EEB European Environmental Bureau

FONDATION POUR LA NATURE ET L'HOMME

Institut Veblen pour les réformes économiques

ENVIRONMENTAL MIRROR MEASURES: NEED AND TECHNICAL FEASIBILITY. A PESTICIDES CASE STUDY

Proposals for the operational implementation of environmental mirror measures

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The Veblen Institute for economic reforms strives for a society in which respect for our planet's physical limits goes hand in hand with an inclusive and more democratic economy. Our work is supported by the Charles Leopold Mayer Foundation for the Progress of Humankind. The Institute's trade programme is also supported by the Funders for Fair Trade and ECF.

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Summary

Mirror measures refer to measures in European legislation, which condition access to the European Union (EU) market on compliance with European production standards, in terms of health or the environment for example. They are unilateral measures with an extraterritorial scope.

The question of mirror measures was introduced by the European Parliament as part of the discussions on the Common Agricultural Policy reform, and was carried forward by the French Presidency of the EU in the first half of 2022. In a report published in June 2022, the European Commission (EC) also paved the way for mirror measures in the agricultural sector.

Applied to pesticides, the first mirror measures under consideration could put an end to the import of food products containing detectable traces of neonicotinoids banned in the European Union. Neonicotinoids are a class of insecticides. *They are neuro-active substances that have been linked to adverse ecological effects, namely the decline of honey-bee colonies. In 2013, the EU strongly restricted three main neonicotinoids (clothianidin, imidacloprid and thiamethoxam) for many outdoor uses and for seed treatment. Following these restrictions, the applicants for the renewal of approval of these three neonicotinoids withdrew their applications. Consequently, the approval of these substances expired on 31 January 2019, 30 April 2019 and 1 December 2020, respectively. The approval of thiacloprid was withdrawn on 3 February 2020 based on EFSA's conclusions published in 2019.*

The EC has recently adopted a regulation lowering the maximum residue limits (MRLs)[1] allowed for imported products to the detection limit, for two of the four banned molecules in the neonicotinoids family (clothianidin and thiamethoxam). *The EC regulation was approved by the Council and the European Parliament at the end of December 2022 and adopted by the EC on February 2, 2023.* ***For the first time, the EC relies on the environmental factor, and not only the health criteria, to justify such a ban.***

This study underlines the importance that European mirror measures could have, in terms of environmental impacts for third countries with lower environmental standards. It aims to explore different implementation modalities and to investigate their technical feasibility, based on existing measures - in imported food and feed (including rules on pesticides), livestock and organic farming -, and their control and traceability tools.

The study focuses on mirror measures applied to pesticides, taking as an example the neonicotinoids banned in the EU. In addition, the avenues explored in this report provide food for thought regarding environmental mirror measures that could be adopted in other sectors of activity.

1. The commitments of the "Farm to fork" strategy challenged by the European Union's trade policy

As part of the European Green Deal[2], the European Commission (EC) has set out its ambitions to strengthen European environmental standards, including a 50% reduction of the Harmonised Risk Indicator by 2030[3].

But the implementation of such commitments requires coherence, especially with rules that apply to imported products:

> *"There is a growing tension between the expectations of European consumers that imported food should be free from pesticides that are not approved in the European Union (EU), and the EU's international commitments, notably under the WTO [world trade organisation]. (...) At the same time, there is criticism within the EU that safe MRLs for consumers are set for unapproved active substances[4] (so-called "import tolerances"), especially in cases where the EU's decision for non-approval is not based on public health reasons, but environmental risks. The import of products treated with active substances that are not available to EU farmers is thus allowed, which has negative repercussions on the competitivity of EU agriculture, as well as on the environment in third countries[5]."*

1.1 The EU's economic weight in agricultural trade gives it significant responsibility and leeway

The EU is a major importer of agricultural commodities including fruit and vegetables (see Box 1). Therefore, the implementation of stricter environmental rules for access to its market could encourage a change in the production practices of third countries with which it trades, and limit the use of practices and substances that are harmful to health and the environment.

Box 1: The EU's commercial weight

The EU has a major role to play in the ecological transition worldwide: access to its massive internal market should be used to promote binding and ambitious environmental regulations at the international level. The importance of the EU's imports - which reached €1,714 billion in 2020[6] - and its economic weight on the international market give credibility to the foreseen impacts of mirror measures, on health, human rights and the environment.

In 2021, exports of European agricultural products represented 140 million tons (€197 billion) and imports, 138 million tons (€150 billion)[7]. The United Kingdom was the main destination of European exports (21% of exports, representing €42 billion), but also one of the main countries of origin of European imports of agricultural products, just behind Brazil (about 9% of imports each, which represents a market of €13 billion)[8]. However, while today the EU is a major exporter in value terms thanks to high value commodities, it is a net importer of calories (by 11%) and proteins (by 26%) of what it consumes[9]. The EU is also a major exporter of pesticides which use is not allowed in the EU.

1.2 The Commission's commitments on mirror measures on pesticides

Mirror measures refer to measures in European law, which condition access to the EU market on compliance with European production standards, in terms of health or the environment for example. They are autonomous measures with an extraterritorial effect. In the absence of sufficiently environmentally protective production standards in some third countries and at the international level, this instrument can help mitigate the negative impacts caused by the production of imported goods. It can be used to encourage a gradual transformation of practices in the EU's trading partners and be a first step towards the adoption of more binding international rules.

In its "Farm to Fork"[10] (F2F) strategy, the Commission has therefore taken two commitments regarding the rules that apply to imported products:

- *"it will take environmental aspects into account when assessing requests for import tolerances for pesticides that are no longer approved in the EU, while respecting WTO standards and obligations.[11]"*
- *"In order to promote a progressive shift towards the use of safer plant protection products, the EU will consider, in compliance with WTO rules and based on risk assessment, reviewing import tolerances for substances that meet the 'exclusion criteria'[12] and present a high level of risk to human health. It will actively cooperate with its trading partners, particularly in the developing countries, to support the transition to a more sustainable use of pesticides in order to avoid trade disruptions and promote alternative products and methods of plant protection."*

In October 2020, during the last Common Agricultural Policy reform, the European Parliament adopted an amendment in the report on the common organisation of markets regarding the issue of imports with lower environmental standards[13]. This amendment, introducing cross-cutting mirror measures, was then restricted to the issue of import tolerances for residues of banned pesticides. But it was finally discarded during the negotiations with the Council and the Commission, in favour of a joint declaration inviting the European Commission to publish a report on the subject before the end of the first semester of 2022[14].

1.3 No clear implementation plan and timeline

On June 3, 2022, the European Commission published the report on *"the application of European environmental and health standards to imported agricultural and food products"*[15]. It acknowledges that it is politically preferable and legally possible for the EU to take *"autonomous measures concerning the environmental or ethical aspects of the import products' processes and production methods [or which] take into account (...) the requirements of European consumers, who are increasingly aware of the environmental, health, social and ethical dimensions of food production"*[16]. The EC recommends the adoption of such measures on a "case by case" basis in European sector-specific legislations. It adds that *"in addition to the question of WTO compatibility, the case-by-case analysis of possible measures must also take into account the technical and economic feasibility of control mechanisms"*.

The European Commission is thus opening the door to the adoption of mirror measures in European legislation, on environmental protection grounds. Applied to pesticides, these mirror measures would prohibit the introduction on the EU market of food products treated with substances prohibited by European regulations (or at least containing residues of these substances). Through its imports, the EU not only contributes to deforestation and greenhouse gas emissions, but also to the contamination of ecosystems by highly toxic pesticides elsewhere in the world.

The implementation of mirror measures is an opportunity to encourage the improvement of production standards in third countries, by conditioning European market access to the respect of stricter environmental standards (beyond the mere respect of international trade regulations and minimum standards set within international bodies). This work is essential to ensure coherence in European action and to strengthen European environmental rules, as announced in the Farm to Fork

strategy. The adoption of mirror measures would also make it possible to address the gap between the health and environmental standards applicable to European agricultural products on the one hand and imported products on the other.

However, the EU has not yet defined a comprehensive framework covering a significant number of pesticides and toxic substances to this aim, nor has it set a clear timetable for effectively bridging the current regulatory gap. It has only proposed mirror measures for two neonicotinoids. This lack of a comprehensive approach is particularly worrying on the issue of synthetic pesticides because of their very negative effects on human health, human rights, and the environment.

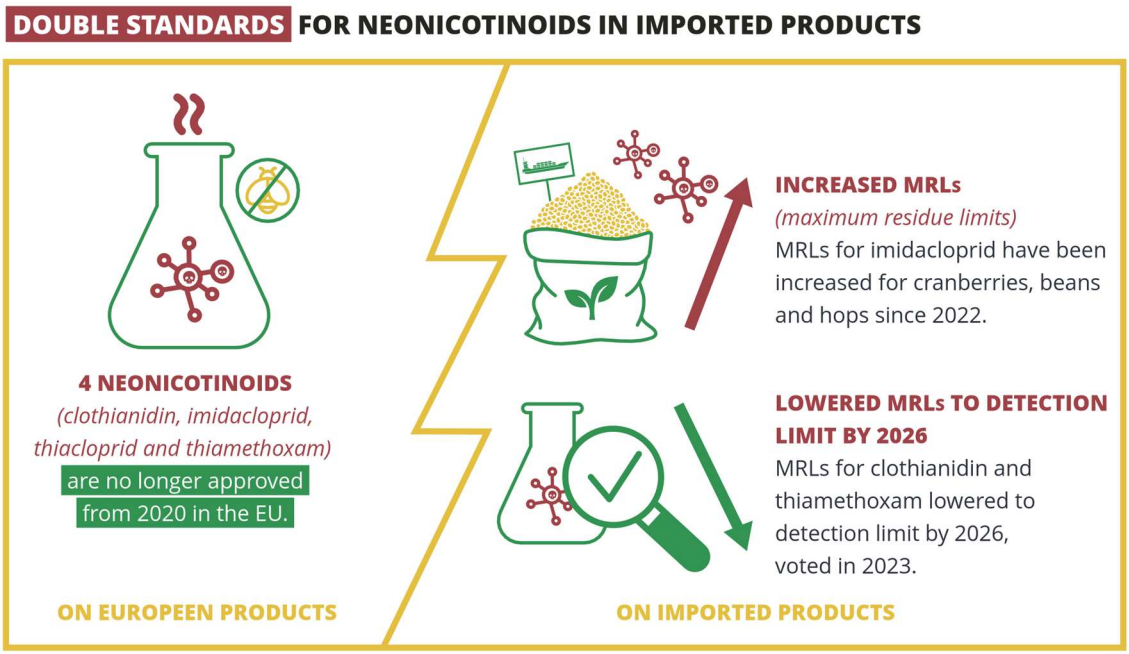
This study, which completes the report on mirror measures published in March 2021 by the Veblen Institute, FNH and Interbev[17], is a response to the European Commission's report. **It aims at exploring different implementation modalities for environmental mirror measures, especially applied to pesticides, by taking the example of neonicotinoid pesticides banned in the EU and exploring the technical feasibility of mirror measures. To do so it identifies the concrete tools and mechanisms already available in European legislation and their control and traceability legislation.**

1.4 First steps of the EU on two neonicotinoids

A regulation banning the import of products containing traces of two neonicotinoids, thiamethoxam and clothianidin, was adopted on 2 february 2023[18]. The Commission proposes, for these two substances, to lower the maximum residue limits (MRLs) to the Limit of Determination (LODs)[19]. It should apply from 7 March 2026 at best. Thus, the detection of these molecules in a product would exclude them from the European market. This proposition sends an important message. For the first time, the Commission refers to the environmental factor[20] - and not only to the health criteria - to justify such a ban.

However, the Commission regulation contains shortcomings:

a. **First of all, it concerns only two of the four active substances in the family of neonicotinoids banned by European regulations[21].** Indeed, imidacloprid and thiacloprid[22] whose use are banned in the EU[23] are not among the molecules selected (even though imidacloprid, for example, represents a big share of European sales and exports and the majority of European sales of banned neonicotinoids to Brazil, see point 2. Brazil case study section)[24]. Thus, products containing imidacloprid residues will continue to be imported into the EU. According to the minutes of a meeting of the Standing Committee on Plants, Animals, Food and Feed (SCOPAFF) held at the end of September 2022[25], the Commission is considering adopting a regulation prohibiting imports of products containing traces of imidacloprid in the near future. But the timetable is still unknown.



b. **There are loopholes regarding the scope of the products covered**: no specific maximum residue levels for clothianidin and thiamethoxam is established for products used only for animal feed production or processed food products: the Regulation does not set "default levels" of clothianidin and thiamethoxam for these products[26]. Agricultural products used for energy purposes are not covered either. In the event of a trade dispute at the WTO, this could weaken the justification of this regulation which was adopted on environmental grounds.

c. **Thirdly, the regulation does not contain any provision to end the possibility for Member States to have recourse to national derogations for a use of these substances on their territory**. And it is only the recent intervention of the CJEU in this matter that could have this effect (see box 4)

d. **Moreover, the non-detection of banned neonicotinoids in agricultural products does not guarantee that they have not been used in the production chain:** they may simply be in concentrations too low to be detected, depending on the detection method. While lowering MRLs for banned substances in the EU to the limit of detection has advantages in terms of implementation and control, it may not be the most appropriate way to introduce environmental mirror measures. A complete ban on the use of these substances for imported products could be considered to ensure better environmental outcomes.

e. **The ban would apply at the earliest as of March 7, 2026**.

f. The Commission Regulation's legal basis is Regulation EC 396/2005 on maximum residue levels of pesticides, of which it amends Annexes II and V. The approach taken by the EU institutions is thus to use a sanitary and phytosanitary measure to address environmental

issues. This strategy could undermine the strength of the text in the event of a possible dispute before the WTO. It raises the dual question of the consistency of the legal basis used and the effectiveness of the measure chosen. Indeed, **the ban on traces of clothianidin and thiamethoxam in imported products is weaker than a total ban in the production process and the environmental impacts could prove insufficient in relation to the stated objectives.**

1.5 The necessary link to trade policy through the case of Brazil

To shed light on the concrete problems caused by the current regulatory differences between EU and third countries, the study takes the example of Brazil, the second largest user of pesticides in the world, which faces major social, climatic and environmental challenges[27].

The intensification of trade with Brazil, which could be further encouraged by the planned agreement between the EU and the Mercosur countries[28], has significant impacts on health and ecosystems in Brazil, as well as on food and agricultural systems in the EU. Brazil is the largest exporter of beef[29] to the EU and a very important exporter of soja. Often presented as a "cars for cows" agreement, the implementation of the EU/Mercosur trade deal project as it stands would lead to an increase in the trade flows of goods that are not consistent with on the one hand, the objectives of combating climate change and protecting biodiversity and the environment in the EU's Green Deal and, on the other hand, the EU's commitments and obligations under the Paris Agreement[30] and multilateral environmental agreements[31]. It is likely that its environmental impact will be significant, due to the substantial intensification of agricultural production (destined for EU exports) that it would generate in the Mercosur countries[32]. While discussions have resumed to relaunch its ratification, several member States, including France, have reaffirmed their refusal to ratify it without the inclusion of certain conditions regarding deforestation, climate and health[33].

In addition to the deforestation challenges, **the issue of pesticide use is central.** Indeed, in 2018, 41 types of pesticides banned in the EU were exported from the EU to third countries[34]. Brazil, which is one of the main exporters of agricultural products to the EU[35] (food and animal feed), is also one of the preferred destinations for European exports of banned pesticides. These toxic substances are then often present as residues[36] in imported products, that end up on the plates of European consumers[37]. Indeed, European regulations set limits on the residues of toxic substances tolerated in imported food: the maximum residue limits (MRLs). These MRLs are set according to the risks that these toxic substance residues present for the consumer and, where applicable, for animals[38]. But considerations related to environmental or health damage in the countries of production had not been taken into account until now.

The gap in standards between Brazil and the EU concerning the use of pesticides raises the question of impacts on health and the environment, but also that of direct competition between agricultural models subject to different environmental standards, and therefore to unequal regulatory constraints, perceived as a source of unfair competition by European farmers.

1.6 The need for a coherent approach

In parallel with the implementation of mirror measures for imported products treated with banned or non-authorised neonicotinoids and pesticides, the EU must also address other questions. Tackling these is paramount to ensure coherence, both in terms of differences of production standards between food produced in the EU and food imported, and in terms of the environmental commitments of the EU.

In the first place, it is necessary to ensure that European legislation on pesticides is consistent between domestic production and imports: for this purpose, the principle of mirror measures for pesticides that are already banned in the EU should be enshrined and implemented according to a clear and exhaustive timetable (lowering MRLs to the detection threshold or even an outright ban on the use of imported products) and to provide for the automatic adoption of these mirror measures for future European bans.

Consistency also implies to put an end to:

- **the possibility for Member States to obtain derogations** for the use of banned pesticides for domestic production (see Box 4).
- **import tolerances**[39]: Member States, third countries and manufacturers can request import tolerances that can lead the EC to raise the MRLs of active substances, even when they are banned in the EU.
- **the possibility of producing, storing and exporting from the EU pesticides that are prohibited by European regulations**[40]. So far, France was the only EU country that has adopted legislation banning the manufacture and export of unregistered pesticides, effective since 2022[41], but containing many loopholes[42]. But such a ban was passed in Belgium on 23 June 2023 and Germany also plans to adopt a similar law in 2023[43]. At EU level the European Commission has announced a legislative proposal banning such practice by the end of 2023. This is a strong demand from civil society. On 1 December 2023, 326 civil society organisations from several continents- including EEB, PAN, FNH and the Veblen Institute - released a joint statement calling on the EC to finally ban the export of pesticides already banned in the EU, on health and environmental grounds[44].
- **the possibility for the EU to export products exceeding the European MRLs**[45]. For instance, some cereals for export such as wheat are treated with phosphine, despite European MRL exceeding. Countries, such as Belgium and Germany, would authorise these derogatory treatments for export providing that the products comply with the standards (or even the requirements) of the importing countries, for instance in Africa[46].

2. Pesticides banned in Europe at the heart of trade between the EU and Brazil

The EU is a major food and agricultural importer (see Box 1). Therefore, the implementation of mirror measures could encourage a change in the production practices of third countries with which it trades, and reduce the use of practices and substances that are harmful to human health, human rights and the environment.

Brazil is the second largest country of origin of European imports of agricultural products (9%) behind the United Kingdom. The high volume of trade between the EU and Brazil, the possible ratification of the EU-Mercosur agreement and the underlying environmental issues (deforestation of the Amazon and the Cerrado savannahs[47], greenhouse gas emissions linked to cattle farming, intensive crops, and massive use of pesticides) make Brazil a textbook case for exploring the implementation of mirror measures.

2.1. Serious impacts on health and biodiversity

In Brazil, the cases of agrotoxin poisoning reported between 2007 and 2014 to the Brazilian Ministry of Health accounted for over 25,000 which means an average of eight poisonings on a daily basis. But Larissa Bombardi points out that it is estimated that for each poisoning case reported, there are 50 other cases not reported[48]. And the intensive use of pesticides is responsible for serious and repeated human rights violations, since every human being has the right to health, the right to food, the right to water and the right to live in a toxic-free environment[49]. For example, rural residents are being exposed to pesticides sprayed near their homes, schools and workplaces[50].

Brazil is a crucial area for biodiversity. The use of neonicotinoids has devastating repercussions on the country's ecosystems, especially pollinating insects.

Their use is associated with lethal and sublethal effects in bee populations (indirect death, related to infertility, immune system depression, etc.)[51]. Between December 2018 and February 2019, they caused the death of 500 million bees[52]. Loss of pollinators is extremely worrying for many reasons including the negative impact on food security and nutrition[53]. In Brazil, 60% of crops for human and animal consumption depend at least partly on pollination by bees[54].

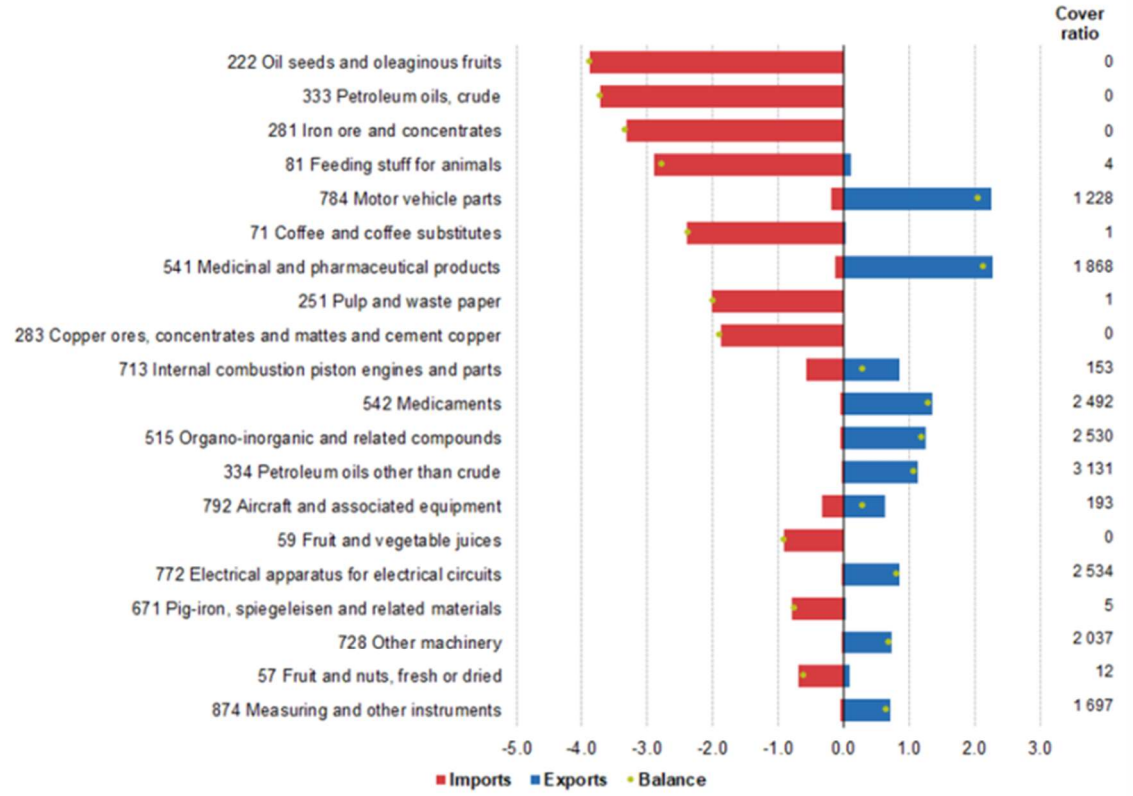
Neonicotinoids, and pesticides in general, are widely used for industrial soybean crops[55]. These industrial crops contribute significantly to the destruction of the Amazon rainforest and the tropical savannahs of the Cerrado region, which are home to nearly 5% of the world's plant and animal[56]. Deforestation, which is one of the main drivers of greenhouse gas emissions in Brazil, have catastrophic effect[57].

2.2. Trade exchanges between the EU and Brazil

During the last two decades, and thanks to favourable policies (tax exemptions for pesticide purchases, among others), Brazil has become an agricultural superpower, moving from being a net importer to being the world's second largest supplier of agricultural and food products. **Brazil is the world leader in exports of soybeans, beef, chicken, orange juice, coffee, sugarcane, "bio-ethanol" and tobacco[58].**

Most traded goods between EU and Brazil, 2021

(€ billion)



Note: While the trade balance provides information on the absolute value of trading positions, the cover ratio provides a relative measure that is based on the ratio (expressed in percentage terms) between the value of exports and the value of imports; if exports are higher than imports then the cover ratio will be above 100.

Source: Eurostat (online data code: DS-018995)

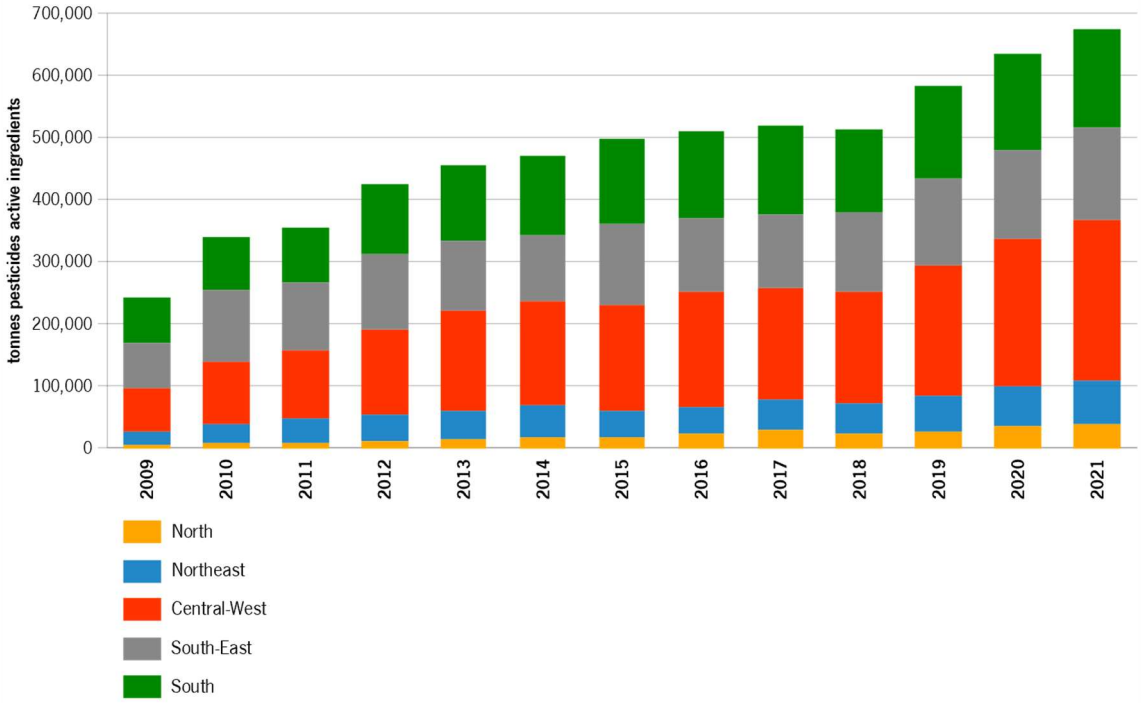
eurostat

Such agricultural production is supported by an important use of pesticides. According to 2020 data, **Brazil was the 2nd largest pesticide user in the world,** behind the United States[59]. **Brazil is also the largest buyer of pesticides in the world[60].**

The most pesticide-intensive crop in Brazil is soybean, which consumes 52% of the pesticide volumes imported by Brazil[61]. It is followed by sugarcane (12%), corn (10%), cotton (7%) and coffee (3%). The industrial production of fruits in the northeast of Brazil also involves significant amounts of pesticides[62].

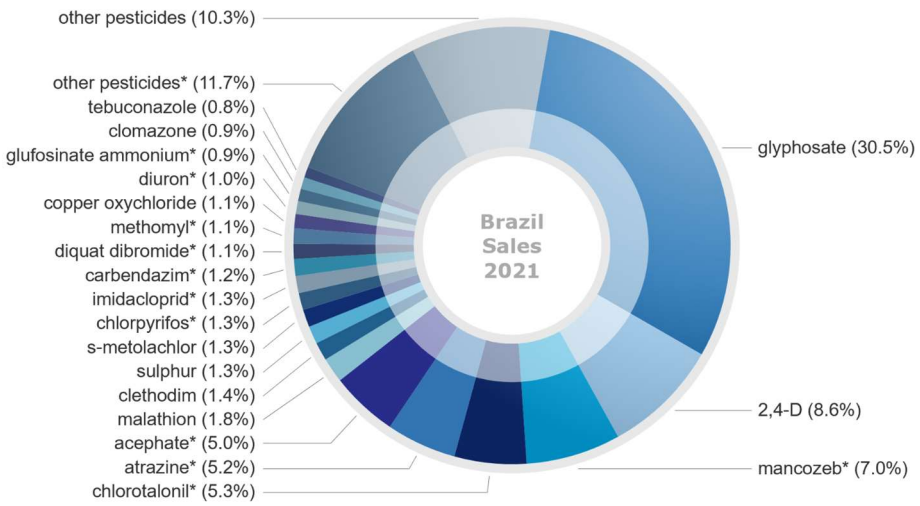
Neonicotinoid pesticides, including clothianidin, imidacloprid and thiamethoxam, are used on many crops, including soybeans, cotton, rice, corn and potatoes[63]. For more detail, Cruiser, one of the best-selling pesticides containing thiamethoxam (active ingredient), is mainly used on soybeans, cotton, rice, potatoes and fruits and vegetables[64].

Quantity of pesticides commercialised in Brazil (in tonnes of active ingredient)



Source: IBAMA (2022): Quantidade de agrotóxico comercializado por classe de periculosidade ambiental em toneladas de IA - em toneladas de ingrediente ativo (2009 – 2021)

Sales by major active ingredients in Brazil 2021



*indicates “non-approved in the EU”

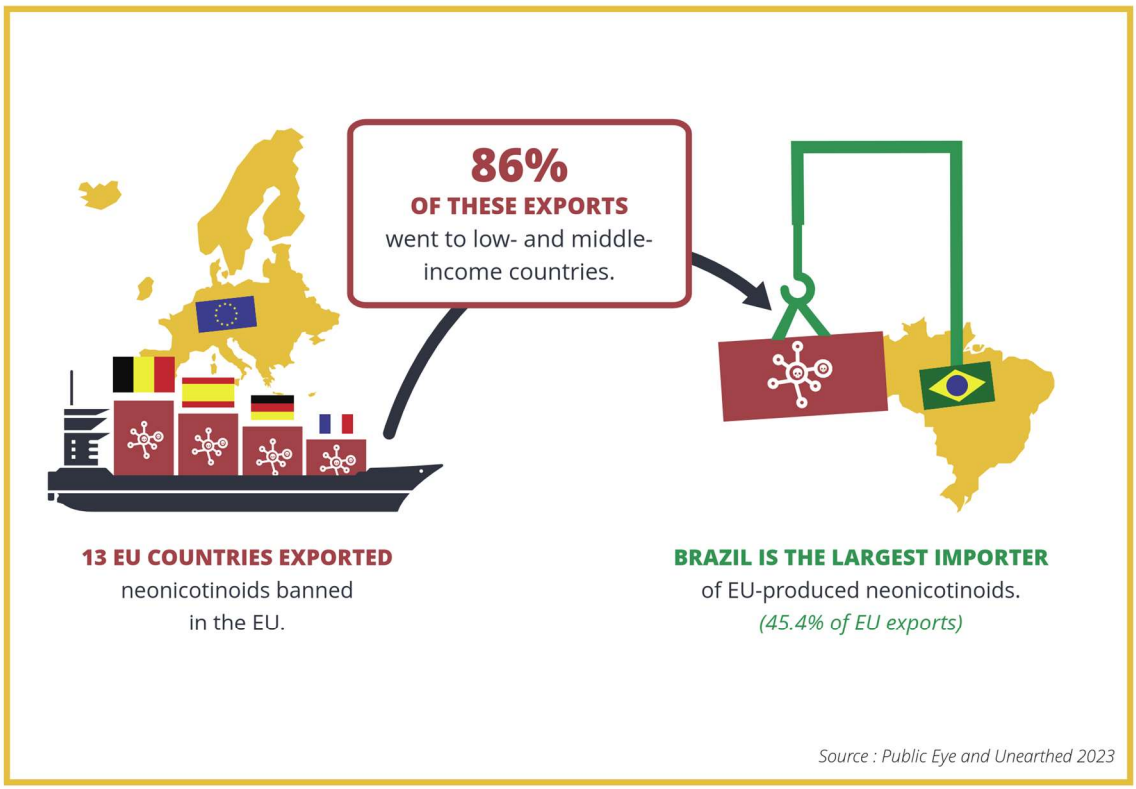
Sources : Brazilian government; EU Pesticides Database (for EU Status (*))

2.3. The pesticide Brazil-EU import-export cycle

30% of the pesticide active substances (116 out of 393 substances) authorized in Brazil are no longer approved in the EU[65] because of their harmful effects on the environment and human health (infertility, malformations[66], cancers[67], among others).

Brazil is the 2nd largest importer of pesticides manufactured in Europe but whose use is prohibited in the EU[68], behind the United States.

BANNED NEONICOTINOIDS MADE IN EU



Neonicotinoids imidacloprid, thiamethoxam, and clothianidin and thiacloprid are banned in the EU but continue to be manufactured in the EU and exported to third countries. According to an investigation by Public Eye and Unearthed, 13 EU countries issued export notifications for banned neonicotinoids in 2021[69]. And the biggest exporters (by planned weight) were by far Belgium, Spain, Germany, and France which has, in theory, ended its exports in 2022[70]. In 2021, 86% of EU's banned neonicotinoids exports was destined for low or middle-income countries[71]. Brazil is by far the leading importer of EU produced neonicotinoids: they account for 45.4%[72] of EU exports in the fall of 2020, provided mostly by Belgium, Germany, and France.

Between September and December 2020, more than 3,900 tons of pesticides containing these substances were registered for export by the European Chemicals Agency (ECHA)[73] . Brazil imported 2,241 tons, representing 58% of the total, shipped by Bayer and Syngenta[74] [75] [76].

These quantities of neonicotinoids, which are mainly used in Brazil's industrial soybean plantations, would be enough to treat more than three times the surface area of Belgium[77].

Exporting party	Importing party (i.e. importing non-Annex I EU country)	Annex I Chemical(s)	Pure substance/ Mixture	Concentration(s) of the Annex I chemical(s) in the mixture (%)	Concentration CLEAN	Expected date of first export	Expected yearly amount of the substance/ mixture	Expected yearly amount of the substance/ mixture CLEAN (kg/l)	Amount of banned neonicotinoid (kg/l)	Actual amount of banned neonic exported (if provided by company)	Foreseen use in importing country	Exporter parent company
Germany	Brazil	Imidacloprid			1	01/09/2020	1000KG	1 000	1 000,00	Not provided	Use as Insecticide	Bayer
Germany	Brazil	Imidacloprid		50	0,5	01/09/2020	100KG	100	50,00	Not provided	Use as Insecticide	Bayer
Germany	Brazil	Imidacloprid		70	0,7	01/09/2020	1000KG	1 000	700,00	Not provided	Use as Insecticide	Bayer
France	Brazil	Imidacloprid		0,03	0,0003	01/09/2020	1000KG	1 000	0,30	5,00	Use as Insecticide	Bayer
France	Brazil	Imidacloprid		2,15	0,0215	01/09/2020	8018KG	8 018	172,39	5,00	Use as Insecticide	Bayer
Germany	Brazil	Clothianidin			1	01/09/2020	1000KG	1 000	1 000,00	Not provided	Use as Insecticide	Bayer
Belgium	Brazil	Thiamethoxam	MIXTURE	14,1	0,141		2200000L	2 200 000	310 200,00	Not provided	Use as Insecticide	Syngenta
France	Brazil	Thiamethoxam	MIXTURE	18,5	0,185		29000L	29 000	5 365,00	Not provided	Use as Insecticide	Syngenta

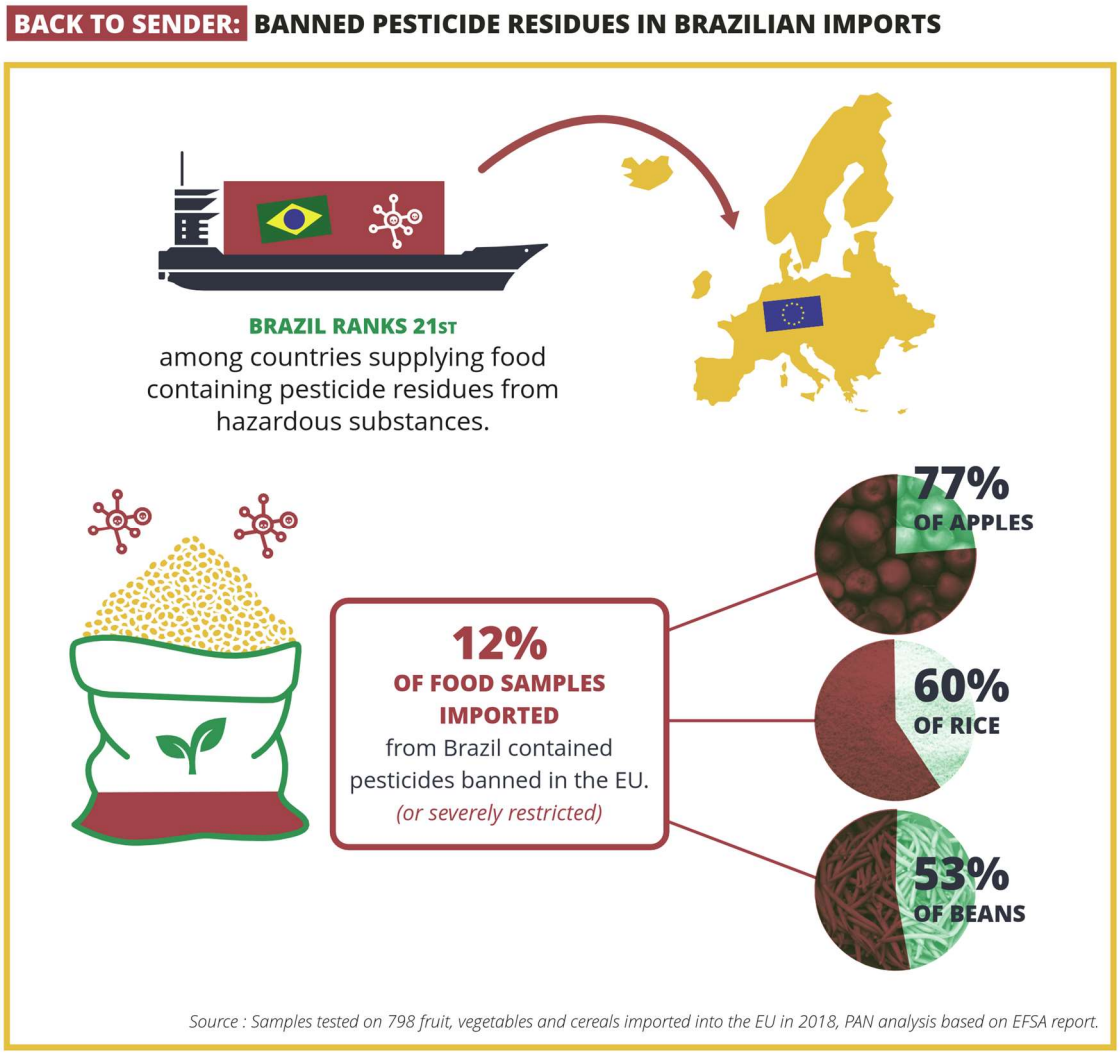
Table taken from the Public Eye and Unearthed survey: quantities of neonicotinoid pesticides banned in the EU but exported to Brazil by Germany, France and Belgium

The most important manufacturers of neonicotinoids are CropLife's members Bayer and Syngenta[78]. The biggest exporting company in 2021, accounting for 79%, was Syngenta (Swiss headquartered and Chinese-owned) followed by the German-based Bayer and BASF, the US-based Gowan, and Broekman Logistics (Dutch)[79].

In 2019, CropLife's pesticide sales in Brazil reached $3.3 billion[80], nearly half of which were highly hazardous pesticides (HHP)[81]. Syngenta's thiamethoxam and Bayer's imidacloprid, both neonicotinoids banned in the EU, represent CropLife's top sales in Brazil. The Public Eye and Unearthed investigation reveals that Syngenta notified exports of more than 10,400 tonnes of thiamethoxam-based insecticides from the EU in 2021, to 61 different countries[82]. More than 50% of that volume came from a single planned export to Brazil of 5.9 million litres of the pesticide "Engeo Pleno S"[83]. Thiamethoxam-based insecticides are Syngenta's best-sellers in Brazil. In 2018, sales well exceeded $200 million[84].

In spite of being banned, these substances come back to the EU in the form of residues given that Brazil exports to the EU many products which are produced with banned neonicotinoids: oilseeds and fruits (nearly €4 billion), animal feed (soybean-based, nearly €3 billion) and coffee[85] (€2.5 billion), fruit and vegetable juices, fruits and nuts[86].

Brazil was ranked 21st in the list of countries of origin where food with residues from hazardous substances governed by Prior Informed Consent (PIC) Regulation (EU) 649/2012 were most often detected. After analyzing results of samples tested on 798 fruits, vegetables and grains exported by Brazil to Europe in 2018, Pesticide Action Network (PAN) revealed the presence of pesticides banned (or severely restricted) in the EU in 12% of all food samples. For example, 77% of apples, 60% of rice and 53% of beans contained residues of banned or severely restricted pesticides[87].



The Commission regulation of 2 February 2022 banning the import of products containing traces of neonicotinoids does not include imidacloprid, which is by far the most sold in Brazil. In 2020, 13,372 tons of active substances of the three neonicotinoids were sold to Brazilian producers: 560 for clothianidin, 3,411 for thiamethoxam and 9,401 for imidacloprid (9,214 tons in 2019 and 10,021 tons in 2018)[88]. According to the 2019 PARA survey, imidacloprid (active ingredient in 37 registered products in Brazil) is also the main active substance detected in food samples within the country[89].

2.4. A weak legal framework for pesticides in Brazil

The number of pesticides authorised on the market has exploded, from less than 140 in 2015 under Rousseff's presidency to nearly 1,200 under Bolsonaro's - including nearly 200 which contain substances banned in the EU[90,91]. In 2019 alone, with Jair Bolsonaro entering office, 474 new pesticides have been registered[92] and the import of 12,000 tons of pesticides produced and banned in the EU, including neonicotinoid insecticides, have been approved[93]. While the authorization of these substances is of course subject to nationally defined rules, European companies support agribusiness in Brazil and the complacency of the authorities in order to maintain their export business[94] and make considerable profits from the sale of banned pesticides. And once authorised, these pesticides are not subject to systematic and regular re-evaluation as they are in the EU[95].

Law 7802/1989 regulates the use of pesticides[96]. This legislation includes the precautionary principle in its pesticide evaluation and registration standards. But because of limited staffing and budget, the law has been very difficult to implement and enforce[97]. Since this legislation was passed, several bills have been introduced in Congress by ruralists and promoted by pesticide industry lobbyists to eliminate its strict regulatory framework[98].

A new draft bill (referred to as the "Poison Package") is currently under consideration[99]. In February 2022, Brazilian deputies approved this controversial draft bill on pesticide use[100]. Under the pretence of modernising agriculture, this "poison package" is expected to further weaken existing regulations and protection measures[101]. This bill, awaiting for examination by the Senate, might:

- make the rules for the use of pesticides more flexible and to simplify the authorization procedures for plant protection products;
- make the Ministry of Agriculture responsible for future marketing authorizations, thereby excluding the Ministries of Health and the Environment from the decision-making process;
- no longer include environmental considerations and non-lethal impacts on human health in the pesticide approval process[102].

Even if this project is never adopted, it is still difficult to anticipate whether the setbacks in pesticide regulation during Jair Bolsonaro's term in office will be permanent or not.

Neonicotinoids can be sprayed, applied via irrigation, granules or as seed coatings[103]. Aerial spraying is a particularly damaging practice because of the important dispersion of pesticides and its use as a weapon against some communities. In a report, the special rapporteur on toxics and human rights underlines that "*Indigenous peoples and others in Brazil allege that agribusinesses intentionally sprayed pesticides on their crops and houses like "chemical weapons" to drive them from their lands for farmers and ranchers to use*"[104]

Aerial spraying ban in the EU is subject to a number of exemptions[105], which are also included in the EC proposal for a regulation on the sustainable use of pesticides (SUR)[106]. In Brazil, Law 7802/1989, which regulates pesticide use, does not specifically prohibit it[107]. In August 2021, the Brazilian Federal

Public Prosecutor's Office filed a public civil suit against the Brazilian Institute for the Environment and Renewable Natural Resources (IBAMA), requesting a ban on aerial spraying of imidacloprid, clothianidin and thiamethoxam[108]. IBAMA had already banned aerial spraying of these substances in 2012, but temporary authorizations have since been granted for certain crops (cotton, rice, sugarcane, soybeans, and wheat), while awaiting the re-evaluation of the environmental effects of these substances. These re-evaluations have not yet been carried out[109]. Aerial spraying of neonicotinoids is intensive for soybean, corn, sugarcane, and banana crops[110].

On seed coating, information is much more incomplete and difficult to find. There is no available data on the use of coated seeds and it would appear that there are no specific legal rules applicable to this type of use.

2.5. Controls and maximum residue limits (MRLs)

MRLs applied in Brazil are very different from those applied in the EU, which are much more restrictive. For example, Brazil allows ten times more glyphosate residues in coffee and 5000 more times in drinking water[111].

The Brazilian federal government provides two programs to evaluate and control, at different steps, the presence of pesticides in food:

- The National Plan for the Control of Residues and Contaminants in Products of Plant Origin (PNCRC), conducted by the Brazilian Ministry of Agriculture, Livestock and Supply (MAPA)[112] since 2008. MAPA carries out controls and sampling in farms.
- The Program for the Analysis of Pesticide Residues in Food (PARA), carried out by the Brazilian Health Surveillance Agency (ANVISA)[113] is not operative since 2020. ANVISA monitored pesticide residues in fruits and vegetables at the retail level.

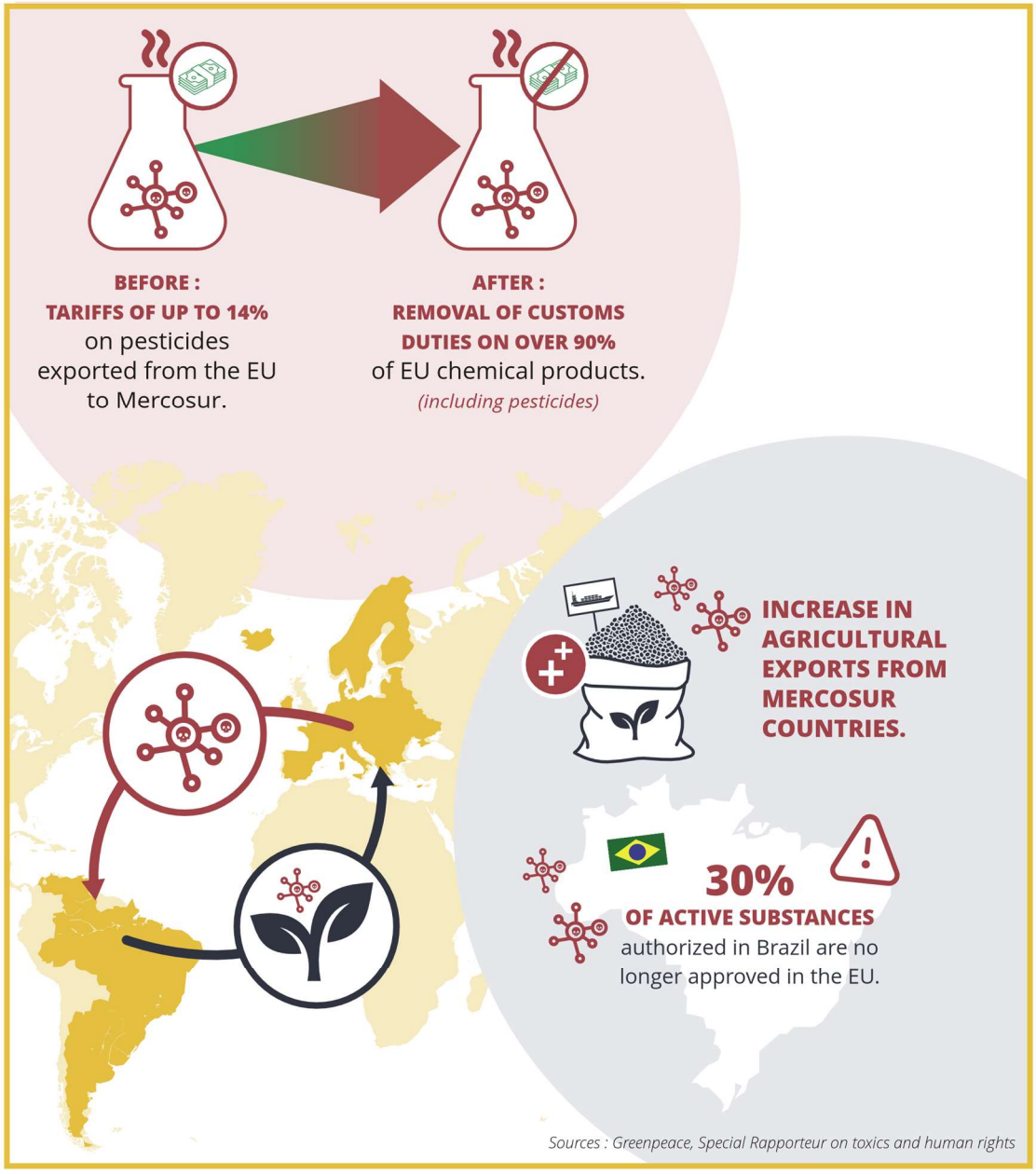
The 2019 PARA survey shows that out of 4616 samples of 14 foods, 23% were considered unsatisfactory in relation to compliance with the Brazilian MRL. (In total 5,4% of samples contained active ingredients in concentrations above the MRL, 20,4% active ingredients not allowed for the crop and 1% prohibited active ingredient for use in Brazil).

Imidacloprid was the most present active ingredient as it was found in 16% of the foods samples tested[114]. Of these, 3 samples showed detections not allowed for the crop, e.g., on sweet potatoes and beetroot and 37 showed concentrations above the MRL, e.g., on pineapple, guava, lettuce, or pepper.

Oranges, guavas, and grapes were the fruits with the highest pesticide content. 47 different pesticides were found in the oranges tested, including banned pesticides (like carbofuran or 2,4-D) and concentrations above the MRL, for the formetanate.

Analysis of neonicotinoid concentrations in hives shows that rates are highest for hives located near **sugarcane and orange plantations** in northwestern Sao Paulo State, and other rural agro-industrial sites across the country dominated by **soybean, corn, and tropical fruit crops**[115].

SPEEDING UP THE VICIOUS CIRCLE OF PESTICIDES
WITH THE EU-MERCOSUR AGREEMENT



3. Existing European control and traceability mechanisms available for implementing environmental mirror to pesticides

While far from perfect, the European regulatory framework for agri-food control and traceability and for pesticides is one of the most robust in the world, even if there is still scope for improving it. These provisions already apply to imported foods and can serve as a basis for setting mirror measures, as the Commission has recently done lowering MRLs to the lower limit of detection for two neonicotinoids. In addition, the sectoral livestock legislation and the organic farming legislation offer examples that could also serve as a basis for setting mirror measures for pesticides, since both also include provisions applicable to imported products, including their most ambitious version, i.e., a ban on their use.

The following section briefly presents these legislations, in particular some of their key provisions relating to control and traceability mechanisms. It provides two examples: the ban on imports of animal products treated with growth hormones, and the rules applying to organic product imports. These two examples are intended to demonstrate what measures are already available to implement environmental mirror measures, their strengths, and their shortcomings.

3.1. General European framework regarding controls and traceability of imported food and feed (including rules on pesticides)

The hygiene package defines the requirements for food and animal feed safety. It includes Regulation EC 178/2002 or the "General Food Law"[116] which establishes the principles and general requirements of food law and sets out the procedures for food safety. It also sets up the European Food Safety Authority (EFSA). Other specific regulations supplement this general law, particularly :

- **regulations aimed at food operators**, which specify their obligations: regulation EC 183/2005 laying down requirements for feed hygiene and regulation EC 852/2004 on the hygiene of foodstuffs.
- **regulation 2017/625 intended for Member States' control authorities**, which set out their control procedures.

	Regulation EC 178/2002 laying down the general principles and requirements of food law, establishing the EFSA and laying down procedures in matters of food safety (Food law) Apply to some extent to imported products: cf. articles 11 "*Food and feed imported into the Community for placing on the market within the Community shall comply with the relevant requirements of food law or conditions recognised by the Community to be at least equivalent thereto or, where a specific agreement exists between the Community and the exporting country, with requirements contained therein*".		
	Animal feed	Foodstuffs	Food of animal origin
professionals	Regulation EC 183/2005 laying down requirements for feed hygiene. Feed business operators importing feed from third countries must meet certain conditions (article 23[117])	Regulation EC 852/2004 on the hygiene of foodstuffs Regarding hygiene, imported foodstuff must meet the conditions laid down in articles 3 to 6, and article 10[118].	Regulation EC 853/2004 laying down specific hygiene rules for food of animal origin. Food business operators importing products of animal origin from third countries shall ensure that importation takes place only if certain conditions are met (see art. 6[119])
Control authorities	Regulation EU 2017/625 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products. Applies to some extent to imported products, see Title II, Chapter V "Official controls on animals and goods entering the Union". Regulation EU 2019 / 1793 on the temporary increase of official controls and emergency measures governing the entry into the Union of certain goods from certain third countries.		

3.1.1. Food products controls

Regulation EU 2017/625, also known as the Official Controls Regulation (OCR)[120] provides a framework covering mainly official controls to verify compliance with EU production rules in the agri-food chain, including on organic farming, and to verify that imported products comply with EU agri-food production rules applicable to them. Legislation applies to controls independently on whether they have been established at EU or Member State level. It also covers controls by the European Commission in third countries.

Further rules on these subjects and on organic production and labelling of organic products as well as on newly identified risks in relation to food and feed may be adopted via specific empowerments.

This piece of legislation being expansive, this report only intends to outline its main provisions. This analysis will not cover the delegated acts adopted in relation to the different provisions of this legislation[121].

According to the OCR, Member states have the responsibility of the controls. They must designate a competent authority responsible for each of the areas covered in the legislation, which shall be responsible for organising or carrying out the official controls. Several authorities can be appointed in one Member State and certain official control tasks can be delegated to delegated bodies or the natural persons. Competent Authorities must then organise audits or inspections of the delegated body or natural person.

More specifically official controls aim to verify that operators[122] comply with this legislation and with EU law production requirements and that products and animals meet the EU law production requirements. Controls carried out at all stages of production, processing, distribution and use, are to be risk based and take place with appropriate frequency. The legislation includes a list of identified risks (such as food safety or feed safety, and adverse impact on the environment).

Official control methods and techniques shall include as appropriate:

- the verification of measurements taken by the operator and other test results;
- inspections (e.g. equipment, means of transport, premises, animals and goods, ingredients, etc.);
- controls on the hygiene conditions in the operators' premises;
- an assessment of procedures on good manufacturing practices, good hygiene practices, good farming practices, and of procedures based on the principles of hazard analysis critical control points (HACCP);
- an examination of documents, traceability records and other relevant records to assess compliance with the production rules covered by this legislation,
- interviews with operators and with their staff;
- the verification of measurements taken by the operator and other test results;
- sampling, analysis, diagnosis and tests;
- audits of operators;
- any other activity required to identify cases of non-compliance.

Official certificates confirming the results of the official controls, are issued by competent authorities, who can also delegate certain tasks related to their issuance. Official attestations are issued in some areas, such as plant health[123].

Each Member state must put in place a multi-annual national control plan on the basis of which controls are to be performed[124].

The European Commission performs controls, including audits, in Member States, and in cooperation with them, to verify, for example, the application of the agri-food rules and the adequate functioning of national control systems. These controls might include on-the-spot verification. Following them the Commission prepares a report on findings and recommendations, in which it addresses the identified shortcomings. The Commission establishes an annual or multiannual control programme for the controls to be performed by its experts in the Member States.

3.1.2. OCR applied to imports

Chapter V of the OCR covers official controls on animals and goods entering the Union. Official controls at designated border posts shall include documentary checks, identity checks and physical checks[125], the two latter carried out at a frequency depending on the risk[126]. Consignments of animals and goods must be accompanied by a Common Health Entry Document (CHED)[127], to help ensure traceability and proper communication to the authority at the place of destination. The operator responsible for the consignment shall complete the relevant part of the CHED, which is then to be finalized by the competent authorities of the border control post after the controls have taken place.

Operators responsible for the consignment shall complete and submit the relevant part of the CHED into the Information management system for official controls or IMSOC (see section on traceability) for transmission to the competent authorities of the border control post prior to the physical arrival of the consignment into the Union.

OCR also establishes a second, different regime applicable to animals and goods other than those subject to mandatory official controls at Border Control Posts. They are to include a documentary check and also identity checks and physical checks, depending on the risk to human, animal or plant health, animal welfare or, as regards genetically modified organisms (GMOs) and plant protection products, also to the environment. They are to be carried out in an « appropriate place » including the point of entry into the Union, a border control post, the post of release for free circulation in the Union, the warehouses and the premises of the operator responsible for the consignment, and the place of destination.

Non-compliant consignments of animals or goods will not be allowed to enter the EU.

In addition to the controls in Member states, previously mentioned, the Commission may perform controls in third countries in order to, for example, verify compliance or equivalence and collect data, and report on the findings, including making recommendations, if pertinent.

To carry on these controls, and the controls in Member states, the Commission defines its Programme of Controls. For example, in its Health and Food Audits and Analysis Programme for 2023, the

Commission planned to conduct 288 controls in total, which include 165 audits and similar controls, as well as 123 analyses of EU Member State and third country control systems[128].

The European Commission shall ask third countries that want to export animals and goods to the EU to provide information about their control systems and can adopt additional requests for the entry into the EU of some goods and animals for the purpose of compliance.

The Commission can also recognize equivalence of third country rules with EU Agri-food rules. Nonetheless the possibility of equivalences does not apply to certain EU rules. It does, for example, not apply to the requirements for the placing on the market and use of plant protection products and the sustainable use of pesticides.

Commission implementing regulation EU 2019/1793, implementing Regulations (EU) 2017/625 and (EC) No 178/2002 lays down detailed rules on the possibility of temporarily increasing official controls and emergency measures governing the entry into the EU market of certain food and feed of non-animal origin from certain third countries. The list of food to be controlled is set out in the Annex of the Regulation and is reviewed every six months and updated when necessary. Annex I of the Regulation lists food and feed from certain third countries subject to checks at border control posts and to a temporary increase of official controls at their entry into the EU. Annex II lists food and feed subject to special conditions governing their entry into the EU due to the risk of contamination by mycotoxins, including aflatoxins, pesticide residues, pentachlorophenol and dioxins and microbiological contamination.

All commodities of annexes I and II are controlled at Border Control Posts before their entry into the EU. All consignments of commodities listed in Annex I and II are subject to documentary checks, identity and physical checks. Each consignment of one of the commodities listed in Annex II must be accompanied by the results of sampling and analyses performed by the authorities of the third country and by an official certificate. The official certificate is issued by the authority of the third country of origin or by the authority of the third country where the consignment is consigned from if that country is different from the country of origin.

The EC reviews the lists set out in Annexes on a regular basis (not exceeding 6 months), in light of new information related to risks and non-compliance.

3.1.3. Food product traceability

Traceability, as defined in article 3(15) of Regulation EC 178/2002, is « *the ability to trace and follow a food, feed, food-producing animal or substance intended to be, or expected to be incorporated into a food or feed, through all stages of production, processing and distribution*».

"*Stages of production, processing and distribution*" are defined as any stage, including import, from and including the primary production of a food, up to and including its storage, transport, sale or supply to the final consumer and, where relevant, the importation, production, manufacture, storage, transport, distribution, sale and supply of feed.

The OCR provides for the creation of an information management system for official controls (IMSOC) to manage, handle and automatically exchange data, information, and documents in relation to official controls. IMSOC details are provided in implementing regulation EU 2019/1715.

This system integrates several existing computerised systems managed by the Commission in order to optimise the handling and exchange of information, data and documents necessary for the enforcement of agri-food chain rules. It includes:

- The rapid alert system for food and feed (RASFF)[129] for notifying direct or indirect risk to human health deriving from food, food contact material or feed established in the « General Food law » (Regulation EC 178/2002) and broadened by Regulation EC 183/2005),
- The animal diseases information system (ADIS)[130] provided for in the « Animal Health Law » (Regulation EU 2016/429)
- The system for notifying and reporting the presence of pests in plants and plant products EUROPHYT[131] provided for in the « plant health law » legislation on preventive measures against plant pests (Regulation EU 2016/2031),
- The technical tools for administrative assistance and cooperation (AAC) and the TRACES system referred to in Regulation EU 2017/625.

TRACES NT[132,133] is the European Commission's platform for sanitary and phytosanitary certification required for the importation of animals, animal products, food and feed of non-animal origin and plants into the European Union, and the intra-EU trade and EU exports of animals and certain animal products.

Box 2: Traceability obligation for operators

Food business operators must be able to identify a product's immediate supplier and subsequent consignee, from the EU importer up to the retail level, excluding supply to the final consumer. They must also have systems and procedures in place that allow this information to be made available to the Competent Authorities upon request.

They must also be able to:

- Label products placed on the market, to facilitate their traceability, by assigning them a batch number

- Have a procedure for recalling and removing products from sale, in the event of a problem

- Ensure internal controls to verify compliance with regulations

The provisions on traceability do not apply outside the EU, but the requirement extends to the EU importer, who must be able to identify the exporter of the product in the third country.

If a food business operator has reason to believe that imported food or feed does not comply with the food safety requirements, it shall immediately initiate procedures to withdraw the food concerned and report to the competent authorities.

Box 3: Labelling and mandatory information at European level

The Regulation EU 1169/2011 on the provision of food information to consumers establishes a framework for consumer information on food products. According to this regulation, the presence of certain information on the label or packaging of a product, such as the origin[134], weight, list of ingredients or the expiration date, are mandatory. Since December 2016, the display of the nutritional composition is also mandatory[135].

For beef, since 2002, regulation EC 1760/2000 requires that the location of birth, breeding and slaughter be specified on the label[136].

For eggs, as well as the origin, the farming method must be indicated[137], by a number[138].

Regarding genetically modified organisms (GMOs), regulations EC 1829/2003 and EC 1830/2003 concerning the traceability and labelling of GMOs and the traceability of food and feed products produced with GMOs set requirements for labelling and traceability. Thus, the labelling of food products containing more than 0,9% authorised GMOs must include the words "genetically modified".

There is currently no mandatory labelling indicating the presence of pesticide residues in a product.

3.1.4. Critical analysis of the European regulatory framework

The European Commission draws the following conclusions from the current food legislation[139]:

Successes:

- In its evaluation of the General Food Law, the European Commission stresses that regulation EC 178/2002 has enhanced food safety, thus improving trade in the common market and the European food sector's competitiveness, thanks to the estimated quality of these products in third markets. A recent study of food products traceability rules led in twenty-one OECD member countries draws the same conclusion and recognizes that the EU traceability system is more effective than in other countries[140].

Downsides:

- Large discrepancies persist in the degree to which the law is applied in different member states, especially in terms of official controls and applied measures and sanctions[141].
- Food legislation has been "*more successful in protecting the safety of food products than addressing human nutrition issues and ensuring the protection of consumers' interests*"[142].

Other concerns regarding traceability and control have been raised[143]:

- The difficulties for some of the food chain operators to demonstrate a total traceability for products throughout the food chain.

- The lack of mandatory publication of inspection results by national control authorities.
- The lack of harmonisation of food products monitoring and control systems within the EU Member States.
- Difficulties for European and national authorities to ensure the traceability and safety of food imported from third countries.
- The lack of resources available for the EU to carry out controls on food imported from third countries.

In France, the European Affairs Commission of the National Assembly also identified complementary weaknesses in this framework:

- Official controls rely too little on random checks: they are based on a public list of risk analysis for imported plant commodities, and access to this information facilitates strategies to bypass these controls.
- There are not enough random controls due to the limited budget allocated to health security issues: for instance, the resources used in France for these controls amount to only 50 cents per 1,000 euros of imported food products[144].
- Some prohibited substances are no longer frequently controlled. The European Union lists 1,498 active substances and bans 907 of them. While the European monitoring plan, implemented by the Member States, requires that only 176 substances be tested, France goes further and tests 568 substances in its pesticide residue controls. Considering the 1,498 substances that need to be monitored, this implies that currently, **more than 900 active substances are barely monitored by the health authorities[145]**.

This is why the French Senate Commission suggested *"providing the EU with specific technical and financial means to control the conformity of imported agri-food products, as well as a public and updated list of third countries for which border controls would be strengthened and for which import bans could be quickly imposed in case of insufficient traceability"*[146].

Box 4: The example of ethylene oxide contaminated sesame

In September 2020, imported sesame-based products containing ethylene oxide, an active substance classified as carcinogenic, mutagenic and reprotoxic, banned in the EU since 1991, were subject to removal procedures. Sesame seeds, imported from India, contained levels of ethylene oxide significantly higher than the MRL authorised at the European level, set at 0,05 mg/kg : up to 186 mg/kg, i.e. 3,700 times higher than the maximum allowed. More than 20 MS were concerned by this procedure, and more than 500 alerts were recorded in the Rapid Alert System for Food and Feed. This case revealed the weaknesses of the current control system used by customs authorities for food products, and the need to strengthen import controls[147].

3.2. Overview of the EU legislation on pesticides

3.2.1. Authorization of active substances and pesticides

Each active substance and pesticide containing them must be authorised before commercialisation. Active substances are approved at EU level while pesticide products containing these active substances are authorised by Member States.

The procedure and criteria for the authorisation or not, for placing on the market of active substances and pesticides is covered by the Regulation EC 1107/2009[148]. The initial approval is granted for a limited period of time, not exceeding 10 years, and the authorisation must be renewed periodically.

Regulation EC 1107/2009 introduced for the first time stricter criteria for approval, the so-called "cut-off" criteria, to prevent the approval or reapproval of active substances that are too dangerous. These cut-off criteria, in Annex II of the regulation, include:

- the potential effects of the substance on human health[149];
- the potential effects of the substance on the environment (if the substance is a persistent organic pollutant ("POP"), is persistent, bioaccumulative and toxic (PBT) or very persistent and very bioaccumulative (vPvB)[150].

Each active substance satisfying this "cut off" approval criteria must meet the conditions listed in Article 4 of the Regulation. In particular, the residues of pesticides containing the substance must not have any harmful effects on human health, including vulnerable groups[151], or on animal health, or have any unacceptable effect on the environment. The unacceptable effects on the environment include its impact on non-target species and on biodiversity. Ecotoxicological criteria to take into account into the risk assessment includes its effects on honeybees and colony survival. In addition, the active substance must result in a negligible exposure of honeybees[152].

It should be noted, however, that these in theory strict criteria and procedures have been criticised for being inadequate or insufficient to protect human health[153] and the environment. Criticism includes that EU legislation is insufficient to protect wild pollinators[154]. There is no consideration of "cocktail effect" of pesticides[155], and the substance re-evaluation process is too lengthy[156].

With regards to pesticide products, in order to be authorised by Member States, they must contain active substances approved at EU level and meet the conditions set out in Article 4 of the Pesticides Regulation.

Box 5: Use of banned pesticides: derogations that are turning into the norm

Article 53 of Regulation EC 1107/2009 allows for a derogation for special circumstances. Under this article, Member State may authorise the placing on the market of plant protection products, for limited and controlled use, where such a measure appears necessary because of a danger which cannot be contained by any other reasonable means. Such authorisations cannot exceed a period of 120 days[157]. But the exception has become the norm: **in the last six years, 3,600 derogations have been granted for the use of unauthorised pesticides in the Member States**[158].

The European Commission lists the requests for derogations on its website[159].

In a report of January 2023, PAN Europe carried on an analysis of the European Commission database for 24 non-approved active substances between 2019 and 2022[160]. This study reveals that **236 derogations have been granted to 14 of these non-approved substances. And neonicotinoids represent 47,5% of such derogations**.

Between January 1, 2021 and January 1, 2022, 26 derogations have been granted for the use of clothianidin, imidacloprid and thiamethoxam, including two for France, for the use of Gaucho 600 FS (imidacloprid) and Cruiser SB (thiamethoxam).

As an example, on December 2020, France has used the derogation mechanism to re-authorise the use of coated seeds treated with imidacloprid or thiamethoxam, for the sugar beet industry[161]. Until July 1, 2023, joint orders of the ministers of agriculture and the environment, issued after consultation with the supervisory board, might authorise the use of coated seeds treated with products containing these substances. These joint orders can only allow the use of treated sugar beet seeds. These uses are authorised for renewable periods that do not exceed 120 days.

But in a landmark ruling of January 19th, 2023, the Court of Justice of the EU concluded that the derogations granted by Member States for the use of clothianidin and thiamethoxam on treated seeds are illegal. The CJEU ruled that the derogations provided in article 53 of Regulation EC 1107/2009 could not apply to seeds treated with these neonicotinoids as regulations EU 2018/784 and EU 2018/785 expressly prohibit the placing on the market and the use of seeds treated with such substances.

The Court also stresses the obligation of all Member States to take all necessary measures to promote low pesticide-input pest control, giving priority to non-chemical methods wherever possible. Such an obligation implies that professional users of professional pesticide users switch to practices and products available with the lowest risk to human health and the environment to address a pest problem.

3.2.2. Maximum residue limits

To protect the health of consumers, food products intended for human consumption[162] in the EU are subject to maximum residue limits (MRLs) for pesticides: food products containing quantities of pesticides above the set limits cannot access the common market[163].

Regulation EC 369/2005[164] sets the maximum quantities of pesticide residues allowed in products: MRLs are either specific for a product, or general (a default limit set at 0,01 mg/kg) when no specific MRL has been defined, depending on the products[165]. Food products containing quantities of pesticides above the set limits cannot be sold on the common market[166].

When proposing MRLs, the European Commission is under the obligation to notify such legislative proposals that may restrict international trade to its trading partner, within the framework of the WTO. These measures are then discussed in the relevant WTO bodies (namely, SPS Committee, TBT Committee, etc.). The Commission must also take into account MRLs set by the Codex Alimentarius Commission[167]. The Codex Alimentarius is a set of international reference values for food production established by a commission, under the joint guidance of the World Health Organization (WHO) and the Food and Agriculture Organization of the United Nations (FAO), with a view to facilitating international food trade. The standards set by the Codex Alimentarius for pesticides and production methods are often less stringent than those set at European level[168,169].

MRLs apply to all crops and pesticides that are listed in the EU pesticide database[170]. The European Food Safety Authority (EFSA) is responsible for the evaluation of new MRL applications, and the review of existing MRLs.

In principle, MRLs for substances are established following the approval procedure for an active substance. Within 12 months of the latter, the EFSA must deliver a reasoned opinion on the need to set new MRLs[171].

The legislation covers pesticides used in the EU and outside the EU. When it comes to imported products an application for an 'import tolerance' can be submitted[172]. Thus, MRLs may be set or revised at the request of any parties with a legitimate interest, including the companies manufacturing these products[173]. Under this procedure, specific MRLs, including for substances prohibited in the EU, may be requested to allow the import of products treated with these substances.

As a result, it follows that the European legislation that applies to pesticides establishes a difference in the way food produced in the EU and imported food is treated. This difference is often used as a pretext by lobbies to oppose the application or strengthening of EU health and environmental regulations, or to request the adoption of derogations[174].

3.2.3. How are pesticide residue controls carried out in the EU: what type of control, by whom, how often and at what steps of the food chain

MRL controls are covered both by the horizontal legislation (OCR)[175] and regulation EC 396/2005.

As per Regulation EC 396/2005, in order to determine consumer exposure, Member states are responsible for carrying on sampling-based controls on the presence of pesticides and their MRLs. These controls must also take place at the point of supply to the consumer. Member states must also set rules on the sanctions to apply if the MRL rules are infringed and take the necessary measures to ensure their implementation.

In line with the OCR, regulation provides that each Member State has to designate one or more national authorities, who can, in turn, delegate certain tasks to other bodies. These authorities coordinate the needed cooperation with the Commission, EFSA, other Member States, manufacturers, producers and growers for compliance with the legislation on MRLs.

Both Member States and the European Commission must prepare multiannual control programmes, to be updated annually[176]. Member States' multiannual national control programmes must be risk-based and include, for example, the products to be sampled, the number of samples taken for domestic and non-domestic products and the pesticides to be analysed.

The Commission's coordinated multiannual control programme for 2022, 2023 and 2024 is set in implementing regulation EU 2021/601. Annex I lists the Products of plant origin and of animal origin to be sampled in 2022, 2023 and 2024, as well as pesticide/product combinations to be monitored in/on products of plant origin. Annex II covers the Number of samples, including the minimum number of samples per year per commodity in each Member State.

Member States must notify annually to the European authority (EFSA) information on their activities such as the results of the official controls, the limits of detections (LOD) and where permitted by national legislation, details of enforcement measures taken. EFSA prepares an annual report[177].

The regulation allows for the use of emergency measures. Emergency measures can be taken where, as a result of new information or of a reassessment of existing information, pesticide residues or MRLs may endanger human or animal health, requiring therefore immediate action[178]. In that case, the Commission, on its own initiative or at the request of a Member State, immediately adopts one or several measures depending on the gravity of the situation. For example, in the case of food or feed imported from a third country, the EC can suspend imports of food or feed in question from all or part of the third country concerned and, if necessary, from the third country of transit. The EC can also lay down special conditions for the food and feed in question from all or part of the third country concerned.

In emergencies, the EC can on a provisional basis adopt such measures after consulting the Member State(s) concerned and informing the other Member States. As soon as possible, and at most within 10 days, the measures taken shall be discussed within the SCOPAFF and be confirmed, amended, revoked or extended. The reasons for the EC's decision shall be made public without delay.

Member States also have the possibility to adopt interim protective measures, if the EC has not taken emergency measures. In that case, a Member State shall officially and immediately inform the EC and other Member States. Within 10 days, the EC shall put the matter before the SCOPAFF, with a view

to the extension, amendment, or abrogation of the national interim protective measures. The Member State may maintain its national interim protective measures until the EU measures have been adopted.

For example, France had chosen to ban the use of dimethoate on cherries, and even its marketing, as of February 1, 2016, because it is considered highly toxic by the National Health Security Agency. In the absence of a European text, France had been obliged to suspend imports of cherries from countries using the insecticide every year by decree, in a bid to avoid distorting competition for its producers[179]. In March 2023, cherries treated with phosmet have been targeted by a new French import ban, according to a decree dated 16 March[180].

Box 6: MRL controls applied to neonicotinoids

In the case of neonicotinoid coated seeds, the amounts of pesticides are relatively low on each seed (but are still significant for bee health).

The detection of neonicotinoids depends on the sensitivity of the analysis method:

- a very broad multi-residue method (of the 200 pesticides analysis type), will probably not be sensitive enough for the neonicotinoid family and the residues may not be detected.
- More targeted and efficient methods, with more precise detection limits, can however easily detect the residues[181].

With a sufficiently precise detection threshold, a laboratory will be able to detect neonicotinoids in treated plants only, and even in plants that grow nearby. With a detection threshold that is too wide, one might not detect anything... but with **97% of the food produced in the world containing at least one neonicotinoid, and 42% above the current MRLs**[182], it would be difficult to justify such results.

The European regulation on pesticides presents several loopholes and inconsistencies:

- **Import tolerances are often granted on request**[183]. At Monsanto's request, the European authorities agreed in 2012 to increase the maximum residue limit for glyphosate in lentils by a factor of 100 to facilitate North American imports into Europe resulting in a significant competitive advantage[184]. **In opposition to the efforts to ban neonicotinoids, Regulation EU 2021/1881 has changed the MRLs for imidacloprid: in 2022, the MRLs have been increased for cranberries, beans (without pods) and hops**.
- **The MRLs established by the regulation do not apply to products intended for export to third countries and treated before export,** when the country of destination requires or accepts a particular treatment, in order to prevent the introduction of harmful organisms into its territory, for example[185].

In addition, setting MRLs is not sufficient to prevent pesticides from harming humans and the environment for several reasons:

- **The residue control system is limited**: it only covers a small percentage of imported products, and a limited number of molecules are tested in the samples collected: thus, many products exceeding the MRLs for certain substances may not be detected[186]. Depending on the pesticide detection methods and their accuracy, the results can vary considerably (see Box 6 on MRLs for neonicotinoids)
- **MRLs are not set for all agricultural products that we import.** First, agricultural products used for ornamental, or energy purposes are not covered by the MRL regulation. Secondly, although animal feed is included within the scope of the MRL regulation, it appears that MRLs for products only used for animal feed are not systematically set. In the case of products with a dual use (feed/food), MRLs set for food do not apply by default to feed. That is the case with soybeans, a major pesticide-consuming crop imported to the EU: it has a MRL of 20 mg/kg for food, but none for feed[187].
- **MRLs are not sufficient to ensure the non-use of highly hazardous pesticides banned in the EU, such as neonicotinoids.** Indeed, farming practices (such as such as leaving longer intervals between pesticide application and harvest can reduce[188]) and food processing (e.g. the processing of sugar cane into sugar) can reduce pesticide levels and make it more difficult to detect them in food. With an analytical method that broadly targets several dozen active substances, it is possible that residues of specific pesticides may not be detected, although their use, and the health and environmental problems associated, should not be excluded.

Box 7: Records to monitor the use of pesticides in the EU?

Article 67 of Regulation EC 1107/2009[189] concerning the marketing authorization for plant protection products requires that pesticide manufacturers and all other parties who market and use pesticides keep records.

These records include information about the type of pesticide, the dose, the area, and the types of crops for which it was used. Third parties, such as the drinking water industry, distributors, or residents, can request access to this information by addressing the competent authority.

In addition, the EC is in the process of strengthening its statistical data on agricultural products and inputs (European statistics for agricultural products and inputs - SAIO). The main objective is to harmonise existing statistics, but civil society is pushing for more detailed data on pesticide use and exposure, obtained through a more independent process, in order to assess progress towards the objectives of the Biodiversity Strategy and the Farm to Fork[190].

At the time of writing this report, the draft regulation on the sustainable use of pesticides does not include provisions for monitoring pesticide use in importing countries.

Box 8: From zero imported deforestation to zero pesticide pollution

A regulation to tackle imported deforestation has been adopted in May 2023[191]. The text is meant to stop products whose production is linked to deforestation from accessing the EU market, as well as being exported from the EU market[192]. It should apply to both foreign and European operators. It is therefore a mirror measure applied to deforestation. The regulation requires importing companies to exercise due diligence regarding deforestation. In other words, before any product is put on the market, these companies will have to carry out a series of verifications to ensure that the products are not coming from a deforested area. The text includes rules for the identification of the origin of products down to the plot, using crop geolocation tools and satellite photos.

Depending on the risk level of the region of origin, the verification process will be more or less strict.

For the first time, the EU will require imports to be produced in a sustainable manner. **The strategy proposed for deforestation could eventually be translated into a "zero imported chemical pollution" proposal. Indeed, pesticides offer the advantage of being at least partially detectable at the time of controls, as they are present in the form of residues in the products.**

3.3. Livestock and organic farming: two examples of regulations applying to third countries exporting to the EU

The EU has already implemented several regulations that are similar to mirror measures, since they condition access to the European market for certain products to the respect of European health and environmental standards.

For example, livestock and organic farming products must meet specific requirements in terms of production methods to access the European market. **The implementation of environmental mirror measures applied to pesticides, but also to other sectors, could be based on the existing control and traceability processes in the field of livestock farming and organic agriculture.**

3.3.1. Livestock sector: implementation of the ban on growth hormones in imported animal products[193]

The EU prohibits the import of animals, meat, or animal products from third countries that approve the use of growth hormones. However, the EU ban does not apply when these countries can offer an

equivalent guarantee for exports, such as a hormone-free livestock industry dedicated to the European market.

Implementation of the ban mechanism

In 1981, under citizen pressure, the EU banned the use of growth hormones in the livestock sector[194]. At the international level, the use of these hormones is authorized provided that a maximum residue limit is respected in the final product. In 1996, in order to be consistent with European consumers and farmers, **the EU has also banned imports from farms that use growth hormones[195].**

In a similar way, European citizens are pushing to phase out pesticides and to protect bees. A European Citizens' Initiative with more than 1.2 million signatures has been validated on the subject[196].

Box 9: The hormone beef saga at the WTO

According to the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS), it is the (non-mandatory) international Codex standards that serve as a reference in the event of a trade dispute. Indeed, when a country adopts a regulation that is more restrictive than the Codex standard, it is expected to justify it on a scientific basis.

After the EU banned imports from farms that use growth hormones, the US and Canada filed an appeal with the WTO dispute settlement body, based on the SPS agreement. These measures were found to be inconsistent with certain WTO rules. The appeal body referred by the EU issued its report on 13 February 1998. It stated:

- WTO members have the right to choose the level of sanitary protection they consider appropriate

- they are not required to assess the risk in a quantitative manner in order to take measures

- they are not required to follow majority or predominant scientific opinion - minority opinions can also be taken into account.

But the appeal body found that the scientific risk assessments supporting the European restrictions were not precise enough.

When a country loses an appeal, it is not required to change its regulations, but the WTO allows the exporting country to apply retaliatory measures, which the United States and Canada have done[197]. **As a result of these sanctions, new agreements have been negotiated: the EU has increased its import quota for North American beef[198] and in return, the US and Canada had to establish hormone-free channels for exports to the EU.**

Control and traceability methods

Countries wishing to export animal products to the EU must therefore comply with the ban on growth hormones by setting up **a specific system dedicated to the European market.** The main characteristics of this system are as follows:

- **This system is under the responsibility of the country's authorities:** in Canada, for example, it is the health security agency that is responsible for its implementation.
- **The European Commission has the competence to carry out controls:** DG Health carries out audits in third countries to approve establishments and verify that the requirements are met. The EC audit programs are prepared in advance from one year to the next, but they are not carried out on a regular basis. The results of these audits are available on the EC website. Many loopholes have been identified in this system, as demonstrated by the latest audits in Canada and Mercosur countries[199]. For example, the audit carried out by DG Health in Canada in 2019 identified several serious shortcomings. The control procedures put in place in Canada do not ensure compliance with the ban on hormone-treated meat. Several flaws were identified in the traceability system: the absence of interconnection of computer databases, a traceability of cattle intended for the EU market based on incomplete paper documents or containing incorrect information. In establishments authorised to export, traceability controls are deficient, and there are uncertainties about hygiene conditions. All these shortcomings cannot even be corrected by customs health checks, since the CETA provides for only 10% of consignments to be subject to documentary checks. The corrective measures announced following an audit conducted in 2014 to remedy all these problems have not been implemented[200].
- **The control is on the process, not the product**. Indeed, verifying the absence of hormones in the finished product is relatively easy, but does not guarantee the absence of use of these substances in the farms. Hormones leave very little residue and are difficult to detect, so product sampling has limited relevance for control purposes. It is at the level of the production chain plans that controls should be able to determine the effective application of the ban. The control plans are specific to each country: Canada's plan is available online:
    - For beef cattle[201]
    - For milk[202]
- **A specific traceability system has been set up:** rather than identifying batches of animals, the sector must provide for individual identification. But this individual traceability of animals does not always cover the entire chain from birth to slaughter as required by European regulations[203].
- **Finally, slaughterhouses must be accredited** in order to trade with the EU. The European Commission approves slaughterhouses that meet European standards (in terms of hygiene, but not animal welfare). For example, when slaughtering animals for the European market, specific cleaning procedures must be set up to avoid contamination. However, inspection visits are not regular, and breaches can be observed.

In addition, several options are being considered to implement other mirror measures in the livestock sector (on traceability, the use of antibiotics as growth promoters, animal welfare, etc.) (see Annex 1)

3.3.2. Example of organic farming: compliance with the requirements of the European standards by third countries exporting to the EU

Organic farming EU legislation

European Regulation EU 2018/848 covers organic production and labelling of organic products. It encompasses every stage of the production process, from seeds to the final processed food and is applied both to EU and imported products. It also includes control and certification procedures.

General objectives of organic production include the protection of the environment and climate, maintaining soil fertility in the long-term, closing the nutrients cycle, contributing to a high degree of biodiversity and to a non-toxic environment, as well as respecting high animal welfare standards.

Given the consequences that the use of synthetic pesticides has on the soil, water, biodiversity, the environment as well as human health, their use is prohibited in the organic legislation.

The organic approach to plant health care[204] is based on indirect and preventive measures such as crop rotation, crop diversification, manual tillage, selection of adapted varieties, and predatory insects. If these agronomic practices are not sufficient, the use of natural substances is allowed under strict conditions and at last resort. The annex I of the regulation UE 2021/1165[205] defines the list of - currently 64 - active substances - all from natural origin - authorised in organic farming. These substances must be authorised in Regulation (EC) No 1107/2009 and must follow the conditions for use as specified in the authorisations of the products containing them, granted by the Member States. This is so because, as previously mentioned, organic production must also comply with all relevant horizontal EU legislation such as the regulations on field of safety of the food chain, animal health and welfare, plant health (i.e., Regulation (EC) No 396/2005 on MRLs of pesticides[206]).

When it comes to third countries, and also to outermost regions of the Union, the European Commission can grant, for a renewable period of two years, specific authorizations for the use of certain products given their specific conditions (i.e., climatic).

Organic farming can thus significantly reduce the use of synthetic pesticides: up to 97% compared to conventional systems[207,208]. Moreover, substances allowed in organic farming have less risk than substances allowed in conventional farming[209] as study shows[210].

The objectives of the 2018 legislation that replaced Regulation 834/2007, and entered into force in January 2022, were to strengthen the organic production rules, the control system, and the trade regime[211]. This base legislation is complemented with secondary legislation adopted subsequently.

Thus, it brings a number of changes to the previous EU legislation from 2007[212]:

- At the production level for example, it enlarges the scope of previous regulation EC834/2007, to cover products closely linked to agriculture, such as cork, salt, essential oils, wax, cotton and wool.
- It introduces a new group certification scheme for small farmers to facilitate their transition to organic farming (see box 10).

- It harmonises the rules for organic operators in the EU Member States and in third countries by introducing a compliance system.

Procedures for importing organic products into the EU[213]

An imported product can be marketed as organic in the EU provided that it complies with one of the following conditions:

- **Comply with the production and control rules of the third country that are recognised** under an international agreement as being equivalent to EU rules**.** The national authorities of the country of origin supervise and possibly operate the inspection and certification of organic products. Agreements governing the import of organic products have been concluded with these countries, as their standards and control measures have been found to be equivalent to those in the EU. Under the previous version of the regulation (Commission Regulation (EC) 1235/2008 of 8 December 2008), Argentina, Australia, Canada, Chile, Costa Rica, India, Israel, Japan, Republic of Korea, Switzerland, Tunisia, the United States and New Zealand were recognised as "equivalent countries". With regulation 2018/848, all these third countries will have to renegotiate the terms of their bilateral trade agreements.
- **Comply with EU organic production rules and has a certificate provided by the relevant control authorities or control bodies in non-EU countries confirming such compliance.** This means that all operators and groups of operators, exporters included, have undergone controls by control authorities or control bodies, which in turn have been recognised by the European Commission, and those authorities or bodies have provided all such operators, groups of operators and exporters with the above-mentioned certificate.
- Regulation 2018/848 provides for a transitional period for the system of equivalences of third countries recognised under previous regulation 834/2008. The objective is to move the recognition of equivalent third countries to international trade agreements on the one hand, and the system of recognition of third country control bodies and control authorities based on equivalency to recognition based on compliance.

Box n° 10: Group certification

Regulation EU 2018/848 introduces a new group certification scheme for small farmers to facilitate their transition to organic farming. It authorises group certification, both for third countries and for Member States. Unlike individual certification- where the control is directly related to the farmer's practices (crop plans, buildings, etc.) - group certification requires an internal audit system specific to producer organisations (POs): internal controls[214], dates of visits, training, etc. The POs are responsible for its implementation, via a peer review system, and the certification body checks the robustness of the system.

Regulation EU 2018/848 requires the creation of producer organisations for collective certification in order to access the European market. Previously, the buyer controlled his group of producers directly. From now on, producers are obliged to create POs to have a recognised collective structure. Local traders who want to make organic products by controlling the whole chain will have to encourage their producers to have their own structure. To derogate from this rule, the only option is for a producer to be individually certified, which is only feasible for big producers.

Control and traceability measures

Controls are an important part in organic production since, as stated in regulation 2018/848, "*organic production is only credible if accompanied by effective verification and controls at all stages of production, processing and distribution*".

Rules on controls on organic and in-conversion[215] products, including imported ones, are covered by horizontal Regulation EU 2017/625 (OCR) and in regulation 2018/848. As previously explained, the OCR fixes two regimes for imports, one for animals and goods subject to mandatory border control checks, the other regarding import controls to be performed at an appropriate place within the customs territory of the Union.

Delegated Regulation 2021/2306 supplements the OCR with the rules on the official controls for consignments of imported organic and in conversion products[216]. The rules on the cases where and conditions under which organic products and in-conversion products are exempted from official controls at border control posts are covered by delegated Regulation 2021/2305[217]. This delegated Regulation refers to products which pose a low risk or no specific risk to human, animal or plant health, animal welfare or to the environment. Official controls on such products are to be carried out at points of release for free circulation in the Member State, this is, in which the consignment is released for free circulation into the Union. They are to be carried on regularly, on a risk basis and with appropriate frequency[218].

In addition to the two above mentioned delegated Regulation, delegated regulation (EU) 2021/1698 sets up procedural requirements for the recognition of control authorities and control bodies that are competent to carry out controls on operators and groups of operators certified organic and on organic products in third countries and with rules on their supervision and the controls and other actions to be performed by those control authorities and control bodies.

The overall explanation on the OCR (controls and traceability) is provided in the corresponding previous chapter of the study. The TRACES system sets a mandatory procedure for **the registration of electronic inspection certificates of imported organic products.** This certificate must be validated upon arrival in the European Union[219], and its electronic format is supposed to **prevent the risk of issuing false certificates,** thus providing a stronger guarantee for consumers[220].

EU organic logo and labelling provisions

The EU organic logo in its current form was first introduced in 2010 making it easier for consumers to identify organic products. The Special EU Barometer shows that the EU logo is the most known logo by the EU citizens (61% of the citizens are aware of it). It is mandatory for EU processed products where at least 95% of the ingredients of agricultural origin are organic, the remaining 5% having to respect some strict conditions. A product with less than 95% of its agricultural ingredients can indicate which ingredients are organic in the list of ingredients.

Prior to the use of the logo, the product must be certified as organic by an authorised control body or control authority. The code number of the certification body has to be displayed next to the EU logo alongside with the indication of the place where the agricultural raw materials composing the product have been farmed. Such an indication can be 'EU Agriculture' 'non-EU Agriculture' or 'EU/non-EU Agriculture'. The abovementioned indication 'EU' or 'non-EU' may be replaced or supplemented by a country or by a country and region in the case where all agricultural raw materials of which the product is composed have been farmed in that country or in that region. Also applicable for third countries.

National and private logos can also be used and displayed on products which comply with the same Regulation.

The use of the logo is optional for non-prepackaged organic products. Imported products can also use it, but it's not a legal requirement.

Box 11: Digital passports[221]

The new Ecodesign for Sustainable Products Regulation (ESPR) proposition, published in March 2022, sets for the 1st time requirements for products to be designed in a more sustainable way. The ESPR regulation:

- sets requirements for **the way products are manufactured.**
- sets a framework of **requirements regarding information on the environmental sustainability of products**[222]**.**

This text is therefore a great opportunity to introduce environmental mirror measures in various sectors of activity.

The European Commission is responsible for identifying priority product groups in order to conduct impact studies. Depending on the conclusions of these studies, it will decide whether or not to introduce a digital product passport (Articles 64 and 65 of the ESPR regulation). The information that the passport should include will then be specified in a delegated act (article 8)[223].

The digital product passport targets three key sectors for 2024: textiles, construction, and industrial and electric vehicle batteries[224, 225]. However, all products entering the EU market will be required to provide information on *"how they should be used, repaired, recycled or disposed of, and their environmental impact"* (Article 7).

What is a digital product passport?

The digital product passport is a system that will be used to label and identify products and link them to data regarding their sustainability. Much like the batch number for food products, the digital product passport aims to structure reliable and transparent information so that all actors along the supply chain (companies, consumers, market surveillance authorities) can access it. This **data about a product's environmental and social impacts throughout the value chain** also serves as an indicator for monitoring improvements in its sustainability.

What kind of information should it include ?

Unlike the batch number for food products, the digital product passport intends to include information about the products' sustainability, their production process and their impacts:

- origin and product composition
- manufacturing process
- energy and resources used
- proportion of recycled materials
- carbon and environmental footprint

- product lifetime
- repair or recycling possibilities, etc.

The precise list of information to be included in the digital passports will be determined by the delegated acts, based on the specific impacts and requirements (e.g., data protection) for each product category[226].

The information will be hosted online by manufacturers or vendors, and accessible through an access portal provided by the European Commission (Article 12). Each product will have a unique identification, and its digital passport will be available directly on the product or its packaging, using a barcode or QR code, for example.

From 2026, the digital passport will become mandatory for electric vehicle batteries. These batteries will then no longer be able to access the European market unless the following information is provided: material origin, carbon footprint, percentage of recycled material, durability, reuse and recycling guidelines[227].

Possible benefits:

+ Digital passports can facilitate inspections, providing auditors with the data needed to verify compliance with applicable standards[228].
+ Improved data transparency can help civil society and public authorities monitor markets, with the possibility of using this information to enforce the Due Diligence Directive[229].
+ Monitoring the presence of substances of concern throughout the life cycle of materials and products[230].
+ Enables consumers to make more informed choices: the database resulting from this process could feed digital tools, such as the Yuka application[231].

Challenges:

- Risk of restricted access to information, because of intellectual property issues, or because a category of the population is excluded from the digital format.
- Risk that this system is used for marketing purposes, by collecting personal data from consumers every time they scan a product, to access information.
- Bureaucratic overload, especially for small and medium-sized companies: if the digital passport system develops with very different requirements according to each sector, raw material suppliers will also have to adapt their databases accordingly[232].
- Online markets (Amazon, Zalando...) are not subject to the same requirements as physical markets: there are no European regulations to govern this type of player.

More generally, one could hardly imagine this system being applied to the diversity of products

placed on the European market. The amount of information to be collected and entered in the database is colossal, and the number of products is too large compared to the resources available to carry out the controls. Moreover, this technology is itself energy-intensive: the carbon footprint of such a process (servers needed to store millions of databases) is not negligible: it might be less costly to simply ban the use of certain problematic substances and products, whose impacts are considered too harmful.

Opportunities for improvement: Article 7 specifies that the presence of substances of concern will figure among the information that should provide digital product passports. However, as the official list of substances of concern is subject to regular changes, based on scientific research, indicating all the components used in the manufacture of the product would be more transparent.

Expanding this concept to agricultural and food products?

Food products and animal feed are already subject to a traceability system that makes it possible to follow a product at all stages of its manufacture, and to trace it back to its source in case of sanitary problems. Given the diversity of agricultural and food products on the European market, access to the very specific information that needs to be collected (on the conditions of production, transport, storage, etc.), represents a major obstacle for the implementation of digital passports.

However, the idea of the digital passport is based on the need to access information about how products are manufactured and their ecological footprint: this principle should be maintained. Indeed, it is the first time that the European Commission has asked for accessible information in terms of environmental impacts, and extending this request to agricultural and food products seems coherent. We could target commodities with high stakes (such as soy or palm oil, for example), but then we have to consider which tools are appropriate to measure their environmental impacts. One option would be to focus on a few key criteria, such as pesticide use and deforestation risk.

4. Conclusions and recommendations

Mirror measures ensure coherence between EU production rules and production rules of imports and protect not only EU consumers but human rights and the environment in third countries.

The EU's influence over international trade could make mirror measures an important lever for improving agricultural practices at the international level.

Given the importance of protecting the ecosystems in which we live, importance that is outlined in the objectives of the EU's Green Deal and supported by European citizens, the environmental argument justifies their implementation. Mirror measures for environmental reasons can be defined in a way that they are compatible with WTO rules (see Annex II).

Existing control and traceability mechanisms, including specific provisions on livestock or organic farming, could be adapted and improved to apply to banned or not authorised pesticides in imported food products. **The different options presented in this report for their implementation can be gradually articulated from the least restrictive to the most restrictive in order to progressively increase the level of ambition in terms of environmental protection:**

- **lowering of MRLs to the minimum detection threshold for banned or not authorised pesticides,**
- **complete ban on the use of the most harmful pesticides for health and the environment**
- **moving towards having international standards.**

Finally, the legitimacy and the legal robustness of mirror measures applied to pesticides, and in the first place to EU-banned neonicotinoids, relies on the coherence of the EU: as long as EU-banned substances continue to be exported elsewhere, and derogations are granted to EU farmers and export products exceeding MRLs, this legitimacy will be undermined.

4.1 Three levels of controls can be considered for implementing mirror measures

4.1.1 Lowering of MRLs to the detection threshold

This is the approach the EU has chosen for the first two neonicotinoids. The MRLs for clothianidin and thiamethoxam are expected to be lowered to the detection threshold in 2026. The new MRLs will apply to food produced in the EU and imported from third countries[233].

For ensuring an optimum protection of EU consumers, the lowering of MRLs to the detection threshold should become automatic for substances that are not authorised in the EU. **A roadmap for the lowering of MRLs of these substances - including imidacloprid and thiacloprid, the two other neonicotinoids banned in the EU - should be defined, based on objective environmental and health criteria.**

But MRLs do not guarantee that neonicotinoids and, in general, pesticides that are banned or not authorised in the EU will not be used in third countries in products exported to the EU. The EU would import these products at the expense of the population and the environment of third countries, which would continue to be exposed to highly toxic substances: a double standard that also raises the question of fundamental human rights, such as the right to a healthy environment[234].

4.1.2 A total ban on use

To ensure that EU imports do not contribute to the use in third countries of substances that threaten the environment or the health of producers and local populations, lowering MRLs is not sufficient. A total ban could be considered for the most harmful substances for health and the environment. These substances should be defined on the basis of impact studies carried out by the EU based both on the level of danger of these substances and their specific use in the production processes of the main products consumed in the EU.

For this purpose, partnerships and cooperation mechanisms between the EU and third countries could be set up to strengthen the collection, transparency and sharing of information on pesticide use for traded products.

To achieve such a ban, two complementary strategies can be explored:

- control at the national level:
  - with recognition agreements where the level of rules applied is considered equivalent, following the example of organic agriculture (third countries that ban the use of the targeted pesticides - or in this particular case neonicotinoids - that are banned in the EU would have automatic access to the European market). Such agreements might cover only a few key products (partial recognition) or

  - with a system of dedicated production chains, following the example of livestock farming regulations applying to imports. However, the effectiveness of this option depends on the means of control put in place, as demonstrated by the audits carried out by the EC in the case of cattle production in Canada and Mercosur countries. And the risk of a two-tier production system cannot be ruled out, as third countries could continue to use pesticides banned by the EU for crops destined for less demanding markets.

- control at the production level
  - Public certification: If the production concerned is a major production of the country, such as cotton in Mali or cocoa in Côte d'Ivoire, a public regulation system may be possible.
  - Private certification based on what has been implemented for organic farming certification, an option which does not address either the risk of a two-tier production system.

While this system appears on paper to be at least the most efficient in terms of control, the cost of certification processes and controls could exclude small producers from the European market. To address this, several possibilities could be considered such as participatory guarantee schemes (PGS) as experimented already in some countries[235] for organic products, so that controls and certification are carried out by the group itself rather than by an independent third-party auditor. We could also consider EU funding to help small producers in third countries, who wish to export to the EU, to comply with mirror measures. The Codex Alimentarius Trust Fund could also help countries to comply with its standards.

4.1.3 International standards

The implementation of mirror measures for all substances banned or not authorised in the EU and for all sectors could be difficult to manage. The use of unilateral measures by the EU raises issues related to the multiplicity of rules applicable in third countries according to the markets of destination and the costs related to the implementation of traceability and control systems. Therefore, **it is crucial to define a program that targets products and commodities according to objective environmental and health criteria, and to strengthen international standards simultaneously.**

Codex Alimentarius standards play a major role in international trade, as they constitute a reference in the context of the WTO agreement on sanitary and phytosanitary measures[236]. However, they are often less restrictive than European standards. The Codex Alimentarius, a joint program of FAO and WHO, is a compilation of international standards, guidelines and codes of practice related to food safety on a global scale. The Codex Committee on Pesticide Residues (CCPR) is responsible for setting maximum residue limits for pesticides in specific foods or food groups traded internationally[237]. WTO members who wish to impose higher standards than those of Codex must be able to justify them scientifically. European standards are repeatedly attacked by other countries within the WTO[238]. The question of whether legitimate factors other than strictly scientific ones

should be taken into account in the Codex Alimentarius is still under debate and has not yet been resolved.

The long-term goal would be to adopt an international convention banning these substances. One could be inspired by the Montreal Protocol on Substances that Deplete the Ozone Layer, which includes trading regulations with third countries. For example, the import of certain substances (in particular chlorofluorocarbons) from states which are not parties to the protocol is prohibited. These requirements have been progressively extended to include other groups of substances, added to the Protocol in its successive revisions. The implementation of this international agreement has had positive results in reducing the use of problematic substances. The ozone layer is indeed showing signs of recovery, with predictions of a return to pre-1980 levels by mid-century and the Antarctic ozone hole closing by 2060[239].

Regarding EU exports of banned substances, the Rotterdam Convention on International Trade in Dangerous Goods regulates the import and export of dangerous chemicals and pesticides[240]. It requires that any chemical on its list be subject to the importer's consent before export. It only takes one member State to the Convention to veto a substance to prevent it from being considered hazardous. Moreover, even though substances are universally recognized as dangerous or carcinogenic, the only obligation is to provide information. And that does not necessarily affect the country's practices then. The main purpose of the Convention is indeed to facilitate the exchange of information, so importing countries are informed of the risks of various hazardous chemicals. At the EU level, it is EU Regulation 649/2012 on prior informed consent (so-called, PIC Regulation) that transposes the obligations of the Rotterdam Convention. In October 2020, in its chemicals strategy, the EC committed to amend its legislation so that chemicals banned in the EU would not be produced for export. The Commission is expected to table such a legislative proposal in the last quarter of 2023.

Box 12: Additional measures to be implemented in the short term:

- **The adoption of mirror clauses in free trade agreements:** this strategy could prove useful, especially in the context of negotiations with trading partners with whom the EU has particularly concerning exchanges, pending the implementation of unilateral rules applicable to all trading partners. Until now, the European Commission has been rather cautious on the subject. The latest negotiations with Mercosur, Mexico and New Zealand, for example, have not been subject to mirror clauses on the most relevant items, i.e., those identified as the most environmentally sensitive[241].

On the other hand, **dialogue committees between the parties** have been set up, posing the risk that these spaces will become lobbying arenas for lowering European standards on animal welfare, antibiotic use, or food safety[242]**.**

- As a last resort, **a mention of the origin and production method on the product label** could promote sectors that respect European standards in terms of pesticide use, breeding, and animal welfare. Otherwise, the consumer is not provided with information regarding production methods. Indeed, **traceability only takes into account information related to sanitary risks[243],** while it could be extended to nutrition and animal welfare issues, as it is already the case for eggs[244], for example. The EC is responsible for labelling policies, but for the time being, DG Trade still considers these regulations as trade barriers.

Summary table: existing control measures, possible pros and cons if applied to mirror measures on neonicotinoids

	Production process verification in third countries	process monitoring in third countries or equivalences given to countries	border controls and MRLs
precision level	+	-	+/-
cost	++	+/-	+
measures applicable to livestock farming	- the EC approves the slaughterhouses that sell their products on the European market	- specific branches dedicated to the EU market - third country authorities are in charge of controls to ensure compliance - the EC carries out additional audits	no MRLs for hormones
mechanisms used for organic certification	- controls and certification of producers, producer groups and products - internal control system for producer groups - controls carried out by independent accredited auditors or by peers	- equivalences are granted through international agreement to countries whose regulations on organic farming are considered equally ambitious	- products are controlled at different steps of the process (traceability verification) - sampling to test the products' conformity, without which they cannot access the European market
Possible pros and cons of these mechanisms if applied to neonicotinoids			
Pros	- bans entirely the use - most effective control mode	- also bans entirely the use - Third countries	- Only four molecules are banned in the EU in the case of neonicotinoids: we can target these

		banning the use of neonicotinoids banned or not authorised in the EU would have direct access to the European market	molecules in tests, which facilitates sampling and analysis. - neonicotinoids are detectable in tests
Cons and risks	- requires significant **human and financial resources** to monitor the absence of neonicotinoid use in crops - risk that only big producers will be able to engage in the process (thus excluding small producers)	- The establishment of a dedicated production chain, however, poses the **risk of unintentional contamination:** field contamination can contaminate an entire batch. - risk of a **two-tier production system:** the country's regulations do not change, and crops destined for other less demanding markets use banned neonicotinoids	- The use of banned neonicotinoids remains possible in third countries, provided that the MRLs in finished product are respected - in order to know which samples to test, it is necessary to target the products according to their potential risk - **access to information** regarding the use of neonicotinoids in third countries is therefore a prerequisite, yet it is not always available or accessible. - **tests are expensive**

Recommendations for the European Union and EU member states:

- **Implement mirror measures for health and environmental reasons on all banned pesticides, with a work program, precise commitments and timetable:** First, MRLs should be lowered to the limit of detection for banned or not approved neonicotinoids[245] and most dangerous substances. However, MRLs may not be sufficient to protect the environment and the population of the producing country. There seems to be a lack of clarity surrounding the establishment of MRLs for products intended exclusively for animal feed. The MRL regulation 396/2005 covers products intended for animal feed, but the specific implementing regulations governing each substance do not appear to cover these products systematically. Products intended only for animal feed are not covered in the case of clothianidin and thiamethoxam. In addition, the scope of the MRL regulation does not cover energy or ornamental products. And finally, food can be grown using environmentally damaging substances without the chemicals in question being found in residues in the final product. That is why, there is a need for alternative solutions to the lowering of MRLs. In this hypothesis, **a complete ban's approach could be implemented for the most hazardous substances.**
- **End the use of import tolerances for these products.**
- **Extend this approach to other sectors**, using for example the control and traceability mechanisms implemented by the new regulation on products eco-design (in particular, digital product passports).
- Increase resources dedicated to health security issues and border controls.
- Reinforce consumer information on the origin of products and their manufacturing processes.
- Strengthen cooperation with third countries, particularly LMIC via other policies (i.e. aid for trade, development and cooperation programs) to facilitate the transition away from using those substances.

For a coherent and robust strategy with regard to WTO rules, the European Commission should also put an end to the existing double standards by **prohibiting:**

- **the manufacture, storage, transport, and export of EU-banned substances**
- **the derogations granted by member states in line with the recent ruling of the EU Court of Justice**, and instead give stronger incentives to adopt more sustainable agricultural practices.
- MRL exceeding for products exported to third countries.

The Commission should also provide a framework to promote these measures and production standards at international level.

Pending the effective implementation of unilateral mirror measures applying to all imported products, the EU should push for the introduction of specific mirror clauses in bilateral trade agreements. These clauses should condition the granting of trade advantages to the respect of environmental and sanitary standards for particularly sensitive products. **Trade negotiations should also be used as an opportunity to encourage our key trading partners to refrain from contesting mirror measures adopted by the European Union before the WTO, or via the dispute settlement mechanism between States, in bilateral agreements.**

ANNEXES

Annex 1

Other mirror measures under consideration in the livestock sector

For the time being, only the regulation banning growth hormones applies to imported animal products, which considerably weakens the effectiveness of European standards.

Additional mirror measures are also under consideration in the following areas :

- **The effective implementation of the growth-promoting antibiotics ban**, by denying access of treated imported animal products to the EU market. For the first time, Regulation 2019/6 suggests imports from third countries should comply with European standards, especially the ban on growth-promoting drugs use. Article 118, introduced by the European Parliament[246], specifies under which conditions animals and animal products can be imported into the EU, and Article 107 regulates the use of antibiotics. The enforcement of this ban is not yet in force[247]. On February 2, 2023, the EC issued a delegated act, which has been expected for almost a year, and which is supposed to specify under which conditions this mirror measure will be implemented. But the delegated act is incomplete, as it refers to subsequent implementing acts (whose timetable approval remains unclear) to list third countries authorized to export their meat to the EU and to define what specific requirements should be provided in the official document required to access the European market.
- **Compliance with the minimum animal welfare requirements** set by European regulations, and a ban on the import of products from farms that do not meet these standards[248]. For the time being, no mirror measure is planned on the subject, but the revision of the European legislation on animal welfare expected at the end of 2023[249] is an opportunity to move forward on this issue.
- **A ban on meat imports coming from animals that have not been identified and monitored throughout their entire lives**[250].
- **A phase out of cages** for hens, pigs, calves, rabbits, ducks, geese and other farmed animals by 2027 has been announced by the European Commission in response to the End the Cage Age European Citizens' initiative signed by 1.4 millions EU citizens. The legislative proposal that should be put forward by the end of 2023 will also address the issue of imported products from non-EU countries[251].

Annex 2

Analysis of Commission Regulation EU 2023/334, compliance with WTO Law

The EC justifies the ban on imports of products containing residues of clothianidin and thiamethoxam by the need to address an issue of international concern related to global biodiversity and food security. The EC Regulation has already been subject to criticism at the WTO, from the EU's trading partners who argue that it might be incompatible with WTO Law, i.e., the Agreement on Technical Barriers to Trade (TBT Agreement) and the General Agreement on Tariffs and Trade.

The risks of non-consistency of the Commission's regulation with WTO law are closely linked to the gaps and weaknesses identified in section 1.4 of the present study. Finally, a more ambitious regulation may have a better chance of being assessed as compatible with WTO law.

1/ Legal basis

The Commission Regulation's legal basis is Regulation 396/2005 on maximum residue levels of pesticides, of which it amends Annexes II and V. Regulation (EC) n° 396/2005 concerned so far food and feed safety only. The interest protected (protection of human life or health) was located within the EU borders, such that the said Regulation was territorial in its scope and application. More specifically, it was a measure applied *"to protect human or animal life or health within the territory of the Member from risks arising from additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs"*[252]. As such, it constituted a sanitary or phytosanitary (SPS) measure within the meaning of the WTO Agreement on the application of sanitary and phytosanitary measures. Contrary to Regulation 396/2005 that it has amended, the Commission Regulation is not concerned with food/feed safety and is meant to have extraterritorial effects.

The approach taken is thus to use a sanitary and phytosanitary measure to address a global environmental issue. This strategy could undermine the strength of the text in the event of a possible dispute before the WTO. A Panel or the Appellate Body will evaluate whether the measure is effective in meeting the European Commission's stated objective of protecting the environment. However, it is not certain that the Appellate Body will consider the lowering of the MRLs for these two neonicotinoids as being effective in protecting the environment and biodiversity in third countries. Indeed, the lowering of the MRLs does not guarantee that these two substances have not been used during the production process. Therefore, a ban on the use of the two neonicotinoids during the production process seems to be better suited to the objective pursued by the European regulation.

2/ Targeted substances

The Commission regulation could be considered discriminatory because it only modifies the MRLs for two substances, namely clothianidin and thiamethoxam. Yet, the use of the active substance imidacloprid has been the subject of the same restrictions as those applying clothianidin and thiamethoxam since 2018, on the same grounds. And thiacloprid is not approved in the EU since February 2020[253]. In case of *de facto* detrimental impact on competitive opportunities for exporters using primarily clothianidin and thiamethoxam, the EC regulation by not taking imidacloprid and thiacloprid in its scope could be considered as not calibrated to the risk it aims to address.

3/ Scope

The Commission Regulation enlarges the objectives pursued by Regulation (EC) 396/2005 to non-SPS concerns but does not revise its scope of application accordingly.

Products to which maximum residue levels of pesticides apply (including LODs for clothianidin and thiamethoxam) are still those products to be used as food or feed and listed in Annex I (such that the "environmental" non-SPS measure only applies to foodstuffs). But no specific maximum residue levels for clothianidin and thiamethoxam had been established for products used for animal feed, processed food products or biofuels for example. At first glance, this appears to be not fully in line with the objective of reduction of the use of neonicotinoids worldwide.

4/ The current inconsistencies of the European legal framework applicable to neonicotinoids might weaken the EC regulation.

- the possibility to produce banned neonicotinoids in the EU and then export them.
- **the possibility of not applying maximum residue levels for pesticides to products intended for export** to third countries and treated before export where it has been established by appropriate evidence that the third country of destination requires or agrees with that particular treatment.
- **The possibility to grant derogations within the EU for the use of banned neonicotinoids** (derogations that could be considered discriminatory between European and imported products). But it seems that after the CJEU ruling of 19 January, the EC wants to opt for a broad interpretation of the ban on emergency derogations. In a ruling issued on 19 January 2023, the ECJ indeed ruled that emergency derogations for seeds treated with neonicotinoids were illegal. The EC considers that this ban on derogations applies to neonicotinoids whether they are used by coating or spraying and regardless of the crops concerned. DG Health also includes in this ban all pesticides already banned by the European Union.

Annex 3

Legislative texts cited in the report

EU Legislation related to food and feed

- Regulation EC 178/2002 of 28 January 2002 laying down the general principles and requirements of food law, establishing the EFSA and laying down procedures in matters of food safety
- Regulation EC 1829/2003 of 22 September 2003 on genetically modified food and feed
- Regulation EC 1830/2003 of 22 September 2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms
- Regulation EC 852/2004 of 29 April 2004 on the hygiene of foodstuffs
- Regulation EC 853/2004 of 29 April 2004 laying down specific hygiene rules for food of animal origin.
- Regulation EC 183/2005 of 12 January 2005 laying down requirements for feed hygiene
- Regulation EU 1169/2011 of 25 October 2011 on the provision of food information to consumers
- Regulation EU 2016/2031 of 26 October 2016 on protective measures against pests of plants
- Regulation EU 2017/625 of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products
- EC implementing Regulation EU 2019 /1793 of 22 October 2019 on the temporary increase of official controls and emergency measures governing the entry into the Union of certain goods from certain third countries.
- Commission Delegated Regulation EU 2021/2306 of 21 October 2021 supplementing Regulation EU 2018/848 with rules on the official controls in respect of consignments of organic products and in-conversion products intended for import into the Union and on the certificate of inspection
- Commission Delegated Regulation (EU) 2021/2305 of 21 October 2021 supplementing Regulation EU 2017/625 with rules on the cases where and conditions under which organic products and in-conversion products are exempted from official controls at border control posts, the place of official controls for such products

EU Legislation related to active substances and pesticides

- Regulation EC 396/2005 of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin
- Regulation EC 1107/2009 of 21 October 2009 concerning the placing of plant protection products on the market
- Directive 2009/128/EC of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides
- Regulation EU 649/2012 of 4 July 2012 concerning the export and import of hazardous chemicals
- Regulation EU 2016/2031 of 26 October 2016 on protective measures against pests of plants
- EC implementing regulation EU 2018/783 of 29 May 2018 amending Implementing Regulation EU No 540/2011 as regards the conditions of approval of the active substance imidacloprid
- EC implementing regulation 2018/784 of 29 May 2018 amending Implementing Regulation EU 540/2011 as regards the conditions of approval of the active substance clothianidin
- EC implementing regulation 2018/785 of 29 May 2018 amending Implementing Regulation EU 540/2011 as regards the conditions of approval of the active substance thiamethoxam
- EC Implementing Regulation EU 2020/23 of 13 January 2020 concerning the non-renewal of the approval of the active substance thiacloprid
- EC implementing regulation EU 2021/601 of 13 April 2021 concerning a coordinated multiannual control programme of the Union for 2022, 2023 and 2024 to ensure compliance with maximum residue levels of pesticides and to assess the consumer exposure to pesticide residues in and on food of plant and animal origin
- Regulation EU 2021/1881 of 26 October 2021 amending Annexes II and III to Regulation EC 396/2005 of the European Parliament and of the Council as regards maximum residue levels for imidacloprid in or on certain products.
- Commission Regulation EU 2023/334 of 2 February 2023 amending Annexes II and V to Regulation EC 396/2005 of the European Parliament and of the Council as regards maximum residue levels for clothianidin and thiamethoxam in or on certain products

EU legislation related to livestock

- Council Directive 81/602/EEC of 31 July 1981 concerning the prohibition of certain substances having a hormonal action and of any substances having a thyrostatic action
- Council Directive 96/22/EC of 29 April 1996 concerning the prohibition on the use in stock farming of certain substances having a hormonal or thyrostatic action and of beta-agonists
- Regulation EU 1760/2000 of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products

- Regulation EU 2019/6 of 11 December 2018 on veterinary medicinal products

EU legislation related to organic farming

- Regulation EC 834/2007 of 28 June 2007 on organic production and labelling of organic products
- Regulation EC 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation EC 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control
- Regulation UE 2018/848 of 30 May 2018 on organic production and labelling of organic products
- Regulation UE 2021/1165 of 15 July 2021 authorizing certain products and substances for use in organic production and establishing their lists

Annex 4

Glossary

Active substance for pesticides: substances, including microorganisms, having a general or specific action on harmful organisms or on plants, parts of plants or plant products.

Codex Alimentarius: collection of internationally adopted food standards, guidelines and codes of practice adopted by the Codex Alimentarius Commission. The Commission was established in 1963 by FAO and WHO. These food standards and related texts aim at protecting consumers' health and ensuring fair practices in the food trade. The Codex Alimentarius includes standards for all the principal foods (processed, semi-processed or raw), for distribution to the consumer. The Codex Alimentarius includes provisions in respect of food hygiene, food additives, residues of pesticides and veterinary drugs, contaminants, labelling and presentation, methods of analysis and sampling, and import and export inspection and certification. Codex standards and related texts are not a substitute for, or alternative to national legislation. Every country's law and administrative procedures contain provisions with which it is essential to comply. (https://www.fao.org/fao-who-codexalimentarius/home/en/)

Seed coating: seed treatment by which a layer of thin film applied to the seed typically less than 10% of the mass of the original seed.

Exclusion criteria / cut-off criteria: Regulation 1107/2009 introduces a stricter criteria for approval, the exclusion criteria - or, "cut-off"criteria - , to prevent the approval or reapproval of active substances that are too dangerous. These criteria are listed in inpoints 3.6.2 to 3.6.4 and 3.7 of Annex II of regulation 1107/2009: it covers substances that are mutagenic, carcinogenic or toxic to reproduction, or has endocrine disrupting properties that may be harmful to humans; substances that are *persistent organic pollutants* ("POP"), *persistent, bioaccumulative and toxic* (PBT) or *very persistent and very bioaccumulative* (vPvB).

Highly hazardous pesticides: pesticides that are acknowledged to present particularly high levels of acute or chronic hazards to health or environment according to internationally accepted classification systems such as WHO or Global Harmonized System (GHS) or their listing in relevant binding international agreements or conventions. In addition, pesticides that appear to cause severe or irreversible harm to health or the environment under conditions of use in a country may be considered to be and treated as highly hazardous (FAO, WHO, Guidelines on Highly Hazardous pesticides, 2016)

Identity checks: visual inspection to verify the content and the labelling of a consignment, including the marks on animals, seals and means of transport.

Physical checks: checks on packaging, the means of transport, labelling and temperature, the sampling for analysis, testing or diagnosis and any other check necessary to verify compliance with the rules covered by the control legislation.

Import tolerances: Article 3.2(g) of Regulation 396/2005 defines an import tolerance as "*an MRL set for imported products to meet the needs of international trade where:*

- The use of the active substance in a plant protection product on a given product is not authorised in the Community for reasons other than public health reasons for the specific product and specific use; or

- A different level is appropriate because the existing Community MRL was set for reasons other than public health reasons for the specific product and specific use".

Limit of detection (LOD): the lowest concentration of a pesticide residue or contaminant that can be identified and quantitatively measured in a specified food, agricultural commodity or animal feed with an acceptable degree of certainty by a regulatory method of analysis. (Codex Alimentarius, Vol. 2A).

Maximum Residue Level (MRL): the highest level of a pesticide residue that is legally tolerated in or on food or feed.

Mirror clauses: clauses inserted in free trade agreements that condition the granting of trade advantages to the respect of environmental and sanitary standards for sensitive products.

Mirror measures: measures integrated in European legislation, which condition access to the EU market on compliance with European production standards, in terms of health or the environment for example. They are unilateral measures with an extraterritorial scope.

Neonicotinoids: active substances used as insecticides. They are systemic pesticides. Unlike contact pesticides, which remain on the surface of the treated parts of plants, systemic pesticides are taken up by the plant and transported throughout the plant (leaves, flowers, roots and stems, as well as pollen and nectar). Neonicotinoids are powerful and persistent neurological agents with particularly harmful effects on ecosystems and biodiversity: they remain in soils for months or even years, causing large-scale contamination of soils, water and vegetation. Neonicotinoids are particularly harmful to pollinators. They affect the central nervous system of bees at very low doses. These exposures impair their sense of orientation, their ability to reproduce, etc.

Pesticide product: product used to kill or control pests, including disease-carrying organisms and undesirable insects, animals, and plants. Pesticide products combine active substances and adjuvants into a finished product.

Traceability: as defined in article 3(15) of Regulation 178/2002, it means « *the ability to trace and follow a food, feed, food-producing animal or substance intended to be, or expected to be incorporated into a food or feed, through all stages of production, processing and distribution*».

ENDNOTE

[1] A maximum residue level (MRL) is the highest level of a pesticide residue that is legally tolerated in or on food or feed.

[2] Communication from the Commission, The European Green Deal, COM/2019/640 final, Brussels, 11 December 2019.

[3] The "Proposal for a regulation on the sustainable use of plant protection products" does not aim at a reduction of pesticide use, but the reduction of the so-called "Harmonised Risk Indicator", https://food.ec.europa.eu/system/files/2022-06/pesticides_sud_eval_2022_reg_2022-305_en.pdf. For a critique of the HRI, Foodwatch, The deceptive food indicator, position paper 2022.

[4] Active substances are "substances, including microorganisms, having a general or specific action on harmful organisms or on plants, parts of plants or plant products". It is the EU that decides on their approval. Pesticide products combine active substances and adjuvants into a finished product and are subject to national evaluation and authorization.

[5] Report from the Commission - Evaluation of Regulation (EC) No 1107/2009 and Regulation (EC) No 396/2005.

[6] Toute l'Europe, Le commerce extérieur de l'Union européenne , February 2022.

[7] Eurostat, Extra-EU trade in agricultural goods

[8] *Ibid.*

[9] Schiavo, M., Le Mouël, C., Poux, X., Aubert, P.-M., (2021). Reaching the Farm to Fork objectives and beyond: Impacts of an agroecological Europe on land use, trade and global food security. IDDRI Policy Brief N°06/21.

[10] Communication from the EU Commission, "A Farm to Fork Strategy for a Fair, Healthy and Environmentally Sound Food System", COM(2020)381 final, 20 May 2020

[11] *Ibid.*, p. 20. Import tolerances may result in the Commission raising Maximum Residue Levels (MRLs) for active substances even when they are banned in the EU. Article 3.2(g) of Regulation EC 396/2005 defines an import tolerance as "an MRL set for imported products to meet the needs of international trade where:

- The use of the active substance in a plant protection product on a given product is not authorised in the Community for reasons other than public health reasons for the specific product and specific use; or
- A different level is appropriate because the existing Community MRL was set for reasons other than public health reasons for the specific product and specific use".

[12] The exclusion criteria, or cut-off criteria, are listed in in points 3.6.2 to 3.6.4 and 3.7 of Annex II of regulation EC 1107/2009: substances that are mutagenic, carcinogenic or toxic to reproduction, or has endocrine disrupting properties that may be harmful to humans; substances that are *persistent organic pollutants* ("POP"), *persistent, bioaccumulative and toxic* (PBT) or *very persistent and very bioaccumulative* (vPvB).

[13] The initial amendment added an Article 188a on the import of agricultural and agri-food

products from third countries that stipulated*: "Agricultural and agri-food products can only be imported from third countries if they comply with production standards and obligations in accordance with those adopted, in particular in the fields of environmental and health protection, for the same products harvested in the Union or produced from such products. The Commission may adopt implementing acts laying down the rules of conformity applicable to operators with regard to imports, taking into account reciprocal agreements with third countries. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2)" (European Parliament, 2020).* Article 188a in its initial version was voted in COMAGRI in April 2019 and in the European Parliament plenary in October 2020. During the trilogue discussions, the Commission indicated that the article in its initial version was not compatible with the EU's WTO commitments.

[14] Article 188 a has been deleted in favour of a statement by the Commission which declares that : "*The European Commission will continue to ensure that following a thorough assessment of the scientific information available for active substances either in the context of the procedures under Regulation (EC) No 1107/2009 or the procedures under Regulation EC 396/2005 and in conformity with WTO rules, import tolerances and Codex Maximum Residue Limits (CXLs) are assessed and reviewed for active substances that are not, or are no longer, approved in the EU, so that any residues in food or feed do not present any risk for consumers. In addition to health and good agricultural practice aspects currently considered, the Commission will also take into account environmental concerns of a global nature in conformity with WTO rules when assessing import tolerance applications or when reviewing import tolerances for active substances no longer approved in the EU. The presentation by the Commission of the proposal for a legislative framework for sustainable food systems will be a crucial additional step towards the full achievement of this ambition, in coherence with the Green Deal objectives*".

[15] Report from the commission to the European Parliament and the Council "Application of EU health and environmental standards to imported agricultural and agri-food products", COM (2022) 226 final, June 3rd, 2022.

[16] *Ibid.,* p. 21.

[17] FNH, Institut Veblen, Interbev, "Globalisation. How to protect our farmers and the environment? A regulation to stop the import of food products derived from practices prohibited in Europe", March 2021

[18] Commission Regulation EU 2023/334 of 2 February 2023 amending Annexes II and V to Regulation EC 396/2005 of the European Parliament and of the Council as regards maximum residue levels for clothianidin and thiamethoxam in or on certain products

[19] The limit of detection (LOD) is the lowest concentration of a pesticide residue or contaminant that can be identified and quantitatively measured in a specified food, agricultural commodity or animal feed with an acceptable degree of certainty by a regulatory method of analysis. (Codex Alimentarius, Vol. 2A).

[20] The aim is to *"reverse the global decline in pollinator populations and its effects on biodiversity*" (Commission Regulation EU 2023/334, *op. cit.*)

[21] Implementing regulation EC 2018/784 of 29 may 2018; EC implementing regulation 2018/785 of 29 may 2018

[22] Even if thiacloprid is no longer authorised on the basis of different grounds, this substance, along with imidacloprid, should be subject to the same treatment as clothianidin and thiamethoxam. For thiacloprid, the non-authorization is based on the fact that it is toxic for reproduction. And EFSA also identified a critical problem linked to groundwater contamination by thiacloprid metabolites. Commission Implementing Regulation EU 2020/23 of 13 January

2020 concerning the non-renewal of the approval of the active substance thiacloprid, in accordance with Regulation (EC) No 1107/2009, recital 9 : "*In particular, metabolites M30, M34 and M46 are predicted to occur above the parametric drinking water limit of 0,1 µg/L in all pertinent scenarios for all proposed uses of thiacloprid. These metabolites are considered a priori of concern since it cannot be excluded that they share the same carcinogenic properties of the parent active substance thiacloprid, which is classified in accordance with Regulation (EC) No 1272/2008 of the European Parliament and of the Council (7) as carcinogenic category 2. Therefore, it cannot currently be established that the presence of metabolites of thiacloprid in groundwater will not result in unacceptable effects on groundwater and in harmful effects on human health. The Authority also concluded that the assessment of the risks to aquatic organisms, bees and non-target terrestrial plants could not be finalised based on the information provided in the dossier*".

[23] See for imidacloprid EC implementing regulation EU 2018/783 of 29 may 2018 and for thiacloprid EC implementing regulation EU 2020/23 of 13 January 2020.

[24] Public Eye, Highly hazardous profits. How Syngenta makes billions by selling toxic pesticides, 2019.

[25] SCOPAFF, minutes of the meetings of September 26 and 27, 2022. SCOPAFF is a technical committee created in 1966. It is composed of members representing the EU member countries and is chaired by a representative of the European Commission. Its role is to ensure that the measures taken by the EU on food safety, seed safety, animal health and plant health issues are practical and effective. In particular, it gives its opinion on the draft delegated acts of the European Commission.

[26] See the Annex of the Commission Regulation 2023/334. More generally, if products used for animal feed are theoretically covered by Regulation 396/2005 (which constitutes the legal basis for Commission Regulation 2023/334), it appears that MRLs are not systematically set for items used only for animal feed (https://ec.europa.eu/food/plant/pesticides/eu-pesticides-database/start/screen/products/details/380). See footnote 8 in annex I of Regulation EC 396/2005, specifying that for « *products or part of products exclusively used for animal feed production (...) No MRLs are applicable until individual products have been identified and listed within this category* ».

[27] Le Monde, Environnement : le grand saccage des années Bolsonaro au Brésil, 30 septembre 2022

[28] Argentina, Brazil, Paraguay, Uruguay.

[29] Fern, Beef policy paper, Agricultural commodity consumption in the EU, Policy brief, April 2018.

[30] https://www.un.org/en/climatechange/paris-agreement. See also the EU Trade Policy Review for 2021, in which the EC announces its intention to "*make the respect of the Paris Agreement an essential element in all future agreements*".

[31] For example, the Convention on Biological Diversity. In its Trade Policy Review for 2021 mentioned above, the EU announces it "*will also prioritise effective implementation of the Convention on Biological Diversity in trade and investment agreements*".

[32] A sharp increase in Mercosur's agricultural exports to the EU was expected, ranging from 54% to 78% for beef, depending on the country, or 13.1% for wood and paper products from Brazil, in the "ambitious" scenario, according to the 2019 Sustainability Impact Assessment.

[33] France has set the following conditions: the Agreement should not lead to an increase in imported deforestation within the EU ; public policies of the Mercosur countries should be fully consistent with their commitments under the Paris Agreement; imported agri-food products benefiting from preferential access to the EU market should comply with EU sanitary and

environmental standards (See the report of the Commission in charge of draft EU-Mercosur agreement evaluation). It is clear that none of these conditions are currently met. Regarding imported deforestation, France has encouraged the adoption of a European regulation on imported deforestation to meet this requirement. The actual scope of the EU regulation on imported deforestation remains to be tested. Clearly, the final version of the text adopted in trialogue on December 6, 2022, has been watered down compared to the text voted by the European Parliament, in particular regarding the list of regulated products and that of protected ecosystems. And several provisions aimed at strengthening the mechanism have been postponed to later discussions in the framework of review clauses. Therefore, it is unclear whether the instrument is currently robust enough to prevent the increase in deforestation associated with the increase in agricultural exports expected with the EU/Mercosur agreement. About the other two red lines, nothing had yet moved at the time this report was written. And this is precisely what is at stake in the adoption of unilateral mirror measures applicable to all products imported by the EU or, failing that, specific mirror clauses in bilateral trade agreements.

[34] Public Eye, Unearthed, Banned in Europe: How the EU exports pesticides too dangerous for use in Europe, 2020.

[35] The European Union is Brazil's second largest customer for agricultural and food products accounting for about 22% of exports, just behind China with about 23%

[36] Public Eye, Unearthed, Banned in Europe, *op. cit.*

[37] Public Eye, Banned pesticides on our dinner plates, June 2020

[38] Regulation EC 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC

[39] Articles 3.2 (g) and 6.4 of EC Regulation 396/2005 and the Guidelines for residue data under Regulation 1107/2009 (or former Directive 91/414/EEC)and Regulation EC 396/2005. More specifically on import tolerances between 2009 and 2020, https://food.ec.europa.eu/system/files/2021-01/pesticides_mrl_guidelines_overview-it-table.pdf

[40] Heinrich Boell Foundation, Imports and exports: banned but sold anyway, Pesticides Atlas, 2022.

[41] Article 44 for the balance of commercial relations in the agricultural sector and healthy and sustainable food (known as the "EGALIM Law"), codified in Article L236-1A of the Rural and Maritime Fishing Code, enacted in 2018.

[42] France continues to export thousands of tons of pesticides. This is due to a loophole in the legislative scheme: the ban, provided for by the EGALIM law, applies to plant protection products "containing" substances that are not authorized in Europe, but not to the active substances themselves. In addition, the decree implementing the law of March 23, 2022, introduces a derogation: pesticides whose authorization has expired but which are not formally banned at the European level or for which manufacturers have not submitted applications for renewal may continue to be exported. Le Monde, La France continue à exporter des milliers de tonnes de pesticides ultratoxiques, malgré l'interdiction de cette pratique, November 30th 2022. https://www.lemonde.fr/planete/article/2022/11/30/la-france-continue-a-exporter-des-milliers-de-tonnes-de-pesticides-ultratoxiques-malgre-l-interdiction-de-cette-pratique_6152286_3244.html

[43] Le Soir, June 23rd 2023, Les pesticides interdits dans l'UE ne pourront plus être exportés par la Belgique ; Euractiv, September 14th 2022, Germany to stop exporting banned pesticides, push for EU-wide halt

[44] Joint Statement, NGOs and Trade Unions demand the end of EU's export of banned pesticides

and other hazardous chemicals, 1 December 2022

[45] Article 12 of regulation EC 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.

[46] Exportation de céréales : imbroglio autour de l'interdiction de la phosphine, un traitement réclamé par des pays importateurs, Stéphane Mandard, Le Monde, April 2023. France, which wants to be able to authorise its producers to export to third countries that require such treatment, after the non-renewal of the marketing authorisation for phosphine, was also considering the same approach in April 2023.

[47] The Cerrado savannahs are home to 5% of the world's biodiversity and 12,000 species of plants, and constitute an extremely important carbon sink and watershed. Greenpeace, Cerrado, the Brazilian savanna in danger.

[48] L. Bombardi, Geographic Atlas of Pesticide Use in Brazil and Connections with the European Union, 2019

[49] Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Visit to Brazil, A/HRC/45/12/Add 2, 17 September 2020

[50] Human Rights Watch, Brazilians Poisoned by Pesticides Sprayed Near Homes and Schools, 2019

[51] A. Nunes et al. « The Influence of recent Brazilian policy and legislation on increasing mortality », Research, Society and Development, 2021, Vol. 10, n°4 .

[52] Pedro Grigori, Half a billion bees dead as Brazil approves hundreds more pesticides, 23 august 2019

[53] FAO, Declining bee populations pose threat to global food security and nutrition, 20 may 2019

[54] Brazilian platform on biodiversity and ecosystem services (BPBES), Relatório Temático completo - Polinização, polinizadores e produção de alimentos no Brasil.

[55] Mainly used for animal feed in cattle farms

[56] PAN UK, Toxic Trade: How a trade deal threatens to increase pesticide-related harms in the UK and Brazil, February 2022.

[57] The Guardian, Climate crisis: Amazon rainforest tipping point is looming, data shows, 7 march 2022

[58] Public Eye, Highly hazardous profits. *op. cit.*

[59] Statista, Leading countries in agricultural consumption of pesticides worldwide in 2020

[60] In 2020, Brazil imported $3.73B in Pesticides, becoming the 1st largest importer of Pesticides in the world. Pesticides in Brazil | OEC - The Observatory of Economic Complexity

[61] J. Gonzalez, Bolsonaro administration approves 290 new pesticide products for use, August 2019

[62] Public Eye, Highly hazardous profits, *op. cit.*

[63] Pedro Grigori, Half a billion bees dead as Brazil approves hundreds more pesticides, 23 august 2019

[64] Public Eye, Highly hazardous profits, *op. cit.*

[65] Report of the Special Rapporteur, *op. cit.*

[66] M. E. Ueker et al., "Parenteral exposure to pesticides and occurrence of congenital malformations: hospital-based case–control study", BMC Pediatrics (2016).

[67] F.L. Martin et al., " Increased exposure to pesticides and colon cancer: Early evidence in Brazil", Chemosphere Volume 209, October 2018, pp. 623-631

[68] Public Eye, Banned in Europe,, *op cit.*

[69] Public Eye, Unearthed, EU sending huge quantities of banned, bee-killing pesticides to poorer

countries, documents reveal , 17 May 2023

[70] The 2022 ban on the production, storage, and sale of plant protection products containing substances prohibited by the European Union, and destined for third countries, is included in the Agriculture and Food Law (Egalim), enacted on October 30, 2018. (See note 42 about its shortcomings). Les Echos, Revers menaçant pour les pesticides Made in France, 3 Feb. 2020.

[71] Public Eye, Unearthed, 2023, *op. cit.*

[72] Public Eye, The EU exports thousands of tons of "bee killers" banned on its own territory'

[73] The Prior Informed Consent (PIC) Regulation (Regulation EU 649/2012) governs the trade of certain hazardous chemicals that are banned or severely restricted in the EU. It places obligations on companies that wish to export these chemicals to non-EU countries or import them into the EU.
More information about the chemicals subject to PIC can be found in ECHA's website: https://echa.europa.eu/information-on-chemicals/pic/chemicals

[74] Syngenta exports its best seller to Brazil, Engeo Pleno S, a mix of thiamethoxam and lambda-cyhalothrin, a substance that is also highly toxic to bees.

[75] Public Eye, The EU exports thousands of tons of "bee killers" banned on its own territory'

[76] Reporter Brasil, Brasil é principal destino de agrotóxico banido na Europa e ligado à morte de abelhas, 18 November 2021.

[77] Public Eye, The EU exports thousands of tons of "bee killers" banned on its own territory'

[78] Public Eye, Unearthed, 2023, *op. cit.* See also Public Eye, Pesticide giants make billions from bee-harming and carcinogenic chemicals, 2020.

[79] Public Eye, Unearthed, 2023*, op. cit.*

[80] CropLife is an international federation of pesticide and plant biotechnology companies, including BASF, Bayer, Corteva, FMC, Sumitomo Chemical and Syngenta.

[81] Public Eye, Unearthed, 2020, Revealed: Pesticide giants make billions on toxic, bee-harming chemicals

[82] Public Eye, Unearthed, 2023*, op. cit.*

[83] *Ibid.*

[84] Public Eye, Unearthed, Soya, corn and cotton make Brazil world leader for hazardous pesticides, 2020

[85] Brazil is the largest EU supplier for coffee beans, accounting for a quarter of total EU imports

[86] Eurostat, Brazil-EU – international trade in goods statistics

[87] PAN Europe, Technical Report, Residues of Banned Pesticides in the EU Food, A state of play, September 2020. PAN Europe extracted the PIC list of pesticides from European Chemical Agency website (approx. 170 pesticides), to investigate whether hazardous and EU banned pesticides are detected in food sold in the European market. The food residue data were taken from the EU official 2018 monitoring data used to produce EFSA's annual report.

[88] The tables provided by IBAMA do not include information on clothianidin and thiamethoxam for the years 2018 and 2019.

[89] Nunes and al., The influence of recent Brazilian policy and legislation on increasing bee mortality Research, Society and Development, 2021, vol. 10, n°4. and ANVISA, Programa de Análise de Resíduos de Agrotóxicos em Alimentos, PARA Plano Plurianual 2017-2020 – Ciclo 2017/2018 https://www.gov.br/anvisa/pt-br/assuntos/agrotoxicos/programa-de-analise-de-residuos-em-alimentos/arquivos/3770json-file-1

[90] Politis, Au Brésil, Jair Bolsonaro autorise des pesticides dangereux, 6 mai 2019

[91] Unearthed, Brazil pesticide approvals soar as Jair Bolsonaro moves to weaken rules, June 2019.

[92] PAN UK, Toxic Trade, *op. cit.*
[93] Public Eye, Unearthed Greenpeace investigation *op. cit.*
[94] Bayer, BASF and Syngenta spent about 2 million euros to support the agribusiness lobby in Brazil
[95] Public Eye, Highly hazardous profits, *op.cit.*
[96] Law 7.802 concerning research, production, labelling, packaging, exploitation, classification, use, etc. of pesticides
[97] J. Gonzales, Brazil's fundamental pesticide law under attack, 2018.
[98] *Ibid.*
[99] This text has been under consideration for 20 years and was passed by the House of Representatives in February 2022
https://spcommreports.ohchr.org/TmSearch/Mandates?m=27
[100] PL 6299/2002 Projeto de Lei
[101] Public Eye, Brazil, South Africa, Ukraine: high-risk destinations, September 2020.
[102] PAN UK, Toxic Trade, *op. cit.*
[103] Coating seeds with a thin layer of pesticide aims to prevent early attacks of diseases, bacteria, or animal pests and to protect the plant through its entire growth. The product is integrated in the plant's sap and then diffused in all its tissues (stem, leaves, and flowers) throughout its growth.
[104] Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Marcos Orellana. The impact of toxic substances on the human rights of indigenous peoples, A/77/183, 28 July 2022
[105] Directive 2009/128/EC, establishing a framework for Community action to achieve the sustainable use of pesticides, article 9.
[106] Proposal for a Regulation on the sustainable use of plant protection products, Articles 20 and 21.
[107] Castilhos and al., Neonicotinoids and fipronil concentrations in honeybees associated with pesticide use in Brazilian agricultural areas, Apidologie, 2019, vol. 50, pp. 657-668
[108] It seems that the civil action has not reached its conclusion yet
[109] Repórter Brasil, Brasil é principal destino de agrotóxico banido na Europa e ligado à morte de abelhas, op. Cit.
[110] L. Bombardi, Geographic Atlas of Pesticide Use in Brazil and Connections with the European Union, 2019
[111] L. Bombardi, Geographic Atlas of Pesticide Use in Brazil, *ibid.*: The maximum residue limit allowed for glyphosate in drinking water is 500 µg/L in Brazil and 0.1 µg /L in the European Union. Regarding the effects on human health, studies point out that between 2007 and 2014 there were approximately 18,000 acute pesticide poisonings.
[112] In Brazil, there are two separate ministries, MDA for family farming and MAPA for agribusiness.
[113] Brazilian Health Regulatory Agency. According to Agência Pública and Repórter Brasil, this program has been halted for over two years, since 2020
[114] ANVISA, Programa de Análise de Resíduos de Agrotóxicos em Alimentos, PARA Plano Plurianual 2017-2020 – Ciclo 2017/2018 and El Pais, Agrotóxico mais encontrado em frutas e verduras no Brasil é fatal para abelhas, 19 December 2019
[115] Castilhos and al., *op. cit.*
[116] Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the

European Food Safety Authority and laying down procedures in matters of food safety.

[117] Article 23, regulation EC 183/2005: "*1. Feed business operators importing feed from third countries shall ensure that importation takes place only in accordance with the following conditions:*

(a) the third country of dispatch appears on a list, drawn up in accordance with Article 48 of Regulation (EC) No 882/2004, of third countries from which imports of feed are permitted;

(b) the establishment of dispatch appears on a list, drawn up and kept updated by the third country in accordance with Article 48 of Regulation (EC) No 882/2004, of establishments from which imports of feed are permitted;

(c) the feed was produced by the establishment of dispatch or by another establishment appearing on the list referred to in point (b) or in the Community;

and (d) the feed satisfies: (i) the requirements laid down in this Regulation, and in any other Community legislation laying down rules for feed; or (ii) those conditions recognised by the Community to be at least equivalent thereto; or (iii) where a specific agreement between the Community and the exporting country exists, the requirements contained therein.

2. A model import certificate may be adopted in accordance with the procedure referred to in Article 31(2)".

[118] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32004R0852&from=EN

[119] 1. Food business operators importing products of animal origin from third countries shall ensure that importation takes place only if:

a) the third country of dispatch appears on a list, drawn up in accordance with Article 11 of Regulation (EC)2004, of third countries from which imports of that product are permitted;

b) (i) the establishment from which that product was dispatched, and in which it was obtained or prepared, appears on a list, drawn up in accordance with Article 12 of Regulation (EC)/2004, of establishments from which imports of that product are permitted, when applicable,

(ii) in the case of fresh meat, minced meat, meat preparations, meat products and MSM, the product was manufactured from meat obtained in slaughterhouses and cutting plants appearing on lists drawn up and updated in accordance with Article 12 of Regulation (EC)2004 or in approved Community establishments, and

(iii) in the case of live bivalve molluscs, echinoderms, tunicates and marine gastropods, the production area appears on a list drawn up in accordance with Article 13 of that Regulation, when applicable;

c) the product satisfies:

(i) the requirements of this Regulation, including the requirements of Article 5 on health and identification marking;

(ii) the requirements of Regulation (EC)/2004; and

(iii) any import conditions laid down in accordance with Community legislation governing import controls for products of animal origin, and

d) the requirements of Article 14 of Regulation (EC) /2004 concerning certificates and documents are satisfied, when applicable.

2. By way of derogation from paragraph 1, the importation of fishery products may also take place in accordance with the special provisions laid down in Article 15 of Regulation (EC) No

/2004.

3. Food business operators importing products of animal origin shall ensure that:

a) products are made available for control upon importation in accordance with Directive 97/78/EC;

b) importation complies with the requirements of Directive 2002/99/EC; and

c) operations under their control that take place after importation are carried out in accordance with the requirements of Annex III.

4. Food business operators importing food containing both products of plant origin and processed products of animal origin shall ensure that the processed products of animal origin contained in such food satisfy the requirements of paragraphs 1 to 3. They must be able to demonstrate that they have done so (for example, through appropriate documentation or certification, which need not be in the format specified in paragraph l(d)).

[120] Regulation EU 2017/625 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products. The OCR repealed regulation 882/2004 on official controls and repealed or amended a number of sector specific official control provisions (i.e. amending regulation 1107/2009 on the placing on the market of plant protection products), to incorporate corresponding requirements within its rules.

[121] Official Controls Regulation EU 2017/625, delegated and implementing act https://food.ec.europa.eu/system/files/2019-12/oc_qa_ocregulation_20191212_delegated_implemented_acts_en.pdf

[122] 'Operator' means any natural or legal person subject to one or more of the obligations provided for in the rules referred to in Article 1(2) of regulation EU 2017/625.

[123] Regulation EU 2016/2031 covers protective measures against pests of plants, including the plant passport and the phytosanitary certificate.

[124] As an example, the Spanish 2021-2025 multi-annual national control plancan be found in the following link: https://www.mapa.gob.es/es/ministerio/planes-estrategias/plan-nacional-de-control-de-la-cadena-alimentaria/plan-nacional-control-oficial-cadena-alimentaria-2021-2025.aspx

[125] Identity checks refer to a visual inspection to verify the content and the labelling of a consignment, including the marks on animals, seals and means of transport. Physical checks refer to checks on packaging, the means of transport, labelling and temperature, the sampling for analysis, testing or diagnosis and any other check necessary to verify compliance with the rules covered by the control legislation.

[126] The list of animals and goods subject to systematic controls at border can be found here: https://food.ec.europa.eu/system/files/2019-12/oc_qa_ocregulation_20191212_delegated_implemented_acts_en.pdf

[127] Commission implementing regulation EU 2019/1715 of 30 september 2019

[128] DG Health and food safety, Health and food audits and analysis programme 2023.

[129] iRASFF is the common computerised tool that brings together the RASFF and the AAC system.

[130] https://food.ec.europa.eu/animals/animal-diseases/animal-disease-information-system-adis_en

[131] https://food.ec.europa.eu/plants/plant-health-and-biosecurity/europhyt_en

[132] https://webgate.ec.europa.eu/IMSOC/tracesnt-help/Content/Home.htm?lang=en

[133] https://audiovisual.ec.europa.eu/en/video/I-091404

[134] Requirements for origin labelling vary depending on the product. The indication of origin is compulsory for fruit and vegetables, beef, fishery products, honey and olive oil, pork, poultry, sheep and goat meat, but is often not very precise: it is sometimes simply indicated EU/non-EU origin.
https://www.cantal.gouv.fr/tracabilite-des-produits-alimentaires-a3186.html#:~:text=Le%20programme%20communautaire%20FoodTrace%20vise,puisse%20%C3%AAtre%20centralis%C3%A9e%20et%20partag%C3%A9e
[135] Regulation EU 1169/2011, Article 9(1) l) and Article 55
[136] Regulation EC 1760/2000 of 16 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products
[137] Regulation EC 834/2007 and EC 889/2008
[138] From 0FR for organic farming in France, to 3FR for animals grown in cages or closed facilities
[139] Commission Staff working document, executive summary of the Refit Evaluation of the General food law regulation 178/2002.
[140] S. Charlebois and al., Comparison of Global Food Traceability Regulations and Requirements, Comprehensive Review in Food science and food safety, 2014.
[141] Commission Staff working document, executive summary of the Refit Evaluation of the General food law regulation 178/2002
[142] *Ibid.*
[143] In France, the European Affairs Committee of the National Assembly presented in December 2020 a European resolution proposal on food safety. This proposal includes many of the issues mentioned here-above.
[144] Shortcomings highlighted in the information report of the French Senate Economic Affairs Committee : https://www.senat.fr/notice-rapport/2020/r20-368-notice.html
[145] *Ibid.* p 2
[146] Motion for a European resolution on food safety in the EU, presented on behalf of the European Affairs Committee by Mr. André Chassaigne and Ms. Catherine Osson, 2 December 2020
[147] Information report No. 368 (2020-2021) by Mr. Laurent DUPLOMB, on behalf of the Economic Affairs Committee, submitted on 17 February 2021.
[148] Regulation EC 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market.
A producer of an active substance submits an application for first approval through a rapporteur member state (RMS), (who after an admissibility check,) prepares a draft assessment report, to be submitted to the European Food Safety Authority (EFSA). Following a peer reviewed process EFSA issues a conclusion on the active substance, based on which the Commission puts forward a draft regulation for approval or non-approval. The Standing Committee on Plants, Animals, Food and Feed (ScoPAFF), composed of representatives from each EU Member State, delivers an opinion, and if favourable, the Commission adopts the regulation.
[149] If the substance is mutagenic, carcinogenic or toxic to reproduction, or has endocrine disrupting properties that may be harmful to humans. Pesticides Regulation, Annex II, points 3.6.2, 3.6.3, 3.6.4 and 3.6.5.)
[150] *Ibid*, points 3.7.1, 3.7.2 and 3.7.3
[151] Regulation EC 1107/2009, Article 4, para. 2. The Pesticides Regulation defines "vulnerable groups" as "persons needing special consideration when assessing the acute and chronic health effects of plant protection products", including "pregnant and nursing women, the unborn, infants and children, the elderly and workers and residents subject to high pesticide exposure over the long term" (Article 3, 14))

[152] Regulation EC 1107/2009, Annex II, point 3.8.3.)
[153] According to a HEAL 2022 report, scientific evidence proving that glyphosate is carcinogenic has so far been dismissed in the EU scientific assessment that will form the basis for the re-approval discussion.
[154] European Court of Auditors' Special Report 15/2020: Protection of wild pollinators in the EU — Commission initiatives have not borne fruit, according to which, EU action had little effect on halting the decline of wild pollinators, say auditors. The European Court of Auditors noted that "*current EU legislation on pesticides has been unable to offer adequate measures to protect wild pollinators. The legislation currently in force includes safeguards to protect honeybees, but risk assessments are still based on guidance which is outdated and poorly aligned with legal requirements and the latest scientific knowledge*".
[155] The Commission acknowledges that there is still no relevant assessment framework for analysing the cumulative (or "cocktail") effects of active substances: *"Developing a methodology for cumulative risk assessment covering simultaneous exposure to multiple chemicals (the 'cocktail effect') turned out to be much more complex than initially expected and is still on-going. (...) Work is currently ongoing to further develop the methodology and perform cumulative assessments for other groups of substances, and to eventually use it for regulatory decision-making (e.g., MRL setting and approval of active substances). (...). Therefore, it will only be possible at a later stage to appreciate the impact of cumulative risk assessment on the protection of human health*" (Report from the Commission - Evaluation of Regulation EC No 1107/2009 and Regulation (EC) No 396/2005). This flaw in the pesticide evaluation system was denounced in a letter sent by 119 Members of the European Parliament to the EFSA, asking the latter to review its evaluation procedures to take the cumulative effect of substances into account, https://www.lemonde.fr/planete/article/2021/02/25/119-parlementaires-europeens-denoncent-les-failles-du-systeme-d-evaluation-des-pesticides_6071226_3244.html
[156] The re-evaluation process for authorised substances is often very lengthy, resulting in the extension of authorisations even when they relate to potentially hazardous substances. This is strongly criticized by the European Parliament (See for example the European Parliament resolution of 18 December 2019: "*...it is unacceptable that substances which are known to meet the cut-off criteria for active substances that are mutagenic, carcinogenic and/or toxic for reproduction, or that have endocrine-disrupting properties, which are established to protect human and environmental health, continue to be allowed for use in the Union, thereby putting public and environmental health at risk*") . By way of illustration, on 25 January 2020 the Commission adopted an implementing regulation extending for more than a year the approval periods of nine active substances, three of which (fluotanil, mepiquat and pyraclostrobin) have endocrine disrupting properties
https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2021.023.01.0013.01.ENG&toc=OJ%3AL%3A2021%3A023%3ATOC
[157] Article 53 of Regulation EC 1107/2009.
[158] Nature et Progrès, PAN Europe and Nature & Progrès ask the Court of Justice to end the abusive pesticide derogation regime, March 2022
[159] https://ec.europa.eu/food/plant/pesticides/eu-pesticides-database/ppp/pppeas/screen/home
[160] Pan Europe, Banned pesticides still in use in the UE, January 2023.
[161] Loi du 14 décembre 2020 relative aux conditions de mise sur le marché de certains produits phytopharmaceutiques en cas de danger sanitaire pour les betteraves sucrières
[162] With the exception of products intended for the manufacture of goods other than food and feed, sowing or planting, or for nationally authorised trials of active substances.

[163] European Parliament, Fact sheets on the EU, Food Safety.
[164] Regulation EC 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC.
[165] The delegated act on MRLs for clothianidin and thiamethoxam amends Annexes II and V of Regulation 369/2005 which set MRLs for these 2 substances.
[166] Fact sheets on the European Union, Food safety.
[167] Regulation EC 396/2005
[168] A more binding decision-making process could be considered for the authorization of MRLs. Indeed, it takes only a majority plus one vote to authorise certain substances: a process requiring more than three-quarters of the votes would be more binding, for example.
[169] https://www.fao.org/fao-who-codexalimentarius/codex-texts/dbs/pestres/pesticide-detail/fr/?p_id=238
[170] https://food.ec.europa.eu/plants/pesticides/eu-pesticides-database_en
[171] Regulation EC 396/2005 , Article 12
[172] See footnote 11
[173] Regulation EC 396/2005, Article 6, para. 2.
[174] FNH, Institut Veblen, Interbev, Globalization., *op. cit.*
[175] Regulation EU 2017/625, article 24
[176] EU multiannual control programme. See EC Implementing regulation (EU) 2021/601 concerning a coordinated multiannual control programme of the Union for 2022, 2023 and 2024 to ensure compliance with maximum residue levels of pesticides and to assess the consumer exposure to pesticide residues in and on food of plant and animal origin
[177] https://www.efsa.europa.eu/en/data-report/pesticide-residues-2015-2016-2017-2018-2019
[178] See article 35 of regulation EC 396/2005, referring to the emergency procedure laid down in articles 53 and 54 of regulation EC 178/2002.
[179] The Order of April 8, 2020 suspending the introduction, import and marketing, in France, of fresh cherries for consumption, produced in a country allowing cherry trees treatment with pesticides containing dimethoate was published on April 25, 2020 , for the 4th consecutive year https://www.phytocontrol.com/veille-reglementaire/interdiction-dimethoate-sur-cerises-fraiches-4/
The European Union (EU) has in turn not renewed the authorisation of this molecule in June 2019. The European regulation of 26 May 2020 reduces the maximum residue limits for dimethoate in these fruits to zero from 16 December 2020. Pesticides - Clap de fin pour le diméthoate sur les cerises - Actualité - UFC-Que Choisir
[180] La France suspend les importations de cerises traitées au phosmet | Ministère de l'Agriculture et de la Souveraineté alimentaire
[181] Environmental fate and exposure; neonicotinoids and fipronil, JM. Bonmatin et al., 2014, pages 54 et 55
[182] Resolving the twin human and environmental health hazards of a plant-based diet, Wyckhuys et al., 2020
[183] Regulation EU 2021/1881 This regulation is applicable as of 16/05/22.
[184] FNH, Veblen Institute, Interbev, "Globalization., *op. cit.*
[185] According to the European regulation (Regulation EC 178/2002, Article 12), it is forbidden to export products that do not comply with the European regulation, unless otherwise stipulated by the authorities of the importing country or by their regulations.
https://www.favv-

afsca.be/exportationpaystiers/circulaires/_documents/20200508_clean_CirculaireexportLMR_FR_V4.1_000.pdf See footnote 45

[186] Analysis from the report: https://www.pan-uk.org/toxic-trade-brazil/

[187] https://ec.europa.eu/food/plant/pesticides/eu-pesticides-database/start/screen/products/details/215

[188] PAN UK Toxic trade 2022, *op cit.*

[189] Regulation EC No 1107/2009

[190] PAN Europe, Factsheet: Contribution to the EU feedback mechanism on Statistics on Agricultural Input and Output (SAIO), October 2020

[191] Council adopts new rules to cut deforestation worldwide - Consilium (europa.eu)
The scope of the final text has been reduced compared to the version adopted by the European Parliament. And several proposals to strengthen the text on products and ecosystems covered have been put off to later discussions under review clauses. See note 33 and the analysis published by the Veblen Institute, Imported deforestation: a historic text whose real impact remains to be tested, December 2022.

[192] The Commission's original proposal targeted palm oil, soybeans, cocoa, coffee, beef, and timber

[193] Source: interview with Jean Luc Angot, President of the "Prospective, Society, International" section of the General Council for Food, Agriculture and Rural Areas (CGAAER), Head of the Veterinary Public Health Inspectorate (ISPV)

[194] Growth hormones were especially used for calf and poultry farming. Council Directive 81/602/EEC of 31 July 1981 concerning the prohibition of certain substances having a hormonal action and of any substances having a thyrostatic action.

[195] Council Directive 96/22/EC of 29 April 1996 concerning the prohibition on the use in stock farming of certain substances having a hormonal or thyrostatic action and of beta-agonists.

[196] https://www.savebeesandfarmers.eu/eng/

[197] The United States suspended the application of tariff concessions by imposing a 100 percent ad valorem tariff on key agricultural products as of July 29, 1999. On August 1, 1999, Canada also imposed 100% ad valorem tariffs, including on beef and pork products.

[198] The Hilton Beef

[199] Example of the Canadian audit of 2019:
https://ec.europa.eu/food/audits-analysis/audit_reports/details.cfm?rep_id=4287. The report revealed serious shortcomings that show that "*the current system implemented by the competent authorities [...] does not adequately reflect the actual physical and hygienic conditions in federally registered facilities that figure on the export authorization list. Only one of the three establishments visited by the audit team could be considered fully compliant.*"
For Mercosur countries, see also Annex 5.3. Recent audits by the European Commission in Mercosur countries Mercosur countries: points for attention in the Evaluation report of the agreement between the EU and Mercosur, commissioned by the Prime Minister at the end of 2019 and chaired by Stefan AMBEC, INRAE Research Director and Professor at TSE. The report on the EU-Mercosur agreement delivered to the French government | TSE (tse-fr.eu)

[200] https://www.quechoisir.org/actualite-ceta-des-constats-inquietants-et-apres-n83615/

[201] https://inspection.canada.ca/exportation-d-aliments-de-plantes-ou-d-animaux/exportations-d-aliments/exigences/ue-viande-et-volaille/annexe-r/fra/1462942544704/1462942667141?chap=15

[202] https://inspection.canada.ca/exportation-d-aliments-de-plantes-ou-d-animaux/exportations-d-aliments/exigences/ue-lait-et-produits-laitiers/fra/1519245918209/1519245918831

[203] In Brazil, for example, the SISBOV traceability system (mandatory for export to the EU) only requires traceability of the animal to the last farm and only 40 days prior to slaughter, without taking into account any cow-calf or fattening farms.
[204] IFOAM, Plant health care in organic farming. The role of natural substances in a biodiversity based system approach, 2020.
[205] Commission implementing regulation (EU) 2021/1165 of 15 July 2021 authorising certain products and substances for use in organic production and establishing their lists.
In summary, in order for a pesticide to be used in organic farming, the active substance of natural origin must be validated at European level via the general regulation, figure on the list of authorised active substances in the organic regulation and the commercial product containing this active substance must have a marketing authorization in the country in question. The product in question will not be certified organic but will be considered as usable in organic farming.
[206] Organic production does not apply thresholds as such, however in case of any quantifiable residue finding a procedure defined in the organic regulation is launched and has to be followed by the operator as well as the control body/authority. As part of it an investigation may be started in order to find out if the residue is the result of the violation of the regulation or e.g. comes from unavoidable contamination. However, the Reg. 396/2005 has to be respected anyway, as if the finding is above the MRL, the product has to be withdrawn from the market irrespective of the fact if there is a non-compliance behind or unintentional contamination.
[207] P. Mäder and al., Soil Fertility and Biodiversity in Organic Farming Science, Science, June 2002.
[208] IFOAM Organics Europe, Plant protection, Plant protection tools and strategies working with biodiversity.
[209] https://www.youtube.com/watch?v=cl-yC0tX6mY
[210] H. Burtscher-Schaden, T. Durstberger, J. G. Zaller, Toxicological Comparison of Pesticide Active Substances Approved for Conventional vs. Organic Agriculture in Europe, Toxics, 2022.
[211] https://eur-lex.europa.eu/EN/legal-content/summary/eu-rules-on-producing-and-labelling-organic-products-from-2022.html
[212] *Ibid.*
[213] Source: interview with Karine Laroche, consultant and member of the Co-actions activity and employment cooperative
[214] checking that a buffer zone protects the crops, that the storage area is safe from contamination, etc.
[215] 'Conversion' means the transition from non-organic to organic production within a given period, during which the provisions of this Regulation concerning organic production apply.
[216] Commission Delegated Regulation EU 2021/2306 of 21 October 2021 supplementing Regulation EU 2018/848 of the European Parliament and of the Council with rules on the official controls in respect of consignments of organic products and in-conversion products intended for import into the Union and on the certificate of inspection.
[217] Commission Delegated Regulation EU 2021/2305 of 21 October 2021 supplementing Regulation EU 2017/625 of the European Parliament and of the Council with rules on the cases where and conditions under which organic products and in-conversion products are exempted from official controls at border control posts, the place of official controls for such products and amending Commission Delegated Regulations (EU) 2019/2123 and (EU) 2019/2124
[218] Commission notice, Questions and answers on the application of EU rules on import controls on products from third countries intended to be placed on the EU market as organic products or in-conversion products (2022/C 362/03)
[219] https://www.agencebio.org/decouvrir-le-bio/les-textes-reglementaires/
[220] https://agriculture.gouv.fr/agriculture-biologique-quelle-

reglementation#:~:text=Tout%20les%20importateurs%20de%20produits,Norv%C3%A8ge%2C%20Islande%2C%20Liechtenstein

[221] Source: interview with Jean Pierre Schweitzer, head of product policy and circular economy, European Environmental Bureau.
[222] Communication from the Commission to the European Parliament - Making sustainable products the norm, 30 March 2022
[223] With the exception of food and feed products, which are covered by Regulation (EC) No 178/2002, medicines and plant protection products.
[224] Other priority value chains have been identified: consumer electronics, packaging, and food.
[225] Mirror measures applied to the import of certain materials (minerals, rare earths, etc.) are being studied for batteries and the textile sector.
[226] https://www.circularise.com/blog/digital-product-passports-dpp-what-how-and-why
[227] https://www.circularise.com/blog/digital-product-passports-dpp-what-how-and-why
[228] EC Press Release, Green Deal: New proposals to make sustainable products the norm and boost Europe's resource independence, 30 march 2022.
[229] For example, civil society will be able to monitor the type of mines from which the minerals used for batteries are sourced, to ensure that human and environmental rights are respected.
[230] in line with the commitments made in the Chemicals Sustainability Strategy, COM(2020) 667 final, 14 October 2020
[231] https://yuka.io/application/
[232] https://www.circularise.com/blog/digital-product-passports-dpp-what-how-and-why
[233] https://france.representation.ec.europa.eu/informations/les-etats-membres-approuvent-la-proposition-de-la-commission-dabaisser-le-seuil-de-residus-de-2022-09-27_fr
[234] PAN UK, Toxic trade, *op. cit.,*
[235] This is the case in East Africa, Kenya, Tanzania, Uganda and the Pacific area, as well as in several Andean countries.
[236] Indeed, sanitary and phytosanitary measures that conform to international standards taken by WTO members are presumed to be consistent with the SPS Agreement and the GATT. See Article 3 of the SPS Agreement.
[237] In addition, the Joint FAO/WHO Meeting on Pesticide Residues (JMPR) is charged with reviewing toxicological data primarily obtained from controlled trials, which are consistent with approved pesticide use in accordance with "good agricultural practice."
https://www.fao.org/fao-who-codexalimentarius/themes/pesticides/en/
[238] See the minutes of the SPS Committee and the Technical Barriers to Trade Committee meetings
[239] UNEP, Rebuilding the ozone layer: how the world came together for the ultimate repair job, September 2021.
[240] A total of 52 chemicals are listed in Annex III, including 35 pesticides, 16 industrial chemicals, and 1 chemical in both the pesticide and industrial categories.
[241] Obligations have been introduced in the EU-Mercosur agreement for eggs and egg products.
https://www.lafranceagricole.fr/elevage/article/771039/bruxelles-impose-le-bientre-des-poules-pondeuses-au-mercosur
And a mirror clause has been introduced in the draft EU/New Zealand agreement on beef with a ban on feedlots. However, this clause does not appear to be relevant to the New Zealand context. See the text of the EU-NZ agreement: « *This paragraph applies to originating goods classified in the following tariff lines: 0201, 0202, 0206 10 95, 0206 29 91, 0210 20 10, 0210 20 90, 0210 99 51, 0210 99 59, 1502 10 90, ex 1502 90 90 (beef only), and 1602 50,1 to*

product from animals that have been raised under New Zealand's pastoral farming conditions. For greater certainty, this does not include commercial feedlots. »

[242] The EC has already backed down on some issues, such as allowing lactic acid to "disinfect" carcasses in 2013.

[243] Although even on this level, it remains incomplete.

[244] In France, a label ranging from 0FR (organic production) to 3FR (industrial farming) indicates directly on the egg the way the laying hens are reared.

[245] In addition to thiamethoxam and clothianidin already covered by Commission Regulation (EU) 2023/334 of 2 February 2023, MRLs should also be lowered to LODs for imidacloprid and thiacloprid

[246] By the PPE MEP Françoise Grossetête.

[247] Given this delay, the French government issued a decree of symbolic significance in April 2022, banning the import of meat and meat products from animals treated with growth-promoting antibiotics to the French market.

[248] Sources : https://www.entraide.be/analyse-2022-07

[249] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12950-Bien-etre-animal-Revision-de-la-legislation-de-lUnion_fr

[250] This provision is included in the European regulation against imported deforestation, adopted ni May 2023, with regard to high-risk countries in matters of deforestation.

[251] European Commission announces historic commitment to ban cages for farmed animals | Eurogroup for Animals

[252] One of the definitions of "sanitary or phytosanitary measure" set out SPS in its Annex A ("Definitions"), Annex A.1.b.

[253] See above, footnote 22