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HEALTH & CONSUMER PROTECTION DIRECTORATE-GENERAL
Directorate A - General Affairs
A2 - Legal affairs

SANCO

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Ms Christa Blanke
Animals' Angels
Rehlingstrasse 16 A
D – 79100 Freiburg

Dear Ms Blanke,

Thank you for your letter of 23 March 2007 regarding the fitness of animals to be transported.

You refer in your letter to a Commission reply (Ref. D(2006) 121190) to a question from the Italian authorities regarding the way Article 12 of Directive 93/119/EC on the protection of animals at the time of slaughter or killing should be interpreted in the light of the new provisions of Council Regulation (EC) No 1/2005 on the protection of animals during transport.

As the Commission's reply seems to have raised misunderstandings, I would like clarify here the Commission's views on the subject.

The Commission believes that the provisions of paragraph (2) of Chapter I of Annex I to the Regulation should be strictly adhered to in all circumstances and the Regulation does not attribute to the competent authorities any discretionary power to take measures that would conflict with these provisions.

In particular in the case of downer cows, or other similar situations, where the pain or the exhaustion is manifest, it is the Commission's view that the competent authorities are not entitled to allow the transport of such animals. However, there are some exceptional cases where the animal may have difficulties walking without necessarily enduring severe pain. Those cases are foreseen under the provision of paragraph (3) of Chapter I of Annex I as mentioned in our previous reply to the Italian authorities.

In practice, in those cases, there is a need for a competent person to evaluate the level of pain. Indeed paragraph (3) of Chapter I of Annex I to Regulation (EC) No 1/2005 foresees that in case of doubt, veterinary advice shall be sought.

The Commission therefore considers that, even in this context, veterinary advice should be provided on a case by case basis to ensure that no abuse takes place.

The Commission also considers that Article 12 of Directive 93/119/EC should be exclusively interpreted in the light of paragraph (3) of Annex I to Regulation (EC) No 1/2005, where

animals are slightly injured or ill. In fact Article 12 states clearly that, as a guiding principle, *"injured or diseased animals must be slaughtered or killed on the spot"*. In the Commission's opinion, it would clearly be the case that only "slightly injured or ill" animals would be able to be transported without "further suffering for the animals". Under the Directive this condition would have to be assessed by the competent authorities.

As previously stated, it is ultimately for the European Court of Justice to give binding legal interpretations of Community law.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Demetris Vryonides', is written over a horizontal line.

Demetris Vryonides
Head of Unit