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Veterinary and International affairs
Multilateral International relations

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NOTE FOR THE FILE

Subject: Minutes of the Working Group on Veterinary Checks – 11 March 2011

Present: All Member States except Malta and Lithuania plus Norway and Switzerland.
Commission Personnel (COM): SANCO: Patricia Langhammer (G6-exD3) Michael Glavin (G6-exD3), Catherine Iffenecker (G6-exD3), Mies Beljaars (G6-exD3), Kaido Kroon (G2-exD1), Waltraud Demel (G2-exD1), Matjaz Klemencic (G2-exD1), Francesca Volpi (E5), Jan Baele (G4-exE2), Stefanie Roth (G4-exE2), Klaus Kostenzer (G4-exE2).

Introduction

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

NL: asked for clarification on the Commission proposal for the extension of the minimum time period for the derogation from veterinary checks from 7 to 14 days for transhipment consignments arriving at a BIP and directly leaving to third countries (replacement of Decision 2005/25/EC) and COM agreed to address this under point 3 of the Agenda.

FR: raised two questions related to the implementing provisions (Regulation (EU) No 142/2011) for Animal by-product Regulation (EC) No 1069/2009.
The third question related to the draft document SANCO/4755/2009-Rev.3 concerning import of ungulates for zoos – included in point 7 C of the Agenda.

DE: requested clarification on the implementation of Regulation (EU) No 142/2011 and COM agreed to include this in point 7 B of the Agenda.

PL: reported on a case of verification of the authenticity of Chinese certificates for dog chews which highlights that the person responsible for the load will receive any certificates from third countries on request and that requests for verification of authenticity should go through official channels via the relevant third country representation. COM confirmed that it is best to go through official channels although this might take a long time to receive an answer.

COM added one point to the agenda:
Presentation on the Microbiological criteria on food (G4 -exE2).

AGENDA

1. PRESENTATION OF REVISED DRAFT CAPTAINS DECLARATION FOR TRANSHIPMENT OF FISHERY PRODUCTS (PL)
2. REVIEW OF VETERINARY CONTROL LEGISLATION (MG/PL)
   A) Update since last working group
   B) Outcome of Task Force on Import Control Legislation
   C) Outcome of Steering Group Meeting on 03.03.2011
   D) Planning of targeted Task Forces
3. TRANSIT & TRANSHIPMENT – Guidance Revision 9 to be agreed (PL)
4. ARTICLE 24 OF DIRECTIVE 97/78/EC - RE-ENFORCED CHECKS – Draft Guidance Revision 5 (MG)
5. UPDATE OF BIP LIST (PL)
6. TRACES ISSUES (KK)
7. MISCELLANEOUS/ DIVERS /VERSCHIEDENES (PL/MG)
   A) Microbiological criteria on food (KK)
   B) Regulation (EU) No 142/2011 implementing the animal by-product Regulation (MK)
   C) Draft document SANCO/4755/2009-Rev.3: import of ungulates (WD)

1. PRESENTATION OF REVISED DRAFT CAPTAINS DECLARATION FOR TRANSHIPMENT OF FISHERY PRODUCTS (PL)

When fishery products are imported directly from a vessel into the EU, a document signed by the captain may replace the health certificate for fishery products (Article 15 (3) of Regulation (EC) No 854/2004). In such cases it is not possible for the competent authority of the flag state for the vessel to issue a health certificate while respecting the EU rules for certification (Directive 96/93/EC).

No model for such a document has yet been prepared, though it has been an accepted practice to utilise the captain's declaration as provided for by Council Regulation (EC) No 1093/94, however, this legal basis was lost when the Regulation was repealed and replaced by Regulation (EC) No 1005/2008. Therefore COM started to develop a model for such a captain's declaration and based on the discussions during the last WG and comments from one MS (DE), the draft document was revised.

COM explained the main changes, e.g. that: references to fishing and reefer vessels were excluded as there is no legal basis for this in Hygiene Regulations. Part I of the certificate has not been changed because it is a standardised model which is used for the majority of certificates, however, the catching area has been introduced in the second part of the certificate. The requirements in the health attestation have been spelled out to make the certificate more understandable for the captains of the vessels and their crew.

The declaration should be used for direct landings from freezer vessels at EU ports and it could be used for transhipments to reefer vessels, which should enable Border Inspection Posts (BIPs) to accept Captain's declarations from freezer vessels. COM clarified that references to fishing vessels have been deleted as "fishing vessels" are not defined in the

hygiene regulations as they do not have any facilities required to freeze fishery products in accordance with the hygiene rules. In addition the direct import of fresh fishery products from fishing vessels is excluded from the scope of Article 15 of Regulation (EC) No 854/2004.

A captain's declaration may only be issued by an approved freezer vessel provided the other requirements are met (Article 15(3) of Regulation (EC) No 854/2004), while a health certificate should be issued by an approved factory vessel for imports of fishery products.

There is no legal basis to accept a captain's declarations for container transport, which means that health certificates are necessary as arrival in a container cannot be considered as a direct landing with a fishing/freezer vessel.

Comments to the draft had been received from ES and they are under consideration. DK declared to have some linguistic adjustments for the document and wanted to send these by email. COM said that they hoped to present the Working Document concerning documentation accompanying certain imports on fishery products to the next SCFCAH for Biological Safety in April for an opinion.

2. REVIEW OF VETERINARY CONTROL LEGISLATION (MG/PL)

A) Update since last working group - presentation

COM said that they had presented in December 2010 a Report on Imports to the Council and Parliament as required by the Council conclusions of the French Presidency of 2008. The CVO meeting on 18.02.2011 had discussed the Report briefly and several MS commented.

The report is published on the veterinary border control website under: http://ec.europa.eu/food/animal/bips/guidelines_en.htm

COM gave a presentation on the review of veterinary border controls and outlined what has been done so far. Within DG SANCO several internal Task Forces addressing the review of Regulation (EC) No 882/2004 had taken place to ensure co-ordination between the different sectors involved in official controls. These co-ordination taskforces will continue and it is planned to have three Working Groups with the 882/2004-MS-experts dealing with the review on the tentative dates 11 April 2011, 27 May 2011 and 20 June 2011. For the 27 May WG, a joint meeting with experts from several sectors involved in official controls was considered depending on the feedback from MS.

COM explained that the review on fees was ongoing and that a questionnaire had been sent to the MS by the consultants preparing the review. A presentation from the consultant together with the questionnaires would be sent to the import experts for their consideration. In case of experts wishing to contribute, however, they should restrict the contribution to the elements on imports fees.

COM clarified that the recast of Regulation (EC) No 882/2004 was only for clarification, simplification and coherency; it was not an exercise to redraft the Regulation or to consider changes to certain policies/practices unless it was a necessity.

Regulation (EC) No 882/2004 will be the legal basis for sector specific legislation, inter alia on border veterinary checks. However, a new approach to veterinary controls will be proposed for physical checks to be carried out on a more risk based criteria using certain handling tools such as TRACES and FVO reports.

In response to DE, COM explained that the review of veterinary control legislation provides COM with the opportunity to comply with the Lisbon Treaty provision for delegated and implementing acts. COM has the empowerment to propose which provisions will be in the basic framework act and which will be included in delegated or implementing acts. The main issue was to ensure that empowerment was included in the framework Regulation for all the detailed rules to be drawn up in the secondary acts.

The (technical) details on the convergence of sector specific legislation into delegated/implementing acts will be discussed in specific Working Groups/Task Forces.

B) Outcome of Task Force on Import Control Legislation on 25.01.2011:

COM clarified that the aim of the Task Force was to establish the "principles" for veterinary import controls to be included in the planned amendment to Regulation (EC) No 882/2004, which would have the function of a "Chapeau" for EU legislation dealing with official controls. Therefore the detailed import requirements for consignments and for veterinary import controls will be dealt with in other Task Forces, when discussing "sectoral" legislation.

COM reminded MS that the review of the Official Feed and Food Control Regulation, the Animal Health Law, Plant Health Law and the review of the Import Control Directives touch different areas, which are within the Commission and with MS experts dealt with in different working groups and Committees. Therefore enhanced co-ordination is necessary within MS and within the Commission to ensure that the outcome of the work is harmonised and well accepted by all different sectors involved. On the Commission side E5 is the co-ordinating Unit and it is planned to have a proposal for the amendment of Regulation (EC) No 882/2004 to be adopted in the first quarter of 2012.

MS asked for clarification on how plant health will be brought under Regulation (EC) No 882/2004. COM explained that the way in which plant health will be implemented will be discussed in a specific Working Group.

MS stated that it is important that the good functioning veterinary control system will continue to exist. They asked for details how the review will continue and who will discuss detailed proposals.

COM had developed a table of the proposed changes to Regulation (EC) No 882/2004 to include the principles of veterinary controls (so-called document review form) with the input of most of the MS. COM will distribute the consolidated document review form after the WG to enable all MS to provide their input, which should feed the internal Task Forces within SANCO. COM clarified that they cannot anticipate, when a detailed proposal could be circulated but confirmed to keep MS informed on the content of any proposals.

MS asked if TRACES, details of the risk based programme for physical checks or transit and transhipment rules would be included in Regulation (EC) No 882/2004. COM

confirmed that general principles applicable to official controls for all sectors, such as the implementation of TRACES and risk based physical checks would be in the basic act whereas detailed requirements for which and when checks have to be carried out on transit or transhipment are not applicable for all sectors and would need to be considered for sectoral legislation.

C) Outcome of Steering Group Meeting on 03.03.2011

The purpose of the Steering Group was to inform the members (including stakeholders) of developments since the last Steering Group Meeting on 27 May 2010. COM explained how they started the work concerning the Review of the import control legislation and how the work will be continued. Participants in the Steering Group did raise several questions for clarification but no major comments in relation to the review were raised.

D) Planning of targeted Task Forces

As the last Task Forces have increased considerably in number, COM proposed to continue the work related to the review with three Task Forces, each with representatives from nine MS. The following subjects were proposed and COM invited MS to communicate their preferences for participation by e-mail:

1) General principles and definitions (882), certification, co-operation with customs

2) risk based physical checks and re-enforced checks

3) facilities of BIPs, approval and change of categories/ICs,

NL sought to include fraud issues to be addressed in a Task Force meeting as a specific issue and while COM agreed to add fraud to Task Force 2, they asked MS views on fraud.

COM informed that the next Task Force will deal with the Draft Guidance for re-enforced checks and with the review of Regulation (EC) No 882/2004.

3. TRANSIT AND TRANSHIPMENT – DRAFT GUIDANCE REV. 9 (PL)

COM said the document has been updated to reflect several comments from MS and the release of TRACES version 5.1 as from then on it is possible to issue CVEDs for consignments under transhipment procedure.

In addition the content of the draft Commission Implementing Decision on transhipments (Commission Implementing Decision 2011/215/EU[1]), which is replacing Decision 2000/25/EC and which was voted in SCFCAH on 02.03.2011 was reflected in the Draft Guidance Document. COM explained the possible extension from 7 to 14 days to derogate from veterinary checks is only applicable for transhipments destined directly to

[1] 2011/215/EU: Commission Implementing Decision of 4 April 2011 implementing Council Directive 97/78/EC as regards transhipment at the border inspection post of introduction of consignments of products intended for import into the Union or for third countries

third countries. MS have to request this further derogation by providing a detailed justification as to why the extension is planned and the measures they have taken, including setting up of a monitoring system to ensure that the time periods and the travel onward destination is not changed to ensure that such consignments are not deviated to another EU port. This information has to be presented to SCFCAH for information, before the extension to 14 days can be applied.

Several questions from ES were received to which COM answered as follows:

Article 16 (1)(c) of Directive 97/78/EC is applicable if non-conforming consignments which are used for consumption by the crew or passengers on ships operating in international waters are unloaded in EU territory from these ships. In such cases they do not need to go to a BIP for veterinary checks but must be destroyed. We speak here of so-called catering waste or small remainders from the catering. This Article does not cover non-conforming consignments originating from third countries which are destined to ships operating internationally for the consumption of their crew, these have to go to a BIP and after completion of the veterinary check they have to go with the CVED and the certificate foreseen in the Annex to Decision 2000/571/EC to that internationally operating ship. If the ship leaves into international waters and is coming back, then for the rests of these goods Article 16 (1)(c) would be applicable.

In relation to documentary checks, details are explained clearly in the draft Guidance – see chapter 9.3.2, 9.4.1 and 9.4.2. It is described which documents have to be checked and if no health certificates are presented, it cannot be confirmed that the consignment fulfils the animal health conditions. The term 'documents' referred to in paragraph 9.4.2. third indent needs to be understood as wide as possible, as not all products require a transit/health certificate. Action and re-dispatch of consignments not fulfilling the AH conditions is described in the 2nd paragraph of chapter 9.3.2.

Concerning replacement certification (Chapter 4.2.2) COM did consider the proposal for a derogation to detain perishable consignments but if replacement certification is sought, the documentary check cannot be considered as satisfactory and finalised. Therefore no CVED with the veterinary decision can be issued for such consignments and they need to be detained at the BIP until a satisfactory documentary check can be carried out independent if the product is perishable or not.

COM requested MS to monitor the use of replacement certificates as they are in practice used more often when they should in fact be an exception. COM clarified that replacement certificates should only be used in case of a clear administrative error such as e.g. transposition of numbers and letters from the seal or container number to the certificate. COM commented to the 3rd paragraph of Chapter 9.1 that the summary declaration on arrival of a consignment and the export declaration on departure is in accordance with the provisions laid down in the current Customs Code. Veterinary controls are not interested in how and if customs control these transfers, they are interested in the number and monitoring of consignments which have not been checked in the BIP to ensure that consignments not fulfilling AH conditions are not entering the single market or are stored in customs warehouses. Therefore it is necessary to verify that consignments which have been announced to be transhipped, really are transhipped and do not stay in the relevant port/airport or are moved into customs warehouses. That paragraph explains that this verification is possible to be done with cargo manifests of the arriving and of the departing vessels/aircraft. COM asked, if MS can suggest other

documents or information with which it is possible to verify that such consignments do leave the EU territory, the Guidance could then be amended accordingly.

The 4th paragraph of Chapter 9.2 refers to all transhipped consignments, independently if they are for import or for transit. All such consignments should be included in TRACES and a transitional period has been put in place to comply with the inclusion of all consignments in TRACES. The information required in Article 1 of Decision 2011/215/EU is the absolute minimum information necessary as long as such consignments are not included in TRACES. It was necessary to detail this information in that Article to provide MS with the legal basis to ask for this information as it is not yet possible to include it in TRACES. However, COM is working on TRACES to include the unloading time, the location of the consignment in the port/airport and the estimated loading time on the onward aircraft or vessel.

Clarification was asked in relation to animal health conditions for fishery products, these need to be respected in the necessary cases, e.g. in the case of aquaculture products. Concerning safeguard decisions adopted under public health rules, this is explained in the 3rd paragraph of Chapter 9.3.2.: transit of consignments for which a safeguard measure or another specific prohibition has been adopted, is not allowed.

UK asked for clarification on Chapter 5.3.1, paragraph 3 for the LVUs responsible for ships and to strengthen the requirements for animal welfare checks. COM will amend the draft Guidance accordingly.

DE questioned if Article 24 of Regulation (EC) No 882/2004 would be aligned to the Modernised Customs Code and COM asked them to provide a written proposal.

In reply to NL, COM confirmed that the possibility for temporary warehousing and transhipment without the assignation of a customs procedure would disappear under the Modernised Customs Code. COM started discussions with DG TAXUD to address this in the review of the import control legislation and asked MS for their views, how this should be addressed.

BE expressed doubts on the applicability of Directive 2002/99/EC to consignments stored temporarily on EU territory and that for consignments destined directly to third countries no animal health conditions should be applicable. COM will take this into consideration for the review of the Animal Health Law and the Official Control Regulation.

Concerning the procedure for consignments destined to NATO/US bases, DE and UK asked for a legal basis in future legislation. DK offered the possibility to consider the feed back from the NATO/US base similar as the captain's signature on the certificate for ship supply. COM confirmed to consider this in a later stage of the TRACES application upgrade.

All MS agreed to present the document to the next SCFCAH in April. The Guidance document was approved in SCFCAH on 04.04.2011 and is published on:

http://ec.europa.eu/food/animal/bips/guidelines_en.htm

4. ARTICLE 24 OF DIRECTIVE 97/78/EC – RE-ENFORCED CHECKS (MG)

Following the discussion during the last Taskforce and Working Group the version of the draft guidance document for re-enforced checks was reviewed taking into consideration the outcome of several internal meetings with the colleagues involved in the RASFF notifications, TRACES and the residue controls. The revised document was distributed as Revision 5 on 09.03.2011.

COM explained the changes and reiterated the aim to harmonise serious risks which need a RASFF notification. COM stressed the responsibility of the BIP or veterinary service which reports a Rapid Alert, to fill in the form completely.

UK asked for clarification on re-enforced checks after repeated administrative certification shortcomings (Chapter 6). COM clarified the aim of re-enforced checks is to exclude hazards to health. The re-enforced checks programme would include a full identity and physical check and possibly a laboratory check. In case certificates bear repeated shortcomings, a re-enforced check should be carried out with the aim to enhance better certification from the relevant third country and to exclude other hazards for the consignment. UK asked to remove the possibility for seal checks instead of full identity checks and for reduced physical checks in these cases, which should be mentioned clearly in the document. In relation to laboratory checks, sampling and analysis cost money and would penalise the importer but not the competent authority.

DE commented on the size of consignments (Chapter 9.3) and questioned why there is a follow up to 30 consignments. They asked for a more detailed workflow and why the CN-codes in the Annex changed. The list with CN-codes should be separated in product groups and they informed that in market notifications important information is often missing.

COM asked MS for a text proposal in relation to the size of consignments and clarified the procedure for calculating the samples and that it is necessary to count up to a maximum of three sequences of 10 consignments, which counts up to 30 consignments in order to guarantee that 10 favourable test results would be available. Whenever there is an unfavourable test result in one of the sequences, the counting for the next 10 starts again. By contrast, in case the first three consignments tested have unfavourable laboratory results in the first sequence, 100 % identity and physical checks need to be carried out on all following consignments until COM decides on further measures (as described in Chapter 10). A more detailed RASFF-TRACES workflow (Annex B) will be established and a new Annex with CN codes has been added, which reflects the structure and the content of the CN codes in TRACES. COM confirmed that they are working on the grouping of the CN codes in product groups.

DK asked to include that in case of certification problems the consignment should be rejected without the necessity for further veterinary checks and COM agreed to refer to this. PL stated to send comments and COM asked to provide them within two weeks.

ES asked for more clarification for repeated infringements (Chapter 6), for the length of re-enforced check programmes (Chapter 10) and for fraud (Chapter 12). COM explained that the length of a re-enforced check programme is detailed in Chapter 10.3 and may last until the problem in the relevant third country establishment has been solved. In relation to certification fraud, COM informed of an increasing number of cases, e.g. with

Chinese certificates. COM referred to certificates from Bangladesh, for which confirmation of the falsified certificate by the third country authority took five months time. COM asked MS to pay particular attention to documentary checks to ensure that falsified certificates are detected in the BIPs.

NL remarked that the document is not yet ready to be implemented and a test period should be considered to try the programme. The calculation for the length of the programme might need revision as some laboratory checks would need 14 days for the results and too many consignments would need to wait too long. FR stated that the content of the document is fine for MS working directly in TRACES, however, could be difficult to implement for MS working with national interfaces, in particular for the calculation of consignments. They asked when the importer will be informed that re-enforced checks are triggered for relevant consignments and COM replied that a screen could be displayed to the importers with relevant consignments; details for the information to be provided and the at which step in the process the screen should be displayed should be determined in the next Task Force.

IE welcomed the document and supported that repeated administrative certification shortcomings should trigger full physical checks. They asked how the document will become applicable to MS:

COM replied that the document will be further developed in a Task Force before it can be presented to a Working Group again. After agreement in the Working Group, the document will be presented to SCFCAH for information. In addition, a pilot scheme could be considered for certain BIPs before of the re-enforced checks programme will be implemented in all MS.

NL suggested to differentiate between actions related to serious/repeated infringements and actions related to fraud as combating fraud would warrant a different approach. It should be treated separately from follow up of repeated administrative certification shortcomings. COM agreed to reflect further on the procedure in case of fraud asked for input from MS for consideration in the next Task Force.

In addition COM asked for contributions from MS in particular to the highlighted issues in Chapters 6 and 9 for the end of March.

5. UPDATE OF BIP LIST (DRAFT AMENDMENT TO DECISION 2009/821/EC)

The last amendment to Decision 2009/821/EC has been published as Decision 2011/93/EU of 11.02.2011. So far COM received requests to amend the BIP list from DE (Rostock), FR (Brest), PT (Peniche and Setubal) and NL (Maastricht).

COM asked MS to send any requests for changes with the template provided to the relevant Head of Unit, (Alberto Laddomada for TRACES and Ella Strickland for BIPs) by end of April 2011. Any changes received after that date will not be taken into consideration.

Further changes have been provided in the meantime and the draft proposal will be presented to SCFCAH on 31 May 2011 for an opinion.

6. TRACES ISSUES (KK)

TRACES issues were discussed within the individual Agenda points.

7. MISCELLANEOUS:

A) Microbiological criteria on food (KK)

COM provided a presentation on microbiological criteria on food not covered by Regulation (EC) No 2073/2005 and their notification to the RASFF. COM concluded that MS should refrain from national food safety criteria unless these were agreed after notification. On request COM clarified that the existing criteria had been notified to the WTO through the SPS Agreement and all had been validated.

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B) Regulation (EU) No142/2011 implementing the animal by-product Regulation (MK)

COM informed that with the implementation of Regulation (EC) No 1069/2009 and its implementing provisions by 04.03.2011, third countries had started to communicate their establishment lists for animal by-products (ABPs) to the Commission only when the first consignments where blocked in the BIPs. With the fax sent on 02.03.2011 (D1/MK/ah/(2011)D/246158) COM provided a smooth implementation period to MS and box 10 in the first part of the CVED in TRACES has been disconnected for ABPs to allow that all establishments can be entered and the CVED be cleared. Several MS commented that the end of the flexible period should be clearly defined and applicable for all MS and COM agreed. COM has informed all third countries to provide their establishment lists and they will keep MS informed on the progress.

UK and FR informed that pet food for research animals is not produced in a pet food plant and COM clarified the competent authority of a third country can determine which specific manufacture can be/are qualified as 'pet-food manufactures'. If food for research animals is produced in a pet-food manufacturer, it could be classified as pet-food. For further discussions regarding samples for trade, for research or examination, COM referred to the next Working Group dealing with the ABP-Regulations which is planned for 06.05.2011.

DE reported a translation error in Article 27(2) of Regulation (EU) No 142/2011 and asked how the destination of the samples should be informed. COM replied this should be done with the first part of the CVED, which should be issued in TRACES by the Economic Operator and which is then automatically send to the Local Veterinary Unit responsible for the destination. The consignment does not need to be presented to the BIP and the BIP is not involved in actions regarding the CVED.

COM distributed a non-paper document dealing with game trophies and research and diagnostic samples and stressed it is important that MS implement the Regulations in time and apply the requirements already immediately in the first weeks of their application.

C) Draft document SANCO/4755/2009 -Rev. 3 concerning import of ungulates (WD)

Changes of Regulation (EC) No 206/2010 concerning exotic ungulates were presented for discussion. Some MS expressed their concerns on the procedure foreseen and suggested to re-open the working group that last met early 2010 and to prepare the draft accordingly, to be presented for vote in SCFCAH.

COM took note of the concerns expressed, invited further contributions and agreed to invite the working group of 6 MS as set up before (met already on 05.05.2011, next meeting planned for 08.06.2011).

(signed)
G6 – Import Controls

Encl: List of distributed documents

Cc: Experts in 27 MS, Norway, Iceland, Faroe Islands, Switzerland + 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, S. Cabot, H. Klein, M. Pittman, J. Baele, L. Johanson, S. Roth, K. Kostenzer, F. Volpi, C. Bennett, A. Ramirez Vela, R. Matejcik, M. Dodic, I. El Busto Saenz, M. Cronin, A. Berends, K. Kadner, M. Wils, D. Kjolsen, Unit G6.