

From: SANTE SPS
Sent: 15 March 2017 15:17
To: 'FAS-RMB-SPS Enquiry Point'
Cc: [redacted]@senasa.gov.ar'; [redacted]@agricultura.gov.br';
'enquiry@international.gc.ca'; SANTE SPS; [redacted] (SANTE);
[redacted] (SANTE); [redacted] (SANTE); [redacted] (SANTE);
[redacted] (SANTE); [redacted] (SANTE)
Subject: RE: USA Requests Notification of EU's Revision to Annex II to Regulation
1107/2009 on Plant Protection Products (PPPs), Related to G/TBT/N/EU/383
and G/TBT/N/EU/384

Dear US SPS Enquiry Point,

As was explained in the EU reply to the comments received in response to notification G/SPS/N/EU/166 (circulated to all WTO members on 24 February 2017), the Commission has revised the draft acts to address comments received in the course of the regulatory process. No substantial changes were introduced compared to the drafts which were notified under the TBT and SPS Agreements. For transparency reasons and to facilitate the decision-making process, which involves several bodies and institutions, the plant protection products act was split into two acts: one text containing the criteria and another one containing the technical amendment to the clause on negligible exposure. As there has been no substantial change in the content of the proposals the EU does not see a need for re-notifying the draft acts.

Kind regards,

[redacted]

EU SPS team

European Union Notification Authority & Enquiry Point

Phone +32 (2) 29 [redacted]; Direct Fax: +32 (2) 29 [redacted]

European Commission Directorate General for Health and Food Safety

[redacted]

European Union Notification Authority

E-mail: sps@ec.europa.eu

See http://ec.europa.eu/comm/food/international/organisations/wto_en.htm



From: FAS-RMB-SPS Enquiry Point [<mailto:SPSEnquiryPoint@fas.usda.gov>]

Sent: Monday, February 27, 2017 9:44 PM

To: SANTE SPS

Cc: [redacted]@senasa.gov.ar; [redacted]@agricultura.gov.br; enquiry@international.gc.ca

Subject: USA Requests Notification of EU's Revision to Annex II to Regulation 1107/2009 on Plant Protection Products (PPPs), Related to G/TBT/N/EU/383 and G/TBT/N/EU/384

Dear EU SPS Enquiry Point,

The United States recalls that the EU notified the “Draft Commission Regulation setting out scientific criteria for the determination of endocrine disrupting properties and amending Annex II to Regulation (EC) 1107/2009” to the WTO SPS and TBT Committees on June 20, 2016 as SPS/N/EU/166 (pesticides) and TBT/N/EU 383 (pesticides) and TBT/N/EU/384 (biocides).

Recently, there have been reports that the Commission has decided to split the previous proposal into two parts to separate the scientific criteria from the technical amendment to points 3.6.5 and 3.8.2 of Annex II to Regulation 1107/2009 on Plant Protection Products (PPPs).

The proposed criteria take a hazard-based approach to identifying endocrine disruptors and does not include consideration of the substance’s potency, exposure, or other risk-based assessment factors. The technical amendment, or derogation, would allow for the establishment of maximum residue levels (MRLs) or import tolerances of substances identified as endocrine disruptors. A derogation for use may also be possible if there is negligible risk of exposure to humans (this amends the previous legislation that stated the derogation is only possible if there is negligible exposure) or if the substance is indispensable for agriculture.

The revised approach proposed by the Commission appears to deviate significantly from the draft notified to the WTO SPS and TBT Committees, particularly with respect to the provisions to conduct risk assessments on substances identified as endocrine disruptors. If the Commission were to establish criteria for classification of compounds as endocrine disruptors without simultaneously finalizing procedures for derogations, the revised approach may result in a greater effect on the trade than the original proposal as notified.

The United States therefore requests that the EU notify its revision of the draft regulation to the WTO, allow Members to comment on the revision, and take these comments into account in finalizing the measure.

Sincerely,
US SPS Enquiry Point



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