



EUROPEAN COMMISSION  
 DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY  
 Directorate D – Food chain: stakeholder and international relations  
**D2 – Multilateral International Relations**

DIRECTORATE-GENERAL FOR TRADE  
 Directorate D – Sustainable Development, Bilateral Trade Relations,  
**D3 – Agriculture, Fisheries, Sanitary and Phytosanitary Market Access, Biotechnology**

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 SANTE.D2/TRADE.D3 AH/WM/tt (2019) 2550648

## **Report of the 74<sup>th</sup> WTO SPS Committee meeting (18-22 March 2019, Geneva)**

### ***EU DELEGATION:***

**DG SANTE:** [REDACTED]

**DG TRADE:** [REDACTED]

### ***SUMMARY***

Once again, the **EU policies** dominated the Committee's proceedings. Many countries took the floor to question the EU SPS measures in several areas, notably **Plant protection products** including specific MRLs pesticides, transitional measures, Endocrine disruptors and **Veterinary Medicinal Products**. Brazil complained again about the EU **import restriction on poultry meat** due to presence of salmonella and **China** repeated some previous concerns.

On the **offensive** side, the EU raised **new** concerns against **Korea** in relation to its countrywide bans on EU Member States due to local outbreaks of highly pathogenic avian influenza (HPAI), which Korea lifts only after lengthy review procedures. The EU also **reiterated** several concerns: **Russia's (RF)** import restrictions on ruminants from areas affected by **bluetongue** and on **fishery** products from Estonia; **South Africa** and **China** bans on poultry due to HPAI; **the USA** continuous delay in authorising EU exports of apples and pears; **Indonesia** lack of transparency and undue delays in their approval procedures for animal products; and the import restrictions imposed by several trade partners allegedly due to **BSE**. In addition, the EU urged trade partners to respect international standards and WTO rules on regionalization of **African swine fever (ASF)** and **HPAI**.

**Two thematic sessions**, respectively on equivalence and on fall armyworm (FAW), took place within the framework of the Fifth Review of the SPS Agreement. The EU presented the existing legislative measures to prevent the introduction of FAW into the EU and the technical assistance and training programs available to developing countries.

Brazil led an **informal consultation** on the implementation of the Agreement, while **two informal meetings** took place to discuss all the proposals presented within the Fifth review of the Agreement and the follow up to be given to the discussion on FAW. On the margins of the Committee, the EU presented to WTO members the implementation of the new legislation on **animal health**.

Fourteen **bilateral** meetings offered opportunities for the EU to push for key market access interests.

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### ***REPORT***

#### **I. Trade concerns raised by the EU**

The EU raised the following STCs<sup>1</sup>:

- New:
  - **South Korea:** lack of progress in recognising regionalisation for HPAI and undue delays in restoring disease-free status to Member States after an outbreak was eradicated. South Korea (Ministry of Agriculture) claimed that country-free status was restored for Germany, which is correct, although a public commenting period is still ongoing. However, to restore trade with South Korea, Germany will have to be approved also by the Ministry of Food and Drug Safety, a process that has not started yet.
- Previously raised:
  - **South Africa:** *Import restrictions on poultry due to HPAI* – South Africa reported in the bilateral meeting that pending applications are evaluated and it is hoped that approvals can be granted without further on-site inspections. However, there was no commitment in this regard;
  - **China:** *Import restrictions on poultry due to HPAI* – China reported that restrictions on DE, HU, Ukraine and Chile had been lifted, but evaluations for NL, FR and UK were still ongoing. Restrictions on EU Member States had been imposed in 2015;
  - **USA:** *Import restrictions on apples and pears* – Still no publication date of the final rule;
  - **Russian Federation:** *Import restrictions on processed fishery products from Estonia* – Russia confirmed that a date for a new audit had been agreed and reiterated (once again) their commitment to address the EU concern; *Import restrictions due to Bluetongue* – Russia explained that new regulations were being put in place that should address the EU concerns.
  - **BSE:** The EU welcomed the progress made by China, Taiwan and Japan, and urged other Members (especially South Korea) to rapidly lift their long-standing and scientifically unjustified restrictions.
  - **Indonesia:** Lack of transparency and undue delays in approval procedures for animal products.

During the plenary, the EU informed the Committee that the **Russian** restrictions on certain establishments in Germany had apparently been lifted, and undertook to formally notify the resolution to the Secretariat at the next Committee meeting, once the information had been officially confirmed.

The EU drew attention once again to the unjustified trade restrictions put in place by several WTO Members not respecting the OIE international standards on **ASF** and on **HPAI**.

## II. Trade concerns raised against the EU

Colombia, supported by several Central and South American countries, the USA and Turkey, complained about the draft measure on **Chorothalonil** and the **transitional periods** granted to third countries for MRLs. The USA, supported by several members, including, Japan, India and Canada, reiterated forcefully their concerns on the EU measures lowering the existing **MRLs for buprofezin, diflubenzuron, ethoxysulfuron, ioxynil, molinate, picoxystrobin and tepraloxydim, imizalil and glufosinate** to the level of detection. Members questioned the risk assessment followed

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<sup>1</sup> STC stands for Specific Trade Concern.

by EFSA, complained about the short time granted to phase the measures in and argued that these discriminate between EU and third countries' producers and should take into account the specific climatic situation of developing countries and the lack of readily available alternatives. The USA also argued that in a risk assessment the perception of uncertainty is not the same as identification of a risk and added that measures based on the precautionary principle should be reviewed in due course and modified as necessary. Several members pointed out that the trade of certain agricultural commodity such as bananas, grapes and dried fruit would be hugely affected, thus reducing the livelihood of local populations.

Once again, several members led by the USA raised concerns about the **Endocrine Disruptors (EDs)** regulatory framework. It was argued that a hazard-based approach was inconsistent with the SPS Agreement and that lack of clarity and predictability in assessing MRLs for EDs already on the market and when assessing requests for import tolerances hinder trade and harm producers. Those Members insisted that import tolerances should be granted on the basis of clearly established procedures and a full risk assessment, and that factors other than science (Other Legitimate Factors - OLFs) should not be taken into account in establishing MRLs for EDs and/or other plant protection products. Several members requested information about which OLF would be taken into account in the decision making process.

The USA, supported by many members, strongly criticised the EU legislation on **veterinary medicinal products**. Members questioned the extension of the ban on antimicrobials for growth promotion and the EU list of antimicrobials designated for human use to third country operators. The EU measures were thought to compromise international efforts to fight AMR, including the ongoing work in Codex and the OIE. The EU was requested to explain what criteria it would use when setting the list of critically important antimicrobials and how a ban on the use of antimicrobials for growth promotion on third countries was in line with the SPS Agreement.

China requested the removal of **residue testing requirements** for the remaining products in Decision 2002/994/EC and asked for the revision of the residue definition for **folpet**.

Brazil argued that the EU import requirements for **Salmonella** were not based on science and claimed that they had been introduced as a consequence of their increased quote of salted poultry meat, following a WTO dispute of 2002. Brazil also considered that the EU discriminated within Brazil and other third countries with similar level of non-compliance.

As usual, the EU delegation **defended** vigorously the legitimacy of the EU SPS measures under scrutiny, refuted any wrong or unsubstantiated allegations, and updated the Committee on the state of the play of the different files discussed.

### III. Other issues

A **one-day thematic session** on **equivalence** of SPS measures, systems and processes was held on the nineteenth of March. This focused on members' procedures and approaches toward equivalence and highlighted deep differences in its understanding and implementation. Canada as proponent of this initiative will now reflect on the best course of action. The thematic session on **FAW** highlighted the gravity of the problem, the challenges faced by members and the different approaches followed to tackle the pest. Speakers presented a wide variety of tools and actions applicable at regional and/or national level. Biotechnology was seen as a winning strategy to address FAW by many of the speakers. The EU (██████████ *SANTE GI*) presented the EU action, particularly regulatory measures, Technical Assistance and EU funded research.

An **informal meeting** took place on the twentieth of March to discuss proposals for specific topics under the **5<sup>th</sup> Review** of the operation and implementation of the SPS Agreement. Members had submitted proposals on equivalence, regionalisation (joint EU/USA/Brazil), the importance of science and risk assessment as basis of sanitary measures, transparency, third party certification,

strengthening national SPS committees, pesticide MRLs and the involvement of Codex/OIE/IPPC in STCs. The EU raised concerns about the proposals on science and risk assessment (Brazil) and on the involvement of observer organisations in the discussions on STCs (South Africa). The proposal on third party certification from Belize, which was not present during the discussion, was not discussed. The rest of the proposals were again broadly supported.

Under the **information** section of the agenda, the EU presented the state of play of implementation of three major regulations, notably Plant Health, Animal Health and Official Controls on the basis of documents circulated prior to the meeting. In addition, on the margins of the meeting, the EU ( [REDACTED] SANTE, G2) gave a detailed presentation on the animal health law, which was followed with interest by several WTO Members

#### **IV. Bilateral meetings**

**Fourteen** bilateral meetings were held in the margins of the SPS Committee namely with **Argentina, Brazil, India, Indonesia, Israel, Japan, Malaysia, Philippines, Saudi Arabia, South Africa, South Korea, Turkey, USA and Viet Nam**. A meeting requested with Thailand was refused on the grounds of an overly busy schedule of Thailand. Highlights of the issues (both offensive and defensive) discussed in these meetings include:

**ARGENTINA.** The EU underlined the interest to make progress with issues such as born and raised clauses and regionalization wording in certificates. A study visit from ARG officials to the EU is being prepared to support a better understanding of the EU regionalization policy. Argentina reiterated their concerns on EDs and plant protection products. In particular, they mentioned the transition period granted to third countries to phase measure in and the EU guidelines for establishing MRLs according to regulation 396/2005.

**BRAZIL:** The EU requested an update of the SPS matrix, which was not provided since late 2017, and requested responses to several letters sent recently. In addition, the EU asked for feedback and reports on the audits performed by Brazil in Member States in late 2018. Brazil provided some information and flagged their offensive interests in relation to Salmonella criteria in poultry meat preparations.

**CHINA:** China expressed the expectation that the EU will continue to support the request for Codex guidance on the definition of low risk foods that should be exempt from certification. China again confirmed that the certification requirements will not be implemented in October 2019. China also reiterated their concerns, notably on labelling of novel foods (zeaxanthin), and MRLs (tolfenpryrad in tea and lambda-cyhalothrin).

**INDIA** took note of EU concerns related to leather, food additives and border controls for fruit and vegetables, but reacted by requesting further information rather than envisaging a resolution. India also reiterated its request or a transition period for implementing the EU MRLs for tricyclazole in basmati rice.

**INDONESIA:** Indonesia had delivered some written feedback on Member States pending applications for animal products but no substantial progress is seen. The Indonesian delegation took note of EUs concern and promised to deliver the message to the capital and also promised support for future progress.

**ISRAEL:** Given the imminent general elections, Israel did not give any hope that pending issues related to live animal transport can be resolved before the new government will have taken office. Even then, it seems likely that live animal imports will be gradually suspended over the medium

term. Israel claimed that intensive discussions are ongoing with the Chief Rabbinate to allow Kosher inspection of meat by rabbis residing in the EU Member States. Israel reiterated earlier comments on the new EU plant health legislation, especially on soil and potatoes.

**JAPAN:** It was agreed to continue the technical work towards a regionalisation agreement with Member States affected by African swine fever. The next step will be a video conference with Belgium before the end of March. Japan asked some information on the new EU veterinary medicines legislation and on their applications for approval of exports of milk, eggs and poultry to the EU.

**MALAYSIA:** The EU reiterated its concerns with recent country-wide ban on BE and PL due to African Swine Fever. The EU requested the lifting of the ban and offered to provide the technical services of Malaysia with any possible information request. The EU emphasized that any restrictive measures must be science-based and take the least trade restrictive approach. Malaysia provided some information on pending EU applications.

**PHILIPPINES and VIET NAM:** EU discussed the lifting of import restrictions of Member States affected by African swine fever. In addition, pending market access applications were raised but no tangible progress was reported.

**SAUDI ARABIA.** The EU referred to certain offensive interests such as regionalization on poultry, BSE rules, the discussion of certain harmonized certificates and certain conditions for stunning of poultry. It also requested an update on the export matrix. Saudi Arabia provided information on the state of play and committed to accept a videoconference in the short term to continue a close cooperation.

**SOUTH AFRICA:** EU thanked South Africa for hosting the recent seminar on avian influenza control and regionalisation in January 2019 and inquired about the state of works on the re-opening of poultry imports from six Member States currently still suspended (BE, DE, FR, HU, NL, UK). According to South Africa evaluations are under way but at this stage it is premature to predict whether on-site inspections will be necessary. Ideally this would not be the case. South Africa informed that the FMD outbreaks are under control and vaccination is ongoing in the buffer zone. A report was sent to SANTE - South Africa is making an effort to keep EU informed.

**SOUTH KOREA.** No progress in substance. The Ministry of Agriculture and Rural Affairs held the view that questions related to regionalisation must be discussed bilaterally with Member States. MARA saw no reason to share their questionnaire that Member States have to fill with the Commission. However, MARA will consider a proposal of COM to organise a regionalisation seminar in Seoul with interested Member States.

**TURKEY** highlighted difficulties in export to the EU of fruit and vegetables due to the lowering of MRLs for several pesticides widely used in the country. Given the high quantities exported and their production processes, Turkey needs time to adapt agricultural practices and would appreciate greater predictability and transparency. Turkey wishes to have advanced information about upcoming EU regulatory changes. Turkey requested information on possible legislative developments on ochratoxin, Pyrrolizidine alkaloids and chlorate.

USA did not provide any information about the final rule for apples and pears, while complaining about EU plant protection products framework regulation and pesticides' MRLs. The USA questioned the validity of EFSA risk assessment, maintained that EFSA request for data are cumbersome and unjustified and that EU MRLs should not be based on the precautionary principle.

#### **V. Next meeting**

The next SPS Committee meeting will take place on 18-19 July 2019 and will be preceded by thematic sessions/workshops on the Fifth Review of the SPS Agreement and by informal meetings.

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