EUROPEAN UNION
Permanent Mission
to the World Trade Organization

The Deputy Head of Mission

Geneva, 11 November 2019

NOTE TO:

Ms Anne BUCHER, Director General, DG SANTE
Ms Sabine WEYAND, Director General, DG TRADE
Mr Jerzy Bogdan PLEWA, Director General, DG AGRI
Mr Timo PESONEN, Director General, DG GROW

Subject: **Flash Report of the WTO SPS Committee – Geneva, 5 to 8 November 2019**

Summary

The 76th regular meeting of the SPS Committee was held on 7-8 November 2019, preceded by a thematic session on 5 November and an informal meeting on 6 November.

*As expected, the formal plenary session was again dominated by the specific trade concerns (STCs) on **Pesticides** raised by numerous WTO Members against the EU. In addition, Members raised new STCs, namely **high risk plants** and **animal by-products**. **China** and **Peru** withdrew from the agenda their STCs against the EU on animal products and cadmium in foodstuffs, respectively.*

*On the offensive side, the EU reiterated five STCs against **China**, **South Africa** (Highly Pathogenic Avian Influenza, HPAI); **USA**, (apples and pears), **Indonesia** (approval procedures), and against several trading partners on **BSE**. In addition, the EU raised two STCs for the first time against **Thailand** (pork) and **Philippines** (African swine fever, (ASF). Under the "monitoring of the use of international standards" agenda point, the EU referred again and in general to the need for Members to apply regionalization for **ASF** and **HPAI**.*

*At the informal session, Members continued discussing the **Fifth Review** of the implementation of the SPS Agreement and a Brazilian proposal on the functioning of the SPS Committee, but without reaching conclusions. The thematic session was devoted to "**Approval Procedures**", including pesticides and GMOs. The EU actively engaged with a presentation on the authorization of imports of food of animal origin and as member of a panel discussion on the main themes of the session.*

*Twelve **bilateral meetings** – Brazil, Canada, China, Indonesia, Israel, Malaysia, Philippines, Russia, Saudi Arabia, South Korea, Thailand, and United States – offered opportunities for the EU to push for key market access interests and to explain the rationale behind specific EU import policies and market access*

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applications[1]*. Overall, apart from unexpectedly friendly meetings with Russia and China and few exceptions, the bilaterals delivered few concrete results.*

Detail

I. Specific trade concerns raised against the EU

Numerous Members reiterated forcefully their concerns on the EU measures lowering the existing **MRLs** for several plant protection products, notably **buprofezin, diflubenzuron, picoxystrobin and imazalil**. Again, Members questioned the scientific justification, complained about the short time granted to phase the measures in and argued that these discriminate between EU and third countries' producers and should take into account the specific climatic situation of developing countries and the lack of readily available alternatives. The USA gave a long and detailed statement that touched upon the perception of risk and the use precautionary approach in the EU regulatory process and risk assessment, Several Members pointed out that the trade of certain agricultural commodity such as bananas, grapes and dried fruit would be hugely affected, thus reducing the livelihood of local populations. In addition to the more general concerns on plant protection products, Colombia had submitted written questions on imazalil regarding both the risk assessment and the EU regulatory procedures. The EU replied in great detail to the questions during the plenary session.

Once again, many Members raised strong concerns about the EU regulatory framework for **Endocrine Disruptors** (EDs) and 'cut-off criteria' substances. As in previous meetings, it was argued that a hazard-based approach was inconsistent with the SPS Agreement and that lack of clarity and predictability in assessing MRLs for EDs already on the market and when assessing requests for import tolerances hinder trade and harm producers. Those Members insisted that import tolerances should be granted on the basis of clearly established procedures and a full risk assessment, and that factors other than science (Other Legitimate Factors - OLFs) should not be taken into account in establishing MRLs for EDs and/or other plant protection products. Several Members requested information about which OLF would be taken into account in the decision making process.

Israel, supported by USA, Canada and Kenya, expressed concerns about the recent EU Regulation on **high risk plants** that will come into force the 14 December 2019. In particular, Israel considers that a longer transition period should be granted to countries that have submitted the dossier in time and for which a history of safe trade can be demonstrated. According to Israel, lengthy and cumbersome EU procedures cause undue delay in the processing of third country's information and finally in the authorisation of high risk plants.

China repeated their concerns about the length of time taken by the EU in reviewing the residue definition for **folpet** and stressed the importance of clarity to and predictability for business operators. In relation to **lambda cyhalothrin**, China requested a longer transition period to adapt to the new MRLs or the reinstatement of the previous MRLs to allow the country to continue trade while gathering necessary data for the assessment of the substance. On a positive note, China withdrew its STC on animal products, informing the Committee that it was expecting to resolve the matter through bilateral cooperation with the EU.

Indonesia in an STC originally registered against Germany, complained about the EU delay in approving the import of some **animal by-products** (hooves and horns).

As usual, the EU delegation **defended** vigorously the legitimacy of the EU SPS measures under scrutiny, refuted any wrong or unsubstantiated allegations, and updated the Committee on the state of the play of the different files discussed.

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[1] More details than those included below about these bilateral meetings held in the margins of the SPS Committee, will be included in the full report of the WTO SPS Committee. The full report will be e-mailed to EU Member States and shared via a note to the Council's *Trade Policy Committee*, and *Potsdam* and *Roosendaal* working groups. It will also be discussed with EU Member States and EU business organizations in the coming *SPS Market Access Working Group* meeting, and archived in the SPS section of the non-public website of the Commission's *Market Access Database*.

II. Specific trade concerns raised by the EU

The EU reiterated the following five STCs: **China's** and **South Africa's** import restrictions/bans on poultry due to Highly Pathogenic Avian Influenza (HPAI); the **USA** continuous (political) delay in authorising EU imports of apples and pears; **Indonesia's** approval procedures for animal and plant products; and the import restrictions imposed by several trade partners allegedly due to **BSE**.

In addition, the EU raised two STCs for the first time: **Thailand's** slow import approval procedures of pork, and **Philippines'** import bans from entire countries on African swine fever (ASF) grounds. Under the "monitoring of the use of international standards" agenda point, the EU referred again and in general to the need for Members to apply regionalization for **ASF** and **HPAI**.

III. Other issues

Formal meeting

Under the section on monitoring of international standards, USA, supported by several Members, expressed some concerns about the ongoing work of the Codex task force on **antimicrobial resistance** and reiterated concerns on deviations from Codex MRLs on **Glyphosate**. In the section on technical assistance and cooperation, **Senegal** requested further help from the EU to comply with the requirements of the new regulation on **plant health**.

Thematic Session

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concerns on EU's policies on pathogen reduction treatments, veterinary medicinal products and GMO approvals.

V. Next meeting

The next SPS Committee meeting will take place on 19-20 March 2020 and will be preceded by a thematic session on Third Party Assurances and informal meetings.

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cc: SPS distribution list