

## **BRIEFING for Trade Committee**

- **Subject: Flash reports and briefings of all Sub-Committees**
- **EU-Colombia/Peru/Ecuador Trade Committee**
- **Date: 07-09 November 2023**
- **Place: Virtual meeting**

### **Flash report of 10<sup>th</sup> Subcommittee on Sanitary and Phytosanitary matters (SPS)**

#### **Scene setter**

*The Subcommittee meeting was held from 07 to 09 November 2023.*

*Most discussion points were similar to the 9<sup>th</sup> Subcommittee meeting in 2022.*

*Co/Ec/Pe stated their well-known concerns about the impact of the Green Deal in a joint statement.*

Art.4.1(a)

*CO/Ec/Pe also presented a joint statement regarding their concern for the EU policy on maximum residue levels (MRLs) for residues of pesticides, stating again that it had a negative impact on trade and created discriminatory conditions.*

Art.4.1 (a)

*COM rebutted all these arguments and provided data supporting that: there is not trade concern, Com has provided numerous space of dialogue, EU MRL are largely in line with Codex, import tolerances are largely accepted and we have provided technical assistance.*

*The claim that EU measures are restrictive to trade was contested again by citing statistics that show the constant growth of exports of plant products.*

*Co/Ec/Pe also came back with a joint statement on their concern regarding the EU legislation on cadmium residues in cocoa and other products.*

Art.4.1(a)

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### **Key messages**

- To thank Colombia, Ecuador and Peru for the meeting, being aware of the concerns raised by both sides in key sensitive subjects.
- The EU wants to be a driver of sustainability and we are convinced that the Farm to Fork Strategy will change things for better. We are convinced that Colombia, Ecuador and Peru also share this view.
- Deforestation is not an SPS matter and it is therefore out of the scope of the SPS Chapter of the EU-Co/Ec/Pe Agreement.
- The EU is fully aware of the particularities and the exceptional nature of Colombia, Ecuador and Peru with regard to agri-food production, and understands the concerns and appreciate the efforts made to adapt to the SPS requirements of EU legislation. That is why the EU have supported, with various cooperation and collaboration initiatives, in this effort and will continue to do so, as resources allowed us to do.
- Despite those concerns, the EU considers that the Agreement is having very positive effects and is playing a key role in incentivising social and economic progress on both sides. In fact, we note with satisfaction that, since the entry into force of the Agreement, there has been a very significant growth in exports from Colombia, Ecuador and Peru to the European Union in agri-food products covered by SPS measures, which are of major social and economic importance.
- The EU is being an open and fruitful market, particularly for agricultural and fishery products, as evidenced by data on products imported into the EU from your respective countries.
- EU policies on SPS matters (eg pesticides, residues) do not seem to be creating restrictions to trade, as claimed by Colombia, Peru and Ecuador, given the growth in exports and the extremely positive trade balance in products covered by SPS measures, in particular fruits and vegetable for human consumption.
- The EU is however very concerned on the respect for and implementation of the provisions of the Agreement regarding regionalisation for ASF and HPAH as well as on the prelisting obligations and the undue delays.
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Art.4.1(a)

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- Art.4.1(a)

### **Offensive Points to raise**

#### **Issue:**

Regionalisation on ASF and HPAI

#### **Line to take**

Art.4.1 (a)

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We call on Colombia, PER and EC to:

- Respect provisions in the Agreement, specifically on regionalization
- Process and approve the Polish market access application

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- Open trade for products from ASF free areas, in line with zoning policy

Art. 4.1(a)

### **Defensive Points**

#### **Issue:**

EU pesticides policy

#### **Line to take:**

The EU has the right to establish the level of protection considered appropriate. EU measures on pesticides are fit for purpose (protection of health) and taken based on a scientific risk analysis, in a transparent way and respecting international commitments (WTO). Evidence shows that they are not resulting in restrictions to trade.

- there is not a trade concern as exports of fruit and vegetables from the three countries continue growing every year.
- Co/Ec/Pe has had the opportunity to voice their concerns at every SPS Subcommittee in the last years, at the 26+1 meetings of the WTO-SPS, at the intersessional meetings, at the several specific meetings we have had on pesticides and finally at the plurilateral meeting had in Geneva last June. We consider we have already offered enough space to the three countries.

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- We have organized and financing seminars on the region and also offered an special assistance by sending an EU expert to the region, but it was not possible because one of the countries aimed to change the terms of reference of this assistance to accept it.
- It was pointed out several times that deforestation doesn't lay within the remit of DG SANTE.

### **Issue:**

Lowering MRLs based on environmental concerns

### **Line to take:**

The WTO rules allow members to adopt necessary measures relating to the conservation of exhaustible natural resources (GATT Article XX(g)). According to the so-called necessity test, such measures may extend to the production method in third countries, provided that:

- such measures address legitimate environmental concerns of a global nature
- are necessary to achieve the stated objective (in this case the protection of pollinators).

The EU considers that both provisions are fulfilled when lowering the maximum residue levels (MRLs) for clothianidin and thiamethoxam to the limit of quantification (LOQ) and that there is no alternative that would be less trade restrictive and equally contribute to the objective.

Therefore, the EU is acting in accordance with the WTO rules and would like to re-assure Colombia, Ecuador and Peru that it will continue doing so in future.

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### **Issue:**

Pesticides: emergency authorisations granted by the Member States

### **Line to take:**

There is no discrimination of non-EU countries. When emergency authorisations for use on specific crops are issued by EU Member States, crops grown in those Member States leading to residues above MRLs can no longer be traded with other Member States nor with non-EU countries.

Member States may establish national temporary MRLs, but those then apply to their national territory only and for a restricted period of time, not exceeding 120 days.

Furthermore the EU has taken action (and will continue to do so) to reduce the number of such emergency authorisations in the Member States.

It is worth mentioning that as regards Import tolerances the EU largely accepted the requests presented by Third Countries. Between 2009-2022 we received 617 request and we only refused 83 while 534 received positive opinion and were established in the UE.

### **Issue:**

EU legislation on cadmium residues in cocoa

### **Line to take:**

Again, the EU has the right to establish the level of protection considered appropriate. EU measures are fit for purpose (protection of health) and taken based on a scientific risk analysis, in a transparent way and

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respecting international commitments (WTO). The EU has already made great efforts to facilitate the implementation of this rule, including a delayed entry into force, a transitional period as requested by the Andean countries of 4 years, by financing a EUR 6 million technical assistance project, plus information and dissemination measures. At this stage, there is no new elements and therefore the EU is not considering to change the legislation.

### **Issue:**

Regionalization for African swine fever (ASF) and Highly Pathogenic Avian Influenza (HPAI)

### **Line to take:**

As required under the WTO SPS Agreement (Article 6), third countries should accept the sanitary status of EU Member States (and regions within them under the principle of zoning/ regionalisation) and criteria of the WOA, and NOT impose any restrictions/bans which go beyond those standards. Country-wide bans are disproportionate and not justified and go against the WTO SPS Agreement.

The EU takes the outbreaks of ASF and HPAI very seriously. The EU has rolled out a very robust strategy for the early detection, immediate control and eradication of both diseases within the Union but also the organisation and management of safe trade.

Where the diseases are detected in an EU MS, even in the wild pig population or wild birds, very specific and strict measures are put in place to protect domestic farm animals (including movement and trade restrictions from affected areas) and to prevent the movement of

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potentially infected pigs or pig products. The EU control measures ensures that pigs or poultry from affected areas and relevant products thereof that pose risks concerning ASF/HPAI do not enter intracommunity trade or are not sent to trade partners in third countries.

Trading partners should immediately lift the trade restrictions after EU MS have regained freedom (in the whole or part of their territory) from ASF/HPAI in line with international sanitary standards (WOAH) and WTO rules (SPS Agreement). Furthermore, trade restrictions should not be imposed on pigs or poultry or their products originating in ASF/HPAI free zones/regions of Member States.

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**Contact person:** Art. 4.1(b) **(SANTE A5),** Art. 4.1(b) **(TRADE D3)**