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**Rotterdam Convention on the Prior  
Informed Consent Procedure for Certain  
Hazardous Chemicals and Pesticides in  
International Trade  
Conference of the Parties  
Third meeting  
Geneva, 9–13 October 2006  
Item 6 (i) of the provisional agenda\*  
Issues arising out of previous meetings  
of the Conference of the Parties:  
mechanisms under the Convention  
for information exchange**

## **Mechanisms under the Convention for information exchange**

### **Note by the Secretariat**

1. At its second meeting, the Conference of the Parties to the Rotterdam Convention requested the Secretariat to prepare a paper reviewing the mechanisms under the Convention for information exchange, such as those under articles 7 and 14 and the clearing-house mechanism, and assessing how well they were meeting the needs of the Parties to the Convention.
2. Annexed to the present note is the requested paper on mechanisms for information exchange under the Rotterdam Convention.
3. The Conference may wish to consider the following actions:
  - (a) To take note of the paper;
  - (b) To encourage Parties to make full use of the information exchange provisions under the Convention;
  - (c) To invite Parties to report on their experience in working with other Parties in making use of the information exchange provisions under the Convention;
  - (d) To request the Secretariat to continue to highlight opportunities for the exchange of information under the Convention in working with Parties to develop national plans or strategies for its implementation;

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\* UNEP/FAO/RC/COP.3/1.

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(e) To request the Secretariat, as appropriate, to continue to work with the secretariats of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal and the Stockholm Convention on Persistent Organic Pollutants on broader issues such as information management and chemicals management.

## Annex

# Mechanisms for information exchange under the Rotterdam Convention

## Introduction

1. This paper has been developed in response to a request by the Conference of the Parties to the Rotterdam Convention at its second meeting for a review of the mechanisms under the Convention for information exchange. The issue of information exchange is central to meeting the objective of the Convention. As experience is gained in the implementation of the Convention it is expected that the way in which the specific information exchange provisions of the Convention are met will continue to evolve.

2. This paper is divided into four chapters. Chapter I briefly sets forth the information exchange provisions of the Convention and how they are being met; chapter II briefly defines country needs with respect to information in order to meet Parties' obligations under the Convention; and chapter III sets forth the current experience in the implementation of the information exchange provisions. Chapter IV includes some brief conclusions and describes possible next steps.

## I. Information exchange provisions of the Rotterdam Convention

3. This chapter briefly describes the information exchange provisions of the Convention and the processes that have been developed for their implementation.

4. The objective of the Rotterdam Convention, as set forth in its Article 1, is

“...to promote shared responsibility and cooperative efforts among Parties in the international trade of certain hazardous chemicals in order to protect human health or the environment from potential harm and to contribute to their environmentally sound use...”

It does this in two ways: by facilitating information exchange about their characteristics, and through the prior informed consent (PIC) procedure. Information exchange is thus one of the two key processes by which the objective of the Convention is achieved.

5. Article 5, Procedures for banned and severely restricted chemicals, and Article 6, Procedures for severely hazardous pesticide formulations, require the Secretariat to prepare a summary of the final regulatory actions to ban or severely restrict a chemical or the proposal for a severely hazardous pesticide formulation respectively and circulate them to all Parties every six months. The summaries prepared by the Secretariat are circulated to Parties through appendix I of the PIC Circular.

6. Article 7, Listing of chemicals in Annex III, requires that for each chemical recommended for inclusion in Annex III a decision guidance document should be prepared and that at a minimum it should be based on the information specified in Annex I or, as the case may be, Annex IV. When a decision to list a chemical in Annex III has been taken and the relevant decision guidance document has been approved by the Conference of the Parties, the Secretariat communicates that information to all Parties. Copies of decision guidance documents are provided to all new Parties to the Convention and to new designated national authorities, and are also available on the Convention website.

7. Article 10 and Article 11 set forth, respectively, “Obligations in relation to imports of chemicals listed in Annex III” and “Obligations in relation to exports of chemicals in Annex III”. In the case of Article 10, Parties are obliged to take a decision on future imports of the chemical and to transmit that decision to the Secretariat. The Secretariat informs all Parties of those decisions and of failures to provide a decision every six months through the PIC Circular. In taking those decisions, a Party may consider the information in the decision guidance document. If a Party takes an interim decision, it may make a request to the Secretariat, or to the Party that notified the final regulatory action, for further information. It may also request the Secretariat for assistance in evaluating the chemical (Article 10, subparagraphs 4 (b) (iii) and (iv)).

8. Article 11, in its subparagraph 1 (c), requires that each exporting Party advise and assist importing Parties, upon request and as appropriate, to obtain further information to help them to take a decision regarding future imports of the chemical and to strengthen their capacities and capabilities to manage chemicals safely during their life cycles.

9. Articles 12 and 13 concern exported chemicals. Article 12, Export notification, requires that where a chemical that is banned or severely restricted by a Party is exported that Party shall provide an export notification to the importing Party and that this notification should include the information set forth in Annex V. The export notification is to be sent prior to the first export following adoption of the corresponding final regulatory action and thereafter prior to the first export in any calendar year. The importing Party is to acknowledge receipt of this export notification. Article 13 applies to chemicals that have been banned or severely restricted domestically as well as to chemicals in Annex III. These chemicals are to be subject to labelling requirements that ensure adequate availability of information with regard to risks and/or hazards to human health or the environment taking into account relevant international standards. In the case of chemicals that are used for occupational purposes, each exporting Party is to ensure that a safety data sheet that follows an internationally recognized format setting out the most up to date information available is sent to each importer.

10. Article 14, Information exchange, provides for the exchange of a broad range of information including scientific, technical, economic and legal information as well as summary results of toxicological and eco-toxicological tests for chemicals within the scope of the Convention. In particular, it calls for Parties to facilitate the provision of information directly or through the Secretariat on domestic regulatory actions that substantially restrict one or more uses of a chemical. It also defines the information that is not to be regarded as confidential for the purposes of the Convention.

11. The mechanisms that have been developed in order to facilitate the operation of the aforementioned information exchange provisions of the Convention include the PIC Circular, decision guidance documents, the clearing house and the resource kit.

#### **A. PIC Circular**

12. The PIC Circular is a key document in meeting the information exchange provisions of the Convention. It is through appendices I and II of the Circular that Parties receive summaries of the notifications of final regulatory actions to ban or severely restrict a chemical and of incidents involving pesticide formulations causing problems under the conditions of use. Appendix V of the PIC Circular includes a comprehensive list of every notification of final regulatory action found to meet the information requirements of Annex I received by the Secretariat since September 1998. Interested Parties may contact the designated national authority (DNA) in the country that submitted the notification of final regulatory action or the proposal for a severely hazardous pesticide formulation for additional information on the individual chemicals.

13. The PIC Circular, in appendix IV, provides Parties with a compilation of all the import responses submitted by Parties for chemicals listed in Annex III. It also includes a list of those Parties that have failed to submit an import response for each chemical. The PIC Circular is the official mechanism for transmitting the import decisions for chemicals in Annex III to Parties and is a key reference for exporting Parties in meeting their obligations under Article 11. A list of the contact details for DNAs is circulated with the PIC Circular in order to facilitate contacts between individual DNAs.

14. The PIC Circular is also the one of the means through which the Secretariat meets its obligation under Article 14. The PIC Circular has been used to distribute information on domestic regulatory actions taken by Parties that substantially restrict one or more uses of a chemical (subparagraph 1 (c)). In addition, it is foreseen that the PIC Circular could be used to transmit requests for information by Parties on the transit movements of Annex III chemicals through their territory (paragraph 5).

#### **B. Decision guidance documents**

15. Decision guidance documents are approved by the Conference of the Parties for each chemical listed in Annex III. The content of the decision guidance document has evolved over a number of years and this experience is reflected in the working paper on the structure and content of decision guidance documents developed during the interim PIC procedure and adopted by the first meeting of the

Chemical Review Committee.<sup>1</sup> At its second meeting, the Conference of the Parties, in decision RC-2/2, also adopted a process for the preparation of decision guidance documents.

16. The introduction to a decision guidance document puts the contents of the document in the context of the Convention. It states that the decision guidance document reflects the information provided by two or more Parties in support of their national regulatory actions to ban or severely restrict a chemical. It is also stated that it is not intended as the only source of information on a chemical and that it is not updated or revised following its adoption by the Conference of the Parties.

### **C. Clearing-house mechanism**

17. In its deliberations, the Chemical Review Committee also noted that for any given chemical the available information was continuously evolving. In general, it was not feasible to update a decision guidance document on a given chemical continually. In response to those concerns and in the light of the fact that there may be additional Parties that have taken regulatory actions to ban or severely restrict a chemical in Annex III as well as others that have regulated the chemical without a ban or severe restriction, the Secretariat has established a clearing house on the Convention website that provides an opportunity for Parties to post additional information on their national regulatory actions. This also provides the facility for updated international peer reviewed evaluations such as those of the World Health Organization (WHO) to be posted after the adoption of the decision guidance document.

18. For the chemicals listed in Annex III, all the information available to the Chemical Review Committee is posted on the Convention website. In addition, where available, evaluations from internationally peer reviewed processes such as those of the Food and Agriculture Organization of the United Nations (FAO)/Joint Meeting on Pesticide Residues (JMPR), the International Agency for Research on Cancer (IARC), etc., may be posted, as may safety data sheets.

### **D. Resource kit**

19. The resource kit is a comprehensive source of information on the Convention which has been developed with a range of end users in mind, including the general public, designated national authorities and stakeholders involved in the implementation of the Convention. In particular, section E, on cross-cutting issues, includes information on methodologies for the evaluation of chemicals, on alternative chemicals and also on industrial processes and non-chemical alternatives to the chemicals listed in Annex III. It also includes references to sources of information on individual chemicals that may have been banned or severely restricted domestically, such as safety data sheets and international, peer reviewed evaluations.

## **II. Defining country needs with respect to information exchange in implementation of the Rotterdam Convention**

20. This chapter briefly reviews the information needs of countries with respect to their meeting the key obligations of the Convention. In undertaking this review it is important to distinguish Convention obligations from the broader needs associated with chemicals management generally.

21. The information needs of individual Parties, as they pertain to the implementation of the Convention, vary widely as a function of their chemicals management infrastructure. Each Party must define its own information needs with regard to national decision-making.

22. Article 5, Procedures for banned or severely restricted chemicals, requires Parties to notify the Secretariat of final regulatory actions to ban or severely restrict a chemical. The Convention does not prescribe how a chemical is to be regulated, simply that once such a national decision is taken that the Secretariat must be notified. In describing the final regulatory action, the notifying Party should provide, where available, the information set forth in Annex I of the Convention. In order to facilitate the preparation of those notifications and the processing of the information by the Secretariat and the Chemical Review Committee, a notification of final regulatory action form has been developed to standardize the format in which such notifications are submitted.

23. Article 6, Procedures for severely hazardous pesticide formulations, provides an opportunity for developing country Parties and countries with economies in transition to propose to the Secretariat the listing of formulations in Annex III of the Convention. The preparation and submission of a proposal for

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<sup>1</sup> Working paper on the development of internal proposals and decision guidance documents

a severely hazardous pesticide formulation is not an obligation. The initial proposal must contain the information set out in part 1 of Annex IV, which should briefly describe the formulation and also incidents related to the use of the formulation. This should include the way in which the formulation was used and the adverse effects that resulted. In preparing a proposal the Party may draw upon technical expertise from any relevant source. In order to facilitate the preparation of these proposals and the processing of the information by the Secretariat and the Chemical Review Committee, a set of incident report forms has been developed, one for human health and one for the environment, to standardize the format in which these proposals are submitted.

24. Article 10, Obligations in relation to imports of chemicals listed in Annex III, requires the preparation and submission to the Secretariat of a response regarding the future import of these chemicals. The Convention does not prescribe how such decisions are to be taken. When the Conference of the Parties decides to include a new chemical in Annex III, Parties are provided with a copy of the relevant decision guidance document and requested to provide a response regarding future import of the chemical within nine months. As noted above, a decision guidance document is based on the information specified in Annex I or, as the case may be, annex IV. It is not intended as the only source of information on a chemical.

25. The level of information required to take a decision on future import of a chemical varies widely from Party to Party as a function of their regulatory infrastructures. In some countries, only chemicals that have been registered or otherwise permitted for use are allowed for import. Where a chemical in Annex III is not currently permitted for use, an import decision may be taken relatively easily. Similarly, in countries where chemicals are regulated on the basis of negative lists (e.g., chemicals prohibited for use), it may be that chemicals in Annex III that are not on a national list of prohibited chemicals would be accepted for import. However, there are other countries where individual regulatory decisions on chemicals are required as the basis for import decisions. This includes countries which must undertake full quantitative risk assessments as the basis for national regulatory decisions; countries that use hazard evaluations undertaken in other countries (or from an international assessment) in combination with assessments of exposure under national conditions as a basis for assessing or evaluating the risk associated with a chemical; and countries which do not make national assessments of hazard or risk, but rather adopt regulatory decisions on the use of chemicals taken by regulatory authorities in the United States of America or the European Union.

26. Articles 11–13 set forth the requirements relating to the export of chemicals that are banned or severely restricted nationally as well as those that are listed in Annex III.

27. Article 11 obliges exporting countries to respect the import decisions of importing Parties as published in the PIC Circular. In addition, upon request and as appropriate, they are to assist importing Parties to obtain further information on chemicals in Annex III that would be of assistance in making import decisions. Exporting Parties that are in a position to assist importing Parties in taking import decisions are expected to provide further information on the regulatory status of chemicals in their country or information on possible alternatives. Information of this sort might also be available through section E of the resource kit or through the clearing-house of additional information on Annex III chemicals on the Convention website.

28. Article 12, Export notification, applies to chemicals that have been banned or severely restricted in the exporting Party. Annex V of the Convention specifies the information to be included in an export notification. The information is largely based on that set forth in Annex I which, where available, would have been included in the notification of final regulatory action submitted to the Secretariat. In the case of Annex III chemicals, much of the information would be available in the decision guidance document.

29. Article 13 covers appropriate labelling and sets forth the information to accompany shipments of chemicals that are banned or severely restricted in the exporting Party or included in Annex III. The Harmonized System customs codes assigned by the World Customs Organization (WCO) have been posted on the Convention website and form part of the information distributed to Parties through the resource kit. States members of WCO will also be informed of the existence of these codes through WCO. Similarly, as noted above, safety data sheets for chemicals listed in Annex III and also sources of safety data sheets for a broad range of other chemicals that may be banned or severely restricted domestically are also available on the Convention website. The entry into force of the Globally Harmonized System of Classification and Labelling of Chemicals should further assist Parties in the implementation of the labelling provisions of Article 13.

### III. Experience in the implementation of the information exchange provisions of the Rotterdam Convention

30. This section briefly describes the direct experience of the Secretariat in the implementation of the information exchange provisions of the Convention and feedback from countries that have participated in the associated technical assistance activities. The extent to which Parties make use of the exchange information provisions among themselves is difficult to assess. The information needs of Parties vary widely and the way in which they might be addressed is expected to continue to evolve as experience is gained in the implementation of the Convention.

31. The Secretariat has received few requests for further information on chemicals listed in Annex III and no requests for assistance in evaluating those chemicals, as might be anticipated in the light of Article 10, subparagraphs 4 (b) (iii) and (iv). The extent to which the notifying countries have received requests for further information on Annex III chemicals is uncertain.

32. As noted above, the PIC Circular is the means through which the Secretariat meets its obligation under Article 14 with regard to providing information on domestic regulatory actions. The European Commission has on two occasions requested the Secretariat to circulate information on its specific regulatory actions to Parties.

33. The clearing-house mechanism on the Convention website, on chemicals listed in Annex III, provides an opportunity to post additional information on national regulatory actions submitted by Parties and also international peer reviewed evaluations such as those of WHO. Since the clearing-house was established, risk evaluations relating to a number of chemicals conducted by Australia and by Japan have been posted on the website. Additionally, an assessment undertaken by the United States of America of possible alternatives to asbestos, in a range of use scenarios, has been posted.

34. A key element of the technical assistance activities has been consideration of how to assess the effectiveness of assisting countries to meet their obligations under the Convention. A review of the results and conclusions of the meetings and workshops convened between May 2002 and July 2006 in support of the ratification and implementation of the Convention, together with a consideration of the experience gained, may be found in document UNEP/FAO/RC/COP.3/14, on the regional and national delivery of technical assistance.

35. It is worth noting that some 114 countries participated in the eight regional and subregional training workshops convened between May 2002 and March 2004. The workshop format provided direct feedback to the Secretariat on the documents and processes developed to facilitate the implementation of the interim prior informed consent procedure. The workshop participants concluded that as a result of the training received they had gained a clear understanding of the Rotterdam Convention overall, of the operation of the interim prior informed consent procedure and of the steps needed to proceed to ratification.

36. In addition, as of July 2006, a total of 22 countries had participated in national and regional meetings to develop national action plans or strategies on the ratification and implementation of the Convention. A key component of those national action plans or strategies is the identification of a set of priorities for action. Lastly, a further 16 countries participated in regional meetings aimed at raising awareness of the Convention and supporting ratification. In both sets of meetings, the technical sessions highlighted the operational elements of the Convention and promoted discussion on the implementation of the Convention in individual countries, and in particular provided an opportunity to consider the information needs of countries in the implementation of the Convention. Overall, those meetings provided participants with an opportunity to review the status of implementation of the Rotterdam Convention and to identify barriers to its implementation.

37. As a result of these detailed discussions in individual countries and small groups of countries undertaken between May 2002 and July 2006, a range of challenges to the effective implementation of the Convention were identified (UNEP/FAO/RC/COP.3/14, appendix II). The programme of work proposed in document UNEP/FAO/RC/COP.3/15 on the regional and national delivery of technical assistance for the 2007–2008 biennium addresses most if not all of these issues. A lack of information on chemicals within the scope of the Convention, either those included in Annex III or those banned or severely restricted domestically, was not identified as a problem for countries in meeting their obligations under the Convention.

38. In many countries the challenges identified appear to be more related to an overall question of chemicals management or to information management rather than the availability of information necessary to meet countries' obligations under the Rotterdam Convention. Countries identified the need to work more closely across ministries to share information and to make best use of the information that is available. Overall, the feedback suggests that the information available through the Convention is adequate for Parties in enabling them to meet their obligations.

#### **IV. Conclusions and next steps**

39. This paper reflects the experience of the Secretariat both in working directly with designated national authorities in implementing the Convention and in the feedback received from a broad range of Parties that have participated in technical assistance activities at the national and subregional levels. It is difficult to assess the extent to which Parties utilize the information exchange provisions among themselves.

40. It is also important to distinguish the information needs of Parties relevant to their obligations in terms of implementing the Convention from those concerned with the broader issue of chemicals management. The information needs of Parties relevant to the implementation of the Convention vary widely, largely as a function of their chemicals management infrastructure. Based on the experience of the Secretariat in both responding directly to country requests and through meetings with over 100 countries, a lack of information on chemicals subject to the Convention does not appear to be a general problem in the implementation of the Convention.

41. In many Parties, the challenges faced appear to be more related to an overall question of chemicals management or to information management rather than to the availability of information needed to meet countries' obligations under the Rotterdam Convention. It is clear that countries need to work more closely across ministries to share information and to make the best use of information that is available.

42. The series of national and subregional meetings proposed for the 2007–2008 biennium will provide an opportunity to have information needs under the Convention as an issue for discussion with countries, and to respond to them as necessary on a country-by-country basis. The more general issues that are not necessarily unique to the Rotterdam Convention, such as overall information management and inadequate infrastructure for chemicals management, might be most effectively addressed in cooperation with the secretariats of related conventions such as the Basel and Stockholm Conventions. In addition, such concerns might also be addressed through activities within the framework of the Strategic Approach to International Chemicals Management (SAICM).

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