

TOXIC DOUBLE STANDARDS

A blue plastic bottle cap and a crumpled piece of clear plastic are shown against a solid orange background. The cap is in the upper right, and the crumpled plastic is in the lower right, partially overlapping the cap's shadow.

How Europe sells products
deemed too dangerous for
Europeans to the rest
of the world.

Briefing Paper

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An underwater photograph showing significant plastic pollution in the ocean. A large, crumpled clear plastic bag is on the left, with various pieces of debris like sticks and small plastic fragments scattered around it. In the upper right, a rectangular piece of clear plastic floats. Several fish are visible swimming in the blue water, including a prominent black and yellow striped fish in the lower right.

EXECUTIVE SUMMARY

Highly hazardous pesticides, unsafe toys, polluting single-use plastics, and other goods that cannot be put on the market in the EU are still being produced across the territory to be exported outside the EU borders.

Applying outrageous double standards, several pieces of EU legislation, including those banning some products because of their impacts on public health, human rights, animals and the environment, do not apply when the goods produced in the EU are meant to be used or consumed in non-EU countries.

It is unacceptable that EU law currently allows companies in the EU to profit from selling harmful products and damaging the environment, health and human rights of those outside the EU.

The EU needs a horizontal legislation to prevent the export to non-EU countries of goods, such as unsafe toys or toxic chemicals and pesticides, whose sale and use is not allowed on the EU market.



INTRODUCTION

The EU has been taking significant steps to ensure that its market, and goods produced and sold in its territory, become more sustainable, safe and green. While still insufficient, various pieces of legislation have been adopted or updated in the past years to try to address and reduce the impacts that some production methods or goods have on the health and human rights of EU consumers, and on animals and the environment throughout the EU.

Yet at the same time, the EU's internal market is dependent on a global trade economy which – as it is currently shaped – is based on an ecologically unequal exchange, whereby lower income countries have become net exporters of biophysical resources, such as raw materials, energy, land, and labour, to high income nations like the EU's member states.¹ Even with its rhetoric and push towards more sustainability at home, the EU has still a lot to do to address the externalities of its own production.

While the EU has a body of legislation which, even with significant limitations and imperfections, aims at protecting the environment and public health, EU countries' commitment to safeguarding the environment and public health wavers when weighed against the industry's appetite for international trade. For the time being, **the EU ignores the sustainability of goods that are produced in the EU for export to people in non-EU countries**, violating the principle of Policy Coherence for Development enshrined in the EU treaties.²

¹ Dorninger et al, 2021, [Global patterns of ecologically unequal exchange: Implications for sustainability in the 21st century](#).

² Rooted in Article 208 of the Lisbon Treaty (2009) and reiterated in the European Consensus on Development (2017), Policy Coherence for Development requires the EU to take account of the

Several pieces of EU legislation, including those banning certain products due to their risks for public health and the environment, do not apply when the goods produced in the EU are meant to be used or consumed in non-EU countries.

Many EU standards apply generally only with regards to the *“placing on the EU market”*, which is a term that excludes a product manufactured in a EU Member State with a view to exporting it to a non-EU country.³

This means that European companies are allowed to sell outside the EU territory polluting goods, such as highly hazardous pesticides, certain single-use plastics, unsafe toys and other products, which are still being produced in the EU but forbidden for sale or placing on the market within the region.

This briefing presents different examples of loopholes that allow companies in the EU to profit from selling harmful products and damage the environment and health of those outside the EU, particularly those in low and middle income countries, and argues for a straightforward solution.

objectives of development cooperation in the policies that it implements which are likely to affect developing countries. For more, see EU Commission, [Policy Coherence for Development](#) and CONCORD, 2022, [A Test of the EU's Integrity Towards the 2030 Agenda: The Status of Policy Coherence for Sustainable Development](#)

³ EU Commission, 2022, [The 'Blue Guide' on the implementation of EU product rules](#)



HIGHLY HAZARDOUS PESTICIDES

Regulation (EC) No 1107/2009 concerning the placing of so-called plant protection products on the EU market aims to “*ensure a high level of protection of both human and animal health and the environment*”.⁴ It lays down requirements that pesticide products need to fulfil in order to be allowed to be sold in the EU market. In addition, Regulation (EC) No 396/2005 regulates residues of pesticides in food and feed, requiring that they have no harmful effects on human health and not any unacceptable effect on the environment.⁵ While these regulations have limitations such as exemptions and deficient application, they nonetheless enact the precautionary principle, which is a cornerstone of EU environmental law.

Yet, Regulation No 1107/2009 only covers the authorisation needed for “*placing on the EU market*”, i.e., the requirements do not apply to pesticides produced in the EU for export to non-EU countries. In the past decades, the EU has banned several pesticides due to their harm to health or environment. The banned substances and their expected negative impacts vary greatly, but one common trait is that each one can still be produced in the

⁴ [Regulation \(EC\) No 1107/2009](#)

⁵ [Regulation \(EC\) No 396/2005](#)

EU and sold to other countries.⁶ Chemical companies within the EU such as Bayer or BASF reportedly make use of this loophole.⁷

In an ironic twist, some of those banned pesticides come back to the EU through imported products, potentially impacting consumers in the EU. Residues of pesticides that are not approved or are banned in the EU have been found for example on Brazilian limes sold in shops across eight EU countries⁸ as well as on other fruits like mangos and papayas sold in Germany.⁹

Already since the 1990s, several African states have been calling for measures to restrict trade of hazardous substances which have been ***"banned, cancelled or refused registration by government regulatory action, or voluntarily withdrawn from regulation, in the country of manufacture for human health and environmental reasons"***.¹⁰

Under pressure from civil society,¹¹ the European Commission promised in 2020 that it would present measures to stop the production and export of all banned and hazardous chemicals by 2023, but it has so far failed to do so. While some EU countries like France¹² and Belgium¹³ have in past years moved to ban, at least partially, the export of hazardous pesticides, no EU-wide ban exists yet.

⁶ A separate law, EU Regulation No 649/2012, merely requires exporters to notify the relevant EU member state authority before the export of a hazardous chemical is due to take place. Regulation 649/2012 implements the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (1998). See [Regulation \(EU\) No 649/2012](#).

⁷ The Guardian, 2023, [EU firms accused of 'abhorrent' export of banned pesticides to Brazil](#)

⁸ Greenpeace Germany, 2023, [A toxic cocktail: The EU-Mercosur Deal - Limes reveal how European pesticides travel around the world \(and back\)](#).

⁹ Greenpeace Germany, 2021, [Pestizide aus Deutschland in brasilianischem Obst](#)

¹⁰ [Bamako Convention](#), Article 2.

¹¹ PAN Europe, 2020, [Prohibiting the export of banned pesticides and the import of food produced with these Chemicals](#); PAN Europe, 2024, [Every Life counts - Urging EU commitment to stop EU production and exports of banned and hazardous pesticides in the next strategic agenda](#)

¹² Article L. 253-8-IV of the French Rural and Maritime Fisheries Code.

¹³ Royal Decree of 19 November 2023 prohibiting the export of certain dangerous substances to non-EU countries.

IMPACTS ON WORKERS, LOCAL COMMUNITIES AND THE ENVIRONMENT IN THE GLOBAL SOUTH

According to an investigation by Public Eye, in 2018, over 80,000 tonnes of pesticides containing substances banned within the EU were exported.¹⁴ A significant proportion went to low- and middle-income countries, such as Brazil and Mexico. The impacts of these banned substances on people and nature can be devastating. Some of them are notorious bee-killers, others can lead to Parkinson's disease, some have endocrine disrupting and genotoxic properties, others are highly toxic to aquatic organisms even at low concentrations.¹⁵

Most cases of pesticide poisonings occur each year in low- and middle-income countries,¹⁶ where much of the population is engaged in agriculture or residing near agricultural fields, and where pesticides are applied without adequate protection for workers.¹⁷ Populations, particularly children, of importing countries are at the forefront of the chemical pollution. Because of their smaller bodies, rapid growth and particular behavioural habits, children are worst affected by harmful substances, even at very low doses. Their exposure has long-term and irreversible adverse effects on their health including (but not limited to) childhood cancers or diabetes.¹⁸

¹⁴ Public Eye, 2020, [Banned in Europe: How the EU exports pesticides too dangerous for use in Europe](#)

¹⁵ See UNEP, 2021, [Environmental and Health Impacts of Pesticides and Fertilizers and Ways of Minimizing Them](#); FAO, 2019, [Declining bee populations pose threat to global food security and nutrition](#); PAN Germany, 2012, [Pesticides and health hazards Facts and figures](#); S. Mostafalou, M. Abdollahi, 2013, "[Pesticides and human chronic diseases: evidences, mechanisms, and perspectives](#)", Journal of Toxicology and Applied Pharmacology, vol. 268(2), pp.157-177; L. Bombardi, 2021, [Geography of Asymmetries :the vicious of pesticides and colonialism in the commercial relationship between Mercosur and the European Union](#); [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.

¹⁶ Boedeker W, Watts M, Clausen P, Marquez E., 2020, [The global distribution of acute unintentional pesticide poisoning: estimations based on a systematic review](#). BMC Public Health

¹⁷ Joint Statement, 2022, [NGOs And Trade Unions Demand The End Of EU's Export Of Banned Pesticides And Other Hazardous Chemicals](#)

¹⁸ Child Rights International Network, 2024, [Children's Rights and Hazardous Chemicals: Strengthening legislation in the European Union](#).



UNSAFE TOYS

The EU has rules in place to protect children from potential risks in toys: it has been regulating the safety of toys sold in the EU market since Directive 2009/48/EC.¹⁹ In 2023, the European Commission published a proposal to update these rules with a Toy Safety Regulation.²⁰ The regulation will continue to prohibit carcinogenic and mutagenic substances or substances toxic for reproduction, and, to improve child health protection, the Commission proposes to extend the prohibition to other harmful chemicals, among other proposed changes.

The rules aim to ensure that toys are safe for children to play with. However, like the 2009 Directive, the 2023 Proposal for a Regulation only applies to toys which are produced for the EU market. That is, they allow manufacturers based in the EU to produce unsafe toys as long as they will not be sold in the EU, putting children outside the EU at risk - running against the EU's commitments to protect children's health and uphold their rights *globally*.²¹ The UN Convention on the Rights of the Child recognises the rights of all children to have the best possible start in life, to grow up healthy, and to develop to their full potential. Such rights should be enjoyed by all children, without the risk of being exposed to harmful substances while using toys, regardless of where they live.

¹⁹ [Directive 2009/48/EC](#)

²⁰ European Commission, 2023, [Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the safety of toys and repealing Directive 2009/48/EC](#)

²¹ European Commission, [The EU Strategy on the Rights of the Child and the European Child Guarantee](#)

IMPACTS ON CHILDREN

EU rules for toy safety were introduced as a response to concerns that toys were putting children at risk, for example due to choking hazards, flammability or due to exposure to substances that cause cancer. As the EU Commission explains, *“unsafe toys put children at risk and may lead to accidents that can even be fatal”*.²² According to the UN Special Rapporteur on toxics and human rights Marcos Orellana, *“children suffer a silent assault on their right to health, and often on their right to life, where plastic toys, utensils and other products contain toxic substances that leach and enter their bodies”*.²³

Even within the EU market itself, where rules on toy safety apply, it is not possible to quantify the exact share of unsafe toys being sold.²⁴ For exports, there is a similar lack of data availability: at the moment, no one checks whether toys exported from the EU include dangerous characteristics which are not allowed in toys sold in the EU. Further investigation should be conducted to fill this data gap and inform the share of unsafe toys being exported from the EU.

With the change in safety rules under the new Toys Safety Regulation, more chemicals will be banned in toys. The European Commission estimates the number of chemicals covered will increase by about 10-30%, affecting 9-14% of toys models,²⁵ but this number might be higher depending on the final version of the law. Most of these chemicals will start being banned in toys once they receive a harmonised classification under another EU law, the Classification, Packaging and Labelling Regulation (CLP). Therefore, the bans on different chemicals will come into force gradually. It is important to ensure that toys produced in the European Union and that become illegal for the internal market due to the new rules and its gradual application are not exported instead outside of the European Union.

²² European Commission, 2023, [Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the safety of toys and repealing Directive 2009/48/EC](#)

²³ Marcos A Orellana, UN Special Rapporteur on toxics and human rights, 2020, [Statement](#)

²⁴ European Commission, 2023, [Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the safety of toys and repealing Directive 2009/48/EC](#)

²⁵ European Commission, 2023, Impact assessment report accompanying the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the safety of toys and repealing Directive 2009/48/EC



THROWAWAY PLASTICS

In 2019, the EU adopted Directive No 2019/904, which bans the placing on the market of several particularly polluting single-use plastic products, such as single-use plastic cutlery, plates, and expanded polystyrene food containers, in the EU.²⁶ The objectives of the directive are *"to prevent and reduce the impact of certain plastic products on the environment, in particular the aquatic environment, and on human health, as well as to promote the transition to a circular economy"*.²⁷

Indeed, the world is ravaged by disposable plastics. Microplastics have been found in the air we breathe, the food we eat, and even in our organs and blood.²⁸ Scientists have estimated that of all the plastic waste ever produced globally only 9% has been recycled.²⁹ Not to mention the climate impacts associated with plastic from production from fossil fuels to end of life (incineration, landfilling).

The catch, however, is that the EU Directive only prohibits placing certain single-use plastic products *on the EU market*, whereas the same products can still be produced in the EU for export to other markets,³⁰ despite the fact that they will still end up polluting

²⁶ [Directive \(EU\) 2019/904](#)

²⁷ [Directive \(EU\) 2019/904](#), See article 1.

²⁸ Heather, L. A., van Velzen, M. J. M., Brandsma, S. H., Vethaak, A. D., Garcia-Vallejo, J. J. & Lamoree, M. H., 2022, [Discovery and quantification of plastic particle pollution in human blood](#). In: Environment International 163: 107199.

²⁹ Geyer, R., Jambeck, J. R. & Law, K. L., 2017, [Production, use, and fate of all plastics ever made](#). In: Science Advances 3, e1700782.

³⁰ Greenpeace Germany, 2023, [The EU's dirty plastic secret](#)

and affecting the health of people and animals outside EU borders. The EU has yet to take responsibility and ban its own corporations from producing and exporting such harmful products.

IMPACTS ON PEOPLE AND ENVIRONMENT OUTSIDE THE EU

Single-use plastics are a disaster for the environment. An estimated 170 trillion plastic particles are currently drifting in the world's oceans.³¹ Plastics are also harmful to people's health: there is increasing scientific evidence linking chemical substances in plastics to serious health problems, such as various cancers, diabetes, neurological disorders and fertility problems.³²

Much of the plastic packaging used today is not designed to be reused and many single-use plastics have no destination other than landfill, incinerators, rivers, and oceans. A significant portion of EU plastic products are hence expected to end up in open dumps, incinerators or waters, in Europe or outside Europe. Lower income countries, which receive a lot of plastic waste from higher income countries and have limited waste management systems, are particularly exposed to plastics and yet little research has been done so far on plastics' impact on the health of people in the Global South.³³

Countries in the Global South are grappling with a growing plastic waste crisis, as unregulated plastic production and use is exacerbating climate change, and impacting water pollution and biodiversity loss in their territories,³⁴ as well as affecting their communities. No wonder therefore that a group of countries, including from the Global South, are suggesting a global ban on several single-use plastic products.³⁵

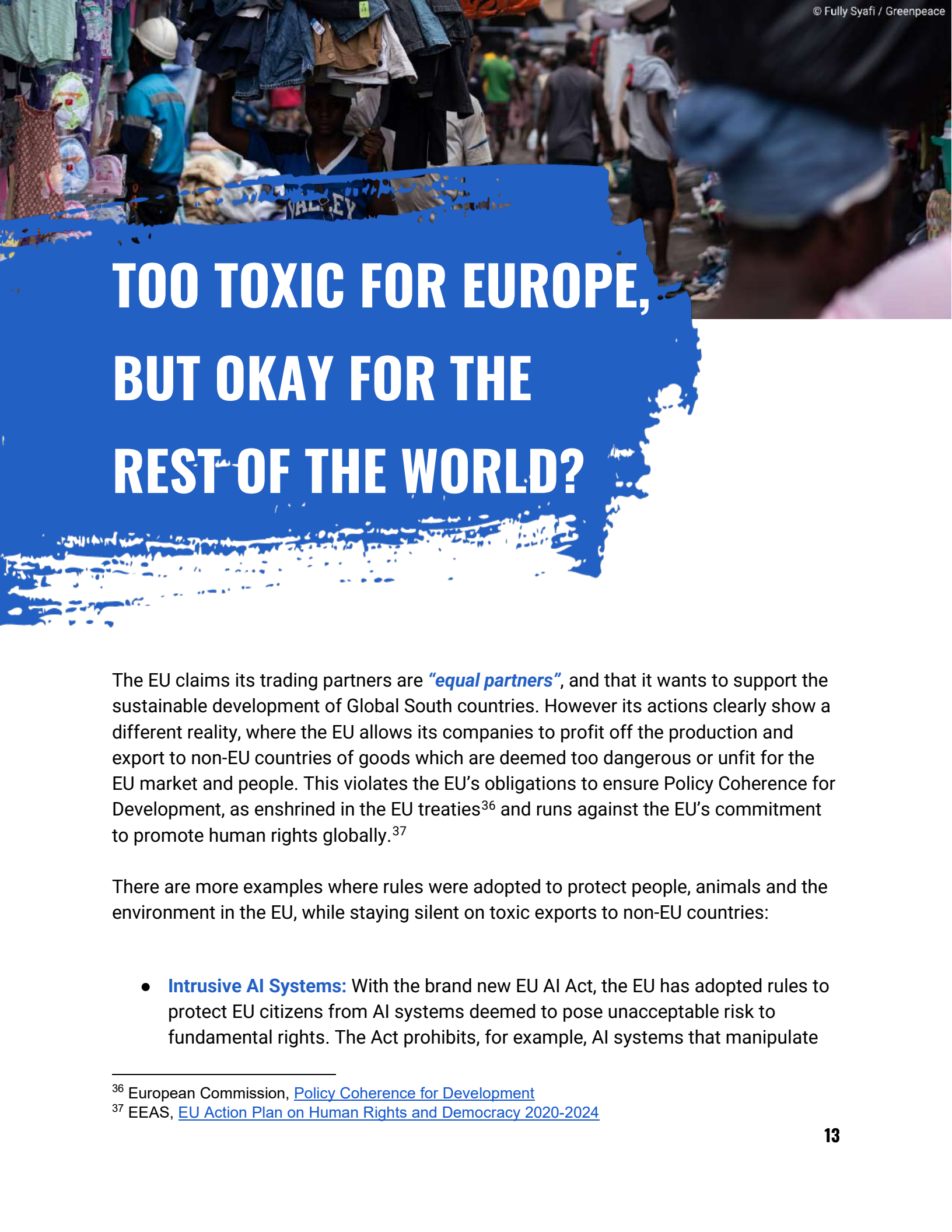
³¹ Eriksen, M., Cowger, W., Erdle, L. M., Coffin, S., Villarrubia-Gómez, P., Moore, C.J., Carpenter, E. J., Day, R. H., Thiel, M. & Wilcox, C., 2023, [A growing plastic smog, now estimated to be over 170 trillion plastic particles afloat in the world's oceans – Urgent solutions required](#). In: PLoS ONE 18 (3): e0281596.

³² Health and Environment Alliance, 2020, [Turning The Plastic Tide: The Chemicals In Plastic That Put Our Health At Risk](#).

³³ TIME, 2023, [There's Almost No Research on the Health Impact of Plastic Chemicals in the Global South](#)

³⁴ Xinhua, 2023, [Global South campaigners march in Kenya amid calls to phase out plastics](#)

³⁵ [UNEP Conference Room Paper on an Initial List of Problematic and Avoidable Plastic Products Considered for Elimination](#)



TOO TOXIC FOR EUROPE, BUT OKAY FOR THE REST OF THE WORLD?

The EU claims its trading partners are “*equal partners*”, and that it wants to support the sustainable development of Global South countries. However its actions clearly show a different reality, where the EU allows its companies to profit off the production and export to non-EU countries of goods which are deemed too dangerous or unfit for the EU market and people. This violates the EU’s obligations to ensure Policy Coherence for Development, as enshrined in the EU treaties³⁶ and runs against the EU’s commitment to promote human rights globally.³⁷

There are more examples where rules were adopted to protect people, animals and the environment in the EU, while staying silent on toxic exports to non-EU countries:

- **Intrusive AI Systems:** With the brand new EU AI Act, the EU has adopted rules to protect EU citizens from AI systems deemed to pose unacceptable risk to fundamental rights. The Act prohibits, for example, AI systems that manipulate

³⁶ European Commission, [Policy Coherence for Development](#)

³⁷ EEAS, [EU Action Plan on Human Rights and Democracy 2020-2024](#)

human behaviour, categorise people based on their biometric data to infer e.g. their sexual orientation, applications on emotion recognition in the workplace and education, untargeted scraping of facial images from the internet or CCTV footage to create facial recognition databases, as well as most uses of facial recognition in public areas.³⁸ However, the Act allows companies based in the EU to produce the banned AI systems, as long as they are not intended to be sold and used within the EU.³⁹ That means those AI systems can be exported to places where they are used in disregard with human rights. Evidence of European companies exporting facial recognition and emotion recognition to China,⁴⁰ and technologies used for facial recognition in the Occupied Palestinian Territories (OPT)⁴¹ are examples of European companies profiting from human rights abuses abroad.

- **Fatal industrial chemicals:** While the EU restricts certain industrial substances of very high concern, such as lead, in order to protect workers, consumers and other people who may be exposed to such substances, as well as the environment, these limitations under the REACH Regulation do not necessarily apply to exports of such hazardous industrial chemicals.⁴² This puts workers, the general public and the environment outside the EU at risk. The World Bank reports that in 2019 exposure to lead alone caused the premature deaths of more than 5.5 million people globally.⁴³ In 2022, lead and its compounds - which are subject to various restrictions in the EU - accounted for 5% of reported EU exports of chemicals, destined at all word regions, including Africa, South America and Asia.⁴⁴ Overall, according to the European Chemicals Agency, in 2020 alone, over 660,000 tonnes of hazardous chemicals banned or severely restricted in the EU were exported from the EU to other countries.⁴⁵

³⁸ European Parliament, 2023, [Artificial Intelligence Act: deal on comprehensive rules for trustworthy AI](#)

³⁹ Amnesty International, 2023, [Lawmakers reluctant to stop EU companies profiting from surveillance and abuse through the AI Act](#)

⁴⁰ Amnesty International, 2020, [EU companies selling surveillance tools to China's human rights abusers](#)

⁴¹ Amnesty International, 2023, [Israel/OPT: Israeli authorities are using facial recognition technology to entrench apartheid](#)

⁴² [Regulation \(EC\) No 1907/2006](#)

⁴³ World Bank, 2023, [Chemical pollution – the next global crisis](#)

⁴⁴ European Chemicals Agency, 2023, [Report on exports and imports in 2022 of chemicals listed in Annex I to the Prior Informed Consent \(PIC\) Regulation](#)

⁴⁵ European Chemicals Agency, 2021, [Report on exports and imports in 2020 of chemicals listed in Annex I to the Prior Informed Consent \(PIC\) Regulation](#)

- **Cruel battery cages:** Since 2012, the EU has banned battery cages for laying hens, via the Directive 1999/74/EC.⁴⁶ This was because, according to the European Commission, there was *“substantial evidence that banning the use of conventional battery cages for laying hens could considerably improve the health and welfare of these birds”*,⁴⁷ given the suffering experienced by hens in such cages, where they cannot express natural behaviours such as flapping their wings, dust bathing, scratching or laying their eggs in nests. However, while the use of such cages for egg-laying hens is now banned in the EU, companies based in the EU are still allowed to sell this equipment elsewhere. In fact, reports indicate that indeed European companies are promoting and selling these cruel battery cages to, for example, Asian farmers.⁴⁸
- **Short-lived phones:** The world is struggling with the disastrous impacts of an increasing amount of waste. EU institutions reached an agreement on the Ecodesign for Sustainable Products Regulation in late 2023, which creates a framework to progressively introduce ecodesign requirements for products in the EU.⁴⁹ The Regulation will introduce a number of requirements to make products more sustainable, repairable and durable. One key aspect is that the EU will ban premature obsolescence, which means that manufacturers will be prohibited from deliberately limiting the lifetime of a product, for example mobile phones, through design features - so long as these products are intended for the EU. However, manufacturers based in the EU may continue producing short-lived phones and other products, as long as they sell them only outside the EU.

⁴⁶ [Council Directive 1999/74/EC](#)

⁴⁷ European Commission, 2008, [Animal Welfare: Commission report confirms the potential benefits of banning conventional battery cages for laying hens](#)

⁴⁸ World Animal Protection, 2015, [European companies promoting prohibited farming systems abroad](#)

⁴⁹ European Commission, 2023, [Commission welcomes provisional agreement for more sustainable, repairable and circular products](#)



DEMANDS

Exporting products to other countries that EU lawmakers have deemed are unsafe for Europeans is hypocritical, cruel, unfair and intolerable. These double standards must be addressed through political will. The loopholes described in this briefing are all found in different EU laws, but they can be closed simultaneously with a single cross-cutting piece of legislation.

There is already precedent in certain sectoral legislation to address this issue. For instance, the EU Regulation prohibiting goods produced with forced labour is intended to apply not only to imports into the EU, but also to exports from the EU to non-EU countries.⁵⁰ The EU Regulation on Mercury also bans not only the sale but also the manufacture and export of mercury and certain mercury-added products, such as toxic mercury-containing lamps.⁵¹

In order to address the loopholes affecting EU trade to non-EU countries, the EU needs to address the issue in a more comprehensive manner, closing all existing loopholes through a **EU horizontal legislation** that prevents the export from the EU of goods (such as single-use plastic products or toxic chemicals and pesticides) whose sale, use or consumption in the EU are not allowed under EU law.

⁵⁰ Council of the EU, 2024, [Council and Parliament strike a deal to ban products made with forced labour](#)

⁵¹ European Commission, 2024, [Commission welcomes provisional agreement to ban all remaining intentional uses of toxic mercury in the EU](#)

The EU should use diplomatic means to involve Global South countries and impacted communities in the Global South when designing the new legislation. It must also develop accompanying measures to mitigate any potential side-effects of such legislation on countries in the Global South, through e.g. cooperation to implement programmes that contribute to countries' transition or phase out from those harmful products, recognising the role that the EU has played in encouraging and maintaining these dependencies. The accompanying measures should be based on thorough *ex ante* sustainability and human rights impact assessments.

EU decision makers must make sure that the Union's trade policy is aligned with its values and commitments: a product that is unacceptable for the EU market, due to its health, human rights, environmental or climate impacts, must also be unacceptable for the markets of the EU's trade partners, and for their people and ecosystems.

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This statement outlines the baseline agreement amongst the signatory civil society organisations calling to prohibit the export of products banned in the EU. However, not all organisations have positions on all issues addressed in this brief, while some have positions that are in places more specific and extensive than those outlined here.

SIGNATORIES

INITIATORS



SUPPORTERS



