

15 March 2019

(19-1611)

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Committee on Sanitary and Phytosanitary Measures

Original: Spanish

**EUROPEAN UNION TRANSITIONAL PERIODS FOR MRLS AND INTERNATIONAL
CONSULTATIONS – CONCERNS RAISED BY COLOMBIA**

COMMUNICATION FROM COLOMBIA

The following communication, received on 14 March 2019, is being circulated at the request of the delegation of Colombia.

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1. As at the recent meeting of the Committee on Technical Barriers to Trade of 6 March 2019, and with a view to facilitating agricultural trade with the European Union, we wish to bring to the European Commission's attention an issue that we consider to be of the utmost importance for the agricultural sector worldwide and, in particular, Colombia, and request that our comments on this matter be taken into consideration.
 2. Colombia wishes to express its grave concern regarding the "transition periods" granted by the European Union for provisions amending maximum residue limits (MRLs). While the European regulation provides for the possibility of establishing "transition periods", there are, in practice, increasingly fewer European provisions related to MRLs that include such periods, even though they should be the general rule and not the exception, as tends to be the case.
 3. It should also be noted that in view of harvesting periods and the times when agrochemicals are applied, the six-month period prior to the implementation of the provision, as provided for in the SPS Agreement, does not give enough time to make the necessary adjustments to production so as to ensure that agricultural products comply with the new MRLs. For processed and/or frozen products, the situation can be even more problematic.
 4. Transition periods should be examined in a light that differs from the general rule of a reasonable interval of six months under Annex B.2 of the SPS Agreement (Ministerial Decision WT/MIN(01)/17), as farmers need more time to adapt to MRL requirements, since it takes 36 months on average to develop a new phytosanitary pest-control product. Colombia notes, in this regard, that Article 10.2 of the SPS Agreement provides for the granting of longer time-frames for compliance with sanitary and phytosanitary measures for products of interest to developing country Members, with a view to maintaining opportunities for their exports.
 5. The European Union has stated that as soon as the EFSA recommendation ("scientific opinion") and SCoPAFF decision are known, countries should be able to predict and make the relevant adjustments, including when this information is not notified to the WTO. Colombia does not agree with this argument, and senses that the European Union considers notification to the WTO as a mere *formality*, without really taking into account the *right* of Members to formulate questions and make comments. However, as set out in Annex B.5(d) of the SPS Agreement, the European Union should be open to taking into consideration comments and the results of discussions with other Members that may result in the adjustment of its regulatory proposal on MRLs. Failing that, the SPS Committee's notification and comment process would lose all value and meaning.

6. The recent tendency to modify MRLs and provide ever shorter transition periods or no transition period at all poses an additional challenge to farmers for whom an ever-reduced number of pest- and disease-control alternatives are available. Furthermore, it is not feasible for countries to replace the molecules to which a detection limit (0.01 mg/kg) is applied within a period of six months.

7. Take for example the current situation regarding the start of the transition period for reducing MRLs for the buprofezin molecule (Commission Regulation (EU) 2019/91 of 18 January 2019), which Colombia has included on the Committee's agenda as specific trade concern No. 448. In Colombia's case, this regulatory modification affects the marketing of bananas, which constitute one of the country's main agricultural products. Exports of this product amount to around USD 700 million and account for 80% of fruit exports to the European Union.

8. To provide more context, at a SCoPAFF meeting in September 2018, the European Union approved the application of the minimum detection limit (0.01 mg/kg) to products treated with buprofezin. It established a ten-month period as of that date for the measure to enter into force. This decision was communicated after four months of formalities, and a deferred implementation date six months later was established at the WTO. The provision does not include any transition period, and the deferred implementation date does not give farmers enough time to find control measures that are reliable enough to replace the buprofezin molecule.

9. Where a molecule is prohibited or its MRL modified to 0.01 mg/kg, this decision should be accompanied by efforts made with the parent agrochemical company to develop substitute molecules. To this end, it would be advisable to conduct field trials and the necessary scientific and environmental studies. This process can take more than 30 months. The new alternative molecules must also be registered for sale in the country of origin and it must be ensured that their effectiveness for pest control meets the high quality standards required by the European market.

10. Given that the procedure for registering a new product in the country of origin takes around 30 months, it is impossible to find solutions to farmers' problems in just six months. In order to ensure compliance with the regulations established for buprofezin, field dissipation curves must be drawn up during a period of 12 to 18 months and must take into account varying conditions in terms of humidity, radiation and temperature.

11. In light of the foregoing, Colombia is of the view that the WTO should open up a forum for technical discussion, one that includes all the countries concerned and sufficient technical, scientific and economic arguments, to assess the time-frames for bringing into force the regulatory changes concerning MRLs and the transition periods, especially when on many occasions we see that the changes to MRLs reflect the application of the precautionary principle rather than a risk-based analysis. This is to prevent such changes from leading to a level of trade restriction greater than that required, which would have a serious economic impact on producing countries.
