haemagglutinin molecule can be cleaved by a host ubiquitous protease; or
  - (b) avian influenza viruses with an intravenous pathogenicity index in six-week-old chickens greater than 1.2;
3. “low pathogenic avian influenza (LPAI)” means an infection of poultry or other birds caused by avian influenza viruses of subtypes H5 and H7 that does not come within the definition in point (2).

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<sup>14</sup> Wording accepted, decision to be taken whether this definition should be moved to the annexes. The inclusion of ‘other birds’ goes beyond the OIE definition and has implication for several Articles incl. Article 16 – PZ and SZ etc.

*Article 3*  
**Other Definitions**

*For the purpose of this Directive, the following definitions shall apply:*

1. *'poultry' means all birds that are reared or kept in captivity for the production of meat, hatching eggs and eggs for consumption, the production of other commercial products, for restocking supplies of game or for breeding these categories of birds;*
2. *'wild bird' means a free-living bird which is not kept on any holding as defined in point 5;*
3. *'other captive<sup>15</sup> bird' means any bird other than poultry that is kept in captivity for shows, races, exhibitions and competition, such as ornamental birds and racing pigeons, or for any reason other than those referred to in point 1;*
4. *'officially registered rare breeds of poultry or other birds' means any poultry or other birds that the competent authority has officially recognised as such within their contingency plan provided for in Article 63;*
5. *'holding' means any agricultural or other premises, including hatcheries, circuses, zoos, pet bird shops, bird markets, and aviaries, where poultry or other birds are being bred or kept [on a permanent or temporary basis]<sup>16</sup>.*

*However, this definition does not include*

- (a) *slaughterhouses, means of transport, quarantine facilities and centres, border inspection posts and laboratories authorised by the Competent authority to hold avian influenza virus ; and*
  - (b) *for the purpose of the second subparagraph of Article 11(9), Article 19 point (e), Article 30 point (f), Article 39(5) point (g) and Article 44(1) point (h), dwellings for humans on such premises unless poultry or other birds are kept therein;*
6. *'commercial poultry holding' means a holding where poultry or other birds are kept for commercial purposes;*
  7. *'non-commercial holding/pet bird holding' mean a holding where poultry or other birds are kept by their owners:*
    - (a) *for their own consumption of the poultry or other birds or their products; or*
    - (b) *as pets;*

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<sup>15</sup> If accepted, this wording shall be reflected throughout the text.

<sup>16</sup> DE delegation suggests to delete the words into square brackets.

8. *'poultry compartment' or 'other birds compartment' means one or more poultry holdings or other birds holdings under a common biosecurity management system containing a poultry or other birds sub-population with a distinct health status with respect to avian influenza subjected to appropriate surveillance, control and biosecurity measures;*
9. *'flock' means all poultry or other birds within a single production unit;*
10. *'production unit' means a unit in a holding where the official veterinarian is satisfied that it is completely independent of any other unit in the same holding in terms of its location and day-to-day management of the poultry or other birds kept there,*
11. *'ready-to-lay-poultry' means poultry that are to be moved from rearing premises to laying premises;*
12. *'hatching eggs' means eggs for incubation, laid by poultry;*
13. *'day-old chicks' means all poultry less than 72 hours old, not yet fed; however, muscovy ducks (*Cairina moschata*) or their crosses may be fed;*
14. *'diagnostic manual' means the diagnostic manual provided for in Article 51(1);*
15. *'infected poultry' and 'infected other birds' means any poultry or other birds:*
  - (a) *in which the presence of avian influenza has been confirmed in accordance with the diagnostic manual; or*
  - (b) *in the case of second and subsequent outbreaks of avian influenza, any poultry or other birds in which clinical signs, post-mortem lesions or reactions to laboratory tests carried out in laboratories approved in accordance with the first subparagraph of Article 51 (3) ('approved laboratory') are consistent with the diagnosis of avian influenza in accordance with the diagnostic manual;*
16. *'poultry or other birds suspected of being infected' means any poultry or other birds exhibiting clinical signs or showing post-mortem lesions or reactions to laboratory tests which are such that the presence of avian influenza cannot be excluded;*
17. *'incubation period' means a maximum period of 21 days that takes place between the probable date of infection and the occurrence of clinical signs of avian influenza;*
18. *'owner' means any natural or legal person who owns or keeps or who is otherwise responsible for poultry or other birds, whether or not for financial reward;*

19. 'competent authority' means the authority of a Member State competent to carry out veterinary checks or administrative action in accordance with this Directive or any authority to which such competence has been delegated;
20. 'veterinary check' means any physical check and/or administrative formality carried out by the competent authority;
21. 'official veterinarian' means the veterinarian designated by the competent authority;
22. 'official surveillance' means the action of careful monitoring by the competent authority of the health status of poultry or other birds or mammals on a holding in relation to avian influenza;
23. 'official supervision' means the actions taken by the competent authority to verify that the requirements in this Directive and of any instructions from that authority as to how those requirements should be met are being, or have been complied with;
24. 'killing' means any process other than slaughter causing the death of an animal or bird; in accordance with the relevant requirements of Directive 93/119/EC<sup>17 18</sup>
25. 'slaughter' means any process causing the death of an animal or bird by bleeding for the purpose of human consumption, in accordance with the relevant requirements of Directive 93/119/EC;
26. 'disposing of' means the act of collecting, transporting, storing, handling, processing and using or disposing of animal by-products in accordance with:
- (a) Regulation (EC) No 1774/2002; or
- (b) the detailed rules provided for in Article 64(1) of this Directive;
27. 'Community vaccine bank' means appropriate premises designated in accordance with Article 59(1) of this Directive for the storage of Community reserves of avian influenza vaccines authorised in accordance with Directive 2001/82/EC of the European Parliament and of the Council<sup>19</sup> and Regulation (EC) No 726/2004 of the European Parliament and of the Council<sup>20</sup>;
28. 'contact holding' means a holding where avian influenza could have been introduced as a result of its location, the movement of persons, poultry or other birds, vehicles or in any other way;
29. 'suspected outbreak' means a holding containing poultry where the competent authority suspects, the presence of avian influenza;

<sup>17</sup> OJ L 340, 31.12.1993, p. 21. Directive amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

<sup>18</sup> Together with paragraph 25, to consider Council Legal Service concern.

<sup>19</sup> OJ L 311, 28.11.2001, p. 1. Directive as last amended by Directive 2004/28/EC.

<sup>20</sup> OJ L 136, 30.4.2004, p. 1.

30. *'outbreak' means a holding containing poultry, (and/or other birds) where avian influenza has been confirmed by the competent authority ;*
31. *'primary outbreak' means an outbreak not epidemiologically linked with a previous outbreak in the same region of a Member State, as defined in Article 2 of Council Directive 64/432/EEC<sup>21</sup>, or the first outbreak in a different region of the same Member State;*
32. *'Differentiating Infected from Vaccinated Animal (DIVA) strategy' means a vaccination strategy which enables the differentiation between vaccinated/infected and vaccinated/non-infected animals through the application of a diagnostic test designed to detect antibodies against the field virus and the use of non-vaccinated sentinel birds;*
33. *'depopulation' means the removal of all poultry or other birds from a holding, a poultry compartment or other birds compartment, or a production unit;*
34. *'mammal' means an animal of the class Mammalia, except humans;*
35. *'carcase'<sup>22</sup> means poultry or other birds which have died or have been killed, or parts of them, unfit for human consumption.*

## CHAPTER II

### SURVEILLANCE, NOTIFICATIONS AND EPIDIOLOGICAL INQUIRIES

#### Article 4

#### **Surveillance programmes [and early warning]**

1. Surveillance programmes
- (a) Member States shall carry out surveillance programmes in order to:
- (i) detect the prevalence of infections with avian influenza virus subtypes H5 and H7 in different species of poultry
- (ii) contribute, on the basis of a regularly updated risk assessment, to the knowledge on the threats posed by wild birds in relation to any influenza virus in birds of avian origin.
- (b) The surveillance programmes referred to in point (a) (i) shall be in accordance with guidelines to be drawn up by the Commission in accordance with the procedure referred to in Article 65(2)

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<sup>21</sup> OJ 121, 29.7.1964, p. 1977. as last amended by Regulation (EC) No 1/2005 (OJ L 3, 5.1.2005, p. 1).

<sup>22</sup> See separate document with the translation in other languages.

2. *Member States may authorise the testing of routine submissions of samples from poultry, other birds or wild birds for avian influenza in an approved laboratory when there is no clinical suspicion of disease and without imposing any restrictions.*<sup>23</sup>

#### *Article 5*

### **Reporting and notifications**

1. Member States shall ensure that the suspected presence and presence of avian influenza are compulsorily and immediately notified to the competent authority.

*Member States may introduce programmes to support the early detection of avian influenza*<sup>24</sup>

2. In addition to the requirements provided for in Community legislation on notification of outbreaks of animal diseases, Member States shall notify the Commission in accordance with Annex II of any finding of avian influenza confirmed by the Competent authority in slaughterhouses, means of transport, border inspection posts, and other places at Community borders and quarantine facilities or centres operating in accordance with Community legislation on imports of poultry or other birds.
3. Member States shall notify the results of any surveillance for avian influenza virus carried out in mammals.

#### *Article 6*

### **Epidemiological inquiry**

1. Member States shall ensure that epidemiological inquiries are started on the basis of questionnaires, established within the framework of the contingency plans provided for in Article 63.
2. The epidemiological inquiry shall at least include the following:
- (a) the length of time during which avian influenza may have been present on the holding or other premises or means of transport;
  - (b) the possible origin of avian influenza ;
  - (c) the identification of any contact holding ;
  - (d) the movements of poultry or other birds, persons, mammals, vehicles or any material or other means by which the avian influenza virus could have spread.

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<sup>23</sup> For referral to CVOs meeting. FR entered a general scrutiny reservation on texts proposed on 15 July 2005 . Scrutiny reservations entered by DK, EL, IE, IT, NL and SE. BE, ES and PT suggest addition is not required.

<sup>24</sup> For referral to CVOs meeting. BE, DK, DE, ES and NL for this new text. Scrutiny reservations entered.

3. The competent authority shall take account of the epidemiological inquiry when:
  - (a) deciding whether additional disease control measures, as provided for in this Directive need to be applied; and
  - (b) granting derogations as provided for in this Directive.
4. If the epidemiological inquiry suggests that avian influenza may have spread from or to other Member States, the Commission and the other Member States concerned shall be immediately informed of the results of all findings of the inquiry.

### **CHAPTER III**

#### **MEASURES TO BE APPLIED IN CASES OF SUSPECTED OUTBREAKS**

##### *Article 7*

##### **Measures to be applied on holdings**

1. In the case of a suspected outbreak, the competent authority shall immediately set in motion an investigation to confirm or exclude the presence of avian influenza in accordance with the diagnostic manual and place the holding under official surveillance. The competent authority shall also ensure that the measures provided for in paragraphs 2 and 3 are complied with.
2. The competent authority shall ensure that the following measures are applied on the holding:
  - (a) poultry and other birds and all mammals of domestic species are counted or, if appropriate, their numbers estimated by the type of poultry or species of other captive bird ;
  - (b) a list is compiled of the approximate number of poultry and other birds and all mammals of domestic species already sick, dead or likely to be infected in each category on the holding; that list shall be updated daily to take account of hatchings, births and deaths throughout the period of the suspected outbreak and shall be produced on request to the competent authority ;
  - (c) *all poultry and other birds must be brought inside a building on their holding and kept there. Where this is impractical or if their welfare is compromised they must be confined in some other place on the same holding such that they do not have contact with other poultry or other birds on other holdings. All reasonable steps must be taken to minimise their contact with wild birds.*<sup>25</sup>
  - (d) no poultry and other birds may enter or leave the holding ;

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<sup>25</sup> Revised text to take account of concerns about moving birds to other holdings.

- (e) no carcasses of poultry or other birds, meat of poultry including offal ('poultry meat'), poultry feed ('feed'), utensils, materials, waste, droppings, poultry or other birds manure ('manure'), slurry, used litter or anything likely to transmit avian influenza may leave the holding without an authorisation from the competent authority, observing appropriate biosecurity measures such as to minimise any risk of spreading of avian influenza ;
  - (f) no eggs may leave the holding;
  - (g) the movement of persons, mammals of domestic species, vehicles and equipment to or from the holding is subject to the conditions and authorisation of the competent authority;
  - (h) appropriate means of disinfection are used at the entrances and exits of buildings housing poultry and other birds and of the holding itself in accordance with the instructions of the competent authority ;
3. The competent authority shall ensure that an epidemiological inquiry is carried out in accordance with Article 6 ('the epidemiological inquiry').
  4. *Member States may authorise the submission of samples from holdings when the clinical signs and epidemiological pattern of disease observed in poultry or other birds suggest that avian influenza could be considered in the differential diagnosis but with a very low probability it being avian influenza. In such circumstances the competent authority may proceed without adopting some or all of the measures referred to in Article 7(2).<sup>26</sup>*

#### *Article 8*

#### **Derogations from certain measures to be applied on holdings**

1. The competent authority may grant derogations from the measures provided for in Article 7(2) points (c) to (e) on the basis of a risk assessment and taking into account the precautions taken and the destination of the birds and products to be moved.
2. The competent authority may also grant derogations from the measures provided for in point (h) of Article 7(2) in the case of other captive birds kept on non-commercial premises.
3. With reference to Article 7(2) point (f), the competent authority may authorise the sending of eggs including hatching eggs directly to an establishment for the manufacture of egg products, as set out in Chapter II Section X of Annex III to Regulation (EC) No 853/2004 and to be handled and treated in accordance with Chapter IX of Annex II to Regulation (EC) No 852/2004; where the competent authority issues such an authorisation it shall be subject to the conditions set out in Annex III to this Directive.

#### *Article 9*

#### **Duration of the measures to be applied on holdings**

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<sup>26</sup> For referral to CVOs meeting. Scrutiny Reservations entered. BE and NL are for this and DK, DE, EL, ES, PT and SE are against.

The measures to be applied on holdings in cases of suspected outbreaks, as provided for in Article 7, shall continue to be applied until the competent authority is satisfied that the suspicion of avian influenza on the holding has been ruled out.

#### Article 10

#### **Additional measures based on an epidemiological inquiry**

1. Based on the preliminary results of an epidemiological inquiry, the competent authority may apply the measures provided for in paragraphs 2, 3 and 4 in particular if the holding is located in an area with a high density of poultry.
2. Temporary restrictions may be introduced on the movements of poultry, other birds and eggs and the movement of vehicles used by the poultry sector in a defined area or in the whole of the Member State.

That restriction may be extended to movements of mammals of domestic species, but in that case shall not exceed 72 hours, unless justified.

3. The measures provided for in Article 11 may be applied to the holding.

However, if conditions permit, the application of those measures may be limited only to the poultry suspected of being infected and their production units.

Samples shall be taken from the poultry or other birds if they are killed in order that the risk of a suspected outbreak can be confirmed or excluded, in accordance with the diagnostic manual.

4. A temporary control zone around the holding may be established and some or all of the measures provided for in Article 7 (2) shall be applied as necessary to the holdings within that zone.

### **CHAPTER IV**

## **MEASURES TO BE APPLIED IN CASES OF AN OUTBREAK OF HIGHLY PATHOGENIC AVIAN INFLUENZA (HPAI)**

### **SECTION 1**

#### **MEASURES TO BE APPLIED ON HOLDINGS**

#### *Article 11*

#### **Measures to be applied by the competent authority**

1. In case of an outbreak of HPAI, the competent authority shall ensure that the measures provided for in Article 7(2) and (3) and paragraphs 2 to 10 of this Article are applied.
2. All poultry and other birds on the holding shall be killed without delay under official supervision. The killing shall be carried out in such a way as to avoid the risk of spread of avian influenza, in particular during transport.

However, Member States may grant derogations for certain species of birds not to be killed, on the basis of an assessment of the risk of further spread of avian influenza.

The competent authority may take appropriate measures to limit any possible spread of avian influenza to any wild birds on the holding.

3. All carcasses and hatching and table eggs on the holding shall be disposed of under official supervision.
4. Poultry already hatched from eggs collected from the holding during the period between the probable date of introduction of HPAI on the holding and the application of the measures provided for in Article 7(2), shall be placed under official supervision and investigations shall be carried out in accordance with the diagnostic manual.
5. Meat of poultry slaughtered and hatching and table eggs collected from the holding during the period between the probable date of introduction of HPAI on the holding and the application of the measures provided for in Article 7(2) shall, wherever possible, be traced and disposed of under official supervision.
6. All substances and waste likely to be contaminated, such as feed, shall be destroyed or subjected to a treatment ensuring the destruction of the avian influenza virus, in accordance with the instructions of the official veterinarian.
7. However, manure, slurry and bedding likely to be contaminated *shall undergo* one of the procedures provided for in Article 49.
8. Following the disposal of carcasses, the buildings used for housing them, *pastures or land*, the equipment likely to be contaminated and the vehicles used for transporting the poultry or other birds, carcasses, meat, feed, manure, slurry, bedding and of any other material or substance likely be contaminated shall undergo one of the procedures provided for in Article 49.
9. Other birds or mammals of domestic species shall not enter or leave the holding without the authorisation of the competent authority.

That restriction shall not apply to mammals of domestic species which have access only to the living areas for humans.

10. In the case of a primary outbreak, the virus isolate shall be subjected to the laboratory procedure in accordance with the diagnostic manual to identify the genetic subtype.

That virus isolate shall be submitted to the Community reference laboratory, as provided for in Article 52 (1) as soon as possible.

### *Article 12*

#### **Derogations from certain measures to be applied on holdings**

1. Member States shall draw up detailed rules for granting derogations, as provided for in Articles 11(2), 13 and 14, including alternative appropriate measures and conditions. Such derogations shall be based on a risk assessment carried out by the Competent authority.
2. Member States shall immediately notify the Commission of any derogation granted in accordance with Article 13(1) and Article 14.
3. Where a derogation has been granted, as provided for in Article 13(1) and Article 14, the Commission shall immediately review the situation with the Member State concerned and in the Standing Committee on the Food Chain and Animal Health ('the Committee') as soon as possible.
4. Taking account of any derogation granted, as provided for in Article 13(1) and Article 14, measures to prevent the spread of avian influenza may be adopted in accordance with the procedure referred to in Article 65(3).

### *Article 13*

#### **Derogations concerning certain holdings**

1. The competent authority may grant derogations from the measures provided for in the first subparagraph of Article 11 (2) in cases of an outbreak of HPAI in a non-commercial holding/pet bird holding, a circus, a zoo, a pet bird shop, a wild life park, a fenced area where poultry or other birds are kept for scientific purposes or purposes related to the conservation of endangered species or officially registered rare breeds of poultry or other birds, provided that such derogations do not endanger disease control.
2. The competent authority shall ensure that where a derogation is granted, as provided for in paragraph 1, the poultry and other birds concerned by the derogation:
  - (a) are kept completely isolated from other poultry or other birds and where possible from wild birds;
  - (b) must be subjected to further surveillance and testing in accordance with the diagnostic manual until the laboratory tests have indicated that they no longer pose a significant risk of further spread of HPAI; and
  - (c) are not to be moved from their holding of origin, except for slaughter or to another holding:
    - (i) located in the same Member State, in accordance with the instructions of the competent authority; or
    - (ii) in another Member State, subject to the agreement of the Member State of destination.

3. The competent authority may grant derogations from the measures provided for in Article 11(5), for table eggs to be sent directly to an establishment for the manufacture of egg products as set out in Chapter II of Section X of Annex III to Regulation (EC) No 853/2004 and to be handled and treated in accordance with Chapter XI of Annex II to Regulation (EC) No 852/2004.

Any such authorisations shall be subject to the conditions set out in Annex III to this Directive.

## SECTION 2

### MEASURES TO BE APPLIED IN SEPARATE PRODUCTION UNITS AND CONTACT HOLDINGS

#### *Article 14*

##### **Measures to be applied in cases of outbreaks of HPAI in separate production units**

In cases of an outbreak<sup>27</sup> of HPAI in a holding which consists of two or more separate production units, the competent authority may grant derogations from the measures provided for in the first subparagraph of Article 11(2) for production units containing poultry *or other birds where no HPAI is suspected*, provided that such derogations do not endanger disease control.

Such derogations shall only be granted in respect of two or more separate production units where the official veterinarian, taking account of the structure, size, operation, type of housing, feeding, water source, equipment, staff and visitors to the premises, is satisfied that they are completely independent of other production units in terms of location and day-to-day management of the poultry *or other birds* kept there.

#### *Article 15*

##### **Measures to be applied in contact holdings**

1. Based on the epidemiological inquiry, the competent authority shall decide if a holding is to be considered as a contact holding.

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<sup>27</sup> The scope of the definition of outbreak is important – including ‘other birds’ or not.

The competent authority shall ensure that the measures provided for in Article 7(2) are applied to contact holdings until the presence of HPAI has been excluded in accordance with the diagnostic manual.

2. Based on the epidemiological inquiry, the competent authority may, apply the measures provided for in Article 11 to contact holdings and in particular if the contact holding is located in an area with a high density of poultry.

The main criteria to be considered for the application of the measures provided for in Article 11 in contact holdings are set out in Annex IV.

3. The competent authority shall ensure that samples are taken from poultry and other birds when they are killed in order to confirm or exclude the presence of HPAI virus in those contact holdings in accordance with the diagnostic manual.
4. The competent authority shall ensure that, on any holding where poultry or other birds are killed and disposed of and avian influenza is subsequently confirmed, the buildings and any equipment likely to be contaminated and the vehicles used for transporting the poultry or other birds, carcasses, meat, feed, manure, slurry, bedding and of any other material or substance likely be contaminated undergo one of the procedures provided for in Article 49.

### SECTION 3 PROTECTION, SURVEILLANCE AND FURTHER RESTRICTED ZONES

#### *Article 16*

#### **Establishment of protection, surveillance and further restricted zones in cases of outbreaks of HPAI**

1. Immediately following an outbreak<sup>28</sup> of HPAI, the competent authority shall establish:
  - (a) a protection zone with a radius of at least three kilometres around the holding;
  - (b) a surveillance zone with a radius of at least 10 kilometres around the holding, including the protection zone.

2. The competent authority may derogate from the provisions of Article 16(1) if the outbreak of HPAI is restricted to other birds that are located in a circus, zoo, pet bird shop, domestic dwelling or aviary. Member States must ensure that the granting of this derogation does not endanger disease control<sup>29</sup>.

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<sup>28</sup> The definition of ‘outbreak’ and ‘avian influenza’ has an important consequence for this Article – concerning the inclusion of ‘other birds’ or not.

<sup>29</sup> For referral to CVOs. Scrutiny reservations entered by BE, DK, FR, IE, LU, NL and PT. EL concerned that poultry or other birds from areas subject to derogations might be traded. EL maintains a general reservation on the issue and will provide a written statement.

3. When establishing protection and surveillance zones, as provided for in paragraph 1, the competent authority shall at least take account of the following criteria:
  - (a) the epidemiological inquiry;
  - (b) the geographical situation, particularly natural boundaries;
  - (c) the location and proximity of holdings;
  - (d) patterns of movements and trade in poultry and other birds
  - (e) the facilities and personnel available to control any movement within the protection and surveillance zones of poultry and other birds, their carcasses, manure, bedding or used litter, in particular if the poultry or other birds to be killed and disposed of have to be moved from their holding of origin.
4. The competent authority may establish further restricted zones around or adjacent to the protection and surveillance zones, taking account of the criteria provided for in paragraph 2.
5. If a protection, surveillance or further restricted zone covers the territories of different Member States, the competent authorities of the Member States concerned shall collaborate to establish the zone.

#### *Article 17*

#### **Measures to be applied in the protection and surveillance zones**

1. The competent authority shall ensure that the following measures are applied within the protection and surveillance zones:
  - (a) arrangements are put in place which permit the tracing of anything likely to spread the avian influenza virus including poultry or other birds, meat, eggs, carcasses, feed, litter, people who have been in contact with the infected poultry or other birds or vehicles with a link to the poultry industry;
  - (b) owners are to provide the competent authority, on request, with any relevant information concerning the poultry or other birds and eggs entering or leaving the holding .
2. The competent authority shall take all reasonable steps to ensure that all persons in the protection and surveillance zones affected by the restrictions concerned are fully aware of the restrictions in place.

That information may be conveyed through warning notices, media resources such as the press and television or any other appropriate means.

3. The competent authority may, where epidemiological information or other evidence indicates, implement a preventive eradication programme, including preventive slaughtering or killing birds, in holdings and areas at risk.
4. Member States applying the measures provided for in paragraphs 3 shall immediately inform the Commission thereof. and the Commission shall review the situation with the Member States concerned and in the Committee as soon as possible.

## SECTION 4

### MEASURES TO BE APPLIED IN THE PROTECTION ZONE

#### *Article 18*

#### **Census and visits by the official veterinarian and surveillance**

The competent authority shall ensure that the following measures are applied in protection zones:

- (a) a census of all the holdings is made as soon as possible;
- (b) *all commercial holdings are visited by an official veterinarian as soon as possible for a clinical examination of the poultry and other birds and, if necessary, the collection of samples for laboratory tests in accordance with the diagnostic manual; a record of such visits and the findings thereof shall be kept; non-commercial holdings are visited by an official veterinarian before the lifting of the protection zone;*
- (c) additional surveillance is immediately implemented in accordance with the diagnostic manual in order to identify any further spread of avian influenza in the holdings located in the protection zone.

#### *Article 19*

#### **Measures to be applied on holdings**

The competent authority shall ensure that the following measures are applied on holdings in protection zones:

- (a) *all poultry and other birds must be brought inside a building on their holding and kept there. Where this is impractical or if their welfare is compromised they must be confined in some other place on the same holding such that they do not have contact with other poultry or other birds on other holdings. All reasonable steps must be taken to minimise their contact with wild birds.<sup>30</sup>;*
- (b) carcasses are disposed of as soon as possible;

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<sup>30</sup> Same revised text as in Article 7(2)(c).

- (c) *vehicles and equipment used for transporting live poultry or other birds and meat, feed, manure, slurry and bedding, and any other material or substances likely to be contaminated undergo one of the procedures provided for in Article 49;*
- (d) *all parts of vehicles used by staff or other persons which enter or leave holdings and are likely to have become contaminated undergo one of the procedures provided for in Article 49;*
- (e) no poultry, other birds or domestic mammals may enter or leave a holding without authorisation of the competent authority; this restriction shall not apply to mammals which have access only to the living areas for humans on such holdings and when any contact with poultry or other birds can be excluded;
- (f) any increased morbidity or mortality or significant drop in production data in holdings is immediately reported to the competent authority, which shall carry out appropriate investigations in accordance with the diagnostic manual;
- (g) any person entering or leaving holdings observes appropriate biosecurity measures aimed at preventing the spread of avian influenza;
- (h) records of all persons visiting holdings, except dwellings, are kept by the owner in order to facilitate disease surveillance and control and must be made available upon request by the competent authority.

#### *Article 20*

#### **Prohibition on the removal or spreading of used litter , manure or slurry from holdings**

The competent authority shall ensure that the removal or spreading of used litter, manure or slurry from holdings in protection zones are prohibited, unless authorised by it.

However, the movement of manure or slurry may be authorised from holdings under biosecurity measures to a designated plant for treatment or for intermediate storage for subsequent treatment to destroy the possible presence of avian influenza viruses in accordance with Regulation (EC) No 1774/2002 or with the specific rules referred to in Article 64 (1).

#### *Article 21*

#### **Fairs, markets or other gatherings and restocking of game**

The competent authority shall ensure that fairs, markets, shows or other gatherings of poultry or other birds are prohibited in protection zones.

The competent authority shall ensure that poultry or other birds for restocking of game shall not be released in protection zones.

*Article 22*

**Prohibition on the movement and transport of birds, eggs, poultry meat<sup>31</sup> and carcasses**

The competent authority shall ensure that within protection zones, the movement and transport on roads, excluding private service roads of holdings, or by rail, of poultry and other birds, ready-to-lay poultry, day-old chicks, hatching and table eggs, poultry meat and carcasses are prohibited.

However, that prohibition shall not apply to transit through the protection zone on roads or rail without unloading or stopping. <sup>32</sup>

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<sup>31</sup> Added text for discussion at Working Group.

<sup>32</sup> Text from Article 22a incorporated into Article 33 – Article 22a deleted.

*Article 23*

**Derogations for the direct transport of poultry for immediate slaughter**

1. By way of derogation from Article 22, the competent authority may authorise the direct transport of poultry originating from a holding in the protection zone for immediate slaughter to a designated slaughterhouse subject to the following conditions:
- (a) a clinical examination of the poultry on the holding of origin is carried out by the official veterinarian within 24 hours of being sent for slaughter;
  - (b) where appropriate, laboratory tests have been carried out on poultry on the holding of origin in accordance with the diagnostic manual, with favourable results;
  - (c) the poultry are transported in vehicles sealed by the competent authority or under its supervision;
  - (d) the competent authority responsible for the designated slaughterhouse is informed and agrees to receive the poultry and then confirms the slaughter to the competent authority of dispatch;
  - (e) the poultry from the protection zone are kept separately from other poultry and are slaughtered separately or at different times from other poultry, preferably at the end of a working day; subsequent cleansing and disinfection shall be completed before other poultry are slaughtered;
  - (f) the official veterinarian shall ensure that a detailed examination of the poultry is carried out at the designated slaughterhouse when the poultry arrive and after they are slaughtered ;
  - (g) the meat does not enter into intra-Community or international trade and bears the health mark for fresh meat provided for in Annex II to Directive 2002/99/EC<sup>33</sup>, unless otherwise decided in accordance with the procedure referred to in Article 65(3) of this Directive ;

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<sup>33</sup> OJ L 18, 23.1.2003, p. 11.

- (h) the meat is obtained, cut, transported and stored separately from meat intended for intra-Community and international trade and is used in such a way as to avoid it being introduced into meat products intended for intra-Community or international trade, unless:
  - (i) it has undergone a treatment set out in Annex III to Directive 2002/99/EC; or
  - (ii) it is otherwise decided in accordance with the procedure referred to in Article 65(3).

2. By way of derogation from Article 22, the competent authority may authorise the direct transport of poultry from outside the protection zone for immediate slaughter to a designated slaughterhouse within the protection zone subject to the following conditions:

- a) a clinical examination of the poultry on the holding of origin is carried out by the official veterinarian within 24 hours of being sent for slaughter.
- b) the poultry are transported in vehicles sealed by the competent authority or under its supervision
- c) the competent authority responsible for the designated slaughterhouse is informed and agrees to receive the poultry and then confirms the slaughter to the competent authority of dispatch.

#### Article 24

#### **Derogations for the direct transport of day-old-chicks**

- 1. By way of derogation from Article 22, the competent authority may authorise the direct transport of day-old-chicks, originating from holdings within the protection zone to a holding or shed of that holding in the same Member State, preferably located outside the protection and the surveillance zones, subject to the following conditions:
  - (a) they are transported in vehicles sealed by the competent authority;
  - (b) appropriate biosecurity measures are applied during transport and at the holding of destination;
  - (c) the holding of destination is placed under official surveillance following the arrival of the day-old-chicks;
  - (d) if moved outside the protection or surveillance zone, the poultry shall remain on the premises of destination for at least 21 days.

2. By way of derogation from Article 22, the competent authority may authorise the direct transport of day-old-chicks, hatched from hatching eggs originating from holdings located outside the protection and surveillance zones, to any other holding in the same Member State, preferably located outside the protection and the surveillance zones, provided that the hatchery of dispatch can ensure by its logistics and by its hygienic working conditions that no contact has occurred between those eggs and any other hatching eggs or day-old-chicks originating from poultry flocks in such zones and which are therefore of a different health status

#### *Article 25*

### **Derogations for the direct transport of ready to lay<sup>34</sup> poultry**

By way of derogation from Article 22, the competent authority may authorise the direct transport of ready-to-lay poultry to a holding or shed of that holding preferably within the protection or the surveillance zone in which there is no other poultry, subject to the following conditions:

- (a) a clinical examination of the poultry and other birds in the holding of origin and in particular of those to be moved is carried out by the official veterinarian;
- (b) where appropriate, laboratory tests have been carried out on poultry in the holding of origin in accordance with the diagnostic manual with favourable results;
- (c) the ready-to-lay poultry is transported in vehicles sealed by the competent authority;
- (d) the holding or shed of destination is placed under official surveillance following the arrival of the ready-to-lay poultry ;
- e) if moved outside the protection or surveillance zone , the poultry shall remain on the premises of destination for at least 21 days.

#### *Article 26*

### **Derogation for the direct transport of hatching and table eggs**

1. By way of derogation from Article 22, the competent authority may authorise the direct transport of hatching eggs either, from any holding to a hatchery located in the protection zone and designated by the competent authority ('the designated hatchery') or from a holding located in the protection zone to any hatchery subject to the following conditions:
- (a) the parent flocks from which the hatching eggs are derived have been examined in accordance with the diagnostic manual and avian influenza is not suspected on these holdings;

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<sup>34</sup> How will welfare problems be dealt with within PZ and SZ?

- (b) the hatching eggs and their packaging are disinfected before dispatch and the tracing back of these eggs can be ensured;
  - (c) the hatching eggs are transported in vehicles sealed by the competent authority *or under its supervision*;
  - (d) biosecurity measures are applied in the designated hatchery in accordance with the instructions of the competent authority.
2. By way of derogation from Article 22, the competent authority may authorise the direct transport of table eggs to a packing centre designated by the competent authority ('the designated packing centre'), provided that they are packed in disposable packaging and that all biosecurity measures required by the competent authority are applied.

#### *Article 27*

### **Derogation for the direct transport of poultry or other birds which have died**

By way of derogation from Article 22, the competent authority may authorise the direct transport of carcasses provided that they are transported for disposing of.

#### *Article 28*

### **Cleansing and disinfecting of means of transport**

The competent authority shall ensure that the vehicles and equipment used for the transport as provided for in Articles 23 to 27 are cleansed and disinfected without delay following the transport *by one or more of the procedures set down in Article 49*.

#### *Article 29*

### **Duration of measures**

1. The measures provided for in this Section shall be maintained for at least 21 days following the date of completion of preliminary cleansing and disinfection on the infected holding *by one or more of the procedures set down in Article 49 and until holdings located in the protection zone have been tested in accordance with the diagnostic manual*.
2. When the measures referred to in this Section are no longer to be maintained, as provided for in paragraph 1 of this Article, the measures laid down in Article 30 shall apply in the former protection zone, until they are no longer to be applied as provided for in Article 31.

## SECTION 5 MEASURES TO BE APPLIED IN THE SURVEILLANCE ZONE

### *Article 30*

#### **Measures to be applied in the surveillance zone**

The competent authority shall ensure that the following measures are applied in surveillance zones:

- (a) a census of all commercial poultry holdings is made as soon as possible;
- (b) the movement of poultry, ready-to-lay poultry, day-old chicks, hatching and table eggs within the surveillance zone is prohibited unless authorisation is granted by the competent authority, which ensures that appropriate biosecurity measures are applied to prevent the spread of avian influenza; this prohibition shall not apply to transit thorough the surveillance zone on road or rail, without unloading or stopping;
- (c) the movement of poultry, ready-to-lay poultry, day-old chicks and hatching and table eggs to holdings, slaughterhouses or packing centres located outside the surveillance zone is prohibited; however, the competent authority may authorise the direct transport of:
  - (i) poultry for slaughter to a designated slaughterhouse<sup>35</sup>, for the purpose of immediate slaughter subject to point (a), *(b) and (d)* of Article 23(1)
  - (ii) ready-to-lay poultry to a holding in which there is no other poultry in the same Member State; that holding shall be placed under official surveillance following the arrival of the ready-to-lay poultry *and the ready to lay poultry shall remain on the premises of destination for at least 21 days;*
  - (iii) day-old-chicks:
    - to a holding or shed of such holding in the same Member State in which there is no other poultry<sup>36</sup> provided that appropriate biosecurity measures are applied and the holding is placed under official surveillance following the transport *and day old chicks shall remain on the premises of destination for at least 21 days,* or
    - if hatched from hatching eggs originating from poultry holdings located outside the protection and surveillance zones, to any other holding, provided that the hatchery of dispatch can ensure by its logistics and biosecurity working conditions that no contact has occurred between these eggs and any other hatching eggs or day-old-chicks originating from poultry flocks in those zones and which are therefore of a different health status;

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<sup>35</sup> Would this mean that the meat coming from the surveillance zone can enter the intracommunity and or international trade without any further measures except clinical examination? (BE, DK and AT).

<sup>36</sup> There is no similar ban for day old chicks in the protection zone.

- (iv) hatching eggs to a designated hatchery; the eggs and their packaging shall be disinfected before dispatch and the tracing back of these eggs must be ensured;
- (v) table eggs to a designated packing centre, provided that they are packed in disposable packaging by applying biosecurity measures in accordance with the instructions of the competent authority;
- (d) any person entering or leaving holdings in the surveillance zone observes appropriate biosecurity measures aimed at preventing the spread of avian influenza;
- (e) vehicles and equipment used for transporting live poultry or other birds, carcasses, feed, manure, slurry and bedding, and any other material or substances likely to be contaminated, are cleansed and disinfected as soon as possible after contamination *by one of the procedures set down in Article 49*;
- (f) no poultry, other birds or mammals of domestic species may enter or leave a holding where poultry is kept without authorisation of the competent authority; this restriction shall not apply to animals which have access only to the living areas for humans on such holdings and when any contact to poultry or other birds can be excluded;
- (g) any increased morbidity or mortality or significant drop in production data in holdings is immediately reported to the competent authority, which shall carry out appropriate investigations in accordance with the diagnostic manual;
- (h) the removal or spreading of used litter, manure or slurry is prohibited unless authorised by the competent authority; the movement of manure may be authorised from a holding situated in the surveillance zone under biosecurity measures to a designated plant for treatment or for intermediate storage for subsequent treatment to destroy the possible presence of avian influenza viruses, in accordance with Regulation (EC) No 1774/2002 or with the specific rules referred to in Article 64 (1);
- (i) fairs, markets, shows or other gatherings of poultry or other birds are prohibited;
- (j) poultry for restocking of game are not released.

### *Article 31*

#### **Duration of measures**

The measures provided for in this Section shall be maintained for at least 30 days following the date of completion of preliminary cleansing and disinfection on the infected holding in accordance with Article 49 and until holdings located in the protection zone have been tested in accordance with the diagnostic manual.

**SECTION 6**  
**MEASURES TO BE APPLIED IN FURTHER RESTRICTED ZONES**

*Article 32*

**Measures to be applied in further restricted<sup>37</sup> zones**

1. The competent authority may provide that some or all the measures provided for in Sections 4 and 5 shall apply inside the further restricted zones provided for in Article 16 (3) ('the further restricted zones').
2. The competent authority may, where epidemiological information or other evidence indicates, implement a preventative eradication programme, including preventive slaughtering or killing birds, in holdings and areas at risk, according to the criteria of Annex IV, located in further restricted zones.  
  
The restocking of those holdings shall take place in accordance with the instructions of the competent authority.
3. Member States applying the measures provided for in paragraphs 1 and 2 shall immediately inform the Commission thereof.
4. The Commission shall review the situation with the Member States concerned and in the Committee as soon as possible.
5. Without prejudice to decisions to be adopted pursuant to Council Decision 90/424/EEC, further surveillance, biosecurity and control measures to prevent the spreading of avian influenza may be adopted in accordance with the procedure referred to in Article 65 (3).

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<sup>37</sup> IE delegation suggests "buffer zone".

**SECTION 7**  
**DEROGATIONS AND BIOSECURITY MEASURES**

*Article 33<sup>38</sup>*  
**Derogations**

1. Member States shall decide on the basis under which they may grant derogations provided for in Articles 16 and 23 to 27, including alternative appropriate measures and conditions. Such derogations shall be based on a risk assessment carried out by the competent authority.
2. The competent authority may, based on a risk assessment, grant derogations from the measures provided in Sections 4 and 5 in cases of confirmation of HPAI in a hatchery.
3. The competent authority may grant derogations from the measures provided for in points (b) and (c) of Article 18, Article 22 and points (b), (c) and (f) of Article 30 in cases of an outbreak of HPAI in a non-commercial holding/pet bird holding, a circus, a zoo, a wild life park, a fenced area where poultry or other birds are kept for scientific purposes or purposes related to the conservation of endangered species or officially registered rare breeds of poultry or other birds.
4. By way of derogation from of Sections 4 and 5, in cases of outbreaks of HPAI the Member States may, based on a risk assessment, introduce specific measures on movements of racing pigeons into, from and within the protection and surveillance zones.
5. The derogations provided for in paragraphs 1 to 4 shall only be granted provided that such derogations do not endanger disease control.
6. Member States granting derogations provided for in paragraphs 1 to 4 shall immediately inform the Commission thereof.
7. The Commission shall in all cases review the situation with the Member State concerned and in the Committee as soon as possible<sup>39</sup>.

Taking account of any derogation granted, as provided for in paragraphs 1 to 4 measures to prevent the spread of avian influenza may be adopted in accordance with the procedure referred to in Article 65 (3).

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<sup>38</sup> Amalgamation of Articles 22(a ) and 33- for consideration at Informal CVOs' meeting in September.

<sup>39</sup> In Article 22(a) 'as soon as possible' was 'immediate'.

*Article 34*  
**Biosecurity measures**

1. In order to prevent the spread of avian influenza, the competent authority may, in addition to the measures provided for in Sections 4, 5 and 6, order the implementation of additional biosecurity<sup>40</sup> measures in holdings in the protection and surveillance zones and in the further restricted zones, as well as in poultry compartments and other birds compartments in the Member State concerned.

Those measures may include restrictions on movements of vehicles or persons for feed supply, egg collection, the transport to slaughterhouses of poultry, the collection for disposing of carcasses and other movements of personnel, veterinarians or persons supplying farm equipment.

2. Member States which adopt measures, as provided for in paragraph 1, shall immediately inform the Commission thereof.
3. The Commission shall review the situation with the Member State concerned and in the Committee as soon as possible.
4. Without prejudice to decisions to be adopted pursuant to Decision 90/424/EEC, further surveillance, biosecurity and control measures to prevent the spread of avian influenza may be adopted in accordance with the procedure referred to in Article 65 (3).

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<sup>40</sup> DK and EE suggest that "biosecurity measures are defined, described or detailed in an Annex.

**SECTION 8**  
**MEASURES TO BE APPLIED IN CASES OF SUSPICION AND CONFIRMATION OF**  
**HIGHLY PATHOGENIC AVIAN INFLUENZA (HPAI) IN CERTAIN PREMISES OTHER THAN**  
**HOLDINGS AND IN MEANS OF TRANSPORT**

*Article 35*

**Investigation of suspected presence of HPAI in slaughterhouses and in means of transport**

Where there is suspicion or confirmation of the presence of HPAI, in slaughterhouses or means of transport, the competent authority shall immediately set in motion an investigation in the holding of origin of the poultry to confirm or exclude its presence in accordance with the diagnostic manual.

*Article 36*

**Measures to be applied in slaughterhouses**

1. The competent authority shall ensure, where HPAI is suspected or confirmed in a slaughterhouse, that, on the basis of a risk assessment, all poultry present in the slaughterhouse is either killed or slaughtered as soon as possible under official supervision.

Where poultry is slaughtered, the poultry meat and that of any other poultry which may have been contaminated during the slaughter and production process, shall be kept separate and under official supervision until investigations in accordance with the diagnostic manual have been completed.

2. If HPAI is confirmed, the poultry meat referred to in paragraph 1 shall be disposed of under official supervision.

*Article 37*

**Measures to be applied in border inspection posts or means of transport**

1. The competent authority shall ensure, where HPAI is suspected or confirmed in border inspection posts or means of transport, that, on the basis of a risk assessment, all poultry and other birds present in the border inspection post or in the means of transport are conveyed as soon as possible to an appropriate place either to be killed, slaughtered or to be isolated and placed under restrictions as specified in Article 7(2) as soon as possible and then kept under official surveillance.

The competent authority may decide not to kill or slaughter those poultry and other birds present in the border inspection post that have not been in contact with the poultry or other birds suspected of being infected.

Where the poultry is slaughtered, their meat shall be kept separately under official supervision until further investigations to confirm or exclude the presence of HPAI are completed, in accordance with the diagnostic manual.

2. If HPAI is confirmed, the carcasses of the infected poultry or other birds and the meat likely to be contaminated shall be disposed of as soon as possible under official supervision.

#### *Article 38*

#### **Additional Measures to be applied to slaughterhouses, border inspection posts or means of transport**

The competent authority shall ensure that the following additional measures are applied where HPAI is suspected or confirmed in a slaughterhouse, border inspection post or means of transport:

- (a) no poultry or other birds are introduced into the slaughterhouse, the border inspection post or the means of transport until at least 24 hours after the cleansing and disinfection as provided for in point (b) are completed by one or more of the procedures set down in Article 49; in the case of border inspection posts, the prohibition on introduction may be extended to other animals;
- (b) the cleansing and disinfection of contaminated buildings, equipment and vehicles takes place by the official veterinarian or under his supervision by one or more of the procedures set down in Article 49,<sup>41</sup>
- (c) an epidemiological inquiry is carried out;
- (d) the measures provided for in Article 7(2) are applied in the holding of origin of the infected poultry or carcasses and in contact holdings;
- (e) unless otherwise indicated by the epidemiological inquiry and the further investigations, as provided for in Article 35, the measures provided for in Article 11 are applied in the holding of origin;
- (f) the avian influenza virus isolate is subjected to the laboratory procedure in order to identify the subtype of the virus, in accordance with the diagnostic manual.

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<sup>41</sup> New paragraph added to Article 49 on cleansing and disinfection of non-holdings – see Art 49 (c).

## CHAPTER V

### MEASURES TO BE APPLIED IN CASES OF AN OUTBREAK OF LOW PATHOGENIC AVIAN INFLUENZA (LPAI)

#### SECTION 1

#### MEASURES TO BE APPLIED ON HOLDINGS

##### *Article 39*

##### **Measures to be applied by the competent authority**

1. *In case of an outbreak of LPAI, the competent authority shall ensure that the measures provided for in points (a), (b), (c), (e), (g) and (h) of Article 7(2), Article 7(3) and paragraphs 2 to 5 of this Article are applied on the basis of a risk assessment and taking account of at least the criteria set out in Annex V.*
2. The competent authority shall ensure that all poultry on the holding and all other birds of the species in which LPAI has been confirmed are depopulated under official supervision in such a way as to prevent the spread of avian influenza.  
  
The depopulation may be extended to other birds on the holding based on the assessment of the risk that they pose as regards further spread of avian influenza and to other holdings that may be considered as contact holdings, based on the epidemiological inquiry.  
  
Before depopulation, no poultry or other birds shall enter or leave the holding, unless authorised by the competent authority.
3. For the purpose of paragraph 2, the depopulation shall be carried out in accordance with Directive 93/119/EEC and the competent authority shall decide that the poultry or other birds are:
  - (a) killed as soon as possible, or
  - (b) slaughtered in a designated slaughterhouse, provided that the risk of spread of LPAI is minimised.<sup>42</sup>.

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<sup>42</sup> SE delegation suggests that the meat shall only be sold in the Member State in which the slaughterhouse is located and that it bears the health mark for fresh meat provided for in Annex II to directive 2002/99/EC. Await EFSA opinion on LPAI meat. Point for discussion by CVOs.

4. The competent authority shall ensure that the following are disposed of under official supervision:
  - (a) carcasses, and
  - (b) hatching eggs on the holding.
5. The competent authority shall ensure that the following measures are taken:
  - (a) hatching eggs collected from the holding during the period between the probable introduction of LPAI into the holding and the taking of the measures provided for in this Directive, are whenever possible traced and hatched under official surveillance;
  - (b) poultry already hatched from eggs collected from the holding during the period between the probable introduction of LPAI into the holding and the taking of the measures provided for in this Directive, are whenever possible placed under official surveillance and investigations are carried out in accordance with the diagnostic manual;
  - (c) table eggs present on the holding and further produced *on* the holding before depopulation as provided for in paragraph 2, are either transported to a designated packing centre, provided *that the risk of spread of LPAI is minimised*, or treated or disposed of in an establishment approved for such purpose;
  - (d) any material or substance likely to be contaminated are either treated in accordance with the instructions of the official veterinarian or disposed of;
  - (e) manure, slurry and bedding likely to be contaminated *undergoes one or more of the procedures provided for in Article 49*;
  - (f) after depopulation, the buildings used for housing the poultry and other birds, the equipment likely to be contaminated and the vehicles used for transporting carcasses, feed, manure, slurry, and bedding or any other material or substance likely to be contaminated *undergoes one or more of the procedures provided for in Article 49* as soon as possible;
  - (g) Mammals of domestic species, other than those *whose access is restricted to* the living areas for humans, do not enter or leave the holding without the authorisation of the competent authority;
  - (h) in the case of a primary outbreak of LPAI, the virus isolate is subjected to the laboratory tests to identify the subtype of virus in accordance with the diagnostic manual; the virus isolate shall be submitted to the Community reference laboratory, as provided for in Article 52(1), as soon as possible;

6. Member States applying the measures provided for in paragraphs 2, 4 and 5 shall inform the Commission thereof.

*Article 40*

**Derogations for certain holdings**

1. The competent authority may grant derogations from the measures provided for in Article 39(2) and point (b) of Article 39(4) in cases of an outbreak of LPAI in a non-commercial holding/pet bird holding, a circus, a zoo, a pet bird shop, a wild life park, a fenced area where poultry or other birds are kept for scientific purposes or purposes related to the conservation of endangered species or officially registered rare breeds of poultry or other birds, provided that such derogations do not endanger disease control.
2. The competent authority shall ensure that where a derogation is granted, as provided for in paragraph 1, the poultry and other birds concerned by the derogation:
  - (a) are kept completely isolated from other poultry or other birds and where appropriate from wild birds;
  - (b) must be subjected to further surveillance and testing in accordance with the diagnostic manual until the laboratory tests have indicated that they no longer pose a significant risk of further spread of LPAI; and
  - (c) are not to be moved from their holding of origin, except for slaughter or to another holding:
    - (i) located in the same Member State, in accordance with the instructions of the competent authority; or
    - (ii) in another Member State, subject to the agreement of the Member State of destination.
3. The competent authority may in cases of outbreaks of LPAI in hatcheries, based on a risk assessment, grant derogations from some or all of the measures provided for in Article 39.
4. Member States shall draw up detailed rules for applying the derogations provided for in paragraphs 1 and 3.
5. Member States shall immediately inform the Commission of any derogation granted in accordance with paragraphs 1 and 3.

6. The Commission shall review the situation with the Member State concerned and in the Committee as soon as possible.
7. Taking account of any derogation granted, as provided for in paragraph 1, measures to prevent the spread of avian influenza may be adopted in accordance with the procedure referred to in Article 65 (3).

## **SECTION 2**

### **MEASURES TO BE APPLIED IN CASES OF OUTBREAK OF LPAI IN SEPARATE PRODUCTION UNITS AND CONTACT HOLDINGS**

#### *Article 41*

#### **Measures to be applied in cases of outbreaks of LPAI in separate production units**

1. In cases of an outbreak of LPAI in a holding which consists of two or more separate production units, the competent authority may grant derogations from the measures provided for in Article 39(2), for production units containing healthy poultry provided that such derogations do not endanger disease control.
2. Member States shall draw up detailed rules for applying the derogations provided for in paragraph 1, taking account of the animal health guarantees which may be obtained and shall provide for alternative appropriate measures.
3. Member States shall immediately inform the Commission of any derogations granted in accordance with paragraph 1.
4. The Commission shall review the situation with the Member State concerned and in the Committee as soon as possible.
5. Taking account of any derogation granted, as provided for in paragraph 1, measures to prevent the spread of avian influenza may be adopted in accordance with the procedure referred to in Article 67(3).

#### *Article 42<sup>43</sup>*

#### **Measures to be applied in contact holdings**

1. Based on the epidemiological inquiry, the competent authority shall decide if a holding is to be considered as a contact holding.

The competent authority shall ensure that the measures provided for in Article 7(2) are applied to contact holdings until the presence of LPAI has been excluded in accordance with the diagnostic manual.

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<sup>43</sup> FR and EE do not wish to apply article 7(2) until LPAI is confirmed on contact holdings.

2. Based on the epidemiological inquiry, the competent authority may apply the measures provided for in Article 39 to contact holdings and in particular if the contact holding is located in an area with a high density of poultry.

The main criteria to be considered for the application of the measures provided for in Article 39 in contact holdings are set out in Annex IV.

3. The competent authority shall ensure that samples are taken from the poultry when they are killed in order to confirm or exclude the presence of the LPAI virus in those contact holdings in accordance with the diagnostic manual.
4. The competent authority shall ensure that, on any holding where poultry or other birds are slaughtered or killed and disposed of, and LPAI is subsequently confirmed, the buildings and any pastures used for housing them, farm yards and any equipment likely to be contaminated and the vehicles used for transporting the poultry or other captive birds, carcasses, meat, feed, manure, slurry, bedding and of any other material or substance likely to be contaminated undergoes one or more of the procedures provided for in Article 49.

### **SECTION 3**

#### **ESTABLISHMENT OF RESTRICTED ZONES**

##### *Article 43*

#### **Establishment of restricted zones in cases of outbreaks of LPAI**

Immediately following an outbreak of LPAI, the competent authority shall establish a restricted zone with a radius of at least three kilometres around the holding.

##### *Article 44<sup>44</sup>*

#### **Measures to be applied in the restricted zone**

1. The competent authority shall ensure that the following measures are applied in the restricted zone:
  - (a) a census of all commercial holdings is made as soon as possible;
  - (b) laboratory tests are carried out on commercial poultry holdings within a radius of at least one kilometre around the holding in accordance with the diagnostic manual.

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<sup>44</sup> FR, IT, DK, NL and LU seek a review clause for these control measures.

- (c) all movements of poultry and other birds, ready-to-lay poultry, day-old chicks and hatching and table eggs within the restricted zone are subjected to authorisation and to other control measures deemed appropriate by the competent authority; this restriction shall not apply to the transit through the restricted zone on road or rail without unloading or stopping;
- (d) the movement of poultry and other birds, ready-to-lay poultry, day-old chicks and hatching and table eggs from the restricted zone are prohibited unless the competent authority authorises the direct transport of:

- (i) poultry for slaughter to a slaughterhouse in the same Member State;

- (ii) ready-to-lay poultry to a holding in the same Member State in which there is no other poultry. The ready to lay poultry shall remain there for 21 days and the holding is placed under official surveillance following their arrival;

alternative text for paragraph (ii)

- (ii) live poultry to a holding in the same Member State in which there is no other poultry. The live poultry shall remain there for 21 days and the holding is placed under official surveillance following their arrival<sup>45</sup>;

- (iii) day-old-chicks:

- to a holding or shed of such holding in the same Member State in which there is no other poultry; the day old chicks shall remain there for 21 days and the holding is placed under official surveillance following their arrival; or

- if hatched from hatching eggs originating from poultry holdings located outside of the restricted zone to any other holding provided that the hatchery can ensure by its logistics and biosecurity working conditions that any contact is excluded with hatching eggs or day-old-chicks originating from poultry flocks in the restricted zone and which are therefore of a different health status;

- (iv) hatching eggs to a designated hatchery; the eggs and their packaging shall be disinfected before dispatch and the tracing back of these eggs must be ensured;

- (v) table eggs to a packing centre provided that they are packed in disposable packaging by the application of biosecurity measures in accordance with the instructions of the competent authority;

- (e) carcasses shall be disposed of;

- (f) any person entering or leaving holdings in the restricted zone observes appropriate biosecurity measures aimed at preventing the spread of avian influenza;

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<sup>45</sup> For the 6 week old turkeys as requested by Ireland – to be discussed by Working Group.

- (g) vehicles and equipment used for transporting live poultry or other birds, feed, manure, slurry and bedding and any other material or substances likely to be contaminated are cleansed and disinfected as soon as possible after contamination, *by one or more of the procedures set down in Article 49*;
  - (h) no poultry, other birds or mammals of domestic species may enter or leave a holding without authorisation of the competent authority; this restriction shall not apply to mammals of domestic species which have only access to the living areas for humans on such holdings and when any contact to poultry or other birds can be excluded;
  - (i) the removal or spreading of used litter, manure or slurry is prohibited, unless authorised by the competent authority; the movement of manure or slurry may be authorised from a holding situated in the restricted zone under biosecurity measures to a designated plant for treatment or for intermediate storage for subsequent treatment to destroy the possible presence of avian influenza viruses in accordance with Regulation (EC) No 1774/2002 or with the specific rules referred to in Article 64 (1);
  - (j) fairs, markets, shows or other gatherings of poultry or other birds are prohibited, unless authorised by the competent authority;
  - (k) poultry or other birds for restocking of game are not be released.
2. The competent authority may, based on a risk assessment, introduce further measures in addition to the measures provided for in this Section and shall inform the Commission thereof.
3. Taking account of the measures referred to in paragraph 2, further measures may be adopted to prevent the spread of avian influenza in accordance with the procedure referred to in Article 65(3).

*Article 45*  
**Duration of measures**

The measures provided for in this Section shall be maintained either:

- (a) at least 21 days following the date of completion of preliminary cleansing and disinfection of the infected holding *by one or more of the procedures set down in Article 49*, and until the competent authorities, based on the investigations and laboratory tests carried out in the restricted zone in accordance with the diagnostic manual and a risk assessment, consider that the risk of spread of LPAI is negligible; or
- (b) at least 42 days following the date of confirmation of the outbreak and until the competent authorities, based on the investigations and laboratory tests carried out in the restricted zone in accordance with the diagnostic manual and a risk assessment, consider that the risk of spread of LPAI is negligible.

*Article 46*  
**Derogations**

1. Where LPAI is confirmed in a hatchery, the competent authority may, based on a risk assessment, derogate from some or all of the measures provided for in Articles 43 and 44.
2. The competent authority may grant derogations from the measures provided for in Article 43 and points (c), (d), (h) and (i) of Article 44 in cases of an outbreak of LPAI in a non-commercial holding/pet bird holding, a circus, a zoo, a pet bird shop, a wild life park, a fenced area where poultry or other birds are kept for scientific purposes or purposes related to the conservation of endangered species or officially registered rare breeds of poultry or other birds, provided that such derogations do not endanger disease control.
3. Member States granting the derogation provided for in paragraphs 1 and 2 shall immediately inform the Commission thereof.
4. The Commission shall review the situation with the Member State concerned and in the Committee as soon as possible.
5. Taking account of any derogation granted, as provided for in paragraphs 1 and 2, measures to prevent the spread of avian influenza may be adopted in accordance with the procedure referred to in Article 65(3).

## CHAPTER VI

### MEASURES CONCERNING PUBLIC HEALTH AND ANIMALS OTHER THAN POULTRY OR OTHER BIRDS

#### *Article 47*

##### **Public health measures**

1. Member States shall ensure that in cases of outbreaks or confirmation of any other finding of influenza viruses of avian origin in poultry and other birds or mammals which may pose a risk to public health, the competent authority shall contact the relevant national public health authority as soon as possible in order to decide on the early adoption of appropriate precautionary measures aiming at the prevention of influenza infections in poultry workers and other persons at risk.
2. Where a risk to public health is identified, as referred to in paragraph 1, the Member State concerned shall immediately inform the Commission and the other Member States thereof.
3. The situation shall be reviewed in the framework of the Committee as soon as possible.
4. Additional animal health measures to prevent the spread of avian influenza from poultry, other birds or mammals to humans may be adopted in accordance with the procedure referred in Article 65 (3).

#### *Article 48*

##### **Laboratory tests and other measures concerning pigs and other animals**

1. The competent authority shall ensure that following confirmation of avian influenza on any holding, appropriate laboratory tests, in accordance with the diagnostic manual, are carried out on any pigs present on the premises to confirm or exclude the past or current infection in those pigs with the avian influenza virus.

No pigs shall be moved from the holding pending the results of those tests.

2. Where laboratory tests provided for in paragraph 1 confirm positive findings for avian influenza viruses in pigs, the competent authority may authorise the movement of those pigs to other pig holdings or to designated slaughterhouses, provided that subsequent appropriate tests have shown that the risk of spread of avian influenza is negligible.

3. The competent authority shall ensure that where laboratory tests provided for in paragraph 1 confirm a serious health threat, the pigs are killed as soon as possible under official supervision and in such a way as to prevent the spread of avian influenza virus, in particular during transport, and in accordance with Directive 93/119/EEC.
4. The competent authority may, following confirmation of avian influenza on any holding, and based on a risk assessment, apply the measures provided for in paragraphs 1, 2 and 3 to any other mammals present on the holding and may extend those measures to contact holdings
5. Member States shall inform the Commission within the framework of the Committee of the results of the tests and measures applied pursuant to paragraphs 1 to 4.
6. The competent authority may, following confirmation of avian influenza virus in pigs or any other mammals on any holding, undertake surveillance in accordance with the diagnostic manual to identify any further spread of avian influenza virus.
7. Additional measures to prevent the spread of avian influenza virus in pigs and other animals, may be adopted in accordance with the procedure referred to in Article 65 (3)
8. Rules for the application of this Article may be adopted in accordance with the procedures referred to in Article 65 (2).

## CHAPTER VII

### CLEANSING, DISINFECTION AND RE-POPULATION

#### *Article 49*

#### **Cleansing, disinfection and procedures for eliminating avian influenza virus**

Member States shall ensure that :

- (a) the cleansing, disinfection and treatment of *holdings* and any materials or substances *therein which are* contaminated or likely to be contaminated with avian influenza viruses are carried out under official supervision in accordance with:
  - (i) the instructions of the official veterinarian; and
  - (ii) the principles and procedures for cleansing, disinfecting and treatment set out in Annex VI.
- (b) any land or pastures used by poultry or other birds on a holding where avian influenza has been confirmed are not used by poultry or other birds for at least [2] months<sup>46</sup> after the holding has been depopulated.
- (c) the cleansing, disinfection and treatment of slaughterhouses, means of transport or border inspection posts and any materials or substances therein which are contaminated or likely to be contaminated with avian influenza viruses are carried out under official supervision in accordance with the instructions of the official veterinarian
- (d) the disinfectants to be used and their concentrations are *authorised* by the competent authority;

2. In the case of cleansing and disinfection required under Articles 19(c) and (d), 24, 25, 26 30(c)(iv), 30(e), 44(1)(d)(iv) and 44(1)(g), Member States may provide for compliance to be monitored by spot checks rather than by official supervision.<sup>47</sup>

#### *Article 50*

#### **Re-population of holdings**

1. Member States shall ensure that paragraphs 2 to 6 of this Article are complied with, following the application of the measures provided for in Articles 11 , 17 (3) and 39.
2. The re-population of commercial poultry holding shall not take place for a period of 21 days following the date of completion of the final cleansing and disinfection as provided for in Article 49.

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<sup>46</sup> Advice sought from CRL on the 2 month period.

<sup>47</sup> To be reviewed by the Presidency – see proposed revision to ‘official supervision’ .

3. The following measures shall be performed during a period of 21 days following the date of the re-population of the commercial poultry holdings:
  - (a) the poultry undergoes a clinical examination carried out *as near as possible to the end of the 21 day-period referred to above* by the official veterinarian;
  - (b) laboratory tests are carried out in accordance with the diagnostic manual;
  - (c) poultry that die during the re-population phase are tested in accordance with the diagnostic manual;
  - (d) any person entering or leaving the commercial poultry holding complies with appropriate biosecurity measures aimed at preventing the spread of avian influenza;
  - (e) during the re-population phase no poultry leaves the commercial poultry holding without the authorisation of the competent authority;
  - (f) the owner keeps a record on the production data, including morbidity and mortality data, which must be updated regularly;
  - (g) any significant change in production data, as referred to in point (f), and other abnormalities are immediately reported to the competent authority.
4. Based on a risk assessment, the competent authority may order that the procedures provided for in paragraph 3 be applied to other holdings than commercial poultry holdings or other species on a commercial poultry holding.
5. The re-repopulation of poultry in contact holdings shall take place in accordance with the instructions of the competent authority.

## CHAPTER VIII

### DIAGNOSTIC PROCEDURES, DIAGNOSTIC MANUAL AND REFERENCE LABORATORIES

#### *Article 51*

#### **Diagnostic procedures and diagnostic manual**

1. The Member States shall ensure that diagnostic procedures, sampling and laboratory testing to detect the presence of avian influenza *in poultry or other birds* or *avian influenza virus* in mammals are carried out in accordance with the diagnostic manual in order to ensure uniform procedures for *its* diagnosis .

That manual shall be adopted in accordance with the procedure referred to Article 65 (2) within six months from the date of entry into force of this Directive. Any subsequent amendment to the manual shall be adopted in accordance with the same procedure

2. The diagnostic manual provided for in paragraph 1 shall establish at least the following:
  - (a) minimum biosecurity requirements and quality standards to be observed by approved laboratories carrying out tests for the diagnosis of avian influenza; and
  - (b) criteria and procedures to be followed when clinical or post-mortem examinations are carried out to confirm or exclude the presence of avian influenza;
  - (c) criteria and procedures to be followed for the collection of samples from poultry or other birds for laboratory tests to confirm or exclude the presence of avian influenza; including sampling methods for serological or virological screenings carried out in accordance with this Directive;
  - (d) laboratory tests to be used for the diagnosis of avian influenza, including:
    - (i) tests for the differential diagnosis ;
    - (ii) tests to distinguish HPAI and LPAI viruses;
    - (iii) suitable tests to distinguish between birds vaccinated and those infected with the field strain of avian influenza;
    - (iv) criteria for the evaluation of the results of the laboratory tests;
  - (e) laboratory techniques for the typing of avian influenza virus isolates.

3. Member States shall ensure that avian influenza viruses, their genome and antigens, and vaccines for research, diagnosis or manufacture of vaccine shall be manipulated or used only in places, establishments or laboratories approved by the competent authority where the appropriate biosecurity requirements are guaranteed.

The list of approved places, establishments or laboratories shall be transmitted to the Commission by [date] and kept up-to-date.

#### *Article 52*

#### **Reference laboratories**

1. The laboratory set out in Annex VII shall be the Community reference laboratory for avian influenza ('the Community reference laboratory').

Without prejudice to Decision 90/424/EEC, the Community reference laboratory shall carry out the functions and duties listed in Part 2 of that Annex.

2. Member States shall designate national reference laboratories and communicate to the Commission and other Member States the details thereof and any subsequent changes. The Commission shall publish and update the list of such national reference laboratories.
3. Member States shall ensure that the national reference laboratories:
  - (a) carry out the functions and duties set out in Annex VIII;
  - (b) are responsible for co-ordinating standards and methods of diagnosis in each Member State in accordance with Annex VIII and liaising with the Community reference laboratory.

## CHAPTER IX

### VACCINATION

#### SECTION 1

#### GENERAL PROHIBITION OF VACCINATION

##### *Article 53*

##### **Manufacture, sale and use of avian influenza vaccines**

1. Member States shall ensure that:
  - (a) vaccination against avian influenza is prohibited on their territory, except as provided for in Sections 2 and 3;
  - (b) the handling, manufacture, storage, supply, distribution and sale of avian influenza vaccines on their territory are carried out under official supervision;
  - (c) only vaccines authorised in accordance with Directive 2001/82/EC and Regulation No 726/2004 are used.
2. Rules relating to the conditions of supply and storage of stocks of avian influenza vaccines in the Community may be adopted in accordance with the procedure referred to in Article 65(2).

#### SECTION 2

#### EMERGENCY VACCINATION

##### *Article 54*

##### **Emergency vaccination in poultry or other birds**

1. Member States may introduce emergency vaccination in poultry or other birds, in accordance with this Section, where there is an outbreak and a risk that avian influenza may spread.

2. Where a Member State intends to introduce emergency vaccination, as provided for in paragraph 1, it shall submit an emergency vaccination plan to the Commission for its approval.

That plan shall be in accordance with a DIVA strategy and contain at least the following information:

- (a) the disease situation which has led to the application for emergency vaccination;
  - (b) the geographical area in which emergency vaccination is to be carried out and the number of holdings in that area and the number of holdings to be vaccinated if different;
  - (c) the species and categories of poultry or other birds or, if appropriate, the poultry or other birds compartment to be vaccinated;
  - (d) the approximate number of poultry or other birds to be vaccinated;
  - (e) the summary of the vaccine characteristics;
  - (f) the envisaged duration of the emergency vaccination campaign;
  - (g) measures for movements of poultry or other birds and their products in accordance with the general requirements set out in Annex IX, except where the Member State concerned provides justification for measures differing from those general requirements;
  - (h) the criteria for deciding if emergency vaccination is to be applied in contact holdings;
  - (i) the record keeping and registration of the vaccinated poultry and other birds;
  - (j) clinical and laboratory tests to be carried out in the holdings where emergency vaccination is to be carried out and in other holdings located in the emergency vaccination area in order to monitor the epidemiological situation, the effectiveness of the emergency vaccination campaign and the control of movements of vaccinated poultry and other birds.
3. Detailed rules for emergency vaccination may be established in accordance with the procedure referred to in Article 65 (2).

*Article 55*

**Approval of emergency vaccination plans**

1. The Commission shall immediately examine the emergency vaccination plan, as provided for in Article 54(2), together with the Member State concerned and shall review the situation in the Committee as soon as possible.
2. The emergency vaccination plan shall be approved in accordance with the procedure referred to in Article 65(3).

The approval of the emergency vaccination plan may include measures restricting the movements of poultry or other birds and their products. Those measures may include restrictions concerning specific poultry compartments and other birds compartments and the establishment of restricted zones.

*Article 56*

**Derogations**

1. By way of derogation from Article 54, Member States may apply emergency vaccination around the outbreak before approval of the emergency vaccination plan, subject to the following conditions:
  - (a) the emergency vaccination plan and the decision to apply emergency vaccination are notified to the Commission before the commencement of the emergency vaccination;
  - (b) the Member State concerned applies the general requirements for movements of poultry and poultry products set out in Annex IX;
  - (c) the decision to apply emergency vaccination does not endanger disease control.
2. When a Member State applies the derogation provided for in paragraph 1, the disease situation and the emergency vaccination plan shall be reviewed in the Committee as soon as possible.
3. Additional measures may be adopted in accordance with the procedure referred to in Article 65 (3).

### SECTION 3 PROTECTIVE VACCINATION

#### *Article 57*

#### **Protective<sup>48</sup> vaccination in poultry or other birds**

1. Member States may introduce protective vaccination in poultry or other birds, in accordance with this Section, where they deem that certain areas of their territory, certain characteristics of their poultry production or certain categories of poultry or other birds are at a particular high risk of the introduction and spread of avian influenza.
2. Where a Member State intends to introduce protective vaccination, as provided for in paragraph 1, it shall submit a protective vaccination plan to the Commission for its approval.

That plan shall be in accordance with a DIVA strategy and contain at least the following information:

- (a) a clear description of the reasons for the protective vaccination, including the disease history;
- (b) the geographical area in which the protective vaccination is to be carried out and the number of holdings in that area and the number of holdings to be vaccinated if different;
- (c) the species and categories of poultry or other birds or, if appropriate, the poultry or other birds compartment to be vaccinated;
- (d) the approximate number of poultry or other birds to be vaccinated;
- (e) the summary of the vaccine characteristics;
- (f) the envisaged duration of the protective vaccination campaign;
- (g) the specific provisions on the movements of vaccinated poultry and other birds without prejudice to the measures provided for in Sections 4, 5 and 6 of Chapter IV and Section 3 of Chapter V;
- (h) the record keeping and registration of the vaccinated poultry and other birds;

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<sup>48</sup> DK, ES, FR, IE and NL suggest either to define "protective vaccination" in the specific meaning of this Directive, in order to avoid confusion with "protective vaccination" in the meaning of FMD (emergency vaccination) or to use "prophylactic vaccination" instead.

- (i) the laboratory tests to be carried out in the holdings where protective vaccination is to be carried out and such tests in other holdings located in the vaccination area in order to monitor the epidemiological situation, the effectiveness of the protective vaccination campaign and the control of movements of vaccinated poultry and other birds.
3. Detailed rules for protective vaccination may be established in accordance with the procedure referred to in Article 65(2).

*Article 58*

**Approval of protective vaccination plan**

1. The Commission shall immediately examine the protective vaccination plan provided for in Article 57(2), together with the Member State concerned and shall review the situation in the Committee as soon as possible.
2. The protective vaccination plan shall be approved in accordance with the procedure referred to in Article 65(3).

The approval of the protective vaccination plan may include measures restricting the movements of poultry or other birds and their products. Those measures may include restrictions concerning specific poultry compartments and other birds compartments and the establishment of restricted zones.

## **SECTION 4**

### **VACCINE BANKS**

#### *Article 59*

#### **Community vaccine bank**

1. A Community vaccine bank may be established in accordance with the procedure referred in Article 65(2).
2. Member States shall have access to the Community vaccine bank on request to the Commission.
3. Where it is in the interest of the Community, the Commission may supply vaccines to third countries.

Without prejudice to agreements concluded between the Community and third countries, the access of third countries to the Community vaccine bank shall be authorised in accordance with the procedure referred to in Article 65 (3), subject to detailed arrangements between the Commission and the third country concerned on the financial and technical co-operation to be adopted in accordance with that procedure.

#### *Article 60*

#### **National vaccine banks**

1. Member States may, within the framework of the contingency plan provided for in Article 63, establish or maintain a national vaccine bank for storage of reserves of avian influenza vaccines authorised in accordance with Article 5 to Article 15 of Directive 2001/82/EC, to be used for emergency or protective vaccination.
2. Member States maintaining a national vaccine bank shall inform the Commission of the quantities and types of the stored vaccines.

## CHAPTER X

### COMMUNITY CONTROLS, PENALTIES AND CONTINGENCY PLANS

#### *Article 61*

##### **Community controls**

Commission experts may make on-the-spot checks in cooperation with the competent authority, in so far as it is necessary to ensure uniform application of this Directive in accordance with Commission Decision 98/139/EC<sup>49</sup> and Article 45 of Regulation (EC) No 882/2004 of the European Parliament and of the Council<sup>50</sup>.

#### *Article 62*

##### **Penalties**

Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission by the date specified in Article 68(1) at the latest and shall notify it without delay of any subsequent amendment affecting them.

#### *Article 63*

##### **Contingency plans**

1. Member States shall draw up a contingency plan in accordance with Annex X specifying the national measures to be implemented in the event of an outbreak and submit that plan to the Commission for approval.
2. The contingency plan shall allow access to facilities, equipment, personnel and all other appropriate materials necessary for the rapid and efficient eradication of the outbreak. It shall give an indication of the number, location and census of all commercial poultry holdings and vaccine requirements each Member State concerned considers it needs in the event of emergency vaccination.
3. The Commission shall examine the contingency plans in order to determine whether they permit the desired objective to be attained and shall suggest to the Member State concerned any amendments required, in particular to ensure that they are compatible with those of the other Member States.

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<sup>49</sup> OJ L 38, 12.2.1998, p. 10.

<sup>50</sup> OJ L 165, 30.4.2004, p. 1.

The contingency plans shall be approved in accordance with the procedure referred to in Article 65(2). Any subsequent amendments to that plan shall be adopted in accordance with the same procedure.

4. Member State shall update the contingency plan at least every five years and submit it to the Commission for approval in accordance with the procedure referred to in Article 65(2).
5. In addition to the measures provided for paragraphs 1 to 4, further rules to ensure a rapid and efficient eradication of avian influenza, including provisions on disease control centres, expert groups and real-time alert exercises, may be adopted in accordance with the procedure referred to in Article 65(2).

## **CHAPTER XI**

### **IMPLEMENTING POWERS AND COMMITTEE PROCEDURE**

#### *Article 64*

#### **Implementing powers**

1. Detailed rules necessary for the implementation of this Directive shall be adopted in accordance with the procedure referred to in Article 65(2) and in particular specific rules concerning:
  - (a) the disposal of carcasses, and
  - (b) the movement and treatment of feed, bedding, used litter, manure and slurry contaminated or suspected to be contaminated.
2. Any amendments to the annexes to take account of scientific and technical progress shall be decided in accordance with the procedure referred to in Article 65(2).
3. Detailed rules required by the epidemiological situation to supplement the minimum control measures provided for in this Directive shall be adopted in accordance with the procedure referred to in Article 65(3).

4. Without prejudice to the safeguard measures provided for in Article 9 of Council Directive 89/662/EEC<sup>51</sup> or Article 10 of Council Directive 90/425/EEC<sup>52</sup>, temporary emergency measures required due to a serious health threat caused by influenza viruses of avian origin other than those referred to in point 1 of Article 2, shall be adopted in accordance with the procedure referred to in Article 65(3).

*Article 65*

**Committee procedure**

1. The Commission shall be assisted by the Standing Committee on the Food Chain and Animal Health established by Regulation (EC) No 178/2002.
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.  
  
The period laid down in Article 5 (6) of Decision 1999/468/EC shall be set at three months.
3. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.  
  
The period laid down in Article 5 (6) of that Decision shall be set at 15 days.
4. The Committee shall adopt its Rules of Procedure.

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<sup>51</sup> OJ L 395, 30.12.1989, p. 13. as amended by Directive 2004/41/EC (OJ L 157, 30.4.2004, p. 33).

<sup>52</sup> OJ L 224, 18.8.1990, p. 29. as last amended by Directive 2002/33/EC (OJ L 315, 19.11.2002, p. 14).

## CHAPTER XII<sup>53</sup>

### TRANSITIONAL AND FINAL PROVISIONS

#### *Article 66*

##### **Repeals**

Directive 92/40/EEC is repealed as from the date specified in Article 68 (1) second indent.

References to Directive 92/40/EEC shall be construed as references to this Directive and shall be read in accordance with the correlation table set out in Annex XI.

#### *Article 67*

##### **Transitional provisions**

1. Contingency plans for the control of avian influenza approved in accordance with Article 17(4) of Directive 92/40/EEC and in force at [date<sup>54</sup>] shall continue to apply for the purpose of this Directive.

However, before [date<sup>55</sup>] Member States shall submit to the Commission amendments to those contingency plans, to bring them in line with this Directive.

Those amended plans shall be approved in accordance with the procedure referred to in Article 65(2).

2. Pending the application of this Directive, further transitional provisions on the control of avian influenza may be adopted in accordance with the procedure referred to in Article 65(2).

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<sup>53</sup> It should be considered to insert a revision clause for LPAI measures in the light of further experience.

<sup>54</sup> To be decided : same date or later date than 68.(1).

<sup>55</sup> To be decided : same date or later date than 68.(1).

*Article 68*  
**Transposition**

1. Member States shall adopt and publish by [...] <sup>56</sup> at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. *They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive* <sup>57</sup>.

They shall apply those provisions from [...] <sup>58</sup>.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

*Article 69*  
**Entry into force**

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

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<sup>56</sup> XX months after the date of publication in the OJ.

<sup>57</sup> Reservation ES and MT. ES suggests the following text "*The Council, in accordance with paragraph 34 of the Interinstitutional agreement on better law-making, should encourage Member States to draw up, for themselves and in the interest of the Community, their own tables, which will, as far as possible, illustrate the correlation between the Directive and the transposition measures and to make them public*". Council Legal Services considers that both options (Commission proposal or ES proposal) are possible. CLS will inform the Working Party whether a new horizontal text is agreed .

<sup>58</sup> XX months after the date of publication in the OJ.

*Article 70*  
**Addressees**

This Directive is addressed to the Member States.

Done at Brussels,

*For the Council*  
*The President*

**ANNEX I as referred to in Article 4(1)**

**REQUIREMENTS FOR ANNUAL SURVEILLANCE PROGRAMMES FOR AVIAN  
INFLUENZA IN POULTRY AND WILD BIRDS<sup>59</sup>**

**A. GENERAL REQUIREMENTS FOR SURVEYS IN POULTRY**

1. *Sampling shall include the winter period as in many Member States a large slaughter of poultry, in particular turkeys and geese, takes place in December- January.*
2. *Testing of samples shall be carried out at the national reference laboratories for avian influenza in Member States or by other laboratories approved by the competent authorities and under the supervision of the national reference laboratory.*
3. *All results, both serological and virological, shall be sent to the Community reference laboratory for collation. The Community reference laboratory shall provide technical support and keep an enlarged stock of diagnostic reagents.*
4. *All avian influenza virus isolates shall be submitted to the Community reference laboratory. Viruses of subtypes H5 and H7 shall be subjected to the characterisation tests, in accordance with the diagnostic manual.*
5. *All positive findings shall be retrospectively tested at the holding and the conclusions of the test shall be reported to the Commission and the Community reference laboratory.*
6. *Specific protocols shall accompany the sending of material to the Community reference laboratory.*
7. *Collection of survey data shall be in accordance with the tables provided by the Community reference laboratory. In those tables the laboratory testing methods used shall be indicated.*
8. *Blood samples for serological tests shall be collected from all species of poultry, from at least 5 to 10 birds, except ducks and geese, per holding, and from the different sheds, if there is more than one shed on a holding.*
9. *Sampling shall be stratified throughout the whole Member State, so that samples can be considered as representative for the whole Member State, taking into account:*
  - (a) *the number of holdings to be sampled; that number shall be defined so as to ensure the identification of at least one infected holding if the prevalence of infected holdings is at least 5%, with a 95% confidence interval, in accordance with tables 1 and 2, and*

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<sup>59</sup> Future of this Annex to be decided. The text is now out of date and not in line with the Commission Decision on the 2005 Annual Survey.

- (b) *the number of birds sampled from each holding shall be defined so as to ensure 95% probability of identifying at least one positive bird if the prevalence of seropositive birds is  $\geq 30\%$ .*

10. *The sampling design shall also consider:*

- (a) *the types of production and their specific risks, such as free range, outdoor keeping, multi age layers, use of surface water, a relatively longer life span, and the presence of more than one species on the holding;*
- (b) *the number of turkey holdings to be sampled, which shall be defined to ensure the identification of at least one infected holding if the prevalence of infected holdings is at least 5%, with a 99% confidence interval;*
- (c) *where holdings producing ratites and quails are present in a Member State they shall be included in the annual surveillance programme;*
- (d) *the time period; where appropriate, sampling shall be adapted to identified periods, during which the presence of other poultry hosts on a holding might pose a greater risk for disease introduction;*
- (e) *Member States that must carry out sampling for Newcastle disease to maintain their status as Newcastle disease non-vaccinating countries (Commission Decision 94/327/EC<sup>60</sup>) may utilise these samples from breeding flocks for the surveillance of H5/H7 antibodies.*

**Table 1: Number of holdings to be sampled of each poultry category  
(except turkey holdings)**

<i>Number of holdings per poultry category (except turkey holdings)</i>	<i>Number of holdings to be sampled</i>
<i>Up to 34</i>	<i>All</i>
<i>35-50</i>	<i>35</i>
<i>51-80</i>	<i>42</i>
<i>81-250</i>	<i>53</i>
<i>&gt;250</i>	<i>60</i>

<sup>60</sup> OJ L 146, 11.6.1994, p. 17.

**Table 2: Number of turkey holdings to be sampled**

<b>Number of turkey holdings</b>	<b>Number of holdings to be sampled</b>
<i>Up to 46</i>	<i>All</i>
<i>47-60</i>	<i>47</i>
<i>61-100</i>	<i>59</i>
<i>101-350</i>	<i>80</i>
<i>&gt;350</i>	<i>90</i>

**B. SPECIFIC REQUIREMENTS FOR DETECTION OF INFECTIONS WITH H5/H7 SUBTYPES OF AVIAN INFLUENZA IN DUCKS AND GEESE**

- 1. Blood samples for serological testing shall be taken preferably from birds which are kept outside in fields.*
- 2. From each selected holding 40-50 blood samples shall be taken for serological testing.*

**C. SPECIFIC REQUIREMENTS FOR DETECTION OF INFECTION IN WILD BIRDS**

***Survey design and implementation***

- 1. In order to ensure a proper designing and implementation of sampling, the Member States shall ensure co-operation between veterinary authorities, wild life biologists, bird-watching and -ringing organisations and hunters.*
- 2. Sampling shall focus on the wild birds migrating south during autumn and early winter.*

***Sampling procedures, storage and transport of samples***

- 3. Cloacal swabs for virological tests shall be taken, particularly from those species with high susceptibility and increased contact with poultry, such as Mallard ducks.*
- 4. The distribution between the different species shall, if possible, be as follows: 70% waterfowl; 20% shorebirds; 10% other free-living birds.*
- 5. Swabs containing faeces, or carefully collected fresh faeces shall be taken from wild birds trapped, hunted and found freshly dead.*
- 6. Pooling of up to five samples from the same species shall be possible.*
- 7. Specific care shall be taken for the storage and transport of samples. If rapid transport within 48 hours to the laboratory, in transport medium at 4° Celsius, is not guaranteed, samples shall be stored and then transported in dry ice at -70° Celsius.*

**D. LABORATORY TESTING**

*Laboratory tests shall be carried out in accordance with the diagnostic manual. However, Member States wishing to adopt different tests, shall provide the relevant validation data to the Commission and the Community reference laboratory.*

**ANNEX II as referred to in Article 5(2)**

**NOTIFICATION OF DISEASE AND FURTHER EPIDEMIOLOGICAL INFORMATION  
TO BE PROVIDED BY THE MEMBER STATES<sup>61</sup>**

1. Within 24 hours of the confirmation of any primary outbreak, or detection of avian influenza in a slaughterhouse or means of transport the Member State concerned shall notify in accordance with the procedure referred to in Article 5 of Directive 82/894/EEC:
  - (a) the date of notification;
  - (b) the time of notification;
  - (c) the name of the Member State concerned;
  - (d) the name of the disease;
  - (e) the number of the outbreak or positive finding of avian influenza in a slaughterhouse or means of transport;
  - (f) the date on which the disease was first suspected;
  - (g) the date of confirmation;
  - (h) the methods used for confirmation;
  - (i) whether the disease has been confirmed in a holding, slaughterhouse or means of transport;
  - (j) the geographical location of the outbreak or positive finding of avian influenza in a slaughterhouse or means of transport;
  - (k) the disease control measures applied.
  
2. In the case of positive findings for avian influenza in slaughterhouses or means of transport, the Member State concerned must forward the following information in addition to the data referred to in paragraph 1:
  - (a) the *estimated* number of susceptible poultry or other birds in the slaughterhouse or means of transport;
  - (b) the *estimated* number of dead poultry or other birds of each category in the slaughterhouse or means of transport;

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<sup>61</sup> The structure of this Annex should be made consistent with Article 5(2).

- (c) for each poultry or other bird category, the identified morbidity and the *estimated* number of poultry in which avian influenza has been confirmed;
  - (d) the *estimated* number of poultry or other birds killed or slaughtered in the slaughterhouse or means of transport;
  - (e) the *estimated* number of poultry or other birds disposed of;
  - (f) in case of a slaughterhouse, the distance from the nearest poultry or other bird holding;
  - (g) the location of the holding or holdings of origin of the infected poultry or carcasses.
3. In the case of secondary outbreaks, the information referred to in paragraph 1 and 2 must be forwarded within the time-limits laid down in the first paragraph of Article 4 of Directive 82/894/EEC.
4. The Member State concerned shall ensure that the information to be provided in accordance with paragraph 1, 2 and 3, in relation to any outbreak or positive finding of avian influenza in a slaughterhouse or means of transport is followed as soon as possible by a written report to the Commission and the other Member States including at least:
- (a) the date on which the poultry or other birds on the holding, slaughterhouse or means of transport were killed and their carcasses disposed of or slaughtered;
  - (b) any information relating to the possible origin of that disease or, if ascertained, its actual origin;
  - (c) information on the control system established to ensure that the measures in place for the control of animal movements are effectively implemented;
  - (d) in the case of detection of avian influenza in a slaughterhouse or means of transport, the genetic type of virus responsible;
  - (e) where poultry or other birds have been killed or slaughtered in contact holdings or in holdings containing poultry or other birds suspected of being infected with avian influenza virus, information on:
    - (i) the date of killing or slaughtering and the *estimated* number of poultry or other birds of each category killed or slaughtered in each holding;
    - (ii) the epidemiological link between the source of infection and each contact holding or the other reasons that have induced the suspicion that avian influenza is present in each suspected holding;

- (iii) where poultry or other birds in contact holdings have not been killed or slaughtered, information must be provided concerning the reasons for the decision not to kill or slaughter them.
5. In case of confirmation of avian influenza in live poultry, *other* birds or poultry products being imported or introduced at Community borders, in border inspection posts or in quarantine facilities or centres operating in accordance with Community legislation on imports, the competent authority must notify this finding to the Commission without delay and report on the measures taken.
  6. The results of any surveillance for avian influenza carried out in poultry or other birds must be notified yearly to the Commission. However, the Commission and the other Member States must be notified within 24 hours where a serious animal or public health threat is identified due to the surveillance.
  7. Any positive result of laboratory tests for influenza viruses of avian origin other than those referred to in point 1 of Article 2, which have been carried out in poultry or other birds, must be notified yearly to the Commission. However, the Commission and the other Member States must be notified within 24 hours where a serious animal or public health threat is identified due to the testing.

ANNEX III as referred to in Articles 8(3) and 13(3)<sup>62</sup>

**AUTHORISATION TO REMOVE TABLE EGGS FROM A HOLDING IN ACCORDANCE  
WITH ARTICLE 8(3) and ARTICLE 13(3)**

The competent authority may authorise the transport of eggs from a holding subject to the provisions of Article 8(3) and Article 13(3) of this Directive to an establishment approved for the manufacture of egg products in accordance with the provisions of Regulation (EC) No 853/2004 ('the designated establishment'), subject to the following conditions:

1. in order to be allowed to be removed from the holding of origin, the eggs must:
  - (a) comply with the requirements laid down in Section X of Annex III to Regulation (EC) No 853/2004;
  - (b) be sent directly from the suspected holding to the designated establishment; each consignment must be sealed before dispatch by the official veterinarian responsible for the suspected holding *or under his supervision* and must remain sealed throughout transport to the designated establishment;
2. the official veterinarian responsible for the holding of origin of the eggs shall inform the competent authority of the designated establishment of the intention to send the eggs to it;
3. the competent authority responsible for the designated establishment shall ensure that:
  - (a) the eggs referred to in 1(b) are kept isolated from other eggs from the time they arrive until they are processed;
  - (b) the shells of such eggs are disposed of;
  - (c) the packaging used for the eggs is either destroyed or cleansed and disinfected in such a way as to destroy all avian influenza viruses *[, the competent authority ensuring compliance by spot checks rather than by official supervision]<sup>63</sup>*;
  - (d) the eggs referred to in 1(b) are transported in cleansed and disinfected vehicles. *Biosecurity measures are applied to staff and equipment and vehicles involved in the transport of eggs. [The competent authority may ensure compliance by spot checks rather than by official supervision]*;

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<sup>62</sup> Amended text for discussion at Working Group.

<sup>63</sup> To be reviewed in line with the new definition of 'official supervision'.

**ANNEX IV as referred to in Article 15(2), Article 32(2) and Article 42 (2)**  
**MAIN CRITERIA AND RISK FACTORS FOR THE DECISION TO KILL POULTRY IN**  
**CONTACT HOLDINGS**

The competent authority shall consider the following criteria when deciding whether to kill poultry in contact holdings or holdings at risk:

Criteria	Decision	
	For killing	Against killing
Clinical signs suggesting avian influenza in contact holdings	Yes	No
High susceptibility of predominant poultry species	Yes	No
Movement of poultry or other birds from the outbreak to contact holdings after the likely time of introduction of virus in the infected holding	Yes	No
Location of contact holdings in an area with a high density of poultry	Yes	No
Likely spreading of virus from the outbreak before application of eradication measures	Massive/unknown [yes]	Limited [no]
Location of contact holdings within 500 meters <sup>(1)</sup> from the outbreak	Yes	No
Proximity of contact holdings to more than one outbreak	Yes	No
Number of poultry or other birds in the outbreak and/or in contact holdings	High	Low

<sup>(1)</sup> In case with a very high density of poultry, a longer distance must be considered.

**MAIN CRITERIA AND RISK FACTORS FOR THE DECISION APPLY MEASURES IN CONTACT HOLDINGS**

The competent authority shall consider the following indicative criteria when deciding whether to kill poultry in contact holdings:

<i>Indicative criteria</i>	
<i>For killing on a contact holding</i>	<i>Against killing on a contact holding</i>
<i>Clinical signs suggesting avian influenza in contact holdings</i>	<i>No clinical signs suggesting avian influenza on the contact holdings and no epidemiological link</i>
<i>High susceptibility of predominant poultry species</i>	<i>Low susceptibility of predominant poultry species</i>
<i>Movement of poultry or other captive birds from premises where avian influenza has been confirmed to contact holdings after the likely time of introduction of virus to those infected premises</i>	<i>There is no known movement of poultry or other captive birds from the premises where avian influenza has been confirmed to contact holdings after the likely time of introduction of virus in those infected premises</i>
<i>Location of contact holdings in an area with a high density of poultry</i>	<i>Location of contact holdings in an area with a low density of poultry</i>
<i>Disease has been present for some time with likely spreading of virus from the premises where avian influenza has been confirmed before application of eradication measures</i>	<i>Disease has not become established with limited spreading of virus from the premises where avian influenza has been confirmed before application of eradication measures</i>
<i>Location of contact holdings within 500</i>	<i>Location of contact holdings more than 500</i>

<sup>64</sup> Alternative presentation for Annex IV.

<sup>65</sup> Scrutiny Reservation by Italy. All delegations asked to state their preference at the next working group.

<i>metres<sup>(1)</sup> from the premises where avian influenza has been confirmed</i>	<i>metres<sup>(1)</sup> from the premises where avian influenza has been confirmed</i>
<i>The contact holdings are linked to more than one premises where avian influenza has been confirmed</i>	<i>The contact holdings are not linked to premises where avian influenza has been confirmed</i>
<i>The epidemic is not under control and number of premises where avian influenza has been confirmed is rising</i>	<i>The epidemic is under control</i>

*<sup>(1)</sup> In case with a very high density of poultry, a longer distance must be considered.]*

**ANNEX V as referred to in Article 39(1)**  
**CRITERIA FOR THE DECISION TO APPLY MEASURES TO HOLDINGS IN**  
**RELATION TO LPAI**

When deciding on the destination of eggs and on depopulation of holdings in accordance with Article 39(1) the competent authority shall at least consider the following criteria:

- (a) species in question;<sup>66</sup>
- (b) density of holdings;
- (c) location of slaughterhouses and packing centres;
- (d) transport route;
- (e) evidence of spread;
- (f) public health risk, if any;
- (g) further treatments of the products in question;
- (h) socio-economic impact and other impacts.

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<sup>66</sup> Proposal by Italy as the deleted indent (“virus type and risk of its mutation”) is theoretical and not practical.

## ANNEX VI as referred to in Article 49

### **PRINCIPLES AND PROCEDURES FOR CLEANSING, DISINFECTION AND TREATMENT OF HOLDINGS**

1. The following general principles and procedures shall be applied for the cleaning, disinfection and treatment provided for in Article 49:
  - (a) the cleansing and disinfection and, where necessary, the measures to destroy rodents and insects must be carried out under official supervision and in accordance with the instructions given by the official veterinarian;
  - (b) the disinfectants to be used and their concentrations must be *authorised* by the competent authority to ensure destruction of avian influenza virus;
  - (c) *disinfectants should be used in accordance with the recommendations of the manufacturers;*
  - (d) the choice of disinfectants and of procedures for disinfection must be made taking into account the nature of the premises, vehicles and objects which are to be treated;
  - (e) the conditions under which degreasing agents and disinfectants are used must ensure that their efficacy is not impaired; in particular technical parameters indicated by the manufacturer, such as pressure, minimum temperature and required contact time must be observed;
  - (f) irrespective of the disinfectant used, the following general rules shall be applied:
    - (i) a thorough soaking of bedding and litter, as well as faecal matter with the disinfectant;
    - (ii) washing and cleansing by careful brushing and scrubbing of the ground, floors, ramps and walls following the removal or dismantling, where possible, of equipment or installations otherwise impairing the effective cleansing and disinfection procedures;
    - (iii) then, further application of disinfectant for a minimum contact time as stipulated in the manufacturer's recommendations;
  - (g) where washing is carried out with liquids applied under pressure re-contamination of the previously cleansed parts must be avoided;
  - (h) washing, disinfecting or destroying of equipment, installations, articles or compartments likely to be contaminated must be included;
  - (i) following the disinfection procedures re-contamination must be avoided;

- (j) cleansing and disinfection as required in the framework of this Directive must be documented in the holding or vehicle register and, where official approval is required, be certified by the supervising official veterinarian *or person under his supervision*;
  - (k) cleansing and disinfection of vehicles used for transport and by staff.
2. Cleansing and disinfection of infected holdings shall be carried out in accordance with the following principles and procedures:
- (a) preliminary cleansing and disinfection:
    - (i) during the killing of the poultry and other birds all necessary measures must be taken to avoid or minimise the dispersion of avian influenza virus; those measures must include *inter alia* the installation of temporary disinfection equipment, supply of protective clothing, showers, decontamination of used equipment, instruments and facilities and the interruption of power supply to the ventilation;
    - (ii) carcasses of killed poultry or other birds must be sprayed with disinfectant;
    - (iii) any transport of carcasses of poultry or other birds which have to be removed from the holding for disposal shall be carried out in closed, leak proof vehicles or containers under official supervision in such a way as to prevent the spread of avian influenza virus;
    - (iv) as soon as the killed poultry or other birds have been removed to be disposed of, those parts of the holding in which they were housed and any parts of other buildings, yards etc. contaminated during the killing, or the post-mortem examination must be sprayed with disinfectants *authorised* in accordance with Article 49;
    - (v) any tissue or blood spilled during the killing or slaughter or the post-mortem or gross contamination of buildings, yards, utensils etc. must be carefully collected and disposed of with the killed poultry or other birds;
    - (vi) the disinfectant must remain on the surface for at least 24 hours;

- (b) final cleansing and disinfection:
  - (i) manure<sup>67</sup> and used beddings must be removed and treated as provided in paragraph 3(a);
  - (ii) grease and dirt must be removed from all surfaces by the application of a degreasing agent and the surfaces *cleansed* with water;
  - (iii) after washing with cold water, further spraying with disinfectant must be applied;
  - (iv) after seven days the premises must be treated with a degreasing agent, rinsed with water, sprayed with disinfectant and rinsed again with water;
- 3. Disinfection of contaminated bedding, manure and slurry shall be carried out in accordance with the following principles and procedures:
  - (a) manure and used bedding shall either:
    - (i) undergo a steam treatment at a temperature of at least 70° C;
    - (ii) be destroyed by burning;
    - (iii) be buried deep enough to prevent access by wild birds and other animals; or
    - (iv) be stacked to heat, sprayed with disinfectant and left for at least 42 days;
  - (b) slurry must be stored for at least 60 days after the last addition of infective material, unless the competent authorities authorises a reduced storage period for slurry which has been effectively treated in accordance with the instructions of the official veterinarian so as to ensure the destruction of the virus.

The competent authority may authorise the transportation of manure, litter and bedding likely to be contaminated to either an approved plant for treatment of the manure where a treatment ensuring the destruction of any influenza virus is carried out or for intermediate storage before destruction or treatment, in accordance with Regulation (EC) No 1774/2002 or with the specific rules referred to in Article 64(1). Such transport shall be carried out in closed, leak proof vehicles or containers under official supervision in such a way as to prevent the spread of avian influenza virus.

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<sup>67</sup> It is allowed to bring unprocessed manure into intra-community trade only if it is not from a restricted area (annex VIII Chapter III of Regulation 1774/02).

4. However, by way of derogation from paragraphs 1 and 2, the competent authority may establish specific procedures for cleansing and disinfection, taking into account the type of holding and the climatic conditions. The competent authority shall notify the Commission when this derogation is applied and provide them with details of the specific procedures.
5. If the competent authority is satisfied that any premises or part of any premises cannot, for any reason, be cleansed and disinfected, it may prohibit the entry of any person, vehicle, poultry, other captive bird or mammal of domestic species or any thing onto those premises, or part of those premises and such prohibition shall remain in force for a minimum of 12 months<sup>68</sup>.

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<sup>68</sup> The opinion of the CRL sought on this 12 month period.

**ANNEX VII as referred to in Article 52 (1)**

**COMMUNITY REFERENCE LABORATORY FOR AVIAN INFLUENZA**

1. The Community reference laboratory for avian influenza is:  
  
Veterinary Laboratories Agency (VLA), New Haw, Weybridge, Surrey KT 15 3NB,  
United Kingdom.
2. The functions and duties of the Community reference laboratory shall be:
  - (a) to co-ordinate, in consultation with the Commission, the methods employed in the Member States for diagnosing avian influenza, specifically by;
    - (i) typing, storing and supplying strains of avian influenza virus for serological tests and the preparation of antisera;
    - (ii) supplying standard sera and other reference reagents to the national reference laboratories in order to standardise the tests and reagents used in the Member States;
    - (iii) building up and retaining a collection of avian influenza virus strains and isolates;
    - (iv) organising periodical comparative tests of diagnostic procedures at Community level;
    - (v) collecting and collating data and information on the methods of diagnosis used and the results of tests carried out in the Community;
    - (vi) characterising isolates of avian influenza viruses by the most up-to-date methods available to allow greater understanding of the epidemiology of avian influenza and to gain an insight into the epidemiology of the virus and the emergence of highly pathogenic and potentially pathogenic strains;
    - (vii) keeping abreast of developments in avian influenza surveillance, epidemiology and prevention worldwide;
    - (viii) retaining expertise on avian influenza virus and other pertinent viruses to enable rapid differential diagnosis;
    - (ix) acquiring a knowledge of the preparation and use of the products of veterinary immunology used to control avian influenza;

- (b) to actively assist in the diagnosis of outbreaks in the Community by receiving isolates of influenza viruses of avian origin for confirmatory diagnosis, characterisation and epidemiological studies and to obtain virus isolates from primary outbreaks to be submitted from third countries authorised for the importation of live poultry and meat into the Community pursuant to the relevant Community legislation; on the virus isolates received, the Community reference laboratory shall in particular carry out the following:
  - (i) nucleotide sequencing analysis to allow determination of the deduced amino acid sequence at the cleavage site of the haemagglutinin molecule;
  - (ii) determination of the intravenous pathogenicity index (IVPI);
  - (iii) antigenic typing;
  - (iv) phylogenetic analysis to assist in epidemiological investigations;
- (c) to facilitate the training or retraining of experts in laboratory diagnosis with a view to the harmonisation of techniques throughout the Community;
- (d) prepare the programme and working documents for the Annual Meeting of National Reference Laboratories;
- (e) assist in the conduction of avian influenza surveys in poultry and wild birds to be carried out in the Member States by supplying antigens in the framework of the programme and the approved testing procedures and prepare a summary report on the results of the surveys;
- (f) keep under review the possible zoonotic impact arising from avian influenza viruses and collaborate with internationally recognized human influenza laboratories.

## ANNEX VIII as referred to in Article 52(2)

The functions and duties of the national reference laboratories

- (a) The national reference laboratories shall be responsible for ensuring that in each Member State the laboratory testing to detect the presence of avian influenza and the identification of the genetic type of virus isolates are carried out in accordance with the diagnostic manual. For that purpose, they may make special agreements with the Community reference laboratory or with other national laboratories.
- (b) The national reference laboratories shall submit isolates of influenza virus of avian origin to the Community reference laboratory without delay for full characterisation:
  - (i) from all primary outbreaks of avian influenza;
  - (ii) in case of secondary outbreaks, from representative number of outbreaks;
  - (iii) in case of detection of influenza viruses other than those referred to in point 1 of Article 2 (a) in poultry, other birds or mammals, posing a serious threat to animal or public health.
- (c) The national reference laboratory in each Member State shall be responsible for co-ordinating the standards and diagnostic methods in each avian influenza diagnostic laboratory within that Member State. For that purpose:
  - (i) they may provide diagnostic reagents to individual laboratories;
  - (ii) they shall control the quality of all diagnostic reagents used in that Member State;
  - (iii) they shall arrange comparative tests periodically;
  - (iv) they shall hold isolates of avian influenza virus from outbreaks and of any other influenza viruses of avian origin detected in that Member State;
  - (v) they shall collaborate with the national human influenza laboratories.

ANNEX IX as referred in point (g) of Article 54 (2) and point (b) of Article 56 (1)

**GENERAL REQUIREMENTS ON MOVEMENTS OF POULTRY OTHER BIRDS AND  
POULTRY PRODUCTS APPLICABLE IN RELATION TO EMERGENCY VACCINATION<sup>69</sup>**

1. *Member States shall ensure that movement controls of poultry and birds vaccinated in accordance with Articles 54<sup>70</sup> and 56 and of their products are applied as set out in paragraphs 2 to 7 in accordance with the diagnostic manual.*
2. *For movements of live poultry, live birds, hatching and table shell eggs within the vaccination area the following provisions shall apply:*
  - (a) *hatching eggs shall:*
    - (i) *originate from a vaccinated or unvaccinated breeding flock which has been regularly examined, with favourable results, in accordance with the monitoring provided for in point (j) of Article 54(2);*
    - (ii) *have been disinfected before dispatch in accordance with a method approved by the competent authority;*
    - (iii) *be transported directly to the hatchery of destination in disposable packaging or materials that can be effectively cleansed and disinfected;*
    - (iv) *be traceable within in the hatchery;*
  - (b) *day-old chicks shall:*
    - (i) *originate from hatching eggs satisfying the conditions set out in (a);*
    - (ii) *be transported in disposable packaging or materials that can be effectively cleansed and disinfected:*
    - (iii) *be placed in a poultry house or shed where:*
      - *no poultry has been kept for at least three weeks<sup>71</sup>; and*
      - *cleansing and disinfection have been carried out in accordance with the instructions of the competent authority;*

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<sup>69</sup> IT to consider in the light of their experiences and suggest revised text.

<sup>70</sup> A number of Member States questioned whether the conditions in Annex IX should apply when Member States introduce emergency vaccination following approval in Standing Committee on the Food Chain and Animal Health.

<sup>71</sup> For discussion at the Working Group for all such references to this within Annex IX – is this ‘no poultry for at least 3 weeks’ based on science.

- (c) *ready-to-lay poultry shall:*
  - (i) *have been regularly vaccinated against avian influenza, if provided for in the vaccination programme;*
  - (ii) *have been regularly examined, with favourable results, in accordance with the monitoring provided for in point (j) of Article 54 (2);*
  - (iii) *be placed in a poultry house or shed where no poultry has been kept for at least three weeks, and where cleansing and disinfection has been carried out in accordance with the instructions provided by the Competent authority;*
- (d) *poultry for slaughter shall:*
  - (i) *be examined with favourable results before loading in accordance with the monitoring provided for in point (j) of Article 54 (2);*
  - (ii) *be sent directly to a slaughterhouse for immediate slaughter;*
  - (iii) *be transported in vehicles cleansed and disinfected under official supervision before and after each transport;*
- (e) *shell eggs shall:*
  - (i) *originate from a vaccinated or non-vaccinated layer flock which has been regularly examined, with favourable results, in accordance with the monitoring provided for in point (j) of Article 54 (2);*
  - (ii) *[be sent directly to a packaging centre or a thermal-treatment plant;]<sup>72</sup>*
  - (iii) *be transported using disposable packaging material or materials that can be effectively cleansed and disinfected.*

3. *For movements of live poultry, live birds, hatching eggs and table eggs originating from outside the vaccination area into the vaccination area the following provisions shall apply:*

- (a) *hatching eggs shall:*
  - (i) *be transported directly to the hatchery of destination in disposable packaging or materials that can be effectively cleansed and disinfected;*
  - (ii) *be traceable within in the hatchery;*
- (b) *day-old chicks shall:*
  - (i) *be transported in disposable packaging ;*

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<sup>72</sup> DE delegation suggests to delete this paragraph.

- (ii) *be placed in a poultry house or shed where:*
    - *no poultry has been kept for at least three weeks; and*
    - *cleansing and disinfection have been carried out in accordance with the instructions of the competent authority;*
  - (c) *ready-to-lay poultry shall:*
    - (i) *be placed in a poultry house or shed where no poultry has been kept for at least three weeks, and cleansing and disinfection have been carried out;*
    - (ii) *be vaccinated at the farm of destination, if provided for in the vaccination programme;*
  - (d) *poultry for slaughter shall:*
    - (i) *be sent directly to a slaughterhouse for immediate slaughter;*
    - (ii) *be transported in vehicles cleansed and disinfected under official supervision before and after each transport;*
  - (e) *table eggs shall:*
    - (i) *be sent directly to a packing centre or a thermal treatment plant;*
    - (ii) *be transported using disposable packaging or materials that can be effectively cleansed and disinfected.*
4. *For movements of live poultry, live birds, hatching and table eggs originating and coming from the vaccination area towards outside the vaccination area the following provisions shall apply:*
- (a) *hatching eggs shall:*
    - (i) *originate from a vaccinated or unvaccinated breeding flock which has been regularly examined, with favourable results, in accordance with the monitoring provided for in point (j) of Article 54(2);*
    - (ii) *have been disinfected before dispatch in accordance with a method approved by the competent authority;*
    - (iii) *be transported directly to the hatchery of destination in disposable packaging or materials that can be effectively cleansed and disinfected;*
    - (iv) *be traceable within in the hatchery;*
  - (b) *day-old chicks shall:*
    - (i) *originate from hatching eggs satisfying the conditions set out in point (a) of paragraph 2, point (a) of paragraph 3 or point (a) of paragraph 4;*

- (ii) *be transported in disposable packaging material,*
  - (iii) *be placed in a poultry house or shed where:*
    - *no poultry has been kept for at least three weeks; and*
    - *cleansing and disinfection have been carried out in accordance with the instructions of the competent authority;*
- (c) *ready-to-lay poultry shall:*
- (i) *not have been vaccinated;*
  - (ii) *have been regularly examined with favourable results, in accordance with the monitoring provided for in point (j) of Article 54(2);*
  - (iii) *be placed in a poultry-house or shed where no poultry has been kept for at least three weeks, and where cleansing and disinfection has been carried out;*
- (d) *poultry for slaughter shall:*
- (i) *be examined before loading with favourable results, in accordance with the monitoring provided for in point (j) of Article 54(2);*
  - (ii) *be sent directly to a slaughterhouse for immediate slaughter;*
  - (iii) *be transported in vehicles cleansed and disinfected under official supervision before and after each transport;*
- (e) *table eggs shall:*
- (i) *originate from a vaccinated or non-vaccinated layer flock which has been regularly examined, with favourable results, in accordance with the monitoring provided for in point (j) of Article 54(2);*
  - (ii) *be sent directly to a packing centre or a thermal-treatment plant;*
  - (iii) *be transported using disposable packaging or packaging material which can be effectively cleansed and disinfected.*

*With regard to points b) and c), such movements shall be accepted by the competent authority of the Member State of destination, prior to the sending<sup>73</sup>.*

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<sup>73</sup> Suggestion from EE, AT, FI and SE.

5. For meat obtained from poultry kept within the vaccination area the following provisions shall apply:
- (a) for meat obtained from vaccinated poultry, the poultry shall<sup>74</sup>:
- (i) have been vaccinated with a heterologous Neuraminidase subtype vaccine,
  - (ii) have been regularly inspected and tested with negative results in accordance with the provisions in the vaccination programme, in the framework of a DIVA strategy,
  - (iii) have been clinically inspected by an official veterinarian within 48 hours before loading; sentinel birds shall have been inspected with particular attention,
  - (iv) have been sent directly to an authorised slaughterhouse for immediate slaughter;
- (b) for meat obtained from non-vaccinated poultry, the poultry must undergo monitoring in accordance with the monitoring provided for in point (j) of Article 54(2).
6. The cleansing and disinfection referred to in this Annex may be carried out in accordance with the instructions of the competent authority. In the case of the following provisions, the competent authority shall ensure compliance by spot checks rather than by official supervision: paragraphs 2(a)(ii) and (iii), 2(b)(ii) and (iii), 2(c)(iii), 2(d)(iii), 2(e)(iii), 3(a)(i), 3(b)(ii), 3(c)(i), 3(d)(ii), 3(e)(ii), 4(a)(ii), 4(b)(iii), 4(c)(iii), 4(d)(iii) and 4(e)(iii).
7. [The testing requirements before loading as referred to in paragraphs (2), (3) und (4) shall be carried in accordance with the diagnostic manual]<sup>75</sup>.

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<sup>74</sup> Free for intra-community trade? Specific labelling? (questions from AT).

<sup>75</sup> DE suggests to delete this paragraph.

**ANNEX X as referred to in point 1 of Article 63**

**CRITERIA FOR CONTINGENCY PLANS**

Contingency plans shall meet at least the following criteria:

1. *The establishment of a crisis centre on a national level, which shall co-ordinate all control measures in the Member State.*
2. *A list shall be provided of local disease control centres with adequate facilities to co-ordinate the disease control measures at a local level.*
3. *Detailed information shall be given about the staff involved in control measures, their skills, their responsibilities and the instructions for staff taking account of the need for personal protection and the potential risk for human health posed by avian influenza.*
4. *Each local disease control centre must be able to contact rapidly persons and organisations which are directly or indirectly involved in an outbreak.*
5. *Equipment and materials shall be available to carry out the disease control measures properly.*
6. *Detailed instructions shall be provided on action to be taken on suspicion and confirmation of infection or contamination, including proposed means of disposal of carcasses.*
7. *Training programmes shall be established to maintain and develop skills in field and administrative procedures.*
8. *[Diagnostic laboratories must have facilities for post-mortem examination, the necessary capacity for serology, histology etc. and must maintain the skills for rapid diagnosis. Arrangements must be made for rapid transportation of samples.]<sup>1</sup>*
9. *Where appropriate, provisions shall be in place in case vaccination against avian influenza shall be carried out containing different scenarios to be followed, a comprehensive vaccination plan, the indication of which populations of poultry and birds to be included into the scheme, the estimated quantity of vaccine required, the logistics of such a measure, in particular, the possible vaccine availability, the storage and distribution capacities and the availability of manpower for the administration of the vaccine.*
10. *Provisions shall be made for the availability of data on registration of commercial poultry holdings on their territory, without prejudice to other relevant provisions established by Community legislation in this field.*
11. *Provisions shall be made for the recognition of officially registered rare breeds of poultry and birds.*

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<sup>1</sup> Shall not be part of the contingency plans but detailed in the diagnostic manual, in accordance with the general rules laid down in Regulation 882/2004 on official controls on food and feed, animal health and animal welfare, Articles 12, 32, 33 and Annex VII.

12. Provisions shall be made for the identification of areas with a high density of poultry.
13. Provisions shall be in place for a close co-operation between the competent authorities of the veterinary, the public health and the environmental sector, in particular to ensure a proper risk communication to the farmers, to the workers in the poultry sector and to the public<sup>1</sup>.
14. Provisions shall be made to ensure the legal powers necessary for the implementation of the contingency plans.

**ANNEX XI**  
**CORRELATION TABLE**

<i>This Directive</i>	<i>Directive 92/40 EEC</i>
<i>Article 1 (1)(a),(c)</i>	-
<i>Article 1 (1)(b)</i>	<i>Article 1, first subparagraph</i>
<i>Article 1 (2)</i>	-
<i>Article 1 (3)</i>	<i>Article 1, second subparagraph</i>
<i>Article 2 (1)</i>	<i>Annex III, third subparagraph</i>
<i>Article 2 (2),(3)</i>	-
<i>Article 3 (1) to (14), (17), (18), (20), (22) to (33)</i>	-
<i>Article 3 (15)</i>	<i>Article 2 (a)</i>
<i>Article 3 (16)</i>	<i>Article 2 (b)</i>
<i>Article 3 (19)</i>	<i>Article 2 (d)-</i>
<i>Article 3 (21)</i>	<i>Article 2 (e)-</i>
<i>Article 4</i>	-
<i>Article 5 (1)</i>	<i>Article 3</i>
<i>Article 5 (2)</i>	-
<i>Article 6 (1)</i>	-
<i>Article 6 (2)</i>	<i>Article 7 (1)</i>
<i>Article 6 (3) and (4)</i>	-
<i>Article 7 (1)</i>	<i>Article 4 (1)</i>
<i>Article 7 (2)(a) and (b)</i>	<i>Article 4 (2)(a)</i>

<sup>1</sup> New text proposed for discussion at the Working Group.

<i>Article 7 (2)(c)</i>	<i>Article 4 (2)(b)</i>
<i>Article 7 (2)(d)</i>	<i>Article 4 (2)(c)</i>
<i>Article 7 (2)(e) and (g)</i>	<i>Article 4 (2)(d)</i>
<i>Article 7 (2)(f)</i>	<i>Article 4 (2)(e)</i>
<i>Article 7 (2)(h)</i>	<i>Article 4 (2)(f)</i>
<i>Article 7 (3)</i>	<i>Article 4 (2)(g)</i>
<i>Article 8</i>	-
<i>Article 9</i>	<i>Article 4 (5)</i>
<i>Article 10</i>	-
<i>Article 11 (1)</i>	
<i>Article 11 (2) and (3)</i>	<i>Article 5 (1)(a)</i>
<i>Article 11 (4)</i>	<i>Article 5 (1)(d)</i>
<i>Article 11 (5)</i>	<i>Article 5 (1)(c)</i>
<i>Article 11 (6),(7)</i>	<i>Article 5 (1)(b)</i>
<i>Article 11 (8)</i>	<i>Article 5 (1)(e)</i>
<i>Article 11 (9) and (10)</i>	-
<i>Article 12</i>	-
<i>Article 13</i>	-
<i>Article 14</i>	<i>Article 6</i>
<i>Article 15</i>	<i>Article 8</i>
<i>Article 16 (1) and (2)</i>	<i>Article 9 (1)</i>
<i>Article 16 (3)</i>	-
<i>Article 16 (4)</i>	<i>Article 9 (6)</i>
<i>Article 17 (1)</i>	<i>Article 10</i>
<i>Article 17 (2)</i>	<i>Article 13</i>
<i>Article 18 (a)</i>	<i>Article 9 (2)(a)</i>
<i>Article 18 (b)</i>	<i>Article 9 (2)(b)</i>
<i>Article 18 (c)</i>	-
<i>Article 19 (a)</i>	<i>Article 9 (2)(c)</i>
<i>Article 19 (b),(c) and (d)</i>	<i>Article 9 (2)(d) and (e)</i>
<i>Article 19 (e)</i>	<i>Article 9 (2)(f), first subparagraph</i>
<i>Article 19 (f),(g) and (h)</i>	-
<i>Article 20</i>	<i>Article 9 (2)(g)</i>

<i>Article 21</i>	<i>Article 9 (2)(h)</i>
<i>Article 22</i>	<i>Article 9 (2)(e)</i>
<i>Article 23</i>	<i>Article 9 (2)(f)(i)</i>
<i>Article 24</i>	<i>Article 9 (2)(f)(ii)</i>
<i>Article 25</i>	-
<i>Article 26 (1)</i>	<i>Article 9 (2)(f)(iii)</i>
<i>Article 26 (2)</i>	-
<i>Article 27</i>	<i>Article 9(2)(e)</i>
<i>Article 28</i>	-
<i>Article 29</i>	<i>Article 9 (3)</i>
<i>Article 30 (a)</i>	<i>Article 9 (4)(a)</i>
<i>Article 30 (b),(c)</i>	<i>Article 9 (4)(b),(c) and (d)</i>
<i>Article 30 (d),(e),(g) and (j)</i>	-
<i>Article 30 (f)</i>	<i>Article 9 (4)(b)</i>
<i>Article 30 (h)</i>	<i>Article 9 (4)(e)</i>
<i>Article 30 (i)</i>	<i>Article 9 (4)(f)</i>
<i>Article 31</i>	<i>Article 9 (5)</i>
<i>Article 32</i>	-
<i>Article 33</i>	-
<i>Article 34</i>	-
<i>Article 35</i>	-
<i>Article 36</i>	-
<i>Article 37</i>	-
<i>Article 38</i>	-
<i>Article 39</i>	-
<i>Article 40</i>	-
<i>Article 41</i>	-
<i>Article 42</i>	-
<i>Article 43</i>	-
<i>Article 44</i>	-
<i>Article 45</i>	-
<i>Article 46</i>	-
<i>Article 47</i>	-

<i>Article 48</i>	-
<i>Article 49</i>	<i>Article 11</i>
<i>Article 50</i>	-
<i>Article 51</i>	-
<i>Article 52 (1)</i>	<i>Article 15</i>
<i>Article 52 (2) and (3)</i>	<i>Article 14</i>
<i>Article 53</i>	-
<i>Article 54</i>	<i>Article 16 (a), first subparagraph</i>
<i>Article 55</i>	<i>Article 16 (a), first subparagraph</i>
<i>Article 56</i>	<i>Article 16 (a), second subparagraph</i>
<i>Article 57</i>	-
<i>Article 58</i>	-
<i>Article 59</i>	-
<i>Article 60</i>	-
<i>Article 61</i>	<i>Article 18</i>
<i>Article 62</i>	-
<i>Article 63</i>	<i>Article 17</i>
<i>Article 64 (1),(2) and (4)</i>	-
<i>Article 64 (3)</i>	<i>Article 20</i>
<i>Article 65</i>	<i>Article 21</i>
<i>Article 66</i>	-
<i>Article 67</i>	-
<i>Article 68</i>	<i>-Article 22</i>
<i>Article 69</i>	-
<i>Article 70</i>	<i>Article 23</i>
<i>Annex I</i>	-
<i>Annex II</i>	-
<i>Annex III</i>	<i>Annex I</i>
<i>Annex IV</i>	-
<i>Annex V</i>	-
<i>Annex VI</i>	<i>Annex II</i>
<i>Annex VII</i>	<i>Annex V</i>
<i>Annex VIII</i>	<i>Annex IV</i>

<i>Annex IX</i>	-
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<i>Annex XI</i>	-

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