



11 March 2014

(14-1476)

Page: 1/2

Committee on Sanitary and Phytosanitary Measures

Original: English

COMMENTS ON NOTIFICATION G/SPS/N/RUS/49

COMMUNICATION FROM THE EUROPEAN UNION

The following communication, received on 7 March 2014, is being circulated at the request of the Delegation of the European Union.

1. The European Union (EU) acknowledges notification G/SPS/N/RUS/49 submitted by the Russian Federation, dated 4 March 2014, wherein the Russian Federation informs WTO Members of the introduction of emergency measures with regard to Poland. These measures comprise a temporary restriction on the export of live pigs and its genetic material, pork products and certain other commodities from the entire territory of Poland to the Russian Federation, as of 27 February 2014, due to the detection of the African Swine Fever (ASF) virus in Poland.

2. The European Union deems it appropriate to voice, once again, its serious concerns with regard to the severity of the trade restrictions introduced by the Russian Federation, in particular as these go beyond the detailed international standards issued by the World Organization for Animal Health (OIE) on African Swine Fever and regionalisation (zoning). Therefore the European Union has decided to submit this communication along the lines of the concerns also expressed in document G/SPS/GEN/1305, which was submitted to the WTO after the Russian Federation notified similar measures against Lithuania (G/SPS/N/RUS/48).

3. Two ASF cases were detected in Poland in wild boar on 17 and 19 February 2014 in the vicinity of the border with Belarus. Stringent measures including, *inter alia*, strict movement controls and biosecurity to prevent any possible spread of the disease were taken by Poland promptly, in close cooperation with the European Commission as provided for in EU legislation, and in accordance with international standards. These measures confirmed the demarcation of an infected area in Poland, which was secured in order to prevent the spread of the disease in strict accordance with the internationally recognised principle of regionalisation, as provided for by the OIE. Regionalisation has the express intention of not only preventing any further spread of disease, but of allowing trade to continue to flow from unaffected areas. Intensive ASF surveillance is also ongoing in domestic pig farms both within the infected area and outside with no infection detected to date.

4. The European Union is highly concerned that the decision by the Russian Federation – as per the notification, to ban the export of live pigs and pork products from the entire territory of Poland – runs counter to one of the fundamental principles of the WTO SPS Agreement, namely Article 6 on disease-free areas. The Russian Federation claims that its measures are in line with the relevant standards of the OIE namely with Chapter 15.1 of the OIE Terrestrial Code and Chapter 2.8.1 of the OIE Terrestrial Manual. Yet, by its actions, the Russian Federation ignores the internationally accepted principle of regionalisation that is a cornerstone of animal health mitigation measures in the OIE Terrestrial Code on "Zoning and compartmentalisation" as set out in Chapter 4.3.

5. This is therefore not only in violation of the OIE standards provided for such findings of the virus. It also appears to run counter to Article 3 of the SPS Agreement, which obliges Members to base their SPS measures on international standards, guidelines or recommendations, where they exist.

6. Russia has been kept fully informed of all steps taken through an ongoing and open exchange of information. The dialogue indeed remains open. It is thus not only impossible to understand Russia's actions; its approach is also completely unsubstantiated.

7. Another area in which the European Union would like to voice its disappointment concerns the fact that the decision of the Russian Federation to ban the export of live pigs and pork products is not only not restricted to the affected areas of Poland and Lithuania (the latter notified in G/SPS/N/RUS/48), it is *de facto* applied to the entire territory of the European Union.

8. This means that not only are the referred notifications incorrect, they are also misleading. Furthermore, the ban that is in place is also:

- disproportionate,
- more trade restrictive than necessary, and
- discriminatory.

9. It is disproportionate, as an EU-wide ban, restricting the trade in live pigs and pork products from any part of the European Union, is wholly unjustified, unnecessary and ignores international standards and WTO obligations. This is particularly so given the comprehensive steps that have been taken to fulfil the international standards that regulate such situations, namely regionalisation. It is also to be noted that the disease in Poland has, at least so far, only concerned the wild boar population. The measures applied by Russia, however, also ban the trade in pork and pork products originating from domestic pigs.

10. It is also far more trade restrictive than is necessary. Even if the restriction in place were limited, as claimed by Russia in its notification, to solely Poland and in its early notification, to Lithuania – it would remain more trade restrictive than necessary. However, given that both countries have been regionalised in accordance with international rules, the remaining areas i.e. the unaffected areas, should be free to trade. Conversely, as a result of Russia's actions, trade is currently not possible from any part of the European Union.

11. It is also discriminatory as the Russian Federation is itself a territory where ASF is present. According to Article 2.3 of the SPS Agreement "Members shall ensure that their sanitary and phytosanitary measures do not arbitrarily or unjustifiably discriminate between Members where identical or similar conditions prevail, including between their own territory and that of other Members."

12. Under point 8 of the notification, the Russian Federation claims that the measures are necessary to: "avoid the introduction of the ASF virus into the territory of the Russian Federation". This is quite clearly incorrect: not only has ASF been present on the Russian territory since 2007, but Russia has also failed to demonstrate that the measures it is taking to prevent the spread of the virus are effective. Indeed, in the last years, this disease spread both in the domestic pig and the wild boar population in a very large area of Russia, as demonstrated in the notifications made by Russia to the OIE since 2007. There can be little doubt that since the Russian Federation has taken wholly insufficient measures to prevent the spread of the ASF virus on its own territory, the virus has now spread beyond its borders to neighbouring countries. Scientific studies have shown that the virus found in Poland and Lithuania, indeed originates from Russia, and is believed to have been transmitted to the European Union via Belarus.

13. The view that the measures are discriminatory is further compounded by the reaction taken by Russia after the detection of the ASF virus in Ukraine earlier this year when Russia introduced restrictive measures – detailed in notification G/SPS/N/RUS/46 – on exports of live pigs and pork products from solely the affected region of Ukraine (the Luhansk region).

14. The Russian Federation is clearly applying discriminatory policies not only in treating imports in a discriminatory way when compared with domestic product, but also, by discriminating between its trading partners.

15. The European Union finds it of great concern that the Russian Federation, more than one and a half years after its accession to the WTO, still fails to respect its commitments to adhere to the WTO SPS Agreement which it explicitly signed up to when acceding to the WTO in August 2012. It is also of concern that the Russian Federation so blatantly violates the international standards which are upheld and enshrined in the WTO SPS Agreement.

16. The European Union is committed to working with all its trade partners and will continue to do so both bilaterally and within the WTO/SPS framework in order to allow safe trade to continue without hindrance.
