

**DRAFT PERSISTENT ORGANIC POLLUTANTS (POPs) CONVENTION AND THE
ROTTERDAM CONVENTION ON THE PRIOR INFORMED CONSENT (PIC)
PROCEDURE FOR CERTAIN HAZARDOUS CHEMICALS
AND PESTICIDES IN INTERNATIONAL TRADE**

Communication from UNEP Chemicals

This background paper is circulated to Members in preparation for the MEA Information Session on 24 October 2000.

I. DRAFT PERSISTENT ORGANIC POLLUTANTS (POPs) CONVENTION

1. The fifth session of the Intergovernmental Negotiating Committee (INC) for an International Legally Binding Instrument for Implementing International Action on Certain Persistent Organic Pollutants (POPs) will be held from 4-9 December 2000 in Johannesburg, South Africa. The session is expected to complete negotiations on the Convention text which is to be adopted and signed at a diplomatic conference scheduled from 22-23 May 2000 in Stockholm, Sweden.

2. Membership: 121 Governments participated in the fourth session of the POPs INC held from 20-25 March 2000 in Bonn, Germany. Developing countries are key to the negotiations, particularly the larger ones, since they produce and use many of the POPs that have been banned in most developed countries. In the current draft text of the POPs Convention contained in Annex II of the meeting report of the fourth session of the POPs INC (UNEP/POPS/INC.4/5), "Non-compliance" is covered under Article M – it simply indicates that the Conference of the Parties shall determine the procedures and institutional mechanisms for determining non-compliance.

3. Trade measures: The draft text of the POPs Convention includes proposed provisions pertaining to place bans or limits on imports and exports of chemicals listed for elimination in Annex A (paragraph 1 and 1 *bis* of Article D), and ensuring that chemicals listed in Annexes A, B or C, or materials containing these chemicals on becoming wastes, are disposed of in a manner consistent with the Basel Convention (paragraph 4(c)(ii) of Article D).

4. Capacity building: The draft text of the POPs Convention includes Article J, "Technical Assistance," Article J *bis* which is untitled but includes the concept of establishing a capacity assistance network in support of Convention implementation in countries, and Article K, "Financial Resources and Mechanisms." These provisions are designed to encourage countries to join the Convention by providing them with access to much of the technical and financial assistance necessary to enable them to meet their obligations under a POPs convention and better protect the citizens and environment from POPs. This assistance relates to Article E of the draft convention "National Implementation Plans."

5. Dispute settlement: The draft POPs Convention text includes Article N, "Settlement of disputes", which includes language standard to multilateral environmental agreements.

II. THE ROTTERDAM CONVENTION ON THE PRIOR INFORMED CONSENT PROCEDURE FOR CERTAIN HAZARDOUS CHEMICALS AND PESTICIDES IN INTERNATIONAL TRADE

A. INTRODUCTION

6. In March 1998, after two years of negotiations, 95 governments finalized the text of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade. The Convention was adopted on 10 September 1998 by a Conference of Plenipotentiaries in Rotterdam, the Netherlands, and opened for signature on 11 September 1998. As of 11 September 1999, 73 Parties had signed the Convention.

7. The Rotterdam Convention represents an important step towards ensuring the protection of citizens and the environment in all countries from the possible dangers resulting from trade in highly dangerous pesticides and chemicals. It will save lives and protect the environment from the adverse effects of toxic pesticides and other chemicals. It will establish a first line of defence against future tragedies by preventing unwanted imports of dangerous chemicals, particularly in developing countries. By extending to all countries the ability to protect themselves against the risks of toxic substances, it will have "levelled the playing field" and raised global standards for protection of human health and the environment.

8. In short, the Convention will enable the world to monitor and control trade in very dangerous substances. It will give importing countries the power to decide which chemicals they want to receive and to exclude those they cannot manage safely. If trade does take place, requirements for labelling and provision of information on potential health and environmental effects will promote the safe use of these chemicals.

9. In clear testimony to the urgency attributed to addressing international trade in hazardous chemicals, Governments completed the negotiations of the convention in only two years, and two years before the deadline set by the Rio Earth Summit (Agenda 21 Chapter 19). The Secretariat of the negotiations was provided by UNEP and FAO.

B. WHY DO WE NEED THIS CONVENTION?

10. Each year thousands of people die or are seriously poisoned by toxic pesticides and other chemicals. Many of these substances also cause devastating problems when released into the environment, where they may poison water resources, animal and plant life and people. Unwanted and obsolete stockpiles of such pesticides and toxic chemicals have accumulated in virtually every developing country. Many of these chemicals are persistent organic pollutants (POPs), highly toxic chemicals that persist in the environment for long periods of time, accumulate in wildlife and people and are mobile in the environment, possibly travelling thousands of kilometres from where they were released.

11. The Convention will help solve these pressing human health and environmental problems by reducing the use of these chemicals to where they are absolutely necessary and can be used safely. In this manner, the Convention will help to prevent new chemical safety problems.

C. HOW WILL IT WORK?

12. According to the Convention, export of a chemical can only take place with the prior informed consent of the importing Party.

13. The Prior Informed Consent (PIC) procedure is a means for formally obtaining and disseminating the decisions of importing countries as to whether they wish to receive future shipments of a certain chemical and for ensuring compliance to these decisions by exporting countries. The aim is to promote a shared responsibility between exporting and importing countries in protecting human health and the environment from the harmful effects of such chemicals.

14. The Convention contains provisions for the exchange of information among Parties about potentially hazardous chemicals that may be exported and imported and provides for a national decision-making process regarding import and compliance by exporters with these decisions.

The provisions regarding information exchange include:

- The requirement for a Party to inform other Parties of each ban or severe restriction on a chemical it implements nationally;
- the possibility for a developing country Party or a Party with an economy in transition to inform other Parties that it is experiencing problems caused by a severely hazardous pesticide formulation under conditions of use in its territory;
- the requirement for a Party that plans to export a chemical that is banned or severely restricted for use within its territory, to inform the importing Party that such export will take place, before the first shipment and annually thereafter;
- the requirement that an exporting Party, when exporting chemicals that are to be used for occupational purposes, shall ensure that a safety data sheet that follows an internationally recognised format, setting out the most up-to-date information available, is sent to the importer; and
- the requirement that exports of chemicals included in the PIC procedure and other chemicals that are banned or severely restricted domestically, when exported, are subject to labelling requirements that ensure adequate availability of information with regard to risks and/or hazards to human health or the environment.

15. Decisions taken by the importing Party must be trade neutral; that is, if the Party decides it does not consent to accepting imports of a specific chemical, it must also stop domestic production of the chemical for domestic use or imports from any non-party.

16. The Convention provides for technical assistance between Parties. Parties shall, taking into account in particular the needs of developing countries and countries with economies in transition, cooperate in promoting technical assistance for the development of the infrastructure and the capacity necessary to manage chemicals to enable implementation of this Convention. Parties with more advanced programmes for regulating chemicals should provide technical assistance, including training, to other Parties in developing their infrastructure and capacity to manage chemicals throughout their life cycle.

17. Each Party must designate one or more national authorities authorized to act on its behalf in the performance of the administrative functions required by the Convention.

18. The implementation of the Convention will be overseen by a Conference of the Parties. A Chemicals Review Committee will be established to review notifications and nominations from Parties, and make recommendations to the Conference of the Parties on which chemicals should be included in the PIC procedure. The Convention requires that the entire process be conducted in an open and transparent manner.

D. WHICH CHEMICALS WILL BE INCLUDED?

19. The Convention covers pesticides and industrial chemicals that have been banned or severely restricted for health or environmental reasons by the participating Parties and which have been subject to notification by Parties for inclusion in the PIC procedure. Severely hazardous pesticide formulations that present a hazard under the conditions of use in developing country Parties or Parties with economies in transition may also be nominated. The inclusion of chemicals in the PIC procedure is decided by the Conference of the Parties. The Convention initially includes 27 chemicals* carried forward from the present voluntary PIC procedure and hundreds more are likely to be added as the provisions of the Convention are implemented.

20. Certain specific groups of chemicals such as narcotic drugs and psychotropic substances, radioactive materials, wastes, chemical weapons, pharmaceuticals, food and food additives are excluded from the scope of the Convention. Also excluded are chemicals in quantities not likely to affect human health or the environment, provided they are imported for research or analysis purposes or by an individual for personal use in quantities reasonable for such use.

E. HOW WILL IT OPERATE?

21. The current voluntary PIC procedure has been operated by UNEP and FAO since 1989, based on the amended London Guidelines for the Exchange of Information on Chemicals in International Trade and the International Code of Conduct on the Distribution and Use of Pesticides. The new PIC procedure contained in the Convention is an improvement of the original procedure and based largely on the experience gained during the implementation of the original.

22. The Convention will enter into force once fifty countries have ratified it. As a first among the multilateral environmental agreements, Governments have agreed to continue to implement the voluntary PIC procedure using the new procedures of the Convention until the Convention formally enters into force. This will avoid a break in the implementation of the PIC procedure and is a clear indication of the importance Governments attach to this Convention. As of 4 October 2000, 11 Parties had ratified the Convention.

23. UNEP and FAO serve as Secretariat for the interim period and have also been assigned the responsibility for Secretariat of the Convention.

**Pesticides: 2,4,5-T, aldrin, captafol, chlorobenzilate, chlordane, chlordimeform, DDT, dieldrin, dinoseb, 1,2-dibromoethane (EDB), fluoroacetamide, HCH, heptachlor, hexachlorobenzene, lindane, mercury compounds, pentachlorophenol and certain formulations of methamidophos, methyl-parathion, monocrotophos, parathion and phosphamidon. Industrial chemicals: crocidolite, polybrominated biphenyls (PBB), polychlorinated biphenyls (PCB), polychlorinated terphenyls (PCT), tris(2,3 dibromopropyl)phosphate.*
