



November 15, 2013

Docket Number USTR-2013-0033

Comments Regarding the 2014 National Trade Estimate Report: European Union (EU)

The Almond Board of California (ABC) is pleased to provide the requested information on SPS barriers in the EU. Established in 1950, ABC administers a grower-enacted Federal Marketing Order under United States Department of Agriculture (USDA) supervision, and operates through a committee structure similar to a non-profit industry association. ABC represents 6,400 almond growers and 100 almond processors, most of whom operate small to medium size family farms and businesses, producing almonds throughout California’s Central Valley. ABC’s mission is to create a rewarding environment for the production, processing and marketing of California Almonds. Funding is used to support research, promotion and quality/technical services. California produces 80% of the world’s almonds and 100% of the U.S. supply. Annually, 70% of California production is exported to 90 countries worldwide.

The 28 Member States of the EU represent approximately one third of California’s almond exports. The combined value of almond exports to the EU are listed below<sup>1</sup>:

Calendar Year	Shelled Almonds (HS 080212)	Inshell Almonds (HS 080211)	Prepared or Preserved Almonds (HS 200819)	Total Value
2012	\$1,007,101,917	\$22,238,397	\$18,901,408	\$1,048,241,722
2011	\$933,133,669	\$19,344,552	\$8,661,660	\$961,139,881
2010	\$789,014,840	\$31,292,768	\$6,097,927	\$826,405,535
2009	\$645,731,074	\$47,428,469	\$7,711,263	\$700,870,806
2008	\$827,381,935	\$39,737,797	\$26,743,878	\$893,863,610
2007	\$873,039,103	\$25,762,991	\$41,483,240	\$940,285,334

SPS Barriers

Of the 161 compounds registered for use on almonds in the U.S., 43 compounds have a more restrictive MRL in the EU and 30 compounds have no established MRL. Many established MRLs are set at the limit of detection – which given advancements in detection methods, in some cases means “no residue.” Those 73 compounds represent 45% of the chemical tools available to almond growers for protecting their trees and almonds stored after harvest.

With regard to the 30 missing MRLs, it is unclear at what point in the process that agricultural or chemical industries can provide technical data and usage information which is vital to the MRL-setting process. The publication of reasoned opinions from EFSA marks the first point at which

<sup>1</sup> USITC Dataweb

an EU proposed MRL is made publicly available. ABC is not aware of any formal opportunity to comment at this point in this process. The EFSA reasoned opinion is then sent to the EC's Standing Committee for review and decision. After the MRL has been reviewed and adopted by the Standing Committee, the EU notifies the MRL to the WTO. This is the first known opportunity the EU's trading partners have for comment, which is also after the MRL has been established in the EU and data will no longer be considered.

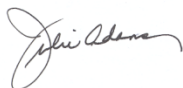
When a pesticide is removed from use in the EU market, the EC will typically revoke the existing MRLs associated with the pesticide due to a lack of use in the EU. Given the lack of domestic use, EFSA may not have data with which to support existing MRL(s) leading to the EC revoking the MRL(s). The result is that even if the almond industry has access to residue data and can provide it to the EC/EFSA, there is no formal mechanism for doing so.

MRL revocations are notified to the WTO only after the opportunity to include data in the MRL evaluation has closed. As the European and U.S. regulatory systems have different requirements for pesticide registration and renewal, the EC issues MRL revocations for pesticides that are still registered for use in the U.S. Where there is no specified MRL, the EU applies a default MRL of 0.01 ppm – which is generally more restrictive than the established U.S. MRL.

Regulation (EC) No. 1107/2009, which governs the registration of plant protection products, establishes several hazard-based “cut-off” criteria that essentially exclude certain categories of products from consideration for normal authorization for use in the EU. For such products, the EU would not perform a risk assessment (see Article 4.1 and Annex II, paragraph 3.6). It would simply delist them due to their intrinsic properties without taking into account important risk factors such as level of exposure. As a result, we expect certain widely used substances – such as glufosinate-ammonium, which is used extensively in the production of almonds – to be delisted when their current registration expires. For products delisted due to the hazard-based cut-off criteria, the residue limit will be set at 0.01 mg/kg.

ABC thanks USTR for the opportunity to provide information on SPS barriers in the EU. Please do not hesitate to contact me regarding this submission.

Sincerely,



Julie Adams

Vice President, Technical and Regulatory Affairs