

ECPA Anti-counterfeit Project



International Activities against Counterfeiting Of Pesticides

A Challenge for Industry, Regulators,
Enforcement Agencies and Politicians

CEUREG Forum XIII
Poznan Poland

Rocky Rowe
European Crop Protection Association

16th October 2009

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- Background
- Counterfeits and Illegal products
- Risks and Issues
- Scale and Value
- Global Impact
- Who are the criminals ?
- Industry Initiatives
- Linking Legislation
- Illegal parallel imports and repackaging
- Future - Industry, Regulatory and Enforcements Cooperation

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Background

- Growth in counterfeit and illegal pesticides over the last decade.
- Anti-counterfeit project within ECPA, 2006
- High profile campaign for over past three and a half years
- Raising awareness and stimulating interest.
- Linked to a wider global project through CropLife International.

Counterfeit and Illegal PPPs

- Sophisticated counterfeits – IPR infringements
- Illegal PPPs - unregistered , maybe no IPR infringement
- Illegal Parallel Trade – substituted unregistered product

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Highly Sophisticated Counterfeits



Intelectual property IP infringements – Trademarks and patents

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**Less sophisticated counterfeits
and Illegal PPPs**

IP not always infringed



Counterfeit & illegal Pesticides: Italy


- Found in Italy in 2006
- a Herbicide: harmful !!
 - illegally imported bulk
 - illegally refilled
 - illegally distributed & sold
 - illegally used by farmers
- re-packed into a 5 ltr vegetable oil container
- high probability of intoxication due to no label, no safety info



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Illegal Parallel Trade

Illegal tebuconazole imported as BCS TeBu



Agrimex	in Germany from	Agrotrade
	<ul style="list-style-type: none">Product being sold as "parallel import"Importer on the label is Agrimex UK Ltd and trader into Germany is Agrotrade BV, NetherlandsAnalysis of the recipe showed that the recipe is not the BCS product, but still infringes our formulation patent and therefore is illegalInjunction on German Agrochemicals Law obtained (product not registered!)Court case on formulation patent won in the first instance against AgrotradeCourt case against Agrimex scheduled	



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Scale and Value

- Best estimates – 5% to 7% of European market (2006)
- National hot spots – up to 20%
- Continues to grow, countries reassessing levels upwards
- Counterfeits growing – high value market
- Illegals growing – low value
- Illegal parallel trade growing – substitution

Contraction of products and economic pressures place farmers in difficult positions and provide a fertile illegal market place.

Risks Inherent in Counterfeit and Illegal Pesticides

- Low quality active substances
- Toxic manufacturing impurities at significant levels – no quality control or worries about specifications
- Manufacturing by-products, carcinogenic solvents (Counterfeit manufacturers don't abide by H&S rules)
- Illegal or banned formulation ingredients, solvents, surfactants etc.
- Poor quality packaging - reduced shelf life, leaking containers
- Incorrect labelling

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Risks and Issues

- Risks to farmers and applicators health
 - Crop damage or destruction
 - Consumer health from contaminated food
 - Environmental contamination (wildlife, water, soil carry over)
 - Disposal and clean up
-
- ❖ Sustainable agriculture
 - ❖ Food security
 - ❖ Human health and environmental protection

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Crop damage or crop destruction

Wrong a.s. or phytotoxic formulants



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Consumer health at risk

Contaminated food

Unknown residues



Isofenphos found in peppers from Spain

Pág. 10 **EL MUNDO** DE ALMERÍA 31/01/2007

ALMERÍA

ECONOMÍA

«Casi todo el mundo ha usado el pesticida ilegal porque las cooperativas lo aconsejaban»

Un agricultor almeriense asegura que «las empresas comercializadoras realizaban los controles de calidad y, como desde ellas mismas se vendía el 'isofenfos-metilo', nunca se dijo que estuviese prohibido»

Visto de lejos, el sector ha denunciado a más de una, «vendo productos roznos» para combatir las plagas de los cultivos de plástico, sus productos son producidos desde dentro de las propias empresas, así al día siguiente, sus facturas y documentos que justifican la compra.

El producto, según este agricultor, se vendía en kg por cada m² de la que cubría a través de otras organizaciones, a unos 300 euros el kilo, por lo que a cambio, «queríamos que el producto tuviera un aspecto más bonito» que el que tenía cuando se lo había comprado. En todo, recuerda, desde todos los años, cuando me quedaba en la zona por asuntos en los que se había interesado.

«En las comercializadoras se han enterado con la vista porque costaba 300 euros el kilo»

En el momento de la compra, me acuerdo que el precio, por trescientos kilos, era de 300 euros, y se vendía por más de tres.

Según asegura, todo empezó en el año 2000, cuando se le pidió que se vendiera contra las plagas desde el momento que no había sido usado en España pero sí en el resto de Europa. Desde entonces, se

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Disposal of Illegal products



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Potentially Toxic Waste

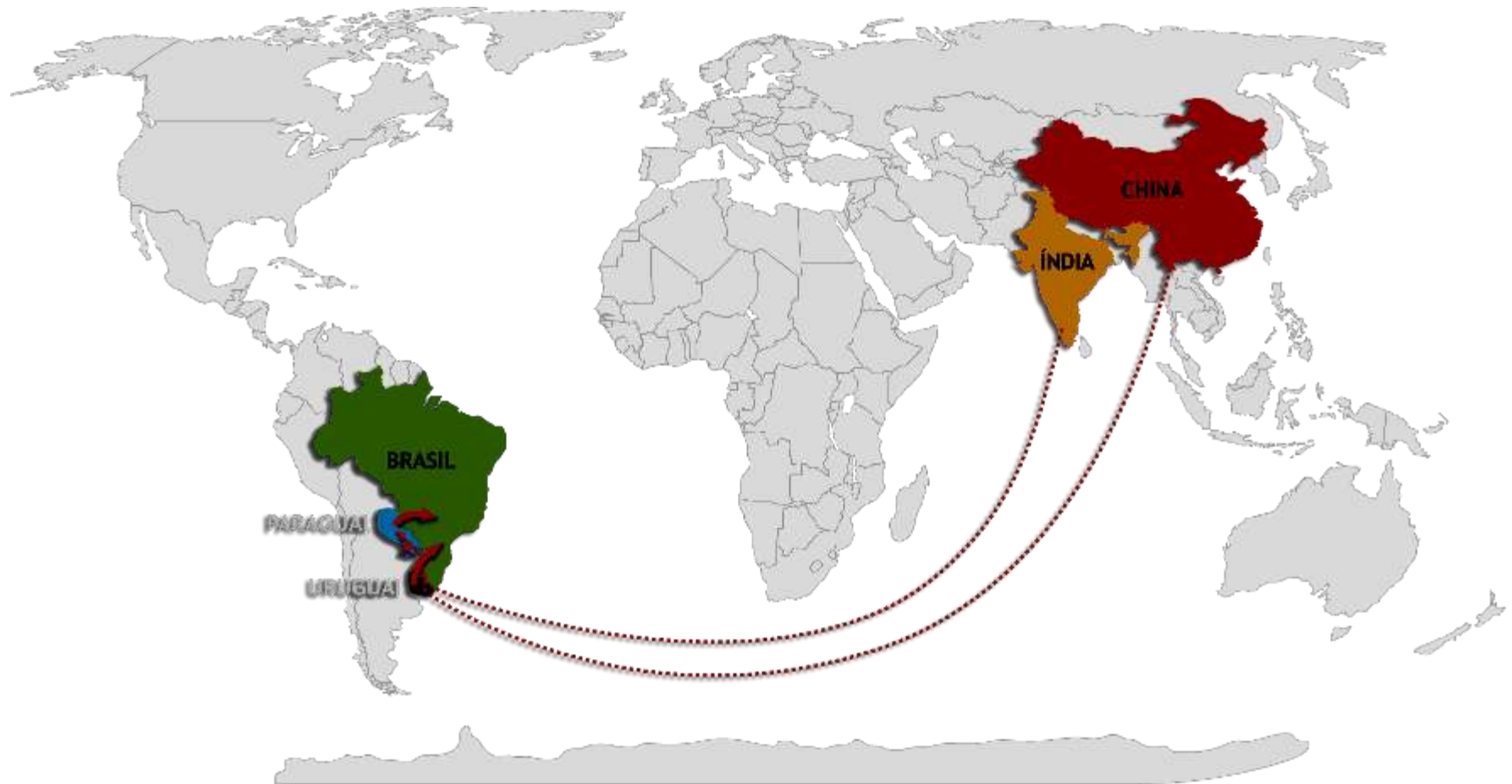


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Global Impact

- Counterfeit PPPs not limited to Europe
- Asia, Africa, South America are all hot spots for counterfeit PPPs.
- Industry has a major initiative in Brazil – SINDAG
- CropLife International initiating activities in Asia and Africa

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Who are the criminals ?

10 years ago

- Entrepreneurial traders
- One off purchases – local distribution

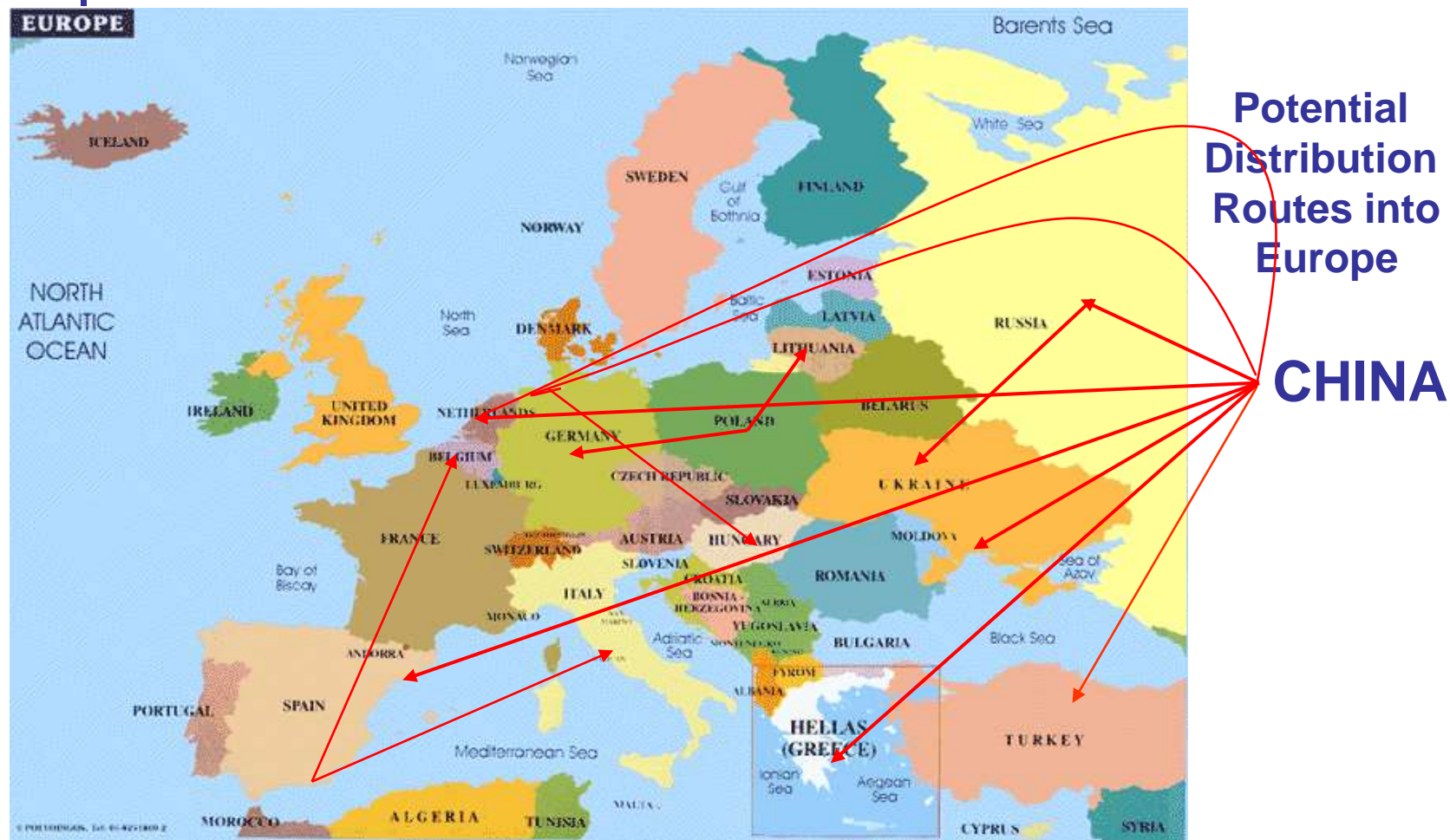
Now

- Organised criminal operations
- International networks
- Global distribution supply chains
- Internet offers

Motivated by profit – no consideration at all for the consequences to health, enviro, food and agriculture.

Illegal and Counterfeit Pesticides

Where do they come from?



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Industry Initiatives

- Media and Communication – high profile
- Awareness raising – exhibitions, conferences
- National Projects – hotlines
- “Know your customer” - KYC
- Enforcement conferences
- Customs collaboration
- Political engagement – Commission, Parliament

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Financial Times article on Fake pesticides



Experts say 5-7 per cent of the pesticide used in Europe is illicit, putting consumers' health and farmers' livelihoods at risk

Alamy

Alarm at flood of bogus pesticides

CASE STUDY

Andrew Bounds

the president of the local co-operative on suspicion of selling the cheaper unli-

€500m (\$779m, £398m) of a €10bn market. Almost 90 per cent of the fakes come from

Chemical of the US and Bayer of Germany, that would fetch about €2m on

Ukraine lacks the capacity to destroy the pesticide and that it could find their way

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ECPA Exhibition at the BCPC Conference



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Company lawyers took
Legal action against an
Exhibitor for infringing
Patents & Trademarks



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Italy

Tenemos productos campeones...
... sin usar fitosanitarios **ILEGALES**



No bajemos la guardia

AYUDAMOS A ACABAR CON EL TRÁFICO DE FITOSANITARIOS ILEGALES Denuncie a los que todavía los venden o los utilizan. El futuro y la imagen del sector está en juego.

www.aepla.es

aepla

Spain

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Know your customer campaign in China



Know Your Customer

Issue: Foreign counterfeiters and foreign illegal companies are sourcing pesticides and AIs from China that are used illegally in the destination country. Exporters risk being responsible for the criminal acts of these foreign companies if the exporters 'knew or should have known' that they were shipping to criminals. What can exporters and manufacturing companies do to avoid being responsible for shipping to foreigners who use AI and pesticides illegally? What can exporters do to maintain the high reputation of the China pesticide export industry and China's business reputation?

Answer:
Exporters Please 'Know Your Customer'
Make sure your customers are reliable honest companies with a good reputation of using AIs and pesticides legally.
Is your customer registered in the country of destination?
Does your customer exist and have they provided you proof they exist?
Does your customer have a good reputation in the industry?

Danger for your company and reputational issues for the China export industry if there are problems because you DO NOT know your customer'

EXAMPLES
In 2007, 560 tons of pesticides were shipped to Ukraine because the China exporters did not know their customer. If they had done research on their Ukraine customer they would have discovered that their customers were engaged in criminal activities in Ukraine AND were counterfeiting pesticides.



▲ UKRAINE STOCKPILES

The Ukraine government has stored these chemicals for over two years and do not have the budget to destroy them that may exceed USD 1.5 million.

Who is responsible to pay for destruction?
The customer who counterfeited?
The exporters who shipped?

In late 2008 Paraguay police and customs seized five shipments of AIs and pesticides in which the exporters in China did not know their customers, and the shipments were destined to illegal companies and counterfeiters, including criminals smuggling into Brazil.



▲ PARAGUAY IN BUSINESS

Who is responsible?
The customer who counterfeited?
The exporters who shipped?



▲ ITALY - CROPS DESTROYED BY COUNTERFEITS

COOPERATION AND SUPPORT WITH ICAMA

CropLife International supports the positive steps of ICAMA in their mission to stop illegal activities in the trade of exported agricultural chemicals. CropLife International support ICAMA's efforts in international cooperation, so as to protect the reputation of the China AI and pesticide exporting industry, and we are all working together to meet this goal.

IMPORTING CUSTOMS

Importing customs in the destination countries will be paying closer attention to import shipping documents accompanying AI and pesticides imports. Is the factory and exporter registered with ICAMA and is this mentioned on the import documents?

PROTECT THE CHINA EXPORT INDUSTRY - KNOW YOUR CUSTOMER

For more information on the 'know your customer' program and what your exporting company can do to avoid dealing with counterfeiters please contact
+86 10-66211836-227
or knowyourcustomer@croplife.org

WE CAN ALSO OFFER COMPANIES A SHORT E-TRAINING ON 'DUE DILIGENCE' AND KNOWING THEIR CUSTOMERS SO THAT THEY CAN DEMONSTRATE THEY'VE INTEGRATED THIS INTO THEIR 'KNOW YOUR CUSTOMER' PROGRAM.

Protect the reputation of the China AI and pesticide exporting industry. Do NOT ship to illegal companies and counterfeiters.

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2nd International Conference

Warsaw, 13 November 2008

Counterfeiting
and other problems
in plant protection
products marketing

Under the honorary patronage of

Mr. Marek Sawicki
Minister of Agriculture and Rural Development



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PORiN and ECPA Law enforcement conference – Poland 2008



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Customs Cooperation



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**Customs
Cooperation**



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The Common Factor

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Linking Legislation

- Manufacture
- Export Legislation & documentation
- Import requirements and documentation
- Registration
- Use
- Monitoring and controls

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Manufacture & Export Legislation

- Most counterfeit and illegal pesticides are manufactured and exported from the Far East
- In China to manufacture for export a licence is needed
- To export a pesticide from China; approval is needed from ICAMA
- Customs and regulatory agencies can check with ICAMA and a web site is available.

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Importation in Europe

- Simplified system – SAD
- Electronic process being introduced
- Bill of lading, MSDS, invoice, labelling
- No other connection between export documents and import requirements
- No link with registration authority

- ❖ Simplified system is ok,
- ❖ more transparency is needed
- ❖ greater use of available information
- ❖ Customs and regulatory authorities need to work together

Registration – Use – Monitoring and Control

- Pesticides and PPPs need to be registered before use.
- Requirements should apply at point of import
- Any pesticide imported should be formally and specifically notified to customs
 - Demonstrate that manufacturing specification is valid
 - Material is approved for use in at least one MS
 - Product quality meets FAO/EU specification
 - Data protection where appropriate is defined.
- Monitoring and control should be proportionate to regulation and use

Illegal Parallel Trade – Repackaging

- Legitimate parallel trade is supported as part of the internal market.
- Repackaging still causes problems
- Confusion between repacking of pharma products and repacking of PPPs.
- Repackaging in pharma is only re-boxing with no disturbance of the final medicine.
- Repackaging in PPPs involves opening containers, transferring product and then repacking in new containers.

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Illegal Parallel Trade – Repackaging

- Some traders use repackaging as a way of substituting product from cheaper and inferior sources.
- Repackaging in parallel trade should cease
 - Product quality can be compromised - contamination
 - Increased user risks through poor labelling
 - Ineffective packaging and impact on shelf life
 - Opens process to fraud
 - Destroys any AC device applied to packaging
- Repackaging should need a separate registration as per any other product modification
- Monitoring of parallel traded products should be the same as normal products allowing detection of illegal materials.

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Parallel Trade and Repackaging



Conventional Package



White Box repackaging

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Parallel Trade and Repackaging



White box and chopped blisters

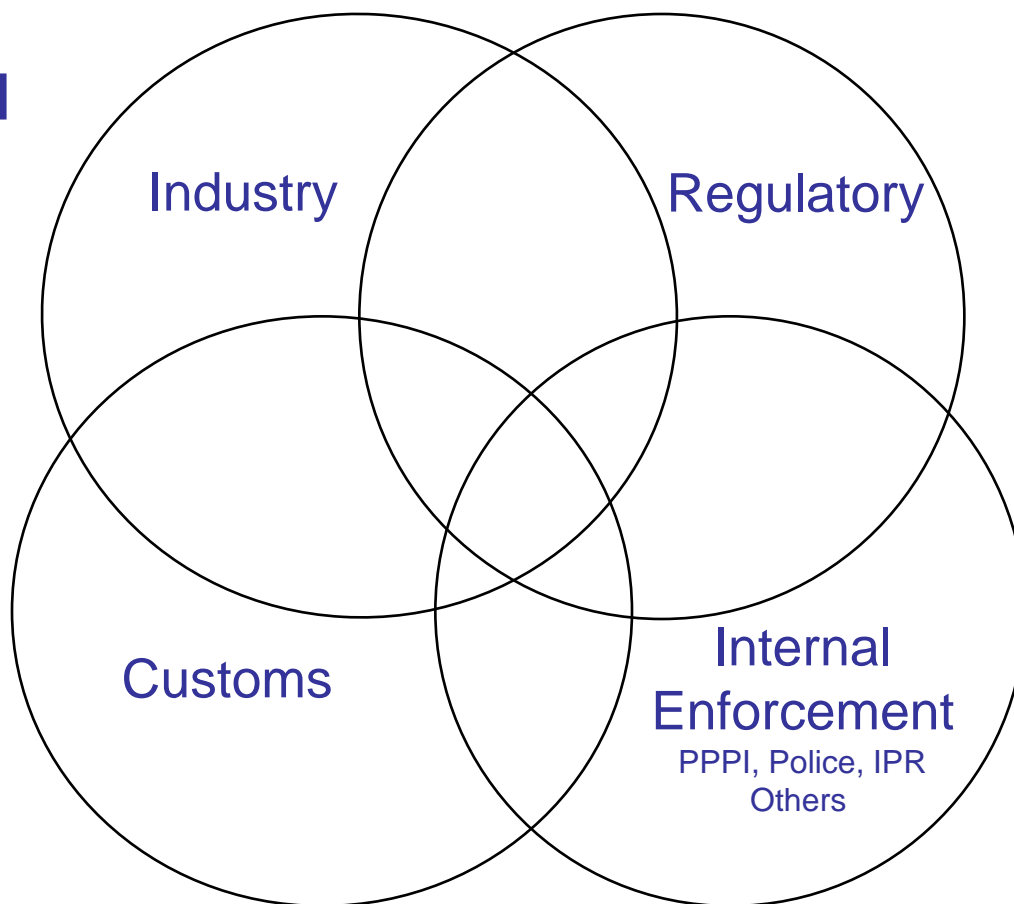


Tablets exposed - NO

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National coordination

Concept to combat Illegal and Counterfeit PPP



EU wide collaboration on Illegal and Counterfeit PPPs

To be successful in the battle against illegal and counterfeit PPPs it will be important that all key players agree to cooperate and work together across Europe

DG Internal Market has recently established the AC - Observatory designed to help such efforts.

Could we use this process to establish a working arrangement between regulators, enforcement agencies and industry to specifically examine and deal with illegal and counterfeit PPPs ?

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Thank You