

## RE: Draft: FAS response to bans on chlorpyrifos and paraquat

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**From** "Prado, Marta M. EOP/USTR" <marta\_m\_prado@ustr.eop.gov>

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**To:** "Anderson, Lisa M. EOP/USTR" <lisa.m.anderson@ustr.eop.gov>

**Cc:** "Nicholson, Erin H. EOP/USTR" <erin.h.nicholson@ustr.eop.gov>, "Branch, Colby H. EOP/USTR" <colby.h.branch@ustr.eop.gov>

**Date:** Tue, 19 May 2020 13:32:08 -0400

On a letter, from my perspective, given that it is May 19 already, I would suggest holding off until after June 1 and we get a sense of the extent of the impact and whether there is any opposition from the Thai public/industry. I don't think **EXEMPTION 5**

[REDACTED]

[REDACTED]

[REDACTED]

Ms. Marta M. Prado

Deputy Assistant U.S. Trade Representative for Southeast Asia and the Pacific

Office of the United States Trade Representative

Executive Office of the President

Tel: 202 395-6216

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**From:** Anderson, Lisa M. EOP/USTR <Lisa.M.Anderson@ustr.eop.gov>

**Sent:** Tuesday, May 19, 2020 12:27 PM

**To:** Prado, Marta M. EOP/USTR <Marta\_M\_Prado@ustr.eop.gov>

**Cc:** Nicholson, Erin H. EOP/USTR <Erin.H.Nicholson@ustr.eop.gov>; Branch, Colby H. EOP/USTR <Colby.H.Branch@ustr.eop.gov>

**Subject:** RE: Draft: FAS response to bans on chlorpyrifos and paraquat

Hi All,

Took USDA off for right now...but I just got off a call with Julia D., who said the virtual WTO SPS meeting will have very little bandwidth for bilats with other countries. She suggested addressing this directly with Thailand capital-to-capital and supporting writing a letter **EXEMPTION 5** but one that is not heavy handed, but points out the body of evidence in support of these chemicals and thailand's obligation to base its policies on sound science.

EXEMPTION 5  
[Redacted]

She suggested an internal USG call with EPA and FDA. I can set that up (w/ USDA), but would appreciate your feedback EXEMPTION 5  
[Redacted] Of course, the USG official position will be captured in our response when Thailand notifies to the WTO of its zero tolerance MRLs for paraquat and chlorpyrifos – but we may want to reconsider a stronger official response.

*Lisa*

Cell: EXEMPTION 6

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**From:** Anderson, Lisa M. EOP/USTR  
**Sent:** Monday, May 18, 2020 12:03 PM  
**To:** Prado, Marta M. EOP/USTR <Marta\_M\_Prado@ustr.eop.gov>; Fagiarone, Jacob - FAS, Washington, DC EXEMPTION 6 usda.gov>  
**Cc:** Nicholson, Erin H. EOP/USTR <Erin.H.Nicholson@ustr.eop.gov>; Branch, Colby H. EOP/USTR <Colby.H.Branch@ustr.eop.gov>  
**Subject:** RE: Draft: FAS response to bans on chlorpyrifos and paraquat

Hi Marta,

I believe Julia said that there will be no bilat on STCs for this virtual WTO SPS committee meeting, but I will double check with her on this. I also think we might consider an internal call/meeting to talk about industry's proposed idea. I'm not sure how this would work and with the devil being in the details here, we may want to get a handle on it ourselves.

*Lisa*

Cell: EXEMPTION 6

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**From:** Prado, Marta M. EOP/USTR <Marta\_M\_Prado@ustr.eop.gov>  
**Sent:** Friday, May 15, 2020 3:02 PM  
**To:** Anderson, Lisa M. EOP/USTR <Lisa.M.Anderson@ustr.eop.gov>; Fagliarone, Jacob - FAS, Washington, DC EXEMPTION 6 usda.gov>  
**Cc:** Nicholson, Erin H. EOP/USTR <Erin.H.Nicholson@ustr.eop.gov>; Branch, Colby H. EOP/USTR <Colby.H.Branch@ustr.eop.gov>  
**Subject:** RE: Draft: FAS response to bans on chlorpyrifos and paraquat

For the SPS Committee, have we requested a bilat with Thailand?

Ms. Marta M. Prado  
Deputy Assistant U.S. Trade Representative for Southeast Asia and the Pacific  
Office of the United States Trade Representative  
Executive Office of the President  
Tel: 202 395-6216

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**From:** Anderson, Lisa M. EOP/USTR <Lisa.M.Anderson@ustr.eop.gov>  
**Sent:** Friday, May 15, 2020 1:36 PM  
**To:** Fagliarone, Jacob - FAS, Washington, DC EXEMPTION 6 usda.gov>  
**Cc:** Prado, Marta M. EOP/USTR <Marta\_M\_Prado@ustr.eop.gov>; Nicholson, Erin H. EOP/USTR <Erin.H.Nicholson@ustr.eop.gov>; Branch, Colby H. EOP/USTR <Colby.H.Branch@ustr.eop.gov>  
**Subject:** RE: Draft: FAS response to bans on chlorpyrifos and paraquat

All,

If you reply to this e-mail chain, please do so to this message, which has the correct e-mail for Jake Fagliarone at FAS.

*Lisa*

Lisa Anderson | Director, Agricultural Affairs | Office of Agricultural Affairs |  
Office of the U.S. Trade Representative

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**From:** Anderson, Lisa M. EOP/USTR  
**Sent:** Friday, May 15, 2020 1:09 PM  
**To:** Jake Fagiarone EXEMPTION 6  
**Cc:** Prado, Marta M. EOP/USTR <Marta\_M\_Prado@ustr.eop.gov>; Nicholson, Erin H. EOP/USTR <Erin.H.Nicholson@ustr.eop.gov>; Branch, Colby H. EOP/USTR <Colby.H.Branch@ustr.eop.gov>  
**Subject:** FW: Draft: FAS response to bans on chlorpyrifos and paraquat

Thanks, Jake.

Adding others on the Thailand file here at USTR.

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**From:** Fagiarone, Jacob - FAS, Washington, DC EXEMPTION 6 usda.gov>  
**Sent:** Friday, May 15, 2020 12:51 PM  
**To:** Anderson, Lisa M. EOP/USTR <Lisa.M.Anderson@ustr.eop.gov>  
**Cc:** Marston, Charles - FAS, Washington, DC EXEMPTION 6 usda.gov>  
**Subject:** FW: Draft: FAS response to bans on chlorpyrifos and paraquat

Hi Lisa,

Here's additional info that came in from Post overnight. It's a lot to digest, and still presents a lot of confusion on implementation dates, grace periods, etc. At least it does look like TFDA is planning to notify the SPS Committee, so that's an improvement from last time...

Let me know if you have any questions after you have a chance to digest this.

Thanks,  
Jake

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**From:** Nicely, Russell J (Bangkok) EXEMPTION 6 state.gov>  
**Sent:** Friday, May 15, 2020 2:26 AM  
**To:** Fagiarone, Jacob - FAS, Washington, DC EXEMPTION 6 usda.gov>; Marston, Charles - FAS, Washington, DC EXEMPTION 6 usda.gov>

Cc: Mullis, Eric [REDACTED]@state.gov>

Subject: RE: Draft: FAS response to bans on chlorpyrifos and paraquat

Jake and Charles,

[REDACTED]  
[REDACTED]  
[REDACTED]

The Food Subcommittee of the Thai FDA met Wednesday, May 13, 2020, to discuss setting MRLs for paraquat and chlorpyrifos on food imports. Despite industry efforts to convince the subcommittee members to adopt CODEX MRLs, the Food Subcommittee agreed to apply zero tolerances for these substances as dictated by the Thai regulations for category 4 chemicals. The Thai FDA will publish a notification in the Royal Gazette that will prohibit the use of raw materials that contain residues of paraquat and chlorpyrifos in food manufacturing after June 1, 2020. It also states that all food products being exported from the country of origin after June 1, 2020, must not contain residues of paraquat and chlorpyrifos. The effective date of this notification will be one day after the publication date in the Royal Gazette, which means that the most important date is the publication date and not June 1, 2020. In addition, the draft notification does allow a 30 day grace period from the date of publication.

There is some uncertainty around the date of publication. The draft notification will be sent to the WTO, but it is uncertain if Thailand will honor the 60 day comment period before publishing the notification in the Royal Gazette. There is some discussion [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED] If [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

If [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

As for our next steps, EXEMPTION 5 [REDACTED]

[REDACTED] This is trade disrupting, no doubt about that. We reached out to our contacts in the soybean crushing industry and the wheat industry and know that some of them have future contacts out until the end of 2021 and shipments scheduled to depart points of origin after June 1<sup>st</sup>. In general these bulk shipments usually take 45 or less days to arrive here from the U.S. ports. The Thais in their rush are cutting off these imports from the U.S. and anywhere else that will not be able to provide the desired zero MRL certifications.

EXEMPTION 5 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

I think we may need to let the Thai industry forces advance the issue, and be ready to assist EXEMPTION 5 [REDACTED]

[REDACTED] I see our role as limited with these two chemicals. We may be able to provide a letter from the Under Secretary AFTER the bans are imposed and trade has been affected. There will be more pressure at that time to work out a fix for the situation, and there may be a possibility for exclusions/exemptions to be offered.

As for our Ambassador engaging, at this point I see little to be gained by him raising it given how politicized the issue has become. He has done so as of this Wednesday with the Minister of Commerce/Deputy Prime Minister, so he is on the record. He is prepared if asked on the issue. There could be a role for him along with the U/S as the bans are rolled out and begin to reap their negative consequences.

Let us know if you have any further questions. I think today's call with the U.S. industry had some great ideas about the non-detectable certs. That seems like a possible solution.

Russ Nicely

SBU - DELIBERATIVE PROCESS

**From:** Fagliarone, Jacob - FAS, Washington, DC [REDACTED] [sda.gov](mailto:[REDACTED]@usda.gov)>  
**Sent:** Friday, May 15, 2020 8:48 AM  
**To:** Mullis, Eric - FAS, Bangkok, Thailand [REDACTED] [fas.usda.gov](mailto:[REDACTED]@fas.usda.gov)>; Nicely, Russ - FAS, BANGKOK, THAILAND [REDACTED] [as.usda.gov](mailto:[REDACTED]@fas.usda.gov)>; Marston, Charles - FAS, Washington, DC [REDACTED] [usda.gov](mailto:[REDACTED]@usda.gov)>  
**Subject:** RE: Draft: FAS response to bans on chlorpyrifos and paraquat

All,

After tonight's call, it looks like we'll be changing direction... We'll have to discuss and regroup. How are we feeling on the Ambassador level engagement? I don't know if that properly avoids the high level, politicized spotlight that we're being cautious to avoid. Industry seems to think it may be a more subtle approach, though.

Best,  
Jake

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**From:** Fagliarone, Jacob - FAS, Washington, DC  
**Sent:** Thursday, May 14, 2020 5:06 PM  
**To:** Mullis, Eric - FAS, Bangkok, Thailand [REDACTED] [fas.usda.gov](mailto:[REDACTED]@fas.usda.gov)>; Nicely, Russ - FAS, BANGKOK, THAILAND [REDACTED] [@fas.usda.gov](mailto:[REDACTED]@fas.usda.gov)>; Marston, Charles - FAS, Washington, DC [REDACTED] [usda.gov](mailto:[REDACTED]@usda.gov)>  
**Subject:** Draft: FAS response to bans on chlorpyrifos and paraquat

All,

I have attached a draft for your review of a potential letter for the Under Secretary to sign and send ahead of the upcoming June 1 implementation date. Have you had a chance to connect with the DCM and deliberate on best recipient/best signee?

[REDACTED]  
[REDACTED] My thinking here is that [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] I think [REDACTED]

**EXEMPTION 5**

Russ and Eric – USTR and PD did raise one question that may be helpful. Do we have a sense of the portion of soybean exports that are destined for food vs. feed markets? That may be helpful information, if Thailand begins to signal that feed imports will not be impacted under these regulations.

Another note – I attached a document I received from Croplife Asia that breaks down potential domestic economic impacts that may arise from bans on paraquat and glyphosate.

I'd like to get this draft to USTR by COB Friday if possible, because we will still have to clear through EPA and then executive correspondence. Looking forward to your feedback.

Thank you,

**Jake Fagliarone**

International Economist  
Plant Division | Trade Policy and Geographic Affairs

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Washington, D.C.

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