

Evolution of SPS Measures for fruits and tropical products originating in DCs: The case of the EU

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Overview of Presentation

- By way of Introduction:
 - Factors for new and stringent measures; and
 - Types of SPS Measures
- Major changes in EU food Policy
 - EU plant health legislation
 - EU General principles of food law
 - Review and approval of active substances
 - Harmonization of MRL
 - Impact of changes
- Conclusion – impact on DCs.

Factors for new and more stringent SPS Measures

- Food Safety Standards have become more stringent in last two decades due to:
 - Increased scientific knowledge of health risks associated with unsafe food;
 - Growing consumer affluence; and
 - Media – high publicity of food safety crisis.
 - Protections reasons

Types of SPS Measures

- International Standards
 - Codex Alimentarius (standards for fresh and processed fruits), ISO (standards related to measuring ingredients such as pesticide residue etc).
- National Regulations (Mandatory)
- WTO SPS discipline (not more trade restrictive than necessary; scientific justification and transparency).
- Private standards in the form of Good Agriculture Practices (GAP) proliferating.
 - Private standards tend to be more stringent and broad in scope than mandatory public regulations.
 - Out of the purview of WTO SPS agreement. (###) The shift of responsibility for food safety from public authorities to private food operators means, increasingly measures for food safety policy falling outside of WTO SPS discipline.

Major Changes in EU Food Policy

The key features of changes in food safety policy in the EU include:

- Integrated-approach to food safety through the farm-to-table, farm-to-fork policy (i.e. safety at each stage of the food supply chain)
- Shift of primary responsibility for food safety to private food business operators: producers, importers, transporters, stores or sellers
- Review/evaluation for authorization of active substances used for treating food
- Review/Setting of new harmonized MRLs

EU Plant Health Legislation

- EU plant health legislation governed by Council Directive 2000/29/EC in principle allows all F&V to be imported into the EU regardless of country of origin, hence with no plant health risk assessment requirement, unless a specific problem on safety has been detected
- Major difference with the US's Positive list approach, i.e. imports of fruits not allowed, unless the exporter obtained a permit from the APHIS. The burdens of proof to prove food safety, food safety standards at least equivalent to the U.S., lie on the exporter, with periodic evaluation by the APHIS.
 - Costly, time-consuming (could take up to five years), hence few DCs have the incentive to apply for permit.

EU General Principles of Food Law

- EU adopted White Paper on Food Safety in 2000 –set out a strategy for proactive new EU food safety policy.
- Following, Regulation 178/2002 on “General Principles of Food Law” were adopted. This is core of the EU’s food safety regime. It:
 - Places primarily responsibility for food safety on operators: producers, importers, transporters, stores and/or sellers.
 - provides for precautionary measures for actions if there are reasons to believe an unacceptable risk exists.
 - requires food operators to trace their immediate suppliers and immediate subsequent recipient (with the exception of when selling to consumers), i.e. the principle of one-step back – one step forward.

Review and approval of active substances (Directive 91/414)

- Under which manufactures of active substances to apply for registration by providing necessary scientific information for evaluation of the substance.
 - Deadline was for 2005 and now extended for 2008.
 - Applications made for 942 substances of which evaluation completed for 531 with the use approved for 39 substances. For the rejected substances the MRL is set at low level.

Review/authorize active chemicals...Cont'd

- Highly costly to defend the chemicals – hence manufactures choose and defend the chemicals that are profitable
- Major concern for DCs – ‘cause they use out of patent, low-cost chemicals for which manufactures are reluctant to collect the scientific data required to defend the chemicals.
- The MRL for most of these could be set at low level, prohibiting most DCs from exporting fruits to the EU.
 - limit the range of DCs options of chemicals for treating fruits to a higher cost patented chemicals.

Harmonization of MRL (Regulation 396/2005)

- MRL setting and harmonization based on data submitted by interested parties to determine MRLs from GAP.
- The MRL is set for each product in combination with active substances used to treat the product.
- Failing to submit data in the MRL for the specific product result in the default low level MRL, i.e. 0.01 mg/Kg.
- Manufacturers to defend products selectively. Most exports of fruits from DCs are minor (in value and volume), hence manufactures could be reluctant to incur costs to defend them resulting in the lower MRLs.

Conclusion

I. Review of active substances and MRL harmonization

- Generic pesticides that most DCs use for treatment of fruits will not be approved for use in EU (no imports into EU of fruits treated by the pesticides allowed). Also, new MRLs on most fruits exported by DCs could likely be set at the lower MRL.
- This is because the manufacturers of the chemicals will be reluctant to incur high costs in collating the scientific evidence needed to defend the chemicals.
- In principle, DCs can defend them– but they don't have the mechanism for coordinating funding necessary for active participation in the norm setting-both in the review of active substances and harmonization of MRL processes.

Conclusion ... Cont'd

II. Shift of responsibility and traceability

- The shift of responsibility for food safety has resulted in proliferation of increasingly stringent SPS requirements by private food operators.
 - Out of purview of the discipline of WTO SPS agreement, hence non-actionable.
- The traceability requirement means importers deal only with large, well-structured, organized and cost-effective food producers and exporters. This has resulted:
 - in major restructuring of market structure with supermarkets having significant influence on the entire food supply chains, at the marginalization of small-scale producers and exporters in DCs.
 - Changed transaction from arms-length dealing to vertically coordinated and integrated operation
- Stringent SPS requirements set high market entry barrier; hence a major competitive advantage for those who are able to comply and are already inside the market.

Thank You

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