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PESTICIDES

U.S. and Mexican Fruit and Vegetable Pesticide Programs Differ

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Ms. Chairwoman and Members of the Subcommittee:

We are pleased to be here today to discuss our work related to U.S. and Mexican pesticide standards and enforcement. In June 1992 we issued a report to the Chairman of the House Committee on Agriculture that compared the requirements for registering pesticides and setting tolerances for pesticide residues in the two countries[1]. That report cited similarities in the two countries' approaches to registering pesticides and pointed out differences in several pesticide tolerances and in approaches to ensuring the safety of fruits and vegetables. In addition, we have issued several reports over the last several years pointing out weaknesses in the U.S. Department of Health and Human Services' Food and Drug Administration's (FDA) program to monitor the pesticide residues in fruits and vegetables.[2] These issues are especially timely and important as the Congress considers the ratification of the North American Free Trade Agreement (NAFTA).

As you know, tolerances are the maximum limits of pesticide residues that are allowed in or on foods. They represent a residue level that is low enough to be safe when the food is consumed and high enough to cover residues that may be present if the pesticide is properly used. Food-use pesticides cannot be registered for a particular food in the United States until a tolerance level has been set for that food by the Environmental Protection Agency (EPA). Therefore, a food-use pesticide can have many tolerances--one for each food on which it is allowed.

In summary, we found several differences in tolerances between the United States and Mexico which fall into three categories: (1) pesticides that have tolerances in both countries but have tolerances in Mexico for some commodities and no comparable tolerances in the United States, (2) pesticides that have tolerances in Mexico but none in the United States, and (3) pesticides that have tolerances in both countries for the same commodities, but at different levels.

Officials from both countries have formed a working group to resolve these differences to the extent possible. The working group plans to address the first two categories, but not the third.

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[1]Pesticides: Comparison of U.S. and Mexican Pesticide Standards and Enforcement (GAO/RCED-92-140, June 17, 1992).

[2]Pesticides: Better Sampling and Enforcement Needed on Imported Food (GAO/RCED-86-219, Sept. 26, 1986); Imported Foods: Opportunities to Improve FDA's Inspection Program (GAO/HRD-89-88, Apr. 28, 1989); and Pesticides: Adulterated Imported Foods Are Reaching U.S. Grocery Shelves (GAO/RCED-92-205, Sept. 24, 1992).

Also, the working group has no long-term plan for addressing or preventing future differences in tolerances that might develop between the two countries. Because the universe of pesticides is always changing, and a framework is not in place to cope with those changes, new tolerance differences between the two countries will continue to occur. We recommended in our June 1992 report that FDA, along with EPA, work with Mexican officials to develop a strategy for resolving, where possible, all types of pesticide differences. The strategy should also provide a long-term plan to deal with the changing field of pesticides. Although the working group has been somewhat inactive since August 1991, last week it began working on the problem.

With regard to enforcement, FDA samples fruit and vegetable imports for pesticide residues and has a special program for increased sampling of Mexican produce. Our reports have pointed out that because of inefficiencies and resource limitations, FDA's programs provide only limited protection against public exposure to prohibited pesticide residues on imported foods. Since the Mexican government does not monitor residue levels for exported produce, U.S. inspections are all the more important.

Before getting into the details of our findings, let me briefly provide some context for these issues.

BACKGROUND

Agricultural imports from Mexico account for nearly one-half of all the fresh and frozen fruits and vegetables exported to the United States from all countries. These Mexican exports also account for nearly 44 percent of the total amount of Mexican agricultural exports to the United States.

The NAFTA agreement to increase trade among the United States, Canada, and Mexico, was signed by President Bush on December 17, 1992. Legislation to implement the agreement will require congressional ratification. According to a U.S. official involved in negotiations for the treaty, pesticide standards played an important role in free trade discussions. Free trade, by definition, abolishes many traditional barriers to trade, such as tariffs and quotas. Therefore, countries may turn to less traditional import barriers, such as incompatible pesticide standards that can stand in the way of trade liberalization. This, in turn, generates concern about the potential for trade agreements to encourage the adoption of "lowest common denominator" standards that would be weaker than existing U.S. standards.

In the United States, EPA, FDA, and the U.S. Department of Agriculture (USDA) share responsibility for regulating pesticides to ensure that when used properly, pesticides do not pose an unreasonable risk to human health and the environment. EPA registers (licenses) the pesticides and sets tolerances for pesticide residues that may remain on foods. FDA monitors most

food for compliance with the tolerances, except meat, poultry, and eggs, which are the responsibility of USDA. In Mexico, the Commission for the Control of the Production and Use of Pesticides, Fertilizers, and Toxic Substances (CICOPLAFEST) carries the same responsibilities as EPA for registering pesticides and setting tolerances. Mexico has no government agency responsible for enforcing and monitoring pesticide residues.

The United States and Mexico have similar requirements for regulating pesticides. Both EPA and CICOPLAFEST register pesticides and assess tolerances by reviewing pesticide registration applications and data. However, EPA does not rely on the results of data reviews generated by other nations in its review of a registration application, while CICOPLAFEST uses such foreign reviews and data in its review process.

With this perspective, let me now turn to the issue of resolving differences in U.S. and Mexican pesticide tolerances.

U.S. AND MEXICAN OFFICIALS ARE WORKING TO RESOLVE DIFFERENCES IN PESTICIDE TOLERANCES

A working group of U.S. and Mexican officials, established in May 1991, is discussing options and approaches for resolving differences in tolerances between the two countries. As mentioned earlier, these differences fall into three categories.

Under the first category, 58 food-use pesticides have tolerances in both countries but have Mexican tolerances for some commodities and no comparable U.S. tolerances. For example, the pesticide acephate has tolerances in both countries; however, two of the Mexican tolerances--for broccoli and cabbage--do not have tolerances in the United States. The working group is addressing this category first because the tolerances for these pesticides may be easy to resolve since EPA tolerances already exist for these pesticides.

Under the second category, we found 17 pesticides that have food-use tolerances in Mexico but none in the United States. Resolving differences in this category will be difficult because most of these pesticides have never been registered in the United States and EPA has never reviewed data for them.

Under the third category, pesticides have tolerances in both countries for the same commodities but at different levels. The working group has decided not to address these differences because, according to a working group official from FDA, few violations are cited at the U.S.-Mexican border for residues exceeding tolerances. However, working group officials believe that these differences would be the easiest to resolve because both countries already have tolerances for the given commodities.

Our June 1992 report concluded that the resolution of tolerance differences is critically important. The American public has long perceived that a wide gap exists in the pesticide standards (tolerances) between the two countries. The U.S.-Mexican working group is the first joint effort to analyze and resolve these differences. It will clarify how big the gap is and show what reductions can be made in these differences. This effort will also enable FDA to better interpret violations that do occur and to focus its educational efforts on correcting the cause of the violations.

While the working group has set broad priorities for the types of differences to address first, it does not have a long-term strategy for mitigating all differences in tolerances, such as those in the third category, and those new tolerances that will occur or be canceled because of continuing changes in the universe of pesticides. Thus, unless the working group addresses all of the differences, it is unlikely that resolution will be reached for all pesticide tolerances between the United States and Mexico.

I would like to now turn to the issue of enforcement.

U.S. AND MEXICAN EFFORTS TO ENFORCE SAFETY STANDARDS FOR PRODUCE DIFFER

We have identified limitations in the efforts of both the U.S. and Mexican governments to enforce safety standards for produce entering the United States. In the United States, pesticide monitoring of imported foods is restricted by limited FDA resources. The principal limitation of the Mexican monitoring system is that the government does no monitoring itself, but relies on the private sector to test the country's food as needed.

Pesticide Monitoring in the United States

In the United States, FDA has a sampling program to monitor domestically grown produce and imported produce, and a special program to monitor Mexican produce for pesticide residues. FDA began this special program in 1979 in response to the increasing volume of food imported from Mexico and the growing concerns about the safety of that food. Mexican produce found in violation of U.S. tolerances is to be either re-exported to Mexico or destroyed.

FDA's testing shows that the Mexican violation rate is generally higher than the violation rate for domestic produce. Table 1, excerpted from our June 1992 report, shows the Mexican and domestic violation rates for surveillance samples (collected without any suspicion that illegal pesticide residues were present) for fiscal years 1979 through 1991, the latest date for which data are available.

Table 1: Percentage of FDA Surveillance Samples Found With Violations for Mexican and Domestic Produce, Fiscal Years 1979-91

Fiscal year	Mexican produce	Domestic produce
1979	4.4	0.8
1980	5.3	1.7
1981	3.3	1.7
1982	4.2	2.3
1983	2.7	1.8
1984	3.1	1.5
1985	2.7	2.1
1986	2.0	2.5
1987	3.8	1.9
1988	4.7	1.1
1989	3.5	1.2
1990	4.8	1.3
1991	2.5	1.0
Average percentage	3.6	1.6

On average, pesticide violation rates for Mexican produce have been about twice as high as the violation rates found for domestic produce.

Our prior work has shown that FDA's sampling and enforcement programs have limitations. The following are examples of these limitations:

-- In 1986 our evaluation of FDA's sampling program showed that about 1 percent of imported food shipments were being sampled each year by FDA inspectors; in fact, some foods imported into the United States year after year from many countries were not being sampled at all. Furthermore, FDA relied on analytical test methods which can detect less than half of the pesticides potentially available in world markets; and FDA was limited in its ability to better target testing because it lacked knowledge about which pesticides were being used in foreign countries. We recommended that various improvements be made in these areas. Some improvements have been made, while others have not, and we are prepared to discuss this situation. Incidently, FDA currently has a new source of information

on foreign pesticide use that FDA believes is a significant improvement on past information sources.

-- In 1989 we reported that FDA's limited staff of inspectors of imported food were hampered in carrying out their primary duties of inspecting imported goods because of time spent on paperwork and travel. Only 22 percent of their time was spent in doing physical inspections. We recommended that an automated paperwork system be expedited to help make the inspection system more efficient. FDA is in the process of implementing an automated system, but it is still incomplete.

-- In September 1992 we reported a long-term trend whereby importers were disregarding U.S. laws prohibiting the distribution of adulterated foods. We found that one-third of the adulterated shipments detected by FDA were not returned for destruction or export and presumably reached U.S. grocery shelves. This problem existed because some importers who were repeatedly caught with adulterated foods chose to pay the relatively low damages assessed by the U.S. Customs Service rather than destroy or return the food. We made various recommendations to correct this situation but FDA has yet to respond to our recommendations.

Pesticide Monitoring in Mexico

In Mexico, the government generally has limited capabilities in monitoring the safety of exported produce. Instead, the private sector--Mexican and multinational companies and state and national agricultural growers' associations--has assumed responsibility for monitoring exports. Companies and associations will test their food only as needed.

To increase its monitoring capabilities, the Mexican government is establishing a national laboratory system to test residue levels. The system, which according to Mexican officials has 5 functioning laboratories, will ultimately have 11 laboratories. One laboratory is owned by the government; the others are to be privately owned. The government-owned laboratory sets the standard for the system's laboratories.

Other efforts within Mexico to ensure the safety of Mexican produce include a 1988 memorandum of understanding between FDA and the Mexican government to provide technical assistance, such as instructions to growers on how to read pesticide labels properly. In addition, some Mexican growers have adopted agricultural techniques that may help reduce pesticide use and residues. According to FDA officials, these efforts may improve regulatory controls over pesticides within Mexico and may help Mexico comply with U.S. import regulations.

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If the Congress approves the North American Free Trade Agreement (NAFTA), the level of imported Mexican produce may increase significantly. This anticipated rise has heightened concern among environmental groups that pesticide levels for Mexican produce may exceed U.S. limits if growers attempt to maximize production with these new opportunities for agricultural exports. Whether or not the Congress approves the NAFTA agreement, pesticide standards for produce will most likely play a more important role in trade discussions as imports from Mexico and other countries continue to increase. In addition, there will be a continuing need for FDA to monitor fruits, vegetables, and other food imported into the United States from Mexico regardless of whether NAFTA is enacted.

Our prior work shows that several actions need to be taken by both governments to ensure that Mexican produce does not violate U.S. pesticide tolerance levels. First, the Mexican government needs to expedite the development of its capabilities to monitor produce for pesticide residues. Second, EPA and FDA need to work with Mexican government officials to develop a strategy for resolving, where possible, all types of pesticide differences. This strategy should provide a long-term plan to deal with the continually changing field of pesticides. Finally, FDA needs to remedy deficiencies in its own monitoring program. Action needs to be taken to obtain better information on pesticides actually used on foreign foods and to test for these pesticides. In addition, FDA needs an adequate deterrent to prevent importers from distributing pesticide-adulterated foods.

Ms. Chairwoman, this concludes our testimony. We would be happy to answer any questions.

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