

Summary - CRIN reply to the public consultation on prohibiting production for export of chemicals banned in the EU

This document summarises our key inputs to the questionnaire of the European Commission's [public consultation](#) on prohibiting production for export of chemicals banned in the European Union (EU). As such, it is non-exhaustive and the full version will be available on the Commission's web page dedicated to this legislative initiative.

The EU runs with an unacceptable double-standard in chemical safety

The EU has strict measures to control manufacturing, placing on the market, use and disposal of hazardous chemicals. However, it is allowed to produce these chemicals in the EU and export them to non-EU countries. **The EU is exporting several hazardous chemicals to non-EU countries although all or certain of their uses are banned in the EU.** Those chemicals can thus be used in those countries in ways that give rise to significant harm to people and the environment.

Several Member States have been continuously exporting hazardous chemicals to non-EU countries despite their bans under the EU legislation. In 2018 and 2019, EU Member States and the United Kingdom approved the export of a total of 140,908 tonnes of pesticides banned from application in European fields because of unacceptable health and environmental risks.¹

Furthermore, a recent investigation in 2023 showed that EU countries continue to export chlorpyrifos. This organophosphate pesticide is banned in the EU, and is known as causing particular harmful health damages to children and fetuses. Pre and post-birth exposure to chlorpyrifos has been linked to adverse neurodevelopmental impacts for children, including developmental delays, autism, and IQ reduction. Scientific research suggested that the more a mother is exposed to this substance during pregnancy, the lower her child's IQ at the age of seven. As such, prenatal exposure to organophosphate pesticides is related to lower intelligence scores. Despite such scientific evidence, investigation revealed that in the second semester of 2022, European companies issued notifications for the export of more than 380 tonnes of chlorpyrifos; and they expect to export equivalent amounts in 2023.²

Moreover, while France became in 2022 the first country to ban the export of pesticides prohibited in Europe, loopholes in the legislation persist, enabling agrochemical companies to keep on exporting banned substances outside of the EU. Investigation found that between January and September 2022, more than 7,400 tons of hazardous substances, such as the prohibited fungicide Picoxystrobin, were shipped from France to non-EU countries including Brazil, Ukraine, Russia, Mexico, India and Algeria. French authorities approved up to 155 requests for authorization of about 15 chemicals banned in the EU.³

These national shortcomings demonstrate the need for an ambitious, effective and harmonised framework at the EU level, among and across Member States. We commend and support the few Member States that are taking action at the national levels already, for instance in France, and more recently in Belgium. However, harmonisation is required at the EU level. **The EU legislation must step up by adopting a fully operating ban across all Member States**, with effective guarantees regarding its enforcement, implementation and compliance by all national authorities and EU companies.

¹ Heinrich-Böll-Stiftung Report, [Imports and exports: banned but sold anyway](#), October 2022.

² Unerthed and Public Eye Joint Investigation, [Europe shipping banned pesticide linked to child brain damage to Global South](#), March 2023.

³ Unerthed and Public Eye Joint Investigation, [France still exporting prohibited pesticides, despite landmark ban](#), November 2022.

Time for the EU to adopt an export ban and put an end to severe children's rights violations worldwide

Together with other NGOs, and in line with PAN Europe's recommendations, CRIN advises amending the PIC Regulation to **prohibit the export of all pesticides and other hazardous chemicals that have been banned in the EU in order to protect human health and the environment.**

Chemical pollution knows no boundaries, and the substances that are hazardous in the EU are just as harmful in other countries, if not more. **Children must be internationally protected against harmful exposure to hazardous chemicals.** The EU cannot continue exporting hazardous substances that have adverse effects on children's health and the environment. A robust export ban is the minimum. However, to efficiently protect children around the world, **banning both the export and the production of hazardous chemicals in the EU would be necessary.**

An export ban would contribute to economic justice

The export of hazardous chemicals banned in the EU (and the production of those chemicals) is in itself an economic issue, creating **howling economic injustice and massive disparities** between EU Member States and non-EU countries. A ban would therefore lead to positive economic impacts, by tackling negative externalities that are currently burdening non-EU countries. "Wealthier nations tend to create double standards that allow the trade and use of prohibited substances in parts of the world where regulations are less stringent, externalising the health and environmental impacts on the most vulnerable", former UN Special Rapporteur on toxics and human rights, Baskut Tuncak, stressed in 2020.⁴

Populations of importing countries are at the forefront of the chemical pollution. The magnitude of the environmental and health damages - and their related economic costs - is being amplified in these countries by several factors. Users of the substances are often inadequately trained, or not trained at all. They are also poorly informed about health and environmental hazards, safety and distance requirements, and can rarely afford protective equipment. Sometimes, instructions to use the substances are not even written or translated in the common languages of the importing country.

Exposure to hazardous chemicals have significant harmful impacts on both the environment and human health, especially for children. The health and environmental damages affect all children but the problem is magnified by factors associated with poverty and other forms of marginalisation. The poorer health associated with economic deprivation reduces children's resilience to the effects of hazardous chemicals, particularly when children are malnourished, while the weaker regulation of industry and agriculture in poorer countries allows conditions of high toxicity to persist in places where children live, learn and play.

The continued use of harmful chemicals entails significant environmental degradation and health costs that will eventually reverberate on the financial status and resilience of healthcare systems in the countries importing chemicals banned in the EU. As Baskut Tuncak emphasised in 2020, "the ability to manufacture and export toxic substances banned from use domestically is one, albeit large, element of how States have institutionalised externalities through discriminatory national laws and an **outdated system of global governance for chemicals and wastes**".⁵

An export ban to protect children's rights globally

An EU export ban could actively contribute to better protecting human health and the environment outside of

⁴ OHCHR Special Procedures, [States must stop exporting unwanted toxic chemicals to poorer countries, says UN expert](#), July 2020.

⁵ Ibid.

the EU, in line with the “Do no harm principle”. Such a ban would help the EU to better uphold and protect human rights worldwide, including children’s rights.

Science and data are clear - environmental exposure during early life plays a pivotal role in children’s health, with aftermaths throughout their entire life, including as adults. Available information⁶ speaks volumes on the risks harmful chemicals entail for children. Their exposure to hazardous chemicals have long-term and irreversible adverse effects on their health. Harmful impacts on children’s health range from metabolic, endocrine and reproductive disorders, to diabetes, obesity, cancers and neurological deficiencies.

Such exposure to hazardous chemicals violates children’s rights, and those impacts have been internationally recognised. The UN Convention on the Rights of the Child (UNCRC)⁷ recognises the right of all children to have the best possible start in life, to grow up healthy, and to develop to their full potential. Families and communities also need to be provided with the necessary support so that they can ensure children’s wellbeing and development.

Under the Chemicals Strategy for Sustainability (CSS)⁸, the EU promised to “lead by example, and, in line with international commitments, ensure that hazardous chemicals banned in the European Union are not produced for export, including by amending relevant legislation if and as needed.”

Furthermore, with the adoption of its EU Strategy on the Rights of the Child in 2021⁹, the EU recognized that every child in Europe and across the world should enjoy the same rights and live free from discrimination and intimidation of any kind. The second thematic area enshrines that “all children have a right to a good standard of living, to equal opportunities and support when needed”.

Against that background, the EU Commission committed to address persisting and emerging challenges and to propose concrete actions to protect, promote and fulfil children’s rights. **Export of hazardous chemicals to non-EU countries should be urgently tackled as a persisting challenge, as it infringes the right of every child to a good standard of living.**

In his report focusing on children’s rights in 2016, the former Special Rapporteur on human rights and toxics, Baskut Tuncak, provided a full analysis of children’s rights that are impacted by toxic chemicals, including the best interests of the child.¹⁰ He emphasised that the UNCRC makes it clear that **States have an obligation to prevent exposure to toxics by children.**

In the Resolution on the realisation of the rights of the child through a healthy environment, the UN Human Rights Council “urges States to ensure the right of the child to the enjoyment of the highest attainable standard of physical and mental health, by inter alia: [...] Identifying and eliminating sources of exposure of children to substances of high concern, such as heavy metals and endocrine disrupting chemicals”.¹¹

In August 2023, the Committee on the Rights of the Child (the Committee) released General Comment 26 on children’s rights and the environment, with a special focus on climate change. This highly anticipated guidance to states **urged them to “address the adverse effects of environmental degradation, with a special focus on climate change, on the enjoyment of children’s rights”**, including the right to a clean, healthy and sustainable environment. It acknowledged that younger children are particularly susceptible to environmental hazards, and that the effects of environmental contaminants may even persist in future generations. According to the Committee, **States should consistently and explicitly consider the impact of exposure to toxic substances and pollution in early life.** They should “consider all factors required for

⁶ UNICEF, [Innocenti Report Card 17: Places and Spaces Environments and children’s well-being](#), 2022.

⁷ [UN Convention on the rights of the child \(UNCRC\)](#), 1989.

⁸ European Commission, [Chemicals Strategy for Sustainability](#), October 2020.

⁹ European Commission, [The EU Strategy on the Rights of the Child and the European Child Guarantee](#), March 2021.

¹⁰ [Report of the Special Rapporteur on Toxics to the UN Human Rights Council on the Rights of Child and Toxics, A/HRC/33/41](#), September 2016.

¹¹ [Human Rights Council Resolution 45/30](#), October 2020.

children of all different ages to survive, develop and thrive to their fullest potential and design and **implement evidence-based interventions** that address a wide range of environmental determinants during the life course".¹²

The UNCRC, which all EU Member States ratified, must guide EU action. Harmful exposure unambiguously violates a wide range of children's rights set out in the UNCRC. In view of children's elevated susceptibility relative to adults, the global human rights framework imposes enhanced obligations on States to safeguard them from harmful exposure.

By better protecting health and the environment from such harmful exposure in non-EU countries, **the ban of production and export of hazardous chemicals that are prohibited in the EU would contribute to better upholding children's rights worldwide.**

Concluding remarks

As it stands today, European companies are still allowed to export hazardous chemicals that are prohibited in the EU to other countries. This double standard enables EU businesses to sell harmful chemicals that will degrade the environment and impact children's health around the world. Children's exposure to hazardous chemicals in and outside of the EU infringes a wide range of human rights they are entitled to under both UN and EU treaties. **The EU's inaction to better tackle exposure to hazardous chemicals constitutes a breach of children's rights enshrined in UN conventions and EU strategies.**

A two-speed legal regime tackling harmful chemicals is unacceptable. Children have rights and must be protected against harmful exposure regardless of where they live - and this requires banning the export of prohibited chemicals. **All children worldwide should be protected** from eating food, playing with toys or recreating in parks contaminated with harmful chemicals such as hazardous pesticides.¹³

As such, an effective ban of production and export of those hazardous chemicals outside of the European Union will enable the EU to comply with its international and European commitments to human rights frameworks, as well as live up the ambitions laid down under the CSS.

¹² Committee on the Rights of the Child, [General Comment No. 26 on children's rights and the environment, with a special focus on climate change](#), CRC/C/GC/26, August 2023.

¹³ Online Conference, [An EU-wide ban on the export of banned pesticides and hazardous chemicals: Why do EU policymakers need to act and how?](#), December 2022.