EUROPEAN COMMISSION
HEALTH AND CONSUMERS DIRECTORATE-GENERAL

Veterinary and International affairs
Multilateral International relations

Brussels, 28.07.2011
SANCO G6 PL/MG/MB/is D(2011) 908681

NOTE FOR THE FILE

Subject: Minutes of the Working Group on Veterinary Checks – 06 July 2011

Present: All Member States except Malta plus Norway and Switzerland, Iceland did not attend. Commission Personnel (COM): DG SANCO: Patricia Langhammer (G6) Michael Glavin (G6), Catherine Iffenecker (G6), Mies Beljaars (G6), Carmen Garau (E5), Francesca Volpi (E5), Stephen Curzon (E5) and Canice Bennett (F5); DG TAXUD (Karlheinz Kadner).

Introduction

After the presentation of the Agenda, MS requested to add the following points under the section Miscellaneous:

NL: sought information on what detail should be included in justification plans for MS portal BIPs wishing to take up the increase in the minimum time from 7 to 14 days for consignments transhipping EU portal BIPs, which are required to be presented to SCFCAH in accordance with Decision 2011/215/EU, and how they should co-operate with Customs authorities..

BE: asked if registered horses for breeding purposes could be included on a group certificate similar to that for horses imported for slaughter. .
BE also asked what import certification was required for ostrich eggs for breeding and whether or not it was possible to export 100 day old eggs intended for human consumption to third countries.

PL: Poland had sought information on the legal basis for imports of hay and straw for technical use (other than animal feed or bedding).

IT: had asked for clarification on checks on transhipments through several BIPs.

COM with all Member States greatly appreciated the input of Andrew Kingston to the WG over many years and wished him well on his retirement from the UK authorities.

COM informed MS that the draft Regulation for the Captain's Declaration, which had been discussed in the WG, had been voted favourable in the Biological SCFCAH on 21 June 2011 and was now in the procedure to be adopted by the Commission. It was expected to be published in September/October.

COM clarified that registration of establishments for samples for diagnostics and research (Regulation (EU) No 142/2011) in TRACES is not necessary.

AGENDA

1. REVIEW OF VETERINARY CONTROL LEGISLATION (E5/G6)
   A) Update since last working group
   B) Review of Regulation (EC) No 882/2004
2. ARTICLE 24 OF DIRECTIVE 97/78/EC - RE-ENFORCED CHECKS – Draft Guidance Document Rev 6 (MG)
3. COMPOSITE PRODUCTS (MG/PL)
4. TRACES ISSUES (PL)
5. MISCELLANEOUS/ DIVERS /VERSCHIEDENES (PL/MG)
   A) Import of hay and straw for technical use
   B) Checks on transhipments
   C) Health certification for import of horses
   D) Import of fully treated pet food from China
   E) Imports of ostrich eggs and export of 100 day old eggs
   F) Other questions

1. REVIEW OF REGULATION (EC) NO 882/2004 AND VETERINARY CONTROL LEGISLATION (E5/G6)

A) Update since last Working Group on 11 March 2011

COM said that a number of Working Group and internal Task Force meetings had taken place since the last Imports Working Group of 11 March 2011, including the recent Imports Task Force meeting of this Working Group, held on 23 June 2011, at which the recast of 882/2004 in relation to border veterinary import controls for veterinary goods was discussed.

At the Task Force meeting of 23 June, COM tabled a Working Paper on the Review of Chapter V of Regulation (EC) No 882/2004 and invited MS to reflect on the issues listed including the use of TRACES. COM summarised the discussions and conclusions of that meeting and a copy of the minutes of that meeting are attached to these minutes for ease of reference.

B) Review of Regulation (EC) No 882/2004

COM gave a presentation (as attached) on the Review of Regulation (EC) No 882/2004, in particular covering the key issues and ongoing discussions. It was clarified that an objective of the Review of Regulation (EC) No 882/2004 is to consolidate and integrate principles of official controls across the food and feed chain and to place empowerment provisions into one legal framework so that detailed provisions can be drawn up by the Commission within Delegated or Implementing Acts, in accordance with the Lisbon Treaty. For border veterinary control legislation, Directive 91/496/EEC and 97/78/EC would therefore be repealed and replaced with the general principles for veterinary controls being set out in the revised Regulation (EC) No 882/2004 and in detailed rules set out in secondary Acts.

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Key issues being tackled in specific areas of the Review of 882/2004:

- Fees - the current system of inspection fees is being reconsidered to ensure that MS have adequate financial resources to carry out official controls and because the current requirements are not being fulfilled across the EU. A number of options have been identified by consultants and an Impact Assessment of these is ongoing.

- Veterinary Medicines - an evaluation of current legislation had shown a rigidity of controls which are not risk based along with a number of redundant control requirements. The main option is to streamline the provisions with 882/2004 and to repeal Directive 96/23/EC.

- Scope of 882/2004 – include Plant Health and Seeds and Propagating Materials, adjustments to ensure the Regulation is fully applicable to the Animal Health sector and to clarify the extent to which other official control activities not intended to verify compliance with legislation are also covered by the Regulation.

- Competent Authorities – adjust provisions on delegations for other official activities not intended to verify compliance and delegations to individuals where required, clarify transparency provisions on information to be disclosed, publication of Multi Annual National Control Plans (MANCP's) and Annual Report (AR's) and facilitate application of the provisions on reports on official controls.

- Sampling and Analysis – clarification on cascade of methods of analysis, accreditation of laboratories and second expert opinion.

- Official Certification, Administrative Assistance and Planning and Reporting

- Import Controls – The recommendations of the Commission's Report of 2010[1] on the effectiveness and efficiency of import controls including:

(1) risk based controls adjusted to the risk of different commodities,

(2) better use of resources using improved IT tools including TRACES+

(3) an integrated system of border controls

(4) list of commodities which must undergo official controls prior to release or transit into the EU

[1] **Report(COM(2010)785)**

(5) minimum requirements for Border Control Points (BCPs)

(6) prior notification of arrival of consignments

(7) harmonised models of entry documents and certification

(8) clarification of transit and transhipment

(9) frequency of physical checks and empowerments to address all technicalities in delegated or implementing legislation.

In addition and where appropriate any adjustments to Regulation (EC) No 882/2004 will be aligned with the Modernised Customs Code (MCC).

On timing, COM said that Impact Assessment Board consideration was expected in November 2011, formal consultation within the Commission in February 2012 with Commission adopted proposals by the 3rd quarter of 2012.

MS said there was a need to ensure co-operation with Customs and drawing up a list of products in relation to their CN Codes, methods of declarations and using the same notifications. Definitions set out in the Modernised Customs Code (MCC) should also be aligned in 882 where possible. MS asked if the Authorised Economic Operator (AEO) status could also be used in veterinary legislation, if the EORI-number (Economic Operators Registration and Identification number) could be included in TRACES to strengthen the link between customs and veterinary registration of business operators and how the Customs initiative of the Single Window would be included within the review.

COM said that any changes to 882 would include alignment with the MCC where appropriate and it was the intention to include an empowerment within the revised 882 to adopt the positive list of CN codes to assist in integrating this procedure/approach across the food chain. A broad scope was required for many issues such as those in the Plant Health Sector and looking at controls on means of transport. Staff resource was an issue to give MS the flexibility to move to where the risk is but with sufficient qualified staff to carry out the necessary tasks.

COM said that consideration was being given to AEO status in the veterinary sector and DG SANCO colleagues were working closely with those in DG TAXUD to ensure veterinary issues were considered in the Single Window project. COM also explained that the Single Window Pilot Project continues and is considered to make TRACES data available to all Customs administrations which would need the relevant data for customs clearance and which would greatly help in the identification and control of veterinary goods on arrival. FR commented that in their system all TRACES data are copied every 10 minutes to customs databases and COM stated to aim at a better solution. It was hoped to facilitate this by linking TRACES with the Customs Communication Network CCNCSI. The approach to the business process of this was included in the Report of the Single Window Project Group.

COM informed as well that the MCC will be adapted to be in line with the provisions of the Lisbon Treaty. The adapted MCC will include the empowerment to adopt both delegated and implementing acts. The Commission is working closely with MS to

prepare these legislative measures. It is very important for MS to co-ordinate on national level with customs authorities to address problematic areas.

In response to MS questions, COM said that they were looking to harmonise provision for 'Prior Notification' but this would be discussed at future meetings. On recognition of Border Controls Points (BCPs) several MS posed questions on what will change for the border inspection posts. COM said that the term border inspection post will be replaced, possibly with the term Border Control Point, which may encompass different entities where different checks are being performed for the various sectors. The recognition of these elements would be integrated using TRACES and consideration was being given as to how these should be listed. Approval of BCPs or their individual entities would be subject to a favourable audit inspection from the FVO. In relation to the overall responsibility for a BCP several MS preferred an official with a veterinarian degree to ensure that decisions on veterinary consignments are not superseded by non-experts.

In relation to the risk profiles for products, COM was aware of the definition of high and low risk food products and there will be different risk criteria in TRACES for the risk assessment for physical checks. DG SANCO is liaising with DG TAXUD to raise the health profile of goods and to consider health risk criteria for the safety and security check on the data contained in the Entry Summary Declaration.

On definitions of transit and transhipment COM said these had not yet been agreed and alignment with the MCC provisions was being considered. It was however expected that the detailed rules for these procedures would be in secondary legislation with the empowerment in the revised 882 Regulation. For safeguard measures, COM said that it would continue to react to such issues and for those products where a high risk was concerned, border controls would in such cases remain at the border and will have specific criteria set out in legislation.

MS asked if they would see any draft proposals for the amendments to 882. COM said that many meetings were being held internally and with MS on the proposed changes to 882, most recently a Seminar in Utrecht with Heads of Agencies. Draft proposals were still being drawn up and would not expect to be open for discussion prior to Commission agreement to proposals, currently expected to be in the third quarter of 2012.

2. ARTICLE 24 OF DIRECTIVE 97/78/EC - RE-ENFORCED CHECKS

Following the discussion during the last Working Group and the last Taskforce, the draft guidance document for re-enforced checks was reviewed taking into consideration the outcome of these discussions and of internal meetings with the colleagues dealing with RASFF and TRACES. The document was distributed as Revision 6 on 01.07.2011.

COM explained the changes to the document and the new Annex D. They explained the intention that TRACES could start a pilot project applying the re-enforced check regime from September 2011. Following the experiences with the pilot, further changes on the guidance document could evolve and would need to be considered. Therefore the guidance will only be presented to the SCFCAH for agreement, once the results and experiences from the pilot have been taken into consideration. For the time being, NL, DE and FR confirmed their participation in the pilot project while ES and UK wanted to discuss at first with their relevant competent authorities. BE, CH, CY, GR, IT and SI

agreed to participate in the pilot project whereas SE was refusing. Other MS agreed to submit their expressions of interest in writing after discussions at home and these would be submitted to COM by the end of the month (agreement to participation received from UK).

In response to MS questions, COM said that the procedures concerned may not involve going to 8 digits of the CN code and this would be looked into during the pilot as CH currently did not apply the same codes down to 8 digits. Their inclusion would depend on clarification of this question.

COM said that they had inserted a new section to 9.4 of the guidance document to clarify the procedures for repeated administrative errors and for the original notification data and CVED to be available to MS so that they were aware of the reasons for the notification which could be replicated for the ensuing consignments under the re-enforced checks programme. This included requirements for a re-enforced checks programme when consignments repeatedly failed documentary checks.

With regard to the current application of the 10 consignment rule (Article 24 of Directive 97/78/EC) COM clarified that the legislation specified the requirement to impound 10 consignments following a notification within the RASFF and that these should be subject to testing, and it was for MS to apply this. The draft agreed harmonised guidance procedure would be in application as soon as possible but in the absence of this it was for MS to apply the current legislative requirements.

In relation to the legal basis for the proposed procedure for small consignments (9.3 of the guidance), following a notification on a large consignment, there was no change to current practice as these would be subject to suspicion and could be checked in accordance with Article 20 of Directive 97/78/EC instead of Article 24. If an unfavourable result arose for these checks then a further Article 24 programme of re-enforced checks would apply. This was designed to deter the practice of sending a number of very small consignments, possibly through an airport, following notification on a large consignment in a port, thereby achieving 10 favourable results and lifting of a re-enforced check programme and trying to avoid further checks to large consignments on the water and coming to the EU.

On the issue of notifications of fraudulent practice, COM agreed to clarify the position with RASFF as to whether such cases, in particular if shortcomings concerning the labelling are detected, could be included in the re-enforced checks programme.

With regard to the notification procedures through RASFF, COM clarified that this would remain with the national contact points of the MS as this was an agreed practice and that any other procedure became too difficult to manage.

On a question on testing requirements and notification for processed animal protein (e.g. fish meal) COM explained these checks have to be done in accordance with sectoral legislation and the procedures have been laid down already in the old Regulation (EC) No 1774/2002. Now the procedures are in Section 2 of Annex XIV to Regulation (EU) 142/2011 and they detail, how processed animal protein should be sampled for microbiological tests (Salmonella, Enterobacteriaceae): the competent authority must sample each bulk consignment and carry out random sampling on packaged consignments. There is a derogation for bulk consignments, in case the first six

consecutive bulk consignments had favourable test results, the competent authority may carry out random sampling on subsequent bulk consignments.

If, however, one of the random samples had an unfavourable test result, the competent authority must inform the competent authority in the Third Country of origin to enable corrective action. If another test result is unfavourable, the BIP must sample each consignment from the same source until six consecutive favourable test results are achieved. The results of such unfavourable tests will not be submitted by a RASFF notification as there is no direct or indirect risk for human health (point 3.3 in the guidance document).

3. COMPOSITE PRODUCTS

In response to queries from MS COM had issued an Information Paper prior to the meeting. This clarified that if the animal product contained in any food item is not processed but raw, then the food item is subject to the relevant veterinary checks at a BIP required under EU legislation. If the status of the animal part was in any doubt then the importer should be asked to provide the necessary information or alternatively a physical test, including a laboratory test could be carried out at the BIP to determine this for suitable classification as raw or processed ingredient. COM clarified that if two different processed animal component parts of the composite product exceeded 50% then it should be subject to BIP controls with the certification required for the major part of the type of animal product.

For milk/dairy products these should come from an approved third country regardless of the percentage contained in the composite product. For milk/dairy products which are not shelf-stable, these should be subject to BIP controls regardless of the percentage. In response to MS COM clarified that if products such as sushi were categorised with different CN codes and thereby avoiding relevant border veterinary controls this matter would be clarified with DG TAXUD to see if the positive list (Annex I to Decision 2007/275/EC) needs to be amended to ensure these were identified as subject to veterinary border controls.

Additional clarification concerning the CN-codes to be used for sushi:

In general, if the quantity of the fish or crustacea in the product is more than 20 %, chapter 16 of the CN codes is applicable, which would mean 1604 or 1605. If the quantity of fish or crustaceae in the product is less than 20 %, chapter 19 is applicable, which would mean 19049010 would be the correct CN code.

Currently 19049010 is not included in 2007/275/EC and not in the certificate laid down in Regulation (EC) No 1250/2008 but COM is working on this and will include the CN code in the next amendment to the certificate as well as in the positive list.

With regard to ice cream, this was a dairy product and was not shelf stable so should be subject to the required BIP controls. Chocolate is exempted from BIP controls, however, the dairy component contained in the chocolate has to fulfil animal health conditions.

On the question for approval of establishments for composite products, COM clarified that according to the animal content of the composite product, the relevant establishment list is to be consulted, e.g. for meat product content the meat product establishment list.

For public health requirements for composite products containing milk/dairy products effective from January 2012, COM would clarify if an approved residue control plan was also a requirement for third countries. For triangular trade of milk/dairy products the third countries of origin must provide public health guarantees for the milk/dairy element of the composite product so that the relevant country of dispatch can certify the finished composite product.

Composite products containing fish would require animal health certification requirements for processed fishery products obtained from aquaculture only and not from wild caught fish.

For trade samples (Article 16-products of Directive 97/78/EC) there is a derogation from BIP checks but this does not mean they can come from non-approved countries if they are intended for human consumption.

COM said that it was their intention to amend the positive list to bring it into line with the current Customs Codes and this would be addressed in the next few months, however it was not the intention to amend the text of Decision 2007/275/EC.

4. TRACES ISSUES (PL)

COM reminded participants of the Guidance document on the animal health requirements for placing on the market, import and transit of aquaculture animals according to Council Directive 2006/88/EC and Commission Regulation (EC) No 1251/2008. After the introduction of multiple CN codes in TRACES for products, some BIPs are now accepting and issuing CVEDs for multiple species for ornamental purposes, e.g. on the same certificate fish, molluscs and crustaceans together. Therefore COM asked the participants to remind their BIPs that according to the Guidance document, the same HS codes apply to all the animals of the consignment, e.g. 0301: live fish, 0301 10: ornamental fish, 0306: crustaceans, 0307: molluscs.

In addition COM informed that already now TRACES provides the possibility to create the Common Entry Document (CED) for checks on food and feed of non-animal origin.

5. MISCELLANEOUS/ DIVERS /VERSCHIEDENES (PL/MG)

A) <u>Import of hay and straw for technical use:</u>

In response to Poland, Article 19 of Council Directive 97/78/EC obliges the Commission to draw up a list of plant products which, in particular on account of their subsequent destination, may give rise to the risk of spreading infectious or contagious animal diseases. More detailed requirements for these products are provided for in Article 9 of Commission Regulation (EC) No 136/2004. According to this, the hay and straw are on the list of such products as laid down in Annex IV to that Regulation and the third countries, from which the import of hay and straw may be allowed, is laid down in Annex V to the same Regulation.

Article 9 of Regulation (EC) No 136/2004 details that hay and straw have to be presented to the BIP for veterinary checks independent from their use, e.g. for bedding, feeding or technical use. It is the task of the BIP to establish during their checks that the relevant consignment does not provide a risk of spreading infectious or contagious animal diseases in verifying the origin and the planned destination of the relevant consignment.

B) Checks on transhipments

B.1) Checks on transhipments going to third countries directly from Portal BIPs

COM asked if MS who wished to take advantage of the extension of the minimum period for consignments transhipping EU portal BIPs going to third countries from 7 to 14 days, have developed their plans on how to monitor those consignments and to ensure that the time periods and the onward destination as indicated in the prior notification are respected, in compliance with their obligation under Article 3 (2) B of Commission implementing Decision 2011/215/EU. COM offered MS that in co-operation with the FVO, they would evaluate such plans prior to their presentation in SCFCAH and to ensure that the FVO are well informed before visiting the BIPs of MS.

NL asked COM how they could assure consignments do not leave to another BIP. COM clarified that such consignments should be monitored in order to prevent the consignment from being loaded into a vessel that is destined to another EU-port but it should be loaded into a vessel that is destined directly to a third country.

IT said that they were working on a plan but like NL they did not have access to relevant data to ensure the consignments left the BIP as this was only available to Customs who currently do not have access to TRACES. COM concluded that relevant exit controls could be delegated to customs, however, a documented procedure for this and such controls should be in place. In addition, COM reminded the obligation for pre-notification of such consignments as this would be the basic principle for a functioning monitoring plan.

B.2) Transhipments through several BIPs going to third countries via EU territory

COM clarified that the unloading of consignments in bulk from a third country vessel into container and then destined to a third country is not to be considered as a transhipment with derogation from veterinary checks for certain time periods. Additionally, if transhipments pass through several EU ports before they are imported or leaving to a third country, the relevant check frequencies have to be respected.

C) Health certification for import of horses

BE asked for clarification on certification for horses for breeding purposes and if they could be imported on a Group certificate similar to horses imported for slaughter. COM clarified that a Group certificate was only allowed for horses for slaughter; all other horses require individual health certification and individual CVEDs.

In response to GR, for horses exiting an EU Member State for temporary reasons, they must re-entry through a BIP, where veterinary checks are carried out and have a CVED is issued. While they will not concern a visit through another Member States this may not be the case after arrival back into the EU. A re-entry certificate should also be used as set out in Decision 93/195/EC.

D) Imports of fully treated pet food from China.

COM clarified to MS that imports of finished pet food is allowed but China must have a list of approved establishments and must also be accompanied by the appropriate health certificate set out in Chapter 3A of Commission Regulation (EU) No 142/2011. All other raw materials etc are prohibited by Decision 2002/994/EC.

E) Imports of ostrich eggs and export of 100 day old eggs

These queries would be answered bilaterally when more information was available.

F) Other questions:

UK asked for clarification on imports of fishing bait in commercial consignments and COM promised to publish this issue on the website for border veterinary control.

NL stated that they have problems with Article 17 (1) of Directive 97/78/EC which does not allow consignments found at destination in MS, which by-passed the BIP-controls, to represent them to a BIP but only provides for destruction or re-dispatch of such consignments. COM agreed to look into this, asked for further information and invited MS for proposals to be considered within the review of the import control legislation.

Several MS asked for the status of the mini Task Forces in relation to further discussions on the review of the import control legislation and COM agreed to send an updated version of the tables and ask for further contributions from those MS, who had not yet answered by 15th July 2011.

(signed)
G6 – Import Controls

Encl: Minutes of the Task Force meeting on 23 June 2011
List of distributed documents

Cc: Experts in 27 MS, Norway, Iceland, Switzerland, Faroe Islands + ESA, B. Van Goethem, E. Poudelet, M. Scannell, B. Gautrais, M. Valletta, T. Gumbel, C. Garau, L. Terzi, P. van Geldorp, A. Laddomada, K. Van Dyck, E. Strickland, J. Lepeintre, G. Gallhoff, C. Laso Sanz, G. Maréchal, N. Guth, D. Carton, K. Kroon, P. Bernorio, W. Demel, M. Klemencic, L. Kuster, A.E. Füssel, B. Logar, S. Cabot, H. Klein, M. Pittman, J. Baele, L. Johanson, F. Volpi, S. Curzon, C. Bennett, A. Ramirez Vela, R. Matejcik, M. Dodic, I. El Busto Saenz, M. Cronin, A. Berends, K. Kadner, M. Wils, G. Jennes, D. Kjolsen, Unit G6.