**The rights of Children, the Environment and the Basel, Rotterdam and Stockholm (BRS) Conventions on Hazardous Chemicals and Wastes**

Response to the Call for Submissions by the Special Rapporteur on the Implications for Human Rights of the Environmentally Sound Management and Disposal of Hazardous Substances and Wastes, Mr. Baskut Tuncak, on 1st June 2016, in view of the Day of General Discussion, United Nations Committee on the Rights of the Child, on “Children’s Rights and the Environment”, 23 September 2016.

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**The rights of Children, the Environment and the Basel, Rotterdam and Stockholm (BRS) Conventions on Hazardous Chemicals and Wastes**

## Response, by the Secretariat of the BRS Conventions, to the Call for Submissions by the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Mr. Baskut Tuncak, on 1st June 2016.

**Introduction**

The United Nations (UN) Resolution 1994/65 of the High Commissioner for Human Rights sets forth: “**the promotion of an environmentally healthy world contributes to the protection of the human rights to life and health of everyone**”. Environmental quality is thus one general condition which can affect the lives of “everyone” and more especially those of children, being considered as an extremely vulnerable group. Therefore, some Multilateral Environmental Agreements (MEAs) have taken into account the specific condition of children, recognising their being affected to a greater extent by environmental harm, in their life, health, education etc.

In that respect, all three BRS Conventions, by sharing the common fundamental objectives of protecting human health and the environment against the harmful effects of hazardous chemicals and wastes are linked to human rights. These include children’s rights, thereby the rights guaranteed under the Convention on the Rights of the Child (CRC), by effectively having to take children’s specific vulnerability into consideration in their provisions and implementation. Indeed, it is important to note such inter-linkage between these international legal instruments, as the Committee on the Rights of Child recalled, in its General comment No. 16 (2013)[[4]](#footnote-4): “**Childhood is a unique period of physical, mental, emotional and spiritual development and violations of children’s rights, such as exposure to violence, child labour or unsafe products or environmental hazards may have lifelong, irreversible and even transgenerational consequences**”.

The BRS Conventions respectively address: i) the “Control of Transboundary Movement of Hazardous Wastes and their Disposal” (hereinafter referred to as the “Basel Convention” or “BC”), ii) the production and use of chemicals that are POPs (hereinafter referred to as the “Stockholm Convention” or “SC”), including industrial chemicals and pesticides, and iii) the “Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade” (hereinafter referred to as the “Rotterdam Convention” or “RC”). These three international treaties, grouped together, follow a cradle-to-grave approach by covering the life-cycle of certain hazardous chemicals and most of hazardous wastes, from their production until their disposal, including their use or trade. As many sound-science based studies have shown, these chemicals and wastes may have harmful effects on environment but also on human health, especially for children[[5]](#footnote-5). The Stockholm Convention on Persistent Organic Pollutants (POPs), for instance, has even explicitly recognised such vulnerable condition, and embodies provisions or calls for the implementation of programmes aiming at better protecting them against the adverse affects of POPs.

The BRS Conventions have played a role in achieving the UN Millennium Development Goals (MDGs), by reducing poverty and child mortality as well as in improving maternal health and environmental sustainability among others. Presently, with the adoption of the Sustainable Development Goals (SDGs) in 2015, and looking ahead at the 2030 Agenda, this development role is even more significant, as asserted recently at the second session of the United Nations Environment Assembly (UNEA-2) held in May 2016 in Nairobi, Kenya.

On 13 June 2016, the Executive Director of the United Nations Environment Programme (UNEP), which administers the BRS Conventions, has set the tone by adopting a “Policy Guidance on Environment, Human Rights, and Addressing Inequalities – Integrating Human Rights in UNEP Organisational Structure and Programme”. According to this policy, UNEP divisions as well as UNEP-administered MEAs, such as the BRS Conventions, need to integrate human rights - and *a fortiori* children’s rights - in their organisation and activities, focusing on the main following angles: i) corporate, to uphold the values ii) normative, to strengthen the linkages iii) operational, to apply the principles and iv) partnerships for “catalysing transformation”. Yet, prior to the adoption of these UNEP policy guidelines on environment and human rights, a human-rights based approach to the sound management of chemicals has been discussed on several occasions, at UNEP and BRS Convention-related events[[6]](#footnote-6).

The present submission therefore intend to show how the BRS Conventions may contribute in protecting the condition and thus the rights of children - the right to life, the right to health, the right to a healthy environment, for the main ones - as a result of exposure to hazardous chemicals and wastes.

**I/ Why and How the BRS Conventions are Linked to Children’s Rights: the Impact of Hazardous Chemicals and Wastes on the Rights of the Child**

1. **Which Rights? The Children’s Rights affected by Hazardous Chemicals and Wastes**

It is clearly and scientifically evidenced, nowadays, that *in-utero* and early-life exposure to toxic wastes and chemicals can cause a vast array of diseases to a greater extent to vulnerable groups such as children i.e.: respiratory diseases (such as asthma, chronic obstructive pulmonary disorder, and lung cancer), impaired neurodevelopment, neurobehavioral disorders (attention deficit hyperactivity disorder, depression, etc.), mild mental disability, obesity and type 2 diabetes as well as childhood cancer and allergies[[7]](#footnote-7). Children are at higher risk from environmental hazards compared to adults, not only because they are exposed to risks of higher exposure during critical periods of development, but also because they are unable to protect themselves and their immune systems handle these exposures differently[[8]](#footnote-8).

**1/ Rights to Life, to Health, to a Healthy Environment, to Development, to Food Security, to Clean Drinking Water and Sanitation, and to an Adequate Standard of Living**

The present section explains how hazardous chemicals and wastes under the BRS Conventions are linked to, and impact on the following fundamental human rights: i) the right to life, ii) the right to health, iii) the right to a healthy environment, iv) the right to development, v) the right to food security, vi) the right to clean drinking water and sanitation, and vii) the right to an adequate standard of living.

In its General Comment No. 16 (2013) [[9]](#footnote-9), the CRC Committee asserted, concerning Article 6 of the CRC on the right to life, that “**environmental degradation and contamination arising from business activities can compromise children’s rights to health, food security and access to safe drinking water and sanitation.**” Scientific research has demonstrated that the chemicals and wastes falling within the scope of the BRS Conventions could, if not managed in an environmentally sound manner, result in more pervasive adverse effects on foetuses, babies, children and teenagers than on adults.

 During pregnancy, the exposure to certain hazardous chemicals, such as the POPs under the scope of the Stockholm Convention, can affect the development of foetuses and the health of infants. The maternal diet directly influences the fetal body burden[[10]](#footnote-10) of POPs, which can increase the risks for the child to suffer from impaired growth and endocrine disruption. In that respect, the persistence of pollutants such as polychlorinated biphenyls (PCBs) - i.e. POPs falling under the scope of the Stockholm Convention – in mothers' bodies has serious long-term consequences; for instance, children born up to seven years after an incident of PCB-contaminated rice oil in the late 1970s showed developmental delays and behavioural problems (please see the SC website for more information). At its sixth meeting, the Conference of Parties (COP) to the Stockholm Convention concluded from the first phase of the human milk survey as follows: “**Several human studies indicate that effects arising from exposure to POPs via lactation appear to be minor, if at all, when compared with the *in utero* situation***[[11]](#footnote-11).*”Moreover, a 2012 Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Mr. Calin Georgescu at that time,[[12]](#footnote-12) warned that “**Bioaccumulation of methylmercury in fish consumed by pregnant women could lead to neurodevelopmental problems in the developing foetus (…). Trans-placental exposure to such substances is the most dangerous, as the foetal brain is very sensitive. Neurological symptoms include mental retardation, seizures, vision and hearing loss, delayed development, language disorders, reduced IQ and memory loss**”. Indeed, mercury wastes and certain mercury compounds are included, respectively, under the scope of the Basel and Rotterdam Conventions. Yet, a specific global treaty, the Minamata Convention, was signed in 2013 aiming at protecting human health and the environment from the adverse effects of mercury.

The way contamination of air, soil, food and water, by hazardous chemicals and wastes falling within the scope of the BRS Conventions, interferes with children’s health raises the most concerns. Such chemicals and wastes can have harmful effects on human health and in particular that of children, not only through acute exposure but also through low-dose long-term exposure. Pesticides used by farmers to spray crops and treat livestock remain in food as residues, which are one of the most important sources of exposure[[13]](#footnote-13). Pesticides may also contaminate water used for drinking and washing, to result in further elevating exposures in children. Certain pesticides, presenting POPs characteristics, bioaccumulate in fatty tissues, biomagnify up the food chain, and are notably found in fish that can be consumed by children. Children are more vulnerable to this type of exposures as they drink more water and consume more food per body weight than adults. Apart from ingestion, exposure through dermal absorption and inhalation are also of critical. A 2012 Report of the Special Rapporteur Calin Georgescu[[14]](#footnote-14) reveals that “**In one country, over 400 children under the age of five reportedly died due to lead poisoning associated with gold miners grinding lead-containing rock at home in order to extract the gold, and leaving lead dust on the floors where children crawl*.***” The preliminary findings of an assessment conducted in West Africa (the Greater Accra Region) also demonstrated that informal e-waste recycling activities, including burning cables to recover copper, and plastics to reduce volume on dumpsite, pose serious risks for the health, especially of mothers and children[[15]](#footnote-15). More specifically, many examples also show that children are exposed to chemicals and wastes through bathing in water ponds contaminated by untreated effluents stemming from facilities like tanneries. Lastly, children’s risk to be exposed to pesticides in dust and soils is greater as they are likely to play close to the ground and engage in hand-to-mouth activities.

**2/ Right to Freedom from Economic Exploitation and Right to Education**

According to international and United Nations human rights legal instruments and standards, child labour should be abolished so as to allow children to get a proper education, to develop properly, to grow without premature health issues and therefore, to protect their lives essentially, all the more since the work is hazardous. Article 3 (d) of the International Labour Organization (ILO)’s Worst Forms of Child Labour Convention No. 182 (1999) prohibits hazardous work for children and defines it as “**work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children**”. However, according to the ILO, 115 million child labourers worldwide are engaged in hazardous work[[16]](#footnote-16). Unfortunately, in fact, many industries, like footwear and fireworks companies, employ children to undertake work that exposes them to hazardous chemicals and their correlated risks. The BRS Conventions regulate many chemicals used among the most dangerous work sectors, including agriculture, mining and waste management. In the agricultural sector, the high usage of pesticides, defoliants and fertilizers is known to cause acute occupational pesticide-related illnesses in children. Children, who are less experienced and less trained, are also often less aware of the dangers to which they are exposed and do not question the tasks assigned to them. Among the most dangerous industrial sectors, mining and quarrying activities involve chemicals or wastes falling within the scope of the BRS Conventions or the Minamata Convention on mercury and also are very hazardous for the health of children:“One fifth of the children covered by an ILO survey[[17]](#footnote-17) reported having a health problem since they took up gold mining, primarily aches in limbs and backbone, kidney and urinary tract diseases and exhaustion.”[[18]](#footnote-18)In general, MEAs lack preventive measures to protect workers, particularly young workers. Children are not provided with personal protecting equipment of their size and, due to the remoteness of the places where these activities take place, medical care is usually unavailable and labour inspections difficult to conduct.

The scope of the Basel Convention also covers waste management activities such as shipbreaking[[19]](#footnote-19) and recycling of electronic and electrical wastes (e-waste)[[20]](#footnote-20). These waste disposal operations, if not undertaken in an environmentally sound manner, have been recognized as being, responsible for atmospheric pollution and contamination of the surrounding areas. In some developing countries, children work on waste disposal, often within the informal sector that does not manage wastes in an environmentally sound manner, exposing the children directly or indirectly to hazardous wastes and chemicals that they inhale or absorb through for example dust and fumes from open burning. This may cause, as a result of exposure during pregnancy, birth defects and child mortality, alteration of thyroid, cellular or lung functions, mental health outcomes among others. As young labourers cannot successfully fulfil their curriculum, especially when exposed to chemicals affecting their mental development and learning abilities[[21]](#footnote-21), hazardous works affect the right of children to access education. Children usually have no choice to work in these hazardous conditions in order to support their families’ and own survival. The Special Rapporteur has observed that “**unaccompanied minors are more likely to be exposed to harmful substances for want of parental protection in already exploitative environments**[[22]](#footnote-22)*.*”

1. **How the BRS Conventions Address the Economic, Social and Cultural Adverse Conditions on Certain Specific Groups**

After analyzing how hazardous wastes and chemicals may jeopardize the basic rights of children and the factors determining their special vulnerability, the focus is, under the present section, on how the BRS Conventions take into consideration and attempt to address issues faced by particular groups and their specific conditions, in particular as to children’s vulnerabilityThis is one of the goals pursued by the principle of common but differentiated responsibilities recognized in 1992 by the UN Conference on Environment and Development held in Rio de Janeiro, and reflected under the BRS Conventions. . Although this may not explicitly be referred to in the convention texts themselves, it may be addressed in the way Parties implement the Conventions, as well as the decisions adopted by their governing bodies. It is important to note in this regard, the BRS Secretariat is currently implementing a technical assistance programme with the aim of raising awareness of child labour in agriculture and hazardous exposure of children and women in developing countries.

**1/ Children from Indigenous Communities**

It is explicitly recognized under the Stockholm Convention thatPOPs affect in particular Arctic ecosystems and indigenous communities[[23]](#footnote-23). This is because amongst other reasons their ways of life, especially traditional food, expose them to more hazards. The reasons underlying this include firstly, that POPs are carried via long-range transport and are retained in cold climate ecosystems; thus, their concentration is more important in the poles despite having few direct sources of their release. Secondly, POPs accumulate in fatty tissues and since animals from cold areas need thicker layers of fat for natural insulation, their concentration of POPs is higher. The diet of Arctic indigenous communities is heavy in fatty foods and these populations are without many alternatives available; therefore, their children are more vulnerable to POPs contamination. Then, Arctic industrial development, such as extracting operations, has contributed to increase even further the level of pollution in these areas and potential for population exposures. The Secretariat of the Stockholm Convention, in partnership with the Arctic Monitoring Assessment Programme, carried out studies to evaluate the effectiveness of the measures taken to lower the impact of POPs pollution on the health of these populations[[24]](#footnote-24). Because of their traditional ways of life, certain indigenous communities, who rely on natural resources like fish and marine mammals for their survival, are more subject to contamination from certain types of chemicals**.** To this extent, one may consider that hazardous substances affect indigenous rights, and among others, the right of children to participate freely in cultural life, as recognized under article 31 of the CRC.

**2/ Children from Extremely Poor Communities**

The harmful consequences of hazardous chemicals and wastes tend to be even more serious on extremely poor communities. In areas plagued by famines for instance, the practice of “geophagy” became considerable; many early children and pregnant women eat dirt and clay to overcome starvation, which expose them even more to hazardous chemicals and wastes that may be contained in it. Under the framework of the Stockholm Convention, in particular the Global Monitoring Programme (GMP), it is reported that: “**The potential adverse effects with oral ingestion of clay may thus be high, in particular through significant exposure to heavy metals and organic compounds such as PCDD/PCDF*.***”[[25]](#footnote-25) Developing countries, especially the least developed, may not only face greater issues but have less resources and expertise to overcome these challenges. As a result, due to this lack of financial or technical resources, more child-protective measures often remain unimplemented or ineffective. For instance, a significant number of countries still use lead-based paints in toys or playground equipments. Moreover, children from marginalized backgrounds have less access medical care, fewer opportunities to participate in decision-making and public debate or to seek justice if their rights are violated. To this extent, the BRS Conventions take such considerations into account, as well as the circumstances or capabilities of developing countries. Countries having difficulties to implement their obligations under the Conventions can request technical assistance from the Secretariat.

**II/ The Role of Children as Agents of Change in the Environmental and the BRS Conventions’ Context**

1. **Access to Information, Education and Understanding**

Article 24 (2) (e) of the CRC provides for States to take the appropriate measures:**“To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of children’s health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accident.”** One of the most important successes of the BRS Conventions lies in raising awareness among the public; nevertheless, children are not necessarily targeted by information programs or materials. Warnings on hazardous substances labels, when present, are not usually drafted in a child-friendly way or in an accessible language (dialects for example), and because children are not always able to read, or lack discernment, the risk of accidental absorption is high. In February 2010, at the first extraordinary meetings of the BRS Conventions’ COPs, the Safe Planet Campaign was launched. Safe Planet, now run by various stakeholders, uses social media, celebrity endorsements and community outreach activities to raise awareness especially among consumers, educators, youth and women. It was adapted in 2011, in parallel of the Conventions' joint service for communication, outreach, public awareness and publications. The ‘synergies decisions’[[26]](#footnote-26), adopted by the Conferences of the Parties to the BRS Conventions, invited Parties to develop joint outreach and public awareness plan, including target groups, key messages and strategic, cost-effective communication channels in order notably, to support for MDG 4 (Reduce Child Mortality).

Yet, children’s right to access to information is expressly taken into account in the Stockholm Convention only. Article 10 (1) (c) of the Stockholm Convention creates an obligation for the States to promote and facilitate, within its capabilities: **“Development and implementation, especially for women, children and the least educated, of educational and public awareness programmes on persistent organic pollutants, as well as on their health and environmental effects and on their alternatives”.**The Secretariat developed educational materials on POPs for schools“Ridding the world of POPs: A guide to the Stockholm Convention on POPs[[27]](#footnote-27)” to communicate on hazards specifically to children[[28]](#footnote-28). If this provision constitutes a step forward in guaranteeing the right of the child to access information, it hardly recognizes it as an entitlement and gaps remain concerning the other Conventions. As highlighted by Mr. Baskut Tuncak[[29]](#footnote-29) in his statement during the 2015 meetings of the BRS Conventions’ COPs: **“The Rotterdam Convention (…) is rooted in the recognition of (...) the human right to access information. Information about hazardous substances is not a privilege of countries with the greatest means; but, rather a right to which all people and peoples are entitled, including those in countries without adequate resources to assess and manage hazardous substances[[30]](#footnote-30)”** Nevertheless, article 15 (2) of the Convention only provides: “**Each Party shall ensure, to the extent practicable, that the public has appropriate access to information on chemical handling and accident management and on alternatives that are safer for human health or the environment than the chemicals listed in Annex III.**” No specific mention is made with respect to children’s access to information. The same observation can be made concerning article 10 (4) of the Basel Convention, merely encouraging Parties to raise public awareness. Additional steps could be taken toward sensitizing children, especially taking into account that younger generations are significant consumers of electronic devices such as mobile phones.

1. **Children’s Right to Participation and Skills to Respond to Environmental/BRS Conventions’ Issues**

Whereas the Basel and the Rotterdam Conventions implicitly refer to children’s right to participation, Article 7 (2) of the Stockholm Convention more specifically provides: “**The Parties shall, where appropriate, cooperate directly or through global, regional and subregional organizations, and consult their national stakeholders,****including women’s groups and groups involved in the health of children, in order to facilitate the development, implementation and updating of their implementation plans.**” Many non-governmental organizations (NGOs) working on matters related to the BRS Conventions are therefore involved in addressing the children’s rights’, directly or indirectly[[31]](#footnote-31). NGOs may make various contributions through monitoring, research, policy development, public education, awareness-raising, etc. These NGOs may be represented as observers at the meetings of the BRS Conventions’ bodies[[32]](#footnote-32); they could also help young claimants in claiming their rights at the national level. The BRS Conventions’ COPs encourage the Secretariat to further collaborate with NGOs as well as with the private sector, for instance through partnerships (see PACE regarding electronic wastes). In that sense, under the BRS Conventions, it would be possible for the Conference of the Parties to the Convention concerned to establish partnerships, which may contribute towards the protection of children’s health and rights[[33]](#footnote-33).

Also, for the tenth anniversary of the adoption of the Stockholm Convention in 2011, the Secretariat called for NGOs and other stakeholders to share success stories on how the Stockholm Convention triggered positive changes in chemical management and/or sustainable development[[34]](#footnote-34). The stories received were compiled; chapter 3 of the publication focuses on Health Benefits for Children, Women and Workers. Among them, several contests and exhibitions were organized and held in Yerevan, Armenia, such as “Children against POPs”, “Children against Hazards”, including amateur theatrical performances, drawings, poems, songs and tales. The Secretariat of the BRS Conventions endeavours to value children’s skills. In this respect, it called for a national, drawing, photography and short film contest on the theme “Chemical Challenges, Sustainable Solutions”, divided in three categories of age (5 to 10, 11 to 15 and 16 to 20 years old): 160 submissions from 18 countries were received in total, and a selection of the best entries was presented at the Rio +20 Conference on Sustainable Development, at the Palais des Nations in Geneva, and by three of the Basel and Stockholm Conventions regional centres. They are still used, for example, to illustrate Stockholm Convention posters, publications, T‐shirts and other awareness‐raising products.

**III/ The Role of Parties as Agents of Change, as per the Obligations set out under the BRS Conventions regarding the Rights of the Child to a Safe, Clean, Healthy and Sustainable Environment**

1. **Content of Obligations: to Monitor the Transboundary Impacts of and to Eliminate or Restrict or Phase-out or Regulate or Dispose Hazardous Chemicals and Wastes, in an Environmentally Sound Manner**

 In its General Comment No. 9 (2006), the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes asserted: “**Hazardous environment toxins also contribute to the causes of many disabilities. Toxins, such as lead, mercury, asbestos, etc., are commonly found in most countries. Countries should establish and implement policies to prevent dumping of hazardous materials and other means of polluting the environment.**”[[35]](#footnote-35) Parties to BRS Conventions have to manage hazardous chemicals and wastes that may adversely affect the young and future generations, specifically by ensuring their environmentally sound management. This may be achieved by eliminating, restricting, requiring the phase-out, or by exchanging information to enable a more informed decision-making (through the Prior Informed Consent – PIC – Procedure under the Basel or Rotterdam Conventions) as it relates to their production, use, including trade, and disposal. In implementing the BRS Conventions, Parties (States or economic/political regional organizations of States) need to evaluate and address the impacts of these regulated substances on vulnerable population, including children. For instance, under the Rotterdam Convention, the listing of a new chemicals, by amending Annex III, requires the Party to collect various information, including for example a description of incidents relating to chemical and measures taken, or intended to be taken, by the Party in response to such incidents (Annex IV Part 1 (g) and (h)). Since many Parties, especially developing countries and countries with economy in transition have had difficulties in planning monitoring activities, the Secretariat of the BRS Conventions, in cooperation with UNEP and FAO have developed technical assistance tools to help Parties to establish incident reporting systems. For instance, the “Severely Hazardous Pesticide Formulations (SHPF) Kit: Guidance on monitoring and reporting pesticide poisoning incidents related to SHPFs” is intended to help Parties with few resources to identify incidents related to pesticide exposure: *“***The system may be designed to identify high risk groups or to better understand the risks for vulnerable groups, e.g. children, pregnant women, landless agricultural workers.”[[36]](#footnote-36)**

Under the Stockholm Convention, the Global Monitoring Plan for POPs[[37]](#footnote-37) in accordance with Article 16 on Effectiveness Evaluation was established in 2005, at the second meeting of the Conference of the Parties so as to evaluate the evolution of human body burden of POPs worldwide. Among the indicators used to evaluate human exposure to POPs, breast milk is considered one of the best medium of measurements. The 2013 results of the global survey on concentrations of POPs in human milk by UNEP and the World Health Organization (WHO) underlined that: “**The risk‐benefit assessment of breastfed infants represents one of the most challenging aspects of human toxicology, as possible adverse health effects associated with exposure to POPs concur with significant health benefits of breastfeeding*.***”[[38]](#footnote-38) Based on information from the Second Global Monitoring Report (2015), the use of human milk as a sampling matrix revealed a relatively high but decreasing level of POPs worldwide, notably PCDD/PCDF, PCB, PFOS and HCHs. In absence of definitive conclusions, both documents however highlight that “**the uptake of these chemicals by the infant via human milk is of high toxicological relevance.**”[[39]](#footnote-39)

The Committee on the Rights of Child asserted the duty of the States to respect, protect and fulfil the rights of child to a safe environment. It further stated that “**if children are identified as victims of environmental pollution, immediate steps should be taken by all relevant Parties to prevent further damage to the health and development of children and repair any damage done***”[[40]](#footnote-40).* Under the BRS Conventions, Parties have made considerable efforts to address the impacts of hazardous chemicals and wastes on more vulnerable countries and their population, thereby including children. Article 24 of the CRC provides for the right of the child to the enjoyment of the highest attainable standard of health. Paragraphs 2 (c) of article 24 creates a duty upon States: **“To combat disease and malnutrition (…), through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution.”** In its General comment No. 15 (2013)[[41]](#footnote-41), the Committee on the Rights of Child asserted that: **“States should regulate and monitor the environmental impact of business activities that may compromise children’s right to health, food security and access to safe drinking water and to sanitation”.** In connection with these aspects, the three BRS Conventions require to monitor and regulate activities that may have harmful impacts on children, although these effects on children may or may not always be explicitly mentioned in the convention texts. Under the Basel Convention, a country-led initiative was put in place to more effectively implement the Convention, including combating illegal traffic of hazardous wastes, among other needs. In addition, the Secretariat of the Basel Convention cooperates with and participates in various enforcement networks, including INTERPOL, which has mandate to assist countries in the exchange of information and intelligence, with a particular focus on crimes against children, among others. It is of note that under article 4 paragraph 3 of the Basel Convention, Parties consider that illegal traffic in hazardous and other wastes is criminal. Parties also have an obligation to take legal and administrative and other measures to implement and enforce the provisions of the Basel Convention, including measures to prevent and punish conduct in contravention of the Convention[[42]](#footnote-42).

1. **Consideration of Children’s Rights in Applicable Policies**

Article 3 (1) of CRC provides for the best interests of the child to be taken as a primary consideration in all actions concerning children. In its General comment No. 14 (2013)[[43]](#footnote-43), the Committee considered this provision as applying to environmental regulations. To this extent, Parties would need to take children’s interest into account in implementing the BRS Conventions. For instance, the Secretariat of the Rotterdam Convention, together with PAN-UK, has conducted regional workshops with Parties from the Central and Eastern Europe on the theme "Protecting farmers and vulnerable groups from pesticide poisoning"[[44]](#footnote-44). Intended to identify pesticide exposure scenarios (both direct and indirect) as regards to vulnerable groups, and notably children, the workshops provided recommendations to prepare action plans and future collaborations. These workshops enabled their participants to discuss common interest issues and share data on chronic low level exposure, which is particularly important for children. They also addressed questions on children’s increased vulnerability and their knowledge of the risks as well as consideration on protecting measures and communication, especially for children living in rural areas. The workshops were followed by a multi-stakeholder consultation on pesticide exposure of vulnerable groups, to reinforce relations between institutional stakeholders and ensure the provision of technical support for the initiation of a survey. In April 2016, another training workshop was held: "Supporting evidence-based pesticide regulation and risk reduction in Georgia, with a focus on vulnerable groups". The agenda items included “Children and Families in Kyrgyzstan” and “Children in Moldova” as well as a Plenary Discussion on key issues. Organizing and developing technical assistance and capacity building tools and events, which focus on children’s specific condition, may effectively contribute in enhancing children’s protection against hazardous chemicals and improve respect of their rights related thereto.

Furthermore, it is important to note that in July 2012, the Executive Secretary of the BRS Conventions established a Gender Task Team (GTT) within the Secretariat in order to dedicate its work and focus on the SDG No.5, i.e. on the promotion of gender equality as well as the empowerment of women and girls, men and boys, equally. The work of the GTT resulted in the adoption a Gender Action Plan (BRS-GAP)[[45]](#footnote-45) among others. The BRS-GAP was presented at the meetings of the BRS Conventions’ COPs in 2015, further to which a gender mainstreaming discussion ensued. Also, in view of the 2015 COPs’ meetings, Parties were invited to submit success stories on gender, which were compiled by the Secretariat in a publication[[46]](#footnote-46). Many of them not only address the consideration of gender equality but the rights of children. For instance, in Trinidad and Tobago, several children suffered from lead poisoning due to recycling and disposal of lead slag and car batteries. The Environmental Management Authority of Trinidad and Tobago (EMA) and the Ministry of Health constituted a Task Force on Lead Poisoning to provide immediate medical attention for the children, as well as evacuation, permanent resettlement in some instances, land decontamination and remediation of lead[[47]](#footnote-47).

Another issue which is particularly relevant to the rights of children is the regulation of DDT under the Stockholm Convention in areas stricken by malaria. This disease mostly affects children; based on WHO information, 69% of malaria deaths in 2015 were children under five years old[[48]](#footnote-48). To remedy the situation, DDT wettable powder has long been sprayed on houses to eradicate the mosquitoes, vector of the disease[[49]](#footnote-49). Today, this insecticide is known as being very hazardous and many countries have substituted it (see WHO recommendations and Guidelines on the use of DDT). Production and use of this POP, listed under the Stockholm Convention, have been restricted (see Annex B Part II). Parties are thus supposed to eliminate DDT but may allow its restricted production and / or use for the acceptable purpose of disease vector control. The production and use of DDT as a closed-system site-limited intermediate in the production of dicofol is permitted under the Convention in certain limited circumstances. This raises numerous issues for the health of children but a phase-out deadline has yet to be established since the risks related to exposure to DDT are balanced against the benefits in controlling malaria.

**IV/ The Role of the Business Sector and of other Stakeholders such as the Civil Society, under the BRS Conventions, and the rights of children**

As recommended by the Committee’s General Comment No. 16 on State obligations regarding the impact of the business sector on children’s rights[[50]](#footnote-50), the BRS Conventions’ obligations require Parties to implement adequate national legal and policy frameworks ensuring that not only national authorities but also other relevant stakeholders involved in the management of chemicals and wastes (e.g. industry, NGOs, individuals) in their territory or jurisdiction comply with the BRS Conventions’ provisions. Indeed, harmonisation between national implementing national legal frameworks is key to avoid a kind of ‘forum shopping’[[51]](#footnote-51). The BRS Conventions thus also affect, involve and rely upon the private sector for their national, regional and even transnational implementation. The Basel Convention sets out obligations affecting exporters, importers, generators and disposers of wastes and requires States to ensure the regulation of their activities through the control procedure for transboundary movements of wastes and the environmentally sound management of wastes. For instance, States of export have an obligation not to allow exporters and generators to commence a transboundary movement of wastes until they have received written consent of the State of import and confirmation from the State of import of the existence of a contract between the importer and the disposer specifying environmentally sound management of the hazardous and other wastes[[52]](#footnote-52). Paragraph 9 of Article 6 provides that Parties require “**each person who takes charge of a transboundary movement of hazardous wastes or other wastes**” to sign the movement document either upon delivery or receipt of the wastes. Under the Rotterdam Convention, the Parties also have a duty to ensure that exporters and importers comply with the provisions of the Convention, notably the requirements for export notification or safety data sheets under the Prior Informed Consent procedure. Lastly, the Stockholm Convention explicitly recognizes, in its preamble, “**the important contribution that the private sector and non-governmental organizations can make to achieving the reduction and/or elimination of emissions and discharges of persistent organic pollutants**”. Although these obligations do not always expressly mention the rights of the child, they are designed to ensure than human health and the environment are protected, which inherently includes children’s health and their environment.

**Annex – Suggested Recommendations**

* **To enhance collaborations, including partnerships, and think of establishing new ones, so that synergies between all relevant stakeholders may be achieved, e.g. to increase the involvement of the business sector[[53]](#footnote-53).**
* **To highlight more explicitly the inter-linkages with children’s rights under the Basel and Rotterdam Conventions (as well as in the Minamata Convention), for instance at Conferences of the Parties.**
* **To raise public awareness on the impacts of childhood exposure to hazardous chemicals and wastes on children’s health.**
* **To develop further operational programmes, project, activities, tools and materials of technical assistance and capacity building with a special focus on the BRS Conventions and their dimensions related to human/children’s rights.**
* **To enhance efficiency on other means of implementation such as financial means.**
1. The views expressed in this publication are those of the authors and do not necessarily reflect the views of the Secretariats of the Basel, Rotterdam and Stockholm Conventions and/or their respective Parties (SBRS), the United Nations Environment Programme (UNEP), the United Nations (UN) or contributory organizations. SBRS, UNEP or the UN do not accept responsibility for the accuracy or completeness of the contents and shall not be liable for any loss or damage that may be occasioned, directly or indirectly, through the use of, or reliance on, the contents of this publication. The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of SBRS, UNEP or the UN, concerning the geo-political situations or the legal status of any country, territory, or city or area or their authorities, or concerning the delimitation of their frontiers or boundaries. [↑](#footnote-ref-1)
2. Masters’ Degrees in International Law, *Université de Paris I –Panthéon Sorbonne*, 2000-*Université de Nice-Sophia Antipolis*/London Westminster University, 1999; admitted to practice law as an Attorney-at-Law, Paris Bar, 2001. [↑](#footnote-ref-2)
3. LL.M in Environmental & Natural Resources Law, University of Oregon, 2015. [↑](#footnote-ref-3)
4. CRC/C/GC/16 on State obligations regarding the impact of the business sector on children’s rights (I.). [↑](#footnote-ref-4)
5. See studies published on the websites of the World Health Organization and of the BRS Conventions. [↑](#footnote-ref-5)
6. See for instance: http://www.unep.org/environmentalgovernance/Events/HumanRightsandEnvironment. [↑](#footnote-ref-6)
7. See studies published on the websites of the World Health Organization and of the BRS Conventions. [↑](#footnote-ref-7)
8. [↑](#footnote-ref-8)
9. “The impact of childhood exposure to toxic chemicals on children’s rights”, side event organized in margins of the second session of the United Nations Environment Assembly, by the OHCHR (Office of the High Commissioner for Human Rights), UNICEF (United Nations Children’s Emergency Fund), with the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, and moderated by Ms. Kerstin Stendahl, Deputy Executive Secretary of the BRS Conventions. CRC/C/GC/16 on State obligations regarding the impact of the business sector on children’s rights (III.C). [↑](#footnote-ref-9)
10. Body burden refers to the total accumulation of toxins in the body [↑](#footnote-ref-10)
11. UNEP/POPS/COP.6/INF/33 (p. 23). [↑](#footnote-ref-11)
12. A/HRC/21/48 Report on the human rights obligations related to environmentally sound management and disposal of hazardous substances and waste (.28). [↑](#footnote-ref-12)
13. Childhood Pesticide Poisoning, Information for Advocacy and Action, FAO, UNEP and WHO (see p.10 and figures on p. 12). [↑](#footnote-ref-13)
14. A/HRC/21/48 Report on the human rights obligations related to environmentally sound management and disposal of hazardous substances and waste (.28). [↑](#footnote-ref-14)
15. 14th Session of the HRC, Interactive Panel Dialogue on Toxic Waste, 2010, Katharina Kummer Peiry, Executive Secretary of the BC [↑](#footnote-ref-15)
16. Hazardous work of children and regulation of hazardous chemicals, ILO. [↑](#footnote-ref-16)
17. International Labour Organization, *Informal Gold Mining in Mongolia: A Baseline Survey Report covering Bornuur and Zaamar Soums, Tuv Aimag*, (Bangkok, 2006). [↑](#footnote-ref-17)
18. A/HRC/21/48 on human rights obligations related to environmentally sound management and disposal of hazardous substances and waste (.28) [↑](#footnote-ref-18)
19. See Safety and health in shipbreaking Guidelines for Asian countries and Turkey, ILO. [↑](#footnote-ref-19)
20. See Gender and e-waste recycling management in Africa, Prof. Oladele Osibanjo Basel Convention Coordinating Centre for the African Region in Nigeria. [↑](#footnote-ref-20)
21. See “Industrial chemicals linked to attention problems in Massachusetts children” (Environmental Health News, 5 March 2012). [↑](#footnote-ref-21)
22. A/HRC/21/48 on human rights obligations related to environmentally sound management and disposal of hazardous substances and wastes (.44). [↑](#footnote-ref-22)
23. Preamble to the Stockholm Convention, third paragraph: “Acknowledging that the Arctic ecosystems and indigenous communities are particularly at risk because of the biomagnifications of persistent organic pollutants and that contamination of their traditional foods is a public health issue.” [↑](#footnote-ref-23)
24. See Arctic Monitoring Assessment Program, Pollution and Human Health. [↑](#footnote-ref-24)
25. GMP for POP, Second Global Monitoring Report, (6.2.1). [↑](#footnote-ref-25)
26. Decisions BC-10/29, RC-5/12 and SC-5/27. [↑](#footnote-ref-26)
27. Available on the website at: <http://chm.pops.int/Convention/Publications/BrochuresandLeaflets/tabid/3013/Default.aspx>. [↑](#footnote-ref-27)
28. See “Protect Children from Pesticides!, A visual Facilitator’s Guide” ILO and FAO, adapted to audience from Africa, Asia and the Pacific, Latin America and the Caribbean as well as Eastern Europe, the Caucasus and Central Asia. [↑](#footnote-ref-28)
29. UN Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes. [↑](#footnote-ref-29)
30. Statement of Mr. Baskut Tuncak UN Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes. [↑](#footnote-ref-30)
31. See for instance “Danger, Keep Out! Children’s Exposure to Toxic Substances, Human Rights Watch, Submission to UN Special Rapporteur on Human Rights and Hazardous Substances and Wastes”, April 2016. [↑](#footnote-ref-31)
32. Articles 15 (6) of the Basel Convention, 18 (7) of the Rotterdam Convention and 19 (8) of the Stockholm Convention; see also the Rules of procedure for the respective Conferences of the Parties to the Basel, Rotterdam and Stockholm Conventions. [↑](#footnote-ref-32)
33. See the ‘International PCB Elimination Network’ (IPEN). [↑](#footnote-ref-33)
34. Available at <http://chm.pops.int/Convention/Publications/Other/tabid/3072/Default.aspx>. [↑](#footnote-ref-34)
35. See also in that sense CRC/C/GC/9 on the rights of children with disabilities (paragraph 54). [↑](#footnote-ref-35)
36. Gender Action Plan (BRS-GAP) for 2014-2015, 2 December 2013 (footnote 6). [↑](#footnote-ref-36)
37. <http://chm.pops.int/Implementation/GlobalMonitoringPlan/Overview/tabid/83/Default.aspx> [↑](#footnote-ref-37)
38. Childhood Pesticide Poisoning, Information for Advocacy and Action, FAO, UNEP and WHO (pp. 19 to 22). [↑](#footnote-ref-38)
39. Second Global Monitoring Report, 2015 (6.2.1 see results in figures 6.2.1 to 6.2.10). [↑](#footnote-ref-39)
40. CRC/C/GC/16 on State obligations regarding the impact of the business sector on children’s rights (IV.B.3). [↑](#footnote-ref-40)
41. CRC/C/GC/15 on the right of the child to the enjoyment of the highest attainable standard of health (art. 24), (III.B. par. 2.d). [↑](#footnote-ref-41)
42. Article 4, paragraph 4 of the Basel Convention [↑](#footnote-ref-42)
43. CRC/C/GC/14 on the right of the child to have his or her best interests taken as a primary consideration, (par. 19) . [↑](#footnote-ref-43)
44. Implementation of GCP/RER/040/EC (outcome 2.4 of EU-FAO partner project); the first workshop held in Georgia in July 2014, involving NGOs and government representatives from Armenia, Belarus, Georgia, Kyrgyzstan, Moldova and Ukraine. [↑](#footnote-ref-44)
45. Gender Action Plan (BRS-GAP) for 2014-2015, 2 December 2013. [↑](#footnote-ref-45)
46. “Gender Heroes: from grassroots to global action: a collection of stories featuring gender perspectives on the management of hazardous chemicals and wastes”. [↑](#footnote-ref-46)
47. “The future we don’t need: eliminating the impacts of hazardous wastes on our children”, Jonelle Jones from the Basel Convention Regional Centre for the Caribbean Region in Trinidad and Tobago. [↑](#footnote-ref-47)
48. Environmental Health Criteria 237, Principles for Evaluating Health Risks in Children associated with Exposure to Chemicals (Inter-Organization Programme for the Sound Management of Chemicals, UNEP, ILO and WHO). [↑](#footnote-ref-48)
49. WHO global malaria control program, 1955. [↑](#footnote-ref-49)
50. CRC/C/GC/16. [↑](#footnote-ref-50)
51. Forum-shopping is a specific concept of private international law. A person who takes the initiative of bringing a court action may be tempted to choose his court on the basis of the law applied there. A person starting an action might be tempted to choose a forum  not because it is the most appropriate forum but because the conflict of laws  rules that it applies will prompt the application of the law that he or she prefers. [↑](#footnote-ref-51)
52. Paragraph 3, article 6 of the Basel Convention [↑](#footnote-ref-52)
53. In that respect, the United Nations highly encourages partnering with the business sector. See: https://business.un.org/. [↑](#footnote-ref-53)