

A landmark export ban

- In October 2018, France adopted a food and agriculture law (Egalim law) which included an article prohibiting the production, circulation or export of crop protection products containing chemicals banned by the European Union because of the danger they pose to human health or the environment.
- The export ban came into force on 1 January 2022.

France still exporting banned pesticides

- Data obtained by Public Eye and Unearthed under freedom of information laws shows that so far in 2022 France has approved the export of a total of more than 7,400 tonnes of banned pesticides.
- Among the planned shipments are 14 different chemicals that have been banned from European Union fields in order to protect human health or the environment.
- The vast majority of the exports - 73% of the total weight - is destined for low- or middle-income countries (LMICs), where experts say that pesticide regulation tends to be weaker, and the use of highly hazardous pesticides poses the greatest risks.

The “pure substance” loophole

- Egalim prohibits the manufacture and export of “crop protection products” containing active chemicals that have been banned in the EU - but it does not prohibit the manufacture and export of the banned chemicals themselves.
- Pesticides companies are free to continue manufacturing and exporting these banned chemicals in their pure form. They can then be diluted and mixed with other ingredients in the importing country to produce ready-to-use pesticides.
- Several banned pesticides seem to have slipped through this loophole. The most significant of these is picoxystrobin, which represents alone 40% of the volumes exported from France. Some 2'900 tonnes of pure picoxystrobin were so far approved for export by the French government this year.

The “expiration of approval” loophole

- Under a decree issued in March this year, the export ban does not immediately apply in cases where a pesticide was not prohibited through a formal decision by the European authorities and its approval was simply allowed to expire. In these cases, the export can only be prohibited through an explicit joint order issued by the French ministers of agriculture and the environment. No such orders have yet been issued.
- Under this loophole, the French authorities have so far approved the export of more than 1,800 tonnes of products containing the banned “bee killing” insecticides imidacloprid, clothianidin, thiamethoxam, and fipronil. Those substances are all considered as “banned” under EU law but products containing those substances can still be exported from France because their EU approval was allowed to expire without a formal ban.

Implementation issues

- Public Eye and Uearthed have found a number of banned pesticide exports approved by France this year despite the fact that they do not seem to fit through either of the loopholes noted above.
- The most significant example is the fungicide fenamidone, which by volume is the second largest banned pesticide export approved by France this year. Fenamidone was banned in 2018 by a formal decision from EU authorities. But 1'300 tonnes of fenamidone were approved for export in the form of crop protection products.
- The French government confirmed that those exports do “fall within the scope” of the export ban. However, the exporting companies had provided “supporting documents” justifying why the exports should not fall within the scope of the law; these justifications had been analysed and “deemed admissible”.

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A drop in exports compared to 2021

- Despite the gaps in the Egalim law, Unearthed and Public Eye found evidence that its introduction has sharply reduced the quantity and number of banned pesticides being exported out of France.
- Between January and September 2022, France approved banned pesticide exports totalling 7,475 tonnes, a huge drop compared to the 28,479 tonnes notified by French exporters for the full year 2021.
- 14 banned pesticides were approved for export from France in 2022, compared to 31 in 2021

Circumventing the french export ban?

- 11 of the 17 banned pesticides no longer exported from France in 2022 are still being exported from other EU countries in 2022.
- For major multinational companies, which have facilities and subsidiaries across the EU, it is relatively easy to move their banned pesticide exports to other EU countries.
- The most pronounced example of this is Syngenta. Example of atrazine : exported by Syngenta from France since 2004 until 2020. In 2022 Syngenta no longer exports from France but start exporting for the first time from Germany, to the same countries.
- Also chlorothalonil, diquat and pymetrozine: exported by Syngenta from France in 2021 but no longer in 2022. In 2022 Syngenta exports for the first time pymetrozine, chlorothalonil and diquat from Germany.

The need for an EU-wide export ban

- A spokesperson for the French environment ministry said that one “difficulty” of the Egalim law was that a French ban on the export of a substance out of the EU could be “circumvented by exporting it from another country in the Union”.
- “It is therefore necessary for the bans adopted or planned in a few European countries to be generalised to the whole of the European Union,” she continued.
- She added: “France supports the adoption of an export ban at European level... France wishes to continue to work with the European Commission to accelerate the implementation of this very important measure of its chemicals strategy.”