

Outcomes of the OECD Seminar

Risk Reduction through Prevention, Detection and Control of the Illegal International Trade in Agricultural Pesticides

Johann Kohl

CEUREG Forum XIV
Brno, 8 October 2010

Participants



- 16 OECD countries and 1 candidate country
- COM
- Brazil and PR China
- Representatives from Industry
- CropLife International
- International experts dealing with issues associated with illegal trade

OECD, Paris, France, 19 May 2010

Pesticide production and export in China – Global impact 2009



- China has become a key pesticide producer and supplier in the world
- China plays a key role in the global efforts to force back illegal international trade of pesticides
- **2,400** pesticide manufacturers or formulators
- **26,000** registered PPPs
- Total production **2.26 million tons**
- Export **1.04 million tons**

Purpose of the seminar



Main objectives were:

- to assess the extent of the problem and future trends
- to get a better overview of national current practices and activities for the control of PPPs
- to identify ways to improve information exchange and cooperation
- to suggest and discuss options of further steps for governments, stakeholders and for OECD work

Forms/aspects of illegal PPPs



Counterfeited products and PPPs not registered in the country of destination

Cases of deliberate illegality:

- Mislabelling
- Misbranding (patent or trademark infringements)
- Inappropriate composition
- Presence of impurities of concern
- Unapproved or nonexistent manufacturing facilities
- Fraudulent marketing as parallel import products

Presentation from G. Hilfert, BWA, Hamburg - Excerpt

Transshipments of Containers in the Port of Hamburg

- 8.000.000 TEU (20' Standard-Containers) are shipped via Hamburg every year
- 220.000 containers are announced as dangerous goods



Presentation from G. Hilfert, BWA, Hamburg - Excerpt

„Emulsifier“-Shipment – January 2010

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- 23,4 tons of pesticides announced as „Emulsifier“
- No declaration as dangerous goods
- Company named as consignee doesn't exist
- Place of delivery: Klaipeda (Lithuania)



Presentation from G. Hilfert, BWA, Hamburg - Excerpt



Presentation from G. Hilfert, BWA, Hamburg - Excerpt



Container 3: „Imidacloprid 20 SL“

- Analysis reveals:
Bottles contain Propiconazol
and 3 other active ingredients
- > 30 % of DMF as solvent
- highly toxic
- no trademarks
- Transshipment to Riga
(Latvia), 10 tons



Presentation from G. Hilfert, BWA, Hamburg - Excerpt

„Emulsifier“-Shipment – Monitor®

- Measuring cups could be seized because of Trademark infringement
- Bottles couldn't be seized (no Trademark on the bottles)
- Boxes were declared as dangerous goods
- Transshipment to Riga (Latvia)
- Company named as shipper does not exist
- Monitor is a product that is not distributed in Latvia or other countries in Eastern Europe



Presentation from G. Hilfert, BWA, Hamburg - Excerpt

Patent-Infringement Thiamethoxam - February 2010



Presentation from D'Arey Quinn, CropLife International - Excerpt

9th April 2009

Budapest Airport 5:30 am



Hainan Airlines HU 481 arrives from Beijing



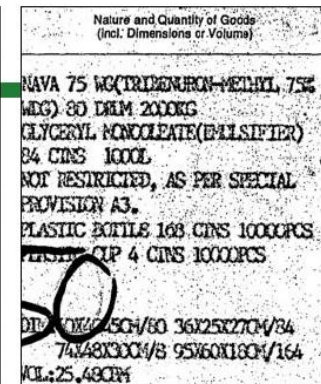
Presentation from D'Arey Quinn, CropLife International - Excerpt

Airway documents
state "Emulsifier"

Analysis
performed

Product not only
mis-labelled
counterfeit but...

FLASHPOINT: 24C



Gefahrklasse	Flammpunkt
AI	< 21 °C
AII	21 bis 55 °C
AIII	> 55 bis 100 °C
B	< 21 °C, bei 15 °C mit Wasser mischbar

Risks and consequences of illegal PPPs



- Health and environmental hazards
- Residues in food
- Damages of crops
- Low or inadequate efficiency
- Trade distortion and unfair business
- Undermines countries registration systems
- Imposes costs on the taxpayer for e.g. inspections, custom services or storage and destruction of seized products

Who`s involved in illegal trade and counterfeiting?



Whole supply and logistical chain is concerned

- Counterfeiters
- Exporter/importers
- Transport companies
- Wholesalers
- Distributers
- Users

Organized crime and corruption are part of the overall picture

Difficulties to control and seize illegal shipments

- Custom: very difficult to detect, stop and seize illegal PPPs
- Most illegal PPPs are not declared as „dangerous goods“
- Shipping documents are unclear
- Fake names and misleading labels
- Problems for authorities to stop suspicious shipment for sampling and analysis
- Often only active ingredients are imported and the formulation are prepared in the country of destination

Recommendations to



Governments

- Increasing cooperation between customs and pesticide regulatory authorities
 - Development of communication channels between the two authorities
 - Training of custom officers about illegal pesticides
 - Changes in the legal framework are necessary

Industry

- Introducing a more effective anti-counterfeit protection
 - Trademarks should be used on all packaging in order to better protect goods

All stakeholders

- Ensuring traceability along the pesticide chain

Recommendations to OECD



- Setting an OECD network of experts and inspectors knowledgeable and active in fighting illegal trade of pesticides that could be used for rapid exchange of information on suspicious or rejected shipments
- Establishing an OECD forum for national competent authorities
- Reaching out to non-member countries
- Establishing an effective communication platform about risks towards pesticide users/re-sellers

Cross-border cases - Enforcement of PPP laws and cooperation I



- Existing national enforcement arrangements to prevent illegal trade are not adapted to the challenges of enforcement in the internal market
- Effective and efficient enforcement cooperation in cross-border cases is not currently possible
- There are barriers between MS to cooperate between public enforcement authorities to detect, investigate and bring out the cessation or intra-Community infringements of laws
- This lack of effective enforcement in cross-border cases enables sellers and suppliers to evade enforcement attempts by relocating within the EU

Cross-border cases - Enforcement of PPP laws and cooperation II



- An effective pursue of infringements requires a network of public enforcement authorities throughout the EU
- The ability of competent authorities to cooperate freely on a reciprocal basis in exchanging information, detecting and investigating infringements and taking action is essential
- Furthermore, there is a need for international agreements to be negotiated with third countries regarding mutual assistance in the enforcement of the laws
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This points are an excerpt from the recitals of...?

Regulation on consumer protection cooperation I



Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws

Objective

This Regulation lays down the conditions under which the competent authorities in the Member States designated as responsible for the enforcement of the laws that protect consumers' interests shall cooperate with each other and with the Commission in order to ensure compliance with those laws and the smooth functioning of the internal market and in order to enhance the protection of consumers' economic interests.

Regulation on consumer protection cooperation II



Key elements:

- Competent authorities and single liaison office in the MS
- Mutual assistance
 - Exchange of information on request
 - Exchange of information without request
 - Requests for enforcement measures
 - Coordination of market surveillance and enforcement activities
 - Database
- Conditions governing mutual assistance
-

The objectives of this regulation are completely congruent to the requirements for an effective enforcement of pesticide laws in the MS

Increased legal powers for custom authorities



Examples:

REGULATION (EC) No 882/2004 - Official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules

REGULATION (EC) No 765/2008 - Setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93

Regulations lay down – among other things - rules regarding the suspension of the release of products by customs authorities and provide for further measures including the involvement of market surveillance authorities

Regulation 1107/2009, Article 28

– Cross-border trade of PPPs



Authorisation for placing on the market and use

1. A plant protection product shall not be placed on the market or used unless it has been authorised in the Member State concerned in accordance with this Regulation.
2. By way of derogation from paragraph 1, no authorisation shall be required in the following cases:

.....

- (c) production, storage or movement of a plant protection product intended for use in another Member State, provided that the **product is authorised in that Member State***) and that the Member State of production, storage or movement has put in place inspection requirements to ensure that the plant protection product is **not used** in its territory;

***) Who checks this requirement/precondition if a PPP is sold directly to users from another MS or stocks are labelled for movement to another MS?**

Regulation 1107/2009, Article 68 – Monitoring and controls I



- Member States shall carry out official controls in order to enforce compliance with this Regulation. They shall finalise and transmit to the Commission a report on the scope and the results of these controls within six months of the end of the year to which the reports relate.
- Commission experts shall carry out general and specific audits in the Member States for purposes of verifying the official controls carried out by the Member States.

Regulation 1107/2009, Article 68 – Monitoring and controls II



- A Regulation, adopted in accordance with the regulatory procedure with scrutiny referred to in Article 79(4), shall set out provisions for the controls, in particular on the production, packaging, labelling, storage, transport, marketing, formulation, parallel trade and use of plant protection products. It shall also contain provisions concerning the collection of information and reporting on suspected poisonings.

Does Article 68 cover the requirements for efficient law enforcement to force back illegal trade in a free internal market ?

Austrian recommendations for improvement



- Regulation on cooperation between national authorities for enforcement of pesticide laws concerning control matters
- Increased legal powers for custom authorities
- Increased border controls and training for custom officials
- "hotline" (rapid alert system) between the competent authorities in Europe to ensure immediate action
- Periodical cross-border exchange of views and mutual assistance in training of inspectors
- European information system on authorised PPPs

European network of authorities

Thank you for your attention!