

December 4, 2020

Mr. Tom Heilandt, Codex Secretary
Joint FAO/WHO Food Standards Programme
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Dear Secretary Heilandt,

On behalf of the Coalition for an Enhanced Codex of the International Agri-Food Network, which represents thousands of food and agricultural companies, bringing together millions of farmers, employees and billions in revenues, we would like to acknowledge and express support for the efforts of the World Trade Organization (WTO), the United Nation's Food and Agriculture Organization (FAO), and Codex Alimentarius in facilitating international trade.

We share the increasingly serious interest that multi-stakeholders are taking in trade, food security, and the need for science-based policies on pesticide use. We can glean from November 2020 MRL-related WTO materialsⁱ, a September 2020 webinar on MRLs and trade hosted by the African Unionⁱⁱ, and the August 2020 FAO rice case studyⁱⁱⁱ that the role of pesticide Maximum Residue Levels (MRLs) in supporting international trade is becoming clearer and clearer.

The COVID-19 pandemic has also added clarity to the link between trade and global food security and has highlighted the need for more resilience in the global food system. Aligned government policies, including for MRLs, will be crucial to encouraging open and predictable trade, and ensuring food security through resilient and sustainable food supply chains. This will be more important because of climate change, growing population, and growing pest pressures with the spread of invasive species globally.

Yet we are headed in the opposite direction on MRLs, and this will reduce the amount of food grown and traded, leading to a poorer, hungrier world. MRL non compliances are often regulatory misalignments that have no bearing on food safety, yet they can be expected to increase due to several challenges.

We are challenged by the growing number of importing and exporting countries for an expanding range of traded crops. FAO's most recent figures^{iv} show that global agri-food trade

almost tripled between 2000 and 2016. This trend is expected to continue and therefore significantly amplifies the adverse impact of missing and misaligned MRLs with severe, but predictable impacts on trade and food security.

Another challenge is that farmers in developing economies who grow specialty crops for export are particularly vulnerable. High-value specialty crops have the potential to lift many small farmers and rural communities out of poverty, but only if these producers can access international markets when they produce products in accordance with science-based international standards. The higher levels of risk faced by growers in developing countries is documented extensively in the July 2020 USITC report on MRLs.^v

Perhaps the most overwhelming challenge is the increasing divergence from internationally-accepted risk assessment principles when approving pesticides and setting MRLs. Regulators and political officials around the world are facing growing public pressure on pesticides and too often succumb to political and economic pressures.

We offer our assistance and support to develop trade-enabling solutions to address this serious and growing problem. We see Codex Alimentarius and its reference in the WTO Sanitary and Phytosanitary (SPS) Agreement as the key element to overcome misaligned and missing MRLs. We therefore stress the following points:

1. In the very short term, one pressing need is to continue the **vital work of the Codex Committee on Pesticide Residues (CCPR) and to reduce the backlog and to advance the 430+ proposed MRLs for adoption**. Although it appears this is only foreseeable in 2021 through virtual approvals, we applaud and urge you to continue to work with your members, the CCPR secretariat and the FAO/WHO Joint Secretariats for Joint Meeting of Pesticide Residues to prioritize this critical work.
2. In the long term, we reiterate the importance of **improved capacity for setting Codex MRLs based on science and Codex risk-analysis principles**. Our coalition's six policy recommendations can be found on the IAFN website.^{vi}
3. We ask you to strongly encourage your member states to **apply Codex MRLs in global trade**. A serious global effort is required to promote the recognition of Codex MRLs among trading partners in cases where no national MRL is set or the national MRL is lower than the Codex MRL. To better understand which WTO member states already fully use Codex MRLs and why other WTO members do not use Codex MRLs, we would be pleased to collaborate on an analysis or inquiry via a member survey that would provide clarity. This is also fully in support of Goal 3 of the 2020-2025 Codex Strategic Plan to "Increase impact through the recognition and use of Codex standards."

Ideally, the guidance from the WTO SPS Agreement would result in all WTO members using international standards for trade. Until that ideal can be achieved, consideration should also be given to using the same science in national approvals, adhering to notification requirements, farmers' needs for longer transitional periods to adapt, and more crop protection tools to replace the ones being removed.

As strong advocates of the importance of Codex work, we hope our input will be received as a constructive response to the significant challenges highlighted here. We kindly ask that our concerns be considered for impactful change and stand ready to work together towards practical solutions.

Sincerely,

Gord Kurbis, Chair
Coalition for an enhanced Codex

Annex

While there are several legitimate technical reasons why MRLs for individual pesticides and crops may differ among countries, most of the problem is due to zero-tolerance policies that often lack scientific justification consistent with core WTO principles. Most noncompliant shipments occur because a country applies the principle of zero tolerance when a pesticide has not been approved domestically, even if it has been approved by numerous other regulators around the world. Even if there is an international standard in place (a Codex MRL), or MRLs in place in OECD countries or APEC economies, it is routine practice around the globe to set a zero or near-zero (0.01 ppm) default when a domestic MRL has not been established, and then apply it to all imported agricultural produce.

For example, if a food shipment arriving at a port has a detectable trace level of pesticide residue that is compliant with the Codex MRL and with the national MRL where it was produced, it will be deemed a violation if (a) there is no national MRL in place in the importing country, and (b) the importing country is among the majority that do not recognize Codex MRLs. From January to September 2020, 113 such cases have been reported globally—most of these during the pandemic, where we can ill-afford needless supply chain interruptions. Because the shipments were compliant with the respective Codex MRLs for the crops and pesticides in question, there were no health or safety concerns, as determined by the WTO in the Agreement on the Application of Sanitary and Phytosanitary Measures. Such shipments are typically rejected or destroyed, leading to monumental food waste.

ⁱ G/SPS/GEN/1758/Rev.4, G/SPS/GEN/1778/Rev.4

ⁱⁱ http://www.masey.it/download/Webinar_banner_English-low.pdf

ⁱⁱⁱ Understanding international harmonization of pesticide maximum residue limits with Codex standards. A case study on rice.
<http://www.fao.org/3/cb0463en/CB0463EN.pdf>

^{iv} The State of Agricultural Commodity Markets, 2019. <http://www.fao.org/3/I9542EN/i9542en.pdf>

^v Global Economic Impact of Missing and Low Pesticide Maximum Residue Levels.
https://www.usitc.gov/press_room/news_release/2020/er0730ll1615.htm

^{vi} <https://agrifood.net/documents/codex/306-iafn-position-paper-on-codex-reform-coalition/file>