



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

The Director-General

Brussels, - 2 DEC. 2013
MK/sam agri.ddg3.h.3(2013)3769588

Subject: Question concerning the notification of irregularities

Thank you for your e-mail of 8 November 2013. You enquire, in particular, if an irregularity case should be notified in OFIS even if the case was already clarified at CB (control body) level and a satisfactory reply was sent by the CB in the Third Country.

Unfortunately, from the elements you provide, we were not able to understand the context and the specific import regime under which the irregularity occurred. In your e-mail reference is made to the new article 92a of Regulation (EC) No 889/2008.

Please note that according to Article 92a(2) of Regulation (EC) No 889/2008 as amended by Regulation (EU) No 392/2013, "Where a Member State finds irregularities or infringements as regards compliance of the products imported in accordance with Article 33(2) or (3) of Regulation (EC) No 834/2007 with the requirements laid down in that Regulation or Regulation (EC) No 1235/2008, it shall notify the other Member States and the Commission without delay via the system referred to in Article 94(1) of this Regulation." A similar notification obligation is provided in Article 92a(3) concerning products from Third Countries under the import authorisations regime.

We would like to underline that the relevant provisions, as described above, require a notification without delay and do not make a distinction for cases already clarified at control body level.

It should be noted that in the case of products imported according to Articles 33(2) or 33(3) of Regulation (EC) No 834/2007, such notifications of irregularities or infringements will allow the Commission to pursue the matter further with respectively the Third Countries or the control bodies control/authorities concerned, on the basis of the provisions of Article 15(4) of Regulation (EC) No 1235/2008. At the same time, notifications according to Articles 92a(2) and 92a(3) of Regulation (EC) No 889/2008 also allow other Member States to be informed concerning irregularities or infringements related to imported products and to decide on any action if appropriate.

Please note that the amendments brought to Regulation (EC) No 889/2008 by Regulation (EU) No 392/2013 will start applying as from 1 January 2014.

The present opinion is provided on the basis of the facts as set out above and on the understanding that in the event of a dispute involving Union law, it is, under the Treaty on the Functioning of the European Union, ultimately for the Court of Justice of the European Union to provide a definitive interpretation of the applicable Union law.

Kind regards,

A handwritten signature in black ink, appearing to read 'J. Plewa', with a stylized flourish at the end.

Jerzy PLEWA