

GUIDANCE  
TO DESIGNATED NATIONAL  
AUTHORITIES  
on the operation  
of the  
ROTTERDAM CONVENTION



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Secretariat for the Rotterdam Convention  
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## List of Abbreviations

BSR	banned or severely restricted
COP	Conference of the Parties
CRC	Chemical Review Committee
DGD	Decision Guidance Document
DNA	Designated National Authority
FAO	Food and Agriculture Organization of the United Nations
ICRC	Interim Chemical Review Committee
INC	Intergovernmental Negotiating Committee
PIC	Prior Informed Consent
POPs	persistent organic pollutants
REIO	Regional Economic Integration Organization
SHPF	severely hazardous pesticide formulation
UNCED	United Nations Conference on Environment and Development
UNEP	United Nations Environment Programme

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## ▶ 1.1 INTRODUCTION AND PURPOSE OF THIS GUIDANCE DOCUMENT

The text of the Rotterdam Convention on the Prior Informed Consent (PIC) Procedure for Certain Hazardous Chemicals and Pesticides in International Trade was adopted at a Conference of Plenipotentiaries in Rotterdam on 10 September 1998. The Convention entered into force on 24 February 2004. For those unfamiliar with the details of the Convention, the obligations on participating countries and the operation of the Convention may seem complex and daunting to implement.

The primary purpose of this document is to provide guidance to Designated National Authorities (DNAs) on the rights and obligations of Parties under the Convention.

To facilitate the work of the DNAs, the guide includes:

- Background and contextual information to countries on the purpose and function of the Rotterdam Convention.
- A step-by-step plain English explanation of the responsibilities of countries as Parties to the Convention. Each section of the guide may be used separately; as such, there is some redundancy between sections.
- A checklist as a guide to DNAs on actions that are required under the Convention.

The appendices to the guide include the text of the Convention and forms and instructions developed in support of the key operational articles (Annexes 7.3 and 7.5, respectively). They are included here in order to provide a comprehensive reference on the implementation of the Rotterdam Convention. A section on "Frequently Asked Questions" ("FAQs") has also been included, based on the experience of the Secretariat in working with countries to implement the Convention (Annex 7.6). This guidance document, and in particular the "FAQs" section, is not intended to interpret the Convention but rather to provide simple guidance to governments. The Rotterdam Convention web site ([www.pic.int](http://www.pic.int)) is an important source of current information on the operation and status of implementation of the Convention. Copies of all relevant forms and instructions, meeting reports etc., may be found therein.

## ▶ 1.2 ORIGINS OF THE ROTTERDAM CONVENTION

### 1.2.1 Code of Conduct and London Guidelines

Increased production, trade and use of chemicals during the 1960s and 1970s coincided with a growing awareness and concern of the risks that the use of hazardous chemicals could pose to human health and the environment. In addition, there were concerns that regulatory action in some countries to ban or restrict the use of certain chemicals could result in these same chemicals being exported to other countries where regulatory systems, infrastructure and resources were sometimes not adequate to assess and control the risks.

In response to these concerns FAO developed the voluntary *International Code of Conduct on the Distribution and Use of Pesticides* (the Code). The Code was adopted in 1985, and amended in 1989 and again in November 2001 to reflect changing trends in pest and pesticide management. In parallel with these initiatives, UNEP developed the *London Guidelines for the Exchange of Information on Chemicals in International Trade* to assist countries in managing the risks associated with industrial chemicals.

### 1.2.2 Original Prior Informed Consent (PIC) Procedure

In 1989, both the FAO Code of Conduct and the London Guidelines were amended to address issues related to the export of pesticides from a country that had itself domestically banned these pesticides. At that time, the Governing Bodies of FAO and UNEP agreed to work co-operatively and in 1992 implemented a joint programme on the Prior Informed Consent (PIC) Procedure. This became known as the **original PIC procedure** and remained in operation until the adoption of the text of the Rotterdam Convention in September 1998.

The original PIC procedure was supported by the FAO/UNEP Joint Group of Experts on Prior Informed Consent, established to provide technical assistance in the assessment of candidate chemicals. During this period, the Expert Group met eight times and agreed to include 17 pesticides, five severely hazardous pesticide formulations (SHPFs) and five industrial chemicals in the PIC procedure.

### 1.2.3 Process for the development of the Convention

#### UNCED Agenda 21, Chapter 19

In 1992, the United Nations Conference on Environment and Development (UNCED) recommended that the PIC procedure should be further developed into a legally-binding instrument (Agenda 21, Chapter 19, paragraph 19.39d). Following this recommendation, the FAO Council agreed at its 107th Session in November 1994 that “the Secretariat should proceed with the preparation of a draft legally-binding instrument on the operation of the PIC procedure as part of the joint FAO/UNEP programme on PIC and in cooperation with other international and non-governmental organizations concerned.” The Council also “agreed that the Organization should seek resources, jointly with UNEP, to finance the process for the preparation and conclusion of the legally binding instrument”. Subsequently the Governing Council of UNEP, at its 18th Session in May 1995, authorized the Executive Director to prepare for and convene, together with FAO, an intergovernmental negotiating committee (INC). Its mandate was to prepare an international legally-binding instrument for the application of the PIC procedure for certain hazardous chemicals and pesticides in international trade (Decision GC 18/12).

#### 1.2.4 Negotiation Process and Interim Arrangements

Commencing in March 1996, UNEP and FAO convened five meetings of the Intergovernmental Negotiating Committee (INC). Governments, inter-governmental and non-governmental organizations attended the negotiating sessions. The fifth and final negotiating session was held in Brussels, Belgium from 9 to 14 March 1998.

The text of the Convention agreed at the fifth session of the INC was adopted on 10 September 1998 in Rotterdam, The Netherlands as the “Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade”. At the time, a total of 62 governments signed the Convention and 80 governments signed the Final Act.

The Convention remained open for signature at the UN Headquarters in New York from 12 September 1998 until 10 September 1999, at which time 72 States and one regional economic integration organization had signed the Convention.

The Conference agreed that the 27 chemicals that were subject to the original PIC procedure should be included in Annex III of the Convention.

The Conference also adopted a resolution on interim arrangements so that the original PIC procedure might continue to operate, pending the entry into force of the Convention, and to prepare for its effective operation once it entered into force. The resolution made changes to the original PIC procedure to bring it in line with the provisions of the Convention. During the interim period, the PIC procedure was consequently known as the **interim PIC procedure**. During the interim period, any state or regional economic integration organization that nominated a designated national authority (DNA) was considered as participating in the interim PIC procedure. FAO and UNEP jointly provided the secretariat.

The Rotterdam Convention entered into force on 24 February 2004, 90 days after the 50<sup>th</sup> instrument of ratification, acceptance or accession to the Convention was deposited in New York. The first meeting of the Conference of the Parties was convened in September 2004.

## ▶ 1.3 WHAT IS THE ROTTERDAM CONVENTION?<sup>1</sup>

### 1.3.1 Objective

The overall objective of the Convention is 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 and contribute to environmentally sound use of these chemicals.

### 1.3.2 Scope - Chemicals covered

The chemicals eligible for inclusion in the Rotterdam Convention are industrial chemicals and pesticides that have been banned or severely restricted for health and environmental concerns. A group of pesticides called severely hazardous pesticide formulations (SHPFs) are also included. This latter group refers to pesticide formulations found to cause health or environmental problems under the conditions of use in a developing country or a country with an economy in transition.

On the adoption of the text of the Convention (September 1998) the 27 chemicals listed in Annex III of the Convention included 17 pesticides, five severely hazardous pesticide formulations and five industrial chemicals. Between September 1998 and entry into force of the Convention, 15 additional chemicals were identified for inclusion in the interim PIC procedure. For a current list of the chemicals included in Annex III of the Rotterdam Convention consult the Rotterdam Convention Web site [www.pic.int](http://www.pic.int) or Appendix II of the most recent PIC Circular (see Section 3.3.1).

<sup>1</sup> The full text of the Convention may be found in Annex 7.3 to this guide.



### 1.3.3 What the Convention is and What the Convention is not

#### What the Convention is

The Convention is a multilateral environmental agreement whose primary purpose is to protect human health and the environment. It does this by facilitating information exchange on chemicals that have been banned or severely restricted by one or more national governments as well as severely hazardous pesticide formulations (SHPF) causing problems under the conditions of use in developing countries or countries with economies in transition.

The PIC procedure is an integral part of the Rotterdam Convention. For those chemicals listed in Annex III of the Convention, it provides countries with a means to assess the risks associated with their use and to decide whether or not they will allow future imports. It also provides a means for formally obtaining and disseminating the decisions of countries regarding future imports of these chemicals. Exporting Parties are obliged to ensure that exports do not occur contrary to these decisions.

In cases where a chemical has been banned or severely restricted by an exporting country, but is not subject to the PIC procedure (i.e. included in Annex III of the Convention), this same type of information should still be provided by the exporting country.

#### What the Convention is not

The listing of a chemical in Annex III of the Rotterdam Convention is not a recommendation to ban or severely restrict its use. The decision to include a chemical in Annex III is triggered by the final regulatory actions to ban or severely restrict a chemical by at least two Parties from two different PIC regions (see Section 1.4.4). Pesticide formulations causing problems under the conditions of use in a Party that is a developing country or country with an economy in transition may also be included. Parties to the Convention are expected to make their own informed decisions regarding the future import and use of chemicals listed in Annex III and subject to the PIC procedure. It is not intended that these chemicals be automatically subject to national regulatory actions to ban or severely restrict their use.

### 1.3.4 Relationship to other "Chemicals Conventions"

Other international conventions for the management of chemicals exist in tandem with the Rotterdam Convention. These include the Stockholm Convention on Persistent Organic Pollutants and the Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and Their Disposal. Each of these agreements is related in its aim to manage chemicals, but is distinct in scope, objectives and function.

### Stockholm Convention on Persistent Organic Pollutants (POPs)

The Stockholm Convention on Persistent Organic Pollutants (POPs) seeks the elimination or restriction of production and use of all intentionally produced POPs (i.e. industrial chemicals and pesticides). It also seeks the continuing minimization and, where feasible, ultimate elimination of the releases of unintentionally produced POPs such as dioxins and furans.

The Convention will initially apply to 12 chemicals. Six of the pesticides and two industrial chemicals included in the Stockholm Convention are also subject to the Rotterdam Convention. They include: polychlorinated biphenyls (PCBs), aldrin, dieldrin, DDT, chlordane, hexachlorobenzene, toxaphene and heptachlor.

It is important to recognize that chemicals are included in the Stockholm Convention based on a defined set of characteristics including their toxicity, potential for bio-accumulation, environmental persistence and transboundary movement to locations remote from their release. However, it should be noted that chemicals are not subject to the Stockholm Convention because of any national regulatory action to ban or severely restrict their use.

Chemicals that are subject to final regulatory actions to ban or severely restrict their use, demonstrating one or more of the characteristics stated above, would be candidates for inclusion in the Rotterdam Convention. Therefore, some chemicals will be subject to both Conventions. Ultimately it is expected that most, if not all, of the pesticides and industrial chemicals identified for inclusion in the Stockholm Convention will have already been subject to the Rotterdam Convention. Further information on the Stockholm Convention may be found at [www.pops.int](http://www.pops.int).

### Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal

The Basel Convention sets out a global mechanism for the control of the transboundary movement of hazardous and other wastes. It has similarities to the Rotterdam Convention in that it promotes information exchange and has provisions to control trade. The Rotterdam Convention specifically excludes wastes. Therefore, a chemical that has become a waste will fall within the scope of the Basel Convention rather than the Rotterdam Convention. Further information on the Basel Convention may be found at [www.basel.int](http://www.basel.int).



## 1.4 HOW THE ROTTERDAM CONVENTION OPERATES – KEY ELEMENTS

### 1.4.1 The Prior Informed Consent (PIC) Procedure

The prior informed consent (PIC) procedure applies to the chemicals listed in Annex III of the Convention. For each of these chemicals a document, known as a Decision Guidance Document (DGD), is prepared and sent to all Parties with a request that they take a decision as to whether or not they will allow future import of this chemical. These decisions, known as import responses, are sent to the Secretariat. The Secretariat compiles these decisions and circulates them to all Parties every six months via the PIC Circular (see Section 3.3.1).

All Parties are required to ensure that exports of chemicals subject to the PIC procedure do not occur contrary to the decision of an importing Party. This means that an export must not be made to a Party that has indicated that it does not wish to receive imports of these chemicals. Similarly, if the importing Party has indicated that it will allow import subject to certain condition(s), then the exporting Party must ensure that exports to that importing Party are subject to these condition(s).

The key is that shipments of these chemicals from exporting Parties do not take place without the **prior informed consent** of the importing Party.

### 1.4.2 Information Exchange

The Convention contains several provisions pertaining to information exchange. These include Parties receiving summaries of all notifications of final regulatory actions to ban or severely restrict chemicals as well as proposals for severely hazardous pesticide formulations (SHPFs). The Convention requires Parties, that have banned or severely restricted a chemical in their own territory, to notify individual importing Parties of the first proposed export in each calendar year (see section 4 Export Notification). Exports of such chemicals, as well as those subject to the PIC procedure (listed in Annex III of the Convention), are to be appropriately labelled and accompanied by basic health and safety information in the form of a safety data sheet. In addition, Parties have access to information about the DNA(s) in every other Party. The Convention also contains general obligations for the provision of information on chemicals to be made publicly available, as well as to be provided when requested by other Parties.

### 1.4.3 Key Documents

#### The text of the Rotterdam Convention

The text of the Convention sets out the provisions and obligations that apply to all Parties. A copy of the full text of the Convention is included in Annex 7.3 to this document. Copies of the text of the Convention in six languages (Arabic, Chinese, English, French, Russian and Spanish) can be obtained from the Secretariat or

downloaded from the Rotterdam Convention web site ([www.pic.int](http://www.pic.int)).

#### Forms and Instructions

The Secretariat has developed a set of forms and instructions to facilitate the implementation of the key operational articles of the Convention. These include:

- Notification of Final Regulatory Actions form and instructions (Article 5);
- Import Response form and instructions (Article 10);
- Severely Hazardous Pesticide Formulations (SHPF) Incident Report forms (one for human poisoning incidents and one for environmental incidents) and instructions (Article 6).

Copies of these forms have been included in Annex 7.5 to this guide. Additional copies can be obtained from the Secretariat or downloaded from the Rotterdam Convention web site ([www.pic.int](http://www.pic.int)).

#### PIC Circular

The PIC Circular is one of the key documents in the operation of the Rotterdam Convention. It provides information to Parties on the status of implementation of the Convention and, in particular, responds to the requirements of Articles 4, 5, 6, 7, 10, 11 and 14 of the Convention regarding communications between the Secretariat and Parties.

The PIC Circular is distributed by the Secretariat, to all Parties every six months, in June and December. It contains:

- summaries of notifications of final regulatory actions for banned or severely restricted chemicals and proposals for SHPFs;
- a list of the chemicals included in Annex III and subject to the PIC procedure;
- import decisions for all of the chemicals subject to the PIC procedure;
- a list of those countries that have failed to provide import decisions for chemicals subject to the PIC procedure;
- the contact details for all DNAs;
- requests from a Party for information about the transit of chemicals included in Annex III of the Convention through its territory.

A detailed outline of the contents of the PIC Circular is provided in Annex 7.2 to this guide.



### Decision Guidance Documents (DGDs)

For each chemical listed in Annex III of the Convention and subject to the PIC procedure a decision guidance document (DGD) is prepared. It sets out the scope of the chemical subject to the PIC procedure and contains basic information on the chemical, *inter alia* its hazard classification, additional sources of information on the chemical and information on possible alternatives.

- For banned or severely restricted chemicals, it contains details of the regulatory actions of two or more Parties that led to the chemical being included in Annex III and a summary of the risk evaluation and supporting documentation considered in support of these regulatory actions.
- For SHPFs, it includes a description of the common and recognized patterns of use of the formulation in the proposing country as well as the incidents related to the formulation that were considered in deciding to include it in Annex III.

A decision guidance document is not intended as the only source of information on a chemical, nor is it updated or revised following its adoption. Additional information submitted by Parties for chemicals in Annex III is posted on the Rotterdam Convention web site ([www.pic.int](http://www.pic.int)).

A detailed outline of the contents of a decision guidance document is provided in Annex 7.1 to this guide.

#### 1.4.4 Key Players

##### Parties and their Designated National Authorities (DNAs)

For the Rotterdam Convention, "Parties" are the countries or regional economic integration organizations (REIOs) that have ratified, accepted, approved or acceded to the Convention. Parties are required to nominate one or more DNAs, who are the primary contact point(s) for matters related to the operation of the Convention and who are authorized to perform the administrative functions necessary for the operation of the Convention. For a current list of the Parties to the Rotterdam Convention and the contact details for their respective DNAs, consult the Rotterdam Convention web site ([www.pic.int](http://www.pic.int)).

##### Secretariat

The Secretariat for the Rotterdam Convention is provided jointly by FAO and UNEP. The functions of the Secretariat are outlined in Article 19 of the Convention. Briefly, the Secretariat is responsible for making the administrative arrangements for meetings of the Conference of

the Parties and its subsidiary bodies, verifying that information required to accompany notifications of final regulatory actions and proposals for severely hazardous pesticide formulations has been provided, facilitating assistance to developing country Parties, facilitating information exchange between Parties and ensuring coordination with other international organizations.

##### Conference of the Parties (COP)

A Conference of the Parties (COP) oversees the operation of the Convention. The COP is comprised of those countries or regional economic integration organizations that have ratified, accepted, approved or acceded to the Convention. The COP is the body responsible for making decisions regarding amendments to the Convention, including amendments to Annexes, such as Annex III of the Convention, where chemicals subject to the PIC procedure are listed.

##### Chemical Review Committee (CRC)

Article 18 of the Convention provides for the establishment of a subsidiary body called the Chemical Review Committee (CRC). This Committee reviews the relevant supporting information for candidate chemicals including severely hazardous pesticide formulations, in line with the information requirements and criteria set out in the Convention. The CRC recommends to the Conference of the Parties whether or not a chemical should be listed in Annex III of the Convention and subject to the PIC procedure. The members of the CRC are government-designated experts in chemical management and are appointed by the COP. The Convention specifies that the members of the Committee shall be appointed on the basis of equitable geographical distribution, including ensuring a balance between developed and developing Parties. For further information on the operation of the CRC and the process by which chemicals are added to Annex III, see section 2.3 of this document. For information on the composition of the CRC consult the Rotterdam Convention web site ([www.pic.int](http://www.pic.int)).

##### Prior Informed Consent (PIC) Regions

Article 5 of the Convention requires that, when the secretariat has received at least one notification of final regulatory action from each of two PIC regions regarding a particular chemical, it shall forward them to the Chemical Review Committee. For information on the composition of the Prior Informed Consent Regions, consult the Rotterdam Convention web site ([www.pic.int](http://www.pic.int)).



## ▶ 2.1 INTRODUCTION

This section provides a detailed explanation of the process for the addition of chemicals to Annex III of the Convention. The roles and responsibilities of the DNA(s) at the national level, as well as the Secretariat, Chemical Review Committee (CRC) and the Conference of the Parties (COP) and the various steps of the process are described. Figure 1 (page 11) provides a schematic diagram of the process and a simple summary of the different steps.

## ▶ 2.2 SCOPE

### 2.2.1 Which Chemicals are included

The information exchange provisions of the Convention apply broadly to any chemical that has been banned or severely restricted to protect human health or the environment by a Party, or to severely hazardous pesticide formulations causing problems under the conditions of use in developing a developing country Party or Party with an economy in transition. The provisions of the prior informed consent (PIC) procedure apply only to those chemicals listed in Annex III of the Convention.

Article 2 defines the following terms for the purposes of the Convention.

**“CHEMICAL”** means a substance whether by itself or in a mixture or preparation and whether manufactured or obtained from nature but does not include a living organism. It consists of the following categories: pesticides (including severely hazardous pesticide formulations) and industrial chemicals.

**“BANNED CHEMICAL”** means a chemical *all uses of which within one or more categories, have been prohibited by final regulatory action* in order to protect human health or the environment. It includes a chemical that has been refused approval for first-time use or has been withdrawn by industry, either from the domestic market or from further consideration in the domestic approval process, and where there is clear evidence that such action has been taken in order to protect human health or the environment.

**“SEVERELY RESTRICTED CHEMICAL”** means a chemical *virtually all use of which, within one or more categories, has been prohibited by final regulatory action* in order to protect human health or the environment, but for which certain specific uses remain allowed. It includes a chemical that has, for virtually all use, been refused approval or been withdrawn by industry either from the domestic market or from further consideration in

the domestic approval process, and where there is clear evidence that such action has been taken in order to protect human health or the environment.

**“SEVERELY HAZARDOUS PESTICIDE FORMULATIONS”** (SHPF) mean a chemical formulated for pesticide use that produces severe health or environmental effects observable within a short period of time after single or multiple exposure, under conditions of use.

It is important to note that once a chemical is included in Annex III of the Convention, the obligations and responsibilities under the Convention are the same for all Parties.

### 2.2.2 Which Chemicals are excluded

Further clarification of the scope of the Convention is provided in Article 3 which specifies the sort of chemicals excluded from the Convention. These include: narcotic drugs and psychotropic substances; radioactive materials; wastes; chemicals used in chemical weapons; human or veterinary drugs; food additives and food itself. For the most part these items are the subject of other international agreements. For example, the Codex Alimentarius covers food additives and residues of pesticides in food, while the Basel Convention covers wastes.

The Convention does not cover small quantities of pesticide or industrial chemicals that are not likely to affect human health or the environment, provided that they are intended to be used for research or analysis or by a person for their own personal use. These quantities are not defined in the Convention. Some countries in implementing the Convention have set a level of 10 kilograms whereas others have set lower amounts. Whatever the amounts countries elect to apply, it is important to recognize that these should be **small** amounts compared to commercially traded quantities.

## ▶ 2.3 HOW CHEMICALS ARE ADDED TO ANNEX III OF THE ROTTERDAM 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 (CRC) in reviewing candidate chemicals for inclusion 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 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 (CRC) in reviewing candidate formulations for inclusion in Annex III of the Convention.

### 2.3.1 National Action - Notifications of Final Regulatory Actions to ban or severely restrict a Chemical

#### What is a banned chemical or a severely restricted chemical?

The terms “banned chemical” and “severely restricted chemical” are defined in Article 2 of the Convention. Simply put:

- a ban is where **all** uses of the chemical as either a pesticide or an industrial chemical are prohibited;
- a severe restriction is where **virtually all** use of a chemical within one or more categories has been prohibited but for which certain uses are still permitted.

These definitions include situations where a chemical is prohibited for further use, where the chemical has been refused registration (or approval) for first time use, where industry withdraws its application for approval prior to the government making a final decision on the application or where it is withdrawn by industry from the domestic market. To qualify for notification under the Convention, these bans or severe restrictions must have been made for health or environmental reasons.

It is relatively easy to determine when a final regulatory action is a ban but is sometimes more difficult to determine when a final regulatory action is a severe restriction. Where some uses have been prohibited,

judgement is needed as to whether this constitutes a prohibition of virtually all use. If all but one or two uses of an extensive range of uses have been prohibited and those remaining are relatively small uses, then this clearly constitutes a severe restriction. However, where all but one or two uses of an extensive range of uses have been prohibited and those remaining are major uses, then this may not constitute a severe restriction, particularly if the prohibited uses were all moderate to minor uses.

It is not uncommon for industry to withdraw applications for approval for uses or to withdraw already approved uses when it becomes apparent that there is a problem with these uses. In such circumstances, it may be difficult to determine whether this action has been taken because of commercial reasons or whether it is because industry is aware of the health or environmental concerns.

#### Obligations and the Process for Submission of Notifications of Final Regulatory Actions to ban or severely restrict Chemicals

##### Obligations under Article 5 of the Convention

Under Article 5 of the Convention Parties have the following obligations with respect to notifying the Secretariat of their final regulatory actions to ban or severely restrict a chemical for health or environmental reasons.

- On the entry into force of the Convention for a Party, the Party is obliged to notify the Secretariat of all its final regulatory actions (bans and severe restrictions) in effect at that time. Where Parties have made notifications under the original PIC procedure they do not need to resubmit these notifications.
- Parties have an ongoing obligation to notify the Secretariat of any subsequent final regulatory actions (bans or severe restrictions) taken for health or environmental reasons. These notifications should be submitted to the Secretariat by the DNA as soon as possible after the action has been taken, but no later than 90 days after the regulatory action has taken effect.
- Where a Party modifies a regulatory action notified previously to the Secretariat, the DNA should resubmit a notification reflecting the changed regulatory action.

Some countries may ban or severely restrict a chemical included in Annex III of the Convention. Parties are still obliged to submit notifications of these regulatory actions. One reason for this is because the basis for

a country's regulatory action on a chemical may not be the same as that which led to the inclusion of the chemical in Annex III of the Convention. For example:

- the original reason for inclusion may have been related to environmental concerns whereas the more recent regulatory action to ban may be based on human health concerns;
- certain severely hazardous formulations of a chemical may be included in the Convention. Subsequent regulatory actions by Parties may, for example, ban all formulations of the pesticide. This could lead to a broader scope of the chemical subject to the Convention (e.g. monocrotophos);
- if the chemical had uses as both an industrial chemical and a pesticide then it may have been listed for one category and the new regulatory action applies to the other category.

#### Process for submission of a notification of a final regulatory action

As set out in Article 5 of the Convention notifications of final regulatory actions must contain the information specified in Annex I of the Convention, where it is available. The notification should describe the scope of the regulatory action *inter-alia* the categories and/or uses to which the action applies, the chemical concerned and details of the regulatory decision. The notification should also include the reason a decision was taken and whether it was based upon a risk or hazard evaluation.

To facilitate the preparation and submission of these notifications of final regulatory action a detailed form has been developed that meets the information requirements of Annex I of the Convention. Copies of the Notification of Final Regulatory Action form and instructions on how to complete the form are included in Annex 7.5.1 of this guide or can be downloaded from the Rotterdam Convention web site ([www.pic.int](http://www.pic.int)).

#### 2.3.2 National Action - Proposals for Severely Hazardous Pesticide Formulations

##### What is a Severely Hazardous Pesticide Formulation (SHPF)

The term "severely hazardous pesticide formulations" is defined in Article 2 of the Convention. Simply put they are formulations that cause problems (severe health or environmental effects observable within a short period of time after single or multiple exposures) under the conditions of use in developing countries or countries with economies in transition.

This provisions in Article 6 were included in the Convention in recognition that in some developing countries and countries with economies in transition the conditions are such that certain pesticide formulations cannot be used safely. These same formulations may be used safely in developed countries and as a result are not subject to regulatory actions to ban or severely restrict their use and thus would not be identified as candidates for inclusion under Article 5 of the Convention.

#### Obligations and the Process for the Submission of Proposals for a Severely Hazardous Pesticide Formulation (SHPF)

##### Obligations under Article 6 of the Convention

Under Article 6, any Party that is a developing country or country with an economy in transition that is experiencing problems caused by a SHPF, either due to human health or environmental problems in its territory, may propose to the Secretariat the inclusion of the formulation in the Convention. The proposals must contain the information specified in Part 1 of Annex IV of the Convention and be submitted by the DNA of that country to the secretariat. In preparing such proposals, the DNA may draw upon technical expertise from any relevant source.

#### Process for the submission of a Proposal for a SHPF

To facilitate the development and submission of proposals in support of severely hazardous pesticide formulations two incident report forms have been developed, one for environmental incidents and a second for human health incidents.

These forms consist of two parts, Part A and Part B. Part A (Transmittal Form) is to be used by the DNA to transmit an incident report form to the Secretariat. Part B (Pesticide Incident Report Form) has been developed to meet the information requirements of Part 1 of Annex IV of the Convention. It is intended to provide a clear description of the incidents related to the use of the pesticide formulation, any adverse effects and the way in which the formulation was used. The use of these forms is purely voluntary; other forms/formats used in a country for collecting pesticide incident reports may be used to replace Part B provided that those submissions meet the information requirements of Part 1 of Annex IV of the Convention.

Copies of the incident report forms and instructions on how to complete them are included in Annexes 7.5.3 and 7.5.4 of this guide or can be downloaded from the Rotterdam Convention web site ([www.pic.int](http://www.pic.int)).



### 2.3.3 Global Coordination – Role of the Secretariat, Chemical Review Committee (CRC) and Conference of the Parties (COP)

#### Role of the Secretariat

##### Verification of Notifications of Final Regulatory Action by the Secretariat

When the Secretariat has received a notification for a final regulatory action to ban or severely restrict a chemical, it must verify that the notification meets the information requirements of Annex I of the Convention. The Secretariat completes this review with the assistance of a detailed checklist. If the notification meets the information requirements, a draft summary is prepared. The notifying country is informed that their notification was complete and is invited to review the draft summary. The summaries of the verified notifications are published in Appendix I of the PIC Circular within six months of their being received.

If a notification does not meet the information requirements of Annex I of the Convention, the Secretariat sends a letter to the DNA of the notifying country with a completed checklist detailing the missing information. The DNA is invited to submit the missing information so that the notification might be verified as complete and a summary prepared for publication in the PIC Circular.

Once the Secretariat has received two notifications for the same chemical verified as complete from at least two PIC Regions, it requests the notifying countries to submit the supporting documentation referenced in their notification. The notification of final regulatory action and the supporting documentation are forwarded to the CRC for consideration.

##### Verification of Proposals for SHPFs

When the Secretariat receives a proposal for a SHPF, it verifies that it includes the information specified in Part 1 of Annex IV of the Convention. If the submitted proposal meets the information requirements a draft summary is prepared by the Secretariat. The proposing country is informed that their proposal was complete and invited to review the draft summary. The summaries of the verified proposals are published in Appendix II of the PIC Circular within six months of their being received.

At the same time, the Secretariat initiates collection of relevant information relating to the formulation as set out in Part 2 of Annex IV of the Convention. This includes information from other Parties, international organizations, non-governmental organizations or other relevant sources on handling restrictions or incidents related to the formulation and other formulations of the pesticide in question in other States, and risk or hazard evaluations. The proposal and the additional information

collected by the Secretariat are forwarded to the CRC for consideration.

It is important to note that unlike notifications of final regulatory actions a proposal from one Party is all that is required to initiate review of a SHPF by the CRC.

##### Role of the Chemical Review Committee (CRC)

After a proposal or notification and relevant supporting data are submitted to the CRC for their consideration, the process for the addition of a chemical to the Convention is the same. The primary difference remaining in the operation of the Committee is the criteria used to assess the different submissions. For a banned or severely restricted chemical the relevant criteria are contained in Annex II, whereas the criteria for a severely hazardous pesticide formulations are contained in Part 3, Annex IV of the Convention.

##### Banned or severely restricted (BSR) chemicals

In reviewing notifications for BSR chemicals, the CRC establishes that:

- the final regulatory actions were a ban or severe restriction;
- the action was taken to protect human health or the environment;
- there is continuing international trade in the chemical;
- the action was taken on the basis of a scientifically robust risk evaluation performed by the Party based on prevailing conditions within its territory; and
- the final regulatory action has a significantly broad basis for listing in the Convention.

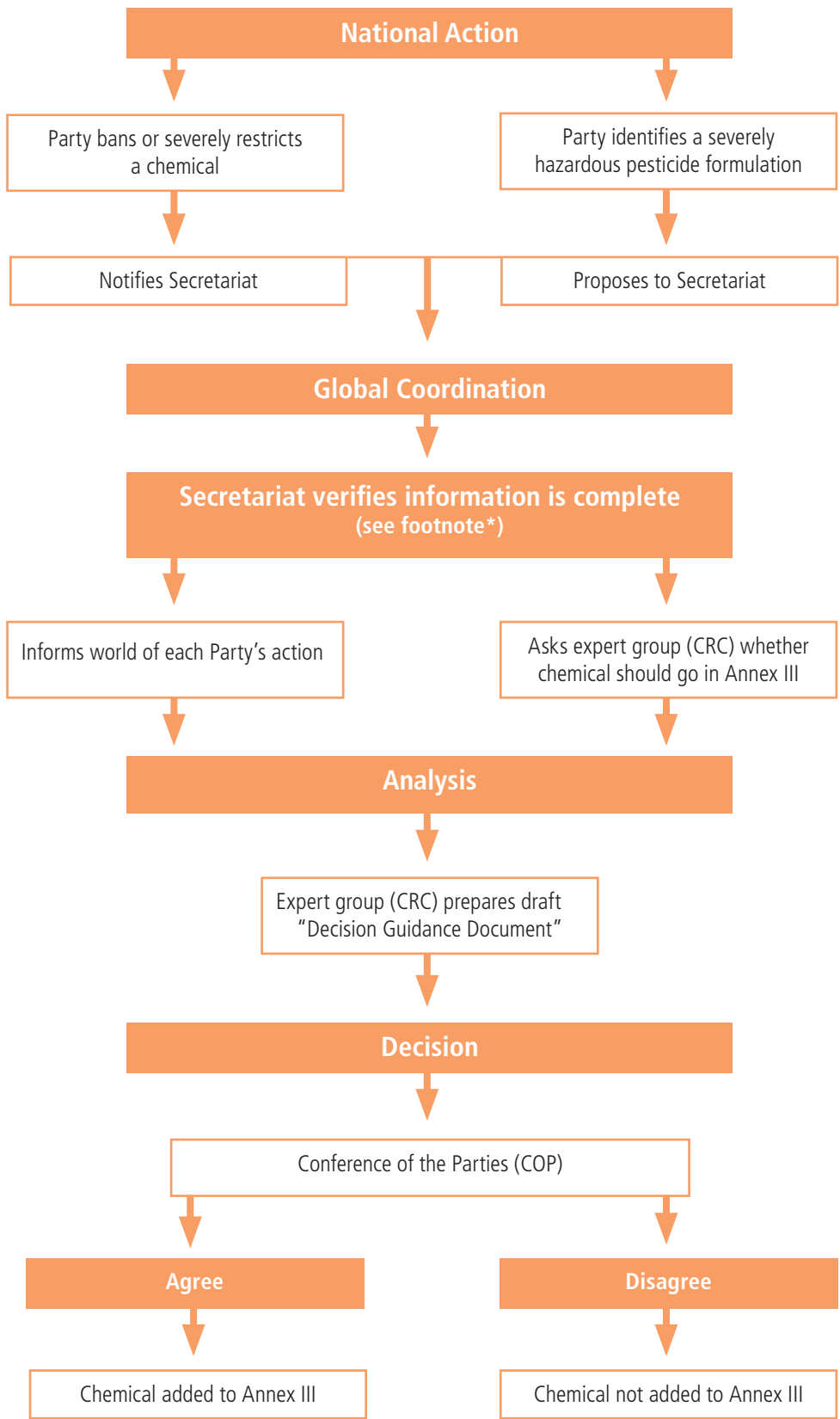
##### Severely Hazardous Pesticide Formulations

In reviewing the proposal for a SHPF, the CRC considers whether:

- the reported incidents were a result of the use of the pesticide formulation;
- the proposal has relevance to other countries with similar climate conditions and patterns of use of the formulation;
- severe handling restrictions for the chemical in other countries and the amount of chemical used in relation to the reported incident suggest that the chemical is highly hazardous.

For both BSR chemicals and SHPFs, the Convention states that intentional misuse (for example, deliberate ingestion as a means of suicide) does not constitute adequate reason to list a chemical in Annex III.

FIGURE 1. PROCESS FOR ADDING CHEMICALS TO ANNEX III OF THE CONVENTION



\*To start the process – it requires one party to propose a severely hazardous pesticide formulation; two parties from two PIC regions to ban or severely restrict a chemical





2

If the CRC considers that the information in support of a BSR chemical or a SHPF 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 DGD (for the process on developing a DGD see section 3).

#### **Role of the Conference of the Parties (COP)**

In line with Article 7 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 DGD. Once a decision to include a chemical in Annex III of the Convention is made, the Secretariat will circulate the decision and the approved DGD to all Parties with a request that they provide a decision on future imports of the chemical.

### **▶ 2.4 HOW CHEMICALS ARE REMOVED FROM ANNEX III OF THE ROTTERDAM CONVENTION**

Article 9 of the Convention addresses the removal of chemicals from Annex III of the Convention. A chemical may be considered for removal if a Party submits information which was not available when a decision was made to include a chemical in the Convention and that information indicates that the basis for inclusion of the chemical is no longer in accordance with the relevant criteria. The Secretariat will forward the information to the CRC, which will review the information according to the relevant criteria. For each chemical that the CRC decides to recommend to the COP for removal, it shall prepare a revised draft DGD. The COP then will decide upon the recommendation. If the COP decides to remove the chemical from Annex III of the Convention and approve the revised DGD, explaining why this chemical has been removed, the Secretariat will circulate this information to all Parties.

### ▶ 3.1 INTRODUCTION

The Prior Informed Consent or PIC procedure is the central core around which the Rotterdam Convention has been developed. This section of the document includes a brief overview of the PIC procedure as well as detailed information on how the process works, the relevant documents, the importance of import decisions and the roles and responsibilities of Parties with respect to the import and export of chemicals included in Annex III of the Convention.

### ▶ 3.2 WHAT IS THE PRIOR INFORMED CONSENT (PIC) PROCEDURE?

For each chemical included in Annex III of the Convention, a DGD is prepared and sent to all Parties with a request that they take a decision as to whether they will allow future import of the chemical. The resulting import decisions are published by the Secretariat and made available to all other Parties through the PIC Circular (see Section 1.4.3 and Annex 7.2 to this guide).

The PIC procedure provides all Parties with an opportunity to make an informed decision as to whether they will consent to future imports of the chemicals listed in Annex III of the Convention. All Parties are required to ensure that their exports do not take place contrary to an importing Party's import decision.

### ▶ 3.3 HOW THE PROCESS WORKS – ROLES AND KEY RESPONSIBILITIES

#### 3.3.1 PIC Circular

The PIC Circular is compiled by the Secretariat and sent to DNAs every six months, in June and December. The key sections relevant to the PIC procedure are Appendices III and IV. Appendix III contains a current list of the chemicals subject to the Convention. Appendix IV contains all the import decisions for chemicals subject to the Convention that have been submitted by Parties as well as a list of those Parties that have failed to provide import responses.

**The compilation of import decisions in Appendix IV represents the official reference for countries that are looking to export chemicals subject to the Convention.**

A summary of information found in the PIC Circular is shown in Annex 7.2 to this guide.

#### 3.3.2 Decision Guidance Document (DGD)

A decision guidance document has been developed for each chemical included in Annex III of the Convention. The DGD sets out the scope of the individual chemicals subject to the PIC procedure, provides basic information about the chemicals' characteristics and a summary of the reasons why the chemicals were either banned or severely restricted or, in the case of a SHPF, the problems found under the conditions of use.

**A DGD is not intended to be a scientific treatise on a given chemical but rather to assist governments in making an informed decision regarding future importation of the chemical. Governments may wish to seek further information, if they consider it necessary, before making an import decision.**

A summary of information found in a DGD is shown in Annex 7.1 of this guide.

Chemicals included in Annex III of the Convention are those that Parties have determined pose unacceptable risks for all or some uses as used in their territories. These decisions and the underlying circumstances may have been specific to the proposing countries' conditions of use and may or may not be related to the way in which the chemical is used in other countries or regions.

This means countries should consider the relevance of their national conditions with regard to the use of the chemical and taking into account the information in the DGD, including the reported regulatory actions for BSR chemicals or the conditions under which SHPFs were used.

Some of the factors to consider in consulting a DGD include:

- whether the chemical is used in your country and, if so,
  - explain how it is used;
  - estimate the likely exposure of the chemical to workers, the public and non-target plants or animals; and
  - assess whether this is similar to the conditions reported as the basis for the actions of the notifying or proposing Parties.



- whether the climatic, environmental and other conditions are similar between your country and the notifying country(ies);
- whether the level of chemicals management in your country is comparable to that of the notifying countries; and
- if the notification was from a developed country, whether that country already had safety directions and precautions that are either not available in your country or impractical to use in your circumstances.

A further important consideration may be whether there are safer alternative chemicals or techniques available that can replace the chemical in question. Particularly for pesticides, countries should be aware that an alternative chemical identified by a notifying Party may not be an effective alternative under the conditions of use in another Party. It would be prudent to require confirmatory data to demonstrate that the proposed alternative is effective and has no unacceptable effects on human health and the environment under the conditions of use in your country.

Countries should not limit their consideration to chemical alternatives. For instance, the practice of integrated pest management (IPM) may include any combination of physical treatments, changes in management and cultural practices while minimizing the use of chemical treatments.

**Information provided by Parties on alternatives (chemical and non-chemical) and additional national evaluations of chemicals in Annex III are available on the Rotterdam Convention web site ([www.pic.int](http://www.pic.int)).**

### 3.3.3 Importing Countries

#### Obligations relating to the Import of chemicals Included in Annex III and subject to the PIC procedure

Under Article 10 of the Convention, Parties have the following obligations with respect to imports of chemicals listed in Annex III of the Convention and subject to the PIC procedure:

- No later than the date of entry into force of the Convention for a Party it is obliged to send to the Secretariat its decisions on future import for each of the chemicals listed in Annex III of the Convention. Where Parties have provided such import responses under the original PIC procedure they do not need to resubmit them.

- Parties have an ongoing obligation to submit to the Secretariat, as soon as possible and in any event no later than nine months after the date of dispatch of a decision guidance document, their import decision (whether a final or interim response) concerning the future import of the chemical.

- Where a Party changes an import decision submitted previously to the Secretariat, the DNA should submit a revised import response to the Secretariat as soon as possible.

#### Types of response

The import response shall consist of either a final decision based on national legislative or administrative measures or an interim response.

#### A final decision may include:

- consent to future importation of the chemical; or
- not consent to future importation of the chemical; or
- consent to future importation of the chemical but subject to certain specified conditions.

#### An interim response may include:

- an interim decision either consenting to import with or without specified conditions, or not consenting to import during the interim period until a final decision is reached; or
- a statement that a final decision is under active consideration; or
- a request to the Secretariat, or to the Party that notified the final regulatory action, for further information; or
- a request to the Secretariat for assistance in evaluating the chemical.

An import response form has been developed to facilitate the transmission of the import decisions to the Secretariat. Copies of this form and instructions on how to complete the form may be found in Annex 7.5.2 to this guide or downloaded from the Rotterdam Convention web site at ([www.pic.int](http://www.pic.int)).

#### Points to consider in making an import response

Countries need to be aware of related provisions of the Convention in making an import response.



## 1. Category under which the chemical is included in the Convention

An import response shall relate to the category specified in Annex III of the Convention and in the DGD for the chemical. For example:

- aldrin, is listed under the category “pesticide” that includes all existing formulations subject to the PIC procedure;
  - import decisions apply to all forms of aldrin used as a pesticide
- phosphamidon is listed under the category SHPF;
  - specifically soluble liquid formulations of phosphamidon that exceed 1000g active ingredient/l
  - import decisions would only apply to the specific formulations identified
- dinoseb is listed under the category “pesticide”, even though it also has uses as an industrial chemical;
  - import decisions would only apply to use of dinoseb as a pesticide; imports for industrial chemical uses would not be included
  - however, an importing country may extend coverage to the other category; the difference is that the exporting country is not obligated in every instance to enforce it

## 2. Statement on legislation or administration measures for a final decision

A final decision on import should be accompanied by a description of any legislative or administrative measures upon which it is based. It could be any official document that further explains or implements the regulatory or import status of this chemical in the country or an official document that deals with chemical regulation generally. This does not necessarily require legislative or administrative measures specifically to address chemicals subject to the Rotterdam Convention. For example, chemicals that have never been registered or approved for use in a country may be subject to a general regulation that does not allow their use or importation.

## 3. The need to specify conditions

As noted above, a final decision on import shall consist of one of three options: consent to import; not consent to import; or consent only subject to specified conditions. If the third option is selected, then the conditions need to be “specified”. In other words, this suggests the need to state specifically the conditions under which export is allowed. It might be considered insufficient, for

example, simply to note that general conditions apply, or to fail to identify the relevant conditions.

## 4. Registration under national laws

Many countries require that pesticides are not imported/used unless registered or authorized under national law. Some countries describe this as a “no consent” situation, while others describe it as a “consent subject to conditions” situation. These different response patterns could create unintended confusion. Subject to any further guidance by Parties, and consistent with 2) and 3) above, references to national registration systems in import responses should be accompanied by sufficient information to clarify how the system applies to the chemical under consideration. One approach used by some countries in this situation is to transmit a “no consent” response for chemicals that are not registered. It is then further explained (as applicable) that in the absence of official registration, a chemical may not be used or imported, and that registration may only be granted if a chemical complies with strict norms and a thorough regulatory review process. Where applicable, some countries have also identified relevant exemptions, e.g. for purposes of research subject to specific conditions. Also where applicable, some countries have indicated that a particular chemical has been specifically banned.

## 5. Trade neutrality

If the decision is not to consent to import or to consent to import only under specified conditions, this decision must apply equally to import of the chemical from any source and to domestic production of the chemical for domestic use. It is important to note that any source applies to both Parties and non-Parties.

Under the PIC procedure, exporting Parties must ensure that their exports of chemicals included in Annex III of the Convention are in line with the import decision of the importing Party. However, it should be noted that export of the chemicals subject to the Convention from exporting countries that are not Parties to the Convention may still take place contrary to the import decision of a country, as such countries are not bound by the Convention. Importing Parties should endeavour to strengthen their own regulatory infrastructure as called upon by the Convention in Article 4, paragraph 2 and Article 15, paragraph 1.

### How to reach to an import decision

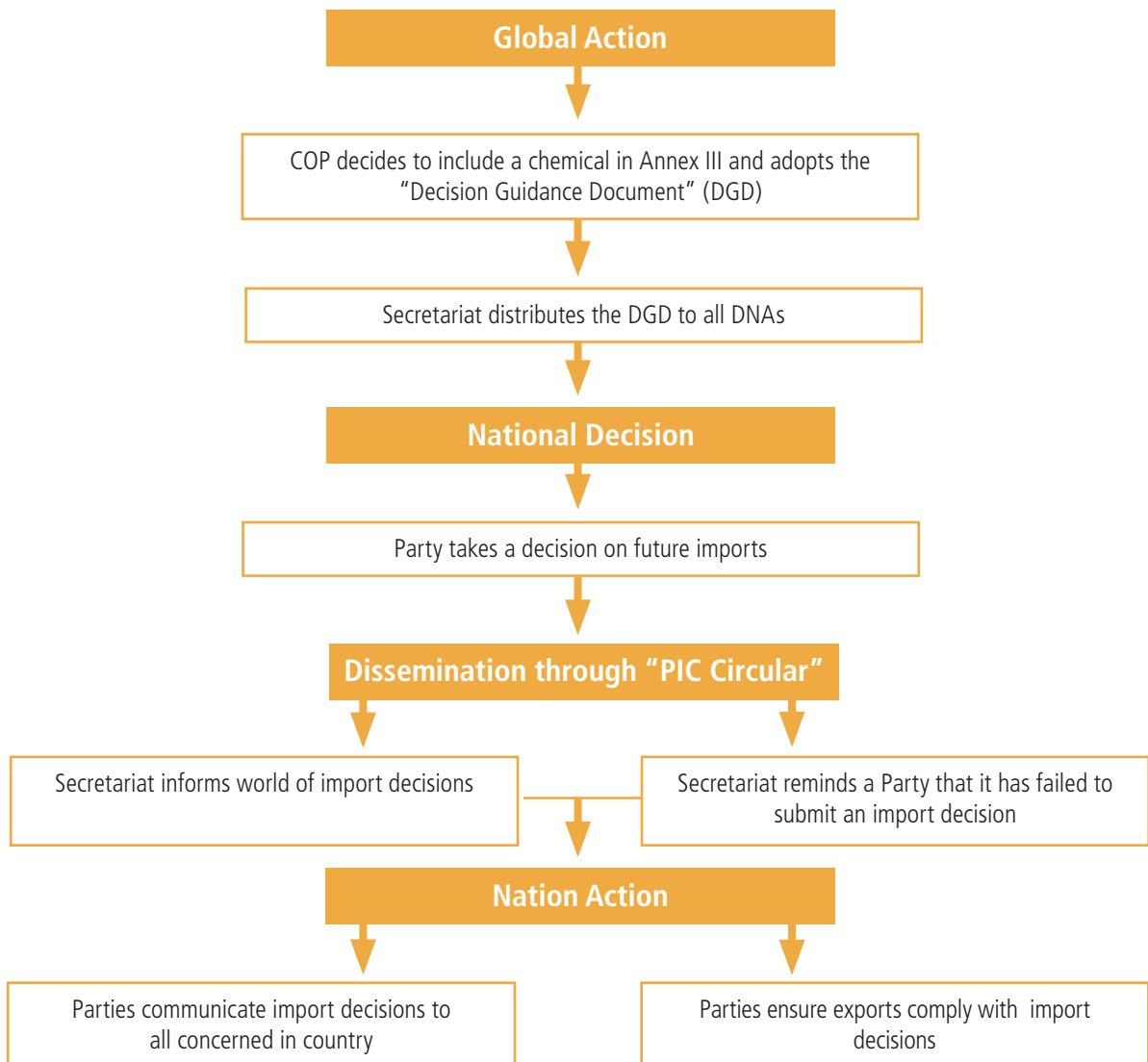
The inclusion of a chemical in Annex III of the Convention has been because one or more Parties have determined that continued use of the chemical in their country poses unacceptable risks and that use should cease (or be severely restricted). In the case of a SHPF, it has been shown that the pesticide formulation has caused a human health or environmental problem in a developing country or a country with an economy in transition under conditions of use.

The decision guidance document (DGD) provides basic information about the chemical and the reasons for its listing in Annex III. It is intended to initiate an informed decision making process regarding future imports of the chemical in question. The DGD can serve as a starting point for countries in making a decision about a particular chemical, taking into account their national circumstances (see Figure 2). In addition, it is important that there be appropriate consultation at the national level with others involved within and outside the government, e.g. customs authority, trade authority and industry association.

Countries need to assess whether the continued importation and use of the chemical poses an unacceptable risk to human health or the environment that cannot reasonably be managed through their chemical management infrastructure and schemes.

In addition to the DGD, countries may request further information from the Secretariat and notifying countries. If additional technical information is requested, it should be clearly identified (e.g. more detailed information on ecotoxicity, characteristics of the chemical, etc.). Countries may also seek assistance from the Secretariat in reaching a decision. Where such assistance is requested, the specific areas of difficulty and the nature of the assistance needed should be clearly indicated. An important element of reaching an import decision is whether or not there is domestic production of the chemical for domestic use. In order to do so, the DNA needs to have some level of information about producers, products and usage.

FIGURE 2. THE PIC PROCEDURE – A NATIONAL DECISION MAKING PROCESS



### 3.3.4 Exporting Countries

#### Obligations and procedures related to exports of chemicals included in Annex III

##### Obligations under Article 11 of the Convention

Article 11 sets out the obligations of Parties in relation to exports of chemicals included in Annex III of the Convention. These obligations can be implemented in a variety of ways. It is important to note that the Convention does not prescribe how countries implement these obligations. Rather, governments must individually decide how they will ensure that exports do not occur contrary to importing country decisions.

A further obligation for exporting countries is to put in place legislative and/or administrative mechanisms that ensure that exporters do not export chemicals to importing countries contrary to their import decisions. This mechanism is to be applied no later than six months after the Secretariat informs Parties of the Party's importing country decision in the relevant PIC Circular. The mechanism that governments choose to implement this obligation will depend upon their own legislative and administrative arrangements and available resources.

Countries are required to inform those concerned within their own territories of the decisions of importing countries with respect to future importation of chemicals included in Annex III the Convention. This is to ensure that those involved with exports, or controls on exports, have the necessary information to ensure that exports do not take place contrary to decisions of importing countries. Depending upon arrangements within the exporting Party those concerned are likely to be chemical manufacturers, formulators and exporters and may include other government agencies involved in the regulation of chemicals, such as customs or other border control agencies.

#### Process for the implementation of export responsibilities

The mechanism that governments choose to relay this information to relevant stakeholders may include direct correspondence, the use of government publications such as gazettes or websites, the holding of seminars and workshops and advertisements or notices within the electronic or print media.

A possible mechanism could be to pass laws that make it an offence to export chemicals listed in Annex III of the Convention unless issued with a permit to do so. This would allow permits to be issued for countries that have consented to further imports. This mechanism

would require some level of border control for it to be effective, either through a specific service designed for such exports (and possibly the imports of chemicals) or through the utilization of existing systems such as a country's customs or phytosanitary/quarantine controls.

Alternatively, countries may elect to inform their industries of their responsibilities and require industry to self-regulate in compliance with this requirement. For this mechanism to be effective, it is likely that governments would still need to audit exportation and have some means of enforcing obligations where industry has been found not to have complied.

An important aspect of obligations regarding chemicals listed in Annex III of the Convention is that the exporting country obligations only apply to exports of the chemical where it is destined for use in the category of chemical for which it was included in the Convention (i.e. pesticide, industrial chemical or SHPF).

Column 3 of Annex III of the Convention indicates the category for which a chemical has been listed. Most chemicals clearly fall into one category or the other (i.e. most pesticides do not have an industrial chemical use and most industrial chemicals are not used as pesticides). However, there are a small number of chemicals with uses as both a pesticide and an industrial chemical, or so-called "dual use" chemicals. Where such chemicals are included in the Convention under a single category, then there are no obligations on the exporting country if the chemical is being exported for use in the importing country in the other category.

The difficulty for DNAs in exporting Parties is in knowing, at the point of export, what the intended use is to be in the importing country. For example:

- if the chemical being exported is already pre-formulated and labelled for pesticide use, then this would provide a very strong indication of its intended use. However, most trade in international chemicals occurs in bulk form and this would not, in general, enable a determination to be made as to its intended use (or in the case of an active ingredient for a SHPF, what type and concentration of formulation it might become). Exporting country DNAs might consider some means to ensure import is compliant. One way of doing this is by requiring a documented declaration from the importing agent, through the exporter, as to its intended use before deciding whether to allow the export.

#### Responsibility of an Exporting Party when there is no Importing Country Response or interim response without a decision



On occasion, a Party will fail to send an import response to the Secretariat or will send an interim response that does not address future importation. These failures to respond are listed in Appendix IV of the PIC Circular. In such circumstances an exporting Party must still ensure that exportation does not occur unless:

- the chemical is registered in the importing country at the time of export;
- the exporting country has evidence/information that the chemical has been previously imported or used in the importing country and that there has been no consequent prohibition of that use or importation; or
- the DNA of the importing Party has provided explicit consent to the exporter.

The obligation of exporting Parties not to export a chemical in these circumstances commences six months after the date when the Secretariat informed Parties that the country had not sent an import response or had sent an interim response that did not contain a decision regarding importation. This obligation only applies, however, for one year and therefore ceases 18 months after the date when the Secretariat informed Parties of the failure to provide a decision.

#### Information to Accompany Exports

Article 13 outlines the information to accompany exports of chemicals included in Annex III of the Convention as well as chemicals that are banned or severely restricted in the exporting Party. Such exports should have labelling that provides adequate information on the hazards and risks posed by the chemical to human health and the environment. The Convention also requires that for such exports a copy of an up-to-date Safety Data Sheet (SDS), in an internationally recognized format, be sent to the importer. Furthermore, the information on the label and the SDS should be in the official language of the importing country, as far as is practicable.

The Convention requires that shipping documents for exports of chemicals listed in Annex III should bear any harmonized system customs code assigned by the World Customs Organization (WCO) to chemicals listed in Annex III of the Convention.

The purpose of these requirements is to ensure that for certain hazardous chemicals there is sufficient information provided on labels and the SDS to minimize risks to workers, others and the environment.

### ▶ 3.4 HOW THE PRIOR INFORMED CONSENT (PIC) PROCEDURE BENEFITS COUNTRIES

Benefits to Parties include:

#### Early warning / Information Exchange

Parties are made aware of national bans or severe restrictions of hazardous chemicals in participating countries through publication of the summaries of notifications of final regulatory action in Appendix IV of the PIC Circular. This early warning of potentially hazardous chemicals is a source of information on why countries have taken domestic regulatory actions and may provide impetus for other countries, particularly countries that import such chemicals, to review the regulatory status of these chemicals. In addition, the PIC Circular also contains summary reports on human poisonings and environmental damage associated with the use of SHPFs. This information may alert countries to possible problems that may be occurring in their own territory.

#### Informed decision-making

Parties receive decision guidance documents (DGDs) for each of the chemicals included in Annex III the Convention. The information contained in the DGD provides the basis for initiating a process for making informed decisions regarding future imports of these chemicals.

#### Shared responsibility

The PIC procedure helps countries to better manage chemicals by promoting a shared responsibility among exporting countries, importing countries and industry. Importing countries have a responsibility to make informed decisions regarding future import in a timely manner, while exporting countries have a responsibility to ensure that exports do not occur contrary to the importing decisions of participating countries. In participating in the PIC procedure, countries should recognize that non-Parties to the Convention may still export chemicals listed in Annex III of the Convention.

#### Networks among participating countries

Participation in the Rotterdam Convention helps a country's officials build networks with officials in other countries. This could facilitate an exchange of ideas and create opportunities for cooperative efforts to resolve issues that could not be easily resolved by one country alone.



## ▶ 4.1 INTRODUCTION

Article 12 of the Convention outlines the obligations and the process for Export Notification. Export notification is a mechanism to promote the exchange of information among countries regarding banned and severely restricted chemicals. The process alerts Parties that they are receiving imports of a chemical that has been banned or severely restricted in the exporting Party.

### What is Export Notification?

The process of Export Notification is a mechanism to promote the exchange of information among Parties regarding banned and severely restricted chemicals.

Export notification is different from the PIC procedure in that it does not ask Parties for a decision regarding future imports of the chemical. It simply informs them that a shipment of a chemical that has been banned or severely restricted in the exporting Party is being shipped.

## ▶ 4.2 HOW THE EXPORT NOTIFICATION PROCESS WORKS

The Convention requires a Party to send an export notification to an importing Party prior to the first export in a calendar year of a chemical that is banned or severely restricted in its own territory. The exporting Party is also required to provide an updated export notification if it has adopted a final regulatory action that makes a major change in its previous regulatory decision. An example of such a change might be where the chemical was originally severely restricted and subsequently the exporting country took further action to ban the chemical. The importing Party has to acknowledge receipt of the export notification to the exporting Party. If no such receipt is received by the exporting country after 30 days, the exporting Party is required to send a second notification and make reasonable efforts to ensure that the importing Party receives the notification.

The obligation for an exporting Party to send export notifications to another Party ends when the chemical is included in Annex III to the Convention, the importing Party has provided a response for the chemical and the Secretariat has circulated to all Parties the importing Parties' import responses for that chemical.

It is important to note that, unlike Article 11 on the obligations of countries concerning exports of chemicals subject to the PIC procedure, Article 12 on export notifications is silent on differential obligations regarding the category of chemical for which the final regulatory action was taken. As a result, countries have interpreted their obligation for export notifications in a variety of ways:

- Some have interpreted their responsibilities such that they provide an export notification for a dual use chemical that is banned or severely restricted domestically in one category irrespective of what the intended use category will be for the chemical in the importing Party.
- Others have interpreted their obligations to parallel those for chemicals subject to the convention. Consequently, they will only provide an export notification when the intended use in the importing Party is in the same use category as that for which the exporting country's final regulatory action was taken.

Parties should make their own decision as to how they will interpret and implement export notification with regard to this matter.

At present there is no standard form for the transmission of an export notification. The minimum information that is required to be included in an export notification is specified in Annex V of the Convention.

## ▶ 4.3 HOW EXPORT NOTIFICATION BENEFITS COUNTRIES

All Parties are informed about a potentially hazardous chemical when a summary of a notification of final regulatory action to ban or severely restrict its use in a Party is published in Appendix I of the PIC Circular. Export notifications thus serve as an individual reminder to importing Parties of a final regulatory action taken by the exporting Party. An export notification alerts the importing Party to the fact that the chemical may be in use in their country. The importing Party may take the opportunity to seek further information on the chemical from the exporting Party or from other sources and to consider whether it might need to apply any risk management actions regarding the chemical concerned.





## ▶ 4.4 INFORMATION TO COVER EXPORTS

Article 13 outlines the information that is to accompany exported chemicals, both those that are included in Annex III to the Convention and those that are banned or severely restricted in the exporting Party. The purpose of this provision is to ensure that information is provided to importing Parties to assist them in minimizing risks to human health and the environment from such chemicals.

The specific requirements include:

- labelling that provides adequate information on the hazards and risks posed by the chemical to human health and the environment;
- a copy of an up-to-date Safety Data Sheet (SDS) in an internationally recognized format is to be sent to the importer. The information on the label and the SDS should be in the official language of the importing country as far as is practicable.

Exporting Parties are also to ensure that exports of chemicals that are subject to environmental and health labelling in their territories are subject to labelling requirements that ensure adequate availability of information with regard to risks and/or hazards to human health or the environment.

It is also a requirement of the Convention that shipping documents for exports of chemicals subject to the Convention should bear any harmonized system customs code assigned by the World Customs Organization (WCO) to chemicals subject to the Convention.



## ► 5.1 INTRODUCTION

Information exchange is an integral part of the Rotterdam Convention. The opportunities for information exchange cover a broad range of chemicals, those included in Annex III of the Convention as well as those chemicals that have been subject to final regulatory actions in participating countries that ban or severely restrict the use. In addition, Article 14 mandates a general exchange of scientific or regulatory information “relevant to the objectives of the Convention” of potential interest to regulators around the world.

## ► 5.2 HOW INFORMATION EXCHANGE WORKS

The various provisions of the Convention provide opportunities to obtain information on potentially hazardous chemicals and to share information and experience with countries facing similar concerns. The most important opportunities for information exchange include the PIC Circular, export notifications, DGDs, the network of DNAs as well as the Rotterdam Convention web site.

### **PIC Circular**

The PIC Circular (see Section 1.4.3 and Annex 7.2) provides Parties with information from other Parties on national final regulatory actions to ban or severely restrict chemicals as well as proposals for hazardous pesticide formulations provided to Parties. It also includes an up-to-date list of the chemicals subject to the Convention, a list of the import decisions of participating countries as well as those countries that have failed to provide an import decision.

### **Decision Guidance Documents**

Parties receive information on chemicals subject to the Convention through the circulation of DGDs (see Section 1.4.3 and Annex 7.1). These documents contain a summary of important information related to final regulatory actions taken by notifying countries, basic information about the characteristics of the chemical and summary information about the hazards and risks associated with the use of the chemical.

### **Export Notification**

Export notifications on chemicals banned or severely restricted in the exporting country are required to include certain information related to identifying the chemical and the shipment as well as information related

to its known risks and hazards. The importing Party may also request further specific information that it considers it necessary from the exporting Party. For more detailed description of the information required to accompany export notifications see Annex V of the Convention.

With regard to the export of chemicals, the Convention contains general obligations under Article 13 for Parties to ensure that there is adequate information to accompany shipments of chemicals for the purpose of protecting human health and the environment. These obligations include ensuring that exported chemicals contain adequate labelling instructions regarding the hazards and risks of the chemicals listed in Annex III of the Convention and chemicals that have been banned or severely restricted in its own territory.

### **Information Exchange**

Article 14 of the Convention specifically addresses information exchange and requires Parties to facilitate the exchange of scientific, technical, economic and legal information concerning chemicals falling within the scope of the Convention. This includes providing information that is publicly available on their regulatory actions and also making this available to other Parties either directly or through the Secretariat. Although the Convention does not provide any instruction as to how long Parties should take to respond to such requests for information, in the spirit of cooperation and information exchange embodied in the Convention, Parties should attempt to provide such information as quickly as possible.

In obligating Parties to engage in information exchange, the Convention obliges Parties to protect confidential information. It also specifies certain types of information that are not to be regarded as confidential and, therefore, should be able to be sent to another Party or to be made publicly available. This information includes, among others, the information provided as part of notifications or proposals of chemicals to the Secretariat, the expiry date of the chemicals and summaries of the toxicological and ecotoxicological tests.

### **List of Designated National Authorities**

A list of the contact details for all DNAs provides a ready network for the exchange of information on chemicals of concern. A current version of the list is circulated with the PIC Circular every six months and may also be found on the Rotterdam Convention web site ([www.pic.int](http://www.pic.int)).



### Rotterdam Convention Web site ([www.pic.int](http://www.pic.int))

The Rotterdam Convention web site is updated on an ongoing basis. It is an important source of information on the operation and status of implementation of the Convention. It provides current list of Parties to the Convention and the contact details of their DNAs, as well as information on chemicals included in Annex III of the Convention submitted by other Parties. Information on upcoming meetings of the Chemical Review Committee and the Conference of the Parties and relevant meeting documents are also posted in advance of the meetings. Copies of decision guidance documents, all relevant forms and instructions, meeting reports, etc., are also available on this site.

## ▶ 5.3 HOW INFORMATION EXCHANGE BENEFITS COUNTRIES

The information exchange component of the Rotterdam Convention naturally builds networks of persons that individual DNAs may call upon. At the sub-regional, regional and global level this can create a critical mass of expertise that can enable an exchange of ideas and possible cooperative resolution of problems that may not be achievable by individual country action alone. The receipt of additional information that may not otherwise be available to a country provides a broader base upon which sound regulatory decisions may be made, delivering better health and environmental outcomes.

Information exchange has a direct effect on resource expenditure. If information on certain chemicals is available from other countries and through the Secretariat, then countries may not need to expend resources in trying to collect this information. The often limited resources that are available to some countries may be able to be better expended in managing other aspects of chemical management.

Depending upon the characteristics of the chemical concerned, information exchanged in support of the Rotterdam Convention may also have potential to highlight potential candidate persistent, bioaccumulative and toxic chemicals for consideration in other fora such as the Stockholm Convention on Persistent Organic Pollutants (POPs).



## RESPONSIBILITIES OF DNAs AND GOVERNMENTS IN IMPLEMENTING THE ROTTERDAM CONVENTION

The following is a checklist of actions that Governments/DNAs must have performed for a country to fully participate in the Rotterdam Convention.

	Yes	No
Has your government nominated a DNA for both pesticides and industrial chemicals?		
Have the DNAs been provided with sufficient resources to carry out their duties?		
Has the DNA(s) sent completed notification forms of chemicals that have been banned or severely restricted in their country to the Secretariat?		
Has the DNA(s) sent completed import response forms, containing a decision on future imports for all chemicals listed in Annex III of the Convention, to the Secretariat?		
Has domestic production for domestic use or importation from non-Party sources been prohibited for any chemical listed in Annex III of the Convention for which your import country response form contained a decision not to allow future import?		
Have the import response decisions of other Parties been communicated to other relevant agencies and industries in your country?		
Does a mechanism exist in your country to ensure that there will be no exports of chemicals in Annex III to the Convention to Parties that do not wish to receive them?		
Does a mechanism(s) exist in your country for export notifications of the first export in each calendar year, of domestically banned or severely restricted chemicals that are not yet included in Annex III of the Convention?		
Do you have procedures in place to enable you to promptly provide a notice of receipt regarding any export notifications received?		
Are there mechanism(s) in place to ensure that exports of chemical are accompanied by the necessary information required under the Convention?		
For developing countries and countries with economies in transition, do you have mechanisms in place that will enable you to identify proposals for an SHPF?		



## 6.1 GETTING STARTED

DNAs are expected to serve as the focal point in their country for the dissemination of information concerning the Rotterdam Convention to relevant government departments, export and importing industries, or other stakeholders. One important requirement in nominating a DNA is that governments shall ensure that DNAs are provided with the necessary resources to effectively carry out their responsibilities. DNAs are also responsible for providing information to the Secretariat and to other Parties as required by the Convention.

Many countries have nominated only one DNA to function as their contact point. Others have nominated two DNAs, usually reflecting their own domestic arrangements for chemicals management, with one DNA being responsible for industrial chemicals and a second for pesticides. In some cases, countries have nominated only one DNA for only one category of chemicals; for example, pesticides. In such situations there is no nominated DNA for the other category, and governments should examine their situation to ensure that they have adequate arrangements in place to fully participate in the Rotterdam Convention. If a country has more than one DNA, they are requested to coordinate and consolidate submissions to the Secretariat.

In line with Article 4 of the Convention, each Party shall designate one or more national authorities to act on its behalf with regard to the performance of the administrative functions required by this Convention. The decision as to the number of DNAs is up to individual governments. Most have decided on authorities regulating chemicals in their country, while others have nominated authorities responsible for foreign affairs. Most of the nominations indicate, in addition to the authorities the position and/or the name of the responsible officer. Some have decided to nominate political Heads such as Ministers, whereas others have nominated officers who have more direct day-to-day involvement with chemical management either at the policy or operational level or both. It is generally preferable that an office or a particular position, rather than a particular person, is identified as the DNA to avoid problems associated with changes in personnel.

The nomination or changes of nomination, should be sent from the country's official contact or foreign affairs point (for FAO or for UNEP) to the Secretariat. The Secretariat should be notified of any change of address of the DNA. The Secretariat updates the list of DNAs and distributes a complete list every six months, together with the PIC circular, to all DNAs.

## 6.2 RESPONSIBILITIES OF THE DESIGNATED NATIONAL AUTHORITY (DNA)

The DNA for a Party has a number of responsibilities to undertake which are described in Articles 5, 6, 10 and 12. These include:

### Notifying the Secretariat of national final regulatory actions (Section 2.3.1)

Under Article 5 of the Convention, Parties have the following obligations with respect to notifying the Secretariat of their final regulatory actions to ban or severely restrict a chemical for health or environmental reasons.

- On the entry into force of the Convention for a Party, it is obliged to notify the Secretariat of all of its final regulatory actions (bans and severe restrictions) in effect at that time. Where Parties have made notifications under the original PIC procedure they do not need to resubmit these notifications.
- Parties have an ongoing obligation to notify the Secretariat of any subsequent final regulatory actions (bans or severe restrictions) taken for health or environmental reasons. These notifications should be submitted to the Secretariat by the DNA as soon as possible after the action has been taken but no later than 90 days after the regulatory action has taken effect.
- Where a Party modifies a regulatory action notified previously to the Secretariat, the DNA should resubmit a notification reflecting the changed regulatory action.

To facilitate the preparation and submission of these notifications of final regulatory action, a detailed form has been developed that meets the information requirements of Annex I of the Convention. Copies of the Notification of Final Regulatory Action form and instructions on how to complete the form are included in Annex 7.5.1 of this guide.

### Submitting proposals for severely hazardous pesticide formulations (SHPFs) (Section 2.3.2)

Under Article 6 of the Convention, DNAs from developing countries or countries with an economy in transition may submit proposals to the Secretariat for the listing of SHPFs in Annex III of the Convention, if they are experiencing problems caused by such formulations under conditions of use in their countries. In developing these proposals they may draw upon technical expertise from any relevant source.



To facilitate the development and submission of proposals in support of severely hazardous pesticide formulations two incident report forms have been developed, one for environmental incidents and a second for human health incidents.

These forms consist of two parts, Part A and Part B. Part A (Transmittal Form) is to be used by the DNA to transmit an incident report form to the Secretariat. Part B (Pesticide Incident Report Form) has been developed to meet the information requirements of Part 1 of Annex IV of the Convention. It is intended to provide a clear description of the incidents related to the use of the pesticide formulation, any adverse effects and the way in which the formulation was used. The use of these forms is purely voluntary; other forms/formats used in a country for collecting pesticide incident reports may be used to replace Part B provided that those submissions meet the information requirements of part 1 of Annex IV of the Convention.

Extension services, non-governmental organizations and aid agencies may use Part B to provide DNAs with detailed information on incidents in the field. The DNA's task is to complete Part A and officially submit the proposal including both parts to the Secretariat.

Copies of the incident report forms and instructions on how to complete them are included in Annexes 7.5.3 and 7.5.4 of this guide.

### **Providing importing country responses to chemicals subject to the PIC procedure (Chemicals in Annex III of the Convention) (Section 3.3.3)**

Under Article 10 of the Convention, Parties have the following obligations with respect to imports of chemicals listed in Annex III of the Convention and subject to the PIC procedure:

- No later than the date of entry into force of the Convention for a Party it is obliged to send to the Secretariat its decisions on future import for each of the chemicals listed in Annex III of the Convention. Where Parties have provided such import responses under the original PIC procedure they do not need to resubmit them.
- Parties have an ongoing obligation to submit to the Secretariat, as soon as possible and in any event no later than nine months after the date of dispatch of a decision guidance document, their import decision (whether a final or interim response) concerning the future import of the chemical.
- Where a Party changes an import decision submitted previously to the Secretariat, the DNA should submit a revised import response to the Secretariat as soon as possible.

To facilitate the preparation and submission of these import responses a detailed form has been developed. Copies of the Importing Country Response form and instructions on how to complete the form are included in Annex 7.5.2 of this guide.

### **Communicating the received import responses to stakeholders in that country**

DNAs receive a complete set of all importing country responses every six months through the PIC Circular. DNAs are expected to disseminate this information to all relevant agencies that may be involved in the regulation, production and trade of chemicals in their country (e.g. government departments, manufacturers, export industries, etc.). This is to enable those institutions and persons to take the appropriate action to ensure that exports do not occur contrary to importing responses of Parties.

## **▶ 6.3 OTHER OBLIGATIONS FOR PARTIES**

Apart from the above-mentioned obligations, governments should consider what other actions have to be taken from their side in order to participate in and apply in full the Convention.

### **Parties must equally apply their import response to all sources and to the domestic manufacture of chemical for domestic use.**

When a Party decides not to allow the future import of a chemical listed in Annex III of the Convention or to allow import subject to certain conditions, then that Party must also prohibit or apply the same conditions to the import of the same chemical from other sources. These other sources will include domestic production for domestic use and trade from non-Parties to the Convention. This will require Parties to have legislative or administrative mechanisms in place to prohibit import at its borders and to prevent manufacture of the chemical within its own territory.

Many countries may have pesticide registration schemes covering the registration of pesticides and pesticide formulations, but not all countries have equivalent schemes that can effectively regulate both the import and the manufacture of industrial chemicals. Therefore, there may be a need for some countries to strengthen their domestic regulatory schemes.

Most countries also have established customs and quarantine schemes, which are enforced at their borders, and these may provide a mechanism that could (with appropriate amendments) be used to control the import (and export) of the relevant chemicals. Other mechanisms may also exist depending upon a country's legislative and administrative infrastructure.



**Parties must ensure that export does not occur contrary to import decisions.**

One of the most important elements of the Convention that Parties must implement is the ability to ensure that exports of chemicals listed in Annex III of the Convention do not occur contrary to the decisions of importing Parties.

Parties therefore need to ensure that either legislative or administrative mechanisms are in place that prohibit the exports of these chemicals. One possible mechanism, as already suggested, is to use existing customs legislation and border controls. Other possible mechanisms may be:

- to impose a prohibition on the export of scheduled chemicals and require industry to comply;
- to establish a licensing system for exporters of chemicals, with non-compliance with regard to the export of chemicals in Annex III of the Convention leading to possible cancellation of licences;
- to establish an education programme directed at raising the awareness of PIC responsibilities among the chemical and exporting industry; and/or
- other mechanisms consistent with the exporting Party's legislative and administrative infrastructure.

Whichever mechanism is chosen, it is important to recognize that there will need to be resources devoted to inspection and enforcement to ensure that compliance is achieved.

**Parties must ensure human health and environment information accompanies exports.**

The obligations that human health and environment information accompany the export of chemicals will require some Parties to strengthen their chemicals management system. In many countries, the existing labelling and other requirements regarding information on chemicals may ensure that any chemical destined for export already has adequate information accompanying the shipment. If this is not the case, Parties will need to ensure, through either education campaigns or through formal legislative provisions, that exports of chemicals are accompanied by adequate information regarding protection of health and the environment, as required by the Convention.

## ▶ 6.4 TECHNICAL ASSISTANCE

Article 16 of the Convention contains a general obligation for Parties to recognize the needs of developing countries and countries with economies in transition and to provide technical assistance to build capacity for chemicals management and to enable implementation of the Convention.

The Rotterdam Convention has been developed to take into account the needs of participating countries with regard to economic conditions, legislation, awareness, knowledge of decision makers and access to information. Therefore, the Convention requires that Parties with more advanced programmes should provide technical assistance, including training, to other Parties in developing their infrastructure and capacity to manage chemicals, in order to enable all Parties to fully implement the Convention.

