CHANGES IN EUROPEAN UNION RESIDUE REGULATIONS

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For up-to-date information on the progress of the EU MRL and Approvals Review Programmes, please refer to the relevant pages of the EU Website: http://europa.eu.int/comm/food/fs/ph_ps/index_en.htm
(*see Weblinks pg 18*)
For further information about the Pesticide Action Network UK, please email: admin@pan-uk.org

With the increasing emphasis given to consumption of fruit and vegetables as part of a healthy diet, and the importance of a varied and year-round, high quality supply, demand for imported fruit and vegetables in Europe is substantial and likely to increase. Many developing countries have responded to this demand due to the relatively high returns per volume, seasonal and climatic advantages, lower labour costs, and promotion and support for export horticulture from international aid agencies. Since horticultural production and processing is very labour intensive, many people are employed in the industry - an estimated 45 million people depend on export horticulture for their livelihoods in African, Caribbean and Pacific (ACP) countries.

However, growing emphasis on quality standards and public concern about food safety in the developed world have led both governments and retailers to set increasingly high standards on production and processing methods, and these are putting increasing pressures on suppliers. Recent European Union (EU) pesticide legislation has contributed to this trend towards increasingly stringent standards.

There are two interlinked EU legislative processes associated with pesticide use that are affecting developing country growers exporting fruits and vegetables to the EU – the *Maximum Residue Level (MRL) Harmonisation Programme* and the *Pesticide Approvals Review Programme*.

MRL Harmonisation programme

Since 1993 the EU has been implementing a programme to establish harmonised maximum residue levels (MRLs) that restrict levels of pesticide residues in foodstuffs sold in Europe. MRLs for foodstuffs are established both nationally and internationally with the key objectives of (1) controlling the correct use of pesticides in terms of the registered use; (2) permitting the free circulation of food commodities that have been treated with approved pesticides and comply with the established MRLs; and (3) minimising the exposure of consumers to harmful or unnecessary intake of pesticide residues.

MRL levels are established by balancing four different types of data: (1) levels of residues resulting from pesticides applied following a defined schedule, 'good agricultural practice' (GAP), which takes into account operator safety and environmental impact as well as efficacy; (2) the persistence of residues of the particular pesticide in the given crop; (3) the toxicity of the chemical; and (4) how much of the final product is typically eaten by the consumer.

The stated aims of the EU harmonisation programme are to iron out current inconsistencies in national MRLs in the different member states, by establishing common and obligatory MRLs for all active ingredients approved for use within the EU, based on systematic and scientific procedures. The relevant EU directives establish obligatory MRLs for specific crop/active ingredient combinations where sufficient data is available, and also specifies what data is required to establish an MRL where data are not currently available.

Where there is insufficient data, the EU has left the MRL position as an 'open position' for a limited period of time. During this period, data collected and analysed according to defined procedures can be submitted to the EU to defend the establishment of an MRL – this is usually done by agrochemical companies, but can also be done by other parties. If the period expires and no acceptable data has been received, then the MRL is set at the limit of determination (LOD), i.e. analytical zero.

After MRLs have been closed off at LOD there remains the possibility that appropriate data submitted to defend the establishment of a MRL could be considered on a case-by-case basis. However, it can take several years to establish an MRL.

The process of implementation of this programme has been characterised by:

- MRLs only being established for commercially important crop/active ingredient combinations
- EU MRLs being established at levels that are generally lower than United States MRLs, and often lower than Codex MRLs.

Pesticide Approvals Programme

This programme aims to systematically review the registration of the 823 active ingredients approved for use within the EU prior to 25 July 1993. As with the MRL harmonisation programme, the continued registration of a pesticide depends on appropriate data being generated and submitted by interested parties, again usually agrochemical companies. This means that, in practice, only those active ingredients that are commercially important are likely to remain registered for use.

Consequences

It is clear that the two programmes will together lead to:

- Withdrawal of approximately 350 of the 823 active ingredients from the approved list (although producers outside of the EU may be able to secure import tolerances for some of the 350);
- A substantial increase in the number of crop/active ingredient combinations for which MRLs will be set at LOD.

While these programmes are causing problems for EU growers, the impact on developing country growers exporting to the EU is likely to be particularly harsh.

Growers of tropical, sub-tropical and out-of-season fruit and vegetables are being particularly hard hit by the legislation because a disproportionately high number of relevant MRLs are set at LOD, and many of the most widely used active ingredients are likely to be phased out through the approvals review programmes. This situation has arisen because:

- Agrochemical companies are not likely to want to invest in generating and collating datasets to defend registration of, or set MRLs for, older, out-of-patent pesticides, yet these pesticides also tend to be cheaper and more widely available, and hence widely used, in developing countries;

- Agrochemical companies have in general only been interested in generating data for establishment of MRLs for crops they classify as 'major crops' i.e. crops of major economic significance. However, out of the fruit and vegetable crops exported by ACP countries, only bananas and citrus fruits are classified as 'major crops';

- In some developed countries such as the UK, the fresh produce industry has worked with the government to generate data for establishment of MRLs for key crop/active ingredient combinations that were not being defended by agrochemical companies. However, most developing country governments and industries have until recently been poorly informed about the EU legislation and its implications, and often lack the technical expertise and resources to generate and compile the necessary dossiers.

Predicted Impact

The two programmes could potentially benefit developing countries through encouraging more rational use of pesticides, which in turn could lead to health, environmental and sometimes economic benefits. However, the current process of implementation is such that these benefits are not easily realised, because:

- Communication of the legislation and its implications has been poor, meaning that exporting countries have not had time to respond by defending essential MRLs or by making alternative pest control measures available to their growers;

- Whether or not an MRL is established for a particular crop and pesticide is based on commercial rather than health, social or environmental considerations;

- Developing countries typically do not have the resources to ensure that their industry has access to appropriate knowledge and assistance for establishing and managing effective integrated pest management (IPM) systems;

- European markets are currently not willing to lower cosmetic and other quality standards, so growers cannot risk anything but very low levels of pest and disease infestation. As a result, developing country growers and exporters are likely to face increased costs of production at least in the short run, due to:

  - Reduced options for pest control, making export production even more risky:

  - Remaining chemical control options will be much more expensive;

  - Increasing demand from importers for costly traceability systems i.e. systems which allow any irregularities (use of banned pesticides or MRL exceedences on approved pesticides) to be traced to the 'offending' producer.

These factors are in turn likely to have a negative impact on livelihoods in affected developing countries, in particular :

- There is a risk that smaller and less well organised export industries may be abandoned by EU importers because they are not able to provide appropriate pest management/IPM training to growers, set up robust traceability systems, or to conduct their own trials on new pesticides to speed up the process of national registration of EU-approved pesticides;

- Small-scale growers, especially independent smallholders, may be abandoned by exporters, because exporters may consider the costs of training and running traceability systems for a large number of dispersed, small production units, outweigh the benefits of sourcing from smallholders. The higher cost of EU-approved pesticides, extra costs passed down by the exporter, and/or unacceptable increases in labour requirements for implementing non-chemical pest control methods may have similar effects;

- Export horticulture is a highly labour-intensive industry, so any fall in production levels will have a significant impact in terms of employment.

The extent of these impacts will depend on how seriously the legislation will be treated by EU member state governments, and what measures they will take to ensure that European supermarkets and wholesale markets adhere to MRLs. The UK government and supermarkets are already taking the MRL requirements very seriously, but a question mark remains over the extent to which other EU countries will follow suit.

WTO implications

The World Trade Organisation (WTO) should protect exporters from regulations that form a 'barrier to trade.' MRLs that are much lower than those of Codex are not recognised by the WTO and could be challenged by exporters. However no Codex MRL exists for the majority of tropical fruit and vegetables, and the lack of an objection from the WTO would mean that the EU MRLs gain some international legitimacy.

Progress

Any actions taken to ameliorate problems caused by this legislation will need to strike a careful balance between:

- Minimising short term shocks to the industry and to those dependent on the industry for their livelihoods, and

- Maximising the potential for long-term benefits in terms of health and safety, the environment, and the promotion of sustainable agricultural practices.

It is recommended that an action plan should incorporate the following components:

1. Develop and implement a communication programme to ensure that developing country growers, exporters and governments have prompt access to accurate and understandable information about the legislation, its implications for developing countries, and guidance on how to respond to the challenges.

2. Initiate data generation for the establishment of MRLs for the key post-harvest fungicides that are currently threatening exporting production.

3. Establish special support programmes for smallholders, assisting exporters and other intermediaries (e.g. NGOs) working with relevant smallholders to set up appropriate monitoring and traceability systems and provide necessary managerial and technical training on IPM and appropriate pesticide use.

4. Establish a networking mechanism to link exporters and producers to relevant IPM experts and information resources, possibly with a joint funding arrangement.

5. Establish systems for a more consultative and needs based approach to prioritising crop/A.I. combinations for MRL establishment, and allocate public funds for establishing prioritised MRLs.

A number of organisations are already involved in addressing some of these issues. On example of which COLEACP, an EU-funded organisation that promotes the export of fresh fruit and vegetables from ACP countries to the EU. COLEACP has already initiated activities that contribute to the first and second components outlined above, and has submitted a proposal to the EU asking for funds to continue current work and to initiate activities which would contribute to the third and fourth components. A number of affected industries and governments in developing countries have also begun to take steps to address the problems caused by the legislation.