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Article: “Fake Pesticides Are A Growing Danger”

Source: Wall Street Journal 2011-8-25

(<http://online.wsj.com/article/SB10001424053111904787404576528324089426558.html>)

Republications:

<http://news.agropages.com/News/NewsDetail---4866.htm>

<http://www.grist.org/list/2011-08-26-european-farmers-spend-millions-on-knock-off-pesticides>

<http://www.agcanada.com/content/Today-s-News/Article.aspx?ID=39719>

<http://www.albertafarmexpress.ca/news/fake-pesticides-now-big-business-in-europe/1000547895/>

<http://www.africanagricultureblog.com/2011/08/fake-pesticides-are-growing-danger.html>

Résumé/traduction : Les pesticides contrefaits sont un danger croissant

Le trafic illégal de pesticides est un très gros marché (plusieurs millions d'euros en Europe).

Risque pour les agriculteurs et les consommateurs.

Ils peuvent contenir des substances interdites en Europe et/ou dangereuse

Beaucoup passent les barrières douanières du fait des ambiguïtés et des disparités réglementaires. Quelquefois les sanctions ne sont pas applicables parce que le contrefacteur est hors d'atteinte des règles de l'UE et que le transporteur estime ne pas être responsable de la marchandise qu'il transporte.

De plus, la réglementation de l'UE impose aux compagnies dont les produits ont été contrefaits de payer les frais de stockage et de destruction. Elles peuvent bien sûr se retourner contre le contrefacteur, mais c'est souvent très difficile, voire impossible.

Pour les producteurs, l'utilisation de pesticides peut être extrêmement coûteuse en particulier en terme d'image, mais aussi parce qu'ils peuvent perdre leur récolte (inefficacité, phytotoxicité). Les agriculteurs espagnols ont dû supporter un coût de plus de 20 millions d'euros en 2006.

Le problème des pesticides contrefaits est de plus en plus important. L'ECPA estime le marché illégal des pesticides entre 400 millions € et 1.2 milliards € sur le marché européen, représentant entre 5 et 15 % du marché.

Les pesticides contrefaits pèsent très lourd en Europe de l'Est du fait de l'utilisation par les producteurs, mais aussi parce que certains pays (Lituanie, Ukraine...) servent de plateforme d'entrée dans l'UE.

Original text:

The illegal trade in counterfeit pesticides has grown into a multimillion-euro industry in Europe, putting consumers' lives and farmers' livelihoods at risk as unregulated and often toxic chemicals enter the food chain.

These untested and frequently substandard products can be hazardous to anyone handling them or to consumers buying contaminated food. Last year, for example, 28 metric tons of counterfeit pesticides destined for Lithuania were seized in Hamburg. Although they were packed alongside labels and measuring cups purporting to be made by three of the world's largest agrochemical makers, Bayer AG, Syngenta AG and E. I. du Pont de Nemours and Co., they actually contained more than 30% of a solvent called Dimethylformamide, which is banned in Europe because it is suspected to cause serious harm to pregnant women.

But despite the potential health threat, and even though it is illegal to import non-EU-approved chemicals into the European Union, a loophole in the bloc's legislation means many pesticide imports don't come under counterfeiting laws and therefore customs can't seize them. And although industry representatives are pushing for revisions to legislation due to be debated in the European Parliament in the coming months, they say little is likely to change anytime soon.

"We need uniform regulations within the EU and uniform sanctions for noncompliance have to be applied consistently," says Rainer Wujciak, head of the agriculture department of Hamburg's State Ministry of Economy, Transport and Innovation, who led the operation last year to seize the goods. "It is equally important to introduce extensive rights to seize and destroy consignments which are accompanied by false shipping documents."

Under current EU law, the company whose goods have been imitated is expected to bear the costs of storage and destruction of any counterfeit goods seized by customs—bills that can often run into thousands of euros. Although these companies are technically able to claim back such costs from the counterfeiters, practically this can prove complicated and even impossible, as many of these companies are beyond EU jurisdiction or completely bogus. Other national bodies can act but rarely do, meaning customs officials are often forced to release the pesticides back to the importers.

"Even though EU customs are making a valiant effort and seizing a lot of this counterfeit product, there are some antiquated regulations which force them to hand it back to the counterfeiters," says D'Arcy Quinn of plant-science federation CropLife International, who has been working in anticounterfeiting for 15 years.

Lobbyists are now pushing to create a system similar to the one that operates in the U.S., where if there is intent to counterfeit, all component parts can be seized, even if they are transported separately. Some are also pushing to make the shipping agents more legally accountable for moving counterfeit goods, says Ronald Brohm, director of React, an EU anticounterfeiting lobby group representing 180 companies.

"Shippers could easily claim back the costs as they have a contract with the counterfeiters, but rights holders [the companies whose goods are being counterfeited] have to take them to court," he says. "This is typical of the EU's desire to regulate and regulate and make no effective changes," he adds.

David Boubil, press officer for the EU's Trade and Customs Commission, says the EU is "streamlining" its laws to simplify the destruction of goods to make it faster and less expensive, and new regulations should come into force next year. An EU official involved in anticounterfeiting regulation adds that regulators are also improving coordination between agencies to track companies known to trade in counterfeit goods and to reinforce operations in smuggling hotspots in Eastern Europe, such as Ukraine.

For farmers, the effects of using such chemicals can be devastating. In 2006, produce grown with unapproved chemicals made their way from farms in Andalusia, southern Spain, into the rest of Europe, costing the region's agricultural sector an estimated €20 million.

"The whole image of the sector and the price that consumers wanted to pay for the product dropped," says Carlos Palomar, director-general of the Asociación Empresarial para la Protección de la Plantas, a national plant-protection agency, which works with farmers to combat the problem. Earlier this year, three men—including the head of a farming cooperative—were convicted of selling illegal pesticides to farmers.

What makes combating the trade even harder is that there are no reliable statistics on the scale of the problem; in the EU's report on the counterfeit trade for 2010,

pesticides were not included in their own category. But According to data from the European Crop Association, which represents the region's pest-control industry, estimates peg sales of illegal pesticides in Europe at anything from €400 million to €1.2 billion, or between 5% and 15% of the total EU pesticides market.

In some parts of Eastern Europe, particularly heavily agricultural Ukraine, illegal pesticides could make up as much as 50% of the total market, industry participants say. Farmers who responded to a questionnaire from the European Business Association in Kiev on behalf of The Wall Street Journal said that half had bought counterfeit pesticides in the past—a fifth of them knowingly, because they are cheaper than the branded goods or because they didn't realize the risks. In 10%-20% of cases, farmers said they lost their entire crop because of the chemicals.

The EU official said the majority of the trade in illegal pesticides is now dominated by criminal gangs who are seeking to tap into the lucrative industry. Regulators say the pesticides are normally sold in Europe for between three and eight times the price the gangs buy them for in Asia.

Local customs officials seized two containers in the Lithuanian port of Klaipeda in May, officials there said. In one, officials discovered nearly 2,000 empty bottles marked with Syngenta branding and 4,000 labels with fake branding of agrochemicals giant Bayer. Bayer declined to comment on the seizure. The other contained unmarked packs found to be of nicosulfuron, a herbicide, and mancozeb with metalaxyl, a fungicide. Together, they could be worth more than half a million euros, Syngenta said.

According to shipping bills seen by The Wall Street Journal, the goods were sent by a Shanghai-based agrochemicals company AgroChina, to a Lithuanian company UAB Chemtagra, whose website says it deals in pesticides and other agrochemicals. Both companies deny any wrongdoing and no charges have been filed. The counterfeit branded bottles and fake labels have now been destroyed, Lithuanian customs said in a statement. The chemicals themselves have been "put into free circulation" as "the State Plant Protection Service [the body which authorizes pesticides imports] did not request for additional certificates," customs said, but declined to clarify further. A person familiar with the matter said they have been returned to Chemtagra.

Cui Xiaohu, director of AgroChina's trade department, said the company was unaware of the issue and that the seized goods could have been shipped by another

company. "We did not ship such counterfeit products; we met [a] similar problem before and there is [a] possibility that some other company did it under the name of our company," he said.

Algridas Bielskis, the director of UAB Chemtagra, said the shipment contained no counterfeit pesticides and the counterfeit branding must have been loaded by mistake. UAB Chemtagra has since paid for the destruction of the counterfeit branded items.

Syngenta spokesman Michael Edmond Isaac says shipping the constituent parts of counterfeit products separately is a tactic smugglers use regularly in order to exploit an ambiguity in EU law that prevents customs from stopping the import of counterfeit goods if they enter the country with their branding imported separately.

"This is an issue that many industries face on a regular basis, and a legal loophole counterfeiters exploit systematically," Mr. Isaac says. "For pesticides it leads to a massive inflow of untested and potentially dangerous pesticides into the EU, thus critically undermining one of most regulated product markets."

Lithuanian customs acknowledge that the inflow of counterfeit pesticides has "worsened" in recent years as smugglers seek to exploit the more permeable borders of Eastern Europe. "Since the movement of goods is free in the EU, it is not difficult to import goods into the country where legal norms are more liberal and then transport the consignment to other countries where the norms are stricter," they said in a statement.

Yet regulators and lobby groups say the laws are still not an effective deterrent to the lucrative trade. Mr. Palomar, of the Spanish plant-protection agency, says his group has managed to raise awareness of the illegal trade with both police and farmers since, but the counterfeiters have found new ways to escape notice.

"They have started mixing real products with the Chinese" goods, he says. The people selling the fake products "move from one province [of Spain] to another using the same behavior--first they sell the good products at a good price, then put in the fake one."