

Extrait de la Freshfel Newsletter n°12

Faisant large mention de commentaires publiés par le « EU Food Law Weekly » (en italique)

Les passages mis en gras le sont par nos soins (ForumPhyto)

7) WG TO DISCUSS PRIVATE STANDARDS

In the framework of last week's Advisory Group on the Food Chain, it was agreed to set up a WG to analyse in more detail the impact of private standards. Freshfel is a member of the advisory group and intervenes actively on this matter. The proliferation of standards and the multiplication of certifications was addressed as well as the recent rise in non-regulatory MRLs. **According to the Commission "Producers can and should compete on price, quality, etc but not on safety"**, Freshfel urged the Commission to act accordingly with regard to retailers.

This week the "EU Food Law Weekly" published the following comments about the meeting:

The European Commission is setting up a working group to look into private quality standards that retailers across Europe are using, particularly on own brand products.

The move follows a reportedly heated discussion at last week's Advisory Group on the Food Chain, Animal Health and Plant Health, where producer groups complained about the standards, which not only go further than EU requirements but also differ from one Member State or individual retailer to another. Stakeholders called on the Commission to set up the working group.

The standards generally lay down quality requirements for fresh produce, often maximum residue levels (MRLs) for pesticides on fruit and vegetables. The pesticides standards are particularly controversial because they are often much lower than the maximum limits laid down in EU law.

*Producer groups that we spoke to cited as examples UK retailer **Tesco's Nature's Choice** range, a **Carrefour** scheme as well as a **British Retail Consortium** programme and one system called **IFF** used in Germany and the Netherlands as well as a international scheme called **Global Gap**. Often the demands are similar but producers have to seek separate certification for each, which could prove costly.*

"The most difficult part is the proliferation of different standards - and all the certification costs," one producer group representative who was at Friday's meeting told us. *That source said producers would prefer to see "at least a common benchmark" and a single certification system.*

Another closely linked problem is what the source called "non regulatory MRLs" particularly in Germany and the Netherlands. The source said that some German retailers were demanding compliance with MRLs that were 70, 80 or even 30 per cent of the EU legal limit, which causes numerous problems and also underlines the credibility of the Commission's work" in harmonising EU standards.

Another producer group representative agreed pointing out that the EU had a system that set MRLs at safe levels based on science. Compliance with these limits meant the product was safe, but it could not be safer by complying with a lower limit.

"You can market on price, you can market on quality, but you can't market safety," this source said, arguing that legally products had to be safe anyway.

*But the producer groups were sympathetic to the pressures that retailers were under. Two pointed to Germany where **retailers Aldi and Lidl had their hands forced by green campaigners** that compared pesticide levels on produce sold in different supermarket chains. The two retailers now demand that pesticide residue levels on their products meet levels that are 30 per cent of the EU legal limits.*

"It's not their fault that they were put under pressure by NGOs to go in that direction," said one stakeholder.

Issue raised in WTO

The standards also have implications for imports and have brought questions from third countries at the World Trade Organisation about technical barriers to trade. The Commission had included the subject on the agenda of last Friday's meeting due to complaints raised in the WTO's sanitary and phytosanitary (SPS) working group. A Commission official told EU Food Law that the issue had been brought up in the SPS working group "several times" but that it was difficult to see what European regulators could do to control buying practices of private companies "it would certainly raise a few eyebrows."

He told us that the Commission had stressed that the EU had nothing to do with these demands that retailers were making of their suppliers and could do little legally to regulate in such an area.

Companies have a right to demand what standards they want of their suppliers since they are buying. "That's the message we tried to delicately convey," he said.

However, third countries that have raised the issue point to provisions in the WTO treaties on private standards by non-governmental entities outlawing such norms from acting as technical barriers to trade. They claim that the retailers' demands that produce respect tighter standards than legally required under EU law are covered by these provisions and as such it is up to the Commission to act on them. The Commission "doesn't agree", he told us.

Separately, DG SANCO elaborated on future changes to the feed and food control legislation (882/2004). For reasons of coherency DG SANCO is reflecting on placing all pesticide, contaminants and plant health regulations under the feed and food control legislation, which would then serve as an umbrella legislation regarding the controls. DG SANCO is also looking to extend current provisions regarding inspection fees for veterinary controls to fruit and vegetables. A study on the state of play of inspection fees in the EU 2007, including an evaluation, is ongoing. A report to the Council on these matters is expected in Spring 2009, which could consequently trigger modifications to the regulation.