FINAL REPORT OF A SPECIFIC AUDIT

CARRIED OUT IN

FRANCE

FROM 01 TO 12 FEBRUARY 2010

IN ORDER TO EVALUATE THE IMPLEMENTATION OF CONTROLS FOR 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 France which took place from 1 to 12 February 2010, as part of the general audit of France 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 for the control of animal welfare on farms and during transport.

It is concluded that in spite of extensive procedures having been issued by the CCA following the previous FVO mission in 2006, major non-compliances in the laying hen and the pig sectors have not been addressed by the CAs. There is insufficient planning to ensure that the deadline for the ban on non-enriched cages from 1.1.2012 is met. Regarding transport, the CA has set in place a system for livestock vessels approval; regarding roadside checks the CA does not adequately follow its own procedures in the prioritisation of checks on long-distance transport.

The report makes a number of recommendations to the French competent authorities, aimed at rectifying the shortcomings identified and enhancing the implementing and control measures in place.
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<th>Explanation</th>
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<tr>
<td>CA</td>
<td>Competent Authority</td>
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<td>CCA</td>
<td>Central Competent Authority</td>
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<tr>
<td>DDPP</td>
<td>Departmental Directorate for the Protection of the Population, Direction Départementale de la Protection des Populations</td>
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<tr>
<td>DDSV</td>
<td>Departmental Directorate for Veterinary Services, Direction Départementale des Services Vétérinaires</td>
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<tr>
<td>DGAL</td>
<td>Directorate-General for Food, Direction Générale de l’Alimentation</td>
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<tr>
<td>DG(SANCO)</td>
<td>Health and Consumers Directorate-General</td>
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<tr>
<td>EDE</td>
<td>Departmental Livestock Body Etablissement Départemental d’Elevages</td>
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<tr>
<td>EC</td>
<td>European Community</td>
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<td>EU</td>
<td>European Union</td>
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<td>FBO</td>
<td>Food Business Operator</td>
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<td>FVO</td>
<td>Food and Veterinary Office</td>
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<td>GA</td>
<td>General Audit</td>
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<tr>
<td>HACCP</td>
<td>Hazard Analysis Critical Control Points</td>
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<td>ICPE</td>
<td>Office for the Protection of the Environment, Service des Installations Classées pour la Protection de l’Environnement</td>
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<td>Local CA</td>
<td>Local Competent Authority</td>
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<tr>
<td>MANCP</td>
<td>Single Integrated Multi-Annual National Control Plan</td>
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<td>MS</td>
<td>Member State</td>
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<td>SA</td>
<td>Specific Audit</td>
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<tr>
<td>SIGAL</td>
<td>Information System of the Directorate-General for Food, Système d'Information de la Direction Générale de l’Alimentation</td>
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1 Introduction

The specific audit formed part of the FVO’s planned mission programme. It took place in France from 1 to 12 February 2010. The audit team comprised two inspectors from the Food and Veterinary Office (FVO). Representatives from the central competent authority (CCA) accompanied the audit team for the duration of the audit. An opening meeting was held on 1 February 2010 with the CCA. 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 are organised and carried out in accordance with relevant provisions of Regulation (EC) No 882/2004, and the multi-annual national control plan (MANCP) prepared by France;
- evaluate the implementation of national measures for the control of animal welfare in accordance with the requirements of EU legislation for animal welfare on farms and during transport, taking into account the follow-up of previous FVO missions as detailed below.

In terms of scope, the audit concentrated primarily on:

- As regards Regulation (EC) No 882/2004, the organisation of official controls (Articles 3-7), control and verification procedures and methods (Articles 8-10), enforcement (Articles 54-55), MANCP (Articles 41-42) and registration and approval of establishments (Article 31).
- The 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). With regard to transport, the scope was limited to the assessment of roadside checks and livestock vessels on the basis of documentary checks, as it was not possible to organise on-the-spot visits for this purpose.
- The implementation of corrective actions undertaken in response to recommendations made in the reports on previous FVO animal welfare missions to France: DG(SANCO)/8045/2006 concerning animal welfare on farms (May-June 2006) and DG(SANCO)/2009-8245 concerning the protection of animals during transport (April 2009). As the latter mission was carried out quite recently, a complete follow-up of the actions proposed by the CA to address the recommendations of this last report on transport was not performed because the implementation of most of these actions is still in progress. During this specific audit the audit team received additional updates on these actions.

The table below lists sites visited and meetings held in order to achieve the mission’s objectives:

<table>
<thead>
<tr>
<th>MEETINGS/VISITS</th>
<th>n</th>
<th>COMMENTS</th>
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<tbody>
<tr>
<td>COMPETENT AUTHORITIES</td>
<td></td>
<td></td>
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<tr>
<td>Central</td>
<td>2</td>
<td>Opening and closing meeting with the CCA</td>
</tr>
<tr>
<td>Regional</td>
<td>2</td>
<td>Meetings with DDPPs (hereafter: local CAs) in Saint-Lô, Département de La Manche (Lower Normandy Region) and Laon, Département de l’Aisne (Picardy Region)</td>
</tr>
<tr>
<td>FARMS</td>
<td>7</td>
<td>4 laying hen farms (3 cages and 1 alternative system) and 3 pig farms (2 fattening and breeding and 1 breeding farm)</td>
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</table>
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 part of a general audit mission to France. 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 most recent previous missions concerning animal welfare in France were carried out in 2006 and 2009, and their results are described in reports DG(SANCO)/8045/2006 and DG(SANCO)/2009-8245. The reports on these missions (hereafter referred to as reports 8045/2006 and 2009-8245 respectively) have been published on the website of the Directorate–General for Health and Consumers:


Report 8045/2006 regarding the implementation of EU animal welfare legislation applicable to pig, calf and laying hen farms concluded that the CCA had enhanced their system of control. Although the documentation of infringements was improving, procedures were not always sufficient to ensure that corrective actions were taken. Major enhancements had been made to the reporting system, but the format for summarising the results for the report to the Commission would not provide all the information required by EU legislation.

Report 2009-8245 on transport concluded that the CA had put in place a system for implementing the rules on the protection of animals during transport which was being integrated with the requirements for official controls laid down in Regulation (EC) No 882/2004. However, the procedures for the authorisation of transporters were incomplete and means of transport for long journeys had been approved without verification of all the requirements laid down in Regulation (EC) No 1/2005. When deficiencies were detected during checks on transport, the remedial actions taken were not always sufficient. Additionally, certain problems identified in previous FVO missions had not been addressed by the competent authority, such as the transport of unfit animals to slaughterhouses and inadequate checks on journey logs.
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 CA for animal welfare is clearly designated and it is the DGAL, the Directorate-General for Food (Direction Générale de l’Alimentation).

The structure and organisation of the CA is described in detail in France’s Multi-Annual National Control Plan (MANCP) and in the FVO report DG (SANCO)/8104-2009 Country Profile for France:


In addition, the following observations were made:

• At local level official controls on animal welfare on farms/in transport are carried out since 1 January 2010 by officers from the Departmental Directorate for the Protection of Populations, DDPP (Direction Départementale de la Protection des Populations, hereafter referred to as local CA), an interministerial structure which has merged the existing Departmental Directorate for Veterinary Services (Direction Départementale des Services Vétérinaires, DDSV) with other services (such as: Directorate for Competition, Consumer Affairs).

• The CA for the registration of laying hen farms is the DDPP; the allocation of the code provided for in Commission Directive 2002/4/EC is carried out by the Departmental Livestock Body, EDE (Etablissement Départemental d’Elevages), which is part of the Agriculture Chamber (Chambre d’Agriculture).

• Within the DDPP at local level, there is an office for the protection of the environment (Service des Installations Classées pour la Protection de l’Environnement — ICPE, part of the Ministry for the Environment), which deals with the environmental aspects of farms. Farmers are required to apply for authorisation to install a new farm or to notify any refurbishment to the environmental office, when the number of animals exceeds a certain limit (e.g. for hens over 30 000). Depending on the environmental impact of the refurbishment, a new authorisation procedure may be required, leading to the drafting of a new prefectoral order (arrêté préfectoral).

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

There is no specific arrangement in place for cooperation and collaboration between different local CAs regarding official controls on laying hen farms, such as the ICPE, which establishes in particular the maximum capacity of the farms in relation to their environmental impact, and the DDPP, in charge of their registration in accordance with Directive 2002/4/EC (see point 6.1.1).

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

In general, there is overall a well established flow of information between the CCA and local CAs. However, the audit team noted that a letter (‘Fiche de Revue d’ordre de Service’) sent by one of the local CAs to the CCA in March 2009 (nine months before this audit), concerning the need to review the procedure for issuing certificates of approval for short-distance means of transport, had not yet been answered.

The audit team observed that one case of infringements on transport had not been communicated to other Member States (see point 6.2.2); delays in the communication of infringements from/to the CCA in replying to other Member States had already been highlighted in the previous mission report 2009-8245 and was the subject of a specific recommendation for which the CA had supplied guarantees.

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

No official task concerning animal welfare has been delegated by the CA.

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 for animal welfare are clearly designated and there is a well established system of coordination and cooperation between local CAs and CCA. However, there is no clear indication of responsibilities for keeping and updating the register of laying hen farms, contrary to Article 1 of Directive 2002/4/EC. Furthermore, there is insufficient cooperation and coordination between local CAs and other authorities involved in controls on laying hen farms, undermining the effectiveness of official controls of this sector (see point 6.1.1 regarding overstocking).

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

Legal provisions are in place to ensure that the CA has the necessary legal powers to carry out controls and to take enforcement measures. Officials from the CA have the necessary legal powers of entry to establishments and access to operator documentation in accordance with Articles 19, 20 and 23 of the Rural Code, Law No 214.

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

An overview of CA staff resources is included in the relevant section of the Country Profile.

In general, staff from the CAs have access to adequate IT facilities, including the SIGAL system (Information System of the Directorate-General for Food) and the CCA intranet, which contains instructions, guidelines and checklists.
At one of the local CAs visited, there were two technicians in charge of animal welfare checks; concerning farms, equipment to measure dimensions of buildings and pens and to measure light intensity was available. However, the luxmeter was not working properly and no equipment to measure noise level was available (Points 1 and 2 of Chapter I of Annex I to Directive 2008/120/EC set noise levels of 85 dBA light intensity of at least 40 lux, respectively). No specific equipment (e.g. ladders or inspection ramps) was available to carry out roadside checks at the port of Cherbourg.

At another local CA visited, six technicians dealt with different tasks, including official controls on animal welfare; no equipment to measure noise level and light intensity was being used during the inspection of a pig farm. The CCA explained that they instructed local CAs not to use this equipment because they are in the process of calibrating it, as calibration is a requirement for the purposes of accreditation of the Veterinary Services.

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

Minimum recruitment qualifications are specified for technical and professional staff of the DGAL and the DDPP.

A procedure for the assessment of training needs and for the preparation and implementation of national and local training plans is described in the DGAL’s National Quality Plan, which is in the process of being implemented. The audit team received an overview of the training courses organised and planned for years 2007 to 2010 concerning animal welfare in farms, during transport and at slaughterhouses at CCA level.

At local level, the audit team observed that:

- At one of the local CAs individual training needs had been assessed and training for staff had been carried out from 2005 to 2009. The staff in charge of official controls on farmed animals were competent and had received training on animal welfare on farms. Although there was no long distance transport of animals taking place at this local CA, nevertheless staff were involved in vehicle approval. The staff had received no specific training on animal welfare during transport.

- At another local CA, the training programme for 2009 included only training concerning welfare of animals transported to slaughterhouses: this training had been followed by one official performing official controls at slaughter. The plan for 2010 was at a draft stage. The staff’s training needs were assessed during an individual annual interview with their hierarchy. The document concerning the mentoring (‘Tutorat’) of one of the staff did not include sufficient details on the areas in which the technician had received mentoring. The staff in charge of official controls on farmed animals, although competent and skilled, had never followed specific training courses on animal welfare. The local CA considered the inspectors to be in need of improving their practical knowledge in laying hen farm inspection; therefore, they carried out the on-site visit for the purpose of this audit to a laying hen farm in conjunction with technicians from a neighbouring local CA.
Conclusions on Resources for Performance of Controls

The CA has the legal powers for carrying out controls, as well as adequate resources; however, local inspectors do not avail of properly functioning equipment for assessing certain parameters for animal welfare controls, such as light and noise intensity, as required by the relevant EU legislation. The CA has a system in place to assess training needs and provide training, which was effectively implemented by one local CA regarding checks of welfare on farms but not by the other, training on transport issues was very limited in both CAs visited.

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

Concerning livestock vessels, although there is no procedure at national level, the local CA responsible for checking them has received instructions from the CCA to set up a procedure for the temporary approval of livestock vessels flying the flag of third countries, including a checklist for the assessment of the requirements laid down in Chapter IV of Annex I to Regulation EC (No) 1/2005. The CCA stated that a national instruction was being drafted and it was expected to be approved by the end of the year.

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:

Criteria for planning animal welfare inspections on farms are included in national procedures, requiring the inspection of 1% of the number of holdings for each animal species, covering different rearing methods and taking into account a risk analysis, based in particular on the following criteria: results of previous checks on animal welfare, infrastructural modifications of farms and, for calves, haemoglobin level. These checks include cross-compliance inspections. Inspections for cross-compliance checks are carried out with 48 hrs prior warning, as allowed in the relevant legislation.

In one of the local CAs visited, no laying hen farms were visited in 2009 and no re-inspection of
farms with non-compliances was carried out.

In another local CA, the planning of animal welfare inspections for 2010 was carried out in accordance with the risk assessment factors laid down in a local procedure. However, the haemoglobin level for calves, laid down in the national procedure, was not taken into account because no samples had been collected at slaughterhouse level. Furthermore, farms where non-compliances had been detected in 2007 and 2008 had not been re-inspected. Some of these holdings had been included in the inspection plan for 2010.

National procedures for planning of official controls on transport specify that each local CA has to inspect an average of 100 vehicles/year; the planning has to be carried out based on different risk analyses and has to include, among other factors, the geographical situation of the local CA, in particular in the vicinity of Italy, Spain, Germany, Ireland and the United Kingdom. The audit team noted that no roadside checks were planned and/or carried out in 2008-2009 in the local CA where the port of Cherbourg is located, and where about 30,000 consignments of bovine animals arrive from Ireland.

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

In both the local CAs visited by the audit team the inspectors were competent and carried out thorough inspections, detecting the most important shortcomings in farms. However, in all farms visited by the audit team shortcomings already reported by the local CA during their previous inspections were still present at the time of the mission (see point 5.4.1). No laying hen farms had been visited in 2009 by one of the local CAs.

Animal welfare inspections in farms are carried out by the local CA inspectors following specific checklists which include the requirements of the relevant animal welfare legislation. The CCA has given instructions for the assessment, during each on-site inspection, of all the requirements listed in Commission Decision 2006/778/EC.

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

The CCA has laid down a set of procedures and a checklist for the performance of official controls on the spot. For animal welfare on farms, seven specific guidelines (vademecums) have been finalised. The checklist and the guideline for pigs give detailed guidance for inspectors on most of the requirements of Directive 2008/120/EC (see section 6); for laying hens, both the checklist and the guideline are detailed, and they give clear guidance in accordance with Directive 1999/74/EEC, but precise instructions on the calculation of the maximum number of birds which can be kept in establishments with laying hen are not laid down (see point 6.1.1).

Furthermore, insufficiently clear guidance is given for manipulable material in pigs (see point 6.1.2).

For transport, a specific guideline (vademecum) is currently being drafted, and this is one of the actions proposed by the CA to address several recommendations of the previous mission report 2009-8245 on transport.

Reports are issued after each inspection; a copy of the inspection report is systematically sent to the Food Business Operator by mail.

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

Regarding transparency, information concerning the results of official controls carried out by the CAs is published in an annual report on the website of the Ministry of Economic Affairs. This report does not provide details on official controls on animal welfare and on their effectiveness.

Legal provisions are in place to ensure confidentiality of staff from the CAs.

Conclusions on Organisation and Implementation of Official Controls
Procedures for planning inspections based on risk criteria for animal welfare are in place but not always followed at local level.

The CCA has compiled an extensive set of detailed checklists and procedures for the performance and reporting of official controls, but gaps in the guidelines lead to farms not being correctly assessed for compliance with important requirements.

Although provisions are in place to ensure confidentiality, information on official controls on animal welfare and on their effectiveness is not made publicly available, contrary to Article 7(1) of Regulation (EC) No 882/2004.

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 procedures in cases of non-compliance include:

1. the issue of a letter with a request to the person responsible to take corrective action (‘rappel à la réglementation’),

2. a request for rectification of non-compliances within a deadline (‘mise en demeure’) or

3. a proposal to the Public Prosecutor to initiate legal proceedings (Procès verbal, PV).

Where a deadline is imposed, follow-up without unnecessary delay after expiry of the deadline is required either based on an on-site inspection or on the receipt of documentary evidence that the non-compliance has been rectified.

The audit team noted:

- The operators were provided with written notification of the decision for action, the reasons involved, and the rights of appeal and procedures for appealing the decision.

- Poor enforcement action: at one of the local CAs, in three farms visited by the audit team shortcomings already reported by the local CA in 2007 and 2008 were still present at the time of the mission. Except for suspending the health charter (Charte sanitaire) for one farm with laying hens for three days following detection of overstocking, no deadlines had been set for remedial action, no follow-up visits and no punitive action had been undertaken. In any case, the maximum capacity of the farm was based on environmental assessment and not on animal welfare requirements, and overestimated the maximum capacity foreseen by Directive 1999/74/EC. In the same local CA, a deadline of one month to remedy the shortcomings had been set for four pig farms inspected in 2009 but documentary evidence of rectification of the non-compliances had been received for two out of the four cases. No
follow-up visits on expiry of the deadline had been carried out. In the second local CA, shortcomings already highlighted in previous local CA reports in 2007 and 2009 were also still present at the time of the mission. A *mise en demeure* had been issued three months after an inspection of a pig farm giving a deadline of a further month for rectification of several shortcomings. No follow-up inspection had been carried out by the local CA or evidence of rectification received. The audit team visited the farms and some shortcomings were still present two years later.

- The reduction of payments for cross-compliance was not successfully used to promote the resolution of shortcomings for animal welfare. A pig farm visited in 2008 for cross-compliance by the CA was found not in compliance due to overstocking, insufficient light and lack of manipulable material: its premium was therefore reduced by 1%. Despite this, these shortcomings and others were still present during the visit of the audit team. Another pig farm had no reduction of the payment, despite the fact that shortcomings had been detected during the cross-compliance check carried out in 2007. These shortcomings were still outstanding at the time of the the audit team visit, and additional shortcomings were noted.

- Poor enforcement action had already been highlighted in previous missions, including report 2009-8245, and the CA had proposed actions in this regard.

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**

National legislation provides for up to 6 months’ imprisonment and a fine of FF 50,000 (approximately equivalent to € 7620) for transport of animals without approval. For severe cruelty to animals sanctions of two years imprisonment and a € 30,000 fine are provided.

Officials from the CA cannot apply sanctions directly; they propose that the Public Prosecutor initiate legal proceedings in the event of a penal infringement, by sending a PV.

The audit team noted:

- An overview of the outcome of PVs in different local CAs indicated that while in some cases of cruelty to animals high fines had been imposed by the Prosecutor, in others sanctions were very low (e.g. €135 for the transport of two unfit animals to a slaughterhouse), or the case had been closed because it was considered not sufficiently supported by evidence.

- Although there is no defined procedure for exchange of information to and from the Prosecutor, one of the local CAs visited sent periodic requests for information on the outcome of PVs to the Prosecutor. One case from August 2008 for transport of unfit animals...
was still pending; no prosecution had been carried out for another such case from June 2008, because the evidence was considered insufficient.

- In one of the local CAs, seven PVs had been initiated in 2009, four following complaints for inappropriate management of farmed animals and three for transport of unfit animals. No information was available on the outcome of these procedures.

- In another local CA the audit team saw a similar situation, e.g. out of two PVs sent to the Prosecutor in 2006, one was still pending and the other case had been closed without further action.

- The long procedure for penalties had already been highlighted in previous mission reports, including report 2009-8245 on transport, and the CA had already proposed actions in this regard. In particular, the CCA stated that there was a plan to introduce a legal procedure (‘Transaction pénale’) in which officials from the CA could directly impose a fine using a shorter legal procedure.

Conclusions on Enforcement Measures

Enforcement action by the CA in cases of non-compliance is insufficient to ensure that the operator remedies the situation. The long procedure for penalties, generally combined with relatively low fines leads to sanctions not being dissuasive.

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

A national procedure for verifying the effectiveness of official controls, and in particular supervision, has recently been adopted in the framework of the accreditation procedure as part of the Quality Assurance Manual; its implementation is ongoing.

At one of the local CAs visited by the audit team, eight documentary checks had been planned for 2009 but four were carried out; two on-the-spot verifications were planned, but none was carried out.

Concerning another local CA, the audit team received reports concerning on-the-spot and documentary supervision for staff. The local CA explained that an on-the-spot verification had been carried out for the last time in 2008 because no non-compliances had been detected.
**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**

Concerning animal welfare, audits have not been conducted yet. An internal audit by the Sanitary Audit Unit (Unité d’Audit Sanitaire) regarding the protection of animals at slaughterhouses is planned for the first half of 2010. The welfare of animals transported to the slaughterhouse and their fitness for transport will be included in the scope of this audit.

**Conclusions on Verification Procedures**

The CCA has put in place and implemented adequate procedures for the verification of official controls on farms to meet the requirements of Articles 4 and 8 of Regulation (EC) No 882/2004. However, they are not fully implemented at local level and the effectiveness of controls is not adequately verified.

**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 MANCP includes a detailed description of the CA and its overall responsibilities, but it does not give a description of the national control system for animal welfare on farms, at slaughterhouses and during transport.

**Conclusions on Multi-Annual National Control Plan**

The MANCP does not adequately cover official controls on animal welfare, as required by Article 42(2) of Regulation (EC) No 882/2004.
6 SECTOR SPECIFIC FINDINGS AND CONCLUSIONS

6.1 ANIMAL WELFARE ON FARMS

6.1.1 Laying hen farms

Legal Requirements

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

Findings

The audit team noted:

• The CA for the registration of laying hen farms is the EDE (see Point 5.1.1). The audit team had requested an updated list of farms in accordance with Directive 2002/4/EC and noted inconsistencies in the list received. Farms visited by the audit team were not mentioned in this list; a procedure for updating the register of laying hen farms is not in place.

• The register of farms is not in accordance with Directive 2002/4/EC because it does not include the correct maximum capacity of the establishment, but the number of birds lastly introduced as declared by the farmer. The maximum number of birds present at one time is set by the ICPE following an assessment of the environmental impact of the farm and without systematically taking into account the legislation on the minimum animal welfare requirements for laying hens, in particular the maximum stocking density in accordance with Directive 1999/74/EC.

• Inspectors had correctly measured the dimensions of cages and the other parameters laid down in Article 4 of Directive 1999/74/EC during their inspection. However, they did not calculate the maximum capacity of farms and in cage systems they did not always verify the number of cages during their inspections. The national procedure and checklist do not provide guidance in this regard. Furthermore, the maximum capacity specified in the approval of the farm issued by the Prefect is based on an assessment of the environmental impact of the farm carried out by the ICPE (see point 5.1.1).

• Slight overstocking was observed in three out of four farms visited. In cases where overstocking had been previously identified by the CA, they had not quantified this adequately and insufficient action had been taken except in one case (see point 5.4.1).

• In two farms visited there were cages not in compliance with Article 5(4) of Directive 1999/74/EC for insufficient height which had not been recognised by the CA during their previous inspections. Furthermore, cages installed after 2003 had not been appropriately enriched, contrary to the minimum requirements of Article 6 of Directive 1999/74/EC, and continued to be used without the necessary equipment being installed. Absence of claw shortening devices in non-enriched cages had been previously reported by the local CA and this was still outstanding in the farms visited.

1 In their response to the draft report the Competent Authority noted that the inspector had nevertheless properly noted other instances of non-compliance at the time of the mission.
Poor enforcement action for non-compliances already reported was observed. No deadlines had been set for remedial action; no follow-up visits and no punitive action had been undertaken (see point 5.4.1).

The CA does not have data on the number of farms/birds in non-enriched cages and on farmers’ plans in relation to the 2012 ban of non-enriched cages. In this regard, the CA stated that from 1.1.2012 farmers with cages not in compliance with Directive 1999/74/EC would be prosecuted; the CA could not prevent new batches of birds being placed in such non-compliant cages in order to ensure that the 2012 deadline was met; no provisions are foreseen on the marketing of eggs produced in non-compliant cages after the date of their ban.

Conclusions

The register of laying hen farms does not include the correct maximum capacity of the establishments, contrary to Point 1 of the Annex to Directive 2002/4/EC. The CA does not assess the maximum number of birds which can be present at one time in an establishment. The local CA inspectors carried out thorough inspections apart from the important point of quantifying overstocking. Cages installed after 2003 are not being operate in compliance with the requirements of Directive 1999/74/EC and there has been insufficient planning to meet the deadline for the ban on non-enriched cages from 1.1.2012. The CCA’s proposed action to deal with non-compliances after this date, involving initiating prosecutions, and given that these have been found to be largely ineffective on animal welfare issues, does not address the question of what to do with eggs produced in such systems after 1.1.2012.

6.1.2 Pig farms

Legal Requirements

Article 8 of Directive 2008/120/EC requires Member States to ensure that inspections are carried out under the responsibility of the competent authority in order to check that the provisions of this Directive are being complied with.

Findings

The audit team noted:

- In response to a recommendation in report 8045/2006, the CCA has made available training courses for pig farmers. However, one of the pig farmers met by the audit team was not aware of the 2013 deadline for the provisions foreseen in Point 9 of Article 3 of Directive 2008/120/EC (unobstructed floor area for each gilt/sow, flooring surfaces, group housing and manipulable material for sows and gilts), while another farmer had already started upgrading his farm.

- Weaners were overstocked in two out of three farms visited, contrary to the provisions of Article 3(1) of Directive 2008/120/EC and mutilations, in particular routine tail docking and tooth clipping, were carried out in all the farms visited (contrary to Point 8 of Chapter I of Annex I to Directive 2008/120/EC, which requires that neither tail-docking nor reduction of corner teeth are carried out routinely).

- Insufficient care for sick pigs (contrary to Point 4 of the Annex to Directive 98/58/EC) and early weaning (contrary to Point C(3) of Chapter II of Annex I to Directive 2008/120/EC, which requires that piglets are not be weaned at less than 28 days of age, except in specific circumstances) were observed in one farm.
• General lack of manipulable material; furthermore, the use of chains for weaners was considered by the CA to be in line with the legislation. A list of materials such as the ones mentioned in Point 4 of Chapter I of Annex I to Directive 2008/120/EC is included in the national guideline; however, representatives from the CCA stated that they considered that list to be non-exhaustive, and that they considered chain to be a suitable manipulable material. Chains cannot be considered in compliance with the requirements of Directive 2008/120/EC, as they are not suitable material for investigation and they are not mentioned in Point 4 of Chapter I of Annex I thereto.

• In addition, in two pig farms antibiotics/medicated feed were routinely used to compensate for poor management conditions such as poor ventilation and overstocking, with poor record keeping for veterinary medicinal products.

• Poor enforcement action was observed in pig farms (see point 5.4.1). Issues such as the absence of manipulable material, overstocking and tail docking, had already been highlighted during the previous FVO mission in 2006.

Conclusions

The CA has taken action to address the recommendation from report 8045/2006 regarding training courses for pig stockpersons. However, non-compliances already highlighted in the previous report still persist, and gaps in the guidelines together with poor enforcement action resulted in major deficiencies in the pig sector, including mutilations, not having been addressed by the CA.

6.1.3 Reporting on farm checks

Legal requirements

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

Findings

Reports on the results of inspections on farms in accordance with Decision 2006/778/EC have been sent to the Commission services. The CCA has updated each specific checklist in order to ensure a uniform reporting system in line with Decision 2006/778/EC.

Conclusions

The CA has taken action to address the recommendation from report 8045/2006 regarding the system of collection of information for reporting of farm inspections.

6.2 Animal welfare during transport

6.2.1 Approval of livestock vessels

Legal requirements

Article 7(2) of Regulation (EC) No 1/2005 stipulates that no person may transport by sea, for more than ten nautical miles, domestic Equidae and domestic animals of bovine, ovine, caprine or porcine species from a Community port unless the livestock vessel has been inspected and approved under Article 19(1).
Article 19(1) of Regulation (EC) No 1/2005 requires the competent authority or body designated by a Member State to grant a certificate of approval for a livestock vessel upon application, provided that the vessel is operated from the Member State where the application is made, it is not the subject of an application submitted to or an approval by another competent authority in the same or another Member State and it has been inspected by the competent authority or body designated by a Member State and found to comply with the requirements of Section 1 of Chapter IV of Annex I regarding the construction of and equipment for livestock vessels.

**Findings**

As already mentioned (point 5.3.1) the CA has set up a procedure for the temporary approval of livestock vessels flying the flag of third countries, including a checklist for the assessment of the requirements laid down in Chapter IV of Annex I to Regulation EC (No) 1/2005. The audit team has received the inspection reports and the temporary approval issued, for three months, for four fitted livestock vessels registered in third countries. The audit team was informed that they were issuing temporary approval until they found a solution to the need for adequate assessment of technical requirements (such as: ventilation, storage or production capacity for fresh water and calculations of the strength of pen rails and decks that needed to be verified during construction or conversion of the livestock vessel by a classification society approved by the competent authority). In order to find a common approach to these issues and to harmonise the approval procedures, the CA had initiated exchange of information with other Member States from whose ports the livestock vessels were operating in the Mediterranean Sea.

6.2.2 Roadside checks

**Legal requirements**

Article 15 of Regulation (EC) No 1/2005 requires checks to be carried out by the competent authority at any stage of a long journey and the competent authority to carry 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 the Regulation, and in particular that travel times and rest periods have complied with the limits set out in Chapter V of Annex I.

**Findings**

In 2008, a significant number of roadside checks on long-distance transport were carried out by four local CAs along the principal axis routes from northern Europe to Italy, while no long-distance roadside checks were carried out by local CAs along the main axis from Spain to Italy.

At the local CA where Cherbourg is located (this is the main port for the arrival of bovines from Ireland via roll-on-roll-off vessels, with approximately 3 000 consignments/year), no routine roadside checks were carried out. At this port, from 2005 to 2010 one official control was performed in collaboration with the Police (Gendarmerie). During this check, 13 trucks were inspected and five non-compliances were detected. Article 27 of Regulation (EC) No 1/2005 requires an increase of controls where the provisions of the Regulation are disregarded. These non-compliances were not communicated to the CA of the relevant
member State of departure via the Contact Point established at central level as required by Article 24(2) of Regulation (EC) No 1/2005. In 2008 this local CA carried out three official checks at the control post placed in their territory and no non-compliances were identified. However, the audit team noted that the copy of the register of this control post received by the local CA did not systematically include the time of arrival of the animals (as required by Article 5 of Regulation (EC) No 1255/97), making it impossible to verify whether their journey complied with Regulation (EC) No 1/2005 and in particular whether travel times and rest periods complied with the limits set out in Chapter V of Annex I.

6.2.3 Transport of unfit animals

The audit team saw documentary evidence that action (report to the Prosecutor) had been taken in three cases of transport of unfit animals, which is an enduring problem in France, and the subject of recommendations from previous mission reports. The audit team saw that a follow-up inspection at farm level had been carried out or the competent local CA of origin of the animals had been informed for the necessary investigation. However, in some cases these PVs are not taken on board by the Prosecutor. For example, one case involved the transport to a slaughterhouse of a sow with a rectal prolapse on 4 May 2009. There is no information on whether the Prosecutor has taken up the case or not.

Conclusions on transport

Regarding transport, fitted livestock vessels are in the process of being approved; in some cases, action has been taken where unfit animals have been transported to slaughterhouses, but this is an enduring problem in France. Regarding roadside checks, insufficient controls are carried out on live animals transported for long distances from other Member States.

7 Overall Conclusion

In spite of extensive procedures having been issued by the CCA following the previous FVO mission in 2006, major non-compliances in the laying hen and in the pig sector have not been addressed by the CAs, mainly in relation with insufficient enforcement action. There is insufficient planning to ensure that the deadline of 1.1.2012 for the ban on non-enriched cages is met. Regarding transport, the CA has set in place a provisional system for livestock vessels approval; regarding roadside checks the CA does not adequately follow its own procedures in the prioritisation of checks on long-distance transport.

8 Closing Meeting

A closing meeting was held on 2 February 2010 with representatives of the central competent authority. At this meeting, the audit team presented the main findings and preliminary conclusions of the mission. The authorities did not express major disagreement on the findings.

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.

<table>
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<tr>
<th>No.</th>
<th>Recommendation</th>
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<tbody>
<tr>
<td>1.</td>
<td>The CCA should ensure that efficient and effective coordination and cooperation are ensured between different CAs involved in controls on laying hen farms, as required by Article 4(3) of Regulation (EC) No 882/2004, in order to ensure that the register of laying hens include all the information of the Annex to Directive 2002/4/EC and it is updated in accordance with Article 1(4) of Directive 2002/4/EC.</td>
</tr>
<tr>
<td>2.</td>
<td>The CCA should ensure that their staff avail of appropriate and properly maintained equipment for carrying out official controls on animal welfare effectively, as required by Article 4 (2) of Regulation (EC) No 882/2004, so that assessment is made of all the requirements of Directives 98/58/EC, 2008/120/EC, 1999/74/EC and of Regulation (EC) No 1/2005.</td>
</tr>
<tr>
<td>3.</td>
<td>The CCA should ensure that all of its staff are kept up to date in their area of competence and receive regular additional training as necessary, as required by Article 6 (b) of Regulation (EC) No 882/2004, in particular in relation to the requirements of Directive 1999/74/EC.</td>
</tr>
<tr>
<td>4.</td>
<td>The CCA should ensure that the national procedures laid down at national level in relation with the prioritisation of official controls are implemented at local level in accordance with Article 3 of Regulation (EC) No 882/2004, and that checks are carried out at any stage of a long journey on a random or targeted basis to verify that declared journey times are realistic and that the journey complies with Regulation (EC) No 1/2005, as required by Article 15 of Regulation (EC) No 1/2005.</td>
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<tr>
<td>5.</td>
<td>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, 1999/74/EC, and of Regulation (EC) No 1/2005.</td>
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<td>6.</td>
<td>The CCA should ensure that the public have access to information on their control activities and on their effectiveness, as required by Article 7 of Regulation (EC) No 882/2004, with regard to controls performed pursuant to Directives 98/58/EC, 2008/120/EC, 1999/74/EC and Regulation (EC) No 1/2005.</td>
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<td>7.</td>
<td>The CCA should ensure that appropriate actions are taken as required by Article 54 of Regulation (EC) No 882/2004, when non-compliances with Directives 98/58/EC, 2008/120/EC, 1999/74/EC and with Regulation (EC) No 1/2005 are identified.</td>
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<td>8.</td>
<td>The CCA should ensure that all measures necessary to ensure that sanctions are implemented are taken, as required by Article 55 of Regulation (EC) No 882/2004, with regard to infringements of Community provisions relating to the protection of animal welfare (in particular: Directives 98/58/EC, 2008/120/EC, 1999/74/EC and Regulation (EC) No 1/2005).</td>
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<tr>
<td>9.</td>
<td>The CCA should ensure that verification procedures which have been put in place as required by Article 8 of Regulation (EC) No 882/2004 are implemented in relation to the official controls performed pursuant to Directives 98/58/EC, 2008/120/EC, 1999/74/EC and Regulation (EC) No 1/2005.</td>
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<tr>
<td>10.</td>
<td>The CCA should ensure that the MANCP include a description of the national control system for animal welfare on farms, at slaughterhouses and during transport, as required by Article 42(2) of Regulation (EC) No 882/2004.</td>
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</table>

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

## Annex 1 - Legal References

<table>
<thead>
<tr>
<th>Legal Reference</th>
<th>Official Journal</th>
<th>Title</th>
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