WORLD TRADE ORGANIZATION

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Page: 1/2

Committee on Technical Barriers to Trade

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EUROPEAN UNION — REVISED PROPOSAL FOR THE CATEGORIZATION OF COMPOUNDS AS ENDOCRINE DISRUPTORS OF 19 FEBRUARY 2013 BY DG ENVIRONMENT

STATEMENT BY THE UNITED STATES TO THE COMMITTEE ON TECHNICAL BARRIERS TO TRADE 20 AND 21 JUNE 2018

The following communication, dated 20 June 2018, is being circulated at the request of the delegation of the United States.

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1. The United States takes the floor to raise our ongoing concerns with the EU's hazard-based approach to regulating substances identified as endocrine disruptors.

2. We understand that on 20 April the European Commission formally adopted criteria for identifying endocrine disruptors in plant protection products, and will implement these criteria on November 10. We would like to note that these revised criteria which have now been adopted will lead to the banning of many more substances than previously suggested in the EU's 2016 WTO notifications.

3. Could the EU clarify how it is applying the interim criteria during this period leading up to the November 10 implementation date? Particularly, in light of statements delivered to the European Parliament by Commissioner Andriukaitis that "there is no benefit for health and the environment in keeping the interim criteria," and the criteria are "clearly not fit for purpose" as they "fail to identify real endocrine disruptors."

4. The EU recently notified a proposal to withdraw authorization for the active substance pymetrozine (G/TBT/N/EU/554). Although the European Food Safety Authority did not finalize an assessment on the potential for endocrine disruption, the EU nevertheless considered this substance to have endocrine disrupting properties in accordance with the interim criteria in Regulation (EC) No. 1107/2009.

5. We ask that the EU explain how these actions achieve its objectives. By simply identifying hazards without identifying potential risks or considering reasonable methods for managing risk—or worse yet, identifying hazards using criteria that are not even clearly fit for that purpose—these actions may offer no benefit, and indeed hurt the public by removing access to important tools.

6. We also understand that the EU is in the process of clarifying its policy for managing import tolerances for substances that trigger the hazard-based cut-offs, and that this policy involves consideration of import tolerances only on a "case-by-case" basis, factoring in "legitimate factors" and the precautionary principle.

7. Regrettably, the EU's case-by-case approach does not seem to be examining the specific circumstances relevant to each substance, as would be considered in a risk-based approach. No one has answered what a "legitimate factor" is, which leads to an ad-hoc approach to the precise legal regime that may apply.

8. This ad-hoc approach will cause considerable uncertainty for applicants and producers. Nor would it obscure any WTO concerns or satisfy the concerns raised by Members in this Committee. If the EU is interested in addressing those concerns, the EU needs to clarify this matter with

precision by explaining what the factors are, how these factors relate to safeguarding human health and the environment, how long the process is anticipated to take, and how producers can effectively take advantage of it.

9. We continue to remind our European colleagues that other less trade restrictive regulatory approaches exist that provide the high levels of human health and environmental protection, without posing unnecessary barriers to trade.

10. To that end, we stress the importance that is approach comport with the principles of non-discrimination, transparency, necessity, and predictability in the implementation of TBT measures.