



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 13 June 2008 (18.06)
(OR. fr)**

10698/08

LIMITE

**AGRI 187
PHYTOSAN 9
VETER 13
SAN 126**

NOTE

from :	French delegation
to:	Council
Subject :	Food, feed, animal and plant imports: safety and compliance with Community rules

Delegations will find attached a note accompanied by a memorandum in which the French authorities wish to bring to the attention of the Council and the Commission the safety of agricultural and agri-food imports and their compliance with European standards.

NOTE FROM THE FRENCH AUTHORITIES TO THE COUNCIL

The French authorities, supported in this approach by the Austrian, Bulgarian, Estonian, Finnish, Hungarian, Irish, Italian, Latvian, Lithuanian, Luxembourg, Polish, Romanian and Slovak authorities, wish to bring to the attention of the Council and the Commission the safety of agricultural and agri-food imports and their compliance with European standards.

In this regard, they wish to raise their concerns and suggest improvements which they have already identified.

**Food, feed, animal and plant imports:
safety and compliance with Community rules**

The growth of global trade in agricultural and food products makes it more likely that risk factors and diseases may emerge and spread, possibly affecting human, animal or plant health.

The need to maintain a high level of protection for the health not only of consumers but also of livestock herds and plants is a constant challenge for those responsible for the protection of health. The European Union (EU), having learned the lessons from the health crises of the 1990s, has put in place a very sophisticated institutional and legislative system, based most notably on a new allocation of responsibilities and a system of risk analysis. Current EU legislation, which is harmonised to a large extent, has a major influence on production and marketing processes. It forms a binding framework for all operators supplying the Community market' with plant and animal products and a criterion for competitiveness.

As is indicated by the Commission's report "The European Interest: succeeding in the age of globalisation", we believe that the Union must indeed seek to ensure that we have "ground rules which do not impinge on our capacity to protect our interests and to safeguard our high product standards relating to health, safety, the environment and consumer protection".

The European Union has a duty to guarantee the **safety for health and compliance with European standards** of products placed on the Community market, imported products included. Standards and controls must be harmonised and adjusted to match the risks that exist, with a view to optimum allocation of resources and the avoidance of any creation of unjustified technical barriers. The effectiveness of this system is highly dependent on the degree to which it is applied by the operators and by the competent authorities in the relevant countries. Certain failings, where they are observed, should lead to corrective action in the short term. Subsequently, a new global strategy covering the entire import cycle and all products that may constitute a source of risk to human, animal or plant health could be drawn up.

At the same time, the European Union must endeavour to ensure that the demands of production applying specifically to European operators **do not lead to competitive conditions that are unfavourable in comparison with imported products.**

And lastly, the European Union must ensure that consumers are informed and have the opportunity to make informed choices, enabling a market offering of food to be maintained that matches **their collective values or preferences.**

In order to pursue these goals, actions centred on three core focuses have been identified. They are set out succinctly in the present document which we wish to submit for the attention of the Commission and the Council.

I. Improvement in import controls and definition of a new EU strategic framework for import controls covering all plant and animal products

1. Import controls must be capable of providing the assurance that plant and animal products, particularly those entering the food chain, are safe and compliant with EU standards. It is important that they should be applied in accordance with harmonised procedures in order to ensure that all goods coming on to the European market, irrespective of their point of entry, offer the same level of safety.

In this respect, a number of failings have been identified. Specifically, these relate to differences of practice between Member States in the performance of checks, the modulation of rules applying to frequency of physical checks without basis in effective risk analysis, the lack of centralisation at EU level of the management of strengthened controls, or incomplete harmonisation of methods of analysis. Moreover, when a phytosanitary risk is identified, the EU regulation does not provide for a pre-established system enabling the adoption of measures strengthening specific requirements applying to imports.

The regulations governing imports of foodstuffs of plant origin, unlike those applicable to imports of foodstuffs of animal origin, do not require checks to be systematically performed at the first point of entry into EU territory, other than for certain high-risk products. Such checks are carried out at destination, following customs clearance, under surveillance plans.

Where personal imports are concerned, EU inspection missions have highlighted failings likely to constitute risk factors.

2. These observations lead to a recommendation for the **re-evaluation of the system as a whole**, based on acquired experience and using those components that do function satisfactorily at the present time, with a view to **defining a new strategic framework**. The aim must be to ensure the safety of imported products by improving the prevention of risk, accidental or intentional. This strategy should develop risk analysis-focused approaches. It should cover the whole import cycle, and generalise the implementation of specific requirements in exporting third countries.

3. **Several domains can already be given priority for action**: these notably relate to the harmonisation of procedures and requirements, the promotion of good import practices, and adaptation of control pressure on imports (strengthened or reduced frequency) based on effective risk analysis.

The control and distribution of information are crucial. The development of the EU integrated computer system "TRACES" for the management of data on exchanges and imports of livestock and foodstuffs of animal origin should be strongly encouraged. Financial resources should be devoted to it both at Commission level and in the Member States. In addition, its extension to include plant protection, in relation with the "EUROPHYT" system, would be beneficial. The information system should become an effective tool for aiding decisions.

Coordination between different government agencies acting at different points throughout the import cycle needs to be reinforced. EU inspections have revealed a number of weaknesses in terms of cooperation between customs and health agencies. Such dysfunction is likely to increase risks from illegal imports. Exchange and correlation of the data available to operators, competent authorities and the various investigative agencies are likely to make it possible to combat illegal imports more effectively.

And lastly, international cooperation and technical assistance should be a major component of diplomatic activity directed toward developing countries that are exporters or potential exporters to the European market. Programmes conducted on the ground offer a highly effective tool for preventive management. Initiatives have already been taken in this field, notably in connection with the programme "Better training for safer food". An increase in the level of resources for this would be desirable not only for Community actions but also for support to international organisations (assistance in drawing up of standards, technical assistance). In the same way, enhanced coordination with the other European technical and financial support programmes, in addition to those run by national cooperation agencies, should be encouraged.

II. Comprehensive analysis of sanitary and phytosanitary risks of imports

1. **Import-related sanitary and phytosanitary issues sometimes come to light:** the foot-and-mouth disease virus (2001), heavy metals in animal feed, aflatoxins in tree nuts, residues of veterinary medicinal products in commodities of animal origin, residues of pesticides and other chemicals in plant products, bacterial contamination of plant products intended for use as animal feedstuffs, plant pests such as the pinewood nematode, and so on.

They are usually revealed after the fact by surveillance and control programmes put in place at all points in the market supply route and can involve any link in the animal or plant supply chain. They may lead to difficulties of variable importance. The outcome may be, according to the precise case, application of a safeguard clause, market recall or withdrawal operations, health measures for eradication, or other management measures aimed at reducing risk to the lowest feasible level. In addition to the costly nature of such measures adopted after the fact, they cannot always restore consumer confidence, nor, swiftly, an appropriate level of safety. The risk factors can even become persistent within the European Union in the case of plant or livestock diseases for which eradication measures would not be economically viable.

2. Greater control of risk factors should be sought by **basing import control measures more systematically on prior sanitary and phytosanitary risk analysis**, the principles of which have been defined by the competent international bodies recognised by the World Trade Organisation: the *Codex alimentarius*, the World Organisation for Animal Health (OIE) and the International Plant Protection Convention.

Lack of risk assessment can lead to underestimation of risk. Harmonized methodologies should be developed, and the European Food Safety Authority (EFSA), in accordance with the tasks with which it is charged by the general European food law (Regulation (EC) No 178/2002), could play a more important role in the coordination and performance of such scientific assessment of risks to human, animal and plant health caused by goods imported into the European Union. In order to avoid overstretching resources, its working programme should be established, in close conjunction with the competent national and regional bodies (and notably the European and Mediterranean Plant Protection Organisation) on completion of a preliminary assessment of the combinations of dangers/matrices/origins in order to identify the most hazardous situations.

3. **Recognition of the equivalence of health protection systems in exporting countries** is part of the foundation of international trade in food and feedstuffs, livestock and plant products. It enables account to be taken of the existence of systems that while different provide an equivalent level of protection. However, whatever the trade flows involved, the EU must remain very vigilant in the assessment of the guarantees presented by third countries before granting them equivalence status.
4. **EU inspections**, whose purpose is to assess exporting countries' compliance with Community requirements, are an important component in the system for the control of import risks. Efficient resource management must require inspections to be scheduled on the basis of appropriate targeting and frequency, taking account of follow-up on observed non-compliance.

In this respect, the number of inspections conducted in the plant sector, which is still low in comparison with the animal sector, could be increased. And the results of these inspections should have an immediate effect (adaptation of regulation, or even emergency measures). In addition, the measures stipulated by Community regulations for the management of failures to comply with plant protection requirements should be made more stringent.

A complete list of countries and establishments authorised to export to the European Union should be drawn up as soon as possible, notably for animal feedstuffs and animal by-products not intended for human consumption.

The results of EU inspections, and the analysis of observed non-compliance in particular, combined with documentary and scientific assessments, should make it possible to identify and quantify the risks arising from each category of imports in a useful and objective manner.

5. The import measures it is resolved to implement on completion of this risk analysis should **take account of the "appropriate level of health and plant protection" (ALOP)**, as set out in the World Trade Organisation Agreement on the application of Sanitary and Phytosanitary Measures (SPS). To that end, the European Union should endeavour to define with greater precision the sanitary and phytosanitary levels of protection that it deems appropriate on its territory and to ensure that third countries are informed of these, in order to justify its non-discriminatory import restriction measures.

III. Putting an end to distortion of competition, and consideration for legitimate factors and collective preferences

1. Some differences between the requirements to be met by imported products and those to be met by Community products can be noted. Over and above the fact that they may influence our level of sanitary or phytosanitary protection, they may lead to **specific distortion in levels of production costs**, to the detriment of European operators. This is true of the management of chemical inputs and their residues in foodstuffs. A ban on the use of certain substances in the European Union, insofar as it is based on scientific evidence, should be part of the requirements applicable to the production of imported products. The incomplete transposition of European rules on animal feed in the standards applicable to the production of imported products is also a source of significant differences in production costs that greatly penalise European industries.

2. **Requirements relating to animal welfare on livestock holdings and traceability in all sectors are** seen by European producers as a headline issue in this context. Despite the efforts of the European Union to focus on such considerations at international level (OIE, Council of Europe), or even at bilateral level through sanitary agreements with certain third countries, it is undeniable that these constraints impose a heavier burden on European operators. And all the more so because this dissymmetry in applicable standards is not offset by the provision of complete information to European consumers that would add value to the conditions in which production is conducted in the Union.

The animal welfare issue refers back to the wider question of the role of **legitimate factors or collective preferences** in international trade in agricultural and food products. Such collective preferences are the outcome of societal choices. They derive from the levels of priority allocated to public goods or certain social values. The food chain as a whole is particularly involved in or influenced by such collective preferences due to the special relationship between consumers and their food. Food quality based on origin and production methods, livestock protection, a sound use of the precautionary principle or the protection of the environment are matters to which Europeans are sensitive. Any undermining of the priority allocated to such preferences, particularly in connection with imports that violate the principle of free consumer choice, would constitute a loss for the European Union.

3. Every possible effort must therefore be made by the European Union **to further consideration for such societal choices** in bilateral agreements, and to ensure recognition of **their legitimacy in international trade** in food, livestock and plants. Alongside this, the EU should seek to develop systems to enable consumers to be kept fully informed, and add value to Community products.

