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Directorate F - Food and Veterinary Office

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FINAL REPORT OF A MISSION

CARRIED OUT IN FRANCE

FROM 17 TO 21 SEPTEMBER 2007

IN ORDER TO ASSESS ANIMAL WELFARE DURING TRANSPORT AS LINKED  
TO COMMISSION REGULATION (EC) No 639/2003 ON THE GRANTING OF  
REFUNDS FOR THE EXPORT OF LIVE BOVINE ANIMALS.

*Please note that factual errors in the draft report have been corrected. Clarifications provided by the French Competent Authorities are given as footnotes, in bold, italic type, to the relevant part of the report.*



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## ***EXECUTIVE SUMMARY***

*This report describes the outcome of a mission carried out by DG AGRI together with the Food and Veterinary Office (FVO) in France, from 17 to 21 September 2007.*

*The objective of the mission was to evaluate the application of EU provisions on the welfare of animals during transport in so far as they are linked with Commission Regulation (EC) no 639/2003 on the granting of refunds for the export of live bovine animals.*

*Instructions had been provided by the CCA for carrying out checks at ports and had been adapted at local level. Checks were generally well organised and documented; however, they have not been sufficiently updated to include the requirements introduced by Regulation (EC) No 1/2005. Staff were either not suitably equipped or trained to verify temperatures inside road vehicles or the automated systems for the welfare of animals on board livestock vessels. In addition vessels operating from French ports have not been approved according to Regulation (EC) No 1/2005.*

*Journey logs contained many errors, which the CA generally treated as an administrative oversight on the part of the transporter. Control posts were sufficient for resting animals; however the register lacked important information for checking the duration of the stay.*

*No recommendations are made in this report, as these will be dealt with through DG AGRI procedures.*

## 1. INTRODUCTION

The mission took place in France from 17 to 21 September 2007. The mission team comprised one inspector from the Food and Veterinary Office (FVO) and two auditors from DG AGRI.

The mission was included in the FVO's mission programme following a request from DG AGRI for a veterinary expert to assist them in their evaluation of the payment of export refunds. An opening meeting was held on 17 September 2007 with representatives from the Customs Directorate General (*Direction Générale des douanes*), the national paying agency (*Office de l'élevage*) and the Food Directorate General (*Direction générale de l'alimentation* - hereafter: CCA). At this meeting, the objectives of, and itinerary for, the mission were confirmed by the inspection team.

## 2. OBJECTIVES OF THE MISSION

The objective of the mission was to evaluate the application of EU provisions on the welfare of animals during transport, Council Regulation (EC) No 1/2005<sup>1</sup>, and prior to 5.1.2007 Council Directive 91/628/EEC<sup>23</sup>, in so far as they are linked with Commission Regulation (EC) no 639/2003 as regards the granting of refunds for the export of live bovine animals<sup>4</sup>.

The findings in this report are intended to facilitate the conclusions which may be made or further actions which may be proposed by the DG AGRI auditors.

In pursuit of this objective, the following sites were visited:

COMPETENT AUTHORITY VISITS			Comments
Competent authority	Central	2	Opening and final meetings.
	Local	2	Representatives from the local ( <i>Départementale</i> ) Competent Authority (CA) responsible for Sète and Marseille.
Control posts		2	One in each port where cattle are rested prior to sea transport. No animals or means of transport were present during either visit.

<sup>1</sup> Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EEC and Regulation (EC) No 1255/97 (OJ L 3, 5.1.2005, p. 1) - hereafter: Regulation (EC) No 1/2005.

<sup>2</sup> Legal acts quoted in this report refer, where applicable, to the last amended version.

<sup>3</sup> Council Directive 91/628/EEC of 19 November 1991 on the protection of animals during transport amending Directives 90/425/EEC and 91/496/EEC (OJ L 340, 11.12.1991, p.17) - hereafter: Directive 91/628/EEC. Directive 91/628/EEC was repealed by Regulation (EC) No 1/2005 on 5.1.2007.

<sup>4</sup> Commission Regulation (EC) No 639/2003 of 9 April 2003 (hereafter: Regulation (EC) No 639/2003) laying down detailed rules pursuant to Council Regulation (EC) No 1254/1999 as regards requirements for the granting of export refunds related to the welfare of live bovine animals during transport (OJ L 93, 10.04.2003, p. 10).

### **3. LEGAL BASIS FOR THE JOINT MISSION**

The mission was carried out under the general provisions of Community legislation and, in particular: Article 9(2) of Council Regulation (EC) No 1258/99<sup>5</sup>, Council Regulation (EC) 1290/2005<sup>6</sup>, Article 45 of Regulation (EC) No 882/2004<sup>7</sup> and Article 28 of Council Regulation (EC) No 1/2005.

### **4. MAIN FINDINGS**

#### **4.1. Competent authority**

The organisation of the CA is described in a report concerning the country profile of France on food and feed safety, animal health, animal welfare and plant health (ref. DG(SANCO)/8034/2006- MR – final), which is available under this reference on the DG Health and Consumer Protection website [http://ec.europa.eu/food/fvo/country\\_profiles\\_en.cfm](http://ec.europa.eu/food/fvo/country_profiles_en.cfm).

#### **4.2. Legislation**

A representative of the CCA pointed out at the final meeting that Regulation (EC) No 639/2003 regarding export refunds still refers to Directive 91/628/EEC and raised doubts about the application of the requirements of Regulation (EC) No 1/2005 in this regard. However Article 33 of Regulation (EC) No 1/2005 clarifies this point as it indicates that references to the repealed Directive (91/628/EEC) shall be construed as references to Regulation (EC) No 1/2005.

#### **4.3. Instructions for checks at exit points**

The CCA had provided an instruction in 2005 which specifically dealt with checks in relation to export refunds for live bovine animals. Regulation (EC) No 1/2005 has been applicable since 5 January 2007 and the CCA subsequently provided instructions on 16 January 2007 primarily concerning the authorisation of transporters and on 28 April 2007 concerning the implementation of checks on animal welfare during transport. Both of these were revised on 3 August 2007 the amendments did not concern the checks carried out at exit points.

The local CA in Sète had used the framework provided in the instructions of 3 August to revise their own checklist in September 2007. The local CA in Marseille indicated that they had undergone restructuring in the last month and as a result had not yet adapted their procedures, which were last revised in 2005.

#### **4.4. Checks on animals**

There was a strong focus by the authorities in both ports on the fitness of animals for transport. In all cases the accompanying documents had been checked prior to export so that, at least according to the information provided, heifers were never more than eight months pregnant. Regulation (EC) No 1/2005 Annex I 2(c) indicates that pregnant females for whom 90% or more of the expected gestation

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<sup>5</sup> Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy (OJ L 160, 26.6.1999, p. 103). This Regulation has been repealed by Regulation (EC) No 1290/2005.

<sup>6</sup> Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy (OJ L 209, 11.8.2005, p. 1)

<sup>7</sup> Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules OJ L 165, 30.04.2004, p. 1 - corrected and republished in OJ L 191, 28.5.2004, p.1 (hereafter: Regulation (EC) No 882/2004).

period has already passed, are not considered fit for transport. On rare occasions, animals had calved during transport and arrangements had been made to transport them back. Injured animals had also been prevented from further transport on occasions.

#### **4.5. Checks on road transport**

In both ports, there were checks on the authorisation of transporters and approval of the means of transport. There was a different approach in each port regarding the recording of inspections of trucks:

- In Sète, a checklist was completed following an inspection of a random selection of 10% of the vehicles. The Veterinary Inspector explained that as up to thirty trucks could arrive at the same time this approach allowed his staff to have a look at all the trucks and although a detailed written inspection was only made for one in ten vehicles, most vehicles were regularly visiting the port so that they would be picked up again at some stage during the year.
- In Marseille, the vast majority of transport was by individual trucks, which were boarded onto a roll-on-roll-off vessel. Checks of each vehicle had been documented, which was usually of one or two vehicles which arrived at the same time.

In Sète the local CA used the national checklist, which lists the requirements of Regulation (EC) No 1/2005, as an aide-memoire when inspecting trucks. Vehicles travelling more than eight hours had been checked regarding criteria such as stocking density, bedding, partitions, watering and ventilation equipment. Although the CCA instructions indicated that road vehicles should be equipped from 5 January 2007 with a system for measuring and recording temperature and completed checklists indicated that many trucks did not have a temperature monitoring system, the local CA were not aware that this requirement (Regulation (EC) No 1/2005 Annex I Chapter VI 3.3.) was already applicable since 5 January 2007. In addition, the CA in neither port had equipment to verify if the temperature range inside each truck was respected (5°C to 30°C +/- 5°C), a requirement which was already applicable since 1.7.1999<sup>8</sup>.

#### **4.6. Checks on sea transport**

Article 7 (2) of Regulation (EC) No 1/2005 indicates that no person shall transport animals by sea, for more than 10 nautical miles, unless the livestock vessel has been inspected and approved under Article 19(1). Article 19 1(a) indicates that the CA shall approve livestock vessels provided that they operate from the Member State where the application is made.

The CCA have interpreted Article 19 so that only vessels owned by a maritime company based in France require approval. As all of the vessels which regularly visit French ports are registered in third countries no such ships have been approved

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<sup>8</sup> Council Regulation (EC)No 411/98 of 16 February 1998 on additional animal protection standards applicable to road vehicles used for the carriage of livestock on journeys exceeding eight hours (OJ L 52, 21.2.98, p.8). This Regulation has been repealed by Regulation (EC)No 1/2005, nevertheless this requirement has been maintained.

by the CA<sup>9</sup>. Although the local CA in Sète had listed in their own procedures that the boat should be approved, they confirmed that none of the ships using the port had been approved by either themselves or by any other Member State. Ten different vessels had transported animals by sea so far in 2007 and one such ship had visited the port already five times in 2007.

Article 20 of Regulation (EC) No 1/2005 requires the CA to inspect livestock vessels before any loading of animals and during loading so that it is in compliance with the specifications in the Annex to this Regulation. Regarding procedures for inspecting livestock vessels, the CCA indicated that their priority in 2007 was to develop instructions to deal with road transport and had left the control of sea transport to the local CA as sea transport was of relatively marginal importance in France<sup>10</sup>.

In Sète local procedures included:

- The transporters provided advance notification of certain information so that, among other things, the number of animals arriving by truck could be matched with the space available on the boat. The local CA also did a physical check of thirty pens on board each livestock vessel to verify the specifications given by the transporter. They had found that transporters often overestimated the actual space available by 10% as the space occupied by corridors was usually not excluded by them.
- The CA indicated that they did not verify that the construction and equipment on board livestock vessels met all the requirements of section 1 of Chapter IV Annex I of Regulation (EC) No 1/2005. The CA carried out an assessment of whether ventilators were functioning, but there was no evaluation made of whether the ventilation system was capable of delivering the necessary air changes per hour or whether back-up systems for the various automated systems were in place. In addition the Veterinary Inspector indicated that he assessed how animals were loaded onto the ship but had no way of verifying that the angle of the internal ramps was less than 50 % to the horizontal, as required by Regulation (EC) No 1/2005, Annex I, Chapter III 1.4. (a).
- The daily minimum rations of feed and water followed the figures given in the table in section 2 of Chapter IV of Regulation (EC) No 1/2005 for journeys exceeding 24 hours, but failed to mention that an additional 25 % or three days' spare supply of bedding, feed and water, whichever is the greater, must also be

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<sup>9</sup> *In their comments on a draft version of this report the French authorities indicated that following a legal analysis when Directive 91/628 was implemented, it emerged that the local administrative authority in France was not authorised to carry out inspections on board vessels operated in third countries because the law of the flag state continues to apply on board vessels which fly a foreign flag even when they are docked in a French port. It also emerged at the time that it was not possible to inspect these vessels if an international agreement did not expressly permit it. The French authorities requested the opinion of the European Commission regarding this assessment as it relates to Regulation (EC) No 1 /2005.*

<sup>10</sup> *In their comments on a draft version of this report the French authorities indicated that during the first quarter of 2007 they wanted to give priority to bringing administrative authorisations for road hauliers into line with the relevant requirements. Instructions sent to the DDSVs stressed the need to ensure that the animals were fit to be transported and that it is essential to carry out checks at all points of the journey (including exit points) on the basis of a programme, a risk analysis and inspection checklists.*

carried when transporting animals on livestock vessels. It was reported that fresh water was provided by a desalination system. The quantities of feedstuffs had not been documented on a systematic basis and the veterinary inspector was not able to say precisely how many days at sea were required for transporting a consignment of heifers to a Russian sea port.

In Marseille local procedures included:

- Advanced notification of certain details the animals arriving and of the boat. Here the local CA measured the dimensions of all pens on board livestock vessels; however few livestock vessels had used this port and apart from some containers used to ship cattle to Senegal, the majority of sea transport was made with road vehicles loaded onto a roll-on-roll-off vessel.
- A table interpreting stocking densities which indicated that the requirements for transport by sea should apply when a truck was on a roll-on-roll-off vessel and the numbers of animals which could be accommodated in different sized compartments was laid down. This meant that slightly more space was provided for all categories of animals and a further 10% more space for pregnant heifers, as required by Regulation (EC) No 1/2005, Annex I Chapter VII.
- Although instructions had not been updated to include the requirements of Regulation (EC) No 1/2005, for those consignments where the animals had been transported off a road vehicle, quantities of feed and bedding for the sea journey had been documented and were sufficient.

#### **4.7. Checks on journey logs**

The CCA instruction of 2005 indicates that the Veterinary Inspector at the exit point must sign and stamp the route plan. In order to help him/her in assessing the correctness of the journey log, a check list is included in this instruction which, at point 13 indicates "Date and time of arrival at destination - The destination must be indicated (in this case Sete or Marseille)". Therefore, the CA considers the exit point as the place of destination and in their view it is not compulsory that the planning of the journey log refers to the whole journey but only to the part of the journey up to the exit point.

Article 1(s) of Regulation (EC) No 1/2005 defines 'place of destination' as the place at which an animal is unloaded from a means of transport and (i) accommodated for at least 48 hours prior to the time of departure; or (ii) slaughtered; therefore an exit point, in principle, would not satisfy this definition. Article 5.4. of Regulation (EC) No 1/2005 states that for long journeys between Member States and with third countries, transporters and organisers shall comply with the provisions on the journey log set out in Annex II of this Regulation. Annex II, 7 indicates if animals are exported to a third country, transporters shall give the journey log to the official veterinarian at the exit point and in the case of export of live bovine animals with refunds, section 3 (place of destination) shall not be required. It was noted that:

- Eight route plans/journey logs reviewed were for consignments originating in France. In six of these, there were major deficiencies in planning such as the planned date and time of arrival at place of destination was missing or the estimated journey did not include the leg by sea. On one occasion a veterinary inspector had written to a transporter stating that the port of Marseille should be indicated as the place of destination as the EU legislation did not apply to third countries. One technician in Marseille had indicated that an empty box "date and time of arrival at the place of destination" in section 4 of the journey log was an



error. For four other consignments where this had been left blank no action had been taken, which was also the case at Sète.

- The journey log format had been used for five consignments originating in France. In three of these the port of arrival in the third country was mentioned in part 6 of Section 1, but not in the other two cases. For one of these two consignments the name of the boat had been mentioned in part 6 of Section 1, which was not the case for any of the other journey logs. In the last case the port of Marseille was the only transfer point indicated and no mention was made of the planned arrival in the third country. No remarks had been made by the CA on this divergent use of the planning section.
- When errors had been picked up by the local CA, the document (T5) to indicate that payments should be made was withheld until the necessary information was provided. In Sète, the documents had been sent back to the transporter for completion, which is the action indicated for less serious infringements in the CCA instruction of 2005. For one consignment to Senegal via Marseille, although the technician had indicated on the export form (Annex I to Regulation (EC) No 639/2003) that the journey log was unsatisfactory because it lacked several pieces of information, including the planned date and hour of arrival at the destination, the Veterinary Inspector had changed this to satisfactory. In this case, he had written to the organiser of the transport and copied this to the CA of origin, as indicated in the CCA instructions from 2005, pointing out the deficiencies. The lack of an indication of a mid-journey rest for this consignment had not been highlighted by the CA as a deficiency even though the journey to the port had taken almost 24 hours.
- While the CCA instruction concerning the authorisation of transporters indicated the requirements of Annex II, 7 of Regulation (EC) No 1/2005, the CCA instruction concerning controls stated the general requirement that section 3 (place of destination) must be completed at the exit points. As a consequence of the lack of clarity regarding checks for export refunds in this second instruction, documents in Sète for this purpose included a completed section 3, whereas documents in Marseille did not<sup>11</sup>.
- The journey times recorded could be verified in Marseille as the CA there had asked for the driver's record sheet/ tachograph (Annex I or Annex IB to Regulation (EEC) No 3821/85<sup>12</sup>). This was not the case in Sète, where they explained that the veterinary services did not have the power to acquire transport documents such as the tachograph. The local CA in Marseille explained that if the transporter refused such a request they would ask the Customs to do so as they did have the power to obtain such information.

The CCA instruction of 3 August 2007 on controls indicates the importance of using Section 5 of the journey log to inform the CA of departure of any deficiencies detected. This had been done in one out of eight cases reviewed where this form

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<sup>11</sup> *In their comments on a draft version of this report the French authorities indicated that while one instruction indicated that sections 3 is not applicable in cases for export or refunds, the other instruction, describes the general rule for completing Section 3. Specific mention of the export of live bovine animals with refunds will be added to this second instruction in order to make it clear that, in such cases, Section 3 does not need to be completed.*

<sup>12</sup> Council Regulation (EC) No 3821/85 of 20 December 1985 on recording equipment in road transport (OJ L 370, 31.12.1985, p. 8)

should have been filled in, which was in Marseille. The CA in Sète had drawn up their own format for recording deficiencies detected and had not used section 5 of the journey log for this purpose.

#### **4.8. Control Posts**

The facilities for unloading and penning animals at both ports were adequate for a control post as required by Regulation (EC) No 1255/97<sup>13</sup>. The record of the activities at the control post in Sète included the dates of arrival/departure of consignments but not the times, which would be necessary to verify whether the rest times were respected and which is required by Regulation (EC) No 1255/97, Annex C point 7(a). Additionally the register did not include the names and addresses of the transporters and drivers, which is required by Regulation (EC) No 1255/97 Annex C point 7(e). The CA had indicated in the checklist which had been completed following an inspection of these facilities that the register had been correctly maintained.

Although a copy of the register from the control post in Marseille was requested this was not provided to the mission team.

### **5. CLOSING MEETING**

A closing meeting was held on 21 September with representatives of the Central Competent Authorities. At this meeting, the main findings were presented by the inspection team. In their reaction to these findings the CA indicated that there were several issues in relation to Regulation (EC) No 1/2005 which still needed to be clarified by the Commission services.

The inspection team confirmed that conclusions from this mission would be made in the overall context of compliance with the requirements for export refunds for bovine animals, which will be dealt with through DG AGRI's procedures.

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<sup>13</sup> Council Regulation (EC) No 1255/97 of 25 June 1997 concerning Community criteria for staging points and amending the route plan referred to in the Annex to Directive 91/628/EEC (OJ L 174, 2.7.1997, p. 1.), as amended.