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| DRAFT |
| **KINGDOM OF Belgium** |
| **FEDERAL PUBLIC SERVICE**  **Public Health, Food Chain Safety and the Environment** |
| Royal Decree prohibiting the export of certain hazardous substances to non-EU countries |
| PHILIPPE, King of the Belgians, |
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| To all those present and to come,  Greetings. |
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| Having regard to the Law of 21 December 1998 on product standards for the promotion of sustainable production and consumption patterns and the protection of the environment, health and workers, Article 5, §1(1)(8), as amended by the laws of 27 July 2011 and of 16 December 2015; |
| Having regard to Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals; |
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| Having regard to Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006; |
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| Having regard to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009, concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC; |
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| Having regard to Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products; |
| Having regard to the involvement of regional governments in the preparation of this Order, on …; |
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| Having regard to the opinion of the Federal Council for Sustainable Development issued on …; |
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| Having regard to the opinion of the High Council for Health issued on …; |
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| Having regard to the opinion of the Special Advisory Commission on Consumption issued on …; |
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| Having regard to the opinion of the Central Economic Council issued on …; |
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| Having regard to Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on information society services, Article 5, § 1(1); |
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| Having regard to notification No 2022/xxx/B addressed to the European Commission on xxx 2022; |
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| Having regard to the opinion of the Inspector of Finance issued on …; |
| Having regard to the agreement of the Secretary of State for the Budget given on …; |
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| Having regard to the impact assessment of the regulation, conducted in accordance with Articles 6 and 7 of the Law of 15 December 2013, containing various provisions relating to administrative simplification; |
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| Having regard to opinion xx.xxx of the Council of State, issued on …, pursuant to Article 84, § 1(1)(2) of the laws on the Council of State, consolidated on 12 January 1973; |
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| On the proposal of the Minister of Public Health and the Minister of the Environment, |
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| We have decreed and hereby decree: |
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| **Article 1.** § 1. The purpose of this Decree is to:  (1) ensure a high level of protection of human health and the environment. The provisions of this Decree are based on the precautionary principle;  (2) implement Article 5, § 1(8) of the Law of 21 December 1998 on product standards for the promotion of sustainable production and consumption patterns and the protection of the environment, health and workers;  (3) usefully supplement Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals.  § 2. This Decree applies to certain hazardous substances listed in Annex I to Regulation (EU) No 649/2012 and meeting the conditions laid down in this Decree. |
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| **Article 2.** For the application of the present Decree, the following definitions apply: |
| 1. ‘Law of 21 December 1998’: the Law of 21 December 1998 on product standards for the promotion of sustainable production and consumption patterns and the protection of the environment, health and workers;  2. ‘hazardous substances’: substances, alone or in mixtures, as defined in Article 2(7) of the Law of 21 December 1998;  3. ‘mixtures’: mixtures as defined in Article 2(6) of the Law of 21 December 1998;  4. ‘export’: the temporary or definitive export of a hazardous substance listed in Annex 1 and 3 to this Decree and originating in Belgium, and of a hazardous substance from third countries which is in free circulation in Belgium;  5. ‘the PIC Regulation’: Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals;  6. ‘the CLP Regulation’: Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC and amending Regulation (EC) No 1907/2006;  7. ‘the PPP Regulation’: Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC;  8. ‘the Biocidal Product Regulation’: Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products. |
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| **Article 3.** § 1. The hazardous substances listed in Annex 1 to this Decree are prohibited from export.  § 2. The hazardous substances listed in Annex 3 to this Decree are prohibited from export unless one or more specific uses is or are authorised in the European Union and only for that purpose. |
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| **Article 4.** § 1. The Minister for Public Health and/or the Minister for the Environment may decide to include in Schedule 1 any hazardous substance when it meets the criteria referred to in § 2 of this article.  § 2. In order to be included in Annex 1, the hazardous substance must meet the following criteria:  1. the hazardous substance is listed in Schedule I to the PIC Regulation; and  2. the placing on the market and/or use of the hazardous substance is subject to a total European ban or non-approval under the Plant Protection and Biocidal Product Regulations; and  3. the total ban or non-approval referred to in point 2 is based on a finding of a proven risk to health and/or the environment; or  4. the hazardous substance is classified in accordance with Annex VI to the CLP Regulation as  a) carcinogenic or mutagenic or toxic to reproduction belonging to Category 1a (known), Category 1b (assumed) or Category 2 (suspected), or  b) highly toxic to aquatic organisms with acute or long-term adverse effects belonging to Category 1.  § 3. At the request of the Minister(s), the Administration shall submit a proposal to update Annex 1 containing the information referred to in Annex 2 at least every two years from the date of publication of this Decree.  § 4. The prohibition referred to in Article 3, § 1, of this Decree shall apply to all substances listed in Annex 1 on the date fixed by the Minister(s) and at least 3 months after publication in the Belgian Official Gazette of the Ministerial Decree amending the list set out in Annex 1. |
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| **Article 5.** This Decree shall enter into force three months after its publication, except insofar as it concerns the substance marked with an asterisk (\*) in the Annex to this Decree, for which it enters into force on 1 October 2023. |
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| **Article 6.** The Minister for Public Health and the Minister for the Environment shall be responsible, each as far as they are concerned, for the implementation of this Decree. |
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| Issued xxx, at |
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| By the King: |
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| The Minister for Public Health, |
| F. VANDENBROUCKE |
| The Minister for Climate, the Environment, Sustainable Development and the Green Deal,  Z. KHATTABI |

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| **Seen to be annexed to our Decree** |
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| **Annex 1. List of hazardous substances prohibited for export**  (1) Acetochlor  (2) Amitraz  (3) Chlorothalonil  (4) Chlorpropham  (5) Desmedipham  (6) Dichlorvos  (7) Diquat dibromide  (8) Ferbam  (9) Fipronil (\*)  (10) Iprodione  (11) Triclosan |
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| xxx, on |
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| The Minister for Climate, the Environment, Sustainable Development and the Green Deal, |
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| **Annex 2. Proposal to update Annex 1 (referred to in Article 4, § 3)** |
| The proposal to update Annex 1 shall contain the following information:  1. hazardous substances listed in Annex I to the PIC Regulations for which export during one of the last two calendar years can be attested;  2. the legal act or decision adopted at the European level stating that the hazardous substances are totally prohibited at the European level, or are not approved;  3. the classification, in accordance with Annex VI to CLP Regulation No 1272/2008, Classification, labelling and packaging of substances and mixtures to which hazardous substances are subject. |
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| xxx, on |
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| The Minister for Climate, the Environment, Sustainable Development and the Green Deal, |
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| **Seen to be annexed to our Decree** |
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| **Annex 3. List of hazardous substances prohibited for export unless one or more specific uses is or are authorised at the European level and only for that purpose.**  (1) 1,3-dichloropropene  (2) Carbendazim  (3) Clothianidin  (4) Flufenoxuron  (5) Imidacloprid  (6) Ethylene oxide  (7) Permethrin  (8) Quinoxyfen  (9) Sodium Dimethylarsinate  (10) Thiamethoxam  (11) Thiram |
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| xxx, on |
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