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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**

**Fourth meeting**

Rome, 27–31 October 2008

Item 5 (a) of the provisional agenda\*

**Implementation of the Convention: status of implementation**

## **Review of the implementation of key obligations under the Rotterdam Convention: Lessons learned and points to consider**

### **Note by the Secretariat**

1. Annexed to the present note is a document prepared by the secretariat which undertakes an initial review of information collected over the last ten years on the implementation of some of the key provisions of the Convention. It has been prepared in order to identify possible lessons that might be learnt from this information, to serve as a basis for discussion by the fourth meeting of the Conference of the Parties and as a guide to future actions that might be taken by Parties and the Secretariat
2. The Conference of the Parties may wish:
  - (a) To consider the outcome of the review of information related to the implementation of the key provisions of the Convention concerning notifications of final regulatory actions; proposals for severely hazardous pesticide formulations and import responses for chemicals listed in Annex III;
  - (b) To provide guidance, in the light of the observations and lessons learned discussed in the annex to the present document, as to possible future action that might be taken by Parties and the Secretariat;
  - (c) To take these observations and lessons learned into account when reviewing the proposed programme of technical assistance for the biennium 2009–2010 under item 6 (b) of the provisional agenda.

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\* UNEP/FAO/RC/COP.4/1.

## Annex

# Review of the implementation of key obligations under the Rotterdam Convention: Lessons learned and points to consider

## Introduction

1. At the time the text of the Rotterdam Convention was adopted in 1998 it was agreed that the provisions of the Convention would be implemented on a voluntary basis until the Convention itself entered into force. The procedures so implemented during the period between the adoption of the text of the Convention in 1998 and the Convention's entry into force in February 2004 became known as the "interim prior informed consent procedure" or "interim PIC procedure". A similar but somewhat different set of prior informed consent procedures had been in place prior to the adoption of the text of the Convention in 1998. They were referred to as the "voluntary prior informed consent procedure" or "voluntary PIC procedure".
2. A substantial body of information has been collected and experience gained in the implementation of the Convention over the last 10 years, including those provisions of the Convention relating to notifications of national regulatory actions to ban or severely restrict chemicals, proposals for severely hazardous pesticide formulations and import responses for chemicals listed in Annex III. In an effort better to understand the progress made in implementing these key provisions of the Convention the Secretariat has undertaken an initial review looking both at the overall information accumulated and trends since the entry into force of the Convention in 2004. The outcome of this review and associated observations set out in the present document may serve as a basis for discussion by Parties and as a possible guide to future actions to be taken by the Parties and the Secretariat.
3. The present document is divided into four chapters. The first three discuss the key operational elements of the Convention set out in Articles 5, 6, and 10, regarding notifications of final regulatory action, proposals for severely hazardous pesticide formulations and import responses. Chapter IV sets out a series of points that the Conference of the Parties may wish to consider based on the information presented in chapters I to III.
4. For the purpose of the present document the 30 member States of the Organization for Economic Cooperation and Development (OECD)<sup>1</sup> are considered as developed countries and non-OECD members as developing countries, which also include countries with economies in transition.
5. Further information on the status of implementation of the Convention, focused on the 2007–2008 biennium is set out in document UNEP/FAO/RC/COP.4/4.

## I. Notifications of final regulatory action

6. Article 5 of the Convention requires each Party that has not already done so to notify the Secretariat at the time the Convention enters into force for the Party of its final regulatory actions to ban or severely restrict chemicals that are in effect at that time. Article 5 also requires each Party to notify the Secretariat of any subsequent such final regulatory action that it takes, within 90 days of the date on which the action has taken effect. Notifications sent in accordance with these provisions must contain the information required by Annex I to the Convention, where available. Notifications submitted prior to 1998 were deemed not to meet the information requirements of the Convention, Parties, however, are not required to resubmit such notifications. A compilation of all of the notifications submitted prior to the adoption of the text of the Convention was published in PIC Circular X in December 1999. For the purpose of this document PIC Circular XI, published in June 2000, is considered as the baseline from which notifications submitted under the interim PIC procedure are measured.

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<sup>1</sup> For the sake of comparison the 30 member States of OECD are to be considered as developed countries and non-OECD members as developing countries or countries with economies in transition. The OECD member States are Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Korea, Slovakia, Spain, Sweden, Switzerland, Turkey, United States of America and United Kingdom of Great Britain and Northern Ireland. All are Parties to the Rotterdam Convention except Iceland, Turkey and the United States of America.

7. Notifications of final regulatory action constitute a key element in the successful operation of the Rotterdam Convention. They fulfil two important functions: first, they facilitate information exchange on potentially hazardous chemicals and, second, they facilitate the identification of chemicals that are potential candidates for listing in Annex III of the Convention.

8. The present chapter reviews all notifications of final regulatory action submitted since the beginning of the interim PIC procedure (effectively from June 2000), together with emerging trends in the submission of notifications over the past five years. It looks at the distribution of notifications across the seven PIC regions, between developed and developing countries and between pesticides and industrial chemicals.

#### A. Notifications of final regulatory action submitted since June 2000

9. Between June 2000 and April 2008 a total of 751 notifications were submitted to the Secretariat by all Parties. The Secretariat published these notifications in PIC Circulars XI to XXVII. Table 1 summarizes the number of Parties in each of the seven PIC regions that have submitted at least one notification, the number of notifications that have been submitted and the number of Parties that have not submitted any notifications.

10. Of the 751 notifications 223 were submitted by developed country Parties, including 33 submissions from the European Union on behalf of its member States. Two developed country Parties (Mexico and New Zealand) have not submitted any notifications of final regulatory action during this period. The remaining 528 notifications were submitted by 31 developing country Parties. Figure 1 indicates the percentage of Parties that submitted notifications in each region.

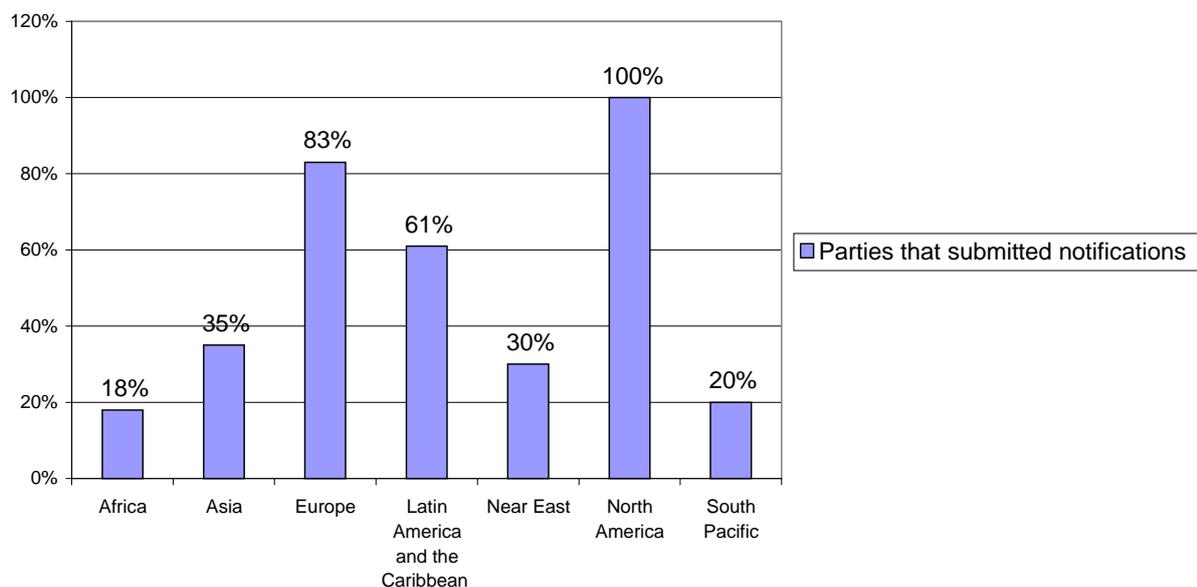
Table 1

**Number of Parties and notifications that have been submitted in each PIC region since the adoption of the Convention (information published in PIC Circular XI (June 2000) to PIC Circular XXVII (June 2008))**

| <i>PIC region</i>               | <i>Number of Parties that submitted at least one notification in each region</i> | <i>Number of Parties that have not submitted any notifications</i> | <i>Number of notifications submitted</i> |
|---------------------------------|--|--|--|
| Africa                          | 6  | 27   | 96                                       |
| Asia                            | 6  | 11   | 129                                      |
| Europe                          | 29   | 6  | 251 <sup>2</sup>                         |
| Latin America and the Caribbean | 11   | 7  | 135                                      |
| Near East                       | 3  | 7  | 104                                      |
| North America                   | 1  | -  | 27                                       |
| South Pacific                   | 1  | 4  | 9  |
| Total                           | 57   | 62   | 751                                      |

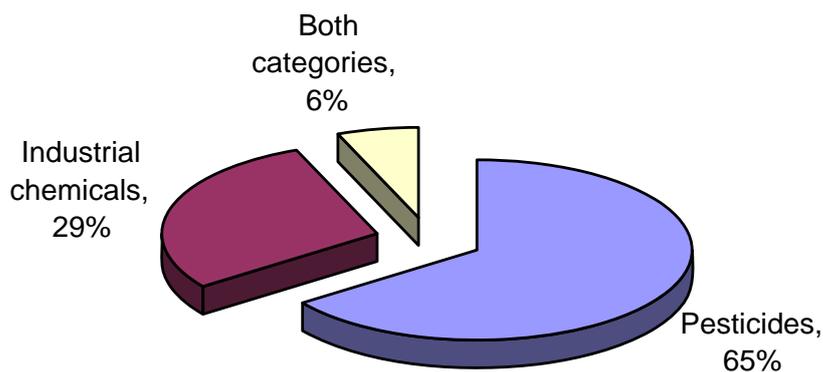
2 This includes 33 notifications submitted by the European Union on behalf of its member States.

Figure 1  
**Percentage of Parties that submitted notifications in each region**



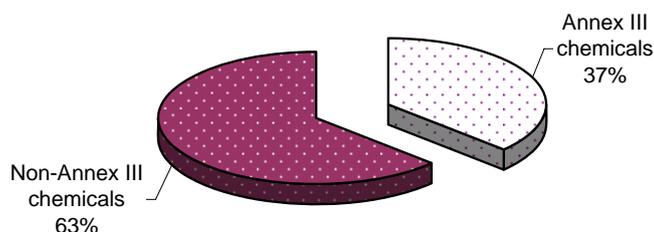
11. The 751 notifications received concerned 216 different chemicals of which 39 are presently listed in Annex III of the Convention. Figure 2 shows that some 65 per cent of the 751 notifications concerned pesticides, while 29 per cent and 6 per cent, respectively, concerned industrial chemicals and chemicals reported to have uses as both pesticides and industrial chemicals. The 177 chemicals not presently listed in Annex III but for which complete notifications have been submitted are potential candidates for inclusion in the Annex.

Figure 2  
**Notifications for chemicals, by category**

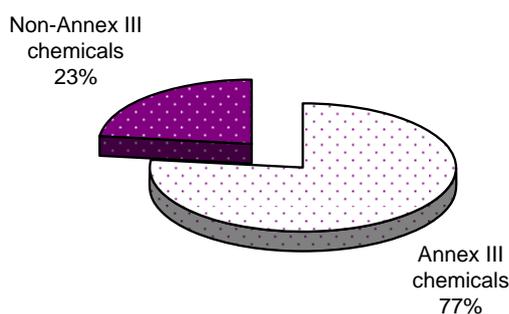


12. The majority of the notifications from developed country Parties relate to chemicals that were not listed in Annex III of the Convention (63 per cent (140/222)) when the notifications were submitted, while the opposite is true for developing country Parties, where 77 per cent (300/415) of the notifications concern chemicals listed in Annex III. The details are shown in figures 3 and 4.

**Fig. 3: Notifications from developed countries**



**Fig.4: Notifications from developing countries**



### Observations and lessons learned

13. As might be expected, developed country Parties have the highest percentage of submitted notifications of final regulatory action, with at least 80 per cent of the Parties in two PIC regions (Europe and North America) having done so. At the same time in four of the seven PIC regions (Africa, Asia, Near East and South Pacific) a maximum of 35 per cent of the Parties have submitted such notifications. The relatively low percentage of Parties from these regions that have provided notifications may be a reflection of the state of chemicals management in those regions.

14. That a majority of the notifications submitted by developing countries concerned chemicals in Annex III of the Convention, while the opposite is the case for developed countries, may in part reflect the fact that many of the chemicals in Annex III are older products for which final regulatory actions may have been taken by developed countries prior to 2000, while they have been regulated more recently by developing countries.

15. Only some 29 per cent of the notifications submitted were for industrial chemicals (versus 65 per cent for pesticides and 6 per cent for dual-use chemicals). This may reflect the fact that while most Parties have some form of system for the regulation of pesticides many lack the infrastructure to regulate industrial chemicals. It might also reflect the fact that the approach to the regulation of industrial chemicals in many countries is substantially different than for pesticides.

16. It is important to note that there are 177 chemicals not listed in Annex III for which at least one complete notification of final regulatory action has been submitted. These notifications represent a significant source of information on potentially hazardous chemicals. They are compiled in Appendix V of the PIC Circular and have been recently made available on line via the PIC database through the Convention website (<http://www.pic.int>). Parties are encouraged to consult these notifications when reviewing these chemicals domestically. At the same time they constitute an important source of chemicals that are candidates for listing in Annex III of the Convention, as a second notification from a different PIC region for any one of these chemicals will result in the chemical being forwarded to the Chemical Review Committee for consideration.

## B. Trends in notifications of final regulatory action submitted between 2003 and 2008

17. In order to identify possible trends, the Secretariat has compiled information on notifications submitted over the last five years. Table 2 shows, for each 12-month period between May 2003 and April 2008, the number of Parties submitting notifications, the number of notifications submitted and the number of notifications that met the criteria of Annex I. The notifications summarized in the table were published in PIC Circulars XVIII to XXVII.

18. It may be noted that a large number of notifications were submitted between May 2004 and April 2005. This may be attributed in part to the entry into force of the Convention in February 2004. As noted above Parties are required to notify all final regulatory actions when the Convention enters into force for them, although they are not obliged to resubmit notifications submitted under the interim PIC procedure or prior to 1998.

19. In part as a result of the continuing discussions on synergies among the Basel Convention on Transboundary Movement of Hazardous Wastes and their Disposal, the Rotterdam Convention and the Stockholm Convention on Persistent Organic Pollutants there has been interest in better understanding possible links between the chemicals proposed for inclusion under the Stockholm Convention and those eligible for listing in Annex III of the Rotterdam Convention. Table 3 provides an overview of the chemicals proposed for inclusion under the Stockholm Convention and whether the proposing country has submitted notifications of final regulatory action under the Rotterdam Convention for the same chemicals. As of June 2008 there were 11 chemicals proposed for inclusion under the Stockholm Convention. Of these, one (lindane) is already listed in Annex III of the Rotterdam Convention while a second (endosulfan) is scheduled for consideration at the fourth meeting of the Conference of the Parties. Of the remaining nine chemicals there is only one (octabromodiphenyl ether) with respect to which the Party proposing its inclusion under the Stockholm Convention (the European Union) has also submitted a notification of final regulatory action under the Rotterdam Convention. None of the Parties proposing the listing of other chemicals under the Stockholm Convention (the European Union, Mexico, Norway and Sweden) has submitted a notification of final regulatory action under the Rotterdam Convention for any of those chemicals.

Table 2

**Number of Parties submitting notifications over each 12-month period between 1 May 2003 and 30 April 2008**

| <i>Reporting period</i> | <i>Number of Parties that submitted notifications that met Annex I requirements</i> | <i>Number of notifications that met Annex I requirements</i> | <i>Number of notifications that did not meet Annex I requirements</i> |
|-------------------------|---|--|---|
| 1 May/07–30 April/08    | 11 <sup>3</sup>   | 46   | 82 from 2 Parties   |
| 1 May/06–30 April/07    | 8 <sup>4</sup>  | 19   | 3 from 1 Party  |
| 1 May/05–30 April/06    | 9 <sup>5</sup>  | 70   | 48 from 2 Parties   |
| 1 May/04–30 April/05    | 15 <sup>6</sup>   | 290  | 7 from 1 Party  |
| 1 May/03–30 April/04    | 9 <sup>7</sup>  | 83   | 17 from 2 Parties   |

3 Of the 11 notifications five were submitted by the European Union, each of which represents its 27 member states that were parties at the time.

4 Of the eight notifications one was submitted by the European Union, which represents its 25 member states that were parties at the time.

5 Of the nine notifications two were submitted by the European Union, each of which represents its 25 member states that were parties at the time.

6 Of the 15 notifications two were submitted by the EU, each of which represents its 25 member states that were parties at the time.

Table 3

**Chemicals proposed for inclusion under the Stockholm Convention and status of notifications under the Rotterdam Convention**

| <i>Candidate chemical for inclusion under the Stockholm Convention</i> | <i>Party proposing inclusion under the Stockholm Convention</i> | <i>Notification from the proposing Party under the Rotterdam Convention</i> |
|--|---|---|
| Pentabromodiphenyl ether   | Norway  | No  |
| Chlordecone  | European Union  | No  |
| Hexabromobiphenyl  | European Union  | No  |
| Lindane <sup>8</sup>   | Mexico  | No  |
| Pfos   | Sweden  | No <sup>9</sup>   |
| Octabromodiphenyl ether  | European Union  | yes   |
| Pentachlorobenzene   | European Union  | No  |
| Alpha hexachlorocyclohexane  | Mexico  | No  |
| Beta hexachlorocyclohexane   | Mexico  | No  |
| Short-chained chlorinated paraffins                                    | European Union  | No <sup>10</sup>  |
| Endosulfan <sup>11</sup>   | European Union  | Yes   |

**Observations and lesson learned**

20. Over this five-year period the number of Parties submitting notifications has been relatively constant. It is interesting to note, however, that at the same time the number of Parties has more than doubled (in May 2004 there were about 50 Parties while in April 2008 there were 119 Parties). One might have expected an increase in the number of notifications as a result of the increasing number of Parties. One reason that this has not occurred may be that more than 80 per cent of the countries that have ratified the Convention since May 2004 are developing countries (approximately 55 out of 67) which may require assistance in order to facilitate the listing of chemicals.

21. In order for a chemical to be considered for listing in Annex III of the Convention there must be at least one notification from each of at least two PIC regions. In general as developed country Parties have well developed regulatory infrastructures for chemicals they might be expected to submit notifications of final regulatory actions that meet all of the requirements of the Convention. The number of notifications submitted by individual developed country Parties varies; some have submitted up to 40 notifications while others have submitted none.

22. Of the 27 Parties to the Convention that are developed countries (members of OECD) 21 are located in a single PIC region: Europe. There are only six developed country Parties outside of Europe: Australia, Canada, Japan, Mexico, Republic of Korea and New Zealand. This fact means that, as developed country Parties are expected to play a key role in the submission of notifications of final regulatory action that meet all of the requirements of the Convention, notifications from the six developed countries outside of Europe are critically important to the prospects for the addition of chemicals to Annex III of the Convention. Since 1998 two of these six countries (Mexico and New Zealand) have submitted no notifications, while the remaining four countries have each submitted from 3 to 24 notifications for non-PIC chemicals found to meet the information requirements of Annex I. Experience with the operation of the Chemical Review Committee suggests that in a number of cases a lack of supporting documentation for the notifications from some of these countries would preclude these notifications from meeting the criteria of Annex II of the Convention, which would in turn prevent their listing in Annex III of the Convention.

23. Notifications submitted from developing countries sometimes fail to meet the information requirements of Annex I of the Convention but as indicated in table 2 the vast majority of the notifications submitted are complete. Parties are obliged to submit notifications of final regulatory action based on information available at the national level. Under its technical assistance programme the

7 Of the nine notifications six were submitted by the EU, each of which represents its 15 member states that were parties at the time.

8 Already listed in Annex III.

9 Soon to be notified by the European Union.

10 Under consideration for notification by the European Union.

11 Candidate chemical to be considered at the fourth meeting of the Conference of the Parties.

Secretariat has worked to assist developing countries in meeting this obligation. This has resulted in an increase in the number and completeness of notifications from developing country Parties. In fact three chemicals (chrysotile asbestos, endosulfan and alachlor) have been recommended by the Chemical Review Committee for inclusion in Annex III based in part on notifications of final regulatory action submitted by developing countries.

24. While many developing countries are able to meet their basic obligation to submit a notification of final regulatory action such notifications sometimes do not meet the criteria of Annex II of the Convention. The reasons for this include inadequate capacity with respect to general or foundational chemicals management, including an established process for national decision making. For pesticides, for which some form of regulatory infrastructure exists in most countries, many countries do not undertake a risk evaluation as a basis for national decision-making. Further, the basis for final regulatory actions is often not adequately documented. In the case of industrial chemicals many countries have no regulatory infrastructure for their management and as a result are not in a position to take national decisions or regulatory action.

25. The low level of notifications for industrial chemicals, and to some extent pesticides, from developed countries may reflect changes in national regulatory practices which result in fewer bans or severe restrictions of chemicals as defined in Article 2 of the Convention.

26. The fact that Parties proposing chemicals for inclusion under the Stockholm Convention have for the most part not submitted notifications of final regulatory action for those chemicals under the Rotterdam Convention (table 3) may reflect the fact that these Parties have not taken national regulatory actions to ban or severely restrict these chemicals. Other Parties, however, may wish to note that the Stockholm Convention's Persistent Organic Pollutant Review Committee, which makes the technical assessment of chemicals and decides whether to recommend their inclusion under the Convention to the Conference of the Parties, compiles information and prepares documents (including a risk profile) in its assessment of chemicals proposed for inclusion under the Convention. These documents and information might provide a sufficient basis for Parties to the Rotterdam Convention to evaluate these chemicals under their national conditions and, if they decide to ban or severely restrict their use, to prepare notifications of final regulatory action to the Secretariat.

## **II. Proposals for inclusion of severely hazardous pesticide formulations**

27. Article 6 provides that any Party that is a developing country or country with an economy in transition may propose the listing in Annex III of the Convention of any severely hazardous pesticide formulation causing problems under the conditions of use in its territory. Unlike notifications of final regulatory action or import responses the submission of such proposals is not mandatory.

28. It is widely recognized that pesticides continue to cause problems under the conditions of use in many countries. Despite this fact only one proposal for inclusion of a severely hazardous pesticide formulation has been submitted since 1998. The formulation that was the subject of the proposal, which was submitted by Senegal, was found to meet the criteria of part 3 of Annex IV of the Convention and was subsequently listed in Annex III of the Convention.

### **Observations and lessons learned**

29. There would appear to be at least three reasons for the lack of proposals concerning severely hazardous pesticide formulations: first, Parties vary in their capacity to collect information on poisonings and to make it available to their designated national authorities; second, where such information is available it is used to take regulatory action at the national level to address the problem; and third, some stakeholders are for political reasons unwilling to announce national problems with hazardous pesticide formulations.

30. The Secretariat will continue to work with Parties to develop their capacities to collect information on poisonings and to make such information available to designated national authorities. It is important, however, to consider that the submission of a proposal may not be the only measure of success of the Convention. The Secretariat will also work with Parties in an effort better to understand the extent to which increased awareness of the Rotterdam Convention has resulted in action being taken at the national level to manage and prevent problems with severely hazardous pesticide formulations.

### III. Obligations in relation to the import of chemicals listed in Annex III

31. Under Article 10 of the Convention, Parties must decide whether they will allow the import into their territories of the chemicals listed in Annex III and must then notify the Secretariat of their decision by submitting what is termed an “import response”. An import response may indicate that a Party consents to import, that it does not consent to import or that it consents to import subject to specified conditions. Article 10 thus requires that each Party, no later than the date of entry into force of the Convention for it, transmit to the Secretariat import responses for each chemical that is listed in Annex III on the date the Convention enters into force for the Party. A Party that transmitted import responses for any such chemicals under either the voluntary or interim PIC procedures, however, need not resubmit those responses. For each chemical listed in Annex III after the entry into force of the Convention for a Party, the Party must transmit an import response as soon as possible but no later than nine months after the date of dispatch of the decision guidance document relating to the chemical. Parties exporting chemicals listed in Annex III are obliged to ensure that exporters in their countries comply with the decisions in the import responses published in the PIC Circular. The timely submission of import responses for all chemicals in Annex III is essential for the effective operation of the PIC procedure.

32. The present section discusses all import responses submitted as of 30 April 2008 and possible trends in the submission of import responses over the past five years. It looks at the distribution of import responses across the seven PIC regions, between developed and developing countries and between pesticides and industrial chemicals.

#### B. Import responses submitted as of 30 April 2008

33. As of 30 April 2008 a total of 3272 import responses had been submitted to the Secretariat by 109 Parties for the 39 chemicals listed in Annex III. These import responses were published in PIC Circular XXVII in June 2008.

34. Table 4 shows the number of Parties in each PIC region that have provided import responses for some or all PIC chemicals and those that have provided none.. Figure 5 shows the average rates of import response by region for pesticides and industrial chemicals

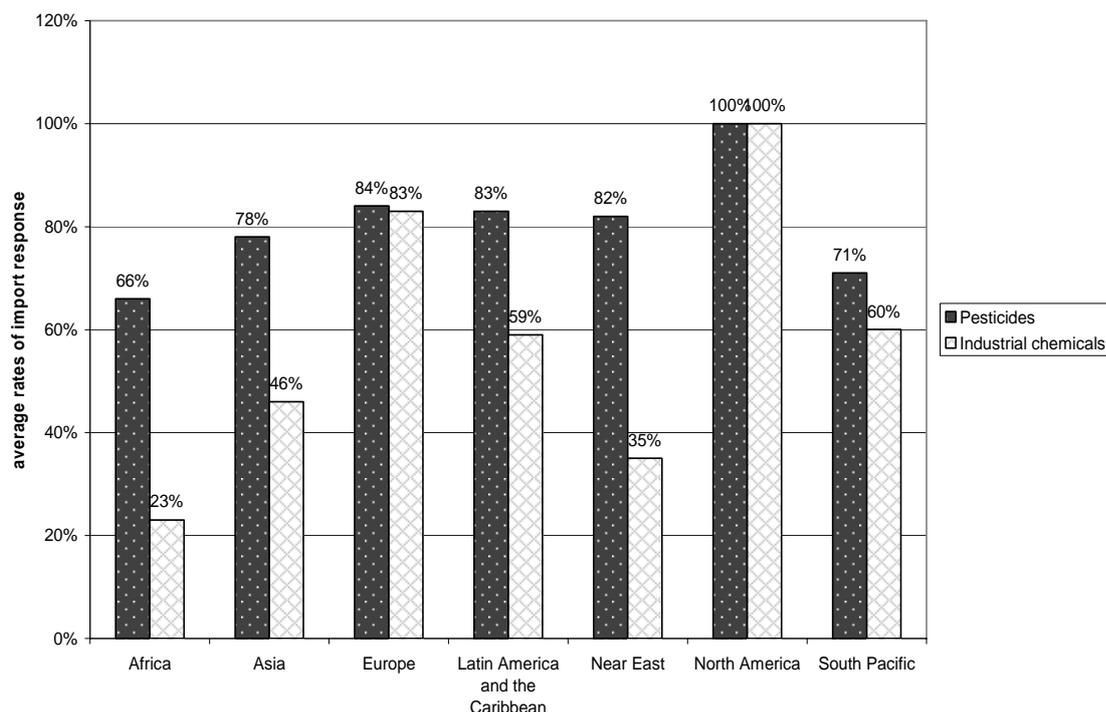
35. A total of 48 Parties have submitted import responses for all 39 chemicals in Annex III. Of these, 25 are developed country Parties and 23 are developing country Parties. A total of 10 Parties, primarily from the Europe and Africa PIC regions, have submitted no import responses. These 10 Parties are Djibouti, Equatorial Guinea, Eritrea, Georgia, Libyan Arab Jamahiriya, Maldives, Marshall Islands, Moldova, Namibia and Ukraine.

Table 4

**Number of Parties submitting import responses and number of Parties submitting no import responses in each PIC region between June 2000 and April 2008**

| <i>PIC region</i>               | <i>Parties that have submitted between 1 and 38 responses</i> | <i>Parties that have submitted responses for all 39 chemicals</i> | <i>Parties that have submitted no import responses</i> |
|---------------------------------|---|---|--|
| Africa                          | 25  | 3   | 5  |
| Asia                            | 11  | 5   | 1  |
| Europe                          | 4   | 28  | 3  |
| Latin America and the Caribbean | 11  | 7   | -  |
| Near East                       | 9   | 1   | -  |
| North America                   | -   | 1   | -  |
| South Pacific                   | 2   | 2   | 1  |
| Total                           | 62  | 46  | 10   |

Fig. 5: Average rates of import response for pesticides and industrial chemicals



36. The average response rate among all Parties for all chemicals is 71 per cent. Across the seven PIC regions the average rate of import response for pesticides is 77 per cent, which reflects a range of response rates from 66 to 100 per cent. For industrial chemicals the average rate of response is 53 per cent, reflecting a range of response rates from 23 to 100 per cent.

37. The PIC procedure provides a mechanism for preventing unwanted trade in the chemicals listed in Annex III, it is not a recommendation to ban or severely restrict the use of these chemicals. The Stockholm Convention is focused on 12 chemicals; of those that are intentionally produced eight are also subject to the PIC procedure. Of these, seven are listed in Annex A of the Stockholm Convention and are targeted for elimination while one is listed in Annex B and restricted. Table 5 briefly summarizes the status of import responses submitted by Parties where there has been consent to import. It presents information on import responses for chemicals listed in Annex III and those that are targeted for elimination (Annex A) or restricted (Annex B) under the Stockholm Convention separately.

Table 5

**Summary of import responses provided by Parties for chemicals subject to the prior informed consent procedure**

| <i>Group of chemicals</i>   | <i>Range of import decisions indicating "consent" or "consent subject to conditions"</i> |
|---|--|
| Pesticides in Annex III of the Rotterdam Convention and in Annex A of the Stockholm Convention <sup>12</sup>            | 4–8 per cent   |
| Industrial chemicals in Annex III of the Rotterdam Convention and in Annex A of the Stockholm Convention (PCBs)         | 21 per cent  |
| Pesticides in Annex III of the Rotterdam Convention and in Annex B of the Stockholm Convention (DDT)                    | 13 per cent  |
| Pesticides in Annex III of the Rotterdam Convention but not in Stockholm Convention (21 pesticides)                     | 5–43 per cent  |
| Industrial chemicals in Annex III of the Rotterdam Convention but not in Stockholm Convention (10 industrial chemicals) | 18–85 per cent   |

12 Aldrin, chlordane, dieldrin, heptachlor, hexachlorobenzene and toxaphene.

38. As might be expected for the older organochlorine pesticides targeted for elimination under the Stockholm Convention, only a relatively small percentage of import responses, from 4 to 8 per cent, indicate consent to import. Some of these responses were submitted prior to the entry into force of the Stockholm Convention, however, and Parties may not have updated their import decisions simply because there is little evidence of continuing trade in these chemicals.

39. Thirteen per cent of the import responses relating to the pesticide DDT, for which use exemptions exist under the Stockholm Convention, indicate consent to import, while 21 per cent of the responses for the industrial chemical PCBs do so, the latter perhaps reflecting the time line for their planned elimination under the Stockholm Convention in 2025.

40. For the other chemicals in Annex III the number of import responses for pesticides that indicate consent to import ranges from 5 per cent for 2,4,5-T and its salt and esters to 43 per cent for severely hazardous pesticide formulations of methamidophos. Similarly, the number of import responses for industrial chemicals that indicate consent to import ranges from 18 per cent for amosite of asbestos and 85 per cent for tetraethyl and tetramethyl lead. These broad ranges of import responses reflects the continued use of some of these chemicals by Parties to the Convention and supports the view that the listing of a chemical in Annex III is not necessarily seen as a call to ban or severely restrict the use of that chemical.

#### **Observations and lessons learned**

41. Overall the average level of import responses for pesticides is reasonably consistent across the PIC regions, particularly if corrected for those Parties that have submitted no import responses. An increasing number of Parties have provided import responses for the 24 pesticide active ingredients listed in Annex III. The response rate for the severely hazardous pesticide formulations is lower. The average import response rate for industrial chemicals varies more widely across the PIC regions, with the lowest responses rates being reported in the Africa, Near East and Asia PIC regions (see figure 5).

42. This differential rate of import responses between pesticides and industrial chemicals is consistent with the observation concerning notifications of final regulatory actions for these two types of chemicals. It may also be considered as a further reflection of the fact that while most countries have some mechanism for the regulation of pesticides many lack the infrastructure to regulate industrial chemicals, including the ability to take decisions on whether to allow their import. This inability to take decisions on the future import of industrial chemicals would be expected to reduce the effectiveness of the PIC procedure under the Convention in preventing unwanted trade in these chemicals.

43. Almost 50 per cent of the Parties that have submitted import responses for all 39 chemicals are developing country Parties from across the seven PIC regions. That there are developing country Parties that have been able to submit responses for all 39 chemicals suggests that the underlying reasons for the failure of some Parties to submit any import responses may be not be solely due to a lack of technical capacity.

44. The issues surrounding the lack of import decisions in individual countries are complex. In some instances countries have not submitted import responses because the chemicals at issue are no longer, or have never been, allowed to be used. In others the import of a chemical can only be refused if that chemical has been subject to a national regulatory action to ban it. In particular where a chemical has not been used in a country such decisions are not viewed as a priority. The Secretariat through its technical assistance programme has worked to ensure that Parties understand the importance of import responses in preventing unwanted trade in chemicals subject to the PIC procedure and to assist and advise Parties in taking national decisions on future imports based on their national conditions. The subregional and regional meetings of designated national authorities in particular provide an opportunity to share experiences in taking decisions on the import of chemicals listed in Annex III and should help to increase the response rate across developing country Parties.

45. Where Parties have provided import responses for the chemicals listed in Annex III the substantial number of those that consent to import reflects the continued use of these chemicals by Parties to the Convention. This too reinforces the view that the listing of a chemical in Annex III does not automatically lead to national actions to ban or severely restrict its use.

46. To ensure they are complying with their obligations under the Stockholm Convention, Parties may wish to review their import decisions for the chemicals subject to the Stockholm Convention, in particular the pesticides listed in Annex A of that Convention, and inform the Secretariat if they wish to update their import responses.

## B. Trends in import responses submitted between 2003 and 2008

47. In order to identify emerging trends, information on import responses submitted over the last five years has been compiled. Table 6 sets out the number of import responses submitted per year between May 2003 and April 2008 and published in PIC Circulars XVIII to XXVII, along with the number of Parties that submitted the import responses.

48. The table shows an increase in the number of responses submitted between May 2004 and April 2005, which may be attributed in part to the entry into force of the Convention in February 2004. As noted previously Parties are to submit import responses for all chemicals listed in Annex III when the Convention enters into force for them but they are not obliged to resubmit import responses submitted during the interim PIC procedure or prior to 1998.

Table 6

**Number of Parties submitting import responses and number of import responses received over the 12-month period between 1 May 2003 and 30 April 2008**

| <i>Reporting period</i>  | <i>Parties responding</i> | <i>Import responses</i> |
|--------------------------|---------------------------|-------------------------|
| 1 May 2007–30 April 2008 | 16                        | 193                     |
| 1 May 2006–30 April 2007 | 19                        | 185                     |
| 1 May 2005–30 April 2006 | 35                        | 375                     |
| 1 May 2004–30 April 2005 | 44                        | 822                     |
| 1 May 2003–30 April 2004 | 39                        | 296                     |

### Observations and lessons learned

49. The 14 chemicals included in the interim PIC procedure were formally adopted and listed in Annex III of the Convention at the first meeting of the Conference of the Parties in October 2004. The associated decision guidance documents were resent to all Parties in February 2005 with a request that they submit import responses if they had not done so previously. Since that time no new chemicals have been listed in Annex III.

50. The fall in the number of Parties submitting import responses may be accounted for in part by the fact that the number of chemicals listed in Annex III has been unchanged since the first meeting of the Conference of the Parties with the result that the Parties have by now submitted import responses for all or most of the chemicals that are important to them.

51. As the rate at which new Parties ratify the Convention slows and with no new chemicals being added to Annex III it is to be expected that the number of import responses submitted will continue to decline until it reaches some form of steady state reflecting the rate at which Parties change or update their previous import decisions.

52. The listing of new chemicals in Annex III will provide a possible measure of the ability of Parties to take decisions on the future imports of such chemicals and serve as a possible indicator of the effectiveness of the Convention.

## IV. Points to consider and possible next steps

53. In the light of the observations and lessons learned from the review of information on notifications or final regulatory action, severely hazardous pesticide formulations and import responses set out in the preceding chapters the Conference of the Parties may wish to consider the following points as a basis for possible future action by Parties and the Secretariat and to take them into account when reviewing the proposed programme of technical assistance for the biennium 2009–2010 under item 6 (b) of the provisional agenda.

54. The Conference of the Parties may also wish:

(a) To note the importance of adequate national infrastructure for industrial chemicals management in developing countries to the preparation and submission of notifications of final regulatory action to ban or severely restrict such chemicals and in taking and reporting decisions on the import of chemicals listed in Annex III of the Convention;

- (b) To note the importance of adequate national infrastructure for pesticide and industrial chemical management in developing countries to the preparation and submission of notifications of final regulatory action to ban or severely restrict such chemicals and in taking and reporting decisions on the import of chemicals listed in Annex III of the Convention;
- (c) To encourage all Parties to make use of the information on national regulatory actions to ban or severely restrict chemicals available under the Convention and the evaluations of chemicals by the Stockholm Convention Persistent Organic Pollutant Review Committee to strengthen national decision-making on chemicals;
- (d) To invite Parties, in particular developed country Parties, that have taken final regulatory actions to notify the Secretariat of such actions within the timeframe established by the Convention, if they have not yet done so, as notifications are key to the addition of chemicals to Annex III and the continued effectiveness of the PIC procedure and information exchange;
- (e) To draw the attention of Parties to the 177 chemicals for which at least one complete notification has been submitted and propose that when preparing notifications of final regulatory action to give priority to those chemicals as a means of facilitating the identification of candidate chemicals for listing in Annex III;
- (f) To review current regulatory processes for industrial chemicals and pesticides to determine their relationship to the definitions of banned or severely restricted chemicals in Article 2 of the Convention;
- (g) To invite Parties that have proposed chemicals for inclusion under the Stockholm Convention and have also subjected such chemicals to domestic regulatory action to ban or severely restrict their use to submit notifications of final regulatory action pertaining to such chemicals to the Secretariat in accordance with Article 5 of the Convention;
- (h) To note the importance of Parties having adequate capacity to collect information on pesticides poisonings and to make such information available to their designated national authorities;
- (i) To consider the extent to which political concerns prevent the submission of proposals to list severely hazardous pesticide formulations in Annex III of the Convention;
- (j) To invite Parties that have yet to submit import responses for all of the chemicals listed in Annex III, in particular industrial chemicals, to do so in a timely manner, as it is essential for the effective operation of the PIC procedure;
- (k) To invite Parties to review and update as necessary their import responses for chemicals listed in Annex III, with particular attention to those that are also subject to the Stockholm Convention;
- (l) To note the substantial number of import responses which indicate consent to continued trade in chemicals listed in Annex III and to reaffirm that the listing of a chemical in Annex III does not constitute a recommendation to ban or severely restrict its use.
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