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Committee on Technical Barriers to Trade

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**EUROPEAN UNION – QUALITY SCHEMES FOR AGRICULTURAL
PRODUCTS AND FOODSTUFFS**

**STATEMENT BY URUGUAY TO THE COMMITTEE ON TECHNICAL BARRIERS TO TRADE,
21 AND 22 MARCH 2018**

The following communication, dated 22 March 2018, is being circulated at the request of the delegation of Uruguay.

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1. We would first like to thank the United States for including this item on the agenda, and we ask that Uruguay be added as a co-sponsor of this Specific Trade Concern (No. 33). As on previous occasions, we also endorse the statement made by the delegation of the United States.
 2. As you will recall, our delegation asked the European Union delegation on several occasions to provide us with updated information on the status of the Danish Government's 2012 application to have the term "Danbo" protected in the EU.
 3. At each consultation, of which there were several, the response of the EU delegation was that it had no information to provide on the application, as the process was still ongoing. Strikingly, perhaps, at the first two meetings, in March and June 2017, the delegation added to its customary response the assertion that matters relating to intellectual property rights should be handled under TRIPS and not here, attempting to ignore the fact that on 18 November 2013, in document G/TBT/N/EU/139, the regulation under which these rights are granted had been notified to the TBT Committee by the EU itself.
 4. However, despite the EU's claim that it had no news to report on the matter, on 19 October 2017, we learned of the publication in the Official Journal of the European Union of Implementing Regulation 2017/1901, which registered the term Danbo as a protected geographical indication (PGI).
 5. Uruguay regrets that, despite numerous consultations and calls to reconsider the measure, the European Union has decided to register the term Danbo as a geographical indication. This restriction on the free use of a generic term like Danbo will not only affect trade in this product, but will also set a dangerous precedent and create uncertainty in other, similar cases.
 6. The European Union has chosen to protect a term that is clearly generic and concerning which several Members of this Organization, including Uruguay, raised objections in 2012. Its generic nature arises from, among other things, the widespread production and consumption of the product, the common use of the term, the presence of a tariff item in the EU's TARIC system, the existence of regional and international standards on Danbo production, and its inclusion by the Government of Denmark in Annex B to the Stresa Convention.
 7. With respect to production, it should be remembered that, in the EU, Danbo cheese is produced in Denmark, Germany and Ireland, and is also consumed in Austria, Belgium, Spain, Finland, France, Germany, Ireland, Italy, Luxembourg, the United Kingdom, the Czech Republic, Sweden and Hungary. It is also consumed in other European countries that are not part of the EU, such as Norway, Switzerland and Russia, as it is in the US, Canada and Mexico. In South America, it is produced and consumed in Argentina, Brazil, Paraguay and Uruguay. In fact, this last group of

countries not only observes the Codex standard, but also has a technical regulation under MERCOSUR (MERCOSUR/GMC/RES No. 29/96).

8. And it is precisely those standards that provide irrefutable proof of how widespread the production and consumption of the product are globally. Danbo cheese, like many other cheeses, has its own Codex standard, which governs its production and labelling. That standard, Codex Stan 264, adopted in 1966, is an international reference standard that has remained in effect, unchallenged, for over 50 years and that has been updated on several occasions, with the participation and approval of the European Union and its member States. Point 7.1 of Stan 264, which addresses "labelling", clearly provides that "[t]he name Danbo may be applied in accordance with section 4.1 of the General Standard for the Labelling of Prepackaged Foods (CODEX STAN 1-1985), provided that the product is in conformity with this Standard".

9. In addition, point 7.2 of the standard provides that "[t]he country of origin (which means the country of manufacture, not the country in which the name originated) shall be declared". Point 7, as a whole, is commonly interpreted as members' recognition of Danbo as a generic term for a product that may be produced in a variety of locations so long as the requirements established under the standard are satisfied.

10. Consequently, the granting of an exclusive right to use a term that has been recognized as generic by the international community, as Danbo has, is a twofold cause for concern. First, because the approval of this application will prove to be more trade-restrictive than necessary, and this may worsen in the future owing to the extension of protection to third markets.

11. Second, because an important Member of this Organization is choosing to undermine an international reference standard like Codex, raising doubts about the validity and future of such standards. Regrettably, we have seen Codex being attacked and undermined not only in this Committee, but also in the Committee on Sanitary and Phytosanitary Measures. Without doubt, its weakening will translate into a lack of predictability and legal certainty, which is nothing less than a weakening of the rules-based multilateral trading system itself.

12. Lastly, I would like to provide a brief explanation of why a country like Uruguay, which is so distant from Europe and Denmark, is interested in Danbo cheese and the term Danbo.

13. It was Denmark itself that promoted Danbo production around the world through the technical cooperation offered, together with the FAO, since the 1960s, which Uruguay, along with a large number of countries from Latin America and other continents, accepted.

14. Historically, Denmark has deliberately promoted dairy production beyond its borders through the transmission of knowledge. The Danish International Development Assistance (Danida) cooperation programme is a prime example. For more than fifty years, the Government of the Kingdom of Denmark has sponsored courses given by Danish experts for Latin American, African and Asian technicians. A notable feature has been the teaching-learning process, both on-site in Denmark and in Latin America. These training sessions aimed to transmit Denmark's theoretical knowledge and experience in the production of dairy products to technicians from different continents, and provided hands-on experience in Danish processing plants.

15. Eventually, the trainees started integrating the knowledge and experience they had acquired with the realities of the countries they came from. This type of voluntary transmission, on the part of the Government of the Kingdom of Denmark, through training courses aimed at foreigners, occurred in the case of Danbo cheese.

16. The Danish Government's sponsorship and promotion of various types of training in dairy production planted the seed, more than fifty years ago, for Danbo cheese production in our region. This seed has taken root in Latin America. In the mid-1970s, Uruguay became a surplus producer of milk (today it is seventh worldwide in dairy exports) and, through its exports, it developed a market in the Americas for Danbo cheese, hitherto unknown in the region.

17. The argument being made here is not a new one; rather, it reinforces what Uruguay has been saying since 2012. The Danish Government has been the main proponent of the worldwide dissemination of know-how and experience in Danbo cheese production, which has made the term Danbo a generic good. And it is in part thanks to that initiative that we are producers of this type of cheese. In Latin America, credit is due to Uruguay, and also Argentina, whose dairy industries have been able to take advantage of the knowledge and experience acquired through the training promoted by the Government of Denmark more than half a century ago. Argentina and Uruguay are now the largest producers of Danbo cheese outside the European Union.

18. We are sorry to see this about-face in our friend's position, which goes against the spirit of this Organization. We therefore once again urge the European Union to reconsider this measure.
