



MINISTÈRE
DE L'AGRICULTURE
DE L'AGROALIMENTAIRE
ET DE LA FORÊT

National Brigade for Veterinary and Phytosanitary Investigations

B.N.E.V.P.

Ministry of Agriculture, Food and Forestry

FRANCE

CEUREG

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**ACTIONS AGAINST
COUNTERFEITED
PRODUCTS AND
ILLEGAL TRADE:
experience,
difficulties and
recommendations**



National Brigade for Veterinary and Phytosanitary Investigations

Organisation:

- attached directly to the directorate for food
- Ten investigating officers in the veterinary(6), phytosanitary(3) and bees(1) fields
- Engineers and qualified technicians with spécifique expertise
- Nationwide investigations
- Collaborations:
 - OCLAESP (**C**entral Office against infringements on environment and public health)
 - SNDJ (**N**ational Customs Judicial Enquiries)



National Brigade for Veterinary and Phytosanitary Investigations

« Its task is to conduct investigations with the aim of fighting against organized crime in veterinary and phytosanitary health field . It also provides technical support to the Directorate for food, the regional sanitary control services or the legal authorities »

Targetted controls carried out by BNEVP in the domain of trade of plant protection products(PPP) for five years:

- 20 trade companies**
- 10 formulating and packaging companies**
- 50 Wholesalers**
- 120 Final distributors**

7 main networks have been investigating. 4 of them are at the end of the examining instruction before the final hearing of judgment.

YEAR	KIND OF CRIME	CONCERNED PRODUCTS	VOLUME ASSESSMENT	FINAL REPORT OF THE EXAMINIG CHAMBER	TRIBUNAL HEARING	Comment
2008	TRADE OF FAKE PRODUCTS (PTP substitute products)	various products	> 200t/an in FR	first quarter 2013	first quarter 2014	.
2008	TRADE OF FAKE PRODUCTS (PTP substitute products)	sulfonylurees	>500L/an	first quarter 2013	first quarter 2014	.
2009*	TRADE OF COUNTERFEITED PRODUCTS	glyphosate	>3 M de litres/ 2 ans	last quarter 2013	2014	.
2009	TRADE OF COUNTERFEITED PRODUCTS	glyphosate	>1 M de litres / 1 an	last quarter 2013	2014	.
2010	TRADE OF ILLEGAL AND COUNTERFEITED PRODUCTS	various products	>5000t/an	?	?	no global progress for the cooperation to investigate
2011	TRADE OF ILLEGAL PRODUCTS	prohibited microorganisme	1T/an	2014	?	no global progress for the cooperation to investigate
2012	TRADE OF ILLEGAL AND COUNTERFEITED PRODUCTS	prohibited herbicides and counterfeited insecticides	?	?	?	.

First example :

Active substances concerned:

Ethofumesate, phenmediphame, iprodione⁽¹⁾, metazachlore, ethephon, fluroxypir, metamitrone, dicamba, alphamethrine⁽²⁾

Origine: CHINA imported by a M.C. company

(1)fake product

(2) formulated with naphthalene solvent at 5%content

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Formulating in France

Example n°1



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- Labelling operations are done mostly on demand in the country of destination in the warehouse of importers or transport companies
- All products are parallel trade products with illegal replacement of the origin product



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Example n°1

Legal side

year	countries concerned on various grounds				Kind of crime
	Source of A,S,	Formulating company	Packaging company	Whole saler and distributor	
2008	CHN	FR & ?	CZ, DE, FR, NL	CZ, AT, DE, FR, BE, PL	trade of fake products (replacement of legitimate products)

YEAR	KIND OF CRIME	CONCERNED PRODUCTS	VOLUME ASSESSMENT	FINAL REPORT OF THE EXAMINING CHAMBER	TRIBUNAL HEARING
2008	TRADE OF FAKE PRODUCTS	various products	> 200t/an in FR	first quarter 2013	first quarter 2014

Second example : Glyphosate case

Normally, the Import parallel permit in France allowed to sell a product from the North of Europe with the parallel trade name

In this case, the formulated product came directly from ZA (South Africa) or was formulated by a french company with an active substance which came from CHINA via a M.C import company.

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Drums which we found on the market are sometimes single labelled but often double labelled: a counterfeited label of original manufactured product and a label of the import parallel product (trade name) which always indicates the name of the manufacturer of the origin product



Single label of import parallel product



Double label

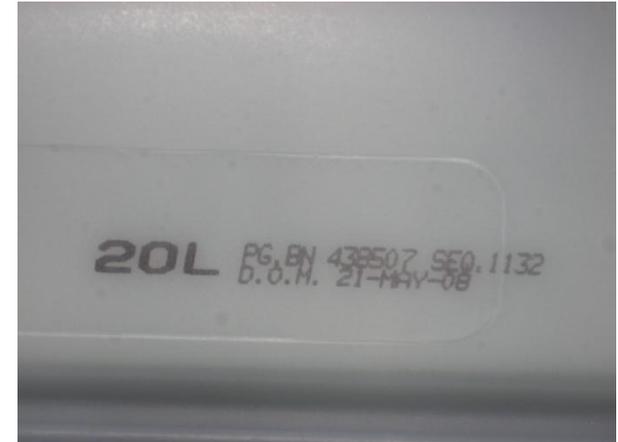
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Example n°2

VARIETY of BATCH NUMBER SORTS

INKJET PRINTED BATCH

-438507 SEQ 1132 D.O.M. 21-MAY-08
The only one confirms by the manufacturer →
- 190/06/08 D.O.M 06/08 D.O.E 06/2010
- 256/08/08 D.O.M 08/08 EXP. 08/2010
- 90412 D.O.M 09/09 DEX. 09/2011
- 15/06/2008 02:32



BATCH NUMBER STICKER



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Example n°2

Legal side

year	countries concerned on various grounds	Kind of crime
2009	ZA, CHN, MC, FR, IT	trade of counterfeited products

YEAR	KIND OF CRIME	CONCERNED PRODUCTS	VOLUME ASSESSMENT	FINAL REPORT OF THE EXAMINING CHAMBER	TRIBUNAL HEARING	Comment
2009	TRADE OF COUNTERFEITED PRODUCTS	glyphosate	>3 M de litres/ 2 ans	last quarter 2013	2014	

Third example : Case reported by Johann KOHL (AGES, AT)

An Austrian company imported many active substances and PPPs from China, India via an M.C. import company or some marketing products from the outside of the EU space.

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Organisational aspects of illegal trade within the EU (1)



Multinational splitting of the following activities:

- Port or airport of discharge
- MS for customs clearance
- Production sites
- Bookkeeping and accounting including interposition of letterbox companies
- Storage and transport companies
- Labelling and repackaging

Consistent practise of principle „of the weakest link“

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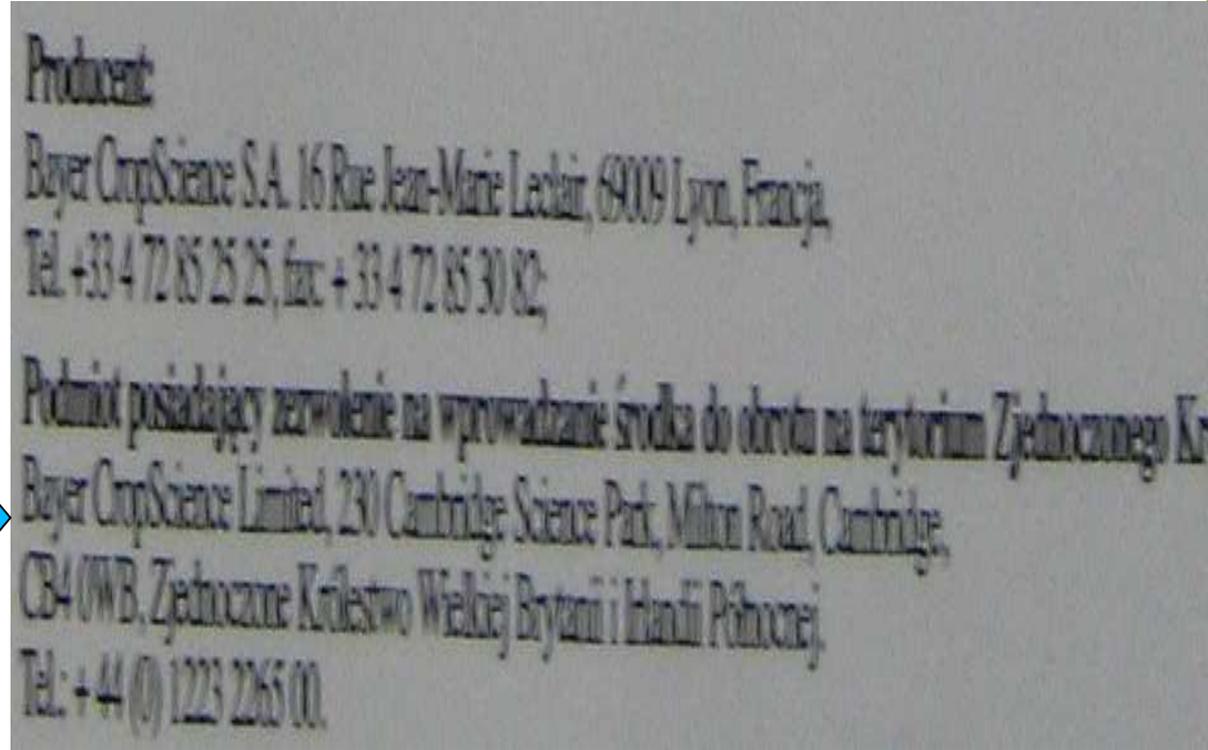
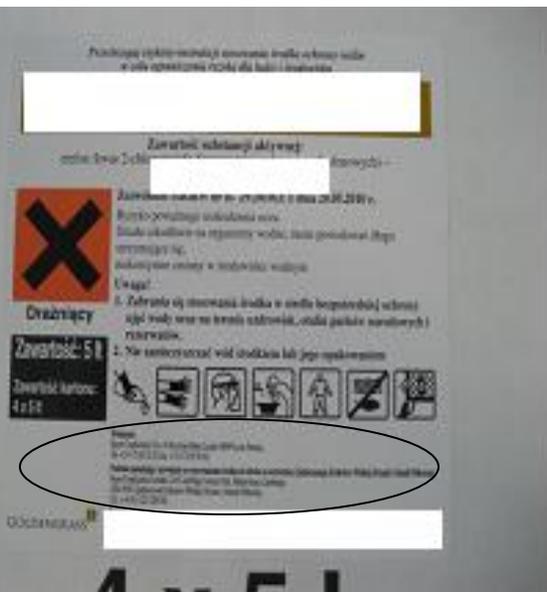
Two cases of infringement are discovered in a warehouse packaging company in France:

1) Repackaging of tepraloxydim based product -1L cans(outside EU label) in 5 L cans (new label)→fraudulent repackaging product intended for a EU member from a turkish product



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2) Fraudulent marketing as import parallel product and misbranding (trademark infringement)



Legal side

YEAR	KIND OF CRIME	CONCERNED PRODUCTS	VOLUME ASSESSMENT	FINAL REPORT OF THE EXAMINING CHAMBER	TRIBUNAL HEARING	Comment
2010	TRADE OF ILLEGAL AND COUNTERFEITED PRODUCTS	various products (seizure of ethephon and tepraloxym based products)	>5000t/an	?	?	no global progress for the cooperation to investigate

Fourth example:

An illegal microorganism preparation is used in France by many rose growers against mites:

- Origin: Outside EU
- Active microorganism and formulation: bacillus (?)
- Sold by a reseller in connection with the manufacturer and retailed by several rose advisers
- The product is regularly delivered by truck together with the delivery of the rose cuttings from NL
- No product mentioned on the invoice but just « studies for the rose marketing development in Eastern countries »

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Example n°4



Legal side

YEAR	KIND OF CRIME	CONCERNED PRODUCTS	VOLUME ASSESSMENT	FINAL REPORT OF THE EXAMINIG CHAMBER	TRIBUNAL HEARING	Comment
2011	TRADE OF ILLEGAL PRODUCTS	prohibited microorganism	1T/an	first quarter 2014	?	no global progress for the cooperation to investigate



Enforcement of PPP laws and cooperation in cross-border cases

Effective and efficient enforcement cooperation in cross-border cases is not always possible:

- ✓ - difficulties to cooperate between public enforcement authorities (police) to detect, investigate and bring out the EU infringements of laws,
- ✓ - lack of coordination between MS justice regarding criminal prosecution and pursuit,
- ✓ - In some countries, the responsibility for law enforcement is divided between regional and national authorities

As a consequence:

- ✓ the Prosecution process is delayed (5-6 years)
- ✓ sellers and suppliers to elude enforcement attempt by relocating within the EU and carry on their criminal activities

Recommendations:

- ✓ **at national level:** requires multidisciplinary specialists teams from the prosecution, police and customs and agriculture-environment department of inspection
- ✓ **at EU level, no European leadership despite growing concern in some European Instance:** Implementing a coordinator able to share and spread informations with national contact points in charge of international judicial and Police cooperation against pesticides counterfeiting



Regulation 1107/2009, Article 28 –Cross-border trade of PPPs -

Authorisation for placing on the market and use

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;

(d) production, storage or movement of a plant protection product intended for use in a third country provided that the Member State of production, storage or movement has put in place **inspection requirements to ensure that the plant protection product is exported from its territory**;



•REGULATION ON THE CONTROL OF PPPs PLACED ON THE MARKET, AS STATED IN THE REGULATION NO 1107/2009/EC, CHAPTER VIII, THIRD SUBPARAGRAPH OF THE ARTICLE 68 MONITORING AND CONTROLS :

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.



Provisions for the controls on the **production, packaging, labelling, storage** activities:

- ✓ Need a knowledge of the production and storage places
- ✓ Involve a registration of the companies activity
 - o Certification of the Wholesalers (central register) as the retailers which sell to final users.
 - o For the warehouse, including transporting ones, a declaration of pesticides activities (storage, labelling) must be granted by the regional authorities
 - o For production or (re)packaging or labelling activities, put in place a central register



National Reference Laboratory for analysis of the pesticides

Missions:

- ✓ **residues found in foods**, including drinking water (controlling support) → >95%
- ✓ **analysis of pesticides formulation**: → <5%
 - supports controls for illegal pesticides
 - monitors the pesticides content in post-registered phase

As consequence:

few laboratories implement formulation analysis methods that are, moreover, very expensive.

Recommendation:

consider an assignment of that task to some reference laboratories of the EU Member-States to rationalize these means



About the regulation 547/2011, some points concerning the labelling and the batch number have to be clarified:

For example, The following information must appear on the packaging of the plant protection products in a clear and indelible way: batch number, production date, /.../

- ✓ **-Can it be printed on the label?**
- ✓ **-Can it be printed on a sticker?**
- ✓ **-What are the labelling requirements in case of repackaging?**

The traceability is an important question, referring especially to the parallel trade!!

Thank you for your attention!

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