WORLD TRADE ORGANIZATION

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(22-2449) Page: 1/2

Committee on Sanitary and Phytosanitary Measures Original: Spanish

SPECIFIC TRADE CONCERNS - EUROPEAN UNION MAXIMUM RESIDUE LEVELS (MRLS) FOR ALPHA-CYPERMETHRIN, BUPROFEZIN, CHLOROTHALONIL, CHLORPYRIFOS, CHLORPYRIFOS-METHYL, DIFLUBENZURON, ETHOXYSULFURON, GLUFOSINATE, IMAZALIL, IOXYNIL, IPRODIONE, MANCOZEB, MOLINATE, PICOXYSTROBIN AND TEPRALOXYDIM - STC NO. 448

COMMUNICATION FROM COLOMBIA, ECUADOR, GUATEMALA AND PARAGUAY

The following communication, dated 21 March 2022, is being circulated at the request of the delegations of Colombia, Ecuador, Guatemala and Paraguay.

MODIFICATION OF EUROPEAN UNION MRLS FOR PLANT PROTECTION PRODUCTS

The delegations of Colombia, Ecuador, Guatemala and Paraguay would like to ask the European Union the following questions further to the replies received from the European Union in document G/SPS/GEN/1970, and in light of the provisions of Article 5.8 of the SPS Agreement:

1. With regard to the procedures for emergency authorizations (Article 53 of Regulation 1107/2009) and import tolerances (Article 6 of Regulation 396/2005):

   a) How long does it take on average to approve an emergency authorization and to approve an import tolerance?
   b) What is the average cost of the emergency authorization approval process and the average cost of the import tolerance approval process?

2. With regard to emergency authorizations:

   a) Could the European Union please explain why section 11 (concerning temporary MRLs) of an emergency authorization is, in general, left blank? In such cases, what is the applicable MRL?
   b) If a temporary MRL is granted, does this mean the product can be marketed in other European Union Member States?
   c) Can third States, which are not members of the European Union, benefit from authorized temporary MRLs?
   d) What MRL is applicable in emergency authorizations for minor crops? How is this MRL determined?
   e) Could the European Union provide some figures regarding the number of emergency authorizations that have been refused?

3. How are import tolerances assessed for minor crops?

4. The requirements to be met by an import tolerance applicant are stricter than those to be met by an applicant for an emergency authorization for a new combination of substance and basic product. Is this correct? What is the basis for this distinction?

5. In its reply to question No. 4 in document G/SPS/GEN/1970, the European Union refers to relevant Dispute Settlement Body (DSB) rulings. Which DSB rulings does the European Union consider relevant?

6. It is our understanding that, according to the European Union, its MRL regime does not fall within the scope of Article 5.7 of the SPS Agreement, despite the existence of scientific uncertainty. Is this correct?

7. In its reply to question No. 6 in document G/SPS/GEN/1970, the European Union shares a summary table of figures regarding harmonization with the Codex since 2017. We would be grateful if the European Union could provide data disaggregated by:

a) type of plant protection product (e.g. insecticide, fungicide, etc.);
b) active substances in cases where they are not aligned with CXLs;
c) active substances that have benefited from (i) emergency authorizations and (ii) import tolerances.

8. In its reply to question No. 8(a) in document G/SPS/GEN/1970, the European Union notes that around 90% of emergency authorizations are for plant protection products containing active substances that are approved in the European Union. With regard to the remaining 10% of cases:

a) Are stricter requirements applied to the applicant when they request an emergency authorization for an active substance that is no longer approved in the European Union?
b) What type of scientific evidence is required from the applicant in these cases?
c) What MRL is imposed?

9. In its reply to question No. 9(a) in document G/SPS/GEN/1970, the European Union states that no exports outside the Union are allowed in the event that food/feed does not comply with the European Union MRL due to an emergency authorization. What mechanisms do Member States introduce to ensure that such products are not exported? Could the European Union provide specific examples of these control mechanisms?

10. Further to the European Union's reply to question No. 10 in document G/SPS/GEN/1970, according to which emergency authorizations are limited to European Union Member States, what is the explanation for the 27 emergency authorizations granted by Norway?

11. Further to the European Union's reply to question No. 15 in document G/SPS/GEN/1970, which other WTO Agreements, and Articles thereof, would be applicable to MRLs that are set taking into account "other legitimate factors"?

12. Regarding substances considered to be of global concern and for which it has been announced that import tolerances will no longer be granted, could the European Union confirm whether emergency authorizations will no longer be granted either?