

ELEMENTS OF THE US FOOD QUALITY PROTECTION ACT OF 1996
RELATING TO THE IMPLEMENTATION OF THE SPS AGREEMENT

Statement made by the United States
at the meeting of 8-9 October 1996

The United States would like to advise the Committee of a number of elements of the Food Quality Protection Act (FQPA) of 1996 pertaining to our implementation of the SPS Agreement. In particular, we call the Committee's attention to new legislative provisions applying to the establishment of maximum residue limits (MRLs) for pesticides in food. These provisions ensure both adherence to the SPS Agreement and the continuation of high levels of protection for US consumers.

The United States hopes that the presentation of this information will help Members to better understand the US SPS regime and will also be of interest and assistance in Members' own efforts to fully implement the Agreement. We welcome Members' comments or questions.

Implementation

The FQPA of 1996 was enacted on 3 August 1996. We are now in the process of implementing the new law fully, and will be glad to respond to any questions Members may have as to the content and timing of new regulatory measures. While the FQPA took effect on enactment, all existing US tolerances and residue limits will remain in effect until re-evaluated. This will ensure a smooth transition for both traders and regulators. Following is a brief description of some of the key provisions that may be of interest to Members.

Uniform standards for pesticides

The FQPA establishes a consistent, health-based level of protection for pesticide residues in both raw and processed food. US tolerances, or MRLs, have always applied equally to imported and domestically-produced foods. While in the past, some processed foods were subject to different statutory provisions, the new law ensures that a single standard will apply equally to pesticide residues in different food products, both raw and processed. The new legislation applies immediately to all new pesticide tolerances. It also requires that all existing tolerances (there are more than 9,000) be reviewed over a ten year period to ensure full compliance with the new requirements. Existing tolerances will remain in effect until re-evaluated.

Transparency

The FQPA ensures greater transparency in the establishment of US pesticide residue limits. It requires, for example, that a detailed summary of all tolerance petitions be made public and that each tolerance decision specifically address the new legal standards, including special protections for

infants and children. As always, decisions will be notified, when appropriate, through SPS procedures and will be open to Members' comments.

The US Environmental Protection Agency's (EPA) first tolerance decision under the new law was published in our Federal Register early last month. The decision establishes MRLs for pyridaben in apple and apple pomace. As with all such decisions, it is accessible over the Internet.¹ The Federal Register document outlines the risk assessment performed and the process by which EPA determined that the requirements of the FQPA were met.

Use of international standards

The FQPA specifically requires that US regulatory authorities take international pesticide standards (MRLs established by the Codex Alimentarius Commission) into account when establishing national pesticide tolerances. The United States will publish notice for public comment explaining any differences from international standards. The systematic consideration of international standards will promote international harmonization, while maintaining high levels of protection for US consumers.

Tolerances for pesticides not registered for use in the United States

Under the FQPA, the United States will continue its policy of setting tolerances for pesticide residues in imported food, even if the pesticide is not registered for use in the United States. For this to be done, however, concerned exporters must provide sufficient data to establish that the new law's stringent food standards are fully met.

For the first time, the FQPA also requires US regulatory authorities to set time-limited tolerances for pesticides that, while not fully registered in the United States, may be used under an emergency exemption granted to particular states or federal agencies under Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act. These temporary tolerances, which must be consistent with the FQPA, will apply equally to both imported and domestically-produced food products.

Uniform application at the sub-Federal level

In most cases, the FQPA requires uniformity in pesticide residue standards set by states, if the Federal safety determinations have been made under the new law. In the past, Members have expressed concerns that each of the US states might set different tolerances. In our view, however, such concerns are more theoretical than real, since pesticides tolerances set at the state level have rarely differed significantly from those established at the Federal level.

¹EPA's Internet URL is "<http://www.epa.gov>." The FQPA home page may be accessed directly at "<http://www.epa.gov/oppppsl/fqpa/index.html>."