



EUROPEAN COMMISSION
HEALTH AND CONSUMERS DIRECTORATE-GENERAL
Directorate F - Food and Veterinary Office

DG(SANCO) 2010-8385 - MR FINAL

FINAL REPORT OF A SPECIFIC AUDIT

CARRIED OUT IN

LUXEMBOURG

FROM 11 TO 15 JANUARY 2010

IN ORDER TO EVALUATE THE IMPLEMENTATION OF RULES ON ANIMAL WELFARE ON
FARMS AND DURING TRANSPORT

IN THE CONTEXT OF A GENERAL AUDIT

In response to information provided by the Competent Authority, any factual error noted in the draft report has been corrected; any clarification appears in the form of a footnote.

Executive Summary

This report describes the outcome of a Food and Veterinary Office (FVO) specific audit in Luxembourg, carried out from 11 to 15 January 2010, as part of the general audit of Luxembourg carried out under the provisions of Regulation (EC) No 882/2004 on official food and feed controls.

The specific audit evaluated the implementation of national measures aimed at the control of animal welfare on farm and during transport.

It is concluded that the CAs have a good system of controls on animal welfare in place and in particular on farm, and have taken into account most of the recommendations of the previous FVO report DG/(SANCO)/7763-2005. However, as far as animal welfare during transport is concerned, certain weaknesses on checks of journey logs and enforcement exist.

The report makes a number of recommendations to the competent authorities of Luxembourg, aimed at rectifying the shortcomings identified and enhancing the implementing and control measures in place.

Table of Contents

1	<u>INTRODUCTION</u>	1
2	<u>OBJECTIVES OF THE MISSION</u>	1
3	<u>LEGAL BASIS FOR THE MISSION</u>	2
4	<u>BACKGROUND</u>	2
4.1	<u>CONTRIBUTION TO THE GENERAL AUDIT</u>	2
4.2	<u>SUMMARY OF PREVIOUS FVO MISSION RESULTS</u>	2
5	<u>FINDINGS AND CONCLUSIONS RELATED TO IMPLEMENTATION OF REGULATION (EC) no 882/2004</u>	2
5.1	<u>COMPETENT AUTHORITIES</u>	2
5.1.1	<u>DESIGNATION OF COMPETENT AUTHORITIES</u>	2
5.1.2	<u>CO-OPERATION BETWEEN COMPETENT AUTHORITIES</u>	3
5.1.3	<u>CO-OPERATION WITHIN COMPETENT AUTHORITIES</u>	4
5.1.4	<u>DELEGATION OF SPECIFIC TASKS RELATED TO OFFICIAL CONTROLS</u>	4
5.1.5	<u>CONTINGENCY PLANNING</u>	4
5.2	<u>RESOURCES FOR PERFORMANCE OF CONTROLS</u>	5
5.2.1	<u>LEGAL BASIS FOR CONTROLS</u>	5
5.2.2	<u>STAFFING PROVISION AND FACILITIES</u>	5
5.2.3	<u>STAFF QUALIFICATIONS AND TRAINING</u>	6
5.3	<u>ORGANISATION AND IMPLEMENTATION OF OFFICIAL CONTROLS</u>	6
5.3.1	<u>REGISTRATION / APPROVAL OF FOOD BUSINESS OPERATORS</u>	6
5.3.2	<u>PRIORITISATION OF OFFICIAL CONTROLS</u>	7
5.3.3	<u>CONTROL ACTIVITIES, METHODS AND TECHNIQUES</u>	8
5.3.4	<u>SAMPLING AND LABORATORY ANALYSIS</u>	8
5.3.5	<u>PROCEDURES FOR PERFORMANCE AND REPORTING OF CONTROL ACTIVITIES</u>	8
5.3.6	<u>TRANSPARENCY AND CONFIDENTIALITY</u>	9
5.4	<u>ENFORCEMENT MEASURES</u>	9
5.4.1	<u>MEASURES IN THE CASE OF NON-COMPLIANCE</u>	9
5.4.2	<u>SANCTIONS</u>	10
5.5	<u>VERIFICATION AND REVIEW OF OFFICIAL CONTROLS AND PROCEDURES</u>	11
5.5.1	<u>VERIFICATION PROCEDURES</u>	11
5.5.2	<u>AUDIT</u>	12
5.6	<u>MULTI ANNUAL NATIONAL CONTROL PLAN</u>	12
6	<u>SECTOR SPECIFIC FINDINGS AND CONCLUSIONS</u>	13
6.1	<u>ANIMAL WELFARE ON FARMS</u>	13
6.1.1	<u>FARM INSPECTIONS IN GENERAL</u>	13
6.1.2	<u>INSPECTIONS OF LAYING HEN FARMS</u>	14
6.1.3	<u>INSPECTIONS OF PIG FARMS</u>	15
6.1.4	<u>REGISTRATION OF LAYING HEN FARMS</u>	16
6.2	<u>ANIMAL WELFARE DURING TRANSPORT</u>	17
6.2.1	<u>AUTHORISATION OF TRANSPORTERS</u>	17
6.2.2	<u>CHECKS ON TRANSPORT</u>	18
7	<u>OVERALL CONCLUSION</u>	19
8	<u>CLOSING MEETING</u>	19
9	<u>RECOMMENDATIONS</u>	19
	<u>ANNEX 1 - LEGAL REFERENCES</u>	21

ABBREVIATIONS AND DEFINITIONS USED IN THIS REPORT

Abbreviation	Explanation
ADA	<i>Administration des Douanes et Accises</i> – Customs and Excise Administration
ASTA	<i>Administration des Services Techniques de l'Agriculture</i> – Agricultural Technical Services Administration
ASV	<i>Administration des Services Vétérinaires</i> – Veterinary Service Administration
CA	Competent Authority
CCA	Central Competent Authority
DG(SANCO)	Health and Consumers Directorate-General
EC	European Community
EU	European Union
FVO	Food and Veterinary Office
MANCP	Single Integrated Multi-Annual National Control Plan
OSQCA	<i>Organisation pour la Sécurité et la Qualité de la Chaîne Alimentaire</i> - Organisation for the Safety and Quality of Food Chain
OV	Official Veterinarian
PVP	Private Veterinarian Practitioner
SER	<i>Service Economic Rural</i> – Rural Economic Service
TRACES	Trade Control and Expert System
UNICO	<i>Unité de Contrôles</i> – Control Unit

1 INTRODUCTION

The Specific Audit formed part of the FVO's planned mission programme. It took place in Luxembourg from 11 to 15 January 2010. The audit team comprised two inspectors from the Food and Veterinary Office (FVO). A representative from the central competent authority (CCA), the Administration of Veterinary Services (ASV), accompanied the audit team for the duration of the audit. An opening meeting was held on 11 January 2010 with the CCA and the contact point for the General Audit, a representative from the Organisation for the Safety and Quality of the Food Chain (OSQCA). At this meeting, the objectives of, and itinerary for, the specific audit were confirmed by the audit team and the control systems were described by the authorities.

2 OBJECTIVES OF THE MISSION

The **objectives** of the specific audit were to:

- verify that official controls in the sector currently being audited are organised and carried out in accordance with relevant provisions of Regulation (EC) No 882/2004, and the national multi-annual control plan (MANCP) prepared by Luxembourg;
- evaluate the implementation of national measures, aimed at the control of animal welfare in accordance with the requirements of EU legislation for animal welfare on farms and during transport. Attention was paid to examining the implementation of corrective actions undertaken in response to recommendations made in the report of a previous FVO animal welfare mission to Luxembourg (DG (SANCO)/7763/2005) in October 2005.

In terms of **scope**, the audit concentrated primarily on:

- As regards Regulation (EC) No 882/2004 for the sector currently being audited, the organisation of official controls (Artt. 3-7) control and verification procedures and methods (Artt. 8-10), enforcement (Artt. 54-55), MANCP (Artt. 41-42) and registration and approval of establishments (Art. 31).
- The following animal welfare legislation concerning the protection of animals kept for farming purposes (Council Directive 98/58/EC), the minimum standards for pigs (Council Directive 2008/120/EC), calves (Council Directive 2008/119/EC) and laying hens (Council Directive 1999/74/EC) and the protection of animals during transport and related operations (Council Regulation (EC) No 1/2005).

The table below lists sites visited and meetings held in order to achieve that objective:

MEETINGS/VISITS		n	COMMENTS
COMPETENT AUTHORITIES	Central	3	Opening and closing meeting with the CCA. A meeting with an official from the Customs and Excise Administration (ADA).
FARMS		3	Two holdings rearing pigs for fattening and reproduction and one holding rearing laying hens in alternative system.
ESTABLISHMENTS		1	One slaughterhouse for cattle and pigs, to assess the system of controls on transport at destination.
TRANSPORTER'S PREMISES		1	To assess the system of approval of means of transport for long journeys.

3 LEGAL BASIS FOR THE MISSION

The mission was carried out under the general provisions of Community legislation, and in particular:

- Article 45 of Regulation (EC) No 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules.

A full list of the legal instruments referred to in this report is provided in the Annex and refers, where applicable, to the last amended version.

4 BACKGROUND

4.1 CONTRIBUTION TO THE GENERAL AUDIT

Article 45 of Regulation (EC) No 882/2004 requires the Commission to carry out general and specific audits in member States. The main purpose of such audits is to verify that, overall, official controls take place in Member States in accordance with the multi-annual national control plans referred to in Article 41 and in compliance with Community law.

This Specific Audit was carried out as a component of a General Audit to Luxembourg. Section 5 below contains findings and conclusions relating to the implementation of Regulation (EC) No 882/2004; Section 6 below contains findings and conclusions relating to sector specific issues.

4.2 SUMMARY OF PREVIOUS FVO MISSION RESULTS

The animal welfare sector was last inspected by the FVO October 2005 (DG(SANCO)/7763/2005 MR Final). The report of this mission (henceforth referred to as report 7763/2005) has been published on the website of the Directorate – General for Health and Consumers:

http://ec.europa.eu/food/fvo/ir_search_en.cfm

Report 7763/2005 concluded that overall, the system of official controls on animal welfare was satisfactory, and it had improved due to account being taken of the recommendations made following the previous mission DG/(SANCO)/3343/2001. Animal welfare inspections were organised, coordinated and supervised by the CAs. However, there was scope for improvement in the performance and supervision both of inspections on laying hen and pig holdings and of inspections concerning the transport of live animals.

5 FINDINGS AND CONCLUSIONS RELATED TO IMPLEMENTATION OF REGULATION (EC) NO 882/2004

5.1 COMPETENT AUTHORITIES

5.1.1 Designation of Competent Authorities

Legal Requirements

Article 4(1) of Regulation (EC) No 882/2004 requires Member States to designate the competent authorities responsible for official controls.

Findings

The structure and organisation of the CAs are described in detail in the Multi-Annual National Control Plan (MANCP) of Luxembourg, accessible on the CA website <http://www.securite-alimentaire.public.lu/index.html> and in the FVO report DG(SANCO)/8106/2009 Country Profile for Luxembourg: http://ec.europa.eu/food/fvo/country_profiles_en.cfm

The above documents describe the role and responsibilities of the CCA and of other authorities involved in animal welfare controls on farms and during transport, such as: the Customs and Excise Administration (ADA); the Agricultural Technical Services Administration (ASTA); the Rural Economic Service (SER) and the Control Unit (UNICO). In addition, the following observations were made:

- The OVs responsibilities for checks at the slaughterhouses on animals transport and slaughter are described in a note of 16.10.2008 from the CCA to OVs.
- A contact point as required by Article 24 of Regulation (EC) No 1/2005 has been designated within the CCA.
- The CCA has received accreditation as an inspection body according to the norm ISO/CEI 17020 in April 2009.
- ADA is in the process of creating four specialised mobile inspection units of 20 officers each. One of these units will specialise on agriculture and veterinary checks and in particular will be in charge of roadside checks on transport.
- Competences are laid down in each piece of national legislation transposing EU legislation on animal welfare.

5.1.2 Co-operation between Competent Authorities

Legal Requirements

Article 4(3) of Regulation (EC) No 882/2004 provides for efficient and effective co-ordination and co-operation between competent authorities.

Findings

A protocol of agreement between the CCA and ADA has been planned since 2006 but is not yet in place. Nevertheless co-ordination and co-operation between the CCA and ADA was ensured through the following actions:

- Training on Regulation (EC) No 1/2005 was provided by the CCA to an officer from ADA in 2007, who in turn organised training for other ADA officers. The two CAs collaborated to produce training material on Regulation (EC) No 1/2005.
- The CCA have agreed with ADA to receive information at the beginning of the week on the scheduling of roadside checks, to ensure the availability of one official veterinarian (OV) if needed.
- ADA provides regular feedback to the CCA on the number and results of the roadside checks carried out. This enables such checks to be included in the report to the Commission required by Article 27(2) of Regulation (EC) No 1/2005 and in response to a recommendation in report 7763/2005 on improving co-operation with ADA in this regard.

- The CCA provided ADA with relevant information received from other Member States.

In relation to co-ordination and co-operation with UNICO and SER, the following observations were made:

- The ASV performed follow up inspections on farms following information provided by UNICO that there were breaches to animal welfare requirements. Examples were provided to the mission team in this regard.
- The CCA organised meetings with and sent clarifications in writing to UNICO which is in charge of cross-compliance checks (Council Regulation (EC) No 73/2009) in order to reach a common understanding on certain requirements of animal welfare legislation. There is a written procedure for the exchange of information between these CAs when non-compliances are detected and for communicating these to the paying agency (SER). The CCA and UNICO perform jointly part of the cross-compliance checks.

5.1.3 Co-operation within Competent Authorities

Legal Requirements

Article 4(5) of Regulation (EC) No 882/2004 requires that, when, within a competent authority, more than one unit is competent to carry out official controls, efficient and effective co-ordination and co-operation shall be ensured between the different units.

Findings

- Weekly and *ad hoc* meetings are held by the CCA with their staff to keep them updated and informed on various issues, including animal welfare. Examples of minutes were provided to the mission team.

5.1.4 Delegation of specific tasks related to official controls

Legal Requirements

Article 5 of Regulation (EC) No 882/2004 sets out the scope of possible delegation to control bodies, the criteria for delegation, and the minimum criteria which must be met by control bodies. Where such delegation takes place, the delegating competent authority must organise audits or inspections of the control bodies as necessary. The Commission must be notified about any intended delegation.

Findings

Not applicable to this specific audit.

5.1.5 Contingency planning

Legal Requirements

Article 4 of Regulation (EC) No 882/2004 also requires that competent authorities have contingency plans in place, and are prepared to operate such plans in the event of an emergency. Article 13 of Regulation (EC) No 882/2004 requires Member States to draw up operational

contingency plans setting out measures to be implemented without delay when feed or food is found to present a serious risk.

Findings

Not applicable to this specific audit.

Conclusions on Competent Authorities

The CAs have been identified and their respective roles in the controls are clear. Co-operation and co-ordination between the CCA and other CAs involved in animal welfare controls operate well, fulfilling the requirements of Article 4 of Regulation (EC) No 882/2004. The CCA have taken sufficient action to address the recommendation from report 7763/2005 on their co-operation with the Customs authorities.

5.2 RESOURCES FOR PERFORMANCE OF CONTROLS

5.2.1 Legal basis for controls

Legal Requirements

Article 4 of Regulation (EC) No 882/2004 requires that the necessary legal powers to carry out controls are in place and that there is an obligation on food business operators to undergo inspection by the competent authorities. Article 8 of the above Regulation requires that competent authorities have the necessary powers of access to food business premises and documentation.

Findings

- Article 23 of national Law of 15 March 1983 on animal welfare (*Loi du 15 mars 1983 ayant pour objet d'assurer la protection de la vie et le bien-être des animaux*) establishes that agents from the *Gendarmerie*, Police, Customs, Administration of Waters and Forestry and ASV are empowered to report breaches to this law and to seize the animals. It also establishes that OVs are authorised to enter premises under certain conditions.
- A note of 14 June 1993 from the State Prosecutor to the Director of the CCA further clarified that agents from the *Gendarmerie* and the Police must be accompanied by an OV to gain access to private land.

5.2.2 Staffing provision and facilities

Legal Requirements

Article 4 of Regulation (EC) No 882/2004 requires the competent authority to ensure that they have access to a sufficient number of suitably qualified and experienced staff; that appropriate and properly maintained facilities and equipment are available; and that staff performing controls are free of any conflict of interest.

Findings

- Staff resources are described in the relevant Country Profile and MANCP sections.

- OV's were equipped with instruments necessary to measure certain parameters for animal welfare controls, such as instruments to measure the light and noise intensity and the dimensions of buildings, pens and means of transport, as required by the relevant EU legislation.

5.2.3 *Staff qualifications and training*

Legal Requirements

Article 6 of Regulation (EC) No 882/2004 requires competent authorities to ensure that staff receive appropriate training, and are kept up-to-date in their competencies.

Findings

- All OV's involved in animal welfare controls attended a number of training courses on animal welfare on farm, during transport, stunning and killing, and on the Trade Control and Expert System (TRACES). Training was organised either by the CCA, DG SANCO or by external bodies. Evidence of the most recent training was made available to the mission team.
- Training organised by the CCA was attended also by private veterinary practitioners and contracted veterinarians working in slaughterhouses, who are regularly invited.
- Officers from ADA have received training on Regulation (EC) No 1/2005. They have also been trained to check data in the recording systems for road transport and the navigation system referred to in Annex 1, Chapter VI, 4.1 of Regulation (EC) No 1/2005, as required by Article 16 of Regulation (EC) No 1/2005.
- OV's have not been trained to check data recorded by the recording system for road transport and the navigation system.
- Informal training on animal welfare was provided by the CCA to UNICO agents in the form of meetings.

Conclusions on Resources for Performance of Controls

The authorities have the legal basis for carrying out controls as well as adequate resources and equipment. Generally all staff interviewed had received adequate training to perform their tasks satisfactorily.

5.3 ORGANISATION AND IMPLEMENTATION OF OFFICIAL CONTROLS

5.3.1 *Registration / approval of food business operators*

Legal Requirements

Article 31 of Regulation (EC) No 882/2004 requires Member States to establish procedures for the registration/approval of food and feed business operators, for reviewing compliance with conditions of registration and for the withdrawal of approvals.

Findings

There are procedures in place for the registration of farms. Details are described in section 6 of this

report.

5.3.2 *Prioritisation of official controls*

Legal Requirements

Article 3 of Regulation (EC) No 882/2004 requires that official controls are carried out regularly, on a risk basis and with appropriate frequency. Controls shall be carried out at any of the stages of the production and processing chain and, in general, are to be carried out without prior warning. Controls shall be applied with the same care to exports from the Community, imports into the Community and to product placed on the Community market.

Findings

- At the beginning of the year the CCA proposes to SER a list of holdings for cross-compliance checks. The selection performed by SER is made according to a written procedure, describing the criteria for risk assessment. The risk analysis takes into account high mortality rates, the reports of epidemio-surveillance from private veterinary practitioners (PVPs) and the results of analysis performed for animal health purposes. The CCA has an overview of mortality rates as the declarations of euthanasia from the PVPs and receipts from the rendering plant are sent to them because of a State financial measure covering the costs of euthanasia and carcasses disposal for all farms. The reports of epidemio-surveillance are sent twice a year and cover also aspects of animal welfare, albeit in general terms.
- 24 holdings are selected on the basis of the risk analysis, eight holdings are selected randomly and four are targeted. These 36 holdings make the sample for cross-compliance checks.
- A further 100 to 200 holdings are added throughout the year by the CCA to follow-up previous animal welfare non compliances, to follow-up complaints and in the context of broader non-compliant indicators such as infringements of veterinary residue legislation or animal identification deficiencies.
- Although the target for animal welfare checks is not formally set, the CCA indicated that all holdings with laying hens should be inspected every year. This was achieved in 2008 whereas in 2009 three out eight holdings were inspected. Concerning holdings with pigs and calves, in 2008 circa 5% were inspected and precise data for 2009 were not yet available.
- The CCA explained that checks are carried out either without a prior warning or with a short warning, generally given on the same day or the day before the visit. This information is recorded on the inspection reports.
- Concerning checks on transport, all consignments of animals arriving at the slaughterhouse are checked for animal welfare as part of the ante mortem inspection. Checks at departure are carried out on all consignments for intra-Community trade as part of the animal health checks. The CCA indicated that checks at destination on farms are not normally performed because of lack of notification of the time of arrival. There are few consignments arriving to farms in Luxembourg from long distances.

5.3.3 *Control activities, methods and techniques*

Legal Requirements

Article 10 of Regulation (EC) No 882/2004 specifies the control activities, methods and techniques that should be deployed.

Findings

- Animal welfare is monitored as part of integrated on farm inspections as well as during stand alone inspections arising from complaints or as a result of specific instructions from the CCA. Inspections at slaughterhouses and upon certification for intra-Community trade target the vast majority of animals being transported in Luxembourg.
- The CA has chosen to avail of the option in Commission Decision 2006/778/EC to assess the minimum number of requirements necessary during farm inspections. In addition, inspection resources are targeted at carrying out inspections in winter and spring time when animals are generally kept indoors.
- The CA has put in place financial measures for the on-farm euthanasia, transport and disposal of sick and injured animals. This has the beneficial effect of providing a financial deterrent for the transport of such animals to slaughterhouses and provides the CCA with an overview of potential indicators for animal welfare (i.e. mortality rates) as a result of the reporting requirements of the system.

5.3.4 *Sampling and Laboratory analysis*

Legal Requirements

Article 4 of Regulation (EC) No 882/2004 requires competent authorities to have, or to have access to, adequate laboratory capacity. Article 11 of the Regulation establishes requirements for sampling and analysis and Article 12 requires the competent authority to designate laboratories that may carry out analysis of samples taken during official controls. It also lays down accreditation criteria for laboratories so designated.

Findings

Not applicable to this specific audit.

5.3.5 *Procedures for performance and reporting of control activities*

Legal Requirements

Article 8 of Regulation (EC) No 882/2004 requires that competent authorities carry out their official controls in accordance with documented procedures, containing information and instructions for staff performing official controls.

Article 9 of the above Regulation requires competent authorities to draw up reports on the official controls carried out, including a description of the purpose of official controls, the methods applied, the results obtained and any action to be taken by the business operator concerned.

Findings

- Procedures for the performance of controls on animal welfare on farm are included in the quality manual of accreditation of the CCA and were last updated in December 2009. Procedures include instructions on how to carry out inspections from preparation to reporting, check-lists and report templates.
- The procedures were insufficiently detailed in relation to the interpretation of certain requirements for laying hens and for pigs.
- The checklists for on farm inspections provide the information specified in Article 9 of Regulation (EC) No 882/2004 and were filled in accordingly by the CA.
- A note of 16.10.2008 from the CCA to the OV's describes the procedures for animal welfare controls in slaughterhouses. According to this note any decision on enforcement actions is left to the OV. There were no checklists for this type of controls. Where non-compliances were noticed by the OV, these were noted down on the ante mortem records for further controls at the post mortem inspection.
- There were no written procedures for the OV's to perform checks on transport and no reports were drawn up. The CCA indicated that the signature of the OV on the health certificate is a sufficient proof of the performance of the relevant animal welfare checks at departure

5.3.6 Transparency and confidentiality

Legal Requirements

Article 7 of Regulation (EC) No 882/2004 requires that competent authorities carry out their activities with a high degree of transparency, in particular by giving relevant information to the public as soon as possible. However, information covered by professional secrecy and personal data protection is not to be disclosed.

Findings

- Control procedures and the annual integrated control plan and report are published on the OSQCA internet site. Data published include information on the checks planned and performed but in relation to animal welfare no information on their results is published.
- The Luxembourg Law on Data Protection ensures confidentiality on personal data. The mission team did not notice any particular issue on this respect.

Conclusions on Organisation and Implementation of Official Controls

The requirements of Regulation (EC) No 882/2004 concerning the organisation and implementation of official controls were generally met, with the exception of certain procedures for the performance of controls, which were incomplete for certain aspects.

5.4 ENFORCEMENT MEASURES

5.4.1 Measures in the case of non-compliance

Legal Requirements

Article 54 of Regulation (EC) No 882/2004 requires a competent authority which identifies a non-compliance to take appropriate action to ensure that the operator remedies the situation.

Findings

- Follow-up inspections were regularly carried out by the CA in the holdings where non-compliances had been detected, shortly after the deadline imposed to correct the deficiencies. These were generally sufficient to obtain compliance. As an example, in 2008 calves permanently tethered were found in ten holdings inspected. In eight instances corrective actions were taken by the farmers within the deadlines imposed, whereas in the other two a sanction was eventually imposed.
- Concerning transport of animals, there were two instances in 2008 where serious deficiencies had been detected at the slaughterhouses of destination and a warning letter had been sent to the responsible transporters. In one case a consignment of pigs had been delivered on a means of transport without protection from the extreme cold. In the second case a driver had transported and tried to unload a recumbent cow.
- There were other instances in 2009 in the slaughterhouse visited, where repeated written warnings had been given to two transporters. The CA of the slaughterhouse sent three warning letters in January, April and October to one transporter, deemed responsible for serious lesions detected at the ante mortem and post mortem inspections as a result of mistreatments of the animals during their transport and unloading. On various occasions, some of which occurring within a few days, there were pigs with multiple fractures of femurs, oedemas, bruising, muscles lacerations. A downer cow, which was put down in the lairages, had several sub-cutaneous haemorrhages. Staff from the lairages had witnessed a pig falling from the top tier of a lorry. The last two letters invited the transporter's staff to attend a refresher training course, which they did not. The CA indicated that eventually compliance was obtained when the slaughterhouse management informed the transporter that they would no longer accept animals transported by this company.
- Another transporter received two warning letters for serious lesions caused by blows given to animals during unloading. In two other instances of unfit pigs transported to this slaughterhouse by other transporters, there was no warning letter but the animal welfare problem had been noted.
- Effective enforcement actions were taken by ADA during roadside checks. In a case of overloaded consignment of pigs, the animals were sent to a slaughterhouse by order of the State Prosecutor.

5.4.2 Sanctions

Legal Requirements

Article 55 of Regulation (EC) No 882/2004 states that Member States shall lay down the rules on sanctions applicable to infringements of feed and food law and other Community provisions relating to the protection of animal health and welfare and shall take all measures necessary to ensure that they are implemented. The sanctions provided for must be effective, proportionate and dissuasive.

Findings

- Article 21 of the Law of 15 March 1983 on the protection of animals describes the penal sanctions for the infringement to this law and to the implementing legislation. These sanctions range from a fine of 60 to 5000 Euro to imprisonment from eight days to six months. In addition, the person responsible can be banned from keeping animals for a period from three months to 15 years. The above sanctions can be doubled where there is repetition of the infringement within two years.

- National legislation transposing the EU animal welfare legislation on the protection of laying hens and of calves refers to Law of 15 March 1983 for the applicable penalties.
- The Grand Duchy Regulation of 17 March 2003 on the protection of pigs (*Règlement grand-ducal du 17 mars 2003 établissant les normes minimales relatives à la protection des porcs*) lays down sanctions similar to those in the Law of 15 March 1983, but the fine is from 251 to 20000 Euros.
- The possibility to send a file to the State Prosecutor for a penal sanction has not been used yet by the CCA.
- Article 6 of Grand Duchy Regulation of 30 July 2007 ("Règlement grand-ducal du 30 juillet 2007 fixant certaines modalités d'application du règlement (CE) n° 1/2005") specifies that the transporters authorisation, the vehicles approval and the certificate of competence can be withdrawn or suspended and that a transporter can be banned from operating in Luxembourg, as laid down in Article 26 of Regulation (EC) No 1/2005. It also establishes that the penalties laid down in Article 21 of the Law of 15 March 1983 apply to the infringements to Articles 3 to 22 of Regulation (EC) No 1/2005.
- ADA officers can issue an oral warning (*avertissement oral*), impose a fine (*avertissement taxé*) on the spot, or send a report (*procès verbal*) to the State Prosecutor for more serious infringements. In 2009, 13 oral warnings were issued and 13 fines were imposed. A report to the State Prosecutor was sent in 2007 for a transporter from another Member State who had repeatedly overloaded his vehicle with too many animals. This transporter was eventually banned from operating in Luxembourg and his authorisation withdrawn.
- Sanctions can also be proposed by the CCA to SER, in the form of a reduction of subsidies. The CCA explained that almost all farmers in Luxembourg receive subsidies. A reduction of subsidies was proposed in 2008 by the CCA to SER for two farmers who had repeatedly failed to comply with animal welfare and identification and registration requirements. In both cases the maximum penalty of 15% reduction of subsidies was imposed in the framework of the enforcement of cross-compliance Regulation (EC) No 1782/2003 (repealed by Regulation (EC) No 73/2009 since 1.2.2009).

Conclusions on Enforcement Measures

The CA did not always take sufficient action to ensure that operators remedy to the non compliances identified as required by Article 54 of Regulation (EC) No 882/2004, or that sanctions laid down in national legislation are implemented, as required by Article 55 of this Regulation.

5.5 VERIFICATION AND REVIEW OF OFFICIAL CONTROLS AND PROCEDURES

5.5.1 Verification procedures

Legal Requirements

Article 4 of Regulation (EC) No 882/2004 requires the competent authorities to ensure the impartiality, consistency and quality of official controls at all levels and to guarantee the effectiveness and appropriateness of official controls. Article 8 states that they must have procedures in place to verify the effectiveness of official controls, to ensure effectiveness of corrective action and to update documentation where needed.

Findings

- There were procedures in place for the verification of the effectiveness of official controls on farm, and these were part of the accreditation system of the CCA.
- There was a plan of supervised inspections to be performed on all staff and with increased frequency for new inspectors. In 2009, 12 joint inspections had been performed, of which five were on a new inspector.
- There was evidence of scrutiny of reports, which identified some minor problems concerning filling in of checklists and reports.
- There is a procedure as part of the quality system to update checklists on the basis of the results of these verifications.
- There were no verification procedures for the verification of the effectiveness of official controls on transport. No verification was performed on the checks on journey logs, which could have identified certain non compliances noted by the mission team, and which are detailed in section 6 of this report.

5.5.2 *Audit*

Legal Requirements

Under Article 4 of Regulation (EC) No 882/2004 competent authorities are required to carry out internal audits, or have external audits carried out. These must be subject to independent scrutiny and carried out in a transparent manner.

Findings

- An external audit by the accreditation body was carried out in 2009 on the accredited sectors, including animal welfare.
- An internal audit on animal welfare was also performed in September 2009 as a requirement of the CCA accreditation. Apart from the suggestion to improve a few specific points of the procedures, the conclusions were overall satisfactory.

Conclusions on Verification Procedures

The CCA has put in place and implemented adequate procedures for the verification of official controls on farm to meet the requirements of Articles 4 and 8 of Regulation (EC) No 882/2004. However, there were no procedures for the verification of checks on transport.

5.6 MULTI ANNUAL NATIONAL CONTROL PLAN

Legal Requirements

Article 41 of Regulation (EC) No 882/2004 requires that each Member State prepares a single integrated multi-annual national control plan (MANCP). According to Article 42 it should be implemented for the first time no later than 1 January 2007 and be regularly updated in light of developments. Details on the type of general information on the structure and organisation of the systems of feed and food control and of animal health and welfare control in the Member State concerned are provided.

Findings

The chapter of the current MANCP of Luxembourg (period 2008-2010) concerning animal welfare

contains very general information regarding the CA in charge of controls, the categories of animals subject to inspections, the objectives and the relevant national legal basis and the methods of controls.

Conclusions on Multi-Annual National Control Plan

Although the MANCP is drafted in accordance with Article 41 of Regulation (EC) No 882/2004, the information required by Article 42 of this Regulation and concerning animal welfare is insufficient to assess whether official controls are organised and carried out in accordance with the MANCP.

6 SECTOR SPECIFIC FINDINGS AND CONCLUSIONS

6.1 ANIMAL WELFARE ON FARMS

6.1.1 Farm inspections in general

Legal Requirements

Article 8(1) of Directive 2008/120/EC requires the CA to carry out inspections on a representative sample of the different rearing systems for pigs. Article 7(1) of Directive 2008/119/EC requires the CA to carry out inspections on a representative sample of the different rearing systems for calves.

Article 6 of Directive 98/58/EC requires Member States to ensure that the CA carries out inspections to check compliance with the provisions of this Directive, which applies to animals kept or bred for farming purposes.

Decision 2006/778/EC lays down the rules for the harmonisation of the collection of information during on farm inspections and for reporting their results to the Commission.

Findings

- To meet the requirement of Article 8(1) of Directive 2008/120/EC to carry out inspections on a representative sample of the different rearing systems for pigs, all size of pig farms are included in the control population. As there are no specialised veal calf farms in Luxembourg, the requirement of Article 7(1) of Directive 2008/119/EC to carry out inspections on a representative sample of the different rearing systems for calves does not apply.
- On farm inspections pursuant to Directive 98/58/EC were carried out on farm animals other than pigs, calves and laying hens. In 2008 such inspections included livestock, domestic fowls, geese and ratites.
- ASTA is involved at the planning stage of building and refurbishing of farms. They provide the service of drawing the plans which are then presented to the environmental municipality authorities. There is no involvement of the CCA at the planning stage.
- When there is an application for subsidies in the building / refurbishment process, UNICO carries out an inspection to verify the funds have been utilised correctly and checks compliance with the environmental and animal health and welfare requirements. This was the case for one of the pig holdings visited where UNICO had informed the CCA that the requirements concerning the minimum light intensity and a backup system for automatic

ventilation were not met. UNICO had imposed a deadline and the CCA performed the follow-up inspection.

- Based on the checklists filled in during the inspections, reports were completed at the office to summarise their results. Such reports follow the format of Annex IV of Decision 2006/778/EC and classify the non-compliances according to Annex III of the same Decision. This facilitates the harmonised collection of information for reporting to the Commission as required by Article 8 of this Decision, in response to a recommendation in report 7763/2005.

Conclusions

The on farm checks performed by UNICO on the deployment of subsidies and the subsequent exchange of information with the CCA were effective in ensuring compliance with animal welfare requirements, although this applies only for those where subsidies are requested.

Procedures for reporting of official controls on farms comply with the requirements of Decision 2006/778/EC. The CCA have taken adequate actions to address the recommendation from report 7763/2005 concerning the system of collection of information for reporting of farm inspections.

6.1.2 Inspections of laying hen farms

Legal requirements

Article 8(1) of Directive 1999/74/EC requires Member States to ensure that the CA carries out inspections to monitor compliance with the provisions of this Directive.

Findings

- In 2008 and in 2009 no infringements were found in the holdings inspected by the CA. The holding visited by the mission team, previously inspected in January 2008, was generally in compliance with the requirements of Article 4 of Directive 1999/74/EC.
- There was no clear CCA interpretation of perches in alternative systems. A previous report on the holding visited by the mission team by a different inspector had accepted perches integrated in slatted surfaces as satisfactory. However, the position of the CA was that these should not be regarded as suitable perches. Procedures for inspections do not provide guidance in this respect.

Conclusions

Inspections in holdings with laying hens were generally satisfactory. However, procedures were insufficiently detailed on the interpretation of perches.

6.1.3 Inspections of pig farms

Legal requirements

Article 6 of Directive 2008/120/EC requires Member States to ensure that appropriate

training courses, focusing in particular on welfare aspects, are available.

Point 4 of Chapter I of Annex I to Directive 2008/120/EC requires that pigs have permanent access to a sufficient quantity of material to enable proper investigation and manipulation activities, such as straw, hay, wood, mushroom compost, peat or a mixture of such, which do not compromise the health of the animals.

Article 3(7) of Directive 2008/120/EC requires Member States to ensure that all dry pregnant sows and gilts, in order to satisfy their hunger and given the need to chew, are given a sufficient quantity of bulky or high-fibre food as well as high-energy food.

Point 4 of the Annex to Directive 98/58/EC requires that where necessary, sick or injured animals are isolated in suitable accommodation with, where appropriate, dry comfortable bedding.

Point 8 of Chapter I of Annex I to Directive 2008/120/EC requires that neither tail-docking nor reduction of corner teeth are carried out routinely but only when there is evidence that injuries to sows' teats or to other pigs' ears or tails have occurred, and that before carrying out these procedures, other preventive measures are taken.

Point 2 of Chapter I of Annex I to Directive 2008/120/EC requires that pigs must be kept in light with an intensity of at least 40 lux for a minimum period of eight hours per day.

Findings

- In response to a recommendation of report 7763/2005 to ensure that training on animal welfare is organised and made available by the CA to pig farmers as required by Article 6 of Directive 2008/120/EC, the CA indicated that a meeting had been organised in 2007. A meeting was recently organised on the issue of chemical castration. In the first farm visited the farmer had attended an agricultural college and had received further information from the professional pig farmers' association meetings. In the second farm the owner also had an agricultural education and had participated in meetings hosted by the professional pig farmers' organisation. Both farms were members of a German quality assurance scheme which includes animal welfare among its production criteria for qualification. The mission team was informed that the vast majority of pig producers in Luxembourg belong to the same scheme.
- In response to a recommendation of report 7763/2005 to ensure that all pigs have access to suitable material for manipulation and investigation, the CCA indicated that a circular letter had been sent to the farmers providing a list of different materials as described in point 4 of Chapter I of Annex I to Directive 2008/120/EC. The checklist used for the inspections indicated the need for "sufficient manipulable objects", without any reference to suggestions of suitable material to use or the examples given in point 4 of Chapter I of Annex I to Directive 2008/120/EC. In both farms visited the material for manipulation and investigation available to weaners and fatteners were chains, although in one of these farms various objects such as a tyre or a plastic container were hanging from the chains and for the sows and gilts reared in group there was plenty of straw.
- There was no guidance on how to assess a sufficient amount of fibre for pregnant sows, as required by Article 3(7) of Directive 2008/120/EC which was left to the individual

inspector's appreciation, or any requirement in the CA checklist for bedding for sick animals in isolation pens (point 4 of the Annex to Directive 98/58/EC), which was missing in the holdings visited.

- The checklist did not require any investigation of the reasons for routine tail docking (point 8 of Chapter I of Annex I to Directive 2008/120/EC), and this was not explored in the holdings visited where tail docking was carried out. In this regard the CCA explained that a letter to producers on this subject has been drafted. Concerning the insufficient light of less than 40 lux available to pigs in some pens (contrary to the requirement of point 2 of Chapter I of Annex I to Directive 2008/120/EC), the CCA explained that according to their interpretation this amount of light must be made available in at least one of the areas of the building to enable inspection of animals.

Conclusions

The CA has taken insufficient action to address the recommendations of a previous report to ensure that training on animal welfare is organised and made available to pig farmers, as required by Article 6 of Directive 2008/120/EC and to ensure that all pigs have access to suitable material for manipulation and investigation, as required by point 4 of Chapter I of Annex I to Directive 2008/120/EC.

Because procedures for inspections on holdings with pigs were insufficiently detailed in relation to certain requirements of Directives 2008/120/EC and 98/58/EC, these were insufficiently assessed by the CA.

6.1.4 Registration of laying hen farms

Legal requirements

Directive 2002/4/EC requires Member States to establish a system for registering every production site covered by the scope of Directive 1999/74/EC. Last paragraph of point 1 of the Annex of this Directive requires the registration of the maximum capacity of an establishment in number of birds present at one time.

Findings

- In Luxembourg there are eight holdings with more than 350 laying hens, all of them rearing with alternative systems. The information required by the Annex to Directive 2002/4/EC is recorded on individual farm fiches.
- In order to establish the maximum capacity of the holdings registered, and in response to a recommendation in report 7763/2005, the CA took into account the maximum number of birds that could be kept on the basis of each requirement of Article 4 of Directive 1999/74/EC.
- There are no procedures to ensure that the owner informs the CCA of changes of the data registered, as required by Article 1(4) of Directive 2002/4/EC. The owner of the holding visited had put in operation a new building without informing the CCA. Additionally, because he had not applied for subsidies, the new building had not been checked by UNICO for its compliance.

Conclusions

The CCA have taken adequate action to address the recommendation from report 7763/2005 on the correct calculation of the maximum capacity for holdings with alternative systems for laying hens. However, there was no procedure to ensure owners to inform the CCA of changes of the data registered, contrary to Article 1(4) of Directive 2002/4/EC.

6.2 ANIMAL WELFARE DURING TRANSPORT

6.2.1 Authorisation of transporters

Legal Requirements

Article 10 of Regulation (EC) No 1/2005 lays down the requirements for authorising transporters carrying out journeys up to eight hours. In particular, the applicants must demonstrate that they have sufficient and appropriate staff, equipment and operational procedures to comply with this Regulation and that they do not have records of serious infringements in relation to animal welfare in the three years preceding the date of application.

Article 11 of Regulation (EC) No 1/2005 laying down the provisions for authorising transporters carrying out long journeys, in addition to the documentation mentioned in Article 10, requires further documents, such as the certificates of approval of vehicles, procedures to trace and record the movements of vehicles and to contact drivers, a contingency plan in the event of emergency, and the certificates of competence for drivers and attendants.

Article 18 of Regulation (EC) No 1/2005 lays down the requirements for CAs to grant certificates of approval of means of transport by road for long journeys.

Article 13 of Regulation (EC) No 1/2005 requires CAs to record authorisations in a manner enabling the CA to identify transporters rapidly, and to make publicly available the name and authorisation number of transporters authorised for long journeys, during the period of validity of the authorisation.

Article 17 of Regulation (EC) No 1/2005 requires that training courses are made available for the personnel of transporters and of assembly centres, and lays down the rules for granting certificate of competence.

Findings

- The procedures for the authorisation of transporters and the approval of means of transport are described in the Grand Duchy Regulation of 30 July 2007.
- Concerning the requirement of Article 10(1)(c) of Regulation (EC) No 1/2005 that applicants have no records of serious infringements to animal welfare legislation, the CCA explained that they deemed it unnecessary, because in order to obtain from the Ministry of Middle Classes the commercial licence to operate as a business, a transporter must provide a document showing freedom from convictions. The CCA added that being a small country with few transporters, they would be aware of any infringements to animal welfare

legislation committed by applicants.

- Applicants for authorisation for long journeys are not requested to provide contingency plans in the event of emergencies, contrary to Article 11(1)(b)(iv) of Regulation (EC) No 1/2005. The CCA explained that such document is requested before departure at the time of issuing the health certificate for each consignment, but that not all transporters provide it.
- Inspections prior to approval of means of transport as required by Article 18 of Regulation (EC) No 1/2005 were carried out with the help of a CCA checklist. The CA had a clear understanding of all requirements for long journeys and in particular, for the assessment of the technical requirements of ventilation (points 3.1 and 3.2 of Chapter VI of Annex I to this Regulation) had requested transporters to provide relevant certification from the manufacturers.
- The lists of authorised transporters, of the approved means of transport and copies of the authorisations granted are published on the CCA web site.
- Certificates of competence for drivers and attendants (Article 17 of Regulation (EC) No 1/2005) are granted by the CCA following successful completion of a written examination by the applicant. Five training sessions were organised between 2007 and 2009 and around 300 drivers and attendants have been trained. The training material used to train OV's was used for the training of transporters' personnel.

Conclusions

The procedure for the authorisation of transporters did not comply with all the requirements of Articles 10 and 11 of Regulation (EC) No 1/2005. Otherwise, the procedures for the approval of means of transport and for granting certificates of competence were adequate.

The CCA has ensured that transporters' name and authorisation number are made publicly available as required by Article 13(4) of Regulation (EC) No 1/2005 and that means of transport can be rapidly identified as required by Article 18(3) of Regulation (EC) No 1/2005.

6.2.2 Checks on transport

Legal requirements

Article 14(1)(a)(ii) of Regulation (EC) No 1/2005 requires that, before long journeys, the CA of the place of departure carries out appropriate checks to verify that the journey log submitted by the organiser is realistic and indicates compliance with this Regulation.

Article 15(1) of Regulation (EC) No 1/2005 requires that the CA carries out at any stage of the long journey appropriate checks on a random or targeted basis to verify that declared journey times are realistic and that the journey complies with this Regulation and in particular that travel times and rest periods have complied with the limits set out in Chapter V of Annex I.

Point 8 of Annex II to Regulation (EC) No 1/2005 requires that a copy of the completed journey log is returned to the CA of the place of departure within one month after

completion of the journey, unless the systems referred to in Article 6(9) of this Regulation were used.

Findings

- For all six journey logs reviewed by the mission team, section 1 was not fully completed and indicated unrealistic journey times, but the CA had accepted and stamped them, contrary to Article 14(1)(a)(ii) of Regulation (EC) No 1/2005. Similarly, the records on the remaining sections of returned journey logs showed that journey times had not been respected by certain transporters but there was no evidence of any subsequent enforcement action by the CA. The insufficient checks on journey logs were the subject of a recommendation in report 7763/2005.
- No action was taken by the CA to ensure that journey logs were returned by all transporters, as required by Point 8 of Annex II to Regulation (EC) No 1/2005.

Conclusions

The action taken by the CA in response to a recommendation in a previous FVO reports was insufficient and checks on journey logs remained unsatisfactory.

7 OVERALL CONCLUSION

The CAs have a good system of controls on animal welfare in place and in particular on farm, and have taken into account most of the recommendations of the previous FVO report DG/(SANCO)/7763-2005. However, as far as animal welfare during transport is concerned, certain weaknesses on checks of journey logs and enforcement exist.

8 CLOSING MEETING

A closing meeting was held on 15 January 2010 with representatives of the CCA. At this meeting, the audit team presented the main findings and preliminary conclusions of the mission. The representatives of the CCA acknowledged the findings and conclusions presented, and provided clarifications on some of the issues discussed.

9 RECOMMENDATIONS

The competent authorities are invited to provide details of the actions taken and planned, including deadlines for their completion ('action plan'), aimed at addressing the recommendations set out below, within twenty five working days of receipt of this specific audit report.

Nº.	Recommendation
1.	The CCA should ensure that documented procedures, as required by Article 8 of Regulation (EC) No 882/2004, provide sufficient guidance to inspectors to assess all the requirements of Directives 98/58/EC, 2008/120/EC, and 1999/74/EC, and to

N°.	Recommendation
	perform and report official controls on the requirements of Regulation (EC) No 1/2005.
2.	The CCA should ensure that appropriate actions are taken and applicable sanctions are implemented when non-compliances are identified as required by Articles 54 and 55 of Regulation (EC) No 882/2004, in particular in relation to transport of animals.
3.	The CCA should ensure that appropriate checks are performed on journey logs as required by Article 14 of Regulation (EC) No 1/2005 and that journey logs are returned as required by point 8 of Annex II to Regulation (EC) No 1/2005.
4.	The CCA should ensure that verification procedures as required by Article 8 of Regulation (EC) No 882/2004 are put in place and implemented in relation to the official controls performed pursuant to Regulation (EC) No 1/2005.
5.	The CCA should ensure that training is made available to pig farmers as required by Article 6 of Directive 2008/120/EC.
6.	The CCA should ensure that changes to registered data of establishments keeping laying hens are notified without delay as required by Article 1(4) of Directive 2002/4/EC.
7.	The CCA should ensure that procedures for the authorisation of transporters comply with all the requirements of Articles 10 and 11 of Regulation (EC) No 1/2005.

The competent authority's response to the recommendations can be found at:

http://ec.europa.eu/food/fvo/ap/ap_lu_2010-8385.pdf

ANNEX 1 - LEGAL REFERENCES

Legal Reference	Official Journal	Title
Dir. 98/58/EC	OJ L 221, 8.8.1998, p. 23-27	Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes
Dir. 1999/74/EC	OJ L 203, 3.8.1999, p. 53-57	Council Directive 1999/74/EC of 19 July 1999 laying down minimum standards for the protection of laying hens
Dir. 2008/119/EC	OJ L 10, 15.1.2009, p. 7-13	Council Directive 2008/119/EC of 18 December 2008 laying down minimum standards for the protection of calves
Dir. 2008/120/EC	OJ L 47, 18.2.2009, p. 5-13	Council Directive 2008/120/EC of 18 December 2008 laying down minimum standards for the protection of pigs
Dec. 2006/778/EC	OJ L 314, 15.11.2006, p. 39-47	2006/778/EC: Commission Decision of 14 November 2006 concerning minimum requirements for the collection of information during the inspections of production sites on which certain animals are kept for farming purposes
Dir. 2002/4/EC	OJ L 30, 31.1.2002, p. 44-46	Commission Directive 2002/4/EC of 30 January 2002 on the registration of establishments keeping laying hens, covered by Council Directive 1999/74/EC
Reg. 589/2008	OJ L 163, 24.6.2008, p. 6-23	Commission Regulation (EC) No 589/2008 of 23 June 2008 laying down detailed rules for implementing Council Regulation (EC) No 1234/2007 as regards marketing standards for eggs
Reg. 1/2005	OJ L 3, 5.1.2005, p. 1-44	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/EC and Regulation (EC) No 1255/97