European Crop Protection

[Art. 4.1(b)]/24631
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[Art. 4.1(b)]
DG Trade
European Commission
200 Rue de la Loi
B-1049 Brussels

Euros Jones
Director Regulatory Affairs
Telephone :
Email : [Art. 4.1(b)]

Dear [Art. 4.1(b)]

Delays in the evaluation of applications for import tolerances in the EU

We are writing to you to highlight a recent development in the setting of pesticide residue import tolerances which has the potential to unnecessarily impact on trade. While this issue has been discussed with DG SANTE, we are now raising the issue specifically with DG Trade and we would ask that this issue be further reviewed within the Commission.

DG SANTE have indicated that *"…import tolerance requests should not be evaluated […] until evidence has been provided that the respective use is authorised in the exporting country and that the MRL proposed as an import tolerance is not higher than the one established in the country of origin."*[1]

As the EU process of setting import tolerances currently takes an average of 26 months, the proposed way forward will potentially impact trade with the concerned products being affected for two seasons. In turn this leads to a number of practical and legal concerns. From a legal point of view, the refusal of EFSA to evaluate IT applications does not appear to be in line with Regulation 396/2005, in particular Article 11.1 which states that *"The Authority shall give its reasoned opinion as provided for in Article 10 as soon as possible and at the latest within three months from the date of receipt of the application."*

It should also be highlighted that Maximum Residue Levels are required before such an use can be authorized in the EU. This is therefore completely the opposite to the suggested process for import tolerances which would require an authorization before an MRL (IT) could be set.

As an industry, it is our aim to ensure that European MRLs are in place where possible, providing the required trading standards to ensure an equal system for EU and third country farmers. However, import tolerances are sometimes necessary where a product use is not required within the EU. For such situations, we would ask that a system is put in place which is equivalent to the system for European uses and that is compatible with relevant international trade rules. For instance, the SPS agreement requires to use scientific justifications for measures impeding trade and Members to consider the use of a relevant international standard as the basis for allowing import access until they have made a final safety determination.

We would welcome the opportunity to further discus this issue with you.

Yours sincerely

[Art. 4.1(b)]

Euros Jones
Director Regulatory Affairs

Cc: [Art. 4.1(b)] DG SANCO
DG Trade

[1] Ref. Ares(2014)3859526 - 19/11/2014