

SEED TREATMENTS :

- Specific legal provisions in R.(EU) 1107/2009
 - A case of investigations
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CEUREG XXIII

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BNEVP-FRANCE



BNEVP is directly attached
to the Directorate
for food (DGAL)
**French Ministry of
Agriculture and Food**

Nationwide investigations
and frequent collaborations
with **Central offices of
Gendarmerie, Police
and Customs**



Main domains of intervention by BNEVP in Phytosanitary field

- Distribution of non-authorized PPPs
- Misappropriation of the use of PPPs
- Trade of illegal and counterfeited products :
 - on a national scale
 - on European and international scales
- Supervision of production, storage and marketing sectors



SEED TREATMENTS : A becoming major preoccupation ?



SEED TREATMENTS

Seed treatments : **what are we talking about ?**

«Seed treatment is defined as the application of fungicide, insecticide, bio-fertilizer or any other growth regulator either to control the pathogens or insects or to improve the germination potential »



Seed Treatments : Legal Provisions

24.11.2009

EN

Official Journal of the European Union

L 309/1

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(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

REGULATION (EC) No 1107/2009 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 21 October 2009

concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37(2), Article 95 and Article 152(4)(b) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas

Parliament by its Resolution of 30 May 2002 ⁽⁵⁾ and the Council in its Conclusions of 12 December 2001 asked the Commission to review Directive 91/414/EEC and identified a number of issues for the Commission to address.

- (3) In the light of the experience gained from the application of Directive 91/414/EEC and of recent scientific and technical developments, that Directive should be replaced.
- (4) By way of simplification, the new act should also repeal Council Directive 79/117/EEC of 21 December 1978 prohibiting the placing on the market and use of plant protection products containing certain active substances ⁽⁶⁾.
- (5) To simplify application of the new act and to ensure consistency throughout the Member States, it should take the form of a Regulation.



SEED TREATMENTS

There is a basic principle in the Regulation 1107/2009
According to [article 28](#), paragraph 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”.



SEED TREATMENTS

CHAPTER III

PLANT PROTECTION PRODUCTS

SECTION 1

Authorisation

Subsection 1

Requirements and contents

Article 28

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:

- (a) use of products containing exclusively one or more basic substances;
- (b) placing on the market and use of plant protection products for research or development purposes in accordance with Article 54;
- (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;



SEED TREATMENTS

There are several possibilities of derogation as mentioned in [paragraph 2 of article 28](#).

In particular no authorisation shall be required in the following cases :

“Production, storage or movement of a PPP 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 and movement has put in place inspection requirements to ensure that the PPP is not used in its territory”.



Conclusion 1 :

Seed treatment is a **PPP**

The production, storage or movement of a PPP without any AMM in a member state is authorized provided that this PPP is intended for use in another Member State, where it is authorised.



SEED TREATMENTS

If provisions of Article 28 are precise concerning the derogation provided for, the provisions of [Article 49](#) (*Placing on the market of treated seeds*) ... raise a **problem of coherence**, even appear to be contentious, in relation to [Article 28](#), especially its [paragraph 1](#) :



SEED TREATMENTS : regulation

Article 49

Placing on the market of treated seeds

1. Member States shall not prohibit placing on the market and use of seeds treated with plant protection products authorised for that use in at least one Member State.
2. Where there are substantial concerns that treated seeds as referred to in paragraph 1 are likely to constitute a serious risk to human or animal health or to the environment and that such risk cannot be contained satisfactorily by means of measures taken by the Member State(s) concerned, measures to restrict or prohibit the use and/or sale of such treated seeds shall be taken immediately in accordance with the regulatory procedure referred to in Article 79(3). Before taking such measures the Commission shall examine the evidence and may request an opinion from the Authority. The Commission may set a time limit within which such an opinion shall be provided.



SEED TREATMENTS

Conclusion 2 :

Article 49 : Concerns Treated seeds

Article 28 : Concerns Seed treatment

The measures of **Article 49** lay down that a Member State can not prohibit (except in case of proven risk ...) the placing on the market and use of treated seeds when the seeds are treated with PPP authorized for that use in at least one Member State.



SEED TREATMENTS

- In France : The interdiction of use of some neonicotinoid seed-dressing insecticides is not new.
- Most recent decision : 01/09/2018
Promulgation of the 2016 Biodiversity Act
5 molecules banned : Imidacloprid, clothianidin, thiamethoxam, acetamiprid & thiacloprid.

Temptation for some professionals to introduce and use illegally neonicotinoid-based seed treatments ?



SEED TREATMENTS

Decision to launch an **administrative enquiry**
focused on Seed treatments

The Enquiry allowed us to identify some deviant
practices particularly in the sector of Seed
processors



Seed treatments : a case of Investigation in France

Goals :

- Look for fraudulent uses of PPPs
Only authorized on winter crops (wheat, rapeseed) but that could be used on spring crops (Maize, sunflower).
- **Learn about** practices of a widely misunderstood profession :
« **the Seed processors** » (*)

(*) Service provider in sorting (separation of seeds and waste) and seed treatment by coating.

Context of the investigation in 2018 :

Uncertainty of the maintain of the placing on the market of PPPs that contained active substances of the neonicotinoid family (eg : imidacloprid), before their ban the 01/09/2018.



Seed treatments : a case of Investigation in France

10 targeted controls have been carried out by BNEVP in several parts of the French territory between May and June 2018.

I- « Irregularities » were found in 7 out of the 10 companies checked (especially a widespread practice of “packaging-repackaging” of commercial specialities).

II- Selling of a foreign PPP **without a placing on the market authorization in France and used for seed treatment has been highlighted .**



Seed treatments : a case of Investigation in France

1 - “packaging-repackaging”

Purchased products are **packaged in large volumes (200 liters and more)**; They are **then reconditioned** in 20 liters cans (before being used on sorting machines and seed treatments).

The cans used, for recovery, sometimes bear the traces of the old labelling (herbicide, fungicide, etc.) ; they **are not correctly labeled**. **Professionals only write a name with black marker (indelible?)** - (same product ? Same active substance ? Same concentration ? Name of the reference product ?...).

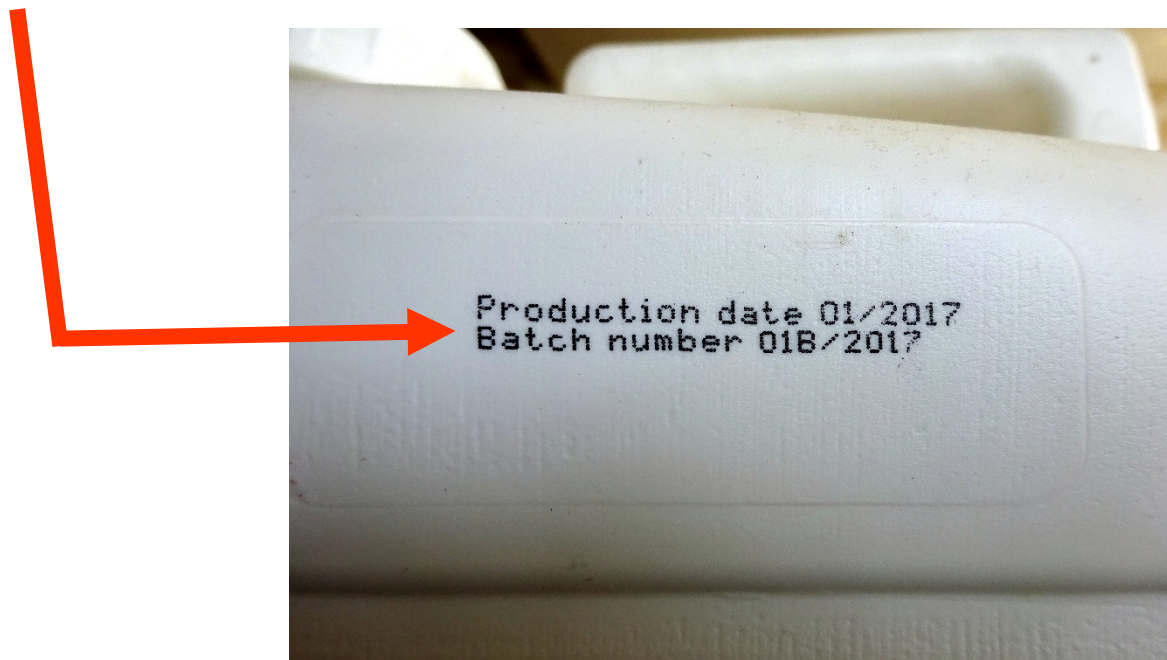
The **“ready-to-use” phytosanitary mixture (PPP + water)** can be stored several months in recycling cans wearing **a simple name written with black marker**.



Seed treatments : a case of Investigation in France

1 - “packaging-repackaging”

The formulation Batch number and the production date



Flash code system



These information ensure the traceability of PPP



Seed treatments : a case of Investigation in France

1 - “packaging-repackaging”

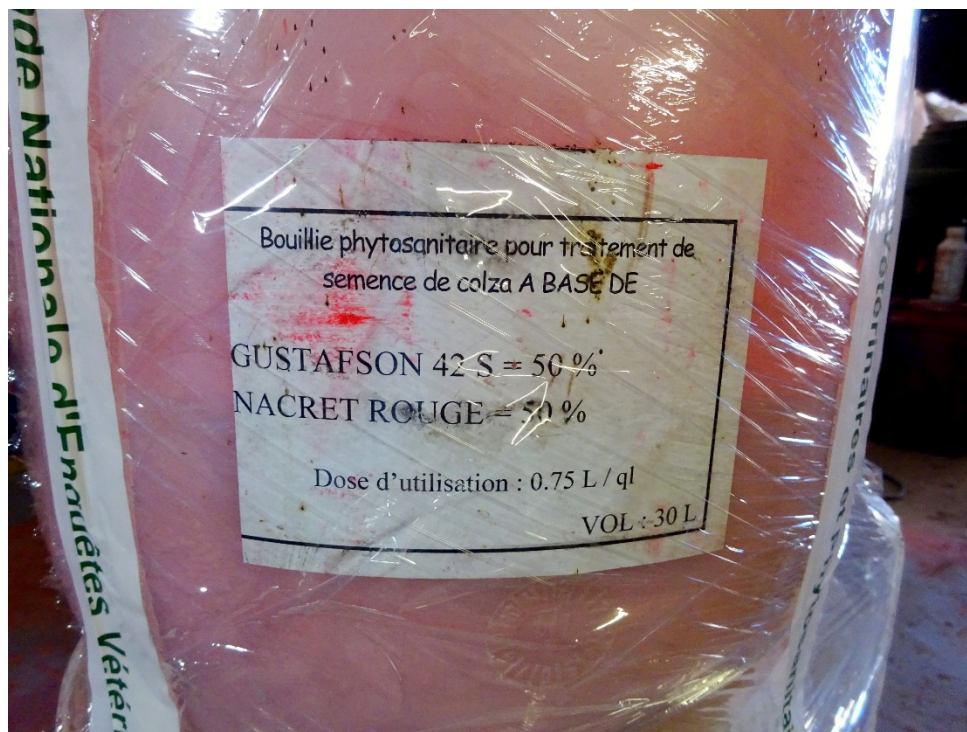


No information of traceability on these cans of substitution → **Complete loss of traceability**



Seed treatments : a case of Investigation in France

1 - “packaging-repackaging”



No faithful Labelling



Seed treatments : a case of Investigation in France

1 - “packaging-repackaging”

These practices do not comply with the requirements for the labelling of PPPs (Regulation 547/2011 EU) :

“COMMISSION REGULATION (EU) N ° 547/2011 of 8 June 2011, implementing Regulation (EC) N ° 1107/2009 of the European Parliament and of the Council as regards labelling requirements for plant protections products”

LABELLING REQUIREMENTS AS REFERRED TO ARTICLE 1 (ANNEX I) :

*The following information shall be included **clearly and indelibly on the packaging of plant protection products** :..... »*

These practices do not comply either with the requirements of the French Regulation :

«Packaging used for the purpose of handling operations must have the same guarantees as those provided by the original packaging »



Seed treatments : a case of Investigation in France

1 - “packaging-repackaging”

These practices are an “open door” to the illegal use of banned products, notwithstanding the risks for users and the environment **(compliance with the security measures and precautions for use indicated on the labels)**



Numéro d'urgence Syngenta : 0 20 12 12 12 Renseignements techniques : 0 20 12 12 12

En cas d'accident de transport : 06 11 07 32 81

50 g/l (5,3 %) de cyflufenamid - Emulsion aqueuse
AMM n° 2130067

CULTURES	USAGE	NOMBRE D'APPLICATIONS	DOSE	DÉLAI AVANT RÉCOLTE
Vigne	Oïdium	2 applications	0,5 l/ha	21 jours
Arbres fruitiers à pépins	Oïdium	2 applications	0,5 l/ha	14 jours

Attention
H315 - Provoque une irritation cutanée.
H411 - Toxique pour les organismes aquatiques, entraîne des effets néfastes à long terme.
P102 - Tenir hors de portée des enfants.
P270 - Ne pas manger, boire ou fumer en manipulant ce produit.
P273 - Éviter le rejet dans l'environnement.
P280 - Porter des gants de protection pendant le mélange et le chargement ainsi que des vêtements de protection.
P302 + P352 : EN CAS DE CONTACT AVEC LA PEAU : laver abondamment à l'eau et au savon.
P501 - Éliminer le contenu/récipient dans une installation d'élimination des déchets agréée.

Informations supplémentaires santé humaine :
Délai de rentrée dans la parcelle : 24 heures
EUH 208 - Contient de la 1,2-benzisothiazolone. Peut produire une réaction allergique.

Informations supplémentaires environnement :
SPe3 - Pour protéger les organismes aquatiques, respecter une zone non traitée de 5 mètres par rapport aux points d'eau.
SP1 - Ne pas polluer l'eau avec le produit ou son emballage.
EUH401 - Respecter les instructions d'utilisation pour éviter les risques pour la santé humaine et l'environnement.

Autres conditions d'utilisation et précautions d'usage : lire attentivement le livret.

PRODUIT POUR LES PROFESSIONNELS
Homologué par : Nisso Chemicals Europe GmbH
Marque enregistrée par Nisso Chemicals Europe GmbH

FICHES DE DONNÉES DE SÉCURITÉ : www.quickds.com

www.syngenta.fr

L176311 FRAN/10R PPE 4032054

Seed treatments : a case of Investigation in France

1 - “packaging-repackaging”

About 850 kg of banned products were destroyed.



Seed treatments : a case of investigation

2- Selling and using of PPP (for Seed treatments) without authorization of placing on the market in France

- We brought to light the placing on the market and use, by a company A, of a PPP **without any authorization or parallel trade permit**.
- The relevant product (containing **imidacloprid**) was bought by the company A in a country of the European Union, **where it was authorized**.
- 10, 400 liters were purchased in this country between 2014 and 2016.
- 1, 900 liters were resold to a company B (Seed processors) **which used them for seed treatments**.
- The remaining (8,500 L) **was used in seed treatment** by Company A.



Seed treatments : a case of investigation

2- Selling and using of PPP (for Seed treatments) without authorization of placing on the market in France

The suspicion of infringement concerning the two companies A and B has been reported to the competent district court.

Two major infringements were identified :

- 1) Sale of PPP without authorization of placing on the market in France.
- 2) Use of PPP without authorization of placing on the market in France.



Following the infringement report, a preliminary inquiry has been initiated by the Prosecutor.

The BNEVP is co-seized with the French Gendarmerie.
The preliminary inquiry is still ongoing.



THANK YOU FOR YOUR ATTENTION

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