



**SIXTH REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE AGREEMENT
ON THE APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES**

CHALLENGES POSED BY STRINGENT MRLS

PROPOSAL FROM INDIA

The following proposal, received on 16 April 2024, is being circulated at the request of the delegation of India.

1 BACKGROUND

1.1. We recall the work done by the SPS Committee in addressing the challenges posed by stringent maximum residue limits (MRLs) for pesticides and their effect on global food trade, particularly its recommendations during the Fifth Review of the Operation and Implementation of the SPS Agreement. We also recognise benefits of workshops, such as the APEC MRLs Harmonization Workshop and projects of the Standards and Trade Development Facility (STDF) in understanding the challenges posed by low harmonization of MRLs and finding meaningful solutions.

1.2. We note the various trade concerns raised in the SPS and TBT Committee in relation to stringent MRLs. Stringent MRLs can be trade-restrictive and may act as non-tariff barriers to international trade, disproportionately affecting developing country Members that often rely heavily on agricultural exports. If MRLs are set without proper risk assessment and on hazard-based approach at levels that are difficult for countries to meet, it can hinder exports and limit access to international markets.

1.3. The stringencies of national MRLs over and above the Codex and, additionally, the presence of non-Codex MRL standards are pertinent issues. Developing countries and least developed countries (LDCs) at large have been severely affected due to the non-acceptance of established international standards and the application of a Member's own stringent standards on account of 'appropriate level of protection'. It is essential to align MRLs with Codex standards, wherever available, and in cases where international standards are lacking, efforts should be made to fill these gaps. It is crucial to ensure that stringent non-Codex MRL standards are not used for restricting market access, while recognizing that such trade policy measure needs to be grounded in domestic economies.

1.4. There is a concerning trend in the movement towards stringent MRL thresholds for pesticides, which may hinder agricultural trade. Further, the unilateral measures based on considerations other than food safety disregard the local circumstances of agricultural practices. Also, the expanding scope of MRL regulations without comprehensive scientific assessments raises concerns about product coverage and safety. These trends are trade-restrictive, lead to the de-harmonization of international standards and act as barriers to international trade, particularly impacting exporters from developing countries. The frequent change in MRL requirements exacerbates the negative impacts on trade, especially when the transition period is not sufficient for compliance by the developing countries.

2 PROPOSALS

2.1. Against the backdrop of the concerns raised above, we urge the WTO Membership to address the challenges caused by low or default MRLs in collaborative manner. In this regard, the following proposals are made:

- a. The SPS Committee should organise thematic sessions on the impact of stringent MRLs and experiences of Members in compliance with MRL requirements;
- b. Members should work towards developing guidelines for determining default MRLs in the absence of international MRL standards, in collaboration with FAO and Codex;
- c. The Members should adhere to the provisions of Article 5.7 of the SPS Agreement when international MRL standards are not available and not rely on a hazard-based approach. The Members should inform the SPS Committee periodically of measures taken by them to collect the additional information after implementation of a provisional MRL. Also, any restriction on approval or non-renewal of any active substances should be based on risk-assessment and rely on scientific evidence;
- d. The SPS Committee should develop a mechanism for monitoring harmonization of Members' SPS measures with the available Codex texts, and reporting to the SPS Committee. Such a mechanism aims to promote the adoption of Codex standards by all Members, thereby facilitating smoother trade. Members should promptly respond to requests raised through such a mechanism. A phased approach could be implemented, prioritizing monitoring of specific Codex texts based on their significant impact on trade. The SPS Committee may use tools like thematic groups, questionnaires, and surveys for this purpose;
- e. The WTO should monitor the MRL-related measures and discussions in Committees other than the SPS Committee. For instance, the EU Commission Regulation 2023/334 lowered the MRLs for clothianidin and thiamethoxam with the stated objective to protect the pollinators in other Members' territories. This measure was notified to the WTO TBT Committee;
- f. The SPS Committee and WTO Members should continue to support the work of Codex in developing MRL standards and identify the gaps in development of new MRL standards;
- g. The Members should have longer time-frames for compliance for products from the developing and LDC Members as enshrined in Article 10.2 of the SPS Agreement and positively consider the requests for extended time-limits from such Members in the spirit of Article 10.3 of the SPS Agreement;
- h. The Members should work towards increasing transparency regarding support extended to the developing and LDC Members to facilitate compliance with the new MRLs;
- i. Technical assistance and support should be extended to Members for effective management of pests which significantly impact crop production and cause significant loss.

2.2. In the above context, Members should explore the means of addressing the trade barriers imposed by the increasing use of stringent MRLs and particularly, facilitate developing countries and LDCs in overcoming such trade barriers.
