

Guidance on Building Blocks for a Legal Framework and Global/Regional Status of Lead in Paint

Central and Eastern Europe and Central Asia Regional Workshop
on the Establishment of Legal Limits on Lead in Paint
19-20 May 2016, Chişinău, Republic of Moldova



UNEP Division of Environmental Law and Conventions
Regional Office for Europe

Barbara Ruis
Legal Officer



Outline



- Toolkit for Establishing Laws to Control the Use of Lead in Paint - Module J: Establishing a Legal Framework to Regulate Lead in Paint
 - a. Objectives of legal limits
 - b. Key building blocks for an effective legal framework
- Global/Regional Status of Lead in Paint Regulatory Framework
 - a. 2015 global report (SAICM//ICCM.4/INF/25): Status of the phasing out of lead paint by countries (WHO & UNEP)
 - b. Global Report on the Status of Legal Limits on Lead in Paint (UNEP and WRI, 2016)

Module J

Establishing a Legal Framework to Regulate Lead in Paint



Overview

- This module is intended to serve as a guide for legislators, policymakers, and other stakeholders in establishing a **national framework for implementing and enforcing legal requirements** for the control of lead in new decorative paint used in homes, schools, and other areas.
- It includes specific suggestions for establishing a national framework for the control of lead in paint, as well as principles of effective and enforceable legal requirements.

The case for legal limits for legal requirements controlling lead in paint /1

- **Human health effects of lead paint in your country**– no safe exposure level for children, lead can cause serious health impacts (Modules A and B)
- **Economic benefits of eliminating lead in paint**– reduce costs to individuals and society that result from exposure to lead (e.g. healthcare, productivity losses, intellectual disability, exposure to legacy paint) (Module B)

The case for legal limits for legal requirements controlling lead in paint/2

- **Availability of alternatives** – there are cost-effective non-lead alternatives currently being manufactured and are readily available to consumers (Modules D and E)
- **Proven effectiveness of legal regimes for controlling lead in paint**– regulations have proven effective in controlling use of lead paint in many countries resulting in reductions in lead poisoning (Modules F and H). In addition, national controls on the manufacture, import, sale, use, and export of lead paints are more cost-effective in reducing exposure risks than any future remediation programs.

Determining the best approach

- Prior to developing or modifying legislation and/or regulatory requirements to limit lead in paint, a suggested first step is to review existing requirements and/or voluntary standards to determine whether a new legal framework or law is needed to adequately protect the public from the risks of lead in paint.
- The case studies in Module H provide examples of how four different countries addressed these risks, by enacting new laws and strengthening existing legal regimes.

Objectives of establishing legal limits

- Prevention of the manufacture, use, import, and export of lead paint (see the case studies in Module H for different ways countries have already met this objective)
- Development of a system with effective means of enforcement and compliance and effectively integrating the new lead paint laws and regulations into an existing legal framework
- Establishment of institutional responsibilities and arrangements for the management and enforcement of legislation and/or regulation.

Key principles of effective legal limits

Gather scientific and technical underpinnings

- Scientific information is key to credible and effective legislation and/or regulation
- Types of information could include:
 - Studies that demonstrate the health risks associated with lead (Module C)
 - Data regarding existing levels of lead in new paint (Modules C and F)
 - Information about the existing market and alternatives (Modules D and E)
 - Blood lead level data to provide a baseline for assessing results (Module C)
- Conduct an initial assessment of lead paints being manufactured or sold prior to new law/regulations as a tool for assessing the effectiveness of limits once they are in place

Key principles of effective legal limits

Provide for public awareness and public input

- Ensure public access to information about the new laws and regulations, including notice of proposals
- Provide opportunities for public input and engagement through the process of developing legal limits, such as the opportunity to provide public comments
- The regulated community and other stakeholders can provide valuable input and suggestions for effective regulation

Key principles of effective legal limits

Include clear and understandable definitions of regulated substances and regulated activities

Definitions could include:

- **Paint** includes, “varnishes, lacquers, stains, enamels, glazes, primers or coatings used for any purpose; and is typically a mixture of resins, pigments, fillers, solvents and other additives”
- **Lead Paint** as defined as, “paint to which one or more lead compounds have been added”.

Key principles of effective legal limits

Include clear and understandable definitions of regulated substances and regulated activities (continued)

Definitions could include

- **Lead Compounds** compounds typically added to paint include, but are not limited to, Lead carbonate (white lead), Lead chromate, Lead chromate oxide, Lead chromate molybdate sulphate red, Lead sulpho-chromate yellow, Lead 2-ethylhexanoate, Lead molybdate, Lead naphthenate, Lead nitrate, Lead monoxide, Lead oxide, Lead octanoate, Lead peroxide, Lead sulphate, and Tri lead-bis (carbonate)-dihydroxide.
- **Total lead concentration** a weight percentage of the total non-volatile portion of the product or in the weight of the dried paint film (e.g. 90 ppm)

Key principles of effective legal limits

Include clear and understandable definitions of regulated substances and regulated activities

- Clearly address the following questions:
 - Who is your regulated community: Manufactures? Retailers?
 - What part of the paint cycle will be regulated: Manufacture? Use? Import? Export? Disposal? All of these?
 - Are there be prohibited uses or exemptions? If so, describe the scope of prohibitions and the criteria for eligibility for exemptions.

Key principles of effective legal limits

Set effective dates for new requirements

- Clearly indicate the date by which prohibited products should no longer be sold
- Consider whether to allow stakeholders time to source and procure alternative materials and exhaust existing stocks of lead paint
- Consider whether to require materials be disposed by a given date
 - Who will be responsible for disposal?
 - What methods will be authorized for disposal?
- Coordination with relevant stakeholders in determining a timeline could allow for more effective implementation

Key principles of effective legal limits

Establish a mechanism to promote compliance / 1

- Provide a mechanism for enforcing the new standard
 - For example: labeling requirements; third-party certification; government inspections and testing (more details on next slide)
- Assign clear responsibilities for the various actions required by the new law or regulation
- Build oversight capacity and provide resources to agencies responsible for ensuring compliance

Key principles of effective legal limits

Establish a mechanism to promote compliance / 2

- Potential modes of ensuring compliance:
 - Create a **monitoring program** that includes regular inspections to ensure that paints and related products are being manufactured and sold in accordance with legal limits, and **periodic sampling** of paints to ensure lead content meets prescribed standards
 - Institute **certification schemes** to demonstrate compliance:
 - Voluntary or mandatory, or a mix of both, and could be country specific or regionally based
 - Independent, third-party certification, in conjunction with independent, accredited laboratories
 - Could include a voluntary or mandatory labeling requirement to indicate certification

Key principles of effective legal limits

Set clear, transparent consequences for non-compliance

- Laws and regulations should clearly dictate the consequences for non-compliance, as well as incentives for compliance
- Provide information and resources to regulated entities to educate them on how to comply with new limits
- Ensure compliance status information is available to stakeholders
- Specify a process for disposing of existing lead paint and related products once entities come into compliance
- Consider application of the same standards to both domestic and export markets to prevent the dumping of lead paint in countries less advanced in their controls

Key principles of effective legal limits

Include provisions in the legal framework relating to disposal of existing paint

- Specify how lead paint or products impounded for violating legislation and regulation are to be destroyed or disposed of in a safe manner
- Ensure regulated entities, including paint manufacturers and retailers, have information regarding how to destroy or dispose of existing lead paint and related products

Key principles of effective legal limits

Provide for periodic review to assist in determining the effectiveness of new laws

- Reviews could include
 - Periodic assessments of the paint market
 - Periodic blood lead level assessments
 - Understanding any new applicable science
- Based on reviews, update the laws or regulations (with stakeholder and public input) as needed

Conclusion & Points of Contact

- This module J on **Establishing a Legal framework to Regulate Lead in Paint** of the Toolkit is not intended to be an exhaustive guide, but rather to serve as a starting point for countries and stakeholders interested in establishing legal limits on lead in paint
- Questions regarding the content of this module, or specific inquiries regarding establishing legal limits on lead paint, can be directed to Noleadinpaint@unep.org



Elements of A National Legal
and Regulatory Framework for
the Elimination of the Use of
Lead in New Decorative Paint



1. Defining Lead Paint
2. Determining the Lead Content of Paint
3. Setting Effective Dates of Legislation and/or Regulations
4. Establishing a Mechanism to Promote Compliance
5. Setting out the Consequences of Non-Compliance
6. Additional Controls on Lead Paint Violating Legislation and Regulation
7. Periodic Review

Outline



- Toolkit for Establishing Laws to Control the Use of Lead in Paint - Module J: Establishing a Legal Framework to Regulate Lead in Paint
 - a. Objectives of legal limits
 - b. Key building blocks for an effective legal framework
- **Global/Regional Status of Lead in Paint Regulatory Framework**
 - a. **2015 global report (SAICM//ICCM.4/INF/25): Status of the phasing out of lead paint by countries (WHO & UNEP)**
 - b. **Global Report on the Status of Legal Limits on Lead in Paint (UNEP and WRI, 2016)**

2015 global report (SAICM//ICCM.4/INF/25)

Status of the phasing out of lead paint by countries



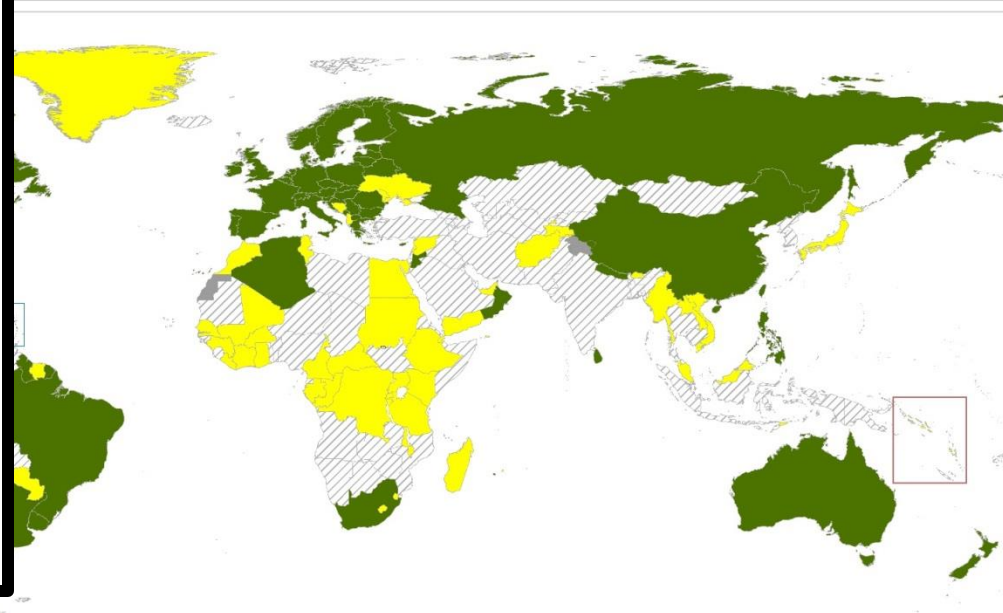
LEAD PAINT ALLIANCE

COUNTRIES WITH LEGALLY BINDING CONTROLS ON LEAD PAINT – BASED ON INFORMATION RECEIVED FROM GOVERNMENTS BY 31 JULY 2015

59 countries:
Legally binding controls
(including 28 EU member countries bound by the EU REACH)

65 countries:
No legally binding controls

71 countries:
No data

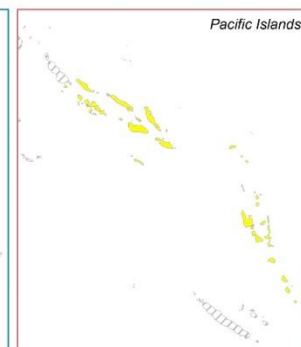
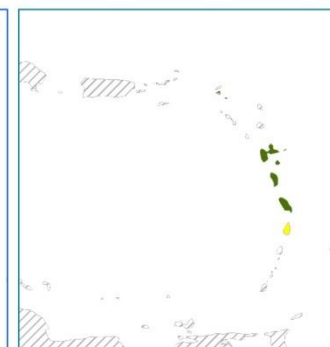


Countries with legally binding controls

- Legally binding controls
- No legally binding controls
- No data
- Not applicable

Data Source: Governments
Admin. Boundaries: World Health Organization.
Map Production: Public Health, Social and Environmental Determinants of Health, WHO

Disclaimer: The boundaries and names shown and the designations used on this map do not imply the expression of any opinion whatsoever on the part of the World Health Organization concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries. Dotted and dashed lines on maps represent approximate border lines for which there may not yet be full agreement.





LEAD PAINT ALLIANCE

Country	Existence of legally-binding legislation/ regulation/ standards for lead in paint
Albania	IN PROCESS
Armenia	IN PROCESS
Azerbaijan	NO REPLY
Belarus	YES
Bosnia and Herzegovina	IN PROCESS
Georgia	NO REPLY
Kazakhstan	NO REPLY
Kyrgyz Republic	NO REPLY
Macedonia (the Former Yugoslav Republic of)	YES
Moldova (Republic of)	IN PROCESS
Montenegro	YES
Russian Federation	YES
Serbia (Republic of)	YES
Tajikistan	NO
Turkmenistan	NO REPLY
Ukraine	NO
Uzbekistan (Republic of)	NO REPLY

**Central Eastern Europe and
Central Asia countries:**

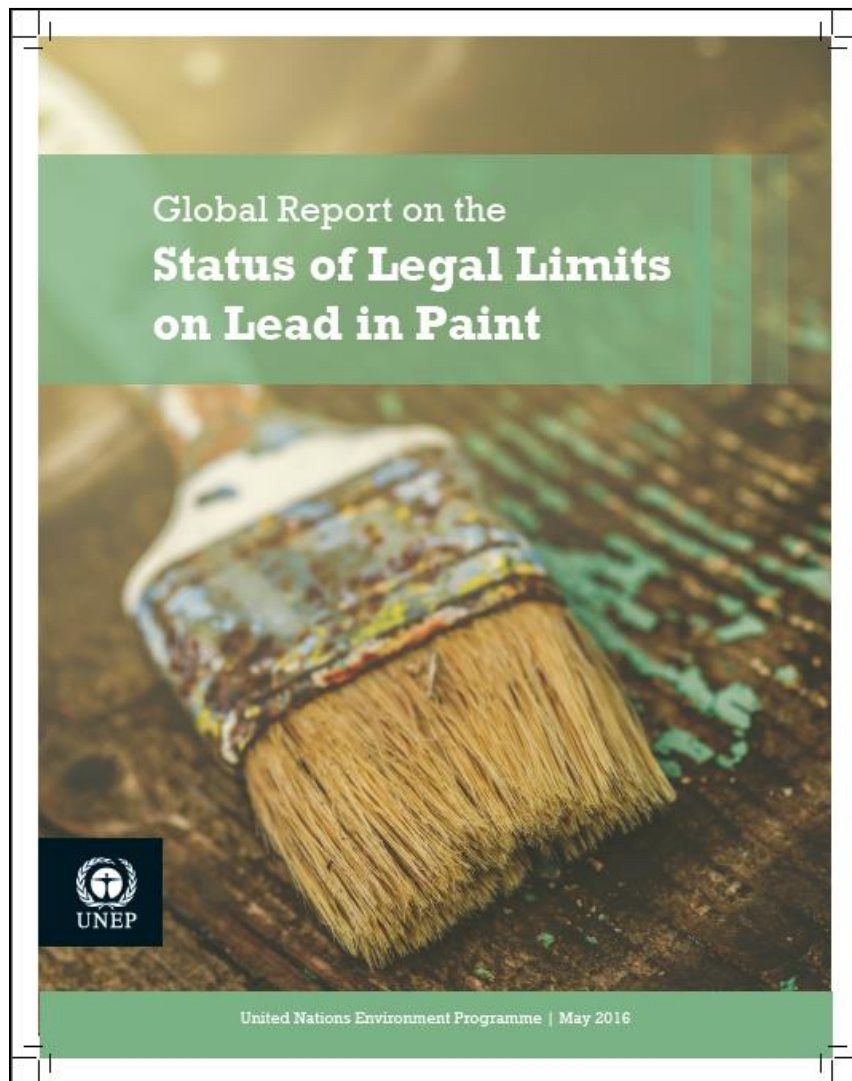
5 countries YES

4 countries IN PROCESS

2 countries NO

6 countries NO REPLY

Global Report on the Status of Legal Limits on Lead in Paint

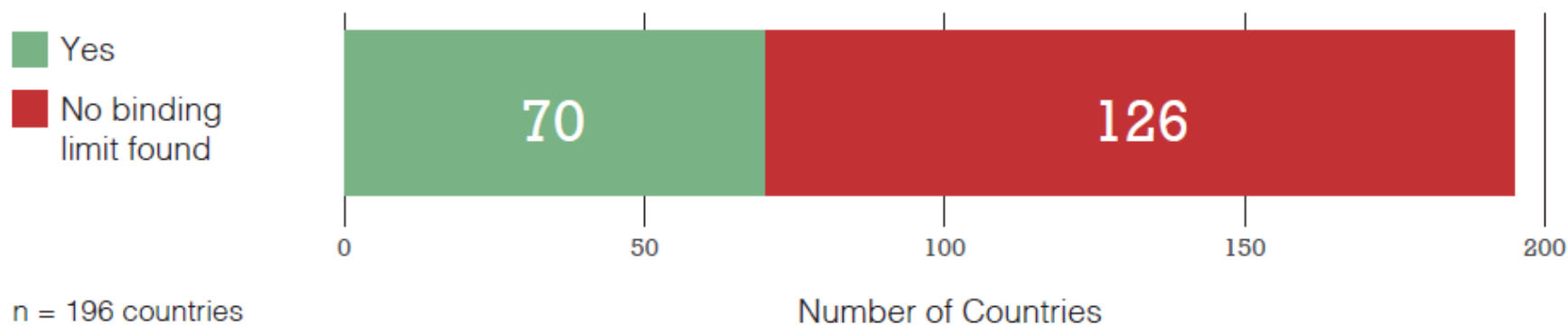


- Publication of UNEP, developed in partnership with the World Resources Institute (WRI)
- 196 countries worldwide
- Updated overview on the establishment of legally binding controls on lead paint
- In-depth examination of the range of regulatory approaches used in lead paint controls

Global Number of Countries with Binding Lead Paint Controls

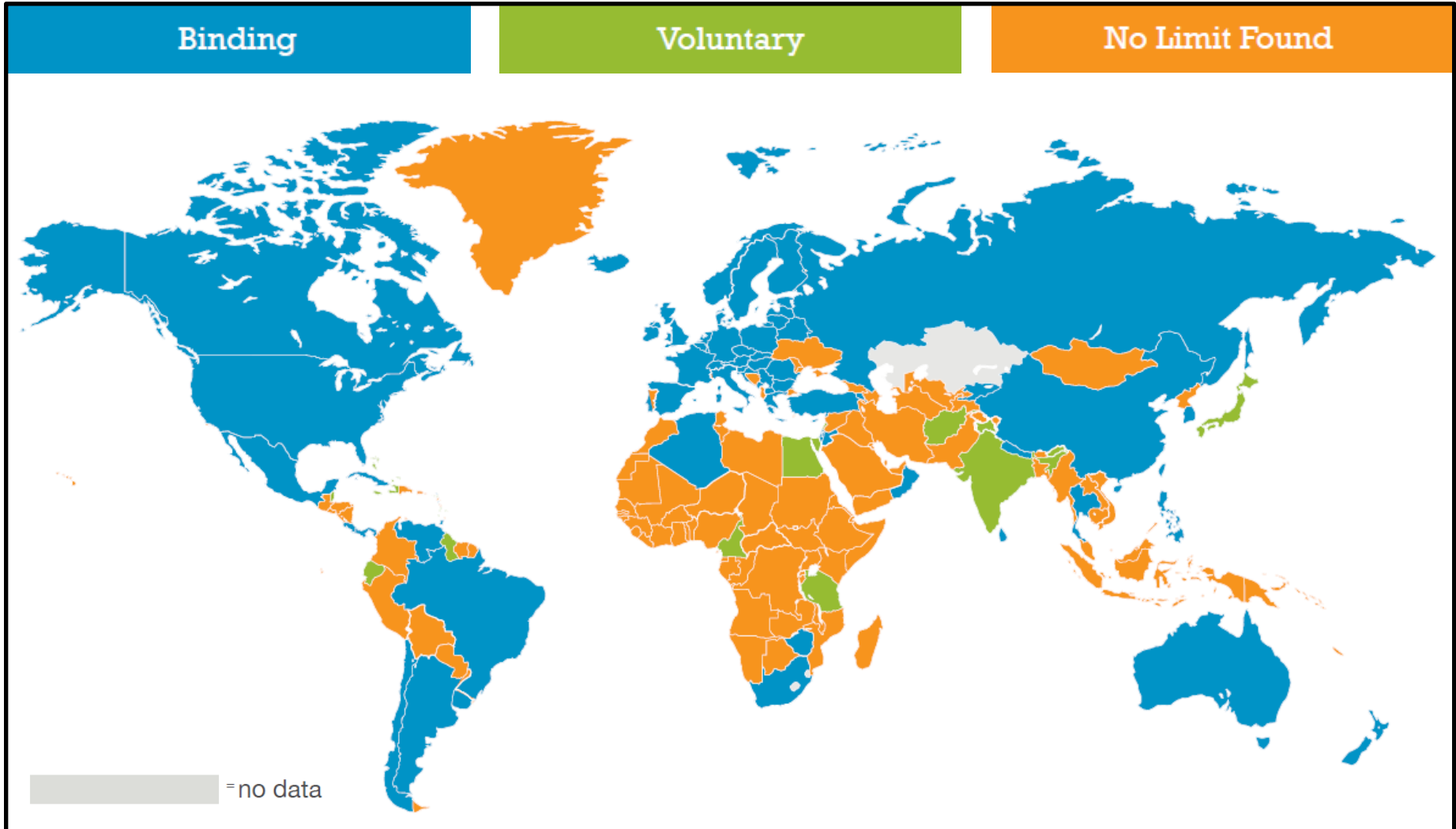


Is There a Legally Binding Lead Paint Control?



**Fig. 1 aggregates the findings from this report and the 2015 SAICM report (and so includes Italy and Cuba as having lead paint controls.)*

Map of Lead Paint Limits





Binding				Voluntary	
---------	--	--	--	-----------	--

Algeria	Croatia	Israel	New Zealand	Sri Lanka
Antigua and Barbuda	Cuba	Italy	Norway	Sweden
Argentina	Cyprus	Jordan	Oman	Switzerland
Armenia	Czech Republic	Kyrgyz Republic	Panama	Thailand
Australia	Denmark	Latvia	Philippines	Trinidad and Tobago
Austria	Dominica	Liechtenstein	Poland	Turkey
Belarus	Estonia	Lithuania	Portugal	United Kingdom
Belgium	Fiji	Luxembourg	Republic of Korea	Uruguay
Brazil	Finland	Macedonia	Romania	United States of America
Bulgaria	France	Malta	Russia	Venezuela
Canada	Germany	Mexico	Serbia	Zimbabwe
Chile	Greece	Monaco	Slovakia	
China	Hungary	Montenegro	Slovenia	
Costa Rica	Iceland	Nepal	South Africa	
	Ireland	Netherlands	Spain	

Afghanistan*	Montserrat**
Andorra	St. Lucia**
Bahamas**	St. Kitts and Nevis**
Barbados**	St. Vincent and the Grenadines**
Belize**	Tanzinia
Cameroon	
Ecuador*	
Egypt	
Grenada**	
Guyana**	
Haiti**	
India***	
Jamaica**	
Japan	
Lebanon	

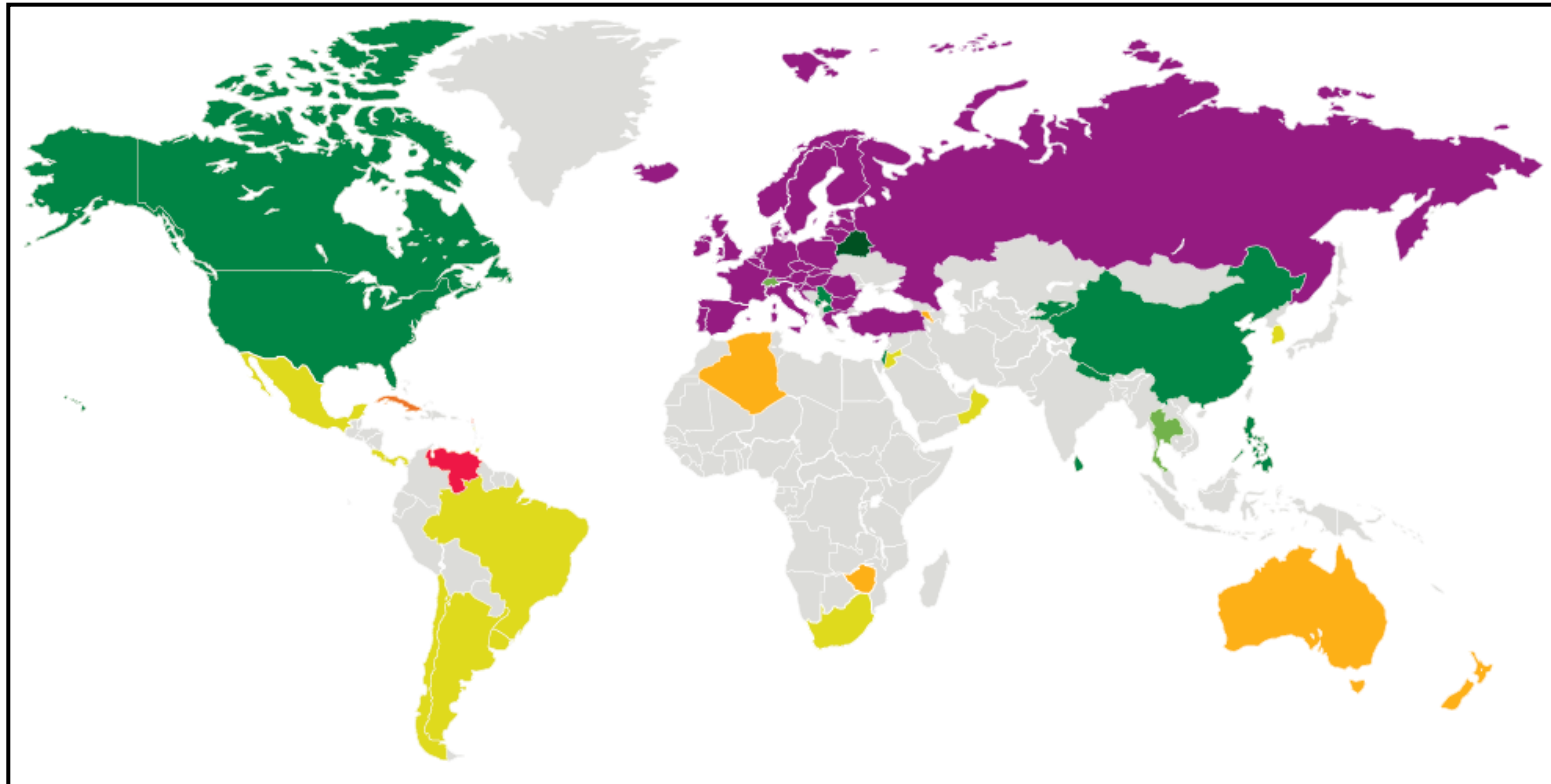
ALLIANCE

No Limit Found

Albania*	Central African Republic	Equatorial Guinea	Kuwait	Morocco	Republic of Moldova*	Syrian Arab Republic*
Angola		Eritrea	Lao People's Democratic Repub*	Mozambique	Tajikistan	
Azerbaijan	Chad	Ethiopia		Myanmar	Timor-Leste	
Bahrain	Colombia*	Gabon*	Lesotho	Namibia	Togo	
Bangladesh*	Comoros	Gambia	Liberia	Nauru	Tonga	
Benin	Congo	Georgia	Libya	Nicaragua	Tunisia	
Bhutan	Cook Islands	Ghana	Madagascar	Niger	Turkmenistan	
Bolivia	Côte d'Ivoire	Guatemala	Malawi	Nigeria	Tuvalu	
Bosnia and Herzegovina*	Democratic People's Republic of Korea	Guinea	Malaysia	Niue	Uganda*	
Botswana	Democratic Republic of the Congo	Guinea Bissau	Maldives	Pakistan	Ukraine	
Brunei Darussalam		Honduras*	Mali	Palau	United Arab Emirates*	
Burkina Faso	Djibouti	Indonesia	Marshall Islands	Papua New Guinea	Uzbekistan	
Burundi	Dominican Republic	Iran	Mauritania	Paraguay*	Vanuatu	
Cambodia	El Salvador	Iraq	Mauritius*	Peru	Vietnam	
Cape Verde		Kenya	Micronesia	Qatar	Yemen*	
		Kiribati	Mongolia	Rwanda	Zambia	

* in process of passing binding limit ** CARICOM voluntary standard *** IS 133- Voluntary Standard

Map of Binding Lead Paint Limits



Countries with Numerical Lead Paint Limits (in parts per million (ppm))

50 ppm	90 ppm	100 ppm	600 ppm	1000 ppm	20,000 ppm
--------	--------	---------	---------	----------	------------

Workplace Restrictions only (no ppm limit):	General restrictions on sale and use of lead paint (no ppm limit):
---	--



LIANCE

Countries with Numerical Lead Paint Limits (in parts per million (ppm))

50 ppm	90 ppm	100 ppm	600 ppm	1000 ppm	20,000 ppm	
Belarus	Canada China* Israel Kyrgyz Rep. Macedonia Montenegro Nepal Philippines Serbia Sri Lanka* United States of America	Switzerland Thailand	Argentina Brazil Chile Costa Rica Dominica Jordan Mexico* Oman Panama	South Africa Republic of Korea Uruguay Trinidad and Tobago	Algeria Australia Armenia New Zealand Zimbabwe	Cuba

Workplace Restrictions only (no ppm limit):	General restrictions on sale and use of lead paint (no ppm limit):				
Antigua and Barbuda* Venezuela Fiji	Austria** Belgium** Bulgaria** Croatia** Cyprus** Czech Republic** Denmark**	Estonia** Finland** France** Germany** Greece** Hungary** Iceland**	Italy** Ireland** Latvia** Liechtenstein** Lithuania** Luxembourg** Malta**	Monaco** Netherlands** Norway** Poland** Portugal** Romania** Russia	Slovakia** Slovenia** Spain** Sweden** Turkey United Kingdom**

*limit applies to soluble lead content only **EU reach country

current technology makes it possible for paint manufacturers to reach lead levels as low as 90–600 ppm total lead if additives are not used

Conclusion



Promote and Establish Regulatory Frameworks

- National and regional/sub-regional efforts should be encouraged to promote the establishment of appropriate regulatory frameworks to control the manufacture, import, export, sale, and use of lead paints and products coated with lead paints
- In the design of the regulatory framework, consideration should be given to the inclusion of provisions for compliance, monitoring, and enforcement

Enhance Public Information Campaigns

- These campaigns should inform the public about the hazards of lead exposure, especially in children; the presence of lead household paints for sale and use on the national market; lead paint as a significant source of childhood lead exposure; and the availability of technically superior and safer alternatives

Conclusion (Cont'd)



Voluntary Action and Labeling

- All paint manufacturers in countries that lack a well-enforced national lead paint control regime should be encouraged to act voluntarily to eliminate lead compounds in the formulation of their paints
- Paint manufacturers are also encouraged to consider voluntary participation in programs that provide third-party certification of no added lead, and product labeling to enable consumers to identify paints that do not contain added lead
- Paint manufacturers could also provide information on paint can labels warning of the serious risk that may arise from lead dust when preparing a previously painted surface for repainting

Emulate previous and similar initiatives

- There is need to emulate the success story of the concerted international initiative of eliminating lead additives from vehicle fuels



THANK YOU

barbara.ruis@unep.org