

Matt Lantz

SUMMARY:

Matt Lantz and Bryant Christie Inc. (BCI) work on international MRL issues for numerous US commodities. BCI also developed and maintains GlobalMRL.com, a database that houses up-to-date MRL information for over 115 markets. Mr. Lantz's presentation will focus on how commodity groups and the private sector can approach international MRL challenges, be they a major regulatory overhaul in a key export market or needing a specific MRL in order to be able to export. He will outline several significant challenges the private sector sees when dealing with MRL issues, such as timing of MRL establishment, onerous violation sanctions, obtaining MRLs for older products, and limited timing for submitting comments on proposed MRL changes. He will also stress positive recent developments in managing international MRL issues, such as cooperation between international grower groups on MRL issues, ready availability of MRL data, and how the technical nature of MRLs can provide opportunities for resolving issues through cooperation. His comments on the panel will be based on the following presentation prepared for the meeting.

Matt Lantz WTO MRL Presentation October 25, 2016

I. Who We Are and What We Do:

Bryant Christie Inc. is a consulting firm based in Seattle, Washington and Sacramento, California that assists clients with their international agriculture policy issues. We specialize in MRL issues. BCI handles international MRL issues for numerous commodity groups including US potatoes, grapes, cherries, almonds, cranberries and hops. We have over 18 years of experience working on these issues. A BCI staff member serves as a private sector member of the US delegation to the Codex Committee on Pesticide Residues. Our company also developed and runs Global MRL.com, a searchable database that is updated daily that houses international MRLs from over 115 markets.

II. How we Approach MRLs on behalf of our clients:

We can divide our international MRL work into two broad areas: Major MRL transitions and day-to-day management of MRL issues.

A. Major MRL Transitions:

A major MRL transition occurs when a country overhauls its pesticide regulations; often including a shift to a robust positive, national list system for MRLs. Numerous major markets have undertaken such transitions in the past 15 years including Japan, the European Union, Chinese Taipei, Canada, Australia, and Hong Kong. The Republic of Korea is currently undergoing such a transition.

Although each transition is unique, all have certain common characteristics that need to be actively managed. For our agricultural clients, we assess what pesticides are used domestically and identify any gaps in the foreign country's new MRL list. We use our database to determine the MRLs in question.

Just because a MRL is missing in a foreign country does not necessarily mean a MRL is needed. A compound could no longer be used by the industry, or perhaps a proposed default MRL will cover the likely residues. We work hard to prioritize MRL needs of our stakeholders

We then go about seeking to have those MRLs established in the market undergoing the transition. How this is done can vary considerably. For some markets, we simply submit list of MRL needs, and that list is incorporated in the initial national MRL list. In such cases, the country will typically establish the list and then return to the MRL at some point later to reassess the MRL level.

In other markets, such as currently in Korea, data packages are being requested to support any new MRL requests. In those cases, we work with registrants, explain the trade implications and request that they include the commodity of interest in the data package submission. Much of my work over the last year has been meeting with registrants on the Korea transition.

In all cases, we work closely with the US government, our embassies in the country, and often directly with the foreign government. We share our MRL lists. We express concerns we are hearing about the transition from importers in the market. We raise questions on data package submissions and ask about implementation. We also identify potential trade issues.

Engaging early on major transitions often means that problems can be minimized. MRLs are rarely intended as deliberate trade barriers, but such transitions must be handled carefully to avoid unintended trade disruptions.

B. Day-to-Day MRL Issues:

Beyond major MRL transitions, our firm also handles MRL issues on a day-to-day basis for our clients. This is the regular pro-active daily work that is needed to ensure necessary MRLs are established in export markets.

As part of this effort, we provide a monitoring service for our clients of proposed MRL changes. We review all of the WTO notifications involving MRLs to determine whether those changes will affect the groups we represent. In our experience, Markets like Japan, Korea, Brazil, Chinese Taipei, Canada, Australia, and New Zealand reliably notify their MRL changes and provide time for comments. Where proposed MRLs are potentially problematic, we provide comments to our government and when appropriate to the foreign government. We try in those comments to not just say, "Your MRL is too restrictive", but provide justification and if possible technical background for establishing the MRL at a different level.

We also cooperate with registrants when a new crop protection product is offered. After a decade of dealing with MRL issues, all major registrants have comprehensive MRL strategies for new products. We provide trade numbers for markets where we think MRLs are needed, and occasionally will even approach a foreign government expressing the need for the MRL in a timely manner. We also work closely with Dan's IR-4 group to seek MRLs for minor uses and at Codex.

Seeking Codex MRLs is important for the groups we work with. Codex MRLs are used by numerous markets, and even countries that do not use Codex MRLs directly will often refer to them when establishing their national MRLs.

Finally, we are available to assist commodity groups and growers when there is a residue violation in a market. This often involves working with the US Embassy in the market, gathering

information, seeking a retest of the shipment in question, preparing reports explaining the violation if necessary, and seeking a MRL to avoid future such violations. These are the most stressful times with MRLs, but they can be handled.

III. **Areas of Challenge:**

Through our experiences we see several major challenges for harmonization of MRLs

- A. **Timing:** With different regulatory systems in place, MRLs, especially for new products do not emerge at the same time. There has been some improvement in this. Japan's recent policy to initiate reviews while other countries are reviewing compounds, has cut a year off the review process there. Still, MRLs timing is challenging. Buyers and processors often refuse to let a new crop protection product be used until MRLs are established in key markets, even though the grower wants to use the compound and the registrant wants to sell it.
- B. **Differing Data Requirements:** I am aware of several US commodity groups that have MRLs in the US and have sought individual MRLs in foreign markets. Often, and this is especially true in Europe, the existing US, Codex, or IR-4 data packages are not sufficient and additional studies are needed. This can add up to hundreds of thousands of dollars for grower groups, simply to get one MRL.
- C. **Generics:** This is a particularly challenging issue. Older products are still used and need MRLs, but there may be multiple registrants and those selling the product may not have the data. Those that have the data no longer sell the product, leaving little interest in working on obtaining a MRL.
- D. **Differing and Out of Scale Sanctions Policies:** Residue violations will occur, but how a country responds to that violations differs widely. Residue violations are rarely human health concerns. I believe appropriate responses include notifying the shipper of the violation, watching to see if there are further issues, and having a process for establishing a new MRL in a timely manner. Only if there are consistent violations should additional actions be taken. Inappropriate responses are elevating testing levels for an entire industry based on one or two violations, requiring significant explanatory reports, or enhanced testing for five years as a result of a single violation.
- E. **Insufficient Time to Comment or Ignoring Comments:** We are pleased to have the opportunity to comment on MRL changes, but providing only a week or two to comment, or having a comment period occur weeks before a MRL goes into effect and after all reviews are completed makes commenting irrelevant. If we comment, it's for a reason. Please consider our positions.
- F. **Resources at Codex:** Although the Codex process has been streamlined considerably, allowing MRLs within 18 months of initial review, it can take several years to get onto the Codex schedule due to resource limitations. I know this is being discussed elsewhere in our program.

IV. **Positive Developments and Areas of Cooperation:**

Despite these challenges, there are positive developments in international MRL policies. I'd like to leave you with a few:

- A. **Elevation of the MRL Issue:** When I started working on these issues, MRLs were an afterthought. They did not merit serious discussion in international trade forums. Here we are today, together, discussing these issue seeking to make improvements to avoid trade issues.
- B. **Unintentional Trade Barriers:** MRLs can be trade barriers, but unlike some trade barriers, I have found them to largely be apolitical and unintentional. The barriers emerge because of differing systems and regulations, but usually not because someone is intentionally trying to use MRLs to prevent trade. This can help in resolving challenging MRL issues.

- C. **Success in Major Transitions:** All major transitions are challenges, but each has been navigated and with the new systems in place, trade has flowed with only minor issues.
- D. **WTO notifications:** The transparency achieved as result of reliable notification to the WTO of MRL changes is very helpful and greatly appreciated.
- E. **Availability of information about MRLs:** We used to have physical lists of MRLs on paper. Now MRL information is readily available. Be it at GLocalMRL.com or on individual country websites, MRLs can be found. Knowing the MRLs in a market provides the foundation for all MRL work.
- F. **International Commodity Group Cooperation:** I work for the US hop industry. That industry cooperates closely with the European hop industry on MRL issues. Just three weeks ago, the two industries met in Munich and decided which group would approach which registrant to seek hop MRLs in Korea. They also share data so MRLs and registrations in the two markets or in third countries like Canada can occur. We travel together to Asia and meet with registrants and foreign governments as the world hop industry working on MRLs. This has proven effective. Perhaps other industries could follow a similar model.
- G. **Overall MRL Cooperation:** Given the largely apolitical nature of MRL challenges, I believe cooperation is the most effective way of addressing international MRL issues. In addition to cooperation between similar grower groups in different markets, cooperation can occur between governments, such as in joint reviews of a compound, between registrants, such as sharing registration experiences or seeking to harmonize data package requirements, or between grower groups and registrants and governments sharing priorities. Cooperation can take many forms at many levels, but such efforts will be key to resolving international MRL issues.

I look forward to hearing my colleagues' comments and answering any questions you might have.