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Committee on Sanitary and Phytosanitary Measures Original: Spanish

SPECIFIC TRADE CONCERNS – EUROPEAN LEGISLATION ON ENDOCRINE DISRUPTORS (NO. 382)

COMMUNICATION FROM PARAGUAY

The following communication, dated 3 March 2021, is being circulated at the request of the delegation of Paraguay.

EUROPEAN LEGISLATION ON ENDOCRINE DISRUPTORS (G/SPS/N/EU/166/ADD.2)

The following questions are being submitted in follow-up to the replies received from the European Union (EU) (document G/SPS/GEN/1871) to the questions posed by Paraguay (document G/SPS/GEN/1846), and in the light of Article 5.8 of the SPS Agreement:

1. In its reply to question number 2 from Paraguay, the EU indicates that Article 5.7 of the SPS Agreement applies only to specific situations where, in the light of *insufficient scientific evidence*, the EU's risk management decisions may be based on the precautionary principle. Paraguay notes that a significant number of MRLs have been adopted by the EU as a result of the decision not to renew certain substances found in plant protection products, which is based on *inconclusive scientific evidence*.

   (a) Could the EU please indicate if, in these cases, it applies the precautionary principle in its risk management decisions?
   (b) If the answer is no, could the EU please specify how "insufficient scientific evidence" differs from "inconclusive scientific evidence"?

2. In its reply to question number 4, the EU states that the protection of European consumers is ensured when there exists *sufficient scientific certainty* to establish that substances have no harmful effects on human health.

   (a) Could the EU please provide a definition of when it considers that "sufficient scientific certainty" exists? Specific examples would be useful in order to best demonstrate this.

3. Could the EU please confirm if environmental factors will be taken into account when granting emergency authorizations to member States to use substances prohibited within the EU?

4. Could the EU please specify the technical criteria used when granting emergency authorizations to member States to use substances prohibited within the EU?

5. We note that, at the seminar of 20 January 2021 on environmental factors and setting MRLs, the EU stated that exports from one EU member State to another must comply with European MRLs and that few MRLs have been subject to emergency authorizations.

   (a) Could the EU please indicate in which cases, for which products and in which member States emergency authorizations have been granted?

(b) We note that the majority of products exported by third countries to the EU are unprocessed natural products (such as sugar cane, maize or beet), while those traded among EU member States are mainly processed products (such as sugar). In this regard, would breaches of the limit of analytical determination be detected in processed products in the same way that they would be detected in an unprocessed raw material?

6. We reiterate the following questions that were posed by the delegation of Paraguay at the aforementioned seminar and subsequently submitted by note to DG SANTE on 21 January 2021:

(a) Could the EU please explain how it intends to incorporate environmental factors into import tolerances and how this incorporation would be compatible with the obligations laid down for the establishment of sanitary measures under the SPS Agreement?
(b) Could the EU please provide a definition and list of the "environmental factors" to be taken into account when assessing import tolerances?
(c) In October 2020, Paraguay submitted a series of questions to the EU relating to specific trade concerns on MRLs and endocrine disruptors. In its replies, the EU stated that no amendments to Regulation No. 396/2005 are currently envisaged. Could the European Union please confirm whether environmental factors may constitute "other legitimate factors" to be taken into account when determining import tolerances?
(d) Can environmental factors determine the imposition of MRLs that are lower than those that would result from the application of purely sanitary factors?

7. With regard to import tolerances, could the EU please provide a list covering the period from November 2017 to date of all requested import tolerances, the requesting country and whether the requests were accepted or rejected? In cases where requests were rejected, could the EU please provide the reason for this rejection?