

# Controlling toxic trade: Policy pitfalls and potentials

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# Hazardous Trade

- Global trade in hazardous materials such as pesticides, asbestos and waste
- Health problems follow toxic trade routes

# Hazardous Trade

- Industry externalizes health and environmental costs
  - Least expensive materials, even if hazardous
  - Move to least regulated sites of production
  - Move to least regulated markets
- Unequal risk: developing world

# Unequal Risk: E-Waste

- US exports up to 80% of E-waste to developing nations
- China receives 70% of the world's scrap electronics product

Schmidt CW. Unfair trade: e-waste in Africa. Environ Health Perspect. 2006;114:232-235.



# Unequal Risk: Asbestos

- Canada produces 200,000 tons of asbestos annually
- 97% per cent of which is exported to the developing world.



Barry Castleman, WTO Confidential: The case of asbestos, International Journal of Health Services, Volume 32, Number 3/2002.

# Unequal Risk: Pesticides



- Only 20% of world pesticide market in the developing world
- But 99% of pesticide-related deaths
- Dumping of banned or restricted pesticides

[Jeyaratnam J](#) Health problems of pesticide usage in the Third World.

Br J Ind Med. 1985 Aug;42(8):505-6.

Jeyaratnam J. Acute Pesticide Poisoning: A Major Global Health Problem. World Health Stats Q. 1990 42(3): 139-144

# Regulation stops at the border

Subject to some requirements,

“ Pesticides that are not approved -  
or registered - for use in the U.S.  
may be manufactured in the U.S.  
and exported.”

FIFRA Section 17 (a)

<http://www.epa.gov/oppfead1/international/trade-issues.htm>

# Regulation stops at the border

1997-2000 US Exported:

- 65 million pounds of **banned or severely restricted** pesticides  
>57% shipped to developing world.
- 16 tons/day **Never-registered** chemicals
- 89 million pounds **extremely hazardous** pesticides.

Carl Smith, "Pesticide Exports from US Ports, 1997-2000" IJOEH 2000; 5:266-274.



# Regulation Stops at the Border

- EPA justification of pesticide policy:
  - Unilateral prohibition not sufficient
  - Better to focus on safe use of all pesticides
  - Based on risk/benefit analysis in US
  - Pesticide may not be used in US, so no need for registration here

Pesticide Export Policy 58 Fed Reg at 9065 (1993)

See also Michael Holley, EPA's Pesticide Export Policy: Why EPA Should Restrict the Export of Unregistered Pesticides to Developing Countries. NYU Environmental Law Review vol. 9, 340-385; 2000.

# Regulation Stops at the Border

- EPA justification of pesticide policy :
  - **Ignores** importance of US Exports
  - **Ignores** reality of pesticide use in developing world
    - “Safe use” not a reality
    - No effective local regulation and testing

# “Circle of Poison” Challenge

- Linked occupational and environmental exposures in developing world with food exposures in developed world

# Notification Policy

- Weak substitute for restricting dangerous exports
  - EPA must notify other governments when a chemical is banned or restricted in US
  - Exporter must notify purchaser of product status in US
  - Signed purchaser statement sent to EPA, national authority in importing nation

FIFRA Section 17(a)

# Notification Policy

- Regulatory burden on importing nation
- Does not change conditions for pesticide testing, surveillance or control in developing world

Information is not sufficient to control risks

# Global Conventions

- Basel Convention on movement of hazardous waste
- Stockholm Convention on Persistent Organic Pollutants (POPs)
- Rotterdam Convention on Prior Informed Consent (PIC)

# Global Conventions

- Combine
  - Notification/Consent for importation of Hazardous Wastes
  - Bans on trade or import
- Various levels of efficacy
  - PIC substitutes information for control

# Global Conventions

- Only Basel tries to address waste trade from a comprehensive perspective
- PIC and POPs mainly address particular chemicals, necessitating constant review
- Success dependent on number of nation signatories
- Enforcement can be unclear, ineffective



# Global Conventions

- US policy largely unaffected by international treaties
- Has not ratified any of the three

# EU Regulation

Cutting edge of environmental regulation in Europe

- RoHS (**R**estriction of **H**azardous **S**ubstances in **E**lectrical and **E**lectronic **E**quipment) Restricts use of 4 heavy metals and 2 flame retardants
- WEEE (**W**aste **E**lectrical and **E**lectronic **E**quipment) Producers must collect and recycle EEE at end of product life

# EU Regulation

- REACH (Registration, Evaluation, Authorisation and Restriction of Chemical substances) Improves chemical health and safety regulations and shifts responsibility to industry to provide safety information and manage risks from chemicals; adopts the precautionary principle

# Effect on Hazardous Trade

- RoHS is pushing worldwide compliance for affected industries
  - China: Draft Pollution Control and Prevention Regulation adopts RoHS elements
  - California: State recycling regulation adopts RoHS elements
- REACH
  - Applies to imported and exported chemicals
  - Exempts chemicals “in transit”

LaDou J, Lovegrove S. Export of Electronics Equipment Waste IJOEH 14(1)

Regulation (EC) No 1907/2006 of the European Parliament and of the Council. 18 Dec 2006. Official Journal of the European Union L396

# Policy Options

## ■ United States

- Push for implementing legislation and ratification of POPs, Basel Conventions
- Broader changes in industry influence and trade policy will be fundamental to changing pesticide or hazardous trade policies

# Policy Options

- EU market power, public opinion and political commitment favorable
- Develop policy to further link regulations to international trade
  - Further integrate EU standards into international standard-setting processes
  - Expand REACH to chemicals in transit
  - Require companies who do business in EU to follow EU health and safety regulations in all operations

# Policy Options

- Requiring companies to adopt REACH, ROHS, etc. in global operations could create industry push for similar regulations in trade agreements to flatten competition from companies not doing business in EU
- Individual nations may institute stronger (or weaker) regulations
- Globalize protection instead of hazards

# What can we do from here?

- Use EU policies to advocate for higher international health and safety standards
- Adopt EU policies at local and state level
- Work with EU and global allies to expand the scope of coverage of EU regulations
- Use EU policy ideals to organize for better regulation at home