

codex alimentarius commission



FOOD AND AGRICULTURE
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Agenda Item 10

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JOINT FAO/WHO FOOD STANDARDS PROGRAMME

CODEX COMMITTEE ON PESTICIDE RESIDUES

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Beijing, China, 7 - 12 May 2007

DISCUSSION PAPER ABOUT ENFORCEMENT OF CODEX MRLS

(Prepared by The Netherlands)

INTRODUCTION

2. It is very well known that Codex standards are safety-based standards for public health protection purposes and that the Codex Committee on Pesticide Residues (CCPR) is charged to develop MRLs for pesticides (Codex Alimentarius, Procedural Manual, 15th Edition).

2. The thirty-eighth session of the Codex Committee on Pesticide Residues had discussed the issue of the enforcement of MRLs at the national level, especially for imported commodities. During the discussion various problems that affected export and import were identified: strict enforcement in the importing country of national MRLs that were lower than Codex MRLs; products that were in conformity with the MRLs of the importing country but were re-exported to another country with different MRLs; and limits imposed by buyers or accreditation bodies.

3. Some delegations expressed their concern that although Codex MRLs were established in order to ensure harmonisation at the international level, and involved considerable efforts from governments participating in the process, the value of this work was diminished by the application of national regulations or commercial requirements without taking into account Codex MRLs.

4. Some delegations pointed out that they took into account Codex MRLs when establishing national MRLs or had actually integrated Codex MRLs into their national or regional regulations.

5. Several delegations indicated that in some cases importers and distributors applied residue limits for commercial purposes that were much lower than the MRLs applied by governments, but pointed out that such problems could not be addressed by governments.

6. Discussions at the last session of the Committee clearly showed that exporting countries, particular developing countries, are confronted with different values of MRLs established in importing countries, for the same compound and same commodity. In some cases, when the exporting country detects values none complying with the MRL of the importing country, but still within the Codex MRL, the commodity is not exported but is sold in the local market and domestically consumed.

7. It was proposed that the Committee should address the problems concerning the application of Codex MRLs at the national level and related issues in order to provide relevant guidance to governments.

8. The Committee welcomed the proposal of The Netherlands to prepare a discussion paper on how Codex MRLs are used at the national level, taking into account the points raised during the session and relevant to the role of the Committee.

ENFORCEMENT OF MRLs

9. Competent authorities in countries usually take samples at appropriate places: at the point of entry of the goods, in warehouses, the premises of the importing food business operator or other points of the food chain. For example, The Netherlands are taking samples from about 3500 consignments every year. About 2500 samples are taken from products coming from other EU member states or from third countries (such as Thailand or India). The kind of commodity which is selected to be sampled, is based on previous information such as the history of compliance with the requirements for the product concerned and the third country.

10. Many countries have developed an enforcement policy. This is usually a written document describing which measures are to be taken when infringements (exceeding of a MRL) are detected. For example, the Authorities in Netherlands send a warning to a company when the analytical result of the enforcement laboratory is between the MRL and twice the value of the MRL (taking into account the measurement uncertainty). However, when the MRL is exceeded and a rapid risk assessment indicates also an exceedance of the Acute Reference Dose (ARfD), the company has to recall the products.

NATIONAL MRLs and CODEX MRLs

11. A number of countries have developed food legislation including setting of MRLs. Especially developed countries have based the MRL setting on supervised trials which were performed in the country. This may lead to problems in cases that a certain commodity is not grown in such a country and the MRL is automatically set at a level of the limit of quantification (for example a value of 0.01 mg/kg). Or the outcome of a supervised trial differs much from a trial performed in another part of the world resulting in the setting of MRLs with different values in these countries because of climate.

Developing countries usually have taken over Codex MRLs in their legislation.

DIFFERENCES BETWEEN NATIONAL AND CODEX MRLs

12. To evaluate differences between national legislation and CODEX-MRLs, that might lead to trade problems, residues found in The Netherlands between 1-1-2004 and 1-7-2006 have been examined as an example. For about half the residues found both national/EU MRLs and CODEX-MRLs are present. These residues gave 25 % of the enforceable MRL-violations, *i.e.* those beyond measurement uncertainty. About 100 violations of national MRLs are in accordance with CODEX-MRLs showing possible trade problems (Table 1).

Table 2 shows the pesticides, where national/EU-MRLs are exceeded, whereas the residues comply with CODEX-MRLs. Two pesticides account for about 50 % of the cases on samples from outside the EU-common market. These pesticides are dimethoate and methamidophos, mainly found on oranges and pepper, respectively.

Table 1. Residues found in the Netherlands, classified according to source of MRL and origin of products.

Codex Status		Origin of the product			
		EU	NL	non-EU	All
Pesticide with CXL	Residues	3007	1421	2515	6943
	> national/EU-MRL	42	5	83	130
	> CODEX-MRL	8	2	19	29
Pesticide in Codex system no CXL in product	Residues	1342	713	1520	3575
	> national/EU-MRL	56	11	238	305
Pesticide not in Codex system	Residues	1421	563	643	2627
	> national/EU-MRL	69	18	51	138
All pesticides	Residues	5770	2697	4678	13145
	> national/EU-MRL	167	34	372	573

Table 2. Residues exceeding national/EU-MRLs, but complying with CODEX-CXLs.

PESTICIDE	Source MRL	Origin of the product		
		EC	NL non-EC	All
Bromopropylate	EC (1)	1	2	3
Carbendazim (sum)	EC		4	4
Chlorothalonil	EC	1	2	3
Chlorpyrifos-ethyl	EC		2	2
Clofentezine	EC	1		1
Cyprodinil	NL	9	2	11
Dicofol	EC		5	5
Dimethoate (sum)	EC	2	23	25
Dithiocarbamates (as CS2)	EC	2	2	4
Endosulfan	EC	1	3	4
Ethoprophos	NL		1	1
Etofenprox	NL	1		1
Fenthion (sum)	EC	4		4
Hexythiazox	NL	1		1
Methamidophos	EC		19	19
Methomyl (sum)	EC	2	7	9
Permethrin	EC		1	1
Phosmet (sum)	NL	1		1
Prochloraz	EC		1	1
Pyriproxifen	NL	3	1	4
Tebuconazole	NL	7		7
Tebufenozide	NL	2	1	3
Tolclofos-methyl	NL		1	1
Tolyfluanid (sum)	NL	1	3	4
Triazophos	EC		2	2
Triforine	EC		1	1
All		39	5 78	122

(1): EC: European Community harmonized MRL; NL: Dutch MRL

CONCLUSIONS AND RECOMMENDATIONS

13. Countries have the legal right to establish MRLs based on risk assessments and supervised trials, and to apply these MRLs to products of the local market to enforce national authorisation. This national aspect of MRL enforcement is different from the acceptance of products in international trade.
14. The work of the Joint Meetings of Pesticide Residues (JMPR) and CCPR to produce safety standards for pesticides in food commodities is very much appreciated all over the world. The recognition and trust in the Codex system results in the adoption of Codex MRLs as a food safety standard for the domestic and imported food commodities, particularly by developing countries which do not have the resources to perform risk assessments.
15. Since 1995, the Codex standards have become more important because in the case of food safety trade conflicts between countries, the Codex standards are used as a reference in such a conflict. CODEX-MRLs are safety standards that are established on a basis of world-wide risk assessment, and they are recognised as international benchmark by the WTO in the context of the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). Imposing stricter limits without thorough scientific justification is considered to be a barrier to trade.
16. In particular in the context of the SPS Agreement, it seems appropriate that enforcement bodies, when sampling imported foods, take into consideration Codex MRLs.
17. In order to evaluate the magnitude and seriousness of this problem, it is recommended to compile all available information comparing national MRLs with Codex MRLs and to ask member states to submit to the CCPR information on all national MRLs that are lower than Codex MRLs. This compiled information can then serve as basis for discussion and possible solutions to be discussed at the next meeting of the CCPR and the WTO SPS Committee.