

FINAL Minutes

3rd Meeting of the Ukraine-EU Sanitary and Phytosanitary (SPS) Sub-Committee

Association Committee in its Trade configuration

Kyiv/Brussels – 16 November 2018

Videoconference

Discussed points:

1. Welcome and introductory remarks

UA Side: Opening and introductory remarks by Mr. Volodymyr Lapa. Thanked for fruitful cooperation and strong EU support, in particular regarding systematic reforms in the SPS area.

MOH representative greeted the work of SPS Sub-committee and the co-operation between EU and UA.

EU Side: Opening and introductory remarks by Dr. Koen Van Dyck. Mr. Van Dyck stressed the importance of the meeting and referred to the value of the various stocktaking meetings that took place over the last year and that are important to be continued also in 2019.

He mentioned that the activities under the SPS part of the Association Agreement (AA) between the EU and UA attracted a lot of attention from the EU-stakeholders, making it important to proceed the work actively and in full transparency. Mr Van Dyck also explained that this meeting was held by videoconference and another meeting should be held in person when Annex V is ready for endorsement by the SPS Subcommittee, possibly in the first half of 2019.

UA Side: Deputy Minister of Agrarian Policy and Food (MAPF) of Ukraine on European Integration greeted the close relations in the SPS area, and thanked DG SANTE for the long-term cooperation and EU's technical support and projects. She informed about the achievements and priorities in the Ukrainian legislation that are on the agenda of MAPF.

2. Adoption of the agenda

The agenda of the 3rd SPS Sub-Committee meeting was approved with one remark – that there are no restrictions on export of Ukrainian eggs to EU rather provisions that have to be complied with.

3. Results of the 2nd Meeting of the Ukraine-EU SPS Sub-Committee

Parties acknowledged that the report of the second SPS subcommittee meeting had already been agreed before and decided to follow up on the Operational Conclusions of the 2nd Meeting of the Ukraine-EU SPS Sub-Committee during today's meeting.

4. Update on the implementation of the DCFTA SPS Chapter

UA Side informed about the achievements during the past 1.5 years and the current state of national legislation in the SPS area, including the adoption of the following laws of Ukraine: "On the basic principles and requirements for food safety and quality", "On State control over compliance with legislation on food products, feeds, by-products of animal origin, animals' health and welfare", "On feed safety and hygiene", "On basic principles and requirements on organic production, circulation and labeling of organic products". Mr. Lapa also admitted that there was quite good communication between engaged authorities: SSUFSCP, MAPF, MOH, Verkhovna Rada and EU Technical assistance projects.

UA Side also presented the achievements as regards the state of play on the

harmonization of legislation stipulated by the Comprehensive Strategy for the implementation of Chapter IV (Sanitary and Phytosanitary Measures), Title IV “Trade and Trade-related Matters” (hereinafter – the SPS Strategy) for 2018.

According to the SPS Strategy 89 measures were planned for adoption by UA Side. 10 SPS measures among them were fully adopted, and 65 different legal measures are at the stage of adoption.

107 other measures from the SPS Strategy are planned for adoption for the period of 2019-2021. The UA Side presented the priorities and planned activities in this regard for 2019, namely: draft laws “On veterinary medicine” and “On plant protection and quarantine” are at the final stage of drafting. A draft law “On information for consumers on foodstuffs” was finalised and is ready for adoption. A comprehensive draft law amending some Food safety legislation is currently being drafted and will contain provisions of the draft law “On food contacting materials”, whereas numerous important secondary legislation are also considered for adoption.

5. Further steps in adoption of Annex V to the Association Agreement

Following lengthy discussions between both sides and the technical agreement reached at the September videoconference meeting, UA Side sent to the Commission the final draft of Annex V (the SPS Strategy) prepared for approval by the Cabinet of Ministers of Ukraine and requested the EU Side to confirm its technical agreement as well. UA Side informed that the adoption of the edition of Annex V is the responsibility of the Cabinet of Ministers of Ukraine.

The Commission informed that it had no further technical issues either and that it would confirm this in writing soon. It would then start the approval process within the EU and seek endorsement of the EU Member States, via the EU Council, for this amended Annex V. It stressed once again that at this point further requests for technical amendments should be avoided to ensure that finally Annex V, that clearly expresses the EU SPS legal acts to be approximated to by UA, as well as the deadlines by which this should be implemented, could be included in the EU-UA Association Agreement.

6. Ongoing SPS matters

Marketing standards of eggs export from Ukraine to EU

UA Side presented the issue as following: ‘Ukraine obtained the legal approval to export table eggs to EU back in 2015.

This year (2018) SSUFSCP received an official request from the Latvian competent authority to label table eggs exported from Ukraine as a of “non-EC standard”. Afterwards SSUFSCP made a formal request (July 2018) on clarifications to be provided by DG AGRI aiming at to prevent trade barriers related to food safety and animal health.

On 30.10.2018 the answer has been provided by DG AGRI with no specific details on application of legal import regulation concerning marketing standard of labelling eggs that needs to be taken by the country.

Ukrainian competent authority has to provide guarantees on animal welfare standards in accordance with an Article 30 Regulation (EU) № 589/2008 that covers reference of AW rules that are indicated in the point 1 part A Annex XIV of the Regulation (EU) 1234/2007 and they shall be met by operators. Standards must be met by operators not by the country as it is requested by DG AGRI’s letter.

Moreover, the Regulation (EU) 1234/2007 was repealed by Regulation 1308/2013 and point 1 part A Annex XIV is no longer its part.’

UA Side requested to provide the legal basis on application of the Article 30 of Regulation (EU) 589/2008, taking into account that there is a misleading in references in the EU regulations. UA Side asked the EU Side to provide the specific legal provision where it is mentioned that third country and not the operator needs to apply the specific animal welfare

standards of the EU.

The EU Side expressed that it not agreed with the above Ukrainian analysis and referred to the reply letter that was sent by DG SANTE on 8th November 2018 (Ares (2018)5713839) by which it had said to being pleased to learn that animal products referenced to in the UA-letter where already produced in accordance with the EU welfare rules but that it also had noted that at that point still 98% of the laying hens in Ukraine are kept in circumstances that do not meet the EU standards. As to possible equivalence on marketing standards, that would allow a favorable labeling of the eggs, the letter explained that in accordance with the EU rules such only could be achieved once the implementation of the EU animal welfare standards, as per the approximation process, were effectuated countrywide, i.e. by all poultry holdings in Ukraine.

Both sides agreed on the following: the EU Side would further provide legal basis for provisions on Ukrainian eggs imported into EU (regarding marketing standards related to labelling of eggs) following an official request to be sent by the UA Side.

Dir F audit on UA control systems re poultry meat and exports to the EU, Feb 2018

UA Side confirmed, that it had received a letter dated 08 October 2018 from Directorate F – DG SANTE with regards finalisation of the process of evaluation of the control system in place governing the production of poultry meat and products derived therefrom intended for export to the European Union. With this letter the Commission also informed that a follow-up audit would be conducted in 2019. The UA Side requested to have further details and communication via the contact points on this.

Common certificates:

EU Side confirmed that the harmonised certificate for the export of gelatin and collagen from the EU to UA was agreed and confirmed by both sides and that it had started the process to upload them in TRACES, in the various EU languages. Aim would be to have them available as from 01 February 2019 onwards which was welcomed by the UA Side.

Poultry-related commodities:

The EU side reiterated that it had sent four draft certificates for poultry that had been further amended by taking into account comments received from the EU Member States as also discussed at the videoconference meeting in September. The EU indicated that within the framework of increasing cooperation and aligning legislation and standards, it would be important to facilitate certifying officers there were possible. For that matter, it would be important that EU officials could attest compliance with EU legislation for those fields for which correspondence with UA requirements had been recognised (as laid down in the Table of Correspondence of certain provisions, established by unified forms of certificate for import from the EU into Ukraine for poultry products, established by the sides before). Following the September meeting, the EU Side had provided evidence that this concerns a practice experienced with other trading partners as well.

The UA Side expressed appreciation for the provided samples of certificates, provided by EU in September which it has considered and discussed with Ministry of Justice of Ukraine. Hence, as a general approach UA proposed to use the wording “or equivalent EU Regulations” for Ukrainian legislation, which are already approximated (e.g. hygiene package (except for specific hygiene rules which are still under adoption), microbiology and others). As for animal health provisions UA Side proposed to keep them as they were already agreed by both sides earlier in 2018 with the references to OIE, as it is prescribed by national legislation.

UA Side stated, that would it come back with proposals on the above by the end of 2018.

Egg products UA Side stated that in the draft certificate, in particular point 2.1.1 had been proposed by EU Side in case of HPAI to use “any equivalent combination of time and

temperature as recommended by OIE". Even though, the import form of certificate on egg products under Regulation No 798/2008 is not fully in line with OIE Terrestrial Animal Health Code in the part of treatment for HPAI. UA Side is ready to consider this approach in such case and negotiate the bilateral form of certificate for egg products that would work for both sides reciprocally.

EU Side took note of the latter comment by UA and said that it would follow up on this

Both sides agreed to have a technical meeting and discuss the draft certificates, as well as to continue work on the common forms of certificates for other products (mentioned in OCs).

Seed Equivalence

UA Side presented the history of issue on cereal seed equivalence, in particular the SANTE Dir F mission, that took place back in 2015. Also, it was requested to clarify the current state of play and the process of official recognition by the EU.

EU Side confirmed that the technical work on recognising equivalence had been concluded but that the formalisation via a legal act was facing delays due to the upcoming change of the College of EU Commissioners.

Both sides agreed to finalise the legal procedure on recognition of cereal seed equivalence to the best endeavor and preferably by the end of 2019.

Regionalization

The EU Side expressed its strong disappointment that Ukraine still does not recognise the EU regionalisation policy and measures for ASF and e.g. that it closed the whole of Belgium for pork product imports due to findings of the virus in wild boar in southeast Belgium. This all despite that the issue has been raised numerous times at meetings, conferences etc, where the EU approach was presented in-depth. Also the language on this is very clear in the EU-UA Association Agreement.

UA Side confirmed that the decision on the introduction of restrictions on pigs and products therefrom applied to whole Belgium (the same approach with other MS). UA Side mentioned how regionalization on ASF in Poland and Lithuania has been recognized (audit on the spot). UA Side also appreciated on the weekly information provided concerning the status of the animal health situation in the EU.

Sides discussed the audit carried out in Lithuania in February 2018. UA Side commented that Ukrainian inspectors established much stricter control measures with regards to ASF, as regulated by their national legislation.

The EU Side appreciated that the audits by UA in LT and PL had led to favorable outcomes and said that it was convinced that the harmonised EU legislation on the control of animal diseases was equally sufficiently applied by the other MSs as well.

UA Side will share with EU Side the report on the audit carried out in Lithuania and present a roadmap for recognition of EU regionalisation. Both parties agreed to take it from there.

HPAI UA side stated that the restrictions imposed by EU Side on three oblast (regions) are still valid, even though there were no AI cases for at least 12 months.

UA side informed through an official letter sent to EC with information on HPAI situation and measures taken, as well as further discussions between sides. UA Side also highlighted the satisfactory results of the audit on animal health in particular regarding AI and ND, that took place in the summer of 2018. Therewith, the UA Side mentioned similar cases with particular MS, and proposed to apply the common approach on regionalization and take into account OIE data and reports. It was also mentioned that the EU Side remains the only trading partner who has not yet lifted the restrictions on HPAI.

The EU Side clarified that it was not questioning the situation with regard to HPAI in UA but that it was awaiting a short report on the epidemiology and the measures taken regarding

the previous outbreaks, as requested before. Such would be needed in order to conclude the legislative process and having the MSs on board for lifting the current restrictions. Sides discussed this later on technically and UA committed that it would provide such a report, first as a draft for consultation.

Bilateral trade issues

UA Side informed on interest to restore the question on export of pork and pork products. EU Side said that it would await the formal request as announced by UA.

State of play on new import requirements of Ukraine ("Order 71")

UA Side informed on the updated state of play of the draft Order "On adoption of the Requirements for importation (sending) to the customs territory of Ukraine of live animals, reproductive material thereof, foodstuffs of animal origin and products not intended for human consumption" (hereinafter – draft Order)". In particular it had been negotiated internally with interested stakeholders and Ministries, and is under preparation to be registered in the Ministry of Justice. Experts from MAPF informed that the draft Order will be delivered to the Ministry of Justice for registration which usually takes 20 working days, but due to the size of the document, it could take up to 25 working days. It should be adopted by the end of 2018 followed by a 6 months transitional period.

7. Phytosanitary issues

EU Side introduced the issue of Ash wood and *Agrilus planipennis* (a quarantine pest for the EU). It informed about the relevance of the pest and about EU surveillance activities planned for next year in Member States bordering east Europe. Also the EU side gave further information about current trade of ashwood between UA and the EU. The EU then queried about Ukraine's pest status and asked about monitoring activities being conducted in Ukraine over the last years.

UA Side presented the current state of play on the pest status, as well surveillance monitoring activities implemented in Ukraine on an annual basis. In particular the UA Side informed on the monitoring and results obtained regarding *Agrilus planipennis* in Ukraine.

UA Side will share with the EU Side the aforementioned information in writing.

8. EU ongoing and future financial-technical assistance in the SPS area

The EU Side confirmed that SPS being an important part of the AA between the EU and UA, the sector would remain at the core of its bilateral cooperation with UA for the years to come. It briefly introduced achievements of ongoing EU funded projects, notably in Food Safety (Improvement of Food Safety control system in Ukraine – IFSSU Project) and Phytosanitary (through a twinning project involving LV, LT and D institutions). EU Side also detailed activities to come:

- Technical Specifications for additional supplies were finalised at the end of spring 2018 for publication, allowing the signature of two contracts – IT hardware equipment and the development of two software for Laboratory Information Management System and for phytosanitary inspection and control – for a total amount of EUR 488,187.15;
- Terms of Reference for further Technical Assistance activities in Food Safety and Animal Health & Welfare are in the process of being finalised for a Project benefiting from a provision of EUR 4.6 million. This project is expected to be launched in the summer 2019 and should take over from the ongoing IFSSU Project.

9. Next meeting

Both sides agreed to hold a next videoconference at the end of January 2019, and the next meeting of the SPS Sub-Committee as soon as the internal procedures of approval of the SPS Strategy have been concluded by both Sides (could be in June 2019).

10. Operational conclusions, AOB and closing

Operational conclusions of the 3rd EU-Ukraine SPS Sub-Committee meeting have been amended and approved by Sides.

As closing remarks, Sides expressed hope for further fruitful cooperation.