

European Commission
Valdis Dombrovskis
Commissioner for Trade (ad interim)
Rue de la Loi / Wetstraat 200
1049 Brussels
Belgium

to: [REDACTED]

Berlin, 25 September 2020

foodwatch calls for stronger regulation on the production and export of dangerous pesticides

Dear Commissioner Dombrovskis,

On 17 April 2020 foodwatch contacted the CEOs of Bayer-Monsanto, BASF and Syngenta to demand that they immediately stop production, sale and export of pesticides that are not approved for use in the EU. Commissioner Kyriakides has been receiving regular updates on our petition, which now has over 57,000 signatures. Today we are taking contact with her, as well as three other Commissioners, including yourself, to call on you to work together to put in place a legal framework that will ensure safe food standards and protects EU consumers from toxic pesticides.

We call on you, as Commissioners, to introduce the necessary regulation that will prohibit the production, sale and export of pesticides (both products and the active ingredients), which are already banned within the European Union due to their hazardous effects on human or animal health or the environment, and to ensure that residues of these banned pesticides are not allowed in imported food products.¹

1. Double standards

foodwatch criticises the fact that the current regulations do not forbid European companies from producing, selling and exporting highly hazardous pesticides, or active ingredients of pesticides,

¹ foodwatch is focussing here on the pesticides that are already forbidden in the EU due to their hazardous effects. This is the case for all pesticides listed in the Annex I of Regulation (EU) Nr. 649/2012.

that are not approved for the use within the EU. Highly toxic pesticides that have an EU risk assessment concluding “immediate concerns for human health or animal health or the environment” can *legally* be sold to non-EU-countries. The regulation (649/2012/EC) only requires exporting companies to *inform* the authorities in recipient countries of imminent imports of dangerous industrial chemicals or pesticides.

The export of these highly hazardous pesticides/active ingredients already banned in the EU are putting the life and health of people in third countries needlessly in danger. This is a blatant example of double standards.

Health risks associated with pesticide-use range from acute to chronic, from irritating to fatal. Examples of acute health impacts include “fatigue, headaches and body aches, skin discomfort, skin rashes, poor concentration, feelings of weakness, circulatory problems, dizziness, nausea, vomiting, excessive sweating, impaired vision, tremors, panic attacks, cramps, etc., and in severe cases coma and death”.² Pesticide-induced chronic illnesses include “cancer, Alzheimer’s and Parkinson’s diseases, hormone disruption, developmental disorders and sterility [as well as] memory loss, loss of coordination, reduced visual ability and reduced motor skills,” among others.³

Additionally, these pesticides do not only affect farmers and agricultural workers but also their families and communities. This is even more detrimental for people living in the Global South where access to clean water, adequate health care and sanitation as well as labour rights standards and their enforcement can be much lower than in the Global North.

When the EU risk assessment considers certain pesticides and active ingredients as too dangerous for humans, animals or the environment, this should not be limited to European boundaries but have general and global significance, no matter whether there is a registration in any OECD country. Harmful pesticides should not be used anywhere, and thus the production as well as their sale and export to third countries should be stopped immediately.

In addition we demand that for all remaining exports, importing countries are informed about the outcome of a comprehensive exposure assessment with and without personal protective equipment (PPE) for representative uses (e.g. cotton, cocoa, banana, coffee, tea, pineapple etc.) in the importing countries⁴. In many countries producing agricultural commodities for the EU market the level of protection is much lower than in the EU – “safe use” is a myth and authorities often do not have the capacity for a real world⁵ risk assessment.

² ‘Pesticides and Health Hazards: Facts and Figures’ (PAN Germany 2012) p.5

https://www.pangermany.org/download/Vergift_EN-201112-web.pdf ; citing M.C.R. Alavanja, J.A. Hoppin, F. Kamel, ‘Health Effects of Chronic Pesticide Exposure – Cancer and Neurotoxicity’ (2004) 25 Annual Review of Public Health 155–197. <https://doi.org/10.1146/annurev.publhealth.25.101802.123020>

³ UN Human Rights Council, Report of the Special Rapporteur on the Right to Food (Effects of Pesticides on the Right to Food) (2017) A/HRC/34/48 p.5. <https://reliefweb.int/report/world/report-special-rapporteur-right-foodahrc3448>

⁴ Calculation of the exposure for uses in importing countries and comparison with acceptable operator exposure level (AOEL) as already done in the EI risk assessment.

⁵ It is automatically assumed that pesticide users apply pesticides according to the label and always wear proper protective clothing. That is a wrong assumption.

In conclusion: allowing the export of pesticides banned in the EU to third countries implies that lives of people in third countries matter less than those in the EU. This is unacceptable. The EU can no longer maintain these double standards. Bayer and BASF are both international corporates making enormous profits out of this situation. They both have their headquarters based in the EU. It is the responsibility of the EU to ensure safeguards against these toxins produced in the EU and to not apply double standards.

2. The myth of self-regulation by industry

We have received a response from BAYER to our campaign. Their letter and our response are attached for your information. Neither BASF nor Syngenta have replied. The response from Bayer and the lack of response from BASF and Syngenta only indicates, that pesticide companies cannot be relied upon to change their own business practices for health, human rights' or environmental reasons. In 2018, France adopted new legislation that prohibits the production and export of pesticides that are banned in the EU due to the risks for health and the environment. The French institutional court effectively upheld the objectives pursued by this law.⁶ In its judgement, the intentions of the industry were clear: It is not an altruistic approach on guaranteeing global food security, but an approach focussed solely on profit. This French law will come into force in 2022. It is now time for an equivalent regulation at EU level to ensure coherence across the EU.

In conclusion: The pesticide industry will never self-regulate against their immanent business interests. The EU must act on the issues raised and introduce binding regulation to protect European and third country citizens from highly toxic pesticides (both products and active ingredients).

3. Shortcomings of EU regulation

Farm to Fork and the REFIT evaluation on maximum residue levels are not responding to regulatory shortcomings. The Farm to Fork Strategy released on the 20th May 2020 fails to give any indication of concrete action in this area. The REFIT evaluation (action point 15) states that:

“In line with the Green Deal Communication, the EU will use all its diplomacy, trade policy and development support instruments to promote the phasing out, as far as possible, of the use of pesticides no longer approved in the EU and to promote low-risk substances and alternatives to pesticides globally. It is important that efforts made in the EU are also made outside the EU to maximise environmental benefits and ensure a level-playing field for EU operators. In addition, the Commission will reflect on ways to consider environmental aspects when assessing requests for import tolerances for substances no longer approved in the EU while respecting WTO standards and obligations. If found necessary, the Commission will consider a revision of the MRL Regulation in order to strengthen its environmental dimension and make relevant alignments with the pesticides approval process. The EU will use discussions in international fora, including in

⁶ Conseil Constitutionnel, Décision n° 2019-823 QPC, 31 January 2020. <https://www.conseil-constitutionnel.fr/decision/2020/2019823QPC.htm>

the WTO SPS Committee and Codex Alimentarius, to explain the approach followed in the EU for pesticides and encourage third countries to adopt a similar approach.”⁷

While the EU is ‘using its diplomacy’ ‘as far as possible’ to ‘reflect’ and ‘if found necessary’ ‘consider’ a revision of MRL regulation, residues of banned pesticides are being boomeranged back onto our plates on foodstuffs imported into the EU. According to EFSA’s 2018 European Union Report on pesticide residues, vegetables and fruits that are sold in the EU had several not-approved pesticides on it such as Acephate, Carbofuran, Chlorfenapyr, Carbendazim, Isocarbophos, Bromopropylate, Diazinon, Fenthion, Carbaryl, Fenitrothion.⁸

In conclusion: This pesticide boomerang is not acceptable. We call for EU legislation that ensures that the residue of banned, dangerous pesticides do not end up on the plates of EU consumers.

4. Wide support from MEPs, NGOs and the UN

foodwatch is one of the many voices raising the urgency and importance of these issues. Over the last few months, MEPs, NGOs and the UN have all spoken out. Some of the actions are listed below:

- February 27, 2020: MEPs call on Commission on banned pesticides in imported products. [https://www.contexte.com/medias/pdf/medias-documents/2020/02/Letter to COM Residues of prohibited pesticides.pdf](https://www.contexte.com/medias/pdf/medias-documents/2020/02/Letter%20to%20COM%20Residues%20of%20prohibited%20pesticides.pdf)
- Between February and April 2020, the Commission received at least 6 written questions from MEPs on these issues, many of which still remain unanswered.
- March 11, 2020: foodwatch co-signed a letter to Commissioner Kyriakides with 40 NGOs call on the European Commission to stop all imports of products containing pesticide residues banned on European territory. <https://storage.googleapis.com/planet4-eu-unit-stateless/2020/03/e481fa5a-200311-ngo-letter-commissioner-kyriakides-pesticides.pdf>
- April 22, 2020: Group of MEPs from ENVI committee rejected the draft regulation on maximum residue limits in food, which would, among other things, increase the use of pesticides in many foodstuffs. <https://www.eric-andrieu.eu/proposition-de-relever-les-limites-de-pesticides-hors-de-question-pour-eric-andrieu/>
- July 9 2020: The UN Human Rights Council called on producer countries to stop exporting their banned toxic chemicals to poorer countries. <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26063&LangID=E>
- September 29, 2020 European Parliament – MEPs will organise a hearing on “Hazardous Pesticides and EU Double Standards”
- The FAO has a Code of Conduct⁹ to govern these issues which BayerCropScience, in their letter, claim to adhere to - this is clearly not the case. In addition, there are the UN Guiding

⁷ Evaluation of Regulation (EC) No 1107/2009 on the placing of plant protection products on the market and of Regulation (EC) No 396/2005 on maximum residue levels of pesticides, 20 May 2020. [https://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/com/2020/0208/COM_COM\(2020\)0208_EN.pdf](https://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/com/2020/0208/COM_COM(2020)0208_EN.pdf)

⁸ <https://www.efsa.europa.eu/en/annual-pesticides-report-2018>

⁹ <http://www.fao.org/agriculture/crops/thematic-sitemap/theme/pests/code/hu/>

Principles on Business and Human Rights¹⁰ and the OECD has the Guidelines on Multinational Enterprises.¹¹ All of them lack binding regulation and enforcement.

In conclusion: There are many voices calling for the EU to introduce binding regulations that address the production, sale and export of hazardous pesticides as well as the human rights and environmental duty of care and due diligence in international value chains. We need laws that enable societies to hold international corporations responsible for the damages and massive external costs they cause, especially in the Global South where local legislation and its implementation are often failing to protect people and environment.

5. Appropriate EU regulation is overdue

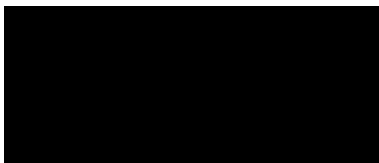
Legislation on the production, sale and export of banned pesticides (both products and active ingredients) in Europe is overdue. . The EU assessment of the toxic active ingredients is already clear and further damage to people and environment in third countries has to be prevented as soon as possible. The legislation in France can serve as a model for what must become standard across the EU.

It is time to put an end to any business model of EU based pesticide corporations and businesses that is built upon ignoring health and environmental dangers, as well as human rights, in third countries. Failing to do this makes the EU complicit in the damage caused.

As this legislation crosses the competencies of several EU Commissioners, we have also addressed this letter to the Commissioners Kyriakides, Sinkevičius, and Wojciechowski.

We look forward to hearing from you.

Yours sincerely,



Thilo Bode

International Executive Director foodwatch International
on behalf of foodwatch France, foodwatch Germany and foodwatch Netherlands

Attachments:

- Campaign-answer letter from Bayer
- Foodwatch response to Bayer

¹⁰ http://www.ohchr.org/Documents/Publications/HR.PUB.12.2_En.pdf

¹¹ <https://www.oecd.org/corporate/mne/>