



European
Crop Protection

Counterfeit products and illegal trade: the need for coordinated controls and enforcement rules throughout Europe

CEUREG, Vienna, October 2012

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This is about safety!

Criminals produce counterfeit pesticides :

- **Regular use of illegal sources of technical, banned or restricted (but cheaper) co-formulants, is creating a safety risk to human health & environment**
- Distribution of sub-standard products threatens sustainability of EU agriculture
- Misuses EU regulatory framework for pesticides
- Ignores international labelling requirements designed to ensure safety during transport
- Depends on, and cooperates with, organised criminal networks
- Threatens safety of food supply within Europe
- Deprives EU of tax and revenues

Two contrasting worlds:

Authorised pesticides

Pesticides enter environment and our food => they must be tested and **authorized**:

Legitimate producers cooperate with regulators and inspectors to ensure safety in use

We provide stewardship support and contribute to sustainable agriculture

Counterfeit and illegal pesticides

Counterfeit (imitations of legal products) and **illegal** (no registered equivalent) pesticides are:

- Untested
- Unauthorized
- Introduced (and profited from) by criminal networks

How big is the problem of counterfeit and illegal pesticides?



ECPA has documented seizures by EU port and inspection authorities of **>1000t since 2008**

If illegal pesticides producers were a single company they would be the **4th or 5th largest**

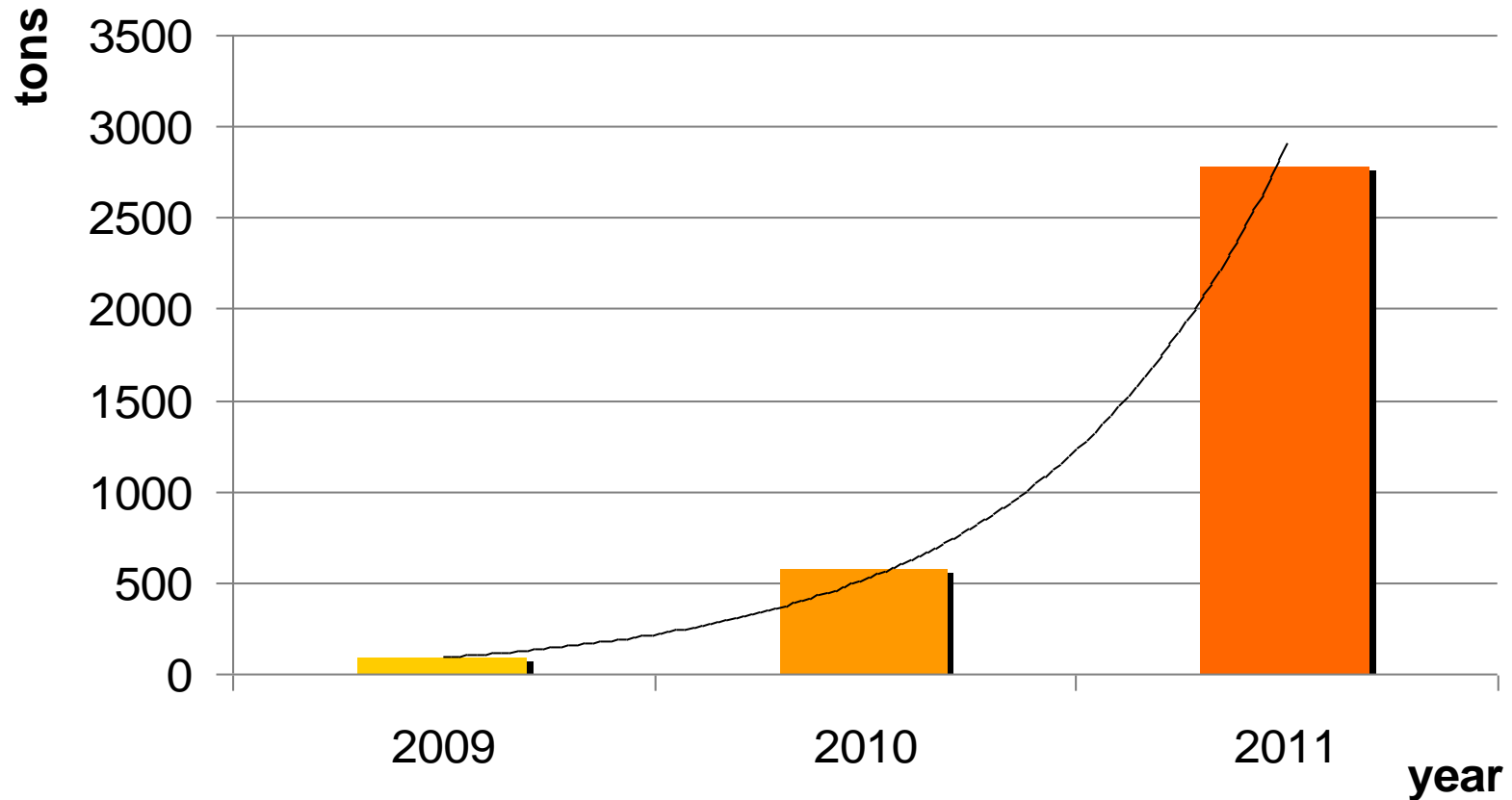
Illegal pesticide cases affecting Crop Protection Industry (June 2010 to June 2011)

• Cherkassy	Ukraine	Nov 2010	150 tons
• Bila Tserkva	Ukraine	Dec 2010	90 tons
• Verashaki	Ukraine	Feb 2011	40 tons
• Kherson	Ukraine	May 2011	400 tons
• Vesuviana	Italy	Jan 2011	140 tons
• EU-Iran	G,B,GR,IT,SR	Dec 2010	80 tons
• Hot-line tip-off	Greece	Feb 2011	100's of tons
• EU network	A,G,UK,F,GR,NL	Feb 2011	*1,000's of tons??

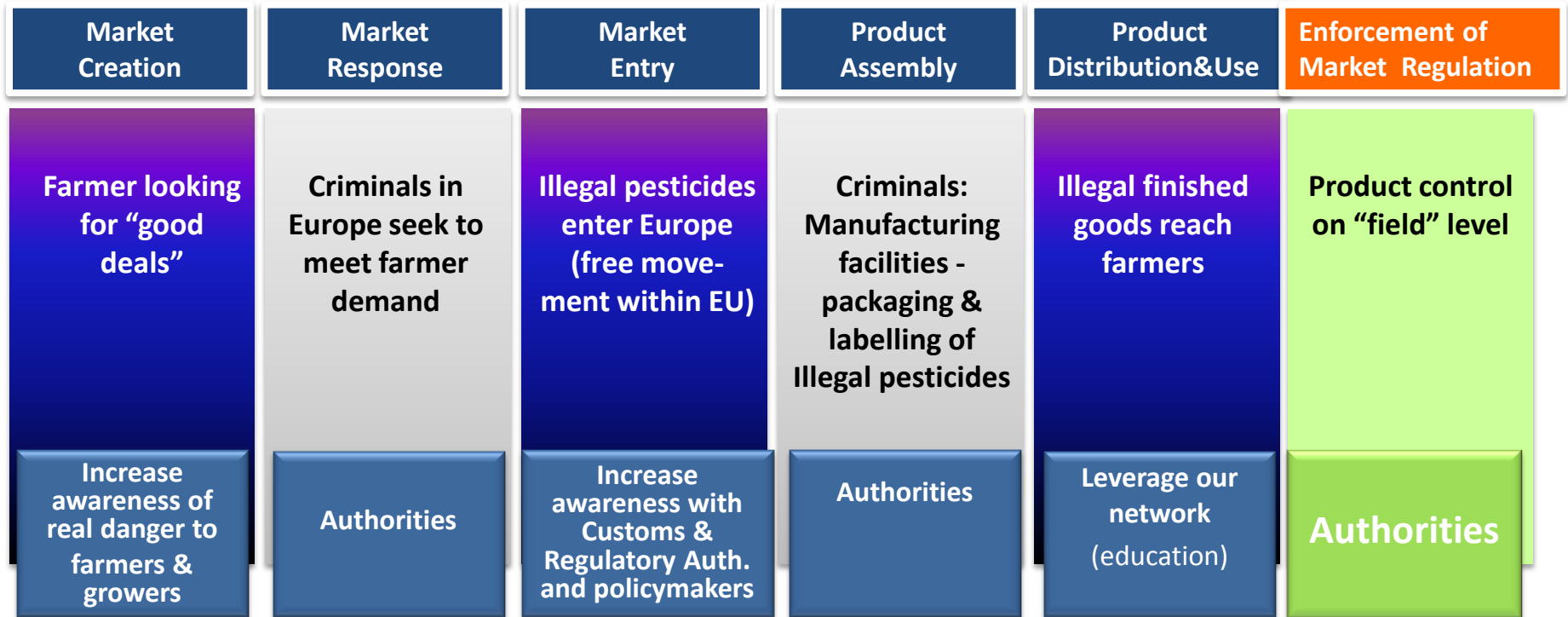
**If illegal pesticide producers were a single
company they would be the 4th or 5th largest**

Total >1000 Tons
Excludes EU network est.

Counterfeit and Illegal Pesticides: a Growing Challenge



Counterfeit & Illegal Pesticides : IMPACTS CYCLE



Industry Responses

Why are counterfeit / illegal pesticides a problem?

Excessive content of restricted compounds represents a threat to human health and environment!

2. Active substance contains a high level (30.1 ppm) of the impurity ethyl methane sulfonate (EMS)

EMS is mutagenic, teratogenic and possibly carcinogenic. Limit proposed by the FAO = 0.1 ppm.

This is a 300 x exceedance of the limit!

1. High-precision counterfeiting of company security devices

Clear IPR infringement



3. Product contains nonylphenol ethoxylates (0.433%)

NPEs are oestrogen mimics (endocrine disruptors). Upper limit in the EU = 0.1%.

**Flashpoint of the original product
= > 100°C**

4. Product flashpoint = 25°C!

Labelled properly, the counterfeit would have to be described as "highly flammable" and sold in special containers

Counterfeit & illegal pesticides – a lucrative business...

Europol Public Information



The Hague, November 2011
File Nr.: 2521-93
OC-SCAN POLICY BRIEF FOR
THREAT NOTICE: 011-2011

OC-SCAN POLICY BRIEF

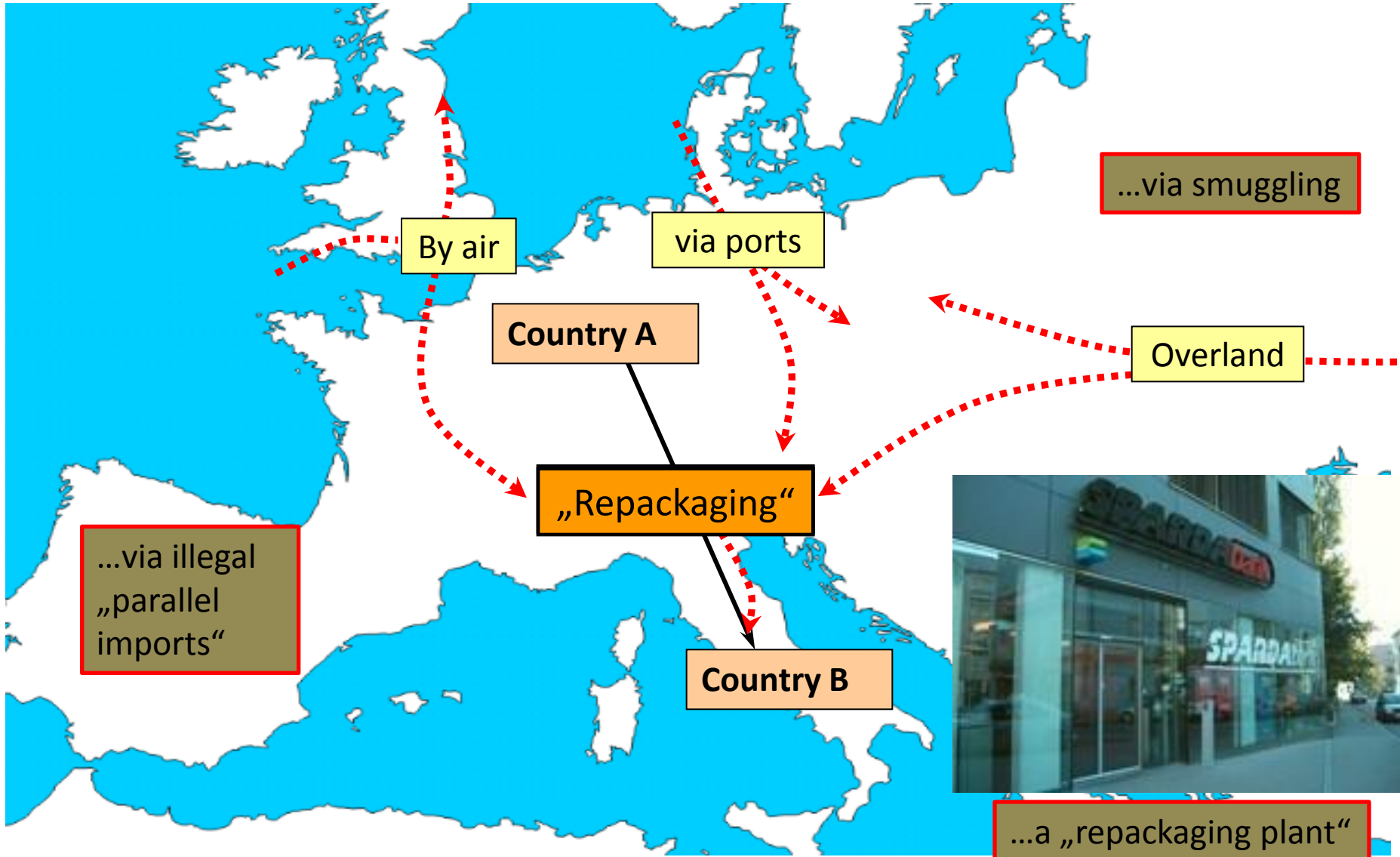
Growth in the trade in counterfeit and other illegal pesticides across Europe

The global revenues associated with the trade in counterfeit and other illegal pesticides are estimated at more than 4.4 billion Euros per annum. The illegal trade in pesticides represents over 10 per cent of the total worldwide market, which has an end-user value of 44 billion Euros. To varying degrees, the use of illegal pesticides has been detected across Europe. In North East Europe, a region particularly targeted by the criminal networks involved in this activity, more than 25 per cent of the pesticides in circulation in some European Union (EU) Member States are estimated to originate from the illegal pesticide trade. However, most European countries with a large agricultural sector are affected by this threat.



Destruction of maize crops in several EU MS in 2004, due to the use of illegal pesticides with a harmful composition of sulfonylurea derivatives.

How do counterfeit / illegal pesticides enter the EU?



Key types of enforcement situations

- Entry of suspicious pesticide at EU ports /borders
 - ship / airplane / truck / train
 - **Requires cooperation between regulators, customs, border guards, etc**
- Suspicious products in market place
 - Distributor / retail stores
 - Farm pesticide stores
 - **Requires cooperation and information sharing with regulatory authorities across Europe**

Strategic thrust of the crop protection industry

- **Minimise entry of counterfeit and illegal pesticides: work with customs and phytosanitary authorities**
 - Broaden customs remit to the protection of Health and Safety
 - not just IPR infringements!
 - Ensure engagement of pesticide authorities
 - Working with key ports throughout EU
 - Cooperating with police and Europol
- **Improve regulation of market place; work closely with pesticide authorities**
 - Illegal parallel imports; best practice national law amendments
 - Penalties to fit crime
- **Raise farmer awareness**
 - Regular communication directly and through supply channel

EUROPOL & OHIM Awareness Raising Conference on Counterfeit and Illegal Pesticides

- **3 day conference on illegal & counterfeit pesticides bringing together all relevant EU stakeholders**
 - To help EU Member States to deal with this highly complex issue
 - To assist in strengthening cooperation between relevant actors

Logistical Information:

- Organized by Europol & OHIM
- 26-28 November 2012 in Alicante
- Target audience: customs and regulatory authorities, police and prosecutors from each EU MS (+ Croatia)
- Involvement of DG SANCO, DG TAXUD, OLAF, Eurojust
- For more information, please contact your national Europol liaison office

How to check suspicious products:

- Confirm presence of **markers** in or on packaging
- Utilise traditional **expensive analytical techniques**
- Consider using cheaper, but accurate **first level triage** to identify suspicious products?

Infrared Spectrometry

- All organic molecules absorb infrared electromagnetic radiation
- Most inorganic molecules absorb infrared electromagnetic radiation
- Infrared spectra are fingerprints for:
 - Pure substances
 - Mixtures
 - Products
- Searchable spectral databases can be easily created
- Spectral databases are commercially available; spectral searching of IR spectra in libraries can identify hidden active ingredients even in an unknown formulation
- Equipment is relatively inexpensive; in most cases measurements of FT-IR/ATR spectra do not require sample preparation
- Portable FT-IR spectrometers are available and are relatively inexpensive
- FT-IR spectrometry is a widely accepted analytical tool

Promoting legal Parallel Trade of plant protection products

- Parallel trade of pesticides is an example of free movement of goods within the European Union. ECPA respects legal parallel trade in pesticides
- However, we condemn on-going, widespread abuse of parallel trade permits in many Member States:
 - Transport of illegal chemicals from (mainly) China and introduction into Member States as illegal “parallel imports”
 - Fraudulent behaviour towards regulators and farmers
 - Threat to health and environment

Is repackaging allowed?

- Regulation 1107/2009 and parallel trade Guidance Document neither “allow” nor “forbid” repackaging.
- Repackaging means breaking the original manufacturer’s seal:
 - Potential for product contamination
 - Potential Exposure of workers to product

⇒ Repackaging should only take place under licenced, professional conditions

⇒ Repackaging should be restricted to situations in which it is necessary for market access

Undeclared active substances in illegal pesticides

“Repackaged” parallel imports can contain tell-tale traces of other pesticides



Imidacloprid “parallel import”
contained 1.5% fipronil

Fipronil is not registered in the
country the product was being sold in

Is repackaging allowed?

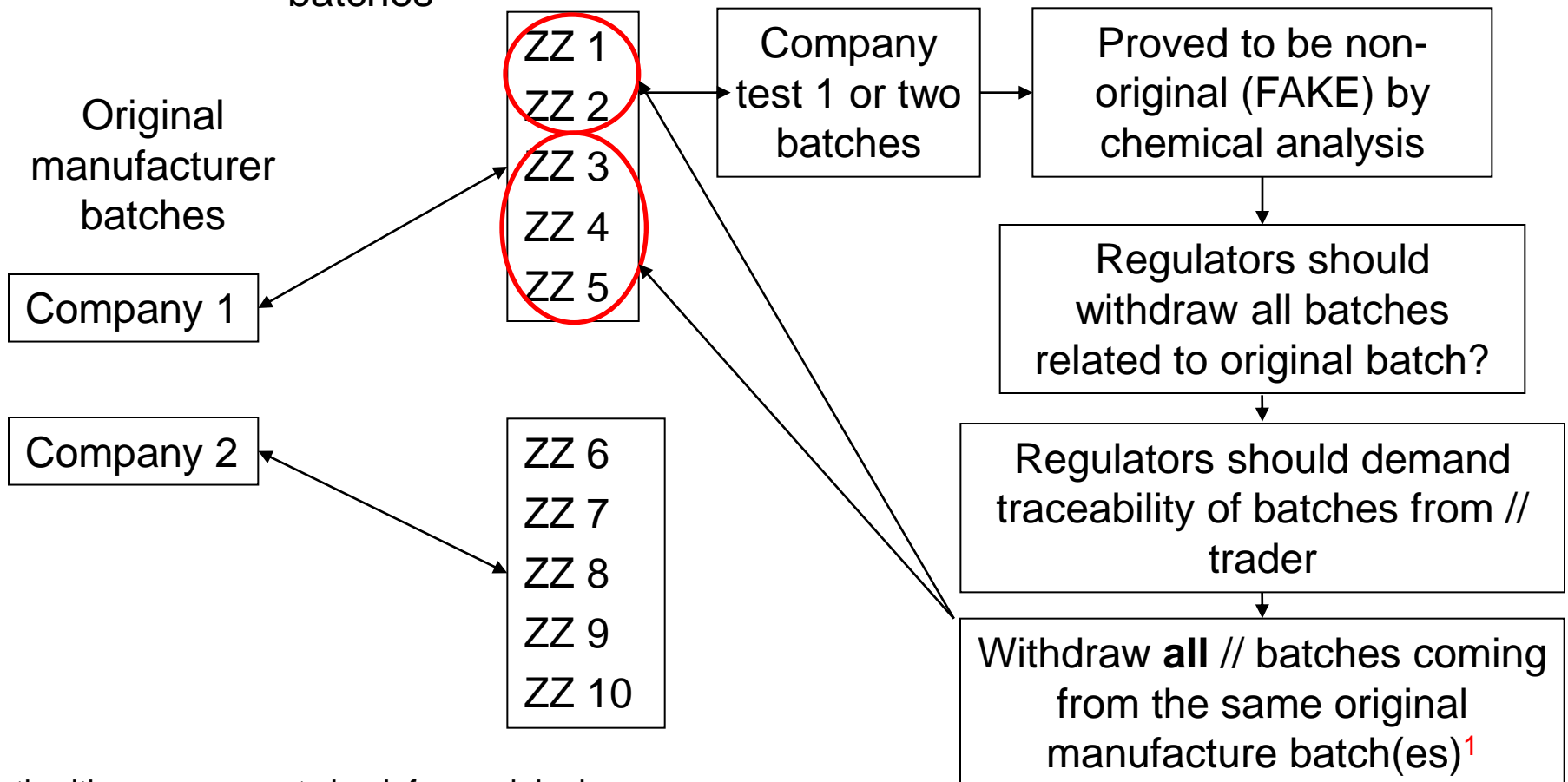
Example from EU Member State: France

"Repackaging is permitted, subject to the following conditions:

- The repackaging is required in order to gain access to the national market, due to the specific constraints linked to the packaging or the product container;
- The integrity and traceability of the product introduced can be guaranteed;
- The reference registration holder of the product to be introduced has been previously informed of the intended repackaging."

Batch numbers: one to many for some parallel traders

Parallel trader creates many batches from one or two original manufacturer batches



¹ Authorities can request check from original manufacturer to see if batch number exists

Penalising infringements: Example from EU Member State : Germany

For particular infringements, penalties may not necessarily be restricted to monetary fines
- imprisonment can also be ordered:

- Up to 5 years, e.g. for production or sale of “completely forbidden” active substances¹ or of products containing these
- Up to 3 years, e.g. for production or sale of crop protection products that have been labeled or described with false information with regard to identity or origin²
- Up to 1 year, e.g. for production or sale of crop protection products with (deliberately) confusing descriptions or presentation
- Crop protection products connected with cases in which penalties are imposed can be withdrawn

1 – i.e., not on Annex I

2 – e.g., claiming a parallel import from an EU member state when in fact from unregistered source in China

Control of the market

- Counterfeit and illegal pesticides will continue to **threaten health & safety and sustainable agriculture** despite the good work of customs officials and inspection services to keep them out of the European Market.
 - Regulation 1107/2009 (Pesticides), art. 68: *“A regulation (...) shall set provisions for the controls (...) of plant protection products”*
 - ***Regulation 1107/2009 does not enter into force until it is being enforced!***

Thoughts on Control of the Market:

- Number of random checks depending on market size
- Spot checks to be done regularly
- Spot checks at distributor and retailer level
- Spot checks at farm level (link with CAP? link with statistics of use?)
- Ensure 2-3 checks a year on quality
 - on authorised products
 - on permits
 - by taking samples

Industry is willing to continue collaborating and partnering with regulators, authorities and stakeholders to combat counterfeit and illegal products!



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Thank you for your attention!

Questions ?



Because the
signs aren't
always this
obvious.

Belastingdienst



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Annexes

What form do counterfeit & illegal pesticides arrive in?

Bulk containers (fibre drums); active substance or formulated products

Smaller containers; without labelling, with rudimentary labelling, or with sophisticated copying of proprietary brands and trademarks in imitation of the original.

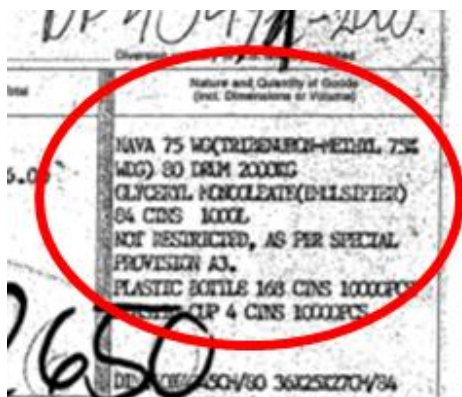


How do shippers of counterfeit pesticides operate?

IPR protection is easily circumvented by falsifying information:

- Counterfeiters send IPR-infringing products **in unmarked containers, accompanied by false...**

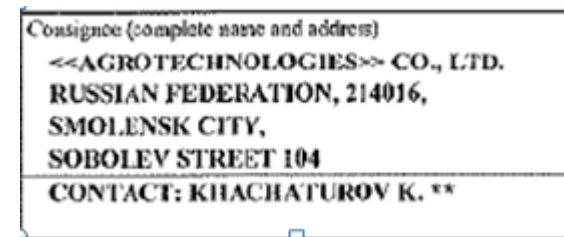
..declarations



..product Descriptions



..consignee addresses



→ Shipping documentation and the customs declaration need to be complete and accurate - for export out of e.g. China and import into the EU.

How do shippers of counterfeit pesticides operate?

IPR protection is easily circumvented by separation of trademark-bearing goods:

- Counterfeiters have learned to send packaging materials bearing protected trademarks separately from the bulk chemicals

