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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,

To all those present and to come,
Greetings.

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 the involvement of regional governments in the preparation of this Order, on 1 December 2022;

Having regard to the opinion of the Federal Council for Sustainable Development issued on 27 March 2023;

Having regard to the opinion of the High Council for Health issued on 5 April 2023;

Having regard to the opinion of the Special Advisory Commission on Consumption issued on 27 March 2023;

Having regard to the opinion of the Central Economic Council issued on 27 March 2023;

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);

Having regard to notification No 2022/826/B addressed to the European Commission on 29 November 2022;

Having regard to the opinion of the Inspector of Finance issued on 4 May 2023;

Having regard to the agreement of the Secretary of State for the Budget given on 5 June 2023;

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;

Having regard to opinion 73.999/1/V of the Council of State, issued on 17 August 2023, pursuant to Article 84, § 1(1)(2) of the Laws on the Council of State, consolidated on 12 January 1973;

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;

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;

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;

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;

On the proposal of the Minister of Public Health and the Minister of the Environment,

We have decreed and hereby decree:

Article 1. The purpose of this Decree is to:

- (1) ensure a high level of protection of human health and the environment;
- (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.

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’: exports as defined in Article 3(16) of 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;
5. ‘exporter’: any natural or legal person who meets one of the definitions set out in Article 3(18) of Regulation (EC) No 649/2012 of the European Parliament and of the Council of 4 July 2012 on the export and import of hazardous chemicals;
6. ‘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;
7. ‘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;

8. ‘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;

9. ‘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.

Article 3. § 1. This Order applies to certain hazardous substances listed in Annex I of the PIC Regulation, meeting the conditions laid down in this Order and belonging to one of the following categories:

(1) pesticides used as plant protection products covered by 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;

(2) other pesticides, such as:

a) the biocidal products covered by 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, and

b) disinfectants, insecticides and parasitocides covered by Regulation (EU) 2019/6 of the European Parliament and of the Council of 11 December 2018 on veterinary medicinal products and repealing Directive 2001/82/EC and Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use;

(3) industrial chemicals intended for professional use;

(4) industrial chemicals intended for the general public.

§ 2. Despite § 1, this Order shall not apply to:

(1) exports exempted from the scope of the PIC Regulation as referred to in Article 2(2) and (3) thereof;

(2) the external transit procedure (T1) of the Union for the movement of non-Union goods within the customs territory of the Union or for internal transit (T2) for the movement of Union goods from one point to another in the customs territory of the Union, through a country or territory outside that customs territory, without changing their customs status.

Article 4. § 1. The hazardous substances listed in Annex 1 to this Order shall be prohibited from export to a non-member country of the European Union by exporters established in Belgium.

§ 2. The hazardous substances listed in Annex 2 to this Order shall be prohibited from export to a non-member country of the European Union by exporters established in Belgium unless one or more specific uses is or are authorised by European regulations and solely for that purpose or uses.

Article 5. § 1. At least every two years from the date of publication of this Order, the King, on a proposal from the Minister for Public Health or the Minister for the Environment or both Ministers jointly, by Order deliberated in the Council of Ministers, shall update Annexes 1 and 2 by adding to Annex 1 the hazardous substances that meet the criteria referred to in § 2 of this Article and by adding to Annex 2 the substances that meet the criteria referred to in § 3 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 Annex I of the PIC Regulation and exported from Belgium to a non-EU country for a prohibited or non-approved use; 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 an unacceptable risk to health or the environment established by the relevant European bodies; or,

(4) If no unacceptable risk is identified, the hazardous substance is classified in a harmonised manner and listed in Annex VI to the CLP Regulation as

a) carcinogenic or mutagenic or toxic to reproduction belonging to Category 1a known, Category 1b assumed or

b) highly toxic to aquatic organisms with acute or long-term adverse effects belonging to Category 1.

§ 3. In order to be included in Annex 2, the hazardous substance meets the criteria laid down in points 1 and 4 of §2 of this Article.

§ 4. The prohibitions referred to in Article 4 of this Order shall apply to all substances listed in Annexes 1 and 2 at least 6 months after publication in the Belgian Official Gazette of the Royal Order amending the list set out in Annex 1 and Annex 2.

Article 6. This Order shall enter into force 18 months after its publication in the Belgian Official Journal (Moniteur belge).

Article 7. 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.

Issued at Brussels, on 19 November 2023

By the King:

The Minister for Public Health,

F. VANDENBROUCKE

The Minister for Climate, the Environment, Sustainable Development and the Green Deal,

Z. KHATTABI

Annex 1. List of hazardous substances prohibited for export

Hazardous substance	CAS No.	EC No.
Acetochlor	34256-82-1	251-899-3
Amitraz	33089-61-1	251-375-4
Chlorothalonil	1897-45-6	217-588-1
Chlorpropham	101-21-3	202-925-7
Desmedipham	13684-56-5	237-198-5
Dichlorvos	62-73-7	200-547-7
Diquat dibromide	85-00-7	201-579-4
Ferbam	14484-64-1	238-484-2
Fipronil	120068-37-3	424-610-5
Iprodione	36734-19-7	253-178-9
Triclosan	3380-34-5	222-182-2
Mancozeb	8018-01-7	616-995-5
Picoxystrobin	117428-22-5	601-478-9
Methomyl	16752-77-5	240-815-0
Chlorpyrifos	2921-88-2	220-864-4

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By the King:

The Minister for Public Health,

F. VANDENBROUCKE

The Minister for Climate, the Environment, Sustainable Development and the Green Deal,

Z. KHATTABI

Annex 2. 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.

Hazardous substance	CAS No.	EC No.
1,3-dichloropropene	542-75-6	208-826-5
Carbendazim	10605-21-7	234-232-0
Clothianidin	210880-92-5	433-460-1
Flufenoxuron	101463-69-8	417-680-3
Imidacloprid	138261-41-3	428-040-8
Permethrin	52645-53-1	258-067-9
Quinoxifen	124495-18-7	602-997-3
Sodium Dimethylarsinate	124-65-2	204-708-2
Thiamethoxam	153719-23-4	428-650-4
Thiram	137-26-8	205-286-2

Issued at Brussels, on 19 November 2023

By the King:

The Minister for Public Health,

F. VANDENBROUCKE

The Minister for Climate, the Environment, Sustainable Development and the Green Deal,

Z. KHATTABI

Annex 3. Proposal to update Annexes 1 and 2 (referred to in Article 5(4))

1. The proposal to update Annex 1 shall contain the following information:

- a) hazardous substances listed in Annex I to the PIC Regulation and exported by an exporter established in Belgium to a non-member country of the European Union in one of the last two calendar years;
- b) the legal act or decision adopted at European level providing that dangerous substances are totally prohibited at European level or not approved because of the finding of an unacceptable risk to health or the environment;
- c) the harmonised classification listed, in accordance with Annex VI to the CLP Regulation to which the hazardous substances meet.

2. The proposal to update Annex 2 shall contain the following information:

- a) hazardous substances listed in Annex I to the PIC Regulation and including export by an exporter established in Belgium to a non-member country of the European Union in one of the last two calendar years for prohibited or unapproved use;
- b) the harmonised classification listed, in accordance with Annex VI to the CLP Regulation to which the hazardous substances meet.

Issued at Brussels, on 19 November 2023

By the King:

The Minister for Public Health,

F. VANDENBROUCKE

The Minister for Climate, the Environment, Sustainable Development and the Green Deal,

Z. KHATTABI