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Page: 1/1

Committee on Sanitary and Phytosanitary Measures

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**EUROPEAN UNION - SPECIFIC TRADE CONCERN WITH RESPECT
TO THE REGULATORY PROCESS FOR DETERMINING MAXIMUM
LEVELS OF GLYCIDYL FATTY ACID ESTERS,
3-MONOCHLOROPROPANEDIOL (3-MCPD)
AND ITS FATTY ACID ESTERS, IN FOODS
OR FOOD INGREDIENTS**

COMMUNICATION FROM COLOMBIA

The following communication, received on 27 June 2019, is being circulated at the request of the delegation of Colombia.

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1. Colombia wishes to express its concern regarding the European Union's proposed regulatory process for determining the maximum levels of glycidyl fatty acid esters, 3-monochloropropanediol (3-MCPD) and its fatty acid esters, in foods or food ingredients.
 2. We would like to draw attention to this draft regulation, which includes a proposed limit for palm oil of 2,500 µg/kg, which differs from the lower limit of 1,250 µg/kg proposed for other oils produced in Europe, including sunflower, colza, coconut and other oils.
 3. Colombia believes that any measure adopted by a WTO Member must be prepared in accordance with the principles set forth in the WTO Agreement on the Application of Sanitary and Phytosanitary Measures so that it does not become a trade restrictive measure.
 4. Given the foregoing, the measure would constitute differential treatment and therefore be inconsistent with the principle of national treatment to the extent that it differentiates between domestically produced oils and those from outside the European Union.
 5. This special treatment for palm oil would result in a perception among consumers and civil society that palm oil is unhealthy because it contains higher levels of 3-MCPD.
 6. It should be taken into account that Colombian palm oil is characterized by a low level of free fatty acids (FFAs). The low FFA content is an indicator of the high quality of the oil and contributes to decreased formation of contaminant compounds.
 7. Furthermore, this concern is being addressed multilaterally in the context of the Codex Alimentarius through the development of a proposed draft code of practice for the reduction of 3-monochloropropane-1,2-diol esters (3-MCPDE) and glycidyl esters (GE) in refined oils and products made with refined oils.
 8. In light of the foregoing, Colombia believes that the proposed regulations on 3-MCPD levels (i) stigmatize the use of palm oil; (ii) lack scientific justification; (iii) discriminate against palm oil as opposed to like products; and (iv) disregard the technological processes developed by the palm oil agro-industry under international safety standards. They consequently constitute a disguised barrier to trade that may run counter to the principles set forth in the SPS Agreement and be inconsistent with the national treatment and MFN obligations of Articles I:1 and III:4 of the GATT 1994.
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