

# Text Proposal on Chemicals of Concern in Plastic Products

## Submitted by Canada, Georgia, Ghana, Moldova, Norway, Peru, Rwanda, Switzerland and Thailand

This chemicals of concern text proposal is intended to be seen in the context of the Chair's non-paper. This chemicals of concern text proposal can be used as outlined below. It could also be integrated with provisions on products. We support the approach as set out in the Chair's third version of the non-paper and see it as a basis for negotiations at INC-5.

On Article 3 related to plastic products and chemicals of concern as used in plastic products, we support the reflections and recommendations outlined in the Chair's third version of the non-paper.

The following key elements have been modified since the submission of the Conference Room Papers (CRPs)<sup>1</sup> on this topic at INC-4, taking into account input from the intersessional expert group meeting in Bangkok and concerns raised in formal and informal discussions:

**Scope:** clarification that only chemicals of concern present in or used for the manufacture of plastic products are covered by the Article.

**Initial list:** significantly reduced initial list which is derived from chemicals of concern that are currently subject to control in many jurisdictions. The initial list is product application specific and limited to specific uses.

**Identification and nomination process:** mechanism whereby Parties can submit proposals taking into account the criteria set out in the Annex and including the specified information, but leaving the details, such as the review process and the establishment of an expert group/subsidiary body, to be decided by the Conference of the Parties (COP).

This implies the proposal now includes the following elements as set out in the non-paper:

- A control measure that could be applied to chemicals of concern present in or used for the manufacture of plastic products;
- A short initial list of chemicals of concern to be eliminated in certain applications and listed in an Annex;
- Consideration for exclusions;
- Criteria that could be applied to identify additional chemicals of concern;
- Process for the COP to identify and list further chemicals of concern to be subject to elimination in certain applications, including a process to review the list;
- Consideration of national circumstances and capabilities.

---

• <sup>1</sup> Norway on behalf of Norway, Cook Islands, Rwanda: [https://resolutions.unep.org/incres/uploads/chemicals\\_of\\_concern\\_in\\_plastics\\_proposal\\_by\\_cook\\_islands\\_rwanda\\_and\\_norway.pdf](https://resolutions.unep.org/incres/uploads/chemicals_of_concern_in_plastics_proposal_by_cook_islands_rwanda_and_norway.pdf)

• Norway on behalf of Norway, Cook Islands, Rwanda: [https://resolutions.unep.org/incres/uploads/sub-group\\_1.2\\_proposal\\_from\\_norway\\_cook\\_islands\\_rwanda\\_annex\\_part\\_ii\\_provision\\_2\\_on\\_chemicals\\_0.pdf](https://resolutions.unep.org/incres/uploads/sub-group_1.2_proposal_from_norway_cook_islands_rwanda_annex_part_ii_provision_2_on_chemicals_0.pdf)

• European Union on behalf of European Union and its Member States: [https://resolutions.unep.org/incres/uploads/european\\_union\\_part2\\_chemicals\\_of\\_concern.pdf](https://resolutions.unep.org/incres/uploads/european_union_part2_chemicals_of_concern.pdf)

## Suggested text

1. Each Party shall not allow the manufacture, import or export of plastic products that contain chemicals of concern as listed in Annex [*Annex for Chemicals of Concern and their Applications*] after the phase out date specified for that chemical in that plastic product in Annex [*Annex for Chemicals of Concern and their Applications*], except where an exclusion is specified in that Annex or the Party has a registered exemption to this paragraph pursuant to Article [*Article on Exemptions*].
2. Each Party shall not allow the manufacture of plastic products with chemicals of concern as listed in Annex [*Annex for Chemicals of Concern and their Applications*] even when the chemical is not present in the final product after the phase out date specified for that chemical for that plastic product in Annex [*Annex for Chemicals of Concern and their Applications*], except where an exclusion is specified in that Annex or the Party has a registered exemption to this paragraph pursuant to Article [*Article on Exemptions*].
3. Any Party may submit a proposal to the Secretariat for listing a chemical or a group of chemicals of concern present in or used for the manufacture of plastic products not covered by paragraphs 1 and 2, taking into account the criteria in Annex [*Annex on Criteria*]. Any such proposal shall include information on the health or environmental basis for the proposal, as well as information on the availability, technical and economic feasibility, and environmental and health risks and benefits of alternatives, as appropriate. The Conference of the Parties shall at its first meeting establish a process for reviewing the proposals submitted by any Party and establish any expert group or subsidiary body to be included in such a process. Amendments to [*Annex for Chemicals of Concern and their Applications*] shall be in accordance with Article [*Article on Adoption and Amendment of Annexes*].
4. The Conference of the Parties shall at its first meeting establish a process and schedule for work to obtain data on potential chemicals of concern not listed in Annex [*Annex for Chemicals of Concern and their Applications*] that are present in or are used for the manufacture of plastic products.
5. For chemicals not covered by paragraphs 1 and 2, each Party shall provide to the Secretariat information on national, regional or other restrictions. The Secretariat shall maintain such information and make it publicly available. The Secretariat shall also make publicly available any other relevant information submitted by Parties.
6. Taking into account the schedule of work adopted under paragraph 4, no later than five years after the date of entry into force of the Convention, and thereafter on a regular basis, the [Conference of the Parties] shall review

Annexes [*Annex for Chemicals of Concern and their Applications*] and [*Annex on Criteria*], and may consider amendments to those Annexes in accordance with Article [*Article on Adoption and Amendment of Annexes*].

7. In reviewing the Annex [*Annex for Chemicals of Concern and their Applications*] or the Annex [*Annex on Criteria*] pursuant to paragraphs 3 or 6, the Conference of the Parties shall take into account:
  - a. Any proposal submitted under paragraph 3;
  - b. The review processes established under paragraphs 3 or 6;
  - c. Information made available pursuant to paragraphs 3, 4 or 5;
  - d. Any other relevant information provided by other sources.
8. The Conference of the Parties shall conduct its evaluation of any proposal from a Party pursuant to paragraph 3, and its review of Annex [*Annex for Chemicals of Concern and their Applications*] or Annex [*Annex on Criteria*] pursuant to paragraph 6 on the basis of available scientific, environmental, technical, financial and economic information.
9. The Conference of the Parties shall adopt at its first meeting guidance to assist Parties in their implementation of paragraphs 1, 2 and 5 of this Article. The Conference of the Parties shall also adopt at its first meeting guidance to assist Parties in their transition to alternatives, including from chemicals of concern not covered by paragraphs 1 and 2. The Conference of the Parties shall keep under review, and update as appropriate, the guidance developed pursuant to this paragraph. Parties shall take the guidance into account when implementing the relevant provisions of this Article.
10. Each Party shall include in its reports submitted pursuant to Article [*Article on Reporting*] information showing that the requirements of this Article have been met.

## ***Annex on Criteria***

Criteria to be taken into account by a Party when proposing a chemical or chemicals of concern for listing in Annex [*Annex for Chemicals of Concern and their Applications*]:

- i. carcinogenic, mutagenic or reprotoxic (CMRs category 1A or 1B)
- ii. specific organ toxicity with chronic effects (STOT RE category 1)
- iii. endocrine disrupting chemicals (EDCs HH and/or ENV)
- iv. persistent, bioaccumulative and toxic (PBTs) or very persistent and very bioaccumulative (vPvBs)

## **Annex for Chemicals of Concern and their Applications**

[NOTE: Time frames and specific exclusions to be decided]

The following products are excluded from this Annex:

- (a) Specific products essential for medical uses where no feasible alternative is available; and
- (b) Products essential for military uses where no feasible alternative is available

Chemicals	Products or product groups	Phase-out dates
(i) DEHP with CAS number 117-81-7	Toys and children's products; Food contact material	[203X]
(ii) DBP with CAS number 84-74-2	Toys and children's products; Food contact material	[203X]
(iii) BBP with CAS number 85-68-7	Toys and children's products; Food contact material	[203X]
(iv) DIBP with CAS number 84-69-5	Toys and children's products; Food contact material	[203X]
(v) BPA with CAS number 80-05-7	Toys and children's products; Food contact material intended for children under 3 years of age	[203X]
(vi) Lead and lead compounds	Toys and children's products; Food contact material	[203X]
(vii) Cadmium and cadmium compounds	Toys and children's products; Food contact material	[203X]

## Attachment for information purposes

\*Information on jurisdictions

Chemicals	Products or product groups	Phase-out dates	Information on jurisdictions (column to be deleted. Just included for the purpose of facilitating discussions)
(i) DEHP with CAS number 117-81-7	Toys and children's products; Food contact material	[2030]	<p>&gt; 19 jurisdictions*</p> <p>EU/EEA: (REACH restriction, authorization, SVHC, Toys, RoHS, FCM), Republic of Korea (hazardous chemicals, intensive control, ban in certain medical devices), USA (California Proposition 65, restriction in childcare articles), MERCOSUR countries (Argentina, Brazil, Uruguay and Paraguay) (limit in FCMs), Brazil (restricted in FCMs), Canada (restriction in cosmetics, toys, medical devices), China (restriction in children's textiles; GB/T 39498-2020: electrical and electronic products (<math>\leq 1000</math> mg/kg); toys or children's products (<math>\leq 0.1\%</math>)), Colombia (restriction in toys), Peru (restriction in toys), Eurasian Economic Union (Russian Federation, Belarus, Kazakhstan, Kyrgyzstan and Armenia), Switzerland, Israel</p> <p>*EU/EEA counted as one jurisdiction. Countries with individual regulations in place have been counted separately.</p>
(ii) DBP with CAS number 84-74-2	Toys and children's products; Food contact material	[2030]	<p>&gt; 19 jurisdictions*</p> <p>EU/EEA: (REACH restriction, authorization, SVHC, Toys, RoHS, FCM), Republic of Korea (hazardous chemicals, intensive control, ban in certain medical devices), USA (California Proposition 65, restriction in childcare articles), MERCOSUR countries (Argentina, Brazil, Uruguay and Paraguay) (limit in FCMs), Brazil (restricted in FCMS, plastics), Canada (restriction in toys), China (restriction in children's textiles; GB/T 39498-2020: electrical and electronic products (<math>\leq 1000</math> mg/kg); toys or children's products (<math>\leq 0.1\%</math>)), Colombia (restriction in toys), Peru (restriction in toys), Eurasian Economic Union (Russian Federation, Belarus, Kazakhstan, Kyrgyzstan and Armenia), Switzerland, Israel</p>

			*EU/EEA counted as one jurisdiction. Countries with individual regulations in place have been counted separately.
(iii) BBP with CAS number 85-68-7	Toys and children's products; Food contact material	[2030]	> 19 jurisdictions* EU/EAA: (REACH restriction, authorization, SVHC, Toys, RoHS, FCM), Republic of Korea (hazardous chemicals, intensive control, ban in certain medical devices), USA (California Proposition 65, restriction in childcare articles), MERCOSUR countries (Argentina, Brazil, Uruguay and Paraguay) (limit in FCMs), Brazil (restricted in FCMs), Canada (restriction in toys), China (restriction in children's textiles; GB/T 39498-2020: electrical and electronic products ( $\leq 1000$ mg/kg); toys or children's products ( $\leq 0.1\%$ )), Colombia (restriction in toys), Peru (restriction in toys), Eurasian Economic Union (Russian Federation, Belarus, Kazakhstan, Kyrgyzstan and Armenia), Switzerland, Israel *EU/EEA counted as one jurisdiction. Countries with individual regulations in place have been counted separately.
(iv) DIBP with CAS number 84-69-5	Toys and children's products; Food contact material	[2030]	> 18 jurisdictions* EU/EEA: (REACH restriction, authorization, SVHC, Toys, RoHS, FCM), Republic of Korea (hazardous chemicals, intensive control), MERCOSUR countries (Argentina, Brazil, Uruguay and Paraguay) (limit in FCMs), China (ban in FCMs; GB/T 39498-2020: electrical and electronic products ( $\leq 1000$ mg/kg)), USA (ban in toys and childcare articles), Eurasian Economic Union (Russian Federation, Belarus, Kazakhstan, Kyrgyzstan and Armenia), Switzerland, Israel *EU/EEA counted as one jurisdiction. Countries with individual regulations in place have been counted separately.
(v) BPA with CAS number 80-05-7	Toys and children's products; Food contact material	[2030]	> 27 jurisdictions* EU/EEA: (REACH restriction (thermal paper), SVHC, toys, FCM, baby bottles, cosmetics), Belgium (ban in FCMs), Denmark (ban in FCMs), France (ban in FCMs), Sweden (ban in FCMs), Republic of Korea (hazardous chemicals, intensive control), USA (California Proposition 65), ASEAN countries (Indonesia, Malaysia, Philippines, Singapore and Thailand, ban in

			<p>cosmetics), Malaysia (ban in baby bottles), Philippines (ban in infant feeding bottles and sippy cups as child care article products), Canada (ban in baby bottles, cosmetics), China (ban in baby bottles; GB/T 39498-2020: various toys (migration rate <math>\leq 0.1</math> mg/L); thermal paper (<math>&lt; 0.02\%</math>)), Colombia (ban in FCMs), India (ban in baby bottles), South Africa (ban in baby bottles, including export), Brazil (restricted in FCMs), Eurasian Economic Union (Russian Federation, Belarus, Kazakhstan, Kyrgyzstan and Armenia), Switzerland, Israel, Japan</p> <p>*EU/EEA counted as one jurisdiction. Countries with individual regulations in place have been counted separately.</p>
(vi) Lead and lead compounds	Toys and children's products; Food contact material	2030	<p>&gt; 16 jurisdictions*, excluding countries with restriction in paints**</p> <p>EU/EAA (44 entries under toy restriction, REACH authorization, ban/restriction in jewellery, articles used by public, RoHS, vehicles, fertilizers, restriction of lead ammunition in 23 countries, cosmetics, biocides, food, FCMs, packaging), 75 countries with restrictions in paint, Republic of Korea (39 entries under hazardous chemicals, intensive control or CMR), USA (3 entries under California Proposition 65, restriction in hair dyes, regional for ammunition), Australia (ban in industrial surface coatings, imported cosmetics, toys, and other items), Canada (ban in cosmetics, consumer products, children's jewellery), China (restriction in imported copper concentrate, water pipes, toys; GB/T 39498-2020: jewellery (<math>&lt; 0.05\%</math>); children's paints and coatings (<math>\leq 90</math> mg/kg); furniture paints and coatings (<math>\leq 90</math> mg/kg); household paints (<math>\leq 90</math> mg/kg); electrical and electronic equipment (<math>\leq 1000</math> mg/kg); toys (<math>\leq 3.4 - 160</math> mg/kg)), Peru (ban of lead ammunition), Philippines (ban in food, fuel, water pipes, toys, school supplies, cosmetics), Eurasian Economic Union (Russian Federation, Belarus, Kazakhstan, Kyrgyzstan and Armenia), Switzerland, India (FCM), Japan, RoHS in different countries</p> <p>*EU/EEA counted as one jurisdiction. Countries with individual regulations in place have been counted separately.</p>



			**Excluded as use in paints is not only related to plastics.
(vii) Cadmium and cadmium compounds	Toys and children's products; Food contact material	2030	<p>&gt; 13 jurisdictions*</p> <p>EU/EEA: (34 entries under toy restriction, ban in certain plastics and paints, restriction in plastic products, electrical/electronic equipment (EEE), batteries, food, fertilizers, packaging, cosmetics, food), Republic of Korea (25 entries under hazardous chemicals, intensive control or CMR), China (restriction in cosmetics, imported copper concentrates; GB/T 39498-2020: toys (<math>\leq 0.3 - 17</math> mg/kg); plastic materials (incl. PVC, etc.) (<math>&lt; 0.01\%</math>); metal parts for jewellery (<math>&lt; 0.01\%</math>); jewellery (<math>&lt; 0.01\%</math>); paints (EU CN No. 3208, 3209) (<math>&lt; 0.1\%</math>); electrical and electronic equipment (<math>\leq 100</math> mg/kg)), Taiwan (restriction in cosmetics), Eurasian Economic Union (Russian Federation, Belarus, Kazakhstan, Kyrgyzstan and Armenia), Switzerland, India (FCM), Japan, RoHS in different countries</p> <p>*EU/EEA counted as one jurisdiction. Countries with individual regulations in place have been counted separately.</p>