Country Update

S&SEA Rice Exports: Challenges in relation with the new EU MRL

Provided by

VERITE RESEARCH
Sri Lanka

1. Background

This CUN provides the views of rice exporters and government agencies in Sri Lanka on their perceptions of the issues they face in complying with EU MRL requirements. The current MRL regulations were brought into force in September 2008. The objective is to understand the challenges faced in exporting rice products in the face of these regulations, so that WTO negotiators may address these concerns.

1. Rice exports in the context of the Sri Lankan economy

In 2018, 21.7% of Sri Lanka's exports were agricultural products, with tea, spices and coconut being the top three categories.[1] Rice is not a significant product exported by Sri Lanka. Exports of rice, rice flour and rice bran amounted to approximately 0.1% of total exports in 2017, of which 17% were shipped to the European Union (EU).[2] The low percentage of rice exports may be attributed to a) high price of rice, b) the absence of historical trade links and c) the rice produced in Sri Lanka is not recognised as an internationally traded grade of rice. Hence, rice exports of Sri Lanka are targeted mainly towards markets with expatriate communities.[3]

2. Pesticide control in Sri Lanka

As of September 2016, there were 459 authorized plant protection products (PPPs)/pesticides commercially available in Sri Lanka, containing 107 active substances. Of these substances, 27% were not approved for use in the EU.[4] According to the Office of Registrar of Pesticides (RoP), 35 active substances have been banned.[5] Almost all the pesticides used in Sri Lanka are imported and are primarily synthetic pesticides.[6]

There are multiple pesticide control measures adopted by Sri Lankan authorities which include the following: registration of products, risk/benefit analysis, field monitoring and enforcement, laboratory testing, imports regulations, and banning and restricting of pesticides.[7]

PPPs can only be used and marketed in Sri Lanka following authorization from the Office of the Registrar of Pesticides (RoP).[8] All PPP retailers must be registered with the RoP under the Control of Pesticides Act, No. 33 of 1980.[9]

3. Introduction of SL-GAP

Regarding certification of users of PPPs, one of the most recent initiatives by the government is the Sri Lanka Good Agricultural Practices (SL-GAP) scheme to register growers of agricultural products. Certification to SL-GAP is conducted by an independent body within the DOA and requires growers to keep records of PPP use.[10] The SL-GAP scheme is crop-specific

[1] Central Bank of Sri Lanka. 2018. Annual Report. Available at: https://www.cbsl.gov.lk/sites/default/files/cbslweb_documents/publications/annual_report/2018/en/9_Chapter_05.pdf [Last accessed: 18 September 2019].

[2] International Trade Centre. Trade Map. Available at: https://www.trademap.org/ [Last accessed: 19 September 2019].

[3] Sri Lanka projects 0.5mn tonne rice surplus in 2019. Economynext. 18 September 2019. Available at: https://www.economynext.com/sri-lanka-projects-0-5mn-tonne-rice-surplus-in-2019-24900/ [Last accessed: 20 September 2019].

[4] European Commission. 2016. Final Report of an Audit Carried Out in Sri Lanka from 14 September 2016 To 22 September 2016 in order to Evaluate Controls of Pesticides in Food of Plant Origin Intended for Export to The European Union. Available at: http://ec.europa.eu/food/audits-analysis/act_getPDF.cfm?PDF_ID=12781 [Last accessed: 19 September 2019].

[5] Department of Agriculture. Undated. List of Banned Pesticides in Sri Lanka. Available at: https://www.doa.gov.lk/SCPPC/ROP/Banned_List_1.pdf [Last accessed 19 September 2019].

[6] Ministry of Primary Industries and Ministry of Agriculture. 2016. Pest Management Plan – Agriculture Sector Modernization project. Available at: http://www.agrimin.gov.lk/web/images/Pest_Management_Plan.pdf [Last accessed: 20 September 2019].

[7] Ibid.

[8] European Commission. 2016.

[9] For the Control of Pesticides Act No. 33 of 1980, please refer: https://www.doa.gov.lk/images/act/pesticides/control_of_pesticides_act_no_33_of_1980.pdf [Last accessed: 19 September 2019].

[10] European Commission. 2016.

and is currently only implemented for 35 fruit items and 48 vegetables.[11] However, the scheme is expected to expand to include other crops such as rice.[12]

Currently, a majority of rice exports of Sri Lanka consist of organic traditional rice. Therefore, these farms follow the requirements for obtaining organic certification from the certifying bodies, rather than SL-GAP practices.[13]

4. Relevant regulations and organisations

The key legislation pertaining to pesticide control in Sri Lanka is the Control of Pesticides Act No. 33 of 1980 which is concerned with the licensing of pesticides.[14] The Act also makes provisions for the establishment of national MRL levels.[15] In addition, regulations passed under the Act specify the time limits between the use of pesticides, and the maximum pesticide residue limits for over 30 crops/food items and 60 active substances.[16] The Office of the Registrar of Pesticides of the DOA is the key institution responsible for the authorization, control and marketing of PPP in Sri Lanka. The RoP carries out these functions through registration and inspection of retailers, import control and formulation analysis. In addition, there are several government institutions involved in the authorisation and control of the use of pesticides in Sri Lanka (refer Annex I for details).

2. Private Sector Views on Maximum Residue Levels

Although the EU is a significant trade partner of Sri Lanka and accounts for 29% of total exports in 2018, Sri Lankan exports of rice and rice-based products to the EU are extremely low.[17] As noted previously, this is because rice is not a major export of the country. Many agricultural exporters listed as rice exporters according to secondary research sources were not exporting rice. Small volumes of rice are exported primarily to countries with expatriate communities.[18] Accordingly, the EU accounted for approximately 17% of Sri Lanka's exports of rice, rice flour and rice bran.[19]

1. Compliance with MRL requirements

None of the exporters interviewed for the study had experienced rejection of their shipments of rice or rice-based products due to EU MRL requirements. Similarly, the EU Rapid Alert System for Food and Feed (RASFF) system indicated 25 notifications relating to pesticides residues of agricultural food products originating from Sri Lanka, of which none relate to export of rice. Nine of the notifications related to centella (pennywort) and four to green and black tea. Other food items which exceeded

[11] Department of Agriculture. SL GAP App. Available at: https://play.google.com/store/apps/details?id=com.doasl.doagap.sl_gap&hl=en [Last accessed 25 September 2018].

[12] Key Person Interview. Department of Agriculture. 01 May 2018 and 1 – 19 September 2019.

[13] Key Person Interview. Department of Agriculture. 26 September 2019.

[14] For the Control of Pesticides Act No. 33 of 1980, please refer: https://www.doa.gov.lk/images/act/pesticides/control_of_pesticides_act_no_33_of_1980.pdf [Last accessed: 19 September 2019].

[15] Ministry of Primary Industries and Ministry of Agriculture. 2016. Pest Management Plan – Agriculture Sector Modernization project. Available at: http://www.agrimin.gov.lk/web/images/Pest_Management_Plan.pdf [Last accessed: 19 September 2019].

[16] Control of Pesticides Regulations (Time Limits) 01st of 2017. 14 June 2017. Available at: http://www.documents.gov.lk/files/egz/2017/6/2023-34_E.pdf [Last accessed: 19 September 2019].

[17] Central Bank of Sri Lanka. 2018.

[18] Sri Lanka projects 0.5mn tonne rice surplus in 2019. Economynext. 18 September 2019. Available at: https://www.economynext.com/sri-lanka-projects-0-5mn-tonne-rice-surplus-in-2019-24900/ [Last accessed: 20 September 2019].

[19] International Trade Centre. Trade Map. Available at: https://www.trademap.org/ [Last accessed: 19 September 2019].

the pesticide limits were long bean, green chilli, chilli pepper, spinach leaves, bitter lemon, ponnakani, alternathera sessilis (Mukunuwenna), papaya, passion fruit and pepper. The rice exporters do not have detailed mitigation plans for rejected consignments to speak about, but only stated that if there were any concerns raised by border authorities, they would have to carry out the necessary testing to rectify the issue in order to continue exporting to the EU.

Similarly, the Rice Research Institute noted that rice in Sri Lanka generally did not exhibit pesticides at detectable levels. Use of weedicides in rice cultivation is more prevalent than the use of pesticides and Integrated Pest Management (IPM) techniques are encouraged in rice cultivation as opposed to the use of pesticides. Above average levels of pesticide use only occur during special circumstances such as the recent outbreak of brown plant hopper or during presence of paddy bugs.[20]

2. Awareness and perceptions among rice exporters

Of the interviewed exporters of rice products, three were not aware of EU MRL requirements despite two of them exporting to the EU. Fumigation of consignments prior to export of rice and rice bran was one of the main controls highlighted by these companies. One of the exporters interviewed also highlighted the lack of mechanisms through which they are updated on changes to regulations on exporting agricultural products. They noted that they are often notified of such changes through their agents in the respective countries, or when consignments are flagged by border control authorities.

3. Shortcomings in local regulations

Sri Lanka has not defined country specific regulations on the accepted level of pesticides for all crops within the country. Hence, the government adopts the FAO's Codex specifications as the standard for agricultural practices in the absence of country-specific regulations. However, the FAO Codex specifications only serve as a guideline and are unenforceable.[21] It was also noted that for cases where Sri Lanka has defined specific MRLs, these tend to be slightly higher than MRLs defined by the EU.[22]

The inadequacy of local regulations and deficiencies in enforcement create a challenge for exporters as they have to monitor the pesticide use of farmers who provide agricultural produce to them. This problem is more acute in the case of trading companies that do not own their own factories or mills, as they do not directly interact with farmers.[23]

In view of maintaining the appropriate level of pesticides in rice, the exporters interviewed highlighted long-standing relationships with suppliers as key to maintaining the quality of their products. Long standing relationships with suppliers who consistently provided quality products is a key factor for exporters. These relationships ensure the exporter's ability to comply with importing country standards and regulations. For companies working directly with farmers, strict supervision and monitoring has been necessary in ensuring the required standards are met.[24]

The mismatch between local regulations

[20] Key Person Interview. Rice Research Institute. 1 – 19 September 2019.
[21] Key Person Interview. Department of Commerce. 1 May - 11 May 2018 and 1 September – 19 September 2019.
[22] Key Person Interview. Department of Agriculture. 26 September 2019.
[23] Key Person Interview. Western Agribusiness Pvt Ltd. 12 September 2019.
[24] Key Person Interview. Ceylon Biscuits Limited. 17 September 2019.

and MRL requirements of foreign countries has also proven challenging for exporters. For example, pesticides which are banned in some countries, hence having an MRL of zero, are used in agricultural activities in Sri Lanka resulting in an inability to meet such MRL requirements.[25] In certain cases of differing requirements of MRL, the DOA noted that they were able to negotiate with European authorities to accept slightly higher residue levels as there was a lack of feasibility in meeting the MRL requirements of the EU.[26]

4. Lack of adequate accredited testing facilities

Despite the existence of institutions such as the Industrial Technology Institute, Sri Lanka Tea Board, the Registrar of Pesticides, and other private testing laboratories which can test samples for MRLs, there are limitations. For instance, these institutions are accredited to carry out testing for only a specific type of chemical. There are 52 laboratories that have been accredited by the Sri Lanka Accreditation Board (SLAB) to carry out chemical testing. However, only two of the 52 listed laboratories are accredited to test for pesticide residue in agricultural produce. Out of the two laboratories, one has been temporarily suspended because it is currently being relocated.[27]

Although testing agencies have the capacity to carry out certain tests, they are not offered due to the high cost of chemicals required for these processes. There is a low demand for certain tests by local producers. As a result agencies find it commercially unviable to conduct testing due to the low demand by local producers and the high cost of chemicals for the testing process.[28] Further, institutions that carry out testing for pesticides do not cover the entire list of pesticides that are covered in the EU MRL regulations. Testing services are generally limited to the pesticides which are legally imported and used in Sri Lanka.[29]

Exporters stated that Sri Lankan laboratories are equipped to test chemicals only at two-digit level of accuracy but not at the three-digit level which is required by the EU. This particularly affects exporters of organic food as they require regular testing to ensure that products have zero residue levels. There are currently no laboratories in Sri Lanka which are accredited to provide such facilities.[30]

Nevertheless, testing or certifications are primarily carried out by rice exporters based on the requirement of the importer, rather than the EU MRL requirements. The rice exporters interviewed did not see EU import regulations for agricultural products as a significant barrier for exporting since they had not faced any rejection of their consignments.

One of the exporters expressed greater concern in testing exports to the EU for other chemicals such as the level of aflatoxin, rather than for residual pesticide levels. Aflatoxin has been flagged by the EU as a carcinogenic and the exporter has faced a number of notifications regarding the presence of aflatoxin in their consignments of rice.[31] Heightened concerns regarding the presence of

[25] Key Person Interview. Registrar of Pesticides. 1 May - 11 May 2018 and 1 September – 19 September 2019.
[26] Key Person Interview. Department of Agriculture. 26 September 2019.
[27] Sri Lanka Accreditation Board. Accredited Laboratories. Available at: http://www.slab.lk/AccOrgChemicalTesting.aspx [Last accessed: 19 September 2019].
[28] Key Person Interview. Export Development Board. 1 May - 11 May 2018 and 1 September – 19 September 2019.
[29] Key Person Interview. Industrial Technology Institute. 25 September 2019.
[30] Key Person Interview. Export Development Board. 1 May - 11 May 2018 and 1 September – 19 September 2019.
[31] Key Person Interview. Rabeena Food Pvt Ltd. 1 May - 11 May 2018 and 12 September 2019.

aflatoxin was also highlighted during interviews with the Department of Commerce.

5. High costs of testing and certification leading to high costs of production

Since there are no adequate testing facilities exporters send samples to other countries for the required testing. Hence, a key challenge raised by exporters in meeting the EU MRL requirements is the high cost of tests. A key reason for the high cost is the need to send samples abroad since the required testing facilities are not available in Sri Lanka. An exporter interviewed noted that tests could cost up to LKR. 12,000 per sample.[32] This adds to the cost of production for exporters. Given the thin margins of the business, and small volumes exported, the burden faced by incurring such costs are high. However, incurring such high costs was considered necessary by exporters to address any issues faced in exporting products.[33] Although the National Plant Quarantine Service (NPQS) has certified certain farms that comply with the required standards, the farmgate price of products from these farms are very high. This makes local producers less competitive than producers from other countries.[34]

3. Public Sector Views on Maximum Residue Levels

1. High Testing Fees

The Department of Commerce (DOC) reflected the views of the private sector that the fees for laboratory testing of MRLs locally are relatively high. Local laboratories do not have the capability to test for certain chemicals and these tests are outsourced to overseas laboratories, resulting in the high charges.[35]

The EU MRL pesticide list covers approximately 600 pesticides and MRL testing for these pesticides requires LC – MS/MS technology. However, according to SGS Lanka (Pvt) Ltd., Sri Lanka does not have the necessary equipment for this testing, and samples must be sent to Vietnam and Germany, even for preliminary tests such as screening produce for the presence of pesticides. The cost per sample tested depends on the nature of the pesticide being tested, type of test (screening for the pesticide/testing the actual level of pesticide), and courier costs involved in sending samples to laboratories abroad.[36] Most exporters find it difficult to bear the cost of testing prior to exporting. Hence, pesticide testing is often not conducted prior to exporting.[37] As a result, relevant authorities are unable to impose MRL testing as a mandatory requirement for exporting.

2. Responsiveness to RASFF alerts

Exports exceeding the stipulated EU MRL levels are notified through the Rapid Alert System for Food and Feed (RASFF) system of the EU. In Sri Lanka, RASFF notifications are sent to the DOC and other relevant authorities such as the NPQS, Ministry of Fisheries, Coconut Development Board or other relevant institutions. The agencies are required to submit a formal response to the EU on the measures taken to rectify the issues raised in each

[32] Key Person Interview. Damayanthi Exports Pvt Ltd. 14 May 2018 and 17 September 2019.
[33] Key Person Interview. Transfood Lanka Pvt Ltd. 18 September 2019.
[34] Key Person Interview. Dero Export International Pvt Ltd. 8 May 2018.
[35] Key Person Interview. Department of Commerce. 1 May - 11 May 2018 and 1 September – 19 September 2019.
[36] Key Person Interview. SGS Lanka (Pvt) Ltd. 1 May – 11 May 2018.
[37] Key Person Interview. Department of Agriculture. 01 May 2018 and 1 – 19 September 2019.

notification. The DOC liaises with the relevant agency to extract these responses and communicates it via the DOC's trade officer in Brussels. In this regard, the DOC noted that agencies have failed to regularly provide responses on EU notifications in the past. However, following training conducted by the DOC there has been a significant improvement in the responsiveness and consistency of agencies in responding to such notifications.[38]

3. Naturally occurring chemical compounds and high pesticide levels in soil

According to the Sri Lanka Export Development Board (EDB), certain naturally occurring chemical compounds in Sri Lanka are considered to be pesticides by the EU. This increases the difficulty for exporters attempting to meet EU MRL regulations, especially for certain tea and vegetable products. To this end, the EDB stated that they are working with the European Commission to resolve this issue.[39]

Further, due to years of pesticide use, soil in Sri Lanka can have higher levels of residue, even when pesticide use is controlled. This is an additional factor that increases the difficulty in meeting MRL levels stipulated by the EU.[40]

Further discussion with the Export Development Board (EDB) and Ministry of Development Strategies and International Trade (MODSIT) revealed the following points.

There are currently ongoing discussions between the EDB, MODSIT and the EU – Sri Lanka Joint Commission on a number of trade issues, of which MRL is one. These bilateral meetings are conducted annually. The government agencies raise concerns which have been brought to them by various stakeholders such as the NPQS, Coconut Development Authority, and Sri Lanka Tea Board etc. Thus far, they have not been any concerns brought to them regarding MRL levels in rice. EU MRL concerns discussed recently relates mainly to the MRL levels specified for tea. The MRL for tea has been highlighted by stakeholders as being too low.

There are a number of actions expected to be taken by authorities given as per the response to the European Commission audit (Link: http://ec.europa.eu/food/audits-analysis/audit_reports/details.cfm?rep_id=3720). The timelines for these indicate that they should be completed as of now, but the scope of this assignment does not allow for follow up on the current status of each of these actions.

4. Lack of knowledge of farmers

The RoP highlighted that one of the main challenges in meeting MRL levels is the lack of sufficient farmer education regarding the proper application of pesticides, specifically with regard to calibration of spraying equipment. This had impeded the ability of exporters to ensure stringent compliance with EU requirements.[41]

Much of the pesticides used in Sri Lanka are synthetic pesticides. Farmers have often disregarded the recommendations on usage levels of such pesticides and utilise pesticides based on their experience. Although in certain instances, farmers are aware of the harm caused by pesticide use, it is a popular method of pest control due to the financial viability.[42]

[38] Key Person Interview. Department of Commerce. 1 May - 11 May 2018 and 1 September – 19 September 2019.
[39] Key Person Interview. Sri Lanka Export Development Board. 1 May – 11 May 2018 and 1 September – 19 September 2019.
[40] Ibid.
[41] Key Person Interview. The Office of the Registrar of Pesticides. 1 May - 11 May 2018 and 1 September – 19 September 2019.
[42] Ministry of Primary Industries and Ministry of Agriculture. 2016.

The Sri Lanka Good Agricultural Practices (SL-GAP) certification was introduced to fill this knowledge gap. The programme registers all farmers/growers whose produce is destined to the EU to guarantee that the pesticide requirements are being met.[43] However, this program has faced challenges with regard to farmers rejecting these measures in view of their high cost.[44]

4. Recommendations

1. Improving the level of testing facilities available in Sri Lanka

The cost associated with testing facilities in Sri Lanka is high. Exporters emphasized the need for modern testing facilities and laboratories, including technological upgrades of testing methodologies. The need for accreditation of these improved facilities was also stressed. Many exporters opined that having accredited and enhanced testing facilities will lead to lower costs of testing samples for EU MRL requirements.

The Industrial Technology Institute (ITI), a state-run testing facility, is hoping to expand the range of testing services provided during the course of the year. With regards to testing pesticide levels in rice, they have the capability to carry out testing, however, have not yet obtained accreditation status for it. They are hoping to get accredited for testing pesticides levels in rice in the future (time period not yet specified).

2. Increasing the range of approved pesticides in Sri Lanka

The available range of approved pesticides in Sri Lanka is currently limited. This limitation restricts the choice for exporters to meet the increasingly stringent pesticide requirements set by the EU. In order to facilitate compliance with the new EU regulations, Sri Lanka should increase the number of approved pesticides, at least for some economically important export crops.

[43] Key Person Interview. The Office of the Registrar of Pesticides. 1 May - 11 May 2018 and 1 September – 19 September 2019.

[44] Key Person Interview. Rabeena Food Pvt Ltd. 1 May - 11 May 2018 and 12 September 2019.

ANNEXURE 1

Table 1: Institutions involved in the control and regulation of MRLs for exports

Type of control	Institution
Controlling the use of PPPs and their residues in fresh fruit and vegetables	Department of Agriculture
Controlling the use of PPPs and their residues in spices	Department of Export Agriculture
Controlling the use of PPPs and their residues in tea	Sri Lanka Tea Board Tea Research Institute Tea Small Holding Development Authority
Controlling the use of PPPs and their residues in coconut	Coconut Development Authority
Phytosanitary pre-export controls of plant products	National Plant Quarantine Service (NPQS)
Sri Lanka Good Agricultural Practices (GAP) and Good Manufacturing Practices (GMP) standards for growers and processors of food	Sri Lanka Standards Institution
EU contact point for the Rapid Alert System for Food and Feed (RASFF)	Ministry of Industry and Commerce

Source: European Commission. 2016.

ANNEXURE 2

Table 2: List of stakeholders contacted

Stakeholder institution	Contact details
Office of the Registrar of Pesticides	1056, Getambe, P.O.Box 49, Peradeniya 20400 +94 81 2388135, +94 81 2388076 pest@slt.lk
Department of Agriculture	No. 288, Sri Jayawardenepura Mawatha,Rajagiriya +94 11 2869553, +94 11 2872093 dgagriculture@sltnet.lk
Industrial Technology Institute	363, Bauddhaloka Mawatha, Colombo 7 +94 11 2379800 info@iti.lk
Sri Lanka Export Development Board	No. 42 Nawam Mawatha, Colombo 02 +94 11 2300705 edb@edb.gov.lk
National Plant Quarantine Service	National Plant Quarantine Service, Canada Friendship Road, Katunayake +94 11 2252028/29 npqs@doa.gov.lk
Ministry of Industry and Commerce	No. 73/1, Galle Road, Colombo 03 +94 11 2392149 sas_admin@industry.gov.lk
SGS Lanka (Pvt) Ltd	3rd Floor, AEC Building, 140, Vauxhall Street, Colombo 2 +94 11 5376280

Rabeena Foods Pvt Ltd	No. 90, Reclamation Road, Colombo 11 +94 11 2336602, +94 11 2336603 info@rabeena.com
Transfood Lanka Pvt Ltd	No. 58/E, Majeediya Estate, Gothatuwa +94 112534309, +94 112547492 tflankasp@gmail.com
Damayanthi Exports	No. 211A, Alwis Town Road, Hendala, Wattala +94 11 2932835 damexport@sltnet.lk
Western Agribusiness Pvt Ltd	No. 393/7, Negombo Road, Peliyagoda +94 76 691 5931
Ceylon Biscuits Limited	P.O. Box 03, Makumbura Pannipitiya +94 11 5000000, +94 11 2749749 inquiry.cbl@cbllk.com
Dero Export International Pvt Ltd	No. 52/4 Francis Road, Colombo 06 +94 11 2960700, +94 777755994 premkumar@deroexports.com
AMK Food Export Pvt Limited	No. 62, Katuwana Industrial Zone, Homagama +94 11 2855634, +94 11 2892215 info@amkfoods.com

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BUSINESS & TRADE CONNECTION INITIATIVE
The Business & Trade Connection Initiative aims to link private sector in South and Southeast Asia to the multilateral trading system. Web: http://www.cuts-geneva.org/WTOForum(SSEA).html#view3

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