

# MEETING 5 JULY 2023

EU Delegation to Russia (Moscow)

## NEW RULES FOR SEEDS IN RUSSIA

*Like for many other products, Russia is implementing a strategy of import substitution for seeds used in agriculture. Additional justifications in this particular case are the need to end food security dependence on 'unfriendly' countries and become self-sufficient. To reach these ambitious objectives, massive investment in research and development is taking place. In order to progress quicker, the legislative framework is being adapted to oblige foreign companies willing to be on the Russian market to fully localise production and transfer all technologies. The conditions as they stand on paper are not acceptable, but it appears that if good will is demonstrated, a certain flexibility from the Russian authorities could allow them to stay on the market without fulfilling all provisions immediately. While this is certainly only a temporary solution, this could give some time and allow foreign companies to survive in this country waiting for more favourable days.*

A simple fact should be underlined upfront: **Russia is heavily dependent on imported seeds for its agriculture**, as demonstrated by the following examples: 97% of sugar beet seeds, 73% of sunflower seeds, and 49% of rapeseed seeds used in Russia are imported. In addition, most of these seeds originate in 'unfriendly' countries, mostly EU Member States.

In 2021, Russia imported seeds for a total value of **€247 million**, out of which nearly three quarters from the EU, with in decreasing order the Netherlands (€77.3 million), Germany (€48.6 million), France (€15.8 million), Denmark (€9.8 million), Lithuania (€9.2 million), Belgium (€8.3 million), Italy (€3.3 million) and Poland (€2.4 million).

*Domestic seed cultivation became a priority.*

Under the Russian food security doctrine<sup>1</sup>, the country should meet its domestic demand for seeds and planting material by at least 75%. The reality is very far from this level as the share of foreign imported products in Russian agriculture largely exceeds on average the threshold of 25% and is at least over 40%.

The Russian authorities cannot accept such weaknesses and dependence in their food security policy and want to correct this situation by moving towards self-sufficiency. They decided, already two years ago to massively invest in that sector, but have subsequently realised that significant time was needed, roughly 10 years, to reach the current western level. Quality of seeds is essential: selection technics can increase production yields, but also resistance to parasites and challenging weather conditions. Initially the fear of the uncontrolled

---

<sup>1</sup> The Food Security Doctrine is a framework that outlines Russia's objectives and goals for ensuring domestic food security. It is "the basis for development of regulative legal acts in the area of food security, modernisation of agri-industrial and fishery complexes". This doctrine was established in January 2010 by President Dmitriy Medvedev. A first attempt took place in the 1990's but it was vetoed by President Yeltsin because of Russia's inability to provide at that time the necessary budget support for the development of domestic agriculture and food production. The Doctrine includes several target indices for achieving the country's food security, including per capita agricultural food production, consumption, share of imports in domestic consumption, and indicative prices for some major agricultural products.

use in seed production of GM events was often mentioned as the reason justifying this policy. Now import substitution and self-sufficiency are clearly the main justifications for this approach.

The Ministry of Agriculture is pushing for a significant and prompt increase in import substitution in this segment as one of the main priorities for the Russian agricultural industry. *“This will allow domestic breeders and seed growers to strengthen their positions and reliably protect the domestic market from the possibility of unfair actions by foreign players”* openly declares the Ministry of Agriculture on its website. To accelerate the transition, more resources have been allocated to research, but it is not enough. The Russian Agricultural Bank estimated that 45 billion roubles are needed to support research. The Russian Agricultural Ministry has also disclosed plans to expand state aid to farmers switching to domestic seeds to speed up import-replacement in this field. State support should contribute to the attractiveness of the industry: the level of reimbursement of capital costs for the construction of breeding and seed centers has been increased to 50%. 24 projects worth 20 billion roubles are under implementation, about half of them are supported by the Russian Agricultural Bank.

The government decided in May to create a research and production seed-growing center at the Kurchatov Institute. This center will have to ensure the introduction of advanced technologies and innovations in agriculture: it will be engaged in the development of seed production and the development of new varieties and hybrids of agricultural crops. It will also include the Pervomaiskaya Sugar Beet Breeding and Experimental Station (Krasnodar Territory), the North Caucasian Federal Scientific Center, the Rostov Federal Scientific Center, and the Magarach Crimean Institute of Viticulture and Winemaking. A significant and most prompt increase in import substitution in this segment is currently seen as one of the main priorities for the Russian agricultural industry. *“Together with the scientific community and business, we are developing systematic approaches to give an impetus to the development of Russian selection,”* declared recently Agriculture Minister Patrushev.

#### *Technological transfer imposed by law*

Unable to complete the transition in a short period of time, the Russian authorities decided to benefit from western countries knowledge and technics with legal instruments forcing foreign companies to share their production processes and manufacturing secrets in exchange of access to the lucrative Russian market. The Russian authorities are consequently developing a new legal framework for seeds and planting material.

The foundation of this legal framework remains the Federal Law No. 454-FZ of 30 December 2021 amended by Federal Law No. 636-FZ of 29 December 2022: It regulates seed production, including cultivation, storage, transportation, sale and use of agricultural seeds, their import into and export from the Russian Federation, and related services. But the framework is adapted to its new objectives by 3 additional pieces of legislation:

Governmental decree No. 754 titled ***“Rules for the localisation of the production of seeds of agricultural plants on the territory of the Russian Federation”*** adopted on 16 May 2023 contains provisions to be already implemented on 1 September 2023 and is the most problematic one. From 1 September 2023 until 1 September 2029, new rules for seed farming in Russia will take effect, which essentially aim to limit foreign investments in the Russian seed farming sector. The central idea is to implement a set of rules that require foreign companies involved in the production of agricultural plant seed varieties and hybrids to localize their activities. Russian companies owned by foreign investors are seen as the initial target of the Localisation Rules. They are obliged to set up joint ventures with Russian investors that control at least 51% of the company’s shares to be able to continue seed

farming in Russia. The development and production of agricultural plant seed varieties and hybrids in Russia is subject to additional localisation requirements, including the availability of land plots, local production and research facilities, among other things. Each company involved in these activities will have to prepare its own localisation plan that must be agreed with the Russian Ministry of Agriculture. is not provided officially but might be a subject of discussion with the Ministry of agriculture if a foreign company submits its proposals to the Plan of localization and expresses its willingness to localize seed production in Russia

. Although the Ministry of Agriculture claims that many foreign companies have expressed their readiness to comply with the new localisation rules, in reality, only Syngenta, which is controlled by the Chinese state corporation ChemChina, is already planning to localize seed production based on the new rules. As reported by the government of the Voronezh region, Syngenta intends to create a joint venture for the selection of hybrids with the Zolotoy Pochatok agricultural holding by September 1, and has developed a joint operational plan through 2030.

Governmental Decree No. 817 defines the **rules for auditing foreign laboratories for testing seeds** of agricultural plants with ILAC and APAC accreditations. The document, which comes into force on September 1, 2024, contains the necessary list of information for the implementation of the specified audit in order to ensure the safety and quality of seeds when imported into Russia. During the inspections, Rosselkhoznadzor, the federal veterinary and phytosanitary service, will assess the compliance of laboratories with the requirements of Russian legislation in terms of the completeness of research, the methods used, and the technical equipment of the institution.

On 26 June, governmental decree No. 1034 was adopted establishing the **option to implement quotas** between October and December 2023 for the import of key seeds from 'unfriendly' countries. The list includes seeds of the following crops: wheat and meslin, rye, barley, corn, soybeans, as well as seeds of rapeseed, sunflower, sugar beets and potatoes. It should be noted that the possibility of introducing these restrictions was announced by the Minister of Agriculture Dmitry Patrushev in May 2023 claiming they would not be critical. The idea is that import restrictions should facilitate the development of domestic seed producers. This is the second time such an approach is followed. The first attempt was rebutted two years ago when several Russian business unions<sup>2</sup> wrote an open letter to President Putin asking him not to take this step, warning about the colossal damage it could do to agricultural business: "*Limiting their [imported seeds] use will lead to catastrophic consequences for the [Russian agricultural] industry, given that a significant share of the sown area falls on obsolete inefficient varieties of the Soviet selection,*" the authors of the letter warned.

### *The EU response*

This question of seeds has been closely followed by the group of EU agricultural counsellors in the last two years and even reached the agenda of the Heads of Mission's Meeting at two occasions on 10 May and 7 June 2023. The issue got in parallel also discussed at the Working Party on Plant Health Questions, the so-called Roosendaal Group, which issued a proposed EU common position consisting in ignoring the requests of information issued by Rosselkhoznadzor and assuming that trade would continue. However due to the opposition of France, no consensus could be reached on this proposal. The European Commission (DG SANTE) has just sent a note to Member States convening the next session of the Roosendaal Group to rediscuss this issue.

---

<sup>2</sup> The Russian Grain Union, the Russian Potato Union and the Association of Planting Material Producers.

On 14 June, Euroseeds, a non-profit association representing the interests of all European actors in the field of seed production, including BASF, Bayer and Corteva, sent a letter to the Russian Prime Minister Mishustin, to voice their concerns on the localisation rules, particularly on the violation of intellectual property rights and the obligation to establish joint ventures with Russian scientific organisations with at least 51% of the shares. Euroseeds concludes its letter by underlining that the proposed rules and market restrictions were “*considered by many companies as discouraging for their existing business and as prohibitive for further investment and market development*”, and requests the alignment of the rules with the relevant international conventions and standards, such as the protection of breeders’ rights under UPOV and standards under OECD and IPPC.

The response to the Russian strategy on seeds can be of two natures. It could be purely based on political considerations and conclude that trade with Russia after its war of aggression against Ukraine is a negative priority particularly under these unacceptable conditions, violating basic principles of intellectual property and therefore in infringement with WTO rules. Or alternatively, it could be centered on technical issues related to trade, i.e. the objective would then be to preserve trade and find an acceptable outcome.

Although the initial approach was favoured in headquarters discussion at the Roosendaal group, it did not materialise due to the opposition of France preventing consensus building on a common position, consisting in ignoring all requests from Russia.

On 5 July, the EUDEL organized an *ad hoc* meeting gathering industry representatives, headquarters officials and Member States counsellors, with the objective to update delegations and get the most possible accurate picture of the situation of EU companies in Russia. This meeting, although convened only 48h in advance was very well attended, with 20 people present in the room and 49 online, including the Association of European Businesses and Euroseeds. This meeting gave the opportunity to industry to describe their current business conditions and exchange views on the possible way forward.

Most participants who contributed to the discussion recommended to establish communication at technical level with the Russian side and demonstrate good will to find solutions. It was suggested to start elaborating a plan as requested for the audit of laboratories, without necessarily fulfilling all requirements. Industry representatives with important experience with Russian authorities were optimistic that this demonstration of good will would lead to a certain level of flexibility regarding the details of the plan, and allow it to be accepted even in a preliminary version without addressing all requirements. Regarding the localisation rules, a similar approach was recommended, with the implementation of some of them, but without, for example, engaging in a real joint venture with a Russian institute as prescribed.

It was reported that from the 82 countries which the audit proposals were sent to, 21 have already confirmed their readiness: Argentina, Brazil, Egypt, Israel, Indonesia, Jordan, Pakistan, Republic of Korea, Costa Rica, Mexico, Republic of Moldova, Republic of Belarus, Pakistan, Peru, Serbia, Tajikistan, Thailand, Turkmenistan, Republic of Turkey, Chile, Switzerland. It would certainly be advisable that relevant EU Member States initiate some technical communication with the service in charge of phytosanitary control, i.e. Rosselkhoznadzor, to be already identified as willing to pursue their business activities.

Several participants, either from the regulator side or from industry, stressed the importance to appear fully united in front of the Russian authorities with a well thought common approach, in order to avoid attempts at division.

Finally, the most recommended approach is to try to obtain a flexible, i.e. a partial, implementation of legal requirements without requesting amendments of the texts which would be impossible to obtain. Of course the downside of this approach is the lack of predictability, in the sense that the Russian authorities could overnight ban the market access to any previously authorised product using the pretext of the non-fulfilment of certain requirements.

The imperious need for seeds of the Russian agriculture could offer a certain level of protection against exclusion, at least as long as the Russian side does not catch up on the quality of seeds. However this protection is not complete, first as the Russian side would certainly be ready to lose its access to performing products, should the political situation require it, and second as the availability of alternative products by 'friendly' partners is progressing quickly particularly from countries like Peru, Chile, Thailand, Pakistan and Tanzania.

It is certainly advisable at this stage to reopen the discussion at the Council Working Party on Plant Health with a view to reach consensus on a EU common position defining the frame and the objectives and allowing Member States to launch technical exchange with Rosselkhoznadzor.