



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

DG(SANCO)/ 2008-7758 - MR - FINAL

FINAL REPORT OF A MISSION
CARRIED OUT IN
SWITZERLAND
FROM 08 SEPTEMBER TO 12 SEPTEMBER 2008
IN ORDER TO
EVALUATE IMPORT/TRANSIT CONTROLS AND BORDER INSPECTION POSTS

*Please note that factual errors in the draft report have been corrected in response to comments by the
Competent Authority.*

Executive Summary

This report describes the outcome of a mission carried out by the Food and Veterinary Office (FVO) in Switzerland, from 8 to 12 September 2008.

Its overall objectives were to assess progress made in amending currently applicable national measures to be compliant/equivalent to EU provisions in respect of import and transit controls, with the establishment of and operations at Border Inspection Posts (BIPs), and to monitor progress in implementation of the commitments made in this regard in response to the previous mission in this area.

The report concludes that significant progress has been made in fulfilling the commitments given to implement an import control system equivalent to that applied in the EU and to address shortcomings identified in the previous mission.

The import controls applied in the proposed BIPs are generally equivalent to those in the EU. Some relatively minor deficiencies were detected and a commitment to address these was given by the CCA. While a manual of procedures has been produced, the level of guidance for some problematic issues is insufficient.

Notwithstanding the progress made in implementing an equivalent system the documentary evidence of destruction of refused consignments and catering waste from international means of transport is incomplete. Regarding checks on passenger luggage, the rules for import are stricter than EU rules, however, the situation is still not fully satisfactory regarding the documentary evidence of destruction of seized products of animal origin from passenger luggage.

Regarding the proposed BIPs, once the minor deficiencies for fittings and equipment have been rectified, the BIP at Zurich should comply with requirements for all categories for which approval is sought and the BIP at Geneva should comply for animal products. Although the facilities for live animals category (O) at Geneva provide the necessary rooms, the layout is not ideal. However, the risks have been addressed by written procedures and in light of the current consignments may be considered acceptable.

The report makes a number of recommendations addressed to the Swiss competent authorities, aimed at rectifying the identified shortcomings and/or further enhancing the control measures in place.

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ABBREVIATIONS & SPECIAL TERMS USED IN THE REPORT

| Abbreviation | Explanation |
|-----------------------------|---|
| Approval categories | <p>Categories of live animals and animals products for the receipt of which BIPs are approved in accordance with Commission Decision 2001/881/EC, as follows:</p> <p>HC Products fit for human consumption</p> <p>NHC Other products (Products not fit for human consumption)</p> <p>T(FR) Frozen products</p> <p>NT No temperature requirements</p> <p>U Live animals: ungulates (cattle, pigs, sheep, goats, wild and domestic solipeds)</p> <p>E Live animals: registered equidae (as defined in Council Directive 90/426/EEC)</p> <p>O Live animals: other animals (including zoo animals)</p> |
| BIP | Border Inspection Post as defined in Council Directives 97/78/EC and 91/496/EEC |
| CA | Competent Authority |
| CCA | Central Competent Authority |
| CITES | Convention on International Trade in Endangered Species of Wild Fauna and Flora |
| CN-code | The goods nomenclature code as laid down by Annex 1 to Council Regulation (EEC) No 2658/87 (i.e. the Combined Nomenclature) |
| Customs | National Customs Authority |
| CVD | County Veterinary Directorates |
| CVED | Common veterinary entry document for products of animal origin as laid down in Annex III to Commission Regulation (EC) No 136/2004 and for live animals as laid down in Annex I to Commission Regulation (EC) No 282/2004. |
| Decision on the consignment | The decision made by the OV at the BIP and entered on the CVED, as to the outcome of veterinary checks and the resulting fate of consignments. |
| FVO | Food and Veterinary Office |
| Kitchen waste | Catering waste from means of transport operating internationally |

| Abbreviation | Explanation |
|----------------|---|
| | as defined in Art. 4 (1) (e) of Regulation (EC) No 1774/2002 |
| Manifest | A document specifying in detail the items carried by boat, rail or aeroplane arriving in ports/rails/airports of destination for a specific destination |
| POAO | Products of Animal Origin |
| Positive list | List of commodities of animal origin which are subject to veterinary checks in BIPs, as specified in Commission Decision 2007/275/EC |
| RASFF messages | Messages used in the Rapid Alert System for Food and Feed of the European Commission |
| TRACES | TRAde Control and Expert System introduced by Commission Decision 2004/292/EC |

1 INTRODUCTION

The mission to Switzerland took place from 8 to 12 September 2008. The mission team comprised two inspectors from the "Food and Veterinary Office" (FVO) and a national expert. The mission was carried out as part of the FVO's planned mission programme. During the mission, the inspection team was accompanied by representatives from the Central Competent Authority (CCA), the Swiss Federal Veterinary Office (SFVO) and Customs.

An opening meeting was held on 12 September 2008 with the CCA, representatives of the regional authorities and Customs. At this meeting, the inspection team confirmed the objectives and itinerary for the mission. The information required for the satisfactory completion of the mission was provided by the CCA in advance of the mission.

2 OBJECTIVES OF THE MISSION

The **objectives** in the context of the application of EU import / transit requirements in Switzerland were:

(1) To assess the system in place:

1. concerning control procedures for imports and transit of live animals and products of animal origin (POAO) and related issues including measures to prevent illegal imports,
2. concerning facilities, equipment, staffing and operations at planned BIPs;

(2) To assess to what extent currently applicable national measures are compliant/equivalent to the EU import/transit requirements, and to identify remaining discrepancies.

The mission **scope** covered the import/transit control system at central and local level including various categories of entry points and the system to prevent and detect illegal imports.

In terms of the **criteria** applied, the assessment was undertaken against the requirements set out in Council Directives 97/78/EC, 91/496/EEC and the relevant implementing Decisions and Regulations. Also against Commission Regulation (EC) No 745/2004, Regulation (EC) No 882/2004 of the European Parliament and of the Council, Regulation (EC) No 998/2003 of the European Parliament and of the Council, Council Directive 2002/99/EC) and the Agreement between the European Community and the Swiss Confederation on scientific and technological cooperation (hereafter: the Agreement).

The mission itinerary in pursuit of the above objectives can be summarised as follows:

| |
|------------------------------|
| Competent Authorities |
|------------------------------|

| Central | √ | Opening and closing meeting and interviews in the course of BIP visits. | | | | |
|--|---------|--|---------------|-------------------------------|---|--|
| Regional/Local | √ | | | | | |
| planned Border Inspection Posts | | | | | | |
| Location | Type | Approval planned for categories as provided for in Commission Decision 2001/881/EC | Number of ICs | Consignments incoming in 2007 | Consignments in transit exiting in 2006 | |
| Geneva | airport | IC 1: HC(2) and NHC, IC 2: O | 2 | 1430 | na | |
| Zurich | airport | IC 1: NHC, IC 2: HC(2), IC 3: O | 3 | 6574 | na | |
| | | | | | | |

3 LEGAL BASIS FOR THE MISSION

The mission was carried out with the agreement of the competent authorities of Switzerland and followed:

- the general rules of Community legislation,
- the provisions foreseen in Art. 16 and Appendix 9 of Annex 11 (animal health and zootechnical measures applicable to trade in live animals and animal products) to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products within the Agreement.

Legal acts quoted in this report are provided in Annex 1 and refer, where applicable, to the last amended version.

4 BACKGROUND

This mission was carried out to assess progress made in response to mission report DG SANCO 2007-7296 hereafter report 2007-7296 in November 2007 regarding import/transit controls of live animals and products of animal origin the action plan provided in response to this report was judged to provide satisfactory assurances regarding the recommendations made.

It is planned to amend the Agreement in order to avoid the necessity for veterinary border controls of veterinary consignments originating in Member States and destined to

Switzerland and vice versa. A pre-requisite for ending these controls with Switzerland, is that an assessment should be made on the basis of Swiss controls conducted under Swiss legislation that has been found compliant/equivalent to EU import control legislation.

There are currently seven border inspection posts where veterinary checks are carried out; two of them (the major airports) will remain in use in future for the introduction of veterinary consignments originating from third countries.

5 MAIN FINDINGS

5.1 COMPETENT AUTHORITIES

5.1.1 Management structure and organisation of CCA/CA

The responsibilities for import controls rest with the Swiss Federal Veterinary Office (SFVO). Within the SFVO the International Affairs Division has responsibility for import controls for all POAO and live animals. This is not yet reflected in Part A of Appendix 7 of Annex 11 to the Agreement.

The organisation of the Swiss Federal Custom Administration (FCA) within the Ministry of Finance, is as described in report 2007-7296.

5.1.2 Allocation of competencies among CAs

- The Internal Affairs Division within the SFVO is responsible for providing guidance and information to staff at BIPs, drafting new legislative measures and for administrative and operational control of the BIPs. The Federal Food Chain Unit (FFCU) within the SFVO, has responsibility for auditing the activities of the BIPs.
- At central level of the SFVO there is an EU Desk which monitors new legislation emanating from the EU institutions and is responsible for ensuring that suitable measures are taken to apply equivalent provisions in Switzerland.
- Officials at BIP level are direct employees of the SFVO and are under the operational command of the CCA.
- Responsibility for the checks of personal baggage for POAO and for non-commercial pet animals rests with Customs at all entry points, although in some cases the SFVO carry out joint checks with Customs for POAO. The SFVO, also decides what action should be taken in those cases where non-commercial pet animals checked do not meet the legislative requirements.
- The supervision of the destruction of kitchen waste and for ensuring correct disposal of seized consignments is the responsibility of the Cantonal level of the SFVO who have responsibility for authorisation and approval of the relevant facilities and for supervision of correct destruction.

5.1.3 Staff and training

- At central level there are five veterinarians and two administrators working in the area of import controls as was the case in mission 2007-7296.
- At the two planned long-term BIPs there are in total 10 veterinarians working under various contracts to provide a whole time equivalent of 6.5 staff. This represents an increase of 0.5 whole time equivalents. No administrators or auxiliaries are employed at these BIPs. It must be noted that a considerable increase in traffic at the BIPs can be anticipated as the full range of products foreseen under EU legislation is now being checked this will have an effect on staff requirements which cannot be fully assessed at this stage..
- Further training for BIP staff in relation to EU import control procedures was provided in 2008 both internally and as part of the EU training on import controls. This training was documented and verified on the spot. Additionally, according to the CCA, a budget has been allocated to provide structured training and a qualification as an official veterinarian this has started in one of the BIPs and will be rolled out fully during in 2009.
- Training of Customs officials is also provided by the SFVO in relation to import controls of POAO and live animals.
- Notwithstanding this training the findings of the mission in relation to certain aspects of import control procedures indicate that in a number of areas, notably the execution of documentary checks and the rejected and re-import procedures, the training did not provide sufficient guidance.
- The main topics of training for 2009 have been decided although its detailed planning and implementation has not yet been finalised.

5.2 LEGISLATIVE AND ADMINISTRATIVE PROVISIONS

5.2.1 Transposition/effectiveness and speed of application of EU legislation

As described in report 2007-7296 a number of legal instruments are in place to provide a legal basis for controls on imports of live animals and POAO equivalent to what is foreseen under the provisions of EU legislation. These are the Verordnung vom 18. April 2007 über die Ein-, Durch- und Ausfuhr von Tieren und Tierprodukten (EDAV), the Verordnung des EVD vom 16. Mai 2007 über die Kontrolle der Ein- und Durchfuhr von Tieren und Tierprodukten (EDAV-Kontrollverordnung), the Verordnung vom 18. April 2007 über die Ein- und Durchfuhr von Tieren aus Drittstaaten im Luftverkehr (EDTV), the Verordnung vom 18. April 2007 über die Ein- und Durchfuhr von Tierprodukten aus Drittstaaten im Luftverkehr (EDTpV), the Verordnung vom 18. April 2007 über die Einfuhr von Heimtieren (EHtV) and the Verordnung vom 30. Oktober 1985 über die Gebühren des Bundesamtes für Veterinärwesen.

- There have been a number of updates to the above legislative instruments in place to address the shortcomings identified in the last mission. Work in this regard commenced in January 2008 the process was completed by August 2008 and the necessary measures will all enter into force by October 2008. The Amendments to the EDAV-Kontrollverordnung entered into force in September 2008.

This updated legislation, according to the limited assessment carried out by the mission team, is now largely equivalent to the relevant EU legislation. The mission team, however, noted a number of areas where further alignment is required.

- There is now a legal basis for the performance of the transit checks foreseen in EU legislation on POAO entering Switzerland and transiting to a third country through a MS or vice versa in Art. 18 of the EDTpV and the same legal Act provides for checks of non-EU conforming products destined to warehouses approved under Artt. 12 and 13 of Directive 97/78/EC. No measures, however, have been put in place to implement the requirements of Commission Decision 2000/571/EC especially in regard to such consignments being consigned directly for ship supply to a vessel.
- Equivalent Swiss provisions taking into account the amendment to Regulation EC No 745/2004 introduced by Regulation EC No 132/2008 have not yet been put in place.
- A procedure equivalent to the channelling procedure described in Art. 8 of Directive 97/78/EC has been developed to monitor relevant consignments destined for establishments in Switzerland. However, no arrangements have been developed to deal with such consignments where the destination is in an EU MS or to deal with the situation where such consignments destined for Switzerland are introduced through a BIP in an EU MS.
- The definition of consignment included in Art. 2 of the EDAV has been amended to be in line with Art. 1 of Directive 97/78/EC.
- The requirement that imported consignments originate in countries with an approved residue plan compliant with the provisions of Commission Decision 2004/432/EC has been included in the revision of the EDTpV.
- The import requirements specified for NHC products in the Annexes to Regulation (EC) No 1774/2002 of the European Parliament and of the Council have been included in the amendments to the EDAV-Kontrollverordnung.
- The list of POAO and live animals subject to veterinary checks at BIPs laid down in Commission Decision 2007/275/EC has been included in the amendments to the EDAV-Kontrollverordnung .
- Artt. 40 and 41 of the EDAV which provided for additional procedures (conditional release of a consignment if there are certain minor irregularities and seizure), not foreseen in the provisions of EU legislation have been revoked.
- Provisions to apply less frequent physical checking on fully harmonised products as is provided for in Art. 10 of Directive 97/78/EC have been put in place in the revised BIP manual currently applied.

- Negotiations are ongoing in relation to negotiating bilateral agreements with those third countries with whom the EU has negotiated equivalency agreements.

5.2.2 Administrative provisions for implementation

- No specific administrative measures have been developed to ensure that BIPs are constructed and maintained under conditions equivalent to those specified in Artt. 6 of Directive 91/496/EEC and Directive 97/78/EC.
- Considerable work has been carried out in the development of a manual of procedures and although the task is not complete the document available already provides considerable guidance to staff. Nonetheless, the document has not been completed for both BIPs and the guidance provided in some areas is not sufficiently clear. Notably in the area of application of reduced checks and regarding procedures for reinforced checks as foreseen in Artt 10 and 24 of Directive 97/78. In light of the findings of the mission other areas as described in 5.3.2 may not be sufficiently clear.
- Various other ad hoc instructions and guidance are available on the intranet of the SFVO.
- Considerable revision of the Customs instruction (D 60), which deals with import controls on products of animal origin and live animals, has been carried out. It was noted, however, that Customs officials carrying out controls did not have ready access to the model certificates for import of accompanied pet animals required under Commission Decision 2004/82 and to the relevant lists of third countries mentioned in Annex II of Regulation (EC) No 998/2003.
- Regarding implementation of EU safeguard Decisions, the CCA is currently in the process of amending Swiss animal health legislation to allow the development of implementing measures for EU safeguard measures to be taken at service level (i.e. by the Chief Veterinary Officer (CVO)); this according to the CCA will be in place by January 2009. Currently there is fast legislative procedure to allow implementation within 24 hours.
- Administrative measures have been developed to restrict imported hormone treated beef to the National market.
- Entry points for non commercial pet animals equivalent to those required in Art. 13 of Regulation (EC) No 998/2003, and for non-commercial pet birds in Art. 2 (3) of Commission Decision 2007/25/EC have been designated by the CCA in the revisions of the EHTV.
- Currently Switzerland does not receive RASFF messages in relation to consignments with unfavourable results detected in EU Member States and therefore is not yet in a position to apply the provisions of Art. 24 of Directive 97/78/EC to such consignments.
- Following amendment of the Swiss import legislation fees are collected at a rate which is in accordance with those in Regulation (EC) No 882/2004.

- A system to approve and list nationally animal by product establishments equivalent to the provisions of Regulation (EC) No 1774/2002 has been implemented and provisions to implement the requirement for guarantees in relation to use of imported material equivalent to those laid down in Chapter VII point 7(a) of Annex VIII to Regulation (EC) No 1774/2002 have been developed these apply from October 2008.

Based on Council Regulation (EC) No 338/97 a list (1999/C 356/02 catalogues all places of introduction and export designated by Member States for trade with third countries in accordance with Art. VIII (3) of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

- The list of CITES points of entry is not harmonised with the Swiss BIPs currently used, it does not distinguish between entry points from EU or from non-EU countries as the CITES Regulations will not be adapted in an equivalent manner in Switzerland.
- Although in their response to report 2007-7296 the CCA indicated that the list would be amended to indicate which points must be used for importation of non-EU third countries, the list of entry points presented by the CCA contained no such clarification. However, the information available to the public now indicates that CITES animals and products requiring veterinary checks must first be presented to a BIP.

5.2.3 Databases and distribution of documentation/information

TRACES is used as a registration and communication system for all arriving consignments at the three airport BIPs.

- The importers now enter the data on consignments directly in the TRACES system, and while an improvement was noted, in some cases CVEDs, which were incorrectly entered in TRACES by the importer, were accepted, and thus the information did not reflect that contained in the accompanying certification.
- A system has been put in place, which clearly indicates on the CVED issued that the consignment has been authorised for the National market only. This will remain in place until following amendment of the EU Swiss agreement it will be permissible to allow free release to the EU.

In addition to the registration of consignments in TRACES separate registers of consignments which had been subject to laboratory checks or which were rejected were maintained.

- The register of rejected consignments did not contain all the information required under the provisions of Commission Decision 97/152/EC which is necessary to supplement the information in the TRACES system.
- As TRACES is the only registration system being used, no register of the consignments at the individual inspection centres is possible as foreseen in Art. 5 (3) of Commission Decision 2001/812/EC and no overview of the number of consignments per BIP/IC is available to the CCA.

The CCA has in place an electronic system to provide relevant information on legislation to the BIPs. Additional other databases containing EU-legislation were also used in the BIPs visited.

- In general the information to the BIPs was accessible, and up to date.
- The BIPs had not, however, been informed of the most recent arrangements regarding certification of consignments originating in Brazil notably concerning the use of security paper. This was due to the fact that the CCA had not asked the Brazilian authorities to use this format for consignments destined for Switzerland.
- There was a general improvement in the archiving of files for checked consignments.

5.2.4 Application of legal powers available to official services

Under Customs legislation there is a basis for the prosecution of offenders for attempted illegal importation, *inter alia* based on the amount of unpaid tax above a certain threshold.

The CCA has chosen that passengers are not made liable for the cost of destruction of illegally imported consignments as provided for in Art. 4 (3) of Regulation (EC) No 745/2004.

5.3 CONTROLS FOR IMPORT/TRANSIT CONSIGNMENTS AT ENTRY BIPs

All road entry points in Switzerland are with the EU and for the time being national import provisions apply until such time as the Agreement is modified. At the three airport BIPs the CCA has applied EU import provisions since July 2007.

5.3.1 Identification and selection of consignments

The system to identify veterinary consignments is mainly based on a requirement in Swiss legislation that all consignments subject to veterinary checks be pre-notified to the BIP 24 hours in advance of their arrival with part one of the CVED.

- Although in individual cases some consignments were not pre-notified the CCA has now implemented a system of additional charges in those cases where consignments are not notified in advance of arrival in order to ensure implementation of the requirement in the future.
- Since June 2008 BIP staff been given access to the information on arriving consignments held by other services in order to be in a position to verify if all relevant consignments (including transshipments) have been pre-notified/notified to the BIP as provided for in Art. 6 of Regulation (EC) No 136/2004 and Art. 5 of Regulation (EC) No 282/2004.
- Even though the BIPs carry out checks on arriving consignments in order to verify if the above the system is working the system is not yet formalised. According to the CCA the manual will be updated to provide guidance in this area to staff.
- At one Customs office visited the Customs electronic clearance system EDEC provided a backup to identify, flag and block veterinary consignments pending

presentation of required documents. The system has been updated to identify all veterinary consignments in the positive list in Decision 2007/275/EC. The NCTS system is used for transit consignments and has also been updated and now has the capability to automatically identify consignments of veterinary interest.

- The entry of the above risk parameters in Customs system is not done centrally and it could not be confirmed by the CCA if the above applied in all Customs offices.
- A system has been put in place to oblige the cargo handling companies to notify the BIP of all transit and transshipment consignments, although all the information in part I of the CVED is not insisted upon. This provides staff with a systematic overview of incoming, transshipping and transiting consignments as provided for in Art. 3 of Directive 97/78/EC. According to the CCA cross checks to verify if this system is working will commence in October 2008.

5.3.2 Veterinary checks and Decision on the Consignment

At the entry points visited it was foreseen that documentary, identity and physical checks (including laboratory checks) be carried out compliant with EU requirements as implemented in Swiss legislation.

- All products and live animals which are included in the positive list in Decision 2007/275 are now subject to veterinary checks, which has led to a considerable increase in the numbers of consignments being checked.
- There has been a general improvement in the performance of veterinary checks and generally EU import control requirements were being implemented correctly. Checklists have been implemented to assist staff in carrying out the checks correctly. Most of the problems identified were technical or individual errors; these were discussed in detail on the spot.
- A number of problems were more widespread and perhaps indicate a need for clearer guidance in these areas or an incorrect interpretation of the requirements by the CCA.
- While in general the correct health certificate was present, in some cases examined the health certificates with improperly authorised alterations were accepted or cases where unused options were not deleted.
- A system to apply reduced checks foreseen in Art. 10 of Directive 97/78 has been implemented, however, this is not applied in an unpredictable manner for all products in order to be equivalent with the aforementioned provisions.
- Although in general safeguard measures were correctly applied in relation to Commission Decision 2006/27, laboratory checks were only carried out in those cases where the consignment consisted of meat from animals of Mexican origin in those cases where according to the certificate the meat was from animals of US origin, slaughtered in Mexico, the laboratory checks were not carried out.
- A system to apply reinforced checks on problematic consignments detected in Switzerland similar to what is foreseen in Art. 24 of Directive 97/78/EC, is applied. This so called stop and test system, has been updated since report 2007-7296 and

now if a problem is identified with a particular commodity, the next ten consignments from the same origin are detained at the BIP subject to the results of laboratory analysis. There was a misunderstanding of the application of the above system at the BIP and in some cases small consignments were treated as samples and not tested. This is due to a lack of clarity in the guidance in this area.

- The possibility under Swiss provisions for a provisional release of consignments described in report 2007-7296 has been revoked.
- There are still some shortcomings in the procedures for rejection of consignment in line with the provisions of Art 17 of Directive 97/78 as in one case examined the consignment had been destroyed before the CVED was issued. It could not be demonstrated that the consignments were retained under official supervision prior to destruction.
- Regarding re-importation, although there had been no re-imports at the BIPs visited, the provisions in the manual of procedures are not sufficiently clear to guarantee correct application of the provisions of Art 15 of Directive 97/78.

5.3.3 Monitoring plans for sampling imported consignments

There is a national sampling-monitoring plan for BIPs for residues, pathogens or other substances dangerous to humans, animals or the environment. This is developed centrally using a risk-based approach and taking into account relevant parameters such as the number of incoming consignments and results of previous monitoring.

- For the year 2008, the plan has been updated to include sampling for hormones,
- In the BIPs visited samples were being taken in accordance with the above plan.

5.3.4 Animal welfare

The CCA stated that for live animals transported by air IATA requirements must be followed. There are no additional requirements/standards for animal welfare for (O) live animals.

5.4 CONTROLS ON FREE AND CUSTOMS WAREHOUSES/SHIP SUPPLIERS

- According to the CCA there are no such warehouses or ship suppliers approved/authorised in Switzerland to receive consignments which do not comply with Swiss import requirements.

5.5 IMPORT CONTROLS ON PERSONAL AND NON-COMMERCIAL TRAFFIC

5.5.1 Personal baggage and mail

As was described in report 2007-7296 there is a system in place to detect illegal importation of POAO under the Customs national provisions which differ in some areas

from EU provisions.

- The system of checking for POAO in passenger luggage is as described in the above report.
- It continues to be the case that other than for the specific exemptions foreseen in Regulation (EC) No 745/2004 for particular foods from certain countries, all POAO subject to veterinary checks must be presented to a BIP for checking and no exemptions are permitted for small quantities for personal consumption. As the exemptions foreseen in Swiss legislation are more restrictive than in EU legislation the CCA considers that this constitutes less of a health risk and therefore see no need to change their legislation to correspond with EU legislation
- At the entry points visited records are maintained of POAO which were surrendered by passengers. These records have been amended since the last mission and now contain information regarding the country of origin. There is a system of monthly reporting of these seizures to the central level in order to be able to draw up an annual report of seizures as required under the provisions of Regulation (EC) No 745/2004.
- In general passengers are invited to surrender illegal products and only exceptionally is seizure necessary.
- No detection aids are used to screening large volume of personal baggage for POAO (such as scanning equipment, sniffer dogs etc.).
- Progress was noted since report 2007-7296 in the implementation of a system to ensure that the storage and destruction of seized/abandoned POAO is done in an equivalent way to that foreseen in Regulation (EC) No 1774/2002. This material is now classified by the CCA as Cat 2 material in Swiss legislation.
- At the entry points visited this material was considered to be Cat 1 material and although a system has been put in place to ensure that this material is labelled and accompanied by relevant documentation to destruction, the system in place does not permit full verification that appropriate destruction has taken place in an equivalent manner to what is foreseen in the above-mentioned Regulation.

5.5.2 Non-commercial pet animals

Checks are carried out in accordance with national provisions which take into account EU requirements.

- A passport is required by Customs for introduction of dogs and cats from EU Member States.
- For all other third countries an import permit must be issued by the CCA before import is allowed.
- A condition of issue of this permit for third countries not included Annex II part C of Regulation (EC) No 998/2003 is the presence of a certificate confirming an antibody titration for rabies.
- Customs in fact do not check the certification of these animals, only confirm their

identity and presence of an import permit.

- Information for prospective importers is available on the web site of the SFVO and in various leaflets developed by Customs and the SFVO.

5.6 CONTROLS ON KITCHEN WASTE

In response to report 2007-7296 the CCA has tried to implement a system to supervise the destruction of kitchen waste from international transport means to be equivalent to the requirements in Regulation (EC) No 1774/2002.

- Progress has been made and kitchen waste from international means of transport is not yet defined as Category 1 material in accordance with provisions laid down in Regulation (EC) No 1774/2002 in the Swiss Ordinance concernant l'élimination des sous produits animaux (OCESPA).
- The responsibility for implementation rests at Cantonal level and these authorities have commenced the implementation of equivalent requirements for documentation, labelling, recordkeeping and destruction requirements for Cat 1 material in relation to catering waste.
- Progress was noted in the authorisation and approval of relevant establishments.
- Although a documentation system had been put in place to permit confirmation of delivery of the material to the next stage in the destruction chain, the system was not sufficiently transparent to permit the CCA to demonstrate that the relevant consignments had been destroyed. Shortcomings were noted regarding the commercial documentation and record keeping in place as it did not permit full verification that correct destruction had taken place in a manner equivalent to that foreseen in Annex II Chapter III 2 (c) of the above mentioned Regulation.

5.7 SUPERVISORY SYSTEMS

5.7.1 Supervision, inspections and reporting

Annual audits of the BIPs are foreseen to be carried out by the Federal Food Chain Unit (FFCU). One BIP has been subject to audit thus far. A report of the audit was available and a number of shortcomings were identified and corrective action requested.

- In the action plan to report 2007-7296 the CCA indicated that monthly supervisory visits of the BIPs would take place. While the BIPs were regularly visited by the CCA these were more in the line of technical meetings with the staff, no checklists were used in any assessments carried out. Nonetheless, these visits were used to resolve problematic issues and to develop the manual of procedures. However, formal reporting or feedback to the BIP was not in place.
- Internal audit systems have not yet been developed in the planned BIPs visited.

5.7.2 Communication and co-operation between services

Although no formal co-operation agreements are in place between the veterinary services and Customs, there is good operational co-operation between the two at both central and local level.

- As was described in report 2007-7296 ad hoc meetings are arranged as necessary to deal with specific issues at both central and local level, these, however, are not yet formalised or documented.
- Since the above report progress has been noted regarding access by the veterinary services to the information on all arriving consignments available to Customs and in the updating of the Customs TARUS with the CN codes on the positive list.

5.7.3 Facilities outwith the BIPs

There are 15 laboratories available to examine samples taken on imported consignments of live animals or POAO and the ones to be used for the relevant examinations are specified in the residue monitoring plan.

- In response to report 2007-2796 the CCA has authorised and approved rendering and incineration plants under provisions equivalent to those laid down in Regulation (EC) No 1774/2002. Lists of these establishments were made available to the mission team and were available to the BIPs
- The CCA informed the mission team that, at present, there are no approved quarantine facilities or centres available as described in Art. 6 of and Annex IV to Commission Regulation (EC) No 318/2007, however, according to the CCA, imports of commercial birds into Switzerland can not be permitted.

5.8 INDIVIDUAL BIPs: FACILITIES, EQUIPMENT AND HYGIENE

During this mission the planned two long-term BIPs at the main airports were visited. A breakdown of the number of consignments received in 2007 is provided in the Annex.

Table: List of planned long-term BIPs:

| BIPs planned | Type | Planned approval as defined in Commission Decision 2001/881* |
|--------------|---------|--|
| Geneva | Airport | IC 1: HC(2) and NHC, IC 2: O |
| Zurich | Airport | IC 1: NHC, IC 2: HC(2), IC 3: O |

- **Geneva:** the modification of the infrastructure has been completed and the facilities are in use.

IC 1:Facilities have been put in place and completed to a high standard. Rooms were in place for all approval categories requested.

IC 2:The new facilities have been completed and all the required rooms are in place. A procedure has been formalised to minimize the risk of infection of live animals passing from the housing room (number 8) through the inspection room (number 7) to exit the facilities, although this layout is not ideal this may be considered acceptable in light of current consignment numbers.

- Some relatively minor shortcomings were noted regarding technical equipment for HC and no equipment had yet been put in the NHC inspection room.

-A cleaning programme was in place but not finalised as yet.

- **Zurich:** New facilities have been constructed to a generally high standard.

IC 1: the facilities have been completed and provide the necessary rooms for the approval requested.

IC 2: the facilities have been completed and are suitable for the approval requested.

IC 3: the facilities have been completed and are suitable for the approval requested.

- Some relatively minor shortcomings were noted for technical equipment for both HC and NHC facilities and for live animals some equipment was missing and the housing rooms were not fully fitted out.

- A cleaning programme was in place but had not been finalised as yet

6 CONCLUSIONS

6.1 LEGISLATION AND ADMINISTRATIVE MEASURES

1. A system for the ongoing application of EU import / transit requirements exists and significant progress has been made to fully apply provisions equivalent to those contained in the EU legislation. While most of the previously identified shortcomings have been corrected, full equivalence has not yet been achieved in a number of technical areas notably Commission Decision 2000/571 and Commission Decision 132/2008. The CCA proposes to continue to permit imports of hormone treated beef, although this is not compatible with provisions of Art. 11 (2 b) of Council Directive 96/22/EC and Art. 11 of Regulation (EC) No 178/2002 of the European Parliament and of the Council under the condition that it be restricted to the National market. Work on aligning bilateral agreements is ongoing. The lack of provisions for full application of Art.8 of Directive 97/78/EC means that the channeling of consignments destined to or being consigned from an to an EU MS cannot operate as foreseen in the EU legislation.
2. The updated national monitoring plan for residues is equivalent to the the requirements of Annex II to Regulation (EC) No 136/2004. Swiss legislation now requires that all imports are from countries with an approved residue control plans in accordance with Decision 2004/432/EC which now provides equivalent guarantees with respect to the risk of import consignments containing residues.
3. Although the BIPs have largely been constructed in accordance with EU

requirements, due to the absence of specific measures to allow removal of approval if necessary, there are no administrative measures in place to provide an equivalent system to ensure ongoing maintenance of BIPs in accordance with Artt. 6 of Directive 91/496/EEC and 97/78/EC.

4. The progress which has been noted in the development of a manual of procedures has led to an overall improvement in import control procedures however the lack of sufficiently clear guidance in the above manual has led to problems in the application of the provisions of Art. 16(e), 17(2) and 24 of Directive 97/78/EC and risks misapplication of Art 15 of the same directive.
5. While overall there is a well organised system to provide documentation necessary for performing checks to the BIPs, the CCA has not informed the BIPs about some recent changes regarding format of certain third country certificates. This weakens the otherwise effective application of the requirements of point 3 of the Annex to Decision 2001/812/EC. and also means that equivalent import procedures to the EU were not applied in this case.
6. The lack of a clear indication in the CITES list which entry points should be used for consignments from non-EU third countries leads to a potential risk that not all veterinary consignments will be presented to the BIP for checking (Art. 3 of Decision 2001/812/EC, Art. 3 of Directive 91/496/EEC and Art. 3 of Directive 97/78/EC).
7. While the current registration, records and information systems are largely in compliance with point 4 of the Annex to Decision 2001/812/EC, the shortcomings make it difficult to have an accurate overview and proper traceability of the relevant consignments.

6.2 SUPERVISION/MANAGEMENT OF SYSTEM

1. Progress has been made in the implementation of a system to audit the operation of the BIPs annually and routine inspections of the BIP operation by CCA. However, the routine supervisory inspections have not been implemented fully as indicated in the action plan to report 2007-2796 as they are not fully documented. This, especially in the start up stages, does not permit the Swiss authorities fully verify that the BIPs are operating equivalent to the provisions of Directive 91/496/EEC and Directive 97/78/EC.
2. It is not yet possible to determine whether the current number of staff will be sufficient for the planned BIPs, as this will have to be reviewed to be in accordance with Annex II to Directive 97/78/EC in light of increases in the number of consignments which are being received.
3. Training takes place and further training is foreseen for 2009. Certain shortcomings identified during the mission would indicate that the training in certain areas was not fully effective and further efforts are required in order to better apply the provisions of the second indent of Annex II to Directive 97/78/EC.

4. There is a good degree of co-operation between the authorities involved in import controls, which has led to a considerable improvement regarding access to the information on arriving consignments necessary to implement the provisions of Art. 3 of Directive 97/78/EC and Artt. 6 and 7 of Commission Regulation (EC) No 136/2004 and Artt. 5 and 6 of Commission Regulation (EC) No 282/2004.
5. Progress has been made in the implementation of a system for the supervision of destruction of kitchen waste which in general puts in a system which is largely equivalent with the provisions of Regulation (EC) No 1774/2002. However, the documentary requirements in Annex II thereof are not applied in a fully equivalent manner to allow an equivalent degree of traceability.
6. The BIPs visited, subject to rectification of some shortcomings in relation to technical equipment, rectified, meet EU requirements, (Art. 6 of Directive 91/496/EEC, Art. 6 of Directive 97/78/EC and Artt. 3 and 4 of Decision 2001/812/EC). This means that veterinary checks are now carried out under conditions largely equivalent to those applying in the EU.

6.3 IMPORT/TRANSIT CONTROLS

1. The process of applying import control procedures equivalent to the procedures laid down in Directives 91/496/EEC, 97/78/EC and relevant Decisions and Regulations in ongoing at two entry points; however, notwithstanding certain shortcomings noted there is a general improvement in the application of the requirements.
2. Measures which have been put in place have improved the system of identification and selection of consignments. The differences in the positive list used have been rectified, and access to information on arriving consignments of veterinary interest has been provided which permits and a system of cross checks with manifests (Artt. 2 and 6 of Regulation (EC) No 136/2004, Art. 3 of Directive 97/78/EC, Art. 5 of Regulation (EC) No 282/2004 and Art. 3 of Decision 2007/275/EC) to be put in place, although such checks are not yet formalised.
3. As it could not be confirmed if the Customs systems EDEC and NCTS could identify consignments with a requirement for veterinary checks in all Customs offices, it is not yet fully ensured that all consignments subject to veterinary checks under EU provisions are in fact checked notwithstanding the progress made in this regard.
4. Although progress is noted there are some shortcomings in the execution of veterinary checks vis-à-vis the provisions of Art. 4 of Directive 97/78/EC, and related Decisions. Some are due to lack of clarity in guidance provided. Others to misinterpretation of the requirements by the CCA this relates particularly to the implementation of equivalent provisions to those foreseen in Commission Decision 2006/27 regarding horse meat from Mexico and in relation the certification format provided for beef meat from Brazil.
5. As checks on passengers' luggage are carried out in accordance with national

legislation, introduction of POAO is more restrictive than permitted in Annex III to Regulation (EC) No 745/2004. The application of this Regulation concerning the information provided to passengers and record keeping can be considered to be largely equivalent however, the system for destruction of POAO abandoned or confiscated from personal luggage is not yet fully equivalent.

6. Information to travellers and checks on movements of non-commercial pet animals including pet birds accompanied by their owners is in accordance with national legislation, which is largely equivalent with the requirements of Regulation (EC) No 998/2003 and Decision 2007/25/EC. However, the lack of access by Customs officials to relevant legislation indicates shortcomings in relation to the application of provisions equivalent to Art 11 of this Regulation and leads to a potential risk of misapplication of controls.
7. The level and the collection of veterinary fees for imported and transited consignments is now as foreseen in Art. 27 of Regulation (EC) No 882/2004.

6.4 OVERALL CONCLUSION

Significant progress has been made in fulfilling the commitments given to implement an import control system equivalent to that applied in the EU and to address shortcomings identified in the previous mission.

The import controls applied in the proposed BIPs are generally equivalent to those in the EU. Some relatively minor deficiencies were detected and a commitment to address these was given by the CCA. While a manual of procedures has been produced, the level of guidance for some problematic issues is insufficient.

Notwithstanding the progress made in implementing an equivalent system the documentary evidence of destruction of refused consignments and catering waste from international means of transport is incomplete. Regarding checks on passenger luggage, the rules for import are stricter than EU rules however, the situation is still not fully satisfactory regarding the documentary evidence of destruction of seized products of animal origin from passenger luggage.

Regarding the proposed BIPS, once the minor deficiencies for fittings and equipment have been rectified, the BIP at Zurich should comply with requirements for all categories for which approval is sought and the BIP at Geneva should comply for animal products. Although the facilities for live animals category (O) at Geneva provide the necessary rooms, the layout is not ideal. However, the risks have been addressed by written procedures and in light of the current consignments may be considered acceptable.

7 CLOSING MEETING

A closing meeting, attended also by representatives of the EU Delegation in Switzerland, was held on 12 September 2008 with the representatives of the CCA and Customs, at which the mission team presented the main findings and preliminary conclusions. The representatives of the CCA did not express disagreement with these and offered the

following comments:

The CCA welcomed the FVO feed back and indicated a willingness to take necessary corrective actions.

The CCA provided additional information as requested by the mission team.

8 RECOMMENDATIONS

The recommendations are formulated within the framework of Appendix 9 (Guidelines on procedures for conduction audits) of Annex 11 to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products within the Agreement. In view of the time frame for amending the Agreement to abolish veterinary border controls of consignments originating from MS and destined to Switzerland and vice versa, the competent authorities are invited to provide an action plan containing detailed information, including a timetable, regarding the actions planned or taken in order to address these, and to submit this plan to the Commission services within 25 working days after receipt of this report.

| No. | Recommendation |
|-----|--|
| 1 | To finalise the process of setting out national standards aimed at ensuring full equivalence with EU import/transit legislation, in particular Art. 8 of Directive 97/78/EC, Decision 2000/571/EC and Regulation (EC) No 132/2008. |
| 2 | To finalise the development and ensure the completion of the necessary administrative and other supporting measures required, to update instructions and manual of procedures for the BIPs to allow the effective implementation of measures equivalent to the relevant EU provisions, in particular those in Art. 10, 15, 17 and 24 of Directive 97/78/EC and Art. 6 of Directive 91/496/EEC. |
| 3 | To take further measures to ensure that it is sufficiently clear in the published CITES that consignments of POAO and live animals (e.g. CITES) are introduced only through BIPs having the appropriate approval (Art. 3 of Decision 2001/812/EC, Art. 3 of Directive 97/78/EC and Art. 3 of Directive 91/496/EEC). |
| 4 | To review and complete the registration of checks, and to complete the records kept at the BIP to be in line with the provisions of point 4 of the Annex to Decision 2001/812/EC, particularly the required records which are not maintained by the TRACES system. |
| 5 | To improve supervision and monitoring of the operation of the BIPs, in order to ensure correction of shortcomings identified in veterinary checks are corrected and to ensure that on an ongoing basis these checks are carried out in fully line with the provisions of Directives 91/496/EEC and 97/78/EC and the relevant implementing Decisions and Regulations. |
| 6 | To review the staff resources necessary at central and BIP level in light of increased trade in order to ensure continued equivalence with the EU provisions as laid down in Annex II to Directive 97/78/EC. |

| No. | Recommendation |
|-----|--|
| 7 | To further review training to BIP staff and Customs, in light of the findings of this mission in order to have equivalent provisions as in the second indent of Annex II to Directive 97/78/EC. |
| 8 | To finalise the system of supervision, approval and procedures for collection, disposal and destruction of kitchen waste of internationally operating means of transport, to be fully in line Chapter III 2 (c) of Regulation (EC) No 1774/2002. |
| 9 | To further develop the system of supervision for consignments which need to be channelled in order to be in line with Art. 8 of Directive 97/78/EC for those consignments which will pass through EU MS during their passage from BIP to destination or vice –versa. |
| 10 | To rectify the deficiencies noted for facilities and equipment in the BIPs visited to ensure that these future BIPs meet fully the requirements of Artt. 6 of Directives 91/496/EEC and 97/78/EC as well as of Art. 1 and 2 of Decision 2001/812/EC. |
| 11 | To ensure that the positive list of POAO and live animals subject to veterinary checks, in accordance with Decision 2007/275/EC, is linked to relevant CN codes in the customs electronic systems in all Customs offices. |
| 12 | To ensure that the veterinary checks on consignments, the veterinary decisions taken, and the applied import/transit conditions are in accordance with Art. 4 of Directive 91/496/EEC and Art. 4, and 17 of Directive 97/78/EC as well as related Decisions and Regulations. |
| 13 | To ensure that the requirements for checks on personal luggage in particular destruction of seized or abandoned POAO are implemented in accordance with the requirements of Regulation (EC) No 745/2004. |

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

http://ec.europa.eu/food/fvo/ap/ap_switzerland_7758_2008.pdf

ANNEX 1 - LIST OF LEGISLATION REFERENCED IN THE REPORT

| Reference | OJ Ref. | Detail |
|---|--|--|
| Directive 97/78/EC | OJ L 24, 30.1.1998, p. 9–30 | Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries |
| Directive 91/496/EEC | OJ L 268, 24.9.1991, p. 56–68 | Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organization of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC |
| Regulation (EC) No 745/2004 | OJ L 122, 26.4.2004, p. 1–9 | Commission Regulation (EC) No 745/2004 of 16 April 2004 laying down measures with regard to imports of products of animal origin for personal consumption |
| Regulation (EC) No 882/2004 - Article 45 (MS) | OJ L 165, 30.4.2004, p. 1, Corrected and re-published in OJ L 191, 28.5.2004, p. 1 | 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 |
| Regulation (EC) No 998/2003 | OJ L 146, 13.6.2003, p. 1–9 | Regulation (EC) No 998/2003 of the European Parliament and of the Council of 26 May 2003 on the animal health requirements applicable to the non-commercial movement of pet animals and amending Council Directive 92/65/EEC |
| Directive 2002/99/EC | OJ L 18, 23.1.2003, p. 11–20 | Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption |
| Decision 2001/881/EC | OJ L 326, 11.12.2001, p. 44–62 | 2001/881/EC: Commission Decision of 7 December 2001 drawing up a list of border inspection posts agreed for veterinary checks on animals and animal products from third countries and updating the detailed rules concerning the checks to be carried out by the experts of the Commission |
| Decision 2004/432/EC | OJ L 154, 30.4.2004, p. 44–50, corrected and | 2004/432/EC: Commission Decision of 29 April 2004 on the approval of residue monitoring plans submitted by third countries in accordance with Council Directive 96/23/EC |

| Reference | OJ Ref. | Detail |
|------------------------------------|--|---|
| | re-published in OJ L 189, 27.5.2004, p. 33 | |
| Regulation (EC) No 882/2004 | OJ L 165, 30.4.2004, p. 1, Corrected and re-published in OJ L 191, 28.5.2004, p. 1 | 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 |
| Regulation (EC) No 1774/2002 | OJ L 273, 10.10.2002, p. 1–95 | Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption |
| Decision 2007/275/EC | OJ L 116, 4.5.2007, p. 9–33 | 2007/275/EC: Commission Decision of 17 April 2007 concerning lists of animals and products to be subject to controls at border inspection posts under Council Directives 91/496/EEC and 97/78/EC |
| Decision 2007/25/EC | OJ L 8, 13.1.2007, p. 29–34 | 2007/25/EC: Commission Decision of 22 December 2006 as regards certain protection measures in relation to highly pathogenic avian influenza and movements of pet birds accompanying their owners into the Community |
| Regulation (EC) No 338/97 | OJ L 61, 3.3.1997, p. 1–69 | Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein |
| Decision 97/152/EC | OJ L 59, 28.2.1997, p. 50–52 | 97/152/EC: Commission Decision of 10 February 1997 concerning the information to be entered in the computerized file of consignments of animals or animal products from third countries which are re-dispatched |
| Decision 2001/812/EC | OJ L 306, 23.11.2001, p. 28–33 | 2001/812/EC: Commission Decision of 21 November 2001 laying down the requirements for the approval of border inspection posts responsible for veterinary checks on products introduced into the Community from third countries |
| Directive 96/22/EC | OJ L 125, 23.5.1996, p. 3–9 | Council Directive 96/22/EC of 29 April 1996 concerning the prohibition on the use in stockfarming of certain substances having a hormonal or thyrostatic action and of β -agonists, and repealing Directives 81/602/EEC, 88/146/EEC |

| Reference | OJ Ref. | Detail |
|-----------------------------------|-------------------------------------|---|
| | | and 88/299/EEC |
| Decision 2000/571/EC | OJ L 240, 23.9.2000, p. 14–18 | 2000/571/EC: Commission Decision of 8 September 2000 laying down the methods of veterinary checks for products from third countries destined for introduction into free zones, free warehouses, customs warehouses or operators supplying cross border means of sea transport |
| Regulation (EC) No 178/2002 | OJ L 31, 1.2.2002, p. 1–24 | Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety |
| Regulation (EC) No 136/2004 | OJ L 21, 28.1.2004, p. 11–23 | Commission Regulation (EC) No 136/2004 of 22 January 2004 laying down procedures for veterinary checks at Community border inspection posts on products imported from third countries |
| Regulation (EC) No 282/2004 | OJ L 49, 19.2.2004, p. 11–24 | Commission Regulation (EC) No 282/2004 of 18 February 2004 introducing a document for the declaration of, and veterinary checks on, animals from third countries entering the Community |
| Decision 2006/27/EC | OJ L 19, 24.1.2006, p. 30–31 | 2006/27/EC: Commission Decision of 16 January 2006 on special conditions governing meat and meat products of equidae imported from Mexico and intended for human consumption |