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Reflections on the Evaluation of the Community Plant Health Regime (CPHR)

The plant health regime of the European Community (EC) is the result of decades of legislation. In 1976, the Standing Committee for Plant Health (SCPH) was set up. The basic structure of the current Community plant health regime was conceived in 1977 with Council Directive 77/93/EEC⁴. With the introduction of the Community internal market in 1993, the concept of plant passports was introduced so as to allow the free movement of plants and plant products between and within Member States (MS). Since the 2000 codification, the basic legal framework is known as Council Directive 2000/29/EC.¹

The existing Community plant health regime (CPHR) aims to protect the EU territory against the introduction and spread of regulated organisms which are harmful to plants. It lays down specific requirements for imports of all plants and some plant products into the EU and for internal movement of a limited number of plants within the EU. The fully harmonized regime allows free movement of consignments produced within the EU or, after import inspection, imported into the EU and at the same time allows to recognize protected zones that are free from specific harmful organisms occurring elsewhere in the EU.

Since its inception, various major changes and developments have taken place in relation to the CPHR which justify a comprehensive evaluation of the regime. The main developments have been:

- the enlargement of the European Community
- the internal market concept
- developments concerning international treaties
- globalisation and changed expectations from society
- decreasing resources for public services
- erosion of the scientific expertise underpinning the CPHR
- the establishment of EFSA
- the evolution of related Community regimes
- the WTO development of the SPS agreement and still huge discrepancies at international level and different approaches regarding plant health protection by WTO members

After discussions of stakeholders with the European Commission several topics emerged as particularly important, which provided the structure for the Freshfel position. These are a first reflection based on the answers the Secretariat received from several members following a call for feedback on

¹ For more information see: European Commission (2009): Evaluation of the Community Plant Health Regime - Terms of Reference.

the basis of questionnaires elaborated in the frame of the impact assessment made by the Commission. These remarks are the result of aggregated answers and should be a starting point for further debates and food for thought.

The Community plant health strategy should be developed, discussed and communicated in 2010-2011, followed by the development of an action plan in 2011-2012. The amendment of the legislation will take place from 2012 onward.

→ OBJECTIVES AND SCOPE

- The **general and specific objectives** of the CPHR are **partly still appropriate**, although difficulties prevail to fully assess the success of the current regime.
- There is no 100%-guarantee that new harmful organisms (HOs) will not be introduced in the Community. Incidents can take place and it is not always possible to detect HOs in an early stage. Moreover, unknown organisms are not always directly recognised.
- The propagation might not always be linked directly to the trade of produce at stake but find its roots in other factors. Regarding the natural spread of HOs, one has to make a difference between human and non human assisted natural spread. Nematodes and insects for example can easily be spread by soil or air. Human assisted spread is due to more international trade / transport but also to non-trade related activities, such as tourism.
- The current CPHR had a **positive effect** on plant health and intra-community trade. Whether it had however a positive impact on the competitiveness of EU private operators in the production/trade chain within the EU and on the world market is disputed among Freshfel's members.
- **Internationally**, and while understanding that the primary focus of the CPHR is related to the import regime and intra-EU regime, several members of Freshfel are questioning the lack of reciprocity and recognition of the EU CPHR scheme on the world market. This leads EU exporters to face market access restrictions and huge costs to ship EU fresh produce to Third Country markets. The EU regime provides extensive guarantees on the plant health safety and still EU fresh produce is confronted with many plant health barriers when exported to Third Countries. The reform of the CPHR should be an opportunity to reinforce internationally the EU approach and validate the efforts undertaken with a view to facilitate the export to Third Countries.
- To **improve the scope and objectives of the CPHR in the future** Freshfel's membership is split whether the current scope and objectives should be maintained or not. Members think that the priority of HOs needs to be based on a pest risk analysis to determine the potential risk of the HOs. Furthermore, the scope should be expanded to include mandatory surveillance of listed HOs and to include laboratory and science support issues.

Any inclusion of invasive plants in the regime for quarantine pests would need to be integrated closely with the Convention on Biodiversity and EC and national non-native species strategies. The regime would need to be integrated closely with marketing directives for seeds and propagating material and national certification schemes. The regime needs to be able to detect potential new outbreaks before they pose a threat to MS.

→ TRANSPARENCY OF THE CPHR

- **EU Plant Health approach:** One should provide more information about the current presence of HOs in the EU, harmonise or develop equivalent diagnostic protocols, involve and cooperate to a greater extent with stakeholders and integrate the Marketing Directives and CPHR into one Plant Health Regulation.

- **Transparency of notification:** One should work towards more transparency of the notification system currently in place. The Commission should develop a better communication in the field of plant health to improve transparency and get clarity about possible infringements. In this respect, a rapid alert system, similar to the one in place for food safety issues should be considered. Professionals should therefore have access to information about consignments rejected and the motivation of the decision. This could contribute to the clarity of the information, avoid speculation and allow the chain to take remedy action.

Organisational issues

- The **information and communication** on the CPHR provided by the Commission/MS authorities is **only partly adequate**.
- Experiences show that import requirements under the CPHR are not always fully clear to trading partners in Third Countries, especially in the developing countries.
- **To ensure the effective implementation of plant health provisions**, one should consider to develop and improve several organisational aspects: One should think about to delegate tasks and duties under the Directive to other bodies, to provide incentives for the timely reporting of outbreaks (introduce compensation to operators for mandatory destruction of infected materials), to provide incentives for the effective implementation of control measures (introduce compensation to operators for mandatory destruction of infected materials), improve the rapid alert and stakeholder accessibility aspects of EUROPHYT, improve the training provided and the funds available for training and improve the communication and consultation of stakeholders.

Coherence with other Community Regimes

- Any revision of the CPHR should be guided by the principles developed under the EU seed and plant propagating materials, the EU environment policy and Community Customs Provisions. Freshfel's members have mixed opinions whether any revision should be guided by the principles developed under the EU plant protection products.

➔ SURVEILLANCE AND CONTROL OF THE CPHR

Surveillance and categorisation of HOs

- **Reliable information is more or less available** as concerns the presence and distribution of the currently listed HOs, of HOs recently considered for listing and in regard to scientific data for the biological impact of the currently listed HOs and for HOs recently considered for listing.
- Freshfel's members have a split opinion whether the **approach for structuring the Annexes** is appropriate regarding an effective protection.
- With a list of about 250 HOs it is important to prioritise. A risk based approach is necessary, including the efforts of private companies. For new organisms expertise has to be developed, which takes time. Therefore, it is important to share resources and knowledge between MS.
- **Possibilities to improve at EU/MS level the surveillance of HOs** include to decrease the number of listed HOs, to change the approach for structuring Annexes I and II, to focus the surveillance on priority HOs, to improve staff resources/training for national authorities, to enhance capacity building in MS and to involve persons/organisations not belonging to the Competent Authority in surveillance and rapid alert/early warning systems and to develop a notification system similar to the Rapid Alert System for Feed and Food.
- By re-evaluating the HOs the number of them could be decreased and therefore more attention could be given to the remaining ones.

- It is not necessary to reinforce the import control in general. A more risk based import inspection system would help to focus on the risk of certain pathways and prevent the introduction of HOs.
- To improve the efficiency, and when a particular risk is detected, the CPHR should consider the possibilities of sending EU inspectors to Third Countries for pre-clearance and avoid the introduction into the EU of a particular HO and avoid trade distortion.

Control measures for outbreaks and new findings

- The CPHR has in the last 15 years only **partly prevented the entry, establishment and spread of HOs**, as there exists no 100%-guarantee.
- In defining and implementing official measures for the eradication or containment of HOs difficulties have been experienced with delays in notification of outbreaks by MS and a lack of sharing between MS of eradication expertise that is built up during national eradication campaigns.
- The **EU emergency measures** have been **effective in eradicating the targeted pests and in containing/reducing the respective pests**.
- The CPHR should be revised in order to have **more focus on prevention and early action**. More effective links and communication should be developed between MS to combat the potential risk of a spread of HOs, and greater consistency in the application of the regime is required.
- **To ensure a better preparedness to prevent and control the introduction/spread of HOs**, one should consider to improve the availability of up-to-date MS Contingency Plans and to improve the knowledge of private operators in the production and trade chain on HOs. Freshfel's members are divided whether one should improve the import control system or not.

→ TRADE FACILITATION

- **Optimise the requirements for trade:** One should introduce and support electronic official phytosanitary certificates, formalise the use of the EU communication document, clear the communication about the EU import requirements, in case of a risk analysis take the export position into account and support MS in general in bilateral contacts with important trading partners.
- **Reduced frequency checks:** Reduced frequency checks have been a highly effective measure to target resources from areas of reduced/nil risk to those with greater risk, and have been welcomed by the fresh produce industry in helping to reduce unnecessary bureaucracy and costs. Therefore, they could be extended, with the industry taking on further responsibility via the Approved Trader Scheme.

Imports from Third Countries

- Plant health **procedures and requirements** for commercial imports of plants/plant products in the last 15 years have been **altogether more or less effective** in preventing the introduction of HOs into the Community.
- Information/communication on the import requirements of the EU to Third Countries needs to be improved. This should lead to more trust in the guarantees given by Third Countries and lead to less incidents and lower costs.
- As emergency measures are not taken at the same time or in the same way by all MS, this might lead to a potential risk of introduction and has to be taken into consideration.

- Inspections should be focused at the growing sites and boundaries between infested and uninfested areas rather than points of entry to better target risks and minimise the risk of spread.
- **To improve controls on the presence of HOs on imports from Third Countries and possibly facilitate trade**, one should consider to introduce appropriate measures for infringements, to improve the cooperation between plant health authorities and Customs (including Customs nomenclature and IT systems), to improve staff resources/training for national authorities, to improve the risk basis of controls, to improve the use of notifications by MS for better preparedness to risks, to improve/revise the system of reduced frequency checks, to evaluate temporary derogations after several years, to further develop the use of electronic certification, to improve the control on the correct use of the additional declaration on the phytosanitary certificate and to enhance the capacity building in Third Countries

Intra-Community trade

- The plant health rules for intra-Community trade have been in overall not fully effective during the last 15 years in preventing the spread of HOs, but have been effective in ensuring the free circulation of plants/plant products within the EU.
- The **plant passport system** does not sufficiently take into account the risk analysis. There is far greater scope with regard to fresh produce which offers a low risk, and in some cases further reduced inspection levels are applicable where products already require a phytosanitary certificate from the importing country. Resources should be directed to areas which pose a high risk or where there is uncertainty of the risk. Moreover, there does not appear to be sufficient scope to cover newly identified pests or diseases which are not listed, and the system can be slow to react, to communicate and to take action. In addition, pests for which containment is no longer effective or appropriate should be deregulated or moved from quarantine to regulated non-quarantine pest (RNQP) regulation.
- However, the plant passport system provides sufficient guarantee that plants and plant products are safe to move within the EU and allow sufficient traceability for plants and plant products moving within the EU.
- **To ensure that plant health rules make a greater contribution to improved and safe intra-Community trade in plants and plant products** one should consider in the future at EU/MS level to modify the system for exemptions for small producers serving the local market and for products destined for the final consumption. Furthermore, one should decrease the number of official checks and relax the rules on intra-Community trade, improve the risk analysis of the current system, improve staff resources/training for national authorities, improve resources for implementation of requirements, harmonise the plant passport document, simplify documentation requirements and improve traceability.

→ COSTS

Costs of the CPHR

- **Fees system:** Fees paid are **disproportionately high in relation to the produce value** because of the product quantity shipped, the small mixed loads and controls during evenings of the weekend.
- The current application of the fees system under the CPHR results in a **distortion of competition between MS** given the different options provided by the Directive 2000/29. Therefore, as one internal market exists, there should be also only one fee system/a full harmonisation of the fee system.

Community financing of the CPHR

- If the Community financial contribution was to be **increased by 20%** focus should be given to the prevention at the source, namely more education and exchange of information to Third Countries. This could eventually lead to an acknowledgement of control systems of Third Countries, leading to fewer import controls. Moreover, one should focus on the evaluation of the current list of HOs plus a more risk based approach.
- If the Community financial contribution was to be **decreased by 20%**, less priority should be given to the distinction between plant materials and consumption products.

Benefits of the CPHR

- For the intra-community trade the CPHR is very important and beneficial. For the (re-)export to Third Countries the CPHR offers no guarantees if there are no HOs in Europe.

Opportunities for improvement of the cost-benefit balance of the CPHR

- **Opportunities for a cost reduction with equivalent or increased benefits** include the reduced frequency for one or more obligations, the delegation of one or more obligations, the improved balance of cost-sharing between public authorities and private operators as well as additional synergies with obligations imposed under other EU legislation.
- **Opportunities for increased benefits with equivalent costs** include improved plant health controls by inspection services and private operators as well as improved preparedness for emergency situations.
- **Opportunities for the extension of the scope of the current CPHR** include the inclusion of Invasive Alien Species that have an impact on human health, mandatory surveillance of listed HOs and laboratory and science support issues.

Concrete cost examples provided by Freshfel-Members

- Official registration of producers, warehouse, importers of plant products:
 - ITA: Registration fee 100,00 €
 - Periodic subscription to Italian RUP 25,00 €
- Border control:
 - Minimum phytosanitary fee 31,50 €
- Use of an official plant health certificate:
 - Minimum health certificate fee 55,28 €

➔ TECHNOLOGICAL IMPROVEMENTS

- Electronic phytosanitary certificates are not yet allowed for import, although IPPC provides this possibility. Therefore, there is time for a change in this respect.

→ SCIENTIFIC BACKGROUND

Research and methodology development in support of the CPHR

- Freshfel's members are not aware of research projects commissioned by DG Research to support the CPHR.
- **To improve the contribution of the EC-funded research in the plant health field to the achievement of the CPHR objectives** one should consider redefining the prioritisation of EC-funded research activities and increasing the co-operation and co-ordination between research players.

→ OTHER ISSUES

Protected Zones and Regionalisation

- The **EU approach for regionalisation**, primarily involving protected zones, **is not adequate**. With the increasing size of the EU a regionalised approach for certain import controls would be appropriate, for example with pests affecting citrus.
- The protected zones principle should be upgraded so as to more closely reflect the Pest Free Area principle of ISPM No. 4.

International Aspects

- The EU should take the lead at IPPC to generate more harmonisation at the international level of protective measures. This would validate the EU regime and its approach and avoid that plant health is used as a tool for protectionism. More particularly for the fresh produce sector, it would be desirable to have international standards on protective measures to be taken to prevent the propagation of HOs such as fruit flies, citrus canker, citrus black spot, greening, etc. and determine the quarantine measures which should be taken.

Fumigation of wood packaging material

- The existing EU phytosanitary legislation lays mandatory quarantine requirements for imported wood packaging material (WPM) for the control of quarantine pests. These rules are in alignment with those established under the International Plant Protection Convention in the International Standard for Phytosanitary Measure (ISPM No. 15). Approved measures for eradication of quarantine pests are limited to heat treatment and methyl bromide fumigation, an ozone-depleting substance phased out under the Montreal Protocol. Alternatives need to be developed and assessed without delay to ensure that EU phytosanitary rules do not compromise the objectives of the Montreal Protocol and alternatives are available to safeguard against the transit of harmful organisms into the EU via WPM.