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Committee on Sanitary and Phytosanitary Measures

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**"GLOBAL ECONOMIC IMPACT OF MISSING AND LOW PESTICIDE MAXIMUM
RESIDUE LEVELS. VOL.1" REPORT BY THE UNITED STATES
INTERNATIONAL TRADE COMMISSION
(G/SPS/GEN/1842)**

SUBMISSION BY THE EUROPEAN UNION

The following document, received on 5 November 2020, is being circulated at the request of the Delegation of the European Union.

1. The European Union would like to thank the United States for bringing this report to the attention of the SPS Committee. Given that the report examines extensively the EU system for setting Maximum Residue Levels (MRLs), the European Union would like to provide its comments on it.
2. At the outset, it is important to note that the report does not aim to determine whether various MRLs around the world are science-based, are developed transparently and in accordance with good regulatory practices, or whether they create "unnecessary obstacles" to international trade. The report does not undertake a critique of stringent pesticide regulations either.
3. Instead, the report assembles numerous comments from stakeholders on alleged extra costs and burdens for producers caused by low or missing MRLs, which could give the impression that it only examines an agricultural model totally reliant on pesticides use. The report barely examines or even comments on other methods of production that use less pesticides, such as integrated pest management or organic production, and, only in passing, acknowledges that pesticide use can have adverse effects on farmers and on the environment in producing countries.
4. Furthermore, the report does not examine or acknowledge the benefits of low MRLs in terms of protecting consumers from exposure to harmful pesticide residues in food.
5. During the preparation of the report, the European Union was in contact with the investigators of the US International Trade Commission (USITC) and explained in great detail the principles and procedures of the EU system for setting MRLs.
6. The European Union regrets to note that – in spite of the extensive consultations – the report contains a number of important factual inaccuracies and misleading statements in the description of the EU system for setting MRLs.
7. There is a persistent mix-up and confusion of the procedures related to the approval (or renewal of approval) of active substances in accordance with Regulation (EC) No 1107/2009 on the placing on the market of plant protection products and the procedures for setting MRLs in accordance with Regulation (EC) No 396/2005.
8. In reality, these procedures are separate and different. For example, in the report, time-limited validity is presented as relevant both for approvals of active substances and for setting MRLs, whilst in reality, this is only correct for approvals of active substances for domestic use in the European Union.

9. MRLs have no time-limited validity; they may be reviewed in the light of new applications. Therefore, no procedure for the renewal of MRLs exists, contrarily to what stated in the report.

10. Likewise, the cut-off criteria to which the report refers frequently are only relevant in the context of the procedures for the approval (or renewal of approval) of active substances for domestic use in the European Union. They have no relevance in the procedures for setting MRLs: all MRLs are set on the basis of extensive and comprehensive risk assessments.

11. The scope and extent of the alleged 'hazard-based approach' is also misunderstood, as readers may have the impression that all decisions on approvals and MRLs are based on hazard considerations, whilst in reality all MRLs are set based on risk assessments, and this is also the case for the decisions taken so far on the approval or renewal of approval of active substances. The internal EU evaluation of the EU pesticides legislation¹ has shown that so far there has not been a single case where the approval of an active substance was not renewed after an assessment solely because an active substance met the health-based cut-off criteria.

12. In fact, in all cases where a substance met these cut-off criteria, the assessment also found risks to human health and/or the environment. The cut-off criteria have provided clarity to potential applicants whether (or not) to submit an application for renewal.

13. The cut-off criteria play no role in the setting of MRLs and, so far, no EU MRLs has been lowered due to the mere fact that an active substance meets the cut-off criteria specified in Regulation 1107/2009.

14. The report only assembles unfiltered comments and views from different stakeholders without conducting its own analysis of whether these are plausible, based on facts/evidence and without putting the stakeholders' feedback in context.

15. While it is comprehensible that stakeholders may harbour (negative) hypothetical expectations, actual recent trade figures, which were available at the time of drafting the report, show that these fears are not in line with reality. For example:

- the value of bananas exported from Costa Rica to the European Union in 2019 (731 million Euros) is higher than in 2016 (661 million Euros);
- the value of exports of Peruvian table grapes to the European Union increased significantly from 2016 (146 million Euros) to 2019 (228 million Euros);
- exports of table grapes from Chile to the European Union show fluctuations but no downward trend in the timeframe 2016 (197 million Euros), 2017 (208 million Euros), 2018 (216 million Euros), 2019 (176 million Euros);
- the value of exports of mangoes from Peru to the European Union increased from 2016 (145 million Euros) to 2019 (186 million Euros);
- the European Union has indeed remained by far the primary export market for Kenyan French beans and the value of imports has increased from 93 million Euros in 2016 to 97 million Euros in 2019.

16. The European Union urges the USITC to correct the factual inaccuracies in the report and complement the case studies by providing and analysing actual trade statistics. The European Union continues to offer its cooperation for further clarification.

17. The European Union is committed to continue to fulfil its international obligations and further engage with any WTO Member to explain and provide information on the EU MRL setting system.

¹ https://ec.europa.eu/food/plant/pesticides/refit_en.