



Note

EU (revision of) Minimum Residue Level Potential effects on S&SEA exporting MSMEs

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Summary

Based on data, statistics and interviews conducted in Pakistan, Sri Lanka, Nepal, Lao PDR and Myanmar, this note provides an overview of how Micro Small & Medium Enterprises (MSMEs) in those South & South East Asian (S&SEA) countries are dealing with the Minimum Residue Level (MRL) imposed by European Union importers.

This note will provide a regional perspective on the issue, based on private and public sectors testimonies. Common and country-specific challenges on MRL will be demonstrated, along with some insights on the needs from MSMEs to be able to comply with European Union (EU) MRL and expand their export opportunities.

State of play of MRL in the region

Agricultural sector (mostly driven by MSMEs, if not small farming communities, in S&SEA countries) plays a major role in regional and national economic development. Consultations of a wide range of stakeholders in the region have underlined the challenges posed by a number of MRL requirements, perceived as international regulatory barriers implemented by the EU, preventing or slowing SMEs' exportation flows from those countries.

Cases of rejected exports

S&SEA agricultural exporters have faced numerous cases of rejected exports, due to unauthorized residue levels in their products, by importing European countries.

Exporters are generally informed of the rejection of their exports by a notifications system called the Rapid Alert System for Food and Feed (RASFF). Thus, they tend to receive directly a notification when their exports towards the EU are refused as a result of non-compliance with EU MRL requirements. Below are a few recent examples of notifications received by agricultural exporters in the region:

☐ A small exporting mango company in Lao PDR received a notification on November 25, 2016, as their exported mangos contained 0.71 µg/kg of carbendazim residues, exceeding the EU standard requirement of 0.5 µg/kg. In Laos, the quality of exported products does not generally meet international standards such as EU MRL. It seems to be common for entrepreneurs to receive notifications of rejected exports like the one mentioned above.

☐ Between 2013 and April 2018, the EU RASFF system lodged 21 notifications relating to

pesticides residues of agricultural food products originating from Sri Lanka. Of these notifications, eight are classified as serious offences in which the shipments were either been recalled from the customers, detained, or destroyed. It should be noted that the majority of these notifications took place in 2014 and 2015.

☐ Nepalese exporters have seen their honey rejected by Norway, as the country has to comply with the import rules of EU countries, as a member of the European Economic Area (EEA).

There are no recent cases of rejection from the EU because of MRLs in Myanmar, simply because the ones prone to overuse pesticides are not targeting the EU Market. However, there are random cases of rejections from Japan or India which could be drawn as a distant parallel.

Rejects often have negative impacts on MSMEs' liability. In fact, those exporters already have limited capacities, that could be worsen by such financial loss, sometimes even disastrous for the organization's development and survival.

The role of public institutions

Overall, institutional and governmental bodies have a good sense of MRL issues and their potential impact on national economic development. Indeed, it seems that policymakers have widely integrated challenges related to export regulations and have designed specific institutions/processes to manage these export-related issues.

Within ministerial administrations responsible for either agriculture, food security or production, some initiatives (i.e. programmes, plans, ...) have been launched in order to tackle more adequately controls of their agricultural exports, as showcased through some country case studies below.

In Nepal, the Department of Food Technology and Quality Control (DFTQC) of the Ministry of Industry, Commerce and Supplies has been responsible for

the development of the Residue Monitoring Plan (RMP), which is the guideline through which the government can regulate production and processing of agricultural products (including honey) from crops to finished products. However, this plan is being developed for the last seven years and has been a challenging process to conclude and fully implement according to some public and private stakeholders in Nepal.

In Laos, the Department of Agriculture (part of the Ministry of Agriculture and Forestry) possesses a Regulation Division, which is in direct contact with the EU RASFF for cases of food safety and other agricultural product issues. This department has provided farmers with guidelines in order to improve pesticide residue constraints, by defining measures for export of plants products to the EU.

In Sri Lanka, there is a close collaboration between the Department of Agriculture together with local non-governmental organizations in promoting a program called Integrated Pest Management (IPM) amongst local farmers. Regarding the certification of Plant Protection Pesticides (PPPs), one of the most recent initiatives by the government is the Sri Lanka Good Agricultural Practices (SL-GAP) Scheme that exporters to the EU are required to implement. Eventually, the Office of the Registrar of Pesticides of the Department of Agriculture is the key institution responsible for the authorization, control and marketing of PPPs, through registration and inspection of retailers, import controls and formulation analysis. In addition, there are several government institutions involved in the authorisation and control of the use of pesticides in Sri Lanka.

This multi-stakeholder model is similar to the one implemented in Pakistan where the Customs and the Department of Plant Protections, are responsible for implementing the standards on exports and imports, in close collaboration with Sectoral Exporters' Associations.

In Myanmar, Food and Drug Administration (FDA)

under Ministry of Health and Sports, and Directorate of Consumer Affairs DOCA of Ministry of Commerce are two government entities that are concerned with food safety and safety of consumers, although the latter is more interested in labelling of products.

While most countries seem to benefit from a structured institutional framework to ensure regulation/safety of agricultural exports, this is apparently not sufficient for agricultural exporters to fill MRL requirements. In fact, some infrastructures, skills and knowledge are needed to monitor the quality of exports and enable them to reach international standards.

Challenges & constraints of complying with EU MRL

Accessing accredited laboratories

Availability of a set of appropriate and recognized laboratories is absolutely necessary in order to ensure qualitative and recognized testing processes for agricultural products, before being exported to EU markets. Most of observed S&SEA countries seem to suffer from the lack of internationally certified laboratories at national level.

In Nepal, the certification issued by DFTQC is recognized by the EU for only 13 of 500 types of pesticides used by Nepalese producers. It is therefore complicated to obtain accreditation from the EU on that basis.

In Laos, producers are constrained to send their testing samples to importer country's laboratory to certify their products. For instance, the Rice Mill Group has received a certificate from a laboratory in Belgium to be able to export. For SMEs, having to send the samples to foreign laboratories causes financial burden, that not all of them are able to sustain.

In Sri Lanka, despite a number of laboratories that reach international standards for tea export, other products are confronted to the same challenge than in Nepal and Laos, where producers have to work with laboratories overseas. The cost per sample tested depends on the nature of the pesticide being tested, type of test (screening for the pesticide, testing the actual level of pesticide, etc.), and mailing costs involved in sending samples to laboratories abroad.

Some Sri Lankan stakeholders have also mentioned that there would be a lack of trust in the local testing system that would consolidate bad reputation of local laboratories, impeding their further development.

Finally, Pakistani exporters explained that even when they are operated locally, testing processes can also be time-consuming and these delays have direct impact on the operational costs that producers have to bear.

It should be noticed that Myanmar does not seem to face such difficulties and generally relies on local laboratories to certify their exports. This could be partly explained by the fact that most exporters in Myanmar do not trade towards the EU for the moment.

Quality requirement of developed countries (including EU revision of MRL) has been changing but developing and least developed countries have been taking more time to revise their processes and ensure that exports fit the EU necessary requirements.

Getting relevant and timely information & know-how

Regional agricultural MSMEs seem to suffer from unawareness and bad understanding regarding MRL requirements. Thus, it seems necessary to create awareness on (new) requirements for

producers and exporters, for them understand the information and adapt themselves to the global market competition and be able to trade to EU countries. Producers also mentioned a lack of information-sharing on policy changes in export destinations. Yet, the dissemination of information on MRL, which is a particularly evolutive field, appears vital for exporters to be able to work in a clear legal and regulatory environment.

There is also an educational deficit within producers, with a lack of technical skills regarding the proper application of pesticides. Application of pesticides is not often done correctly in S&SEA countries (i.e. irrelevant calibration of spraying equipment in Sri Lanka, having a significant impact on the compliance or non-compliance with EU MRL). Hence, MSMEs need more skilled human resources, and more capacity-building workshops to be provided by their government or other types of actors on that front.

Lao and Nepalese producers also mentioned some difficulties to benefit from technologically efficient infrastructures and cutting edge technologies (i.e. also a lack of access to credits/ relevant investments), which could support in reaching MRL requirements more easily.

Last but not least, in Myanmar, the needs for informational and educational tools in an easily understandable local language is critical to tap into the European market. For instance, developing knowledge products, i.e., guidebooks or manuals in local language for aspiring exporters, for them to be able to perceive the E.U. market as a reachable opportunity, appears as necessary.

Having coherent and rapid institutional response/action

The lack of reactivity of public and administrative institutions is a common challenge in S&SEA countries. For instance, this is illustrated in Pakistan by long delays of the Department of Quarantine

and the Department of Plant Protections to deliver certificates, sometimes constraining exporters to defer export shipments.

Moreover, in Sri Lanka, the Department of Commerce is lacking relevant follow-up measures when it receives RASFF notifications. This is coupled with challenges of not getting nationally approved chemicals available for specific crops, yet necessary to reach MRL requirements.

In Myanmar, SMEs complain that updates from regulatory/policy changes in the EU are only relayed to those working within the Ministry of Commerce, but not to other concerned counterparts, including private sector.

Overall, regional MSMEs seem to await from their governments to create more favourable conditions for exports: providing better quality inspection, facilitating transport, favouring export processing and monitoring processes, etc...

More collaborative mechanisms seem to be required between MSMEs and policymakers / regulators, for them to relevantly minimize the obstacle that the EU RML regulation represents for their national exporters.

Recommendations & proposed way forward

→ *Supporting the implementation of internationally certified laboratories*

It is suggested to put in place relevant support (human, financial, technical, technological) to allow the development of lab infrastructures, meeting international accreditation requirements.

Once in place, S&SEA countries will need assistance in signing Mutual Recognition Agreements (MRA) to recognize certificates issued by other countries (importing and exporting) laboratories, to ease access of foreign markets to agricultural exporters.

Such improvement would also lead to reduce operational costs related to testing processes

→ *Providing capacity-building and mentoring support on MRL in the region*

It is suggested to organize training workshops on EU MRL requirements to agricultural producers willing/capable of exporting to European markets, on a frequent basis. This could involve technicians, private sector peers and institutional representatives.

More capacity-building activities, such as training of farm technicians, for them to learn about relevant techniques in terms of pesticide use, should also be organized by local/national governments, or other actors as relevant.

More effective communication mechanisms might also be implemented to allow more regular information-sharing between regulators, producers and exporters. New technologies could be an enabler in this specific case.

Enabling producers to access up-to-date technologies

When it comes to technological improvement, sectoral associations, private sector chambers and community-based production/processing centres should be supported in purchasing high-tech machineries. Encouraging the use of recent technologies would enhance the effectiveness of MSMEs and enable them to better use chemical and better monitor their pesticides' residue level.

Every technological improvement must necessarily be accompanied by a holistic pedagogic approach on how to use these technologies appropriately.

→ **Taking advantage of the next SPS
Committee Meeting at the WTO**

On 11th (informally) and 12-13th (formally) July 2018, World Trade Organization (WTO) members will discuss Sanitary and Phyto-Sanitary (SPS) related issues (including MRL possibly) under the umbrella of the SPS Committee. The agenda of the meeting will be issued on 22 June. However, the agenda has certain standard items which are common to each SPS Committee meeting. This might be an opportunity for concerned S&SEA

countries to raise some of the issues mentioned, using one or more of the following possible agenda items :

1. Specific Trade Concerns (STC)
2. Operation and implementation of SPS agreement (possibly within the sub-item of Special & Differential Treatment)
3. Technical assistance and cooperation.



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