



Recommendation of the Council on Countering the Illegal Trade of Pesticides



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Background Information

The Recommendation on Countering the Illegal Trade of Pesticide was adopted by the Council on 20 February 2019 on proposal of the Joint Meeting of the Chemicals Committee and the Working Party on Chemicals, Pesticides and Biotechnology.

Countering the illegal trade of pesticides

Pesticides are among the most regulated products in the world, but international shipments of illegal pesticides (e.g., counterfeit, unregistered, illicit or otherwise unauthorised active ingredients and finished products) can escape oversight by pesticide regulators and custom offices, which is a growing concern for governments.

The illegal international trade of pesticides undermines national registration and governments' risk reduction schemes, and public confidence in such schemes. It also distorts pesticide markets, e.g. constituting an estimated 13.8% of the regular EU market as reported by the European Union Intellectual Property Office (EUIPO), by replacing legitimate products with cheaper and possibly more hazardous products.

The illegal international trade of pesticides can also have significant impacts on human health, food chain safety, and the environment. The use of illegal pesticides may directly cause a number of problems associated with, for example, health and environmental hazards due to toxic residues in food or worker exposure during application, damages to crops or low/inadequate product performance and efficiency leading to a reduction in revenues for farmers.

Recommending increased cooperation and combined action

To address these concerns, this Recommendation has been developed to promote greater co-operation between countries and between custom authorities and regulatory and compliance/enforcement agencies in their efforts to identify and respond to illegal trade of pesticides. To that effect, the Council act recommends that Adherents establish or strengthen national procedures aimed at countering the illegal trade of pesticides, in line with the [Best Practice Guidance to Identify Illegal Trade of Pesticides](#) and taking into account national priorities, policies and programmes.

The Best Practice Guidance provides guidance for inspectors and regulatory authorities to identify and tackle illegal pesticides throughout the complete lifecycle of a pesticide, i.e. from manufacture, through formulation, trade and use to destruction. It provides practical advice, which inspectors and regulatory authorities can consider to strengthen national frameworks relevant to countering the illegal trade of pesticides.

OECD tools support Adherents

The implementation of the Recommendation and Best Practice Guidance will be supported by the OECD Network on Illegal Trade of Pesticides (ONIP). The initial aim of this network was to build a "global alliance" by bringing together experts knowledgeable in countering illegal trade.

ONIP developed the OECD Rapid Alert System (RAS) for suspected illegal international trade of pesticides, which was launched in November 2012, and consists of a protected website only accessible to regulatory authorities for a rapid exchange of information about suspicious or rejected shipments of pesticides between experts and inspectors participating in the network.

To support the implementation of the Recommendation, the ONIP will continue to develop guidance and methodologies which will facilitate the identification of illegal pesticides and anticipate the modus operandi of illegal traders. ONIP will also serve as a forum for exchanging best practices, and continue to use the RAS for the rapid exchange of reports on suspicious or rejected shipments of pesticides. ONIP is keen on disseminating the accumulated expertise of its experienced experts and is developing a training course for inspectors and investigators to support countries in countering illegal trade of pesticides.

THE COUNCIL,

HAVING REGARD to Article 5b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

HAVING REGARD to the 1992 Rio Declaration on Environment and Development, adopted by the United Nations Conference on Environment and Development and endorsed by the United Nations General Assembly (A/RES/47/190, 16 March 1993);

HAVING REGARD to the 2002 Johannesburg Plan of Implementation of the World Summit on Sustainable Development which commits to achieve, by 2020, that chemicals are used and produced in ways that lead to the minimization of significant adverse effects on human health and the environment;

HAVING REGARD to the Resolution of the Council on the Implementation of the Strategic Approach to International Chemicals Management (SAICM) [C(2008)32] and to the SAICM objectives concerning the prevention of illegal international traffic in toxic, hazardous, banned and severely restricted chemicals, including products incorporating these chemicals, mixtures and compounds and wastes and to promote information sharing and to strengthen the capacity of developing countries and countries with economies in transition at the national and regional levels for the prevention and control of illegal international traffic;

RECOGNISING that the illegal international trade of agricultural pesticides undermines national legislations on pesticide registration aimed at protecting health and the environment;

RECOGNISING that monitoring and responding to the illegal trade in pesticides can minimise the negative impact on trade, intellectual property rights, the sale of legitimate products and the protection of crops;

RECOGNISING that strengthened national and co-operative international efforts - including, in particular, the rapid exchange of information on suspicious or rejected shipments of pesticides - will substantially reduce the risks posed to health and the environment from the use of illegal pesticides;

RECOGNISING that addressing illegal trade of pesticides is a responsibility of governments which may be shared between different levels of government, according to their legal and institutional frameworks;

RECOGNISING that, while there are differences in the domestic priorities, policies and programmes of Members and non-Members having adhered to this Recommendation (hereafter the "Adherents"), concerted international efforts to address the illegal trade in pesticides can produce more efficient utilisation of national and international resources;

CONSIDERING that the *Best Practice Guidance to Identify Illegal Trade of Pesticides* (hereafter the "Best Practice Guidance") [C(2019)13/ADD1], provides guidance for inspectors and regulatory authorities on best practices for identifying and tackling illegal pesticides throughout the complete lifecycle of a pesticide, from manufacture, through formulation, trade and use to destruction, and may be modified as appropriate by the Joint Meeting of the Chemicals Committee and the Working Party on Chemicals, Pesticides and Biotechnology;

On the proposal of the Joint Meeting of the Chemicals Committee and the Working Party on Chemicals, Pesticides and Biotechnology:

- I. **AGREES** that, for the purposes of this Recommendation, the following definitions are used:
- **Agricultural pesticide** refers to a product which by its packaging, labelling or formulation, consists of or contains one or more active substance(s), co-formulants, safeners or synergists, and intended for one of the following uses: (i) protecting plants or plant products against harmful organisms or preventing the action of such organisms, unless the main purpose of the product is considered to be as a biocide; (ii) influencing the life processes of plants, such as influencing their growth, other than as a nutrient; (iii) preserving plant products; (iv) destroying undesired plants or parts of plants, except algae unless the products are applied on soil or

water to protect plants; (v) checking or preventing undesired growth of plants, except algae unless the products are applied on soil or water to protect plants.

- **Illegal trade of agricultural pesticides** refers to any form of trade of an agricultural pesticide that leads to a violation of domestic law, including counterfeiting, fraud and other forms of deception.
- **ONIP Rapid Alert System (RAS)** refers to a protected Internet website, hosted by the OECD, which allows the rapid exchange of information on suspicious or rejected shipments of pesticides between the government experts/inspectors who are directly involved in identifying and responding to the illegal international trade of pesticides.

II. RECOMMENDS that Adherents establish or strengthen national procedures aimed at countering the illegal trade of agricultural pesticides in line with the Best Practice Guidance, taking into account national priorities, policies and programmes. To that effect, Adherents should:

- i) Ensure there is an appropriate regulatory framework for the management of agricultural pesticides;
- ii) Ensure there are systems in place to detect and take regulatory action against illegal trade of pesticides;
- iii) Co-operate on minimising the illegal trade of pesticides.

III. INVITES the Secretary-General to disseminate the Recommendation.

IV. INVITES Adherents to disseminate the Recommendation at all levels of government.

V. INVITES non-Adherents to take due account of and adhere to this Recommendation.

VI. INSTRUCTS the Joint Meeting of the Chemicals Committee and the Working Party on Chemicals, Pesticides and Biotechnology, through the OECD Network of National Authorities Fighting Illegal International Trade of Pesticides (ONIP) to:

- i) Develop guidance and methodologies which will facilitate the identification of illegal pesticides;
- ii) Serve as a forum, using the RAS, for the rapid exchange of reports on suspicious or rejected shipments of pesticides, when such information is deemed relevant and urgent;
- iii) Serve as a forum to exchange information on progress and experience with respect to the implementation of this Recommendation;
- iv) Monitor the implementation of this Recommendation and report to the Council no later than five years following its adoption and every ten years thereafter.

BEST PRACTICE GUIDANCE TO IDENTIFY ILLEGAL TRADE OF PESTICIDES¹

FOREWORD

This document has been developed in the framework of the OECD Network on Illegal Trade of Pesticides (ONIP), a network of national governmental contact points in all questions related to the illegal international trade of pesticides and an OECD subsidiary body. The document was prepared in consultation with OECD Members and Partners and developed as part of the OECD's efforts to work with governments against the illegal international trade of pesticides.

This document is intended to provide guidance for inspectors and regulatory authorities on best practices for identifying and tackling illegal pesticides throughout the complete lifecycle of a pesticide, from manufacture, through formulation, trade and use to destruction.

It was developed with the aim both of providing best practices for tackling the issue of illegal pesticides, but also of raising awareness in Members and Partners of the issue of illegal pesticides at different parts of the chain; in turn facilitating regulatory authorities to take more effective action against illegal pesticides at different parts of the pesticides supply chain.

¹ This document has been approved by the Joint Meeting of the Chemicals Committee and the Working Party on Chemicals, Pesticides and Biotechnology on 8 November 2018. It is published as: *Best Practice Guidance to Identify Illegal Trade of Pesticides*, Series on Pesticides, No. 99, ENV/JM/MONO(2018)35.

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MANUFACTURE

Manufacturing and storage facilities

1. National competent regulatory authorities should maintain up-to-date lists of pesticides manufacturing and storage facilities (e.g. *National List of Active EPA-Registered Foreign and Domestic Pesticide and/or Device-Producing Establishments*) in order to enable inspections at all manufacturing and storage sites. To ensure that lists are current and complete, consideration may be given to authorisation requirements for manufacturing and storage facilities.
2. This list should include the details of any identified previous cases of the manufacturing or storage of illegal pesticides by the facility.
3. Pesticides that are being manufactured or stored within a country with the intention of being sold in that country, should have a valid registration/authorisation for the country and a valid label.
4. Pesticides that are being manufactured or stored within a country and that are destined for another country should have a valid registration/authorisation for the destination country.
5. Manufacturers should be required to record the details of manufactured and stored pesticides and to keep these records for a period of at least 5 years. Such records should include: pesticide name; destination country; pesticide composition (distinguishing the active substance and co-formulants); date of manufacture; name and address of manufacturer(s) of active substance; date(s) of acquisition of active substance; name and address of manufacturer(s) of co-formulant(s); date(s) of acquisition of co-formulant(s); date of manufacture of pesticide; batch number; type of packaging used; name and address of purchaser; date of sale / goods out.
6. In order to facilitate the aforementioned record-keeping by manufacturers, ensure the harmonisation of records and facilitate inspection, a template or form should be developed by national competent regulatory authorities. As a minimum, the details indicated above in point 5 should be included in such a template or form.
7. In order to facilitate the international exchange of information on pesticide manufacture, it is recommended that the template or form be transmissible electronically, and that in addition to the national language of the manufacturing country, the information be recorded in English.
8. In order to ensure traceability during manufacturing, batch numbers should be printed indelibly on the packaging (e.g. bottle or the bag) that is in direct contact with the pesticides.

Inspectors

9. Inspectors should have knowledge of: (1) the storing and packaging requirements of pesticides, and; (2) key elements to assist in the identification of illegal pesticides at manufacturing and storage facilities. To this end, inspectors should be provided with suitable training and/or guidance.
10. Suitable legal provisions should exist to ensure that inspectors have access to all documents, records and information, including confidential information that is relevant for the confirmation of the legality of a manufactured or stored pesticide; and to all relevant areas of a facility where an illegal or suspected illegal pesticide is manufactured or stored.
11. In order to facilitate inspections of manufacturing and storage facilities, inspectors should have: access to listings of equivalent sources; access to pesticide registration databases to enable the confirmation of the existence of a registration/authorisation in the destination country, and; simple and suitable sampling and analysis methods.

12. Targeted inspections for illegal pesticides should take place based on (1) historical information (point 2), and (2) intelligence indicating the possible manufacture or storage of illegal pesticides at a facility.

13. Company and/or personnel under investigation in relation to the suspected manufacture or storage of illegal pesticides should be obliged to co-operate with inspectors and to facilitate inspections. This may be enabled by the existence of suitable legal provisions to this effect.

14. In the case of the identification of illegally manufactured or stored pesticides, clear follow-up actions by inspectors should be foreseen. This may include: administrative seizures; pesticide recalls, and; destruction. For counterfeit pesticides, destruction of the pesticide should always be the ultimate goal of the national competent authorities. As certain of these actions may be high-cost, consideration should be given to clarifying the party responsible for the costs of any such actions (see point 105).

15. In the case of the identification of illegally manufactured or stored pesticides, the need and possibility for prosecution should be considered, taking into account the details of the case. The procedure for the pursuit of prosecution should be clear.

16. Co-operation with other countries should be sought if evidence supports this. There should be clear contact points in the authorities of each country for the co-operation in such cases, and the procedures for contacting and sharing relevant information with the authorities of other countries in such cases should be clear.

FORMULATION

17. Routes for the entry of potentially illegal ingredients for the formulation of illegal pesticides should be investigated. This analysis can be performed as part of the broader strategic analysis (point 58).
18. National competent regulatory authorities should maintain up-to-date lists of toll manufacturers/formulators and companies producing packaging for pesticides in order to facilitate their inclusion, if necessary, in investigations by regulatory authorities.
19. Toll manufacturers/formulators should be required to record the details of toll manufacturing/formulation and to keep these records for a period of at least 5 years. These records should include: name of base materials used; name and address of provider of base materials; composition/recipe; and name of country where the pesticide will be placed on the market (destination country). Furthermore, the following should also be kept for each manufactured/formulated batch: safety data sheets (SDS) of base materials; samples of the formulated pesticides; and test results.
20. Pesticides manufactured/formulated by toll manufacturers/formulators should have an authorisation/registration for the country of destination.
21. In order to ensure traceability during manufacturing/formulation, batch numbers should be printed indelibly on the packaging (e.g. bottle or the bag) that is in direct contact with the pesticides.

EXPORT

List of exporters

22. National competent regulatory authorities should maintain up-to-date lists of operators exporting pesticides from their territory in order to facilitate the identification of pesticide exports and further inspection of exporters. The list of exporters should be set up in a way that ensures individual consignments can be linked to exporters by national competent regulatory authorities.

23. To ensure that lists are current and complete, consideration may be given to authorisation requirements for exporters.

24. This list should include the details of any identified previous cases of export of illegal pesticides by the exporter.

Record keeping and templates/forms

25. Exporters should be required to record the details of stored and exported pesticides and to keep these records for a period of at least 5 years.

26. In order to facilitate the aforementioned record-keeping by exporters, ensure the harmonisation of records and facilitate inspection, a template or form should be developed by national competent regulatory authorities.

27. As a minimum, the following details should be included in such a template or form: name of pesticide or active ingredient; name and address of exporter; name, address and country of consignee; date of shipment / delivery for shipment; quantity shipped.

28. In order to facilitate further backwards traceability, it is recommended that the template also includes fields for information about the origin of the pesticides (link to manufacturing records if the exporter also manufactured the pesticide; otherwise date received by exporter and name and address of the supplier of the pesticide).

29. In order to facilitate the international exchange of information on exports, it is recommended that the template or form be transmissible electronically, and that in addition to the national language of the exporting country, the information be recorded in English.

Registration in destination country

30. It should only be possible for pesticides to be exported to the destination country if a valid authorisation/registration and valid label for that pesticide exists in the destination country.

Export certificates

31. In order to facilitate the identification of illegal pesticides, it is recommended that export certificates (e.g. ICAMA certificates) for each consignment be issued by the competent regulatory authorities in the country of export. Alternatively, export certificates can be issued for a fixed amount of time.

32. Evidence of the existence of a valid registration and label for the exported pesticide in the destination country (point 30) can be requested during the issuance of the export certificate.

33. In order to facilitate the international exchange of information on exports, it is recommended that export certificates contain information in English in addition to the national language of the exporting

country, and that they are transmitted to the authorities of the destination country to facilitate pre-arrival checks.

34. In order to assist in the detection of exporters of illegal pesticides, national competent regulatory authorities should seek verification of the arrival of pesticide consignments in the destination country and follow up on any discrepancies. The use of export certificates may facilitate verification.

TRANSPORTATION

Pre arrival

35. With suitable pre-arrival information, the time during transportation can provide authorities in the destination country with the opportunity to perform checks on consignments before they arrive at points of entry, and hence facilitate the detection of suspicious consignment worthy of further investigation on arrival.

36. In order to facilitate such pre-arrival checks, information can be transmitted by the exporting country to the importing country. This pre-arrival information may include: invoices; material data safety sheets (MSDS); export certificates (see point 33); electronic export information, and; (if available) packaging lists.

37. Pre-notification of consignments received through the single window customs system, where implemented, can also be used to identify suspicious consignments prior to arrival. Suitable information sharing provisions for the main regulatory authorities involved may be needed to facilitate this (point 56).

38. Pre-arrival checks should enable a pre-arrival risk-profiling through the use of a system connected to the risk based analysis (ideally a keyword-based search) which is used for the identification of suspicious consignments at the moment of import (point 61).

In transit

39. The transit status of a consignment has considerable impacts on the ability of authorities to take action against illegal pesticides within the consignment. National laws and their interpretation may have a further impact.

40. Whether or not an in-transit consignment passing through the territory of one country on the way to another destination country is considered to be on the market in either country should be clarified between the countries involved, as it is likely to impact the possibility to take action against an illegal consignment or the range of actions that can be taken.

41. The legal possibilities to take action against consignments of illegal pesticides in transit should be considered. This should include: an examination of the possibility to take action against the infringements of intellectual property rights (IPR) based on the possibility to take preventative action against IPR infringements in the destination country, and; the existence of a valid authorisation / registration in the declared destination country.

42. There should be clarity about in-transit times between countries for consignments which pass through the entry point on route to a final destination in another country. This clarity on transit times is useful in the case a suspicious consignment exceeds the expected transit time.

43. The regulatory authorities responsible for the inspection of consignments of pesticides passing through its territory on route to a different destination country may be the same or different from those with primary responsibility for import inspections (point 56). Different authorities may be responsible for inspections on different forms of transport (ship, road, air).

44. The authorities responsible for inspections on different forms of transport should be identified. If different from those with primary responsibility for checks at points of entry, interaction between these authorities and those involved in the control of illegal pesticides should be formalised through a memorandum of understanding (MoU) similar to that outlined in point 56.

45. Practical guidance on how to perform physical inspection of transported goods should be available. This guidance should distinguish between different forms of transports (ship, road, air) and should include provisions for internet-based trade.

46. Inspections should include checks on documentation and the authorisation status of the pesticide in the country of destination. Transported pesticides should be accompanied with proper documentation at all times and authorised in the country of destination.

47. If possible, the weights of vehicles or containers with consignments of pesticides should be checked at the point of entry and point of exit of a transited country. If present, GPS navigators may be checked to confirm routes used during transit.

IMPORT

48. The import stage is a critical stage in the supply chain as illegal pesticides can be prevented from entering economic zones or countries at this stage. Control and inspection of pesticides at the border is therefore crucial.

Importer obligations

49. National competent regulatory authorities should maintain up-to-date lists of operators importing pesticides into their territory in order to facilitate the identification of pesticide imports and further inspection of importers.

50. To ensure that lists are current and complete, consideration may be given to authorisation requirements for importers.

51. This list should include the details of any identified previous cases of export of illegal pesticides by the importer.

52. Importers should be required to record the details of imported and stored pesticides and to keep these records for a period of at least 5 years.

53. In order to facilitate the aforementioned record-keeping by importers, ensure the harmonisation of records and facilitate inspection, a template or form should be developed by national competent regulatory authorities.

54. As a minimum, the following details should be included in such a template or form: name of pesticide or active ingredient; name and address of importer; date of import/arrival; name, address and country of consignor; date of shipment by consignor; quantity imported.

55. In order to facilitate the international exchange of information on imports, it is recommended that the template or form be transmissible electronically; in addition to the national language of the importing country, the information be recorded in English.

Inspectors

56. The main regulatory authorities (e.g. customs, pesticide regulatory authority) involved in the control of illegal pesticides at points of entry should be identified and the interaction between these authorities should be formalised through a memorandum of understanding (MoU), a law or similar. This formalisation should contain clear provisions on practical data-sharing methods and protocols that ensure that the authorities with primary responsibility for the detection of illegal pesticides at points of entry have, directly or indirectly, access to the data necessary to enable them to detect and subsequently investigate consignments of illegal or suspicious pesticides.

57. Where necessary, the main regulatory authorities should interact with other relevant authorities, notably those responsible for hazardous goods at points of entry, those involved in the day-to-day operation of points of entry, and those involved in subsequent criminal investigations (e.g. port or airport authorities, port or local police) to facilitate inspections and any required further action.

58. A strategic analysis on methods of entry of illegal pesticides into the country should be completed and periodically updated by the national regulatory competent authority. This strategic analysis should identify higher risk entry points of illegal pesticides into the country, higher-risk pathways at these entry points, possible seasonal variations, and any pesticides or active ingredients which are a particularly common targets of illegal operators.

59. A tactical analysis identifying actors (both importers in the country and exporters based in other countries) involved in trade in illegal pesticides and the current modus operandi of illegal traders, should be completed and frequently updated by the national competent authority. It should also include any common features of illegal traders such as the use of shell companies, unconventional address (e.g. residential addresses or PO boxes) and imports by non-registration holders.

60. In addition to identifying actors with previous or suspected involvement in the illegal import of pesticides, the tactical analysis should focus specifically on the modus operandi most commonly used by illegal traders. This should include the following: the use of any specific HS or CN codes; common product descriptions and key words used on customs declarations and other documentation; other common features of customs declarations (such as declaration in-transit or the absence of any declaration); common inconsistencies between documents and declarations; and common features of labelling and packaging (or the absence thereof).

61. The strategic and tactical analyses should be used together to enable inspections based on risk analysis. The risk-based analysis should ideally use a keyword-based search of relevant databases, with the list of keywords based on the aforementioned analyses and frequently updated in conjunction with them.

62. Officials should be trained on how to perform targeted inspections, and up-to-date guidance based on the strategic and tactical analyses should be provided to officials to ensure they have knowledge of current common features of illegal consignments.

63. A rolling workplan of training for officials on inspection protocol and methods should be developed. The training should cover, *inter-alia*: an overview of the complete inspection process; methods of identification of illegal consignments; documentary checks; procedural matters for blocking transports for further inspection/investigation (including any necessary co-operation with other authorities); methods of physical inspection including any safety measures to be taken during these inspections; methods of further investigation (e.g. requests for additional information from the parties involved); the use of analytical methods such as chemical analyses, and; the protocol to arrive at a final decision. This rolling workplan should be constantly updated to ensure that officials are kept up to date with adaptations made by illegal traders.

64. A protocol for arriving at a final decision regarding a consignment should be developed, and follow-up actions defined. Such action may include: release with no further action; return or forwarding, and; destruction. The protocol should also include clear procedures in each case, with provisions for appropriate contact with the authorities of other countries.

65. Records should be kept of identified illegal pesticides and the actors (manufacturers, importers and/or distributors) involved. These records should be used to update the tactical and strategic analyses.

66. These records should use a harmonised template or form, both to ensure the consistency of recorded information and to facilitate the exchange between countries of information on cases of imported illegal pesticides, including for network analyses of the actors involved.

67. Information recorded in these records should include: dates of departure and arrival; country and port of origin or point of departure; any transit countries; port or entry point of arrival and detection; transporter/shipping line; consignor; consignee; pesticide or active substance involved; results of any chemical analyses; volume/weight; descriptions used on different documentation; HS or CN codes used; the nature of the illegality (e.g. IPR infringement, non-authorised product); and the final decision/action taken. Further information on key methods used to disguise the consignment should also be recorded.

68. In order to facilitate the international exchange of information on cases of imported illegal pesticides, it is recommended that: (1) efforts be made between countries to harmonise the templates

or forms used; (2) the template or form be transmissible electronically, and; (3) in addition to the national language of the importing country, the information be recorded in English.

SALE/RETAIL

Distributors (wholesalers/retailers)

69. National competent regulatory authorities should maintain up-to-date lists of distributors of pesticides (wholesalers and retailers) in order to facilitate inspections. To ensure that lists are current and complete, consideration may be given to authorisation requirements for distributors.

70. This list should include the details of any identified previous cases of the retail of illegal pesticides by the distributor.

Record keeping and templates/forms

71. Distributors should be required to record the details of stored and distributed pesticides and to keep these records for a period of at least 5 years. These records should cover both goods in i.e. purchases and goods out i.e. sales.

72. In order to facilitate the aforementioned record-keeping by distributors, ensure the harmonisation of records and facilitate inspection, a template or form should be developed by national competent regulatory authorities.

73. As a minimum, the following details should be included in such a template or form: (1) goods in: name of pesticide or active ingredient; name and address of supplier; date of purchase; batch numbers; pack size; quantity/volume; (2) goods out: name of pesticide or active ingredient; name and address of purchaser; date of sale; batch numbers; pack size; quantity/volume. Records of any returns should also be indicated under goods in or goods out accordingly with a clear note that the transaction was a return.

74. Whether or not the purchaser is a professional user should be indicated in the template or form. If a list of professional users including a registration number is kept by the national regulatory competent authority (point 69), the template or form should contain a field for this reference number.

75. In order to facilitate the international exchange of information on illegal pesticide sales, it is recommended that the template or form be transmissible electronically and that in addition to the national language of the country, the information be recorded in English.

Inspectors and inspections

76. Controls of pesticide products on the market in a country may be organised by different authorities at different geographical levels (e.g. national, regional and district). The jurisdictions of the different authorities should be clearly defined, and co-operation between the authorities involved outlined.

77. Inspectors should be trained on how to perform inspections in accordance with a defined inspection protocol, and should have knowledge of storing and packaging requirements of pesticides.

78. Basic marketing controls of distributors for the identification of illegal pesticides should include checks on the authorisation of the product; visual checks of packaging and labelling, and; the verification of distribution records.

79. Alternative channels which may be used for the distribution of illegal pesticides (e.g. outdoor markets, internet, other direct sales channels) should also be monitored by authorities.

80. Follow-up actions and their procedures in the case of detection of suspicious pesticides during marketing controls should be defined. These may include chemical analyses and further documentary

investigations. In the case that pesticides are considered illegal, further actions and the procedures for these actions should be defined.

81. Records of illegal pesticides identified during market controls of should be kept by authorities. These records should include: the date of detection; distributor at which the illegal pesticide was identified; pesticide or active substance; origin of illegal pesticide (importer or manufacturer), if identified; the nature of the illegality (e.g. IPR infringement, non-authorised product); and the final decision/action taken.

82. In order to facilitate the international exchange of information on illegal pesticides detected on the market (e.g. when performing a network analysis of the actors involved), it is recommended that a template or form be developed and used. In addition to the national language of the country, the information should be recorded in English.

Education

83. Distributors should be educated in the identification of illegal pesticides. This should include easily identifiable common features of illegal pesticides such as packaging and labels; higher risk channels; documentation/traceability issues; and price. This education should include information on the risks and hazards of illegal pesticides; the possible penalties for the storage or distribution of them, and how distributors can notify authorities of suspicious pesticides or activity.

USE

Professional users

84. National competent regulatory authorities should maintain up-to-date lists of professional users of pesticides. This list should include the details of any identified previous cases of the use of illegal pesticides by professional users.

85. Professional users should be required to record the details of bought, stored and used pesticides and to keep these records for a period of at least 5 years.

86. In order to facilitate the aforementioned record-keeping by professional users, ensure the harmonisation of records and facilitate inspection, a template or form should be developed by national competent regulatory authorities.

87. As a minimum, the following details should be included in such a template or form specifically to help ensure the legality of used pesticides: (1) goods in: name of pesticide or active ingredient; name and address of supplier; date of purchase; batch numbers; pack size; quantity/volume (2) use or disposal: name of pesticide or active ingredient; date of use or disposal; batch numbers; quantity/volume; type of treatment or disposal. These details may be integrated into a broader template with other record-keeping criteria or legal obligations for pesticide users (e.g. in relation to storage, treatments or disposals).

88. In order to facilitate the international exchange of information on illegal pesticide usage, it is recommended that the template or form be transmissible electronically and that in addition to the national language of the country, the information be recorded in English.

Inspectors

89. The detection of illegal pesticides during the use phase on-farm is generally less resource efficient than in other phases for various reasons, *inter-alia*: the high number/level of dispersion of actors and hence pesticides compared to earlier phases in the chain; the potential break-up of uniform batches / heterogeneity of pesticides stored and use; and the wide range of other checks which may already be performed on users of pesticides.

90. Nonetheless, certain methods of distribution of illegal pesticides such as just-in-time delivery and network sales may attempt to bypass the traditional pesticide distribution chain as much as possible, meaning that it may be difficult to detect certain illegal pesticide until the use phase.

91. In view of the above, resources for the detection of illegal pesticides are generally better employed on phases further up the chain. Nonetheless, targeted inspections of farms should be performed by the competent regulatory authorities on the basis of gathered intelligence.

92. Other compliance and enforcement activities related to pesticides such as the inspection of Maximum Residue Levels (MRLs) may result in the detection of illegal pesticides.

93. If the compliance and enforcement officers responsible for such other activities are not the same as those responsible for the detection of illegal pesticides, awareness of the issue of illegal pesticides should be raised among these officers, either through a basic training in the subject or through the provisions of a guidance document. Clear communication channels between these officers responsible for such other checks and the competent regulatory authority responsible for the detection of illegal pesticides should be established.

94. The use of illegal pesticides can be intentional or unintentional. Authorities should raise awareness among users, and educate them on the risks, types, features and recognition of illegal pesticides.

95. As well as targeting professional users directly, awareness-raising and education activities should target farmer associations and co-operatives in order to increase reach and impact.

96. Education on the risks of using illegal pesticides should include: potential for yield loss / crop damage and loss; long-term environmental damage to the farm; reputational risks and supply chain instability; impacts on user health; impacts on the food chain and the broader human health of consumers; and, if relevant, penalties for intentional use.

97. Farmers should be made aware of the main types of illegal pesticides: (1) counterfeit pesticides which are packaged and labelled to look like legal products; (2) fake products or counterfeit pesticides with poor or limited labelling and packaging that is clearly different from the original, and; (3) pesticide products without a registration in the country.

98. Education on the features and methods of recognition of illegal pesticides should be provided. In addition to labelling/packaging, this should cover elements such as: higher risk supply chains / distribution channels and methods; abnormal colour and smell of the product; and any other red flags like abnormally low pricing.

99. The education should also include a clear indication of who to contact for further information or to report any suspicions in relation to illegal pesticides.

DISPOSAL

Pesticide packaging

100. The proper disposal of legitimate pesticide packaging is important to avoid its reuse for the packaging of illegal pesticides.

101. Users of pesticides should be advised or required to triple-rinse and pierce containers after use in order to avoid their reuse for the packaging of illegal pesticides.

Illegal pesticides

102. The destruction of identified illegal pesticides and obsolete pesticides is important to avoid their re-appearance on the market.

103. Suitable specialised quarantine warehouses and disposal facilities should be available.

104. In the case that private operators are used for storage or disposal, suitable due diligence on the private operator should be performed prior to their engagement.

105. Given the potentially high cost of storage and disposal of obsolete and illegal pesticides, consideration should be given to the introductions of mechanisms or legal provision for the financing of these activities. There should be legal obligations to impose these costs upon those companies or individuals responsible for the illegal pesticides.

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Appendix 1: Parallel trade

1. Parallel trade concerns countries that are part of economic zones or common markets which allow this particular form of pesticide trade, such as the European Union.
2. Illegal operators may attempt to abuse the parallel trade system in order to place illegal pesticides on the market. In view of this, the provisions in this appendix should be taken into account by countries that are part of economic zones or common markets which allow this particular form of pesticide trade.
3. National competent regulatory authorities should maintain up-to-date lists of parallel traders in order to facilitate their inspection and inclusion, if necessary, in investigations by regulatory authorities. To ensure that lists are current and complete, consideration may be given to authorisation requirements for parallel traders.
4. Consideration should be given as to whether the further parallel trading of already parallel-traded pesticides is permitted. In the case it is permitted, suitable provisions and requirements should exist to ensure the traceability of the product.
5. Parallel traders should be required to record the details of traded pesticides and to keep these records for a period of at least 5 years. These records should include: (1) goods in: pesticide name; name and address of supplier; date of purchase; batch numbers; pack size; quantity or volume; (2) goods out: pesticide name; name and address of purchaser; date of sale; name of country where the pesticide will be placed on the market (destination country); batch numbers; pack size; quantity or volume.
6. In order to facilitate the aforementioned record-keeping by parallel traders, ensure the harmonisation of records and facilitate inspection, a template or form should be developed by national competent regulatory authorities. As a minimum, the details indicated above in point 5 should be included in such a template or form.
7. In order to facilitate the international exchange of information on parallel trade, it is recommended that the template or form be transmissible electronically, and in addition to the national language of the country of the parallel trader, the information be recorded in English.

Appendix 2: Repackaging

1. The repackaging of pesticides, if permitted in a country, may take place following parallel trade (see Appendix 1). Provisions in this section are only relevant if a country permits the repackaging of pesticides on its territory
2. Illegal operators may attempt to abuse the repackaging system in order to place illegal pesticides on the market by interrupting the traceability of a pesticide.
3. National competent regulatory authorities should maintain up-to-date lists of repackaging plants in order to facilitate their inspection and inclusion, if necessary, in investigations by regulatory authorities. To ensure that lists are current and complete, consideration may be given to authorisation requirements for repackaging plants.
4. Repackagers should be required to record the details of repacked pesticides and to keep these records for a period of at least 5 years. These records should include: (1) goods in: pesticide name; name and address of supplier; date of purchase; batch numbers; pack size; quantity or volume; (2) goods out: name and address of purchaser; date of sale; name of country where the pesticide will be placed on the market (destination country); pack size; quantity or volume.
5. In order to facilitate the aforementioned record-keeping by repackagers, ensure the harmonisation of records and facilitate inspection, a template or form should be developed by national competent regulatory authorities. As a minimum, the details indicated above in point 4 should be included in such a template or form.
6. In order to facilitate the international exchange of information on repackaging, it is recommended that the template or form be transmissible electronically, and in addition to the national language of the country of the repackager, the information be recorded in English.
7. Repackaged pesticides should have an authorisation/registration for the destination country.
8. In order to facilitate the further traceability of repackaged products, a requirement for “double labelling” i.e. the inclusion of a copy of the original label on the repackaged pesticide, and/or the indication of the original batch number on the repackaged product should be considered.
9. Basic controls of repackagers for the identification of illegal pesticides should include checks on the origin and destination of pesticides; visual checks of packaging and labelling; and the verification of records.
10. Follow-up actions and their procedures in the case of detection of suspicious pesticides during controls on repackagers should be defined. These may include composition tests and further documentary investigations. In the case that pesticides are considered illegal following these follow-up actions, procedures for further action should be defined.

Appendix 3: Acronyms

Acronym	Full term
CN	Common nomenclature (European Union)
EPA	Environmental Protection Agency (US)
EU	European Union
GPS	Global Positioning System
HS	Harmonized Commodity Description and Coding System/Harmonized System (World Customs Organization)
ICAMA	The Institute for the Control of Agrochemicals (China)
IPR	Intellectual Property Rights
MoU	Memorandum of Understanding
MRL	Maximum Residue Levels
MSDS	Material Safety Data Sheets
OECD	Organisation for Economic Co-operation and Development
ONIP	OECD Network on Illegal Trade of Pesticides
PO	Post Office
PPPAMS	Plant Protection Products Application Management System
SDS	Safety Data Sheet
WGP	Working Group on Pesticides

Appendix 4: Glossary

Term	Definition
Active substance / ingredient	A substance, either chemical or biological (including micro-organisms such as fungi or bacteria) in nature, that has general or specific action against harmful organisms or on plants, parts of plants or plant products.
Administrative seizure	A follow-up action in the case of identification of illegal pesticides whereby the regulatory authority takes possession of the pesticides
Chemical analysis	Examination/study of the chemical composition and structure of substances.
Co-formulant	A substance used in a pesticide which is not an active substance, safeners or synergists.
Common market	Group formed by countries within a geographical area to promote duty free trade and free movement of labour and capital among its members.
Counterfeit pesticide	An illegal copy of a legitimate, branded pesticide which may be difficult to distinguish from the legal product due to the high quality branding and packaging..
Destination country	The country to which a pesticide is destined for placing on the market.
Economic zone	Designated areas in countries with special economic regulations that differ from other areas in the same country, which tend to contain measures conducive to foreign direct investment (such as tax incentives and lower tariffs).
Equivalent source	A source which is compositionally similar to an (authorised) reference source and has the same or less harmful effects due to its impurities compared to the (authorised) reference source.
Export certificate	A certificate issued by the competent authority of the exporting (country of origin) declaring the registration status and range of applications of a pesticide.
Fake pesticide	An illegal copy of a legitimate, branded pesticide which may make some effort to imitate the original product but which can be identified with relative ease due to the poor quality of the product and packaging. the legal product due to the high quality branding and packaging..
Free trade zone	A geographic area where goods may be landed, stored, handled, manufactured, or reconfigured, and re-exported under specific customs regulation and generally not subject to customs duty.
Illegal pesticide	Any pesticide which, for whatever reason, is not legal in the country of destination. This includes the sub categories of counterfeits, fakes, obsolete and unauthorised pesticides.
In transit	Status of goods which are crossing the customs territory of a country on their way from a different country of origin to a different destination country.
Maximum residue level (MRL)	The highest level of a pesticide residue that is legally tolerated in or on food or feed when pesticides are applied correctly.
National competent regulatory authority	Authority with competence to implement national legislation including the authorisation, registration and monitoring of active substances and pesticides.
Obsolete pesticide	A pesticide product which is no longer authorised.

Packaging list	List of articles in a consignment, normally providing quantity, description and weight of contents.
Parallel trade	Import of a non-counterfeit product from another country without the permission of the intellectual property owner in accordance with any permit requirements set out by the destination country.
Placing on the market	The holding of a pesticide product for the purpose of sale within a country. This includes offering for sale and other forms of transfer.
Point of entry	A place (land crossing, seaport or airport) where people and merchandise can enter or leave a country.
Professional user	A person who uses pesticides in the course of their professional activities. This may include operators, technicians, employers and self-employed people, in the farming and in other sector.
Shell company	Non-trading company, which serves as a vehicle for business transactions without itself having any significant assets or operations.
Single window customs system	A system that allows traders to lodge information with a single body to fulfil all import or export related regulatory requirements.
Toll manufacturer / formulator	A company providing manufacturing services (for a fee) to another company, on the basis of a contract for provision of those services.
Unauthorised pesticide	A pesticide that is not authorised for use by the regulatory authorities in the country in which it is being placed on the market.

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