EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

Food chain: stakeholder and international relations
Multilateral international relations

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FINAL NOTE FOR THE FILE

Subject: **Summary Report of the Expert Group on veterinary import controls legislation "veterinary checks" – 14.09.2016**

Participants: **Veterinary representatives from all Member States except Cyprus, Hungary and Malta, and from Norway and Switzerland.**
Commission Personnel (DG SANTE): Patricia Langhammer (D2), Bruno Saimour (D2), Didier Carton (G5), Gudrun Gallhoff (G3), Izaskun El Busto Saenz (F4), Benoit Sauveroche (F2), Laszlo Kuster (G2), Pierangelo Bernorio (G2), Hanne Hansen (G2), Ewa Camara (G2), Kaido Kroon (G3), Nicolas Guth (D3).

Introduction:

COM welcomed Member States (MS) to the meeting and presented the updated Agenda, to which two additional points were added, as attached.

1. REVIEW OF LEGISLATION

COM informed that the work on the draft Official Control Regulation (OCR) in the Council's Joint Working Party of Veterinary Experts (Public Health) and Phytosanitary experts is on its way to finalize. The draft regulation was endorsed by COREPER on 22 June 2016 and by the EU Parliament on 12 July 2016. It is now being reviewed by the Legal Service for linguistic corrections, which will be followed by the formal adoption of the Council and the Parliament and the translation of the document. The publication is expected in March 2017 and the entry into force in March 2020.

COM delivered a presentation on the empowerments for implementing and delegated acts of the OCR. According to the legal procedures in place, implementing acts will need to be discussed in Working Groups before being presented for a vote to the Standing Committee on Plants, Animals, Food and Feed, while delegated acts will need to be discussed in Expert Groups with the involvement of the EU Parliament. MS were informed that general import control related topics could be discussed in plenary groups with the participation of representatives of all sectors, while specialised topics could be drafted and discussed in smaller groups (task forces).

2. RE-ENFORCED CONTROLS

COM gave a presentation of the re-enforced check regime (REC) in TRACES and indicated that around 65% of RECs are launched by MS, against 35% launched by COM. The RECs launched by COM are mainly based on market controls for which MS tend to forget to propose REC measures. Nevertheless, from the beginning of 2016, the rate of RECs launched by MS tends to improve (78%).

COM reminded MS that Vietnam and India are submitted to tougher measures. In case of non-compliant fishery products with forbidden substances listed in Table 2 of the Annex to Regulation (EU) No 37/2010, the relevant establishment of origin is withdrawn from the list of establishments authorised to export to the Union. Nevertheless, those establishments are immediately placed under imposing checks for the consignments which would arrive in the Union before the suspension of certification has been implemented. Since the start of these measures, two establishments have already been delisted, one from Vietnam and one from India.

COM explained that, even if provisions on ciguatoxin appear in Section VIII of Annex III to Regulation (EC) No 853/2004, they are not in a sound position to launch any REC, as there is currently no standardised laboratory method for the detection of ciguatoxin.

COM reminded that, if evidence appears that a REC has been wrongly launched, it is important to inform COM as quick as possible so that the REC might be erased before the very first consignments are blocked at the EU borders.

3. OVERVIEW ON DIRECTORATE F AUDITS ON NON-HARMONISED ANIMALS

COM presented the conclusions from the audits to evaluate controls on animals for which no harmonised EU conditions have been laid down.

Several MS stated that it would be more convenient to lay down animal health import rules at EU level for all animal species for which EU trade conditions are set, and to reach a "full harmonised" situation. COM answered that they tried to harmonise these import conditions some years ago but it was very difficult to find agreement between the Member States. In addition, it could be seen as a waste of time and energy to harmonise species with a very low impact on EU animal health protection.

ES and UK reminded that animal health is not the only issue as some other conditions may need to be harmonised, involving for example human health or animal welfare.

COM informed that the Slovakian presidency tabled a document on the "Improvement of the effectiveness of official controls of consignments of non-harmonised goods" during the CVO meeting last week. The document proposes a system of communication of national requirements between the Member States, so that the BIPs can be correctly and easily informed.

4. TRACES ISSUES

a) CVEDA and CVEDP

A revised version of the draft CVEDA and CVEDP had been distributed before the Expert Group and written comments were provided from DE and UK. COM went through the documents and Member States provided additional comments to boxes I.1, I.8, I.19, I.23, I.29, II.3, II.9, II.16 and III.2 of the CVEDA and to boxes I.6, I.8, I.9, I.16, I.18, I.19, I.20, I.21, I.22, I.25, I.26, I.29, II.3, II.6, II.9, II.16, II.18 and III.2 of the CVEDP.

Concerning the wording "Union country" and "non-Union country", COM explained that the reference to EFTA countries was removed according to the opinion of the Legal Service. The assimilation of certain partner countries in the "Union category" is explained in the relevant Agreements with the EU and does not need to be repeated in other legal acts.

ES and DE asked the possibility to launch queries in Data Warehouse and Qlikview with more detailed criteria than CN codes. They would like to use certain types of products or subcategories entered in box I.29, such as animal species, animal by-products or wild/farmed origin.

Some further explanations were given on the future procedure for supervision of movements of registered horses temporarily admitted into the Union from non-Union countries. This procedure is provided in a draft Regulation on the conditions for the introduction of live equidae into the Union, discussed on the same day in the Standing Committee on Plants, Animals, Food and Feed. It foresees that TRACES will have to be adapted in order to enable tracing of such horses during their temporary admission. In the draft Regulation a double system of certification is foreseen, the relevant health certificate issued by the non-Union country and the CVEDA issued at the BIP, including its part III for subsequent movements' records, using means of TRACES, due to the complex supervision of movements of these horses.

b) Import certificate

A revised version of the draft import certificate had been distributed before the Expert Group. COM explained that the draft has been adapted in box I.7 to cater better for triangular trade. During the detailed presentation the draft document, Member States provided additional comments to boxes I.7, I.18, I.19, I.20, I.22 and I.25.

Concerning the movement towards e-certification, DE outlined that a paper copy of the e-certificate needs to be maintained in parallel while ES supported the steps towards e-certification.

5. TAXUD ISSUES

COM reported that the EU-CVED Single Window Project is evolving and now eight Member States are participating (CZ, IE, PL, SI, LV, BG, CY and LT) while four Member States (AT, NL, FR, DE) have expressed interest in the project.

The works in TRACES NT to host the Certificate of Organic Inspection (COI) and the FLEGT certificate continue and DG TAXUD is preparing together with DG SANTE and the

other DGs involved (AGRI and ENV) the business case for electronic exchange of information of these two certificates and further certificates to be considered in future.

In addition, DG TAXUD and DG SANTE continued to follow up on their joint visits to CZ, IE and LV regarding the implementation of the EU-CVED Single Window and they have prepared a Guideline[1] to help Member States implementing the automated exchange of information. In addition, a joint visit of the two DGs to SI is planned for October.

6. MISCELLANEOUS

a) Update of BIP list

COM informed that the last update to the BIP list (SANTE/10859/2016) is in inter-service consultation and will be presented to the upcoming Standing Committee on Plants, Animals, Food and Feed in October.

b) Labelling issues

COM received several questions regarding the labelling requirements according to Regulation (EU) No 1169/2011 and the need for checking them at the BIP. COM clarified that the presentation of a consignment at a BIP corresponds to Article 8(7) of Regulation (EU) No 1169/2011, which refers to "*food intended for the final consumer but marketed at a stage prior to sale to the final consumer*". At this stage, the only mandatory particulars that must appear on the external packaging are the name of food, the date of durability, the special conditions for storage and use, and the name and address of the food business operator. All the other particulars may appear on the packaging or on the label or on any commercial documents accompanying the food or sent by other means to the food business operator.

COM reminded Member States that, according to Article 14(1) of Regulation (EC) No 882/2004, official controls on aspects of food law that Directive 97/78/EC does not cover shall be carried out in BIPs as appropriate. The control of the labelling requirements laid down in Regulation (EU) No 1169/2011 is part of such controls that are not covered by Directive 97/78/EC and according to Article 14(1), they should be performed as appropriate. It means that it is up to each Member State to organise those controls either in BIPs, or later in other points of the food chain, at the frequency they consider as appropriate. However, it has to be ensured that they are carried out before the products are sold to the final consumer.

NL asked if it can be accepted that an approval number of an EU establishment is placed next the approval number of the establishment in the non-EU country of origin on the label of imported products. COM replied that, according to Section I of Annex II to Regulation (EC) No 853/2004, the identification mark must be legible, clearly displayed, easily decipherable and refer to the last establishment, in which the products were further processed or their packaging and/or wrapping had been removed. Therefore, the products must be refused where the label is confusing and the identification mark cannot be understood properly.

[1] The draft EU SW-CVED Guideline was sent by DG TAXUD to Member States for review on 19.09.2016 (ARES(2016)5437273) and will be discussed in the Customs Business Group on 13.10.2016.

c) Import conditions of various animal products

On request from several Member States, COM clarified the import conditions for the following products:

- Hay and straw: processed or not, hay and straw have the same import conditions and they must checked in BIPs.

- Empty gelatine capsules: they have the same import conditions as for gelatine for human consumption.

- Meat extracts and meat powders for human consumption: they are considered as meat products and must comply with the import conditions for meat products.

- Cuttle-bones with flesh for birds feeding: they need to be accompanied by health certificate 3B of Annex XV to Regulation (EU) No 142/2011, if they have been processed accordingly, or by certificate 3D of the same Annex, if they have not been processed.[2]

- Alcoholic beverages with products of animal origin: the product of animal origin needs to originate from an approved non-EU country with an approved residue control plan and from an approved establishment.

COM informed that SANTE G4 has prepared an option paper on import conditions of products of animal origin, for which no specific requirements have been laid down in Annex III to Regulation (EC) No 853/2004, which will be discussed in a working group on 23rd September. COM asked MS to liaise with their colleagues responsible for public and animal health to provide meaningful input to the discussions in that working group.

d) Certification issues for consignments from NZ

COM explained that the welfare attestation according to Article 12 of Regulation (EC) No 1099/2009 aims at the protection of slaughtered animals, whatever the use of their meat, for human consumption or for animal by-products (ABP). This principle is applicable to any non-EU country exporting such meat to the EU and therefore Regulation (EU) No 142/2011 was amended by Regulation (EU) No 717/2013 to change the model certificates 3D, 3F and 8 laid down in Annex XV to Regulation (EU) No 142/2011.

In the case of NZ, equivalence has been agreed between a non-EU country and the EU and there is a special process concerning the predictability of arrangements within the Agreement. In case of a relevant legislative change (i.e. Regulation (EU) No 717/2013), one side needs to inform the other side and then a specific exercise starts, during which the new measure is assessed in the scope of the equivalence. This maintenance of equivalence exercise has not yet been carried out in relation to the animal welfare attestations in certificates in Regulation

[2] After the meeting, COM clarified that cuttle-bones which are dry and do not contain any flesh or soft tissue are included in the derogation provided for in Article 2(2)(f) of Regulation (EC) No 1069/2009 and that there are no EU import requirements. This has been clarified as well in Decision (EU) 2016/1196 which will lead to an exclusion of dry cuttle-bones without flesh or soft tissue from BIP checks as from 1st January 2017.

(EU) No 717/2013 and therefore the model certificates for equivalent products laid down in Decision (EU) 2015/1901 do not contain the animal welfare attestation for certain animal by-products based on established equivalence.

Decision (EU) 2015/1901 is in force and a bunch of specific model certificates, based on the generic model laid down in that Decision, have been agreed by both sides (and are entered partly already in TRACES). These models were sent to the Member States for comments a while ago and no reply indicated the missing animal welfare attestation. However, the Commission is aware of this and will raise it with NZ.

On request of UK, COM clarified that the channelling procedure as described in Article 8(4) of Directive 97/78/EC is not referred to in the Agreement with NZ and therefore, it is applicable for all cases described in Regulation (EU) No 142/2011.

In addition COM clarified that certificates for all products, for which equivalence exists, are laid down in Decision (EU) 2015/1901 and they will be introduced in TRACES (e.g. dairy certificate). COM started already to introduce these certificates in TRACES, however, this task has not yet been completed and therefore, there are some mistakes in different language versions of the certificates in TRACES, which will be corrected soon. The introduction of certificates for all equivalent animal products is expected to be finalised by the end of this year. Certification for products, for which no equivalence has been agreed with NZ needs to be based on the relevant EU model certificate for that product, e.g. honey.

A discussion arose on the legality of the health certificates in TRACES and COM clarified that Recital (31) together with Section 3 of Annex VII to Decision (EU) 2015/1084 provides the legal basis for electronic certification between the E-cert system used by NZ and TRACES.

As explained in the last expert group the text for box I.21 of the certificates has been changed with a reference to an "official" seal. NZ did not agree to accept a more detailed explanation regarding official seals as they consider that official seals have been affixed under the supervision of the competent authority. In addition, NZ issued a legal notice to exclude unofficial seals from being recorded on the EU certificates, e.g. for dairy products. However, NZ plans for the future the use of official seals in the case of export of dairy consignments to the EU. In short, if a seal number is on the health certificate, Member States may carry out a seal check only, however, if no seal number is on the health certificate, Member States have to carry out a full identity check and should not request to NZ to put a seal number, as there is no official sealing foreseen by the NZ legislation for all categories of animal products.

e) CN codes listed in notes to box I.19 of the model health certificates

SI asked a question concerning the health status of bee pollen for human consumption. COM clarified that, although from plant origin, pollen is listed in Decision 2007/275/EC under CN code 1212 99 95 and it is subject to veterinary checks in border inspection posts.

Pollen is mainly used as food complement for human consumption. It is collected in beehives, which explains that the health risk from pollen is directly linked with apiculture. Consequently, the health conditions for importation of pollen are linked to those for importation of honey, which appears in the wording used in Regulation (EU) 2016/759, where it reads "honey, royal jelly and other products of apiculture for human consumption" in Recital (7), in Article 1 regarding the list of third countries and in Article 2 for the model

certificate. CN code 1212 99 95 was forgotten in footnote I.19 of the certificate of Part VII of Annex II, but the above wording is clearly mentioned in the certificate title and Member States were reminded that the CN codes listed in footnote I.19 in the model certificates are only indicative and not exhaustive.

f) Import of fishery products from reefer vessels

DK informed Member States how they proceed in case of import of fishery products originating from non-listed reefer vessels. They contact the flag state of the vessel and encourage them to start the listing procedure with simultaneous information of the Commissions' services and DK asked Member States to follow the same procedure to ensure harmonised application of the approval requirement for reefer vessels. COM encouraged Member States to follow the Danish procedure and reminded participants that there is no transitional period for the approval of reefer vessels.

g) Controls of non-conforming US consignments to NATO bases

On request of DE, COM clarified that in relation to transit consignments the seal indicated on the health certificate issued by the competent authority of the non-EU country of origin has been affixed under the supervision of that competent authority and a seal check may be carried out by the border inspection posts. This approach should be maintained until the legal basis will be better clarified in the implementing legislation to the Official Control Regulation.

DE questioned if non-conforming consignments destined to NATO bases can be stored in a warehouse, which is not approved as customs warehouse provided that there is a national customs procedure in place to ensure that customs supervision is guaranteed. COM clarified that there is no legal basis for a derogation from the requirements laid down in Article 12 of Directive 97/78/EC and non-conforming consignments can only be stored in approved customs warehouses, which are also approved under that Article and in which the relevant control and supervision of the veterinary authorities is guaranteed.

COM concluded the meeting and informed that they will try to set up the next meeting in December 2016.

(signed)
D2 – Import Controls

Encl: Agenda
List of distributed documents

Cc: Experts in 28 MS, Norway, Iceland, Switzerland, Faroe Islands + ESA, M. Scannell, S. Juelicher, B. Van Goethem, F. Andriessen, B. Gautrais, E. Zamora Escribano, A. Gavinelli, E. Thevenard, P. Loopuyt, E. Strickland, K. Elliott, K. Van Dyck, K. De Smet, P. Caricato, G. Gallhoff, C. Laso Sanz, S.

Perucho Martinez, G. Maréchal, N. Guth, A. Dionisi, J. Bloemendal, S. Andre, R. Scalia, D. Carton, K. Kroon, P. Bernorio, H. Hansen, H. Klein, A.E. Füssel, L. Kuster, B. Logar, M. Klemencic, E. Camara, R. Span, J. Baele, B. Sauveroche, I. El Busto Saenz, T. Theoharis, J. Maciulyte, T. Voynova, I. De Stobbeleire, M. Wils, G. Jennes, Unit D2.

EXPERT GROUP ON VETERINARY IMPORT CONTROLS LEGISLATION
"VETERINARY CHECKS"
14 September 2016

– AGENDA –

1) Review of legislation
2) Re-enforced controls
3) Overview on Directorate F audits on non-harmonised animals
4) TRACES issues
    a) CVEDA and CVEDP
    b) Import certificate
5) TAXUD issues
6) Miscellaneous
    a) Update of BIP list
    b) Labelling issues
    c) Import conditions of various animal products
    d) Certification issues for consignments from NZ
    e) CN codes listed in notes to box I.19 of the model health certificates
    f) Import of fishery products from reefer vessels
    g) Controls of non-conforming US consignments to NATO bases