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NOTE

From: General Secretariat of the Council
To: Delegations
Subject: Working Party of Chief Plant Health Officers (COPHS)
on 10 and 11 December 2014

In relation with the above-mentioned Working Party delegations will find in Annex the following supporting document concerning Agenda item 1:

- Plant health protection system at import: Presidency report on an informal discussion meeting.

Presidency report on an informal discussion meeting on 26 November 2014

The meeting held on the 11th and 12th, November 2014 of the Chief Plant Health Officers (COPHs) had on the agenda the following subject:

Joint position on introducing a plant health protection system at import. Document by the AT, CY, EL, ES, FR, MT, PT delegations (doc. 16962/13 ADD 21).

During the discussion, in opposition to the document, some delegations expressed support for the compromise text of the previous presidency (ST 9613/14) while other delegations supported the proposal sent by Germany last June 3 (doc. 10537/14).

At the same time, many delegations suggested to examine the question of import controls in an informal discussion group.

The Presidency, noting that the wording of the Proposal for a Regulation (doc. 9574/13) in the article regarding import controls, has been welcomed only by a limited number of delegations, accepted the suggestion to foster an informal discussion between those Delegations that formulated or supported the various proposals, to discuss this issue further.

The informal meeting of 26th November discussed further the Slovenian proposal, presented at the 11th/12th November COPHs meeting, which categorised plants, plant products and other objects into 4 groups – on the basis of: commodity risk; the approach to risk evaluation; and, access to information/data to enable the early alert of any new trade (associated unknown risk):

- 1. Woody plants for planting** – for this group risk should be preliminarily assessed, without a full Pest risk analysis, for each commodity and origin **before new trade starts**. Woody species are mostly grown outdoors in exporting and importing countries and are perennial (we should be careful how to define “woody” plants for planting – there should be no doubts in how it should be interpreted). This results in high risk of infestation with pests and diseases that may threaten in particular trees of high economic, social and environmental value in the Community. Any plant/origin combinations of species that have been assessed for their phytosanitary risks and are considered safe may be put on “positive lists”.

2. **Other Plants for planting** (regulated commodities) – for this group a phytosanitary certificate is required and we should have these commodities in a common database (IMSOC). When the new trade starts an alert should be given and risk assessed in a working group (Expert Working Group on Response to Emerging Risks). When alert or horizon scanning systems have identified new, not yet fully known risks of imports of plants and plant products to the EU, risk can be managed through the proposed Article 47. The specific instruments of the Commission’s proposal foreseen in Article 47 for reacting on “new or not yet fully known risks” provided by this article should be potentially available for **any plant and plant product, not only plants for planting**.
3. **Parts of plants and plant products and other objects** (regulated commodities) for which a phytosanitary certificate (PC) is required – the same procedure as for group 2 should apply.
4. **Non-regulated consignments** (PC is not required) – Member States and the European Commission shall have access to the customs control database to identify an emerging risk on imports of part of plants and plant products to the EU with existing trade. Data in the database should be regularly analysed in the dedicated working group. When risk is identified, temporary measures could be imposed for import checks of a certain % of consignments. Article 42(1) in the proposed regulation for official control provides a basis for this. For this purpose close co-operation with customs authorities should be enhanced to allow phytosanitary authorities to have access to data of non-regulated consignments before they are released into the EU. The basis is provided in Article 73 (Cooperation amongst authorities in relation to consignments entering the Union from third countries) in the regulation for official control. When risk is identified the procedure to put a commodity on a list of regulated plants and plant products should be followed in accordance with Article 47 on regulation on protective measures against pests of plants.

Experts present at the meeting concurred that there was a need for some sort of categorisation of plants and plant products based on risk, and that further verification of risk would be required for certain groups. In addition, one expert considered that risks on non-regulated product should also be assessed.

During a transitional period (three years or more), the risk of existing trade flows of certain ‘high risk’ groups should be assessed (by the working group) and the most problematic commodities should be identified and be subject to a further Pest risk analysis, carried out by EFSA.

After that transitional period, during which baseline lists for the identified ‘highest risk’ categories are established (drawing on existing listings as appropriate), any **new trade** (in relation to commodity type and/or origin) can be identified and risk assessed in line with the procedures appropriate for that category.

When deciding on the priority for assessment it would be important to group commodities into different groups, representing different levels of risk, taking into consideration factors such as: commodity type, origin, volume and end-use (perhaps following Annex II/III criteria of the new Plant Health proposal).

Seeds should be put in a separate group and excluded from plants for planting for this purpose.

In order to become aware of a new trade of regulated commodities it is important to have a common information system and a user friendly search tool at the EU level. The legal base already exists in a proposal of regulation on official control (IMSOC information system). Access to these data for all Member States will be available to the Commission only and data on import should be analysed on the basis of it. New trade usually starts with small quantities and assessment of the risk should be done in a reasonable time.

Experts agreed that there was a need to establish an import regime that strikes a balance between risk, available resources and trade.

Data from the ISEFOR and COST - Permit project that evaluate ten years of import fluxes in some Member States, show that:

1. Plants for planting imported in 2012 belong to 2191 genus from 265 families;
2. That there are 3023 combinations genus/countries per year and 1/3 of these are new fluxes;
3. 11% of these fluxes concern the woody plants for planting (345 combinations genera/countries per year) and 1/3 of these are new fluxes);

The discussion concluded that the woody plants category presented the highest risk and resources should therefore be focused primarily on this category.

It is still to be discussed whether the term ‘woody plants’ is clear or ‘trees and bushes’ could be better used, since the term itself is insufficiently clear to Member States and third countries.

Further inputs for discussion

1. Woody plants for planting

In the proposed Regulation on Plant Health a positive listing system could be expected for woody plants for planting, and therefore they should be subject to an evaluation (assessment) risk for each genus and origin before starting trade.

Expert agrees that the risk is justified and no difficulties should arise vis-à-vis the SPS agreement and the IPPC, when motivating the change from the current open system to the closed system..

Therefore, in order to ensure transparency vis-à-vis third countries, it a list of genus or species names that falls under the woody plants for planting group should be determined, through a secondary act,.

Before beginning a "new trade", a risk assessment is carried out for each species/genus and origin. At the end of the assessment the “new trade” is included in the positive list if it doesn’t represent a risk or if the risk can be managed. The French expert presented a possible procedure to follow in order to establish the positive list.

2. Plants for planting, other than woody plants for planting

To strengthen the preventive approach in the proposed Regulation on Plant Health, it could be discussed to add in a part of the regulation some principles for a closed system for plants for planting, other than woody plants for planting. These would be the case for the most risky pathways. Criteria for these can be based on the ISPM 36 standard.

3. Other Plants for planting and Parts of plants and plant products and other objects (regulated commodities)

When the new trade starts an alert could be given and risk assessed in a working group (Expert Working Group on Response to Emerging Risks). Commodities could be traded just if free from risk, otherwise the Article 47 shall be adopted.

For fruit and vegetables some projects like DROPSA can be put in place.

4. Non - regulated plant produce (PC and inspection not required)

For non-regulated part of plants and plant products there is no database at EU level to check data on import in order to assess the possible risk of a new pest. Alerts on any trades should be given on genera/origin/quantity.

No agreement amongst experts was reached regarding the possibility to apply the positive list system for this category.

Experts considered three possibilities to acquire data on a new trade:

- the importer should inform the official authority on every import of all non-regulated plants and plant products (“light TRACES”).
- use of custom control data on imported plant products (if Article 74 of regulation on official control can be implemented),
- use of EUROSTAT data. They can be required for each month and they are available two to three months after import. They are specified on a basis of CN codes which should be specific enough for fruit and vegetables as well as wood, but this would need further verification.

When a risk is identified the procedure to put commodity on a list of regulated plants and plant products is carried out on the basis of Article 47 (as proposed by the Greek presidency) on regulation on protective measures against pests of plants.