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Committee on Sanitary and Phytosanitary Measures Original: English

EU MRLS AND PESTICIDE POLICIES – SPECIFIC TRADE CONCERN 448: EU MRLS FOR BUPROFEZIN, CHLOROTHALONIL, DIFLUBENZURON, ETHOXYSULFURON, GLUFOSINATE, IMAZALIL, IOXYNIL, IPRODIONE, MANCOZEB, MOLINATE, PICOXYSTROBIN AND TEPRALOXYDIM

SUBMISSION BY THE UNITED STATES OF AMERICA

The following submission, received on 20 July 2021, is the statement made by the United States of America at the 14-16 July 2021 WTO SPS Committee, and is being circulated at the request of the Delegation of the United States of America.

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1. The United States joins Colombia, Costa Rica, Ecuador, and Paraguay in discussing this important issue before the Committee.

2. The United States again emphasizes our concern for human, plant, animal, and environmental health, and we remain disappointed that the European Union continues to lower many MRLs to trade-restrictive levels without clear scientific justification or measurable benefit to human health. The EU's hazard-based approach to pesticide regulation and implementation of the "precautionary principle" creates trade barriers that threaten the security of global food systems.

3. The United States appreciated the opportunity to comment on the European Commission's public consultation on the evaluation and impact assessment of the Sustainable Use of Pesticides Directive. Sustainable global agricultural production relies on science-based decisions and international standards that support the safe and judicious use of diverse crop protection tools to manage endemic, emerging, and invasive pests. The United States notes that pesticides are an important component in integrated pest management, or IPM, programs. Unnecessarily removing tools such as active ingredients and modes of action can increase the development of resistance to pesticides, which adds an additional challenge for agricultural producers and threatens biodiversity.

4. For example, propiconazole is an important fungicide for rice growers and failure by the European Union to reauthorize use of this fungicide eliminates an important plant protection tool for rice growers in the state of Louisiana that export to the European Union.

5. The United States further notes that the European Food Safety Authority (EFSA) is reviewing ten member states' emergency authorizations for active substances, including for several neonicotinoids. Based on their continued requests for emergency authorizations, it appears as though producers in the European Union, like those in the United States, view these products as integral components of their IPM programs. Accordingly, we request that the European Union afford producers in third countries equal access to these important and efficacious crop protection tools.

6. At our previous meeting in March of this year, the United States requested that the European Union clarify the provisional nature of recent MRL decisions for a number of pesticides (fenamidone, propiconazole, chlorothalonil, clethodim), since these decisions were based on incomplete risk assessments, and to confirm that scientific data will be collected and analyzed to justify these measures. We have not received a response to this inquiry.

7. We note that this is a chronic issue in ongoing pesticide reviews. While the European Union has not yet lowered MRLs for phosmet, G/TBT/N/EU/790 indicates that the substance will not be renewed based on what appears to be an incomplete risk assessment. Phosmet is an important part of IPM programs used in the production of several crops in the United States, including blueberries, cranberries, cherries, almonds and walnuts; it is also an important crop protection tool used in the production of a number of crops in the European Union, where it is used to control pests in fruits such as cherries and citrus, as well as in nuts, olives, and oilseed rape.

8. Although the 2021 EFSA peer review for phosmet is highly redacted, the United States understands that phosmet does not meet the EU health cut-off criteria, is not an endocrine disruptor, and that EFSA did not finalize its risk assessment. The United States notes that a publicly available, EFSA-funded publication includes an analysis conducted by EFSA and member state toxicologists and scientists regarding appropriate safety factors in the risk assessment for phosmet, indicating the possibility of safe use on potatoes. The United States requests that EFSA consider all of the existing, rigorous, science-based, and publicly available data to complete its risk assessment, and take such information into account before making a final decision. The United States also requests that the European Union keep existing MRLs in place until the process is completed to facilitate continued safe trade.

9. The United States likewise understands that MRLs will be lowered on abamectin following the proposed restriction of its use to permanent greenhouses, as notified in G/TBT/N/EU/784. The United States notes that, while EFSA did not find any health hazard cut off criteria, EFSA did not finalize the consumer risk assessment for abamectin due to a data gap identified with respect to drinking water. The United States would like the European Union to clarify what steps it is taking to complete its risk assessment. Further, the United States requests that the European Union confirm that it will maintain its current MRLs until the completion of the consumer risk assessment. When the European Union considers MRLs for abamectin, the United States requests that the European Union maintain an MRL for hops that is harmonized to the existing Codex MRL of 0.15 ppm to facilitate safe international trade.

10. Finally, the United States would again like to raise concerns around the manner in which the European Union enforces newly reduced MRLs. The European Union enforces newly reduced MRLs at the point of production for domestic goods, and at point of importation for imported goods. This causes trade inefficiencies and disruptions for products destined for the EU market depending on when a new reduced MRL is enforced and results in both an inconsistent application of the SPS measure and an unfair advantage for EU producers.

11. The United States asks the European Union to apply MRLs at the time of production for imported products to allow products to move through the full channels of trade, which would be the least trade restrictive action. If, as with other MRL changes, lowered MRLs will be enforced at the date of importation, this will continue to have a negative effect on trade in products with long shelf lives. Regardless of whether enforcement occurs at the date of importation, the United States requests that the European Union extend the transition period for all MRL changes to the maximum term possible, or at least 24 months, to help minimize the negative impact on agricultural producers while protecting consumer health.

12. We look forward to continued engagement in this area and encourage the European Union to continue its discussions with third countries around these important SPS measures.