

The Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade

Adopted September 1998;

Hosted by UNEP and FAO now under the BRS Secretariat

Background

Convention negotiated in response to growth in chemical production and trade in 1970s which concerns about the potential risks posed by hazardous chemicals and pesticides.

Countries lacking adequate infrastructure to monitor the import and use of these chemicals are particularly vulnerable.

In response to these concerns, UNEP and FAO developed and promoted voluntary information exchange programmes in the mid-1980s.

Background

FAO launched the **International Code of Conduct on the Distribution and Use of Pesticides in 1985** and UNEP established the **London Guidelines for the Exchange of Information on Chemicals in International Trade in 1987**.

In 1989, the two organizations jointly introduced the **voluntary Prior Informed Consent (PIC) procedure** into these two instruments. to ensure that governments had the necessary information **to enable them to assess the risks of hazardous chemicals and to take informed decisions on their future import.**

Background

Seeing the need for mandatory controls, officials attending the United Nations Conference on Environment and Development held in 1992 in Brazil (Rio Earth Summit) adopted Chapter 19 of Agenda 21, which called for a legally binding instrument on the voluntary PIC procedure by the year 2000. Consequently, the FAO Council (in 1994) and the UNEP Governing Council (in 1995) mandated their Executive Heads to launch negotiations.

Background

Talks started in March 1996 and concluded in March 1998, after a series of seven meetings of the [Inter-Governmental Negotiation Committee](#) and two years in advance of the deadline set by the Rio Earth Summit.

The text of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade was adopted and opened for signature at the [Conference of Plenipotentiaries](#) held in Rotterdam on 10 September 1998. The Convention entered into force on 24 February 2004, Secretariat FAO/UNEP

Objective

To **promote shared responsibility and cooperative efforts among Parties** in the international trade of certain hazardous chemicals in order to protect human health and the environment from potential harm;

To contribute to their environmentally sound use, by :-

- (i) facilitating **information exchange** about their characteristics;
- (ii) providing for a **national decision-making process on their import and export**;
- (iii) **disseminating** these decisions to Parties.

Trade

Trade under the Rotterdam Convention refers to the export and import of covered chemicals, as defined by article 2 paragraph (f):

the movement of a chemical from one Party to another Party,

It excludes mere transit operations.

Scope of the Convention

Article 3 is clear the Convention applies to:

Banned or severely restricted chemicals; and
to **severely hazardous pesticide formulations.**

A **'chemical'** is defined as a substance whether by itself or in a mixture or preparation and whether manufactured or obtained from nature, but does not include any living organism..." (article 2).

Annex III lists pesticides and industrial chemicals that are subject to the Convention's prior informed consent (PIC) procedure. Additional chemicals have been increased over the years.

Not included in the scope of the Convention

Certain chemicals that are regulated under other international regimes. These are narcotic drugs and psychotropic substances, radioactive materials, wastes, chemical weapons, chemicals used as food additives, and food.

Chemicals in small quantities not likely to affect human health or the environment are also excluded, provided that they are imported for the purpose of research and analysis or by an individual for personal use.

Exchange of Information

The Convention requires Parties to exchange information with respect to the import and export of the covered chemicals.

Procedures established include:

The Prior Informed Consent procedure for chemicals listed in Annex III to the Convention, and

The Export Notification procedure for other banned and severely restricted chemicals not listed yet in Annex III.

The Prior Informed Consent procedure (PIC)

The PIC procedure, along with information exchange, is key.

It consists of a mechanism for formally obtaining and disseminating the decisions of importing Parties as to whether they wish to receive future shipments of those chemicals listed in Annex III of the Convention and for

ensuring compliance with these decisions by exporters. The PIC procedure only applies to the export and import of chemicals listed in Annex III. The Convention stipulates 2 key stages; (1) Import Responses and; (2) follow up Parties' responsibilities.

The Prior Informed Consent procedure (PIC)

Stage 1: Import Responses

Once the chemical is listed in Annex III, thereby becoming subject to the PIC procedure, **Parties**, through their **Designated National Authority (DNA)**, individually pronounce themselves about the future import of the specific chemical.

Parties are required to take a decision as to whether they will allow future import of each of the chemicals in Annex III. The decision may be interim or final and contain a refusal, consent or consent with conditions.

The Prior Informed Consent procedure (PIC)

These decisions, known as **Import Responses**, are published by the Secretariat and made available to all Parties every six months through the PIC Circular and on the Convention's website in the section Import Responses. This way, Parties are informed prior to an export as to whether or not an import has been consented to or not.

Import decisions taken by Parties must be trade neutral. This means that if the Party decides not to accept imports of a specific chemical, it must also stop domestic production of the chemical for domestic use and refuse imports from any source, including from countries that are not Party to the Convention

The Prior Informed Consent procedure (PIC)

Stage 2: Follow up on importing and exporting Party responsibilities

Importing Parties are expected to immediately **disseminate their Import Response** published in the PIC Circular to those concerned **within their national jurisdiction**, namely all relevant agencies that may be involved **in the regulation, production and trade of chemicals in the country**, e.g. government departments, manufacturers, export, industries, department of customs, etc.

Similarly, **exporting Parties** are to **communicate Import Responses** to those concerned in their jurisdiction and **to take the necessary measures** to ensure that exporters within their jurisdiction comply with these.

The Prior Informed Consent procedure (PIC)

Unlike the Basel Convention however, the Rotterdam Convention does not provide for specific consequences in case the export or import is undertaken contrary to the Import Response, and it is up to each Party to consider providing for such consequences in its national legal framework.

The Export Notification procedure

Article 12 provides for an Export Notification Procedure for other chemicals banned or severely restricted by an exporting Party yet not listed in Annex III, namely not subject to the PIC procedure.

Stage 1: Export Notification

The Designated National Authority of the exporting Party planning to export chemicals banned or severely restricted in its territory shall prior provide an Export Notification to the importing Party. It shall contain all the information requirements specified in Annex V of the Convention.

Stage 2: Acknowledgment of Receipt

The Designated National Authority of the importing Party has the obligation to acknowledge receipt of the export notification within 30 days. If it fails, the exporting Party shall submit a second notification.

The listing of chemicals in Annex III of the Convention

There are two **principal means through which new chemicals are identified for inclusion** in Annex III of the Convention. These are:

1. **Notification by Parties** of final regulatory actions to ban or severely restrict a **chemical** for health or environmental concerns; – The obligations of Parties and the process for submissions and review of notifications of final regulatory actions are contained in Article 5 of the Convention. Annex I of the Convention details the information requirements and, Annex II the criteria to be considered by the Chemical Review Committee in reviewing candidate chemicals for inclusion in Annex III of the Convention.

The listing of chemicals in Annex III of the Convention

2. A proposal from a Party which is a developing country or a country with an economy in transition that is experiencing human health or environmental problems with a severely hazardous pesticide formulation (SHPF) under the conditions of use in its territory;

The listing of chemicals in Annex III of the Convention

The **obligations of Parties** and the **process for the submission of proposals** for SHPFs are contained in Article 6 of the Convention.

Parts 1 and 3 of Annex IV of the Convention detail respectively the relevant supporting information required and the criteria considered by the **Chemical Review Committee** in reviewing candidate formulations for inclusion in Annex III of the Convention

The listing of chemicals in Annex III of the Convention

The notification or proposal is verified by the Secretariat. If the notification or proposal meets the information requirements, a draft summary is prepared and published in the PIC Circular.

Once the Secretariat has received two notifications for the same chemical verified as complete from at least two of the seven PIC Regions, the notifications and the supporting documentation are forwarded to the Chemicals Review Committee (CRC) for consideration.

The listing of chemicals in Annex III of the Convention-The Role of CRC

With respect to a proposal for SHPF, the proposal and additional information collected by the Secretariat are forwarded to the **Chemical Review Committee (CRC)** for consideration.

If CRC considers that the information in support of a banned or severely restricted chemical or a severely hazardous pesticide formulation meets the relevant information requirements and criteria set out in the Convention, it will recommend the inclusion of the chemical in Annex III of the Convention to the COP and initiate preparation of a draft decision guidance document.

The listing of chemicals in Annex III of the Convention- Conference of the Parties

In line with Article 7 and Article 22 of the Convention, the Conference of the Parties (COP) will decide whether or not to include a chemical in Annex III of the Convention and, if so, to approve the draft decision guidance document.

The decision to include a chemical in Annex III is to be adopted by consensus and that this decision is legally binding for all Parties.

Once a decision to include a chemical in Annex III of the Convention has been adopted, the Secretariat will circulate the decision and the approved decision guidance document to all Parties with a request that they provide a decision on future imports of the chemical.

Institutional framework

The Conference of the Parties.

The Convention establishes a **Conference of the Parties (COP)** as its main governing body, whose functions are specified in its Article 18, for instance the authority to establish subsidiary bodies. The COP comprises representatives of all the parties to the Convention and it has decision-making power for matters under its purview.

Institutional framework

Under Article 19 of the Convention, a **Secretariat** is established, with, among its functions, that of arranging and servicing meetings of Convention bodies, facilitating assistance to the Parties on request in the implementation of the Convention, and ensuring the necessary coordination with the secretariats of other relevant international bodies. The Secretariat functions are performed jointly by UNEP and the Food and Agriculture Organisation (FAO).

Secretariat

In 2012, a joint head was appointed to the Secretariat of the Basel Convention, the UNEP-part of the Secretariat of the Rotterdam Convention on Prior Informed Consent procedure for certain hazardous chemicals and pesticides in international trade, and the Secretariat of the Stockholm Convention on Persistent Organic Pollutants.

This decision was made by the three meetings of the Conferences of the Parties in the context of the process of enhancing synergies among the three global hazardous chemicals and wastes conventions.

Chemical Review Committee

At its first meeting, the Conference of the Parties established a subsidiary body, **the Chemical Review Committee** to review chemicals and pesticide formulations according to the criteria set out by the Convention and make recommendations to the Conference of the Parties for listing such chemicals in Annex III.

Conclusion

This Convention is now governed by a secretariat located in Geneva referred to as the Basel, Rotterdam, Stockholm (BRS) secretariat under one head and continues to have its separate meetings back to back with other BRS Conventions.

For further information visit the website.