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By email to:
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Cc to: Flavio Cortuni, DG Trade

Brussels, 4 April 2022

CropLife International input to agenda item C.05 of the SCoPAFF Phytopharmaceuticals-Pesticide Residues meeting on 11-12 April 2022

Dear Mr. Berend, dear SCoPAFF members,

Ahead of the SCoPAFF meeting scheduled 11-12 April 2022, CropLife International would like to provide input for your kind consideration on agenda item C.05 “Exchange of views of the Committee on a draft Commission Regulation (EU) .../... amending Annexes II and V to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for clothianidin and thiamethoxam in or on certain products.”

CropLife International is the global federation representing the plant science industry, made up of member companies that research, manufacture and sell crop protection and plant biotechnology products. Our purpose is to advance innovation in agriculture for a sustainable future and to play a leading role in enabling sustainable food systems.

CropLife International would like to share with you some questions and observations about the proposed approach to consider environmental factors for setting pesticide Maximum Residue Limits (MRLs) for two substances with the intention to protect pollinators worldwide¹ and ensuring a level playing field for European farmers². CropLife International is writing to you since the proposed policy approach concerns farmers outside the European Union.

MRLs facilitate trade and ensure consumer protection; are they an appropriate tool to regulate environmental risks?

Regulation (EC) No 396/2005 is a consumer protection directed regulation. It defines MRLs as “means the upper legal level of a concentration for a pesticide residue in or on food or feed set in accordance with this Regulation, based on good agricultural practice and the lowest consumer exposure necessary to protect vulnerable consumers;” and an import tolerance as “an MRL set for imported products to meet the needs of international trade”. Thus, MRLs and import tolerances have a dual role to protect the consumer and to enable trade.

¹ https://ec.europa.eu/food/system/files/2021-12/sc_phyto_20211122_ppr_sum_0.pdf

² <https://www.politico.eu/article/emmanuel-macron-fair-trade-food-gastronomy-france-election-2022/>

Environmental considerations are not within the scope of Regulation (EC) No 396/2005 as those aspects are thoroughly covered by Regulation (EC) No 1107/2009 for pesticides assessed and registered for safe use within the European Union. Hence, environmental impact data is not typically required to be submitted in the MRL application dossier. A similar regulatory approach generally applies in non-EU countries: environmental data is not part of the procedure for import tolerance setting, but robust environmental risk assessment standards are in place for the registration and use of pesticides in the majority of jurisdictions, including assessment of pollinator risk.

The agenda for the April SCoPAFF meeting³ lists Articles 14(1)(a), 18(1)(b) and 49(2) of Regulation (EC) No 396/2005 as the basis for lowering the MRLs for two insecticides. If the purpose of this proposal is to address alleged global environmental concerns, CropLife International asks if Regulation (EC) No 396/2005 provides a sound legal basis to apply environmental considerations under Union law. This Regulation does not seem to provide any basis to consider measures that would regulate and impact use of registered pesticide outside of the territory and jurisdiction of the Union. Thereby it seems to conflict with the responsibility and authority of other sovereign nations, resulting in extra-territorial application of European Union legislation, which may well be incompatible with the Treaties, international agreements, and commitments that the Union and its Member States are party to, especially within the World Trade Organization (WTO) framework.

Protection of pollinators worldwide is a priority for the crop protection industry

CropLife International maintains a strong commitment to pollinator health and environmental protection⁴, and monitors the underlying science and new developments in this area. No global risk to pollinators resulting from the use of the two compounds in question has been concluded to our knowledge. In fact, recent rigorous registration and re-registration reviews undertaken by the US EPA, the Canada PMRA and the Brazil IBAMA have all concluded that risks from these two compounds to bees and other invertebrates are acceptable within their jurisdictions, and they have all approved the compounds for use. Many other regulatory authorities are aligned with these conclusions and these compounds are registered in more than 80 countries.

CropLife International shares the concerns that many parties hold over pollinator declines that are happening in some, but not all geographies. Our understanding from the literature is that these are primarily linked to habitat loss, land use change and eutrophication of biotopes such as lean grasses. For honeybees the multifactorial nature of risks is well documented and caused by a combination of interrelated pressures, with a constant main culprit: *Varroa destructor*, a parasitic mite. DG Sante included similar conclusions in presentations on the matter.

Data from the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES 2016⁵), which is often cited as a key global reference, confirm that one single factor alone cannot explain the pattern of bee colony decline observed in some countries, while bee colonies increase in others. The authors of the IPBES report were even challenged by NGOs, noting that no conclusive correlation between certain pesticide use and wild bee population decline could be established.

Positive trends are also reported by the UN Food and Agriculture Organisation (FAO) data showing a significant increase of honeybee colonies in major agricultural countries from 2012 to 2019, including those where the two compounds in question are registered and in use⁶.

³ https://ec.europa.eu/food/system/files/2022-03/sc_phyto_20220411_ppl_agenda.pdf

⁴ <https://www.cbd.int/action-agenda/contributions/action/?action-id=620a915c071ffe00018687a5>

⁵ <https://ipbes.net/assessment-reports/pollinators>

⁶ Data can be extracted from <https://www.fao.org/faostat/en/#data/QCL>

CropLife International is not aware of a global environmental risk arising from the two compounds and asks if there is other data available that would underpin the assertion that there is a global environmental risk that would remain unmanaged by the current established risk mitigation measures implemented by the respective regulatory approvals by non-EU countries.

In CropLife International's view, where there is consensus on how to approach global environmental risks, any compound in question can be most effectively and most rapidly addressed through multilateral agreements, and not by individual jurisdictions applying non-tariff barriers to trade. CropLife International recommends that the European Commission and EU Member States further assess and discuss the scientific and technical basis with global trading partner nations that have concluded favorably on risk to pollinators, before considering adopting these instruments.

Recent G7 statements urge countries to avoid trade distorting measures

Worldwide trade of agricultural commodities is facilitated by harmonized MRLs, which are set based on the critical Good Agricultural Practice to ensure that food safe for consumption.

On 24 March G7 leaders stated: *"We will avoid export bans and other trade-restrictive measures, maintain open and transparent markets, and call on others to do likewise, consistent with World Trade Organization (WTO) rules, including WTO notification requirements."*

On 11 March G7 agriculture ministers agreed *"to avoid all restrictive signals and measures that restrict exports and lead to further increase in price; [and,] to call upon all countries to keep their food and agricultural markets open."*

CropLife International believes that the proposed measures are not compatible with these commitments that were made by the G7 leaders. We urge EU Member States to consider that any changes in MRLs are not trade-restrictive, do not send restrictive signals, do not close the European market to certain commodities or do not impede the flow of commodities on global markets. CropLife International would recommend that the EU Members States consider the impact that such measures would have for agriculture in low- and middle-income countries that economically depend on food exports, in particular those exporting commodities such as tea and coffee to the EU.

CropLife International and its members are committed to improve the sustainability of food production, reducing the impact of agriculture on biodiversity and climate change, and ensuring fair practices in food trade. Ongoing innovations developed by CropLife International members will enhance the toolbox for farmers allowing for more sustainable use and protection of biodiversity and ecosystems and their services in agricultural production systems, within and outside the food production system. Integrated Pest Management (IPM) together with the development of biological pesticides and the use of digital tools will increasingly make inputs more precise (drones), data driven (digital image recognition) and will further reduce the impact of agriculture on biodiversity. These innovations can also deliver reduced use rates of pesticides. CropLife International members enable the appropriate combination of tools to be available for farmers to address their respective climatic conditions and pest and disease pressures, and to support yield expectations linked with local and global food security needs and farmers economic viability. The two substances in question are an invaluable protection tool for many crops, also for farmers in the European Union, and EU Member States regularly approve derogations for the emergency use for the two compounds.

The current focus on banning pesticides and deleting trade enabling MRLs does not address the complexity of considerations required to solve current sustainability challenges. It also overlooks the net positive contributions that pesticide use can have for minimizing unintended environmental consequences and trade-offs, e.g., with regard to land and water use. It is well

documented that the use of pesticides has spared land and land use change over decades, i.e., forests and wildlife habitats that otherwise would have been cultivated for agriculture (“land sparing” due to pesticide use⁷). Moreover, international trade is part of the solution to food security.

In Conclusion

CropLife International recommends that the EU consider an inclusive policy approach that enables addressing the complexity of challenges on the nexus of climate change, biodiversity and food security, locally as well as holistically for the global whole, based on dialogue with global trading partners and taking all relevant information into account.

- There is no “one-size-fits-all”; sustainable food production is a complex matter and deleting a tool in the farmer’s toolbox can jeopardize food security and sustainable food production.
- Farmers across the world need access to crop protection tools - different regions have different needs. The European Commission and Member States must consider local use conditions in non-EU countries.
- The two compounds are registered in more than 80 countries globally and risks are properly assessed and managed in the local use context. Global concerns over pollinators and biodiversity loss will not be addressed by disabling the use of a pesticide group or by unilateral use of non-tariff barriers.
- Pesticide MRLs are trading standards that drive good agricultural practice and ensure a level playing field for farmers globally. MRLs are not an adequate tool to assess environmental risks.
- Global environmental standards require multilateral engagement, rather than unilateral policies. Restrictions need to be proportionate to the objectives and not be more trade restrictive than necessary.

We would welcome your kind consideration of our views and questions in your discussion at the SCoPAFF meeting. Our letter is meant as an invitation for further dialogue on how more sustainable food systems can be achieved. CropLife International and our members would be pleased to continue this dialogue and please feel free to contact us if you wish to discuss in more detail.

Yours sincerely,



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Director of Regulatory Affairs
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⁷ <https://www.oecd-ilibrary.org/agriculture-and-food/oecd-fao-agricultural-outlook-2019-2028 Agr Outlook-2019-en>