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HEALTH & CONSUMERS DIRECTORATE-GENERAL
Directorate F - Food and Veterinary Office

DG(SANCO)/2007-7581 – MR Final

FINAL REPORT OF A MISSION
CARRIED OUT IN GERMANY
FROM 12 TO 16 NOVEMBER 2007
IN ORDER TO ASSESS ANIMAL WELFARE DURING TRANSPORT AS LINKED
TO COMMISSION REGULATION (EC) No 639/2003 ON THE GRANTING OF
REFUNDS FOR THE EXPORT OF LIVE BOVINE ANIMALS.

Please note that factual errors in the draft report have been corrected. Clarifications provided by the German Competent Authorities are given as endnotes.



TABLE OF CONTENTS

1. INTRODUCTION 4

2. OBJECTIVES OF THE MISSION 4

3. LEGAL BASIS FOR THE JOINT MISSION 4

4. MAIN FINDINGS 5

 4.1. Competent authority 5

 4.2. Instructions for checks 5

 4.3. Authorisation of transporters and approval of means of transport 5

 4.4. Checks on animals 6

 4.5. Checks on means of road transport 7

 4.6. Checks on journey times 7

5. CLOSING MEETING 9

EXECUTIVE SUMMARY

This report describes the outcome of a mission carried out by DG AGRI together with the Food and Veterinary Office (FVO) in Germany from 12 to 16 November 2007.

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

Instructions have been provided to officials carrying out checks, but the comprehensive guidance provided in 2003, which was made available to all Länder, has not yet been updated to take account of Regulation (EC) No 1/2005. Nevertheless the Land visited had revised the procedures for authorisation of transporters and approval of vehicles to take account of these requirements, albeit with a delay in relation to the requirement for the provision of temperature monitoring systems on board vehicles.

Checks on fitness of animals and means of transport were generally well organised and carried out; however, controls by the veterinary authorities of journey logs were less satisfactory and staff had not been suitably trained or a system put in place to verify such information through requesting and checking drivers' records (tachographs or digital print outs) at places of departure. The additional check of journey logs performed by the paying agency is a useful additional measure to ensure that journey times meet the requirements.

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

1. INTRODUCTION

The mission took place in Germany from 12 to 16 November 2007. The mission team comprised one inspector from the Food and Veterinary Office (FVO) and two auditors from DG AGRI.

The mission was included in the FVO's mission programme following a request from DG AGRI for a veterinary expert to assist their evaluation of the payment of export refunds. An opening meeting was held on 12 November 2007 with representatives from the paying agency for the purposes of Commission Regulation (EC) no 639/2003¹ (*Hauptzollamt Hamburg-Jonas*), the Ministry of Finance (*Bundesministerium der Finanzen*) and the Federal Ministry for Food, Agriculture and Consumer Protection (*Bundesministerium für Ernährung, Landwirtschaft und Verbraucherschutz - BMELV*). BMELV is the central competent authority (CCA) in the area of animal welfare. At this meeting, the objectives of, and itinerary for, the mission were confirmed by the inspection team.

2. OBJECTIVES OF THE MISSION

The objective of the mission was to evaluate the application of EU provisions on the welfare of animals during transport, Council Regulation (EC) No 1/2005², and prior to 5.1.2007 Council Directive 91/628/EEC³⁴, in so far as they are linked with Commission Regulation (EC) no 639/2003 as regards the granting of refunds for the export of live bovine animals.

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

In pursuit of this objective, although there was no export activity during the mission and it was not possible to see an on the spot physical check taking place at a place of departure in the regions visited, the following sites were visited:

| VISITS | | | Comments |
|---------------------|---------|---|---|
| Competent authority | Central | 2 | Opening meeting (Hamburg) and final meeting (Bonn). |
| | Local | 4 | Two local veterinary offices and two local Customs offices in Lower Saxony. |

3. LEGAL BASIS FOR THE JOINT MISSION

The mission was carried out under the general provisions of Community legislation and, in particular: Article 9(2) of Council Regulation (EC) No 1258/99⁵, Council

¹ Commission Regulation (EC) No 639/2003 of 9 April 2003 (hereafter: Regulation (EC) No 639/2003) laying down detailed rules pursuant to Council Regulation (EC) No 1254/1999 as regards requirements for the granting of export refunds related to the welfare of live bovine animals during transport (OJ L 93, 10.04.2003, p. 10).

² Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EEC and Regulation (EC) No 1255/97 (OJ L 3, 5.1.2005, p. 1) - hereafter: Regulation (EC) No 1/2005.

³ Legal acts quoted in this report refer, where applicable, to the last amended version.

⁴ Council Directive 91/628/EEC of 19 November 1991 on the protection of animals during transport amending Directives 90/425/EEC and 91/496/EEC (OJ L 340, 11.12.1991, p.17) - hereafter: Directive 91/628/EEC. Directive 91/628/EEC was repealed by Regulation (EC) No 1/2005 on 5.1.2007.

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

Regulation (EC) 1290/2005⁶, Article 45 of Regulation (EC) No 882/2004⁷ and Article 28 of Council Regulation (EC) No 1/2005.

4. MAIN FINDINGS

4.1. Competent authority

The organisation of the CA is described in a report concerning the country profile of Germany on food and feed safety, animal health, animal welfare and plant health (ref. DG(SANCO)/ - 7705/2005 CP final), which is available under this reference on the DG Health and Consumer Protection website http://ec.europa.eu/food/fvo/country_profiles_en.cfm.

4.2. Instructions for checks

A handbook prepared by a working group of the Länder was issued in 2003 and provided guidance to official veterinarians on assessing the requirements for animal welfare during long distance transport. This is being updated to take account of the requirements of Regulation (EC) No. 1/2005. The Land CA in Lower Saxony had already issued an instruction on 9.1.2006 regarding the implications of the requirements of Regulation (EC) No. 1/2005, in particular for authorisation of transporters and approval of vehicles, which needed to be reviewed before 5.1.2007, and training of transporters' staff.

4.3. Authorisation of transporters and approval of means of transport

In relation to the authorisation of transporters it was noted that, these had been issued, as required by Article 11 of Regulation (EC) No 1/2005, after the transporter had provided certificates of competence for drivers, certificates of approval of vehicles and contingency plans for dealing with possible emergencies. In relation to authorisation of transporters it was noted that:

- The checklist used in Lower Saxony when approving a means of transport had been updated and included the requirements from Regulation (EC) No 1/2005. In the districts (*Landkreis*) visited, only one of the assembly centre operators had been approved as a transporter and in this case it was only for journeys of less than 8 hours, which was sufficient for his activities in collecting animals prior to export. The transporters who carried out the export were based in other districts and had been authorised by the CA there.
- For certain technical details of means of transport a supplementary certificate had been provided by the service for vehicle testing (*Technischer Überwachungs Verein- TÜV*). This included an assessment of the capacity of the ventilation system, as required by point 3.2 of Chapter VI of Annex I to Regulation (EC) No 1/2005.

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

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

- It has been an EU requirement since 1.7.1999⁸ for means of transport to maintain a temperature range of 5°C to 30°C (+/- 5°C), and this requirement is retained by Regulation (EC) No 1/2005 Annex I Chapter VI 3.1. In addition Regulation (EC) No 1/2005 Annex I Chapter VI 3.3 requires a system for monitoring temperature during transport, which has been required on all vehicles since 5 January 2007. In this regard the Land CA in Lower Saxony had issued an instruction that this requirement should be met by September 2007, but had subsequently extended this transitional period until the end of 2007ⁱ. A representative of the Ministry of Finance stated that Member States cannot be blamed for not meeting this requirement, as the Commission have commissioned a study on this issue, and at the moment they don't know what to tell exporters to buy or where to install such equipment. It was also stated that it would cost a transporter several thousand euro to carry out retro fitting of an existing truck, and this may have to be subsequently refitted following the outcome of these studies. In relation to the temperature within the animal compartment, the mission team noted that the European Food Safety Authority's (EFSA) Scientific Panel on Animal Health and Welfare concluded that "In northern European countries, low temperatures down to -16 °C revealed no negative effects on cattle during loading. The vehicle was heated up to 0 °C by the animals within 2 hours⁹."
- Contingency plans, which had been drawn up by the transporters to deal with possible emergencies, indicated the steps that would be taken in the event of unforeseen circumstances, such as injuries to the animals, ventilation breakdown or failure of the watering equipment. Possible options included unloading the animals, getting an alternative means of transport or going to a control post (*Aufenthaltssorte*).
- In relation to certificates of competence of transport personnel, details of the training courses attended, which had been approved by the Land CA, were included in the supporting documents in the authorisation file.

4.4. Checks on animals

An instruction from the Land CA, which was issued in July 2002 indicated that animals which had completed more than 90% of their pregnancy were unfit for transport. Regulation (EC) No 1/2005 Annex I Chapter I 2(c) also requires that animals shall not be considered fit for transport if they are pregnant females for whom 90 % or more of the expected gestation period has already passed. From the documents reviewed it was noted that:

- The vast majority of heifers exported were well within the limit of 90% of their pregnancy. In addition to dates of insemination, for exports to Russia it was also required that a pregnancy diagnosis was carried out.

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

⁹ Opinion of the Scientific Panel on Animal Health and Welfare on a request from the Commission related to standards for the microclimate inside animal road transport vehicles (2004), Conclusion 3(4) http://www.efsa.europa.eu/EFSA/efsa_locale-1178620753812_1178620775254.htm

- In only one case reviewed did data indicate a potential conflict with the limit for stage of pregnancy in relation to fitness of the animal for transport. The German Authorities subsequently indicated that as these cows had been with a bull the insemination date recorded on the certificates was not exact. Pregnancy examination at the time of transport found that they were eight months pregnant and therefore fit for transport. The export also took place when Directive 91/628/EEC was applicable, which contained less strict provisions on the fitness for transport of pregnant heifers than Regulation (EC) No 1/2005.
- The stocking densities for all consignments were within the limits specified in Chapter VII B of Annex I to Regulation (EC) No 1/2005.

4.5. Checks on means of road transport

From all cases reviewed, 100% of consignments had been inspected at the time of loading and an official veterinarian had recorded in section 2 of the journey log that the means of transport and transport practices were in accordance with the provisions of Regulation (EC) No 1/2005. In relation to the checks of vehicles it was noted that:

- In order to meet the requirements of point 1.2 of chapter II of Annex I to Regulation (EC) No 1/2005 for sufficient space inside the animals' compartment to ensure that there is adequate ventilation above the animals when they are in a naturally standing position, the CA handbook from 2003 indicates that the height above the animal must be at least 10cm, and both official veterinarians interviewed indicated that there must be a space of at least a hand breadth above the withers of the tallest animals. This does not give a wide margin of safety in fulfilling this requirement. A representative of the CCA indicated that the possibilities of providing additional head space on two deck vehicles was limited as the maximum height for vehicles in Germany was limited on most routes to 4m, as there are constraints due to the height of motorway bridgesⁱⁱ.
- In order to meet the requirements of point 2.1 of Chapter VI of Annex I to Regulation (EC) No 1/2005, where it is necessary for the attendant to provide water instantly whenever it is necessary during the journey, both local CAs had required back-up watering equipment to be carried on board the truck which could be used in the event of the automatic equipment freezing. The handbook from 2003 did not indicate that any special measures were necessary for transport in sub zero temperaturesⁱⁱⁱ.

4.6. Checks on journey times

Annex II, 7 of Regulation (EC) No 1/2005 requires transporters to hand in the journey log to the official veterinarian at the exit point of the EU, while Regulation (EC) No. 639/2003 requires the journey log to be completed up to the final destination in the third country. In order to comply with these conflicting requirements, the CCA have invented a certified copy; the original is handed in at the exit point and the copy completed up to the final destination. It was noted that:

- In order to comply with the journey times which take place outside EU territory, notably for exports to Russia, the transporters had made arrangements for unloading animals for 24 hours at various points on the journey. The transport organisers had asked the Russian local veterinary services to confirm to the German CCA that these places of unloading are equivalent to EU control posts.

On the basis of the letters received, the German CCA has drawn up a list of control posts outside the EU and circulated this to the *Länder* CA.

- The Paying agency had checked that the actual times recorded on journey logs were within the maximum journey times laid down in Regulation (EC) No 1/2005 and in certain cases the transporters had been asked to clarify deficiencies in the data recorded.
- The mission team highlighted several cases where there were doubts about the credibility of the information provided. In particular cases where there had been major changes to the original plan. A consignment (No 15. 5356200304131106) made a nine hour rest at a petrol station, instead of a planned one hour stop, and on leaving Swiebodzin in West Poland at 9 am on a weekday travelled to Poloski Nowe on the other side of Poland in eight hours. The planning had indicated that this leg of the journey was to take 14 hours, which corresponds to the actual journey time in several other exports which followed a similar route. Another consignment (No 16. 5356200312131106) made an unscheduled six day stop in a Polish control post, the subsequent leg of the journey from Poznan to Poloski Nowe was completed in 5 and $\frac{3}{4}$ hours, which was much faster than for any of the other consignments reviewed, which completed this leg of the journey in around 10 hours.
- In Germany the general competence for checking the record sheets or the recording equipment – including for long journeys transporting animals – lies with the police authorities. Digital record sheets are increasingly used in new vehicles, which can be evaluated by the police authorities or the Bundesamt für Güterverkehr (Federal Office for Goods Transport) using special software and corresponding computer equipment. The local CA visited had not been trained to check data from the recording equipment for road transport as provided for by Regulation (EEC) No 3821/85¹⁰ and as required by Article 16 of Regulation (EC) No 1/2005, and indicated that checking of records such as tachographs would be carried out by those CA who carry out road-side checks. As a result no requests had been made to transporters to supply such record sheets or print outs, which could be used to verify the actual times written on journey logs, and which is an element of control for the CA of the place of departure indicated in point 8 of Annex II to Regulation (EC) No 1/2005.
- Article 3 (a) of Regulation (EC) No 1/2005 requires that arrangements have been made in advance to minimise the length of the journey; however when several consignments arrived at their final destination in Russia at night, reports of the checks carried out for the purposes of Article 3 of Regulation (EC) No 639/2003 indicated that unloading took place during the day, sometimes 10 or 11 hours after the arrival of the animals. One consignment (No 20. 5004200053081206) arrived at its destination with three hours left before the maximum journey time was exceeded, and due to the delay in unloading it was seven hours over the journey time when the animals were unloaded. One other consignment (No 9. 5004300001171006), where the animals arrived at night, also indicated a delay in unloading.
- Article 3 (f) of Regulation (EC) No 1/2005 requires that transport is carried out without delay to the place of destination. The final leg of the journey for consignment (No 15. 5356200304131106) took nearly 18 hours to complete

¹⁰ Council Regulation (EC) No 3821/85 of 20 December 1985 on recording equipment in road transport (OJ L 370, 31.12.1985, p.8)

instead of the planned ten hours. This arose because an unscheduled stop of 10 hours was made after four hours travel from the last control post. Similarly in the second district visited, one of the journey logs (No 07020707 vet cert DE-0111903-2007-0083) indicated that an unscheduled nine hour stop had been made at a parking place in Russia. This had not been questioned by the local CA, who had also not detected that the details of the actual journey had only been completed up to this parking place and the date and time of arrival at the place of destination were missing.

- In both districts visited, the approval of the planning section of the journey logs by the local CA was generally satisfactory. The exception was in the first district, where an export to Lebanon (Veterinary Certificate No. 6367) indicated an estimated journey time which did not take account of the leg of the journey by sea. Part 6 of section 1 of the journey log, which is for planned resting, exit or transfer points, had been left completely blank and in addition, the sea vessel had not been identified in section 2. In the second district, two of the selected exports included sea journeys to Lebanon and Algeria, and the name of the ship was indicated in section 2 of the journey log, as required. There were also omissions in relation to the identification of sea vessels in several journey logs seen at the paying agency and a representative of the paying agency indicated that the name of the ship was not important for them.
- Regulation (EC) No 1/2005 requires journey logs to be returned to the competent authority of the place of departure within one month of the completion of the journey. In the first district visited, this requirement had not been respected and journey logs for two out of the four consignments selected by the mission team arrived by fax on the day of the visit. In the second district visited, journey logs had been returned for all consignments selected. The local CA of the first district indicated that the issue of return of journey logs was included in the quality system being developed for the administrative processes of the veterinary services of Lower Saxony and that this should improve the level of compliance.
- In section four of the journey log the transporter should certify that the entries made during the journey, which are usually made by the driver, are correct. In the first district visited, in one of the two returned journey logs the transporter had not signed section four of the log. In the second district visited, in two out of the five journey logs reviewed, the transporter had signed section four in advance of the journey being completed. The transporter had not signed this declaration in two other journey logs returned to this district CA.
- In the second district visited, one returned journey log for an export to Russia, had only been completed up to the EU exit point, which may have arisen as this journey log may have been the version to meet the requirements of Regulation (EC) No 1/2005, rather than the version to comply with Regulation (EC) No 639/2003.

5. CLOSING MEETING

A closing meeting was held on 16 November with representatives of the Central Competent Authorities. At this meeting, the main findings were presented by the inspection team. In their reaction to these findings a representative of the Ministry of Finance restated that it was the actual journey times which were relevant for the controls by the paying agency and that they were glad that the Commission services acknowledged the inconsistencies between the two EU Regulations concerning control of journey logs.

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

ⁱ In their response to the draft report, the German Authorities stated that since 2008, the derogation from the requirement for temperature monitoring equipment no longer exists.

ⁱⁱ In their response to the draft report, the German Authorities stated that no restrictions or problems with ventilation have been observed when using this clearance in multi-deck vehicles with animals on more than one deck. In this respect, it should also be borne in mind that the necessary airflow with a "large animal" load is ensured by electronic and technical ventilation measures in modern vehicles used to transport cattle.

ⁱⁱⁱ In their response to the draft report, the German Authorities stated that the manual referred to provides no special regulations on this subject (provision of water), since this regulation is applied uniformly in Germany.