



7 February 2024

## COCERAL -UNISTOCK- EUROMALT Position Paper on Plant Protection Products (PPPs) residues

COCERAL, UNISTOCK, and EUROMALT play a vital role in managing the supply and demand of food and feed, hence critically contributing to the goal of food security. Business operations require seamless delivery, which in turn needs **predictability, and clear regulatory regimes** to avoid uncertainty and ultimately, supply chain disruption. This is even more important in turbulent times of geopolitical turmoil, where contingencies arise on a completely new scale.

**Diverging standards for PPPs use in the EU and in third countries, and residues thereof represent a critical issue for Food Business Operators.**

In that regard, COCERAL, UNISTOCK and EUROMALT welcome harmonized measures that reflect the agricultural needs of third-export countries and can favour international cooperation, while not diminishing public health and environmental protection. This is legitimate, as per the **Farm to Fork and the Green Deal Strategies**, to make the **EU health and environmental standards** first-in-class on a world stage. Nonetheless, there is a need to reconcile this goal in the context of **Open Strategic Autonomy**, and considering the resilience of food and feed supplies. In particular, **over the last three years, many EU policies have impacted PPPs and related Maximum Residue Levels (MRLs)**. The EU Chemical Strategy, the revision of the EU legislation on the Sustainable Use of PPPs, but also the revocation of Import Tolerances (ITs) on the ground of “environmental considerations of global nature”, and the renewal of authorisation of glyphosate are just a few flashpoints of an ongoing discussion at the different levels of the EU policy-making.

Taking stock of the advancements achieved so far, building on the current policy debate, and with an eye turned to the future, COCERAL, UNISTOCK, and EUROMALT

**Welcome the positive steps made in the last few years, in particular:**

- ✓ Praise the pragmatic approach by the Commission and the Member States in reckoning with **Codex Alimentarius MRLs (“CXLs”)** to start with the EU risk assessment and risk management process.  
CXLs represent a common ground to bolster international cooperation and can be **conductive to international MRLs usable for the setting of Import Tolerances**;
- ✓ Welcome and support the initiative aiming at establishing **EU-wide Guidance on “Footnote 1” for feed-only materials**. In the absence of this, the Member States will continue to adopt local approaches, not necessarily consistently harmonized among them. This would eventually disrupt the single market functioning and lead to waste, contrasting with the goals of the EU zero waste strategy;
- ✓ Welcome the Commission’s Implementing Guidance in 2021 on how to handle the so-called **“Processing Factors” (PF)** for PPPs residue in transformed foodstuff and feedstuff. Article 20(1) of Regulation (EC) No 396/2005 states that, where MRLs are not set out in Annexes



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II or III for processed and/or composite food or feed, the MRLs applicable shall be those provided in Article 18(1) for the relevant product covered by Annex I, taking into account changes in the levels of PPPs residues caused by processing and/or mixing. Changes caused by processing and/or mixing can be considered, for example, by using a PF or by an expert assessment of the processing process based on scientifically robust data. While the Guidance is a welcomed step, eventually the practical management of whether to apply PF has been left in the hands of national authorities. An EU harmonised approach towards the setting of specific maximum residue levels (MRLs) for processed food and feed would be appreciated to ensure legal certainty.

- ✓ Welcome the approach suggested by the European Commission and Member States regarding the so-called **“cut-off” active substances**<sup>1</sup>. Cut-off substances can still undergo a full risk assessment, considering the actual conditions of use and risks from the use and exposure, instead of adopting a purely “hazard-based” approach where just the characteristics of the active substance determine its use and related MRLs.

#### Request careful consideration and work on problematic aspects, namely:

- ✓ Recognise how **provisions on environmental protection** were missing altogether in the MRL legislation (Reg. (EU) 396/2005), mostly focused on human and animal health-, while the PPPs authorisation regulation (Reg. (EC) 1107/2009) on the approval of PPP mandated that PPPs whose residues are expected to pose risks to the environment, should not be authorised. However, this latest regulation didn't introduce a sound environmental risk assessment process. This failed to deliver legal certainty while raising political expectations. The gap must be bridged to allow enforcement of the provisions and shared expectations of the stakeholders in Europe and third countries.
- ✓ Call into question the Commission's shifted focus **to the WTO “Technical Barrier to Trade” framework, or TBT, and departing from the Sanitary and Phytosanitary Agreement (SPS)**, on which grounds MRLs have usually been notified. This move was intended, in the first place, to justify the revocation of Import Tolerances (for thiamethoxan and clothianidin, two neonicotinoids) on the grounds of *environmental protection at the global level* and has been delivered through a legal report<sup>2</sup>. However, the TBT framework is laxer than the SPS one. It admits a wider range of criteria to impose trade-related standards (including undefined concepts such as “public morals”) and hence lacks the perimeter of science. In turn, this can easily increase tension in the dialogue with third countries. It is our view that the WTO SPS committee should instead oversee any trade-related PPPs considerations, be on the grounds of human and animal health, or environmental protection.
- ✓ Regret that there is still a **substantial lack of internationally agreed environmental standards** to take due care of the emerging concept of “environmental considerations (or “concerns”) of global nature”. Priority should be about raising standards at the global level, through collaboration and cooperation with trading partners, including through private certification schemes. Dialogue with international trade partners, in the proper fora (bilateral and multilateral trade agreements), or within entities of global reach (Codex Alimentarius, to include coverage of environmental and sustainability aspects; WTO SPS, to reflect the

<sup>1</sup> As per Annex II of Reg. (EU) 1107/2009, points 3.6.2 to 3.6.5 about classified mutagens, carcinogens, reproductive and endocrine disrupting PPPs and point 3.7 is- PBT, POPs.

<sup>2</sup> Legal Report (“Application of EU health and environmental standards to imported agricultural and agri-food products”, COM(2022) 226 final, 3 June 2022)



environmental concerns of global nature, UNEP) would be the natural step to better protect the environment. It is relevant to advance discussion in all possible fora, including a Sustainable Food Systems chapter in bilateral trade agreements.

- ✓ Regard the “**mirror clauses**” approach to PPPs use and MRLs as not legally sound nor politically useful in the current debate. It would deviate from the established EU legislation on how to establish MRLs and create attrition with third countries that are trade partners of the EU. It is well understood that Mirror Clauses aim at ensuring that agricultural and agri-food products imported to the Union from third countries are produced in accordance with the same plant protection products used in the Union. This means that **farmers in third countries, experiencing different climates, agronomic conditions, cultures, and ultimately, needs**, should have the same PPPs toolbox as European farmers. As a consequence, when PPPs-related MRLs (including Import Tolerances) are zeroed in the EU, the same should apply to third countries’ farmers. This rigid approach should be replaced by a more flexible *equivalence* status to reflect the different Good Agricultural Practices (GAP) in different parts of the world while maintaining the highest levels of safety. Actually, MRLs are derived from GAP to minimise the use of PPPs, plus the risk assessment leading to them excludes risks to human and animal health. In a similar fashion, Import Tolerances are expressly designed to exclude risks to human health.

In conclusion, COCERAL, UNISTOCK and EUROMALT believe that any given policy initiative related to PPPs residue management should:

- Be set in risk-based considerations: hypothetical hazardousness of any given active substance (and residues thereof) should be tested against real-world exposure and actual risk.
- Favour a consistent harmonization of the provisions in the Single Market (Footnote 1 for feedstuff material and Processing Factors for processed foods).
- Foster dialogue with third countries having different agronomic needs.
- Consider the unintended consequences that could arise from goodwill but difficult implementation (crowding out effects, leakage effect, re-orientation of commodity flow to other countries with more relaxed standards, increasing the costs for the Food Business Operators and the end consumers...).
- Factor-in the trade-offs (i.e., PPPs use decreased but with augmented content of mycotoxins; dwindled use of herbicides, but tillage compromising soil health...).
- Anticipate how trade partners will react (technical barriers to trade, retaliatory measures, litigation, discriminatory nature, protectionism...).
- Evaluate and deepen the legal grounds for environmental considerations linked to PPP residues (both at the EU and international level).
- Adopt a food security perspective, in times of prolonged crises.

To build a sustainable and resilient feed and food chain and maintain the EU’s position as a major player in the global agri-food market, it is fundamental that the EU continues to support trade openness and diversification, through its ambitious trade policy and discussions on common standards at international level.



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**COCERAL is the European association of trade in cereals, oilseeds, rice, pulses, olive oil, oils and fats, animal feed and agrosupply**

COCERAL represents the interest of the European collectors, traders, importers, exporters and port silo storekeepers of the above-mentioned agricultural products.

**UNISTOCK Europe is the only European association of professional storekeepers for agribulk commodities in the European Union.**

UNISTOCK Europe proactively represents the united voice for the agri-bulk storage sector towards the EU authorities. UNISTOCK Europe is an associated member of COCERAL.

**EUROMALT is the trade association of the malting industry in Europe.**

EUROMALT represents and promotes the interests of the European malting industry at the EU and international levels. It assists maltsters to source their raw materials and to manufacture, distribute and market their products in a sustainable way.