



NAFTA Technical Working Group on Pesticides
Grupo de Trabajo Técnico del TLCAN sobre Plaguicidas
Le groupe de travail technique de l'ALENA sur les pesticides

**NAFTA Technical Working Group on Pesticides
Merida, Mexico
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**Break-out Group on Maximum Residue Levels (MRLs)
Report to Plenary**

Background Summary

The NAFTA Technical Working Group on Pesticides (TWG) has developed a strategy for MRL/tolerance harmonization and resolution of trade irritants that encompasses both prospective and retrospective activities. Prospectively, the goal is to avoid creation of new trade irritants. Several projects are underway to facilitate the establishment of harmonized MRLs and tolerances now and in the future.

Retrospectively, the goal is to resolve existing trade irritants. However, as resolution of existing trade irritants can be a time-consuming, complex and costly process, the TWG believes resources should be focused on those priority trade irritants that are most critical, e.g., those for which violations are known to occur routinely as well as situations where growers and packers are unable to use registered products due to the existence of a trade barrier. In particular, the TWG is interested in the resolution of trade irritants that prevent the use of organophosphate alternatives or reduced risk products due to trade barriers, be they between NAFTA countries or between one or more NAFTA countries and other trade regions, such as Europe or Asia.

A separate break-out group was held during the NAFTA TWG meeting to enable more focused discussion. In advance of the meeting, the Executive Board circulated several potential topics to initiate the discussion:

- how registrants and governments could work collaboratively to prevent future trade irritants between NAFTA countries and around the world;
- whether industry typically considers customer export markets when submitting registration and tolerance/MRL applications;
- the greatest concerns/vulnerabilities for existing MRL/tolerance trade irritants, e.g., those between NAFTA countries or those between one or more NAFTA countries and Europe or Asia; and

- the greatest concerns/vulnerabilities for existing MRL/tolerance trade irritants, e.g., those between NAFTA countries or those between one or more NAFTA countries and Europe or Asia; and
- performance measures that might determine progress on MRL harmonization.

The following is the report of the MRL break-out group to the TWG plenary meeting.

Overall, unanimous support was expressed for the Joint Review process.

Holistic Approach

Since the initiation of the NAFTA TWG and the joint review program, registrants now take a more holistic view of registration and marketing responsibilities. They now look at export markets but may still experience difficulty in determining quantities or values of crops in export markets. However, registrants would like commodity groups to make their priorities known.

While recognizing that registrants may have an alternative view, growers reinforced the NAFTA goal of equal access to new products within all of NAFTA's borders. From minor use perspective, this focus should be continued.

Trade Disruptions

In terms of the extent of trade disruptions within NAFTA and beyond, it was generally agreed that harmonization helps competitiveness. NAFTA MRLs create a competitive market in a global economy. Growers **urgently** need the same tools and newer tools to compete with rest of world.

Competition with Asia

There was a general recognition that, in the future, the potential agricultural trade issues with Asia will only increase if steps are not taken now. For instance, Japan about to establish its own MRL system with potential disruptions in emergency approvals. Concern was expressed in particular about the scope of products subject to tolerance exemptions as well as emergency exemptions in the United States.

The United States government has maintained a dialogue with Japanese authorities, as their new legislation is being implemented, and has been working on transitional issues. In the absence of a Japanese MRL, Japan has agreed to consider accepting Codex levels as well as those of the United States or the European Union and other science based systems. Recent communications have focused on tolerances established under emergency exemptions.

As China creates its own system for agricultural tolerances, concern was expressed that this too could lead to more disruptions. Government representatives shared the view that WTO membership will lead to China's use of Codex MRLs, rather than a totally independent system.

The view was expressed that the only way to compete with extensive Asian markets was to ensure that NAFTA governments, industry and commodity groups speak with a NAFTA voice.

We must all work together to enhance our common understanding of the China economy and changes in growth potential.

Performances Measures

Governments are interested in stakeholder views concerning how to gauge or evaluate progress under the NAFTA TWG in regards to harmonization. Some performance measures could include the following:

1. Number of priorities identified by growers that can be resolved
2. Number of MRLs set at harmonized levels from the beginning
3. Reduction in shipments found to be in violation
4. Decline in percentages of differing MRLs
5. Refinement of processes
6. Qualitative evaluation rather than quantitative

It was noted that governments would continue to develop options for appropriate performance measures, which will be proposed at a future meeting.

Codex

Stakeholders were interested in the possibilities of using Codex MRLs to advance harmonization as well as whether Codex MRLs could be considered in NAFTA tolerance settings. Since a pesticide must be registered in a country before a Codex MRL will be established, EPA registration is usually sought first.

Government representatives reported on an interim MRL pilot project for reduced risk chemicals that would lead to Codex MRLs being established more quickly (which would provide greater incentives for use by growers). Under this project Codex uses national reviews of reduced risk chemicals to support Codex MRLs instead of relying on a review from the Joint FAO/WHO Meeting on Pesticide Residues (JMPR). Results of the pilot project will be evaluated in February 2005. Based on early experiences with the pilot project, a number of issues have already been identified:

- Problems in initiating the pilot project – lack of availability of reviews, use of different formats; getting reviews distributed traditional postal services.
- Project dependent on registrant cooperation – identify additional reduced risk products considered in pilot system.
- Awareness that the Codex process is extremely slow; there is a need for rapid industry and grower participation and support.
- In the case of a pending tolerance application in national system, submit Codex application at same time. Note the November deadline for consideration at next JMPR meeting.

Stakeholders raised the issue of recognition of Codex MRLs by developed countries, but no discussion followed.

Risk Assessments

Currently, governments do not spend resources refining risk assessments; instead, resources are allocated to reviewing new applications. Stakeholders asserted that if governments refined risk assessments at the first tolerance petition, there would be more space in the risk cup for future uses. They recommended that governments assume the standard practice of initial refinements; the risk cup be updated on a regular basis based on current uses; and/or refinements be made as applications for new uses are submitted (real case rather than abstract).

Import Tolerance Process

Stakeholders made a number of points:

- The process could be refined to achieve more improvements and efficiencies.
- The Joint review process could be expanded to allow use in one country and import tolerances in another.
- Establishing an import tolerance in the absence of a registration would disadvantage growers who could not use the pesticide.
- Minor use process should be leveraged to establish efficacy in support of an MRL (revocation of Canadian default level going in different direction).

Governments noted the following:

- Every joint review submissions should be as similar as possible in terms of use patterns and crops; however, it is not required that all submissions be absolutely identical.
- Mexico is actively considering other countries' MRLs for domestic adoption.
- Work sharing is underway for the acceptance of MRLs—residues with no detectable level possibility of harmonizing 2000 active ingredients / commodities. There are combinations regulated under 0.1 ppm in Canada with MRLs that are less than 0.1 ppm in the United States for same combination.
 - Note that data will need to be submitted to PMRA to support adoption of American tolerances that are less than 0.1 ppm.

Database Issues

Stakeholders were interested in the status of CropLife America MRL database. A representative from CropLife America presented the following highlights of the database:

- Searchable database for comparison of American MRLs with those of about 50 countries.
- Updated on a weekly basis – Federal Register review and WTO notices and national websites that announce changes (i.e., Canada).
- Notify Tom Gilding at CropLife America of discrepancies.

Stakeholders expressed the following points:

- More information is needed on what products have been approved for which uses in **all** countries around the world.
- The Codex database is out of date by at least two or three years. Each entry needs to be analysed and verified.
- Information on MRLs must be publicly available to growers. Industry willing to support publication.

- TWG meetings are a useful forum to identify priorities and educate all stakeholders – example of systematic review of information on a herbicide, opportunity to share.

NAFTA Residue Zone Maps

Residue zone maps can be of considerable assistance to growers, in particular, barley growers. Common zones are used as much as possible, and are required to support registration in at least two NAFTA countries. Nevertheless, there is still a need for data from representative regions.

Mexico's Participation in Joint Review Process

Stakeholders were interested in whether this process needs further development, such as a legal framework or new regulations, to become a standard operating procedure. Mexican representatives noted that the new regulations about to be issued do not address the legal aspect of joint reviews. As such, Mexico's participation in the joint review process is not possible. It will be taken into account in future amendments.

NAFTA Label

Stakeholders expressed interest in whether those chemicals that have successfully been through the joint review process could be accompanied by a NAFTA product label. At a future forum, growers may identify their issues associated with this topic. Government representatives indicated that they are seeking registrant interest in using a product as a pilot for the NAFTA label.