



14 November 2019

(19-7752)

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**Committee on Sanitary and Phytosanitary Measures**

Original: English

**FLOOR STATEMENTS  
NOVEMBER 2019 WTO SPS COMMITTEE - FORMAL MEETING**

**AGENDA ITEM 3(B)(II): EU LEGISLATION ON ENDOCRINE DISRUPTORS**

*Communication from the United States of America*

The following communication, received on 12 November 2019, is being circulated at the request of the Delegation of the United States of America.

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1. The United States takes the floor to raise ongoing concerns with the EU's implementation of EU Regulation 1107/2009, including the criteria for identifying and subsequently banning substances on the basis of hazard.
  2. Once again, we have carefully considered the explanations offered by the European Union at previous meetings and find that they do not address the concerns or questions that we have raised.
  3. Members are well aware of our concerns. We continue to be troubled that the European Union: (1) adopted endocrine disruptor criteria that are far more stringent than those initially notified to the WTO; (2) removed and then failed to reintroduce the risk-based amendment to its derogation procedures, inconsistent with the repeated assurances made to this Committee that critical substances used by agricultural producers around the world would be evaluated on the basis of risk; and (3) on 10 November 2018, began implementing its criteria to identify and subsequently ban endocrine-active substances.
  4. In March 2019, in response to these concerns, the European Union explained that it had held discussions on possible derogations, but that there was a lack of internal agreement and therefore no further discussions would be held.
  5. We do not find the European Union's update on the internal disagreements between member States to be an adequate response to the concerns raised about codification of a hazard-based approach to pesticide regulation. We continue to question how an approach that bases decisions on hazard is consistent with the requirement in the SPS Agreement to base measures on risk.
  6. Also in March 2019, in responding to our repeated requests that the European Union define "other legitimate factors" and explain the relevance of the so-called precautionary principle in making case-by-case determinations on import tolerance requests, the European Union only reminded members that the standard clause had been in force since 2005.
  7. We do not find this reminder useful in facilitating transparency or promoting better understanding of the factors unrelated to risk that the European Union applies in its case-by-case determinations on MRLs.
  8. Indeed, the European Commission asked its own scientific advisors how its regulatory process for plant protection products could be more efficient and transparent. In May 2018, the Chief Scientific Advisors responded by noting the "different, sometimes conflicting, objectives" of EU

Regulation 1107/2009 and stating, "the 'precautionary principle' suffers from a degree of vagueness." They recommended improved clarity in EU protection goals.

9. In March 2019, the European Union informed this Committee that an import tolerance process is in place. As we conveyed in great detail earlier in the meeting, we have serious concerns about the scientific underpinnings, objectivity, and consistency in application of that process.

10. At the July 2019 meeting of the Council for Trade in Goods, 29 Members representing roughly one hundred economies raised concern about the EU's policies. The European Union acknowledged the impact of its actions on trade. The European Union responded that it cannot risk EU lives.

11. Given the questions we have raised and the JMPR's recent affirmation of certain MRLs, we are still unclear whether the European Union has actually identified a real risk to EU consumers, or if the European Union would be able to demonstrate that there is any measurable level of risk reduction achieved through its trade-restrictive measures.

12. For the millions of people around the world who produce and trade crops such as coffee, cocoa, nuts, bananas, and cereals, however, the impacts of the European Union's actions are very real, and these are adversely affecting global agricultural production and trade; limiting the use of critical tools to manage pests and resistance; and threatening the livelihoods of producers.

13. So once again, we express our hope that the European Union will carefully consider our concerns and specific questions; provide clarity requested by Members; and reconsider its approach to regulating pesticides. We ask the European Union to ensure that its actions are consistent with the EU's WTO obligations.

14. Chair, we will submit this statement as well to the Secretariat and request its issuance as a GEN document.

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