

Satisfying the Convention's Listing Criteria (a), (c), and (d)

This PowerPoint presentation:

- Explains how a Notification can satisfy Listing Criteria (a), (c), and (d).
- Focuses primarily on Criterion (c) and on how a Notification can demonstrate that a country's notified regulatory action “provides a sufficiently broad basis to merit listing of the chemical in Annex III.”

This PowerPoint Presentation is the 8th in a series of 8 presentations on Lead Chromates and the Rotterdam Convention, prepared by IPEN in order to help NGOs, civil society, and government officials better understand the important role a lead chromate listing by the Rotterdam Convention can play in reducing childhood lead exposure and accelerating global lead paint elimination. For other presentations in this series, please visit IPEN's [website](#).

IPEN's Campaign to List Lead Chromates

IPEN is a network of over 600 NGOs in more than 120 countries working together for a toxics-free future.

- IPEN has been working with NGOs to promote lead paint elimination in low- and middle-income countries for fifteen years.
- Initiatives by governments and these NGOs has led to the adoption of new lead paint regulation in several countries.
- IPEN-affiliated NGOs in countries that recently adopted lead paint control laws are now encouraging their Governments to nominate lead chromates for a Rotterdam Convention listing.

IPEN's Campaign to List Lead Chromates

The Rotterdam Convention is an international treaty that operates a legally binding Prior Informed Consent (PIC) procedure that applies to international trade in the hazardous chemicals listed in its Annex III.

- The lead paint control regulations that many countries recently adopted impose severe restrictions on the use of lead chromate pigments as ingredients in paints.
- These pigments are the predominant source of lead in lead paints.
- Countries that recently adopted lead paint regulations can submit Notifications to the Rotterdam Convention that nominate lead chromates for a Convention listing.
- A decision by the Rotterdam Convention to list lead chromates can help greatly accelerate the global elimination of all lead paints.

IPEN's Campaign to List Lead Chromates

Those interested in submitting Notifications may wish to review two documents that better explain the listing process and its impact.

[*Controlling Lead Chromate Pigments: The Case for a Rotterdam Convention Listing.*](#) What are Lead Chromates; The Lead Chromate Hazard; Uses of Lead Chromates; and the Impact of a Rotterdam Convention Listing.

[*Preparing a Rotterdam Convention Notification Listing.*](#) Why Countries that Recently Adopted Lead Paint Controls Can Nominate Lead Chromates; the Rotterdam Listing Process; Most Recent Regulatory Actions were based on Risk Evaluations; Establishing Controls on Trade in both Lead Chromates and in Paints that Contain them; How to Satisfy the Convention's Listing Criteria.

The Rotterdam Convention's Listing Criteria

The Rotterdam Convention's Annex II specifies four Criteria that a Notification of Final Regulatory Action must satisfy for it to successfully nominate a hazardous chemical (or well-defined family of hazardous chemicals) for an Annex III listing.

- A previous presentation in this series addresses how a Notification can satisfy **Criterion (b)**.
- This presentation addresses how a notification can satisfy the other three Listing Criteria:
 - **Criterion (a)**,
 - **Criterion (c)**, and
 - **Criterion (d)**.

The Rotterdam Convention's Listing Criteria

The Convention's *Chemical Review Committee* (CRC) determines whether a Notification satisfies the Convention's *Listing Criteria*.

- If at least one government from each of at least two regions submits a Final Notification of Regulatory Action to severely restrict the same hazardous chemical (or chemical family), and
- If the Convention's *Secretariat* verifies that the Notifications satisfy the Convention's Information Requirements,

The Secretariat will then forward the verified Notifications to the Convention's *Chemical Review Committee* for its review.

The Rotterdam Convention's Listing Criteria

For the *Chemical Review Committee* to determine that a Notification:

- Satisfies Criterion (a), it must “*Confirm that the final regulatory action has been taken in order to protect human health or the environment.*”
- Satisfies Criterion (c), it must “*Consider whether the final regulatory action provides a sufficiently broad basis to merit listing of the chemical in Annex III.*”
- Satisfies Criterion (d), it must “*Take into account that intentional misuse is not in itself an adequate reason to list a chemical in Annex III.*”

Criteria (a) & (d) Can Be Easily Satisfied

No one is likely to seriously question or challenge that:

- The notified regulatory action was taken with the intent of protecting the health of children and others from exposure to lead from lead paints (*thus satisfying Criterion (a)*).
- The harms to human health caused by exposure to lead from lead paint are not, typically, the result of intentional misuse of lead paints (*thus satisfying Criterion (d)*).

For the above reasons, little if any special attention is needed to prepare a Lead Chromate Notification that can easily satisfy Criterion (a) & Criterion (d).

Criterion (c) Requires Special Attention

Those preparing Notifications of Final Regulatory Action, however, should give attention to the Criterion (c) requirement that the regulatory action provided a *sufficiently broad basis* to merit a decision to list Lead Chromates in Annex III.

The Notification should provide enough information to make the case that the final regulatory action:

- Led, or can be expected to lead, to a significant decrease in the *quantity of lead chromates* used, and
- Led to an actual reduction of risk or would be expected to result in a significant reduction of risk to human health.

The points above are paraphrased from Criterion (c)'s text.

Demonstrating a “Sufficiently Broad Basis to Merit Listing”

For a Notification to satisfy the Convention’s Criterion (c), the CRC must conclude that *“the final regulatory action provides a sufficiently broad basis to merit listing of the chemical in Annex III.”*

The CRC will reach this conclusion if the Notification provides a sufficient basis for the CRC to answer “yes” to both of the following two questions:

1. Did the final regulatory action lead to a **significant decrease in the quantity** of Lead Chromates used in the notifying country or can it be expected to do so?
2. Can the final regulatory action be **expected to result** in a significant reduction of risk for human health in the notifying country?

Did Lead Chromate Usage Decrease?

Section 2.5.1 on the *Notification Form* calls for information about the **quantities** of the notified chemical used in the country.

- Providing the Section 2.5.1 information is optional.
- However, when those preparing the Notification have reasonable evidence of a significant decrease in domestic lead chromate usage, the evidence should be presented in Section 2.5.1.
- The evidence can take the form of a reasonably good (documented) estimate of lead chromate usage in:
 1. A (baseline) year prior to the enactment or entry into force of the notified regulatory action, and
 2. A (recent) year that follows full entry into force and maximal industry compliance with the notified regulatory action.

Did Lead Chromate Usage Decrease?

Some notifying countries may find it difficult to produce a good estimate to demonstrate a significant decline in lead chromate usage because:

- The country lacks the necessary data or evidence, and/or
- Adequate compliance with the notified regulatory action has not yet been achieved.

Countries still working to achieve adequate regulatory compliance can submit Notifications showing that:

- Upon their regulatory action's full entry into force, most previous uses of lead chromates became (or will become) unlawful, and
- The notified regulatory action will result in a significant decrease in the *quantity of Lead Chromates* used when the country is able to adequately enforce the provisions of the notified regulatory action.

Did Lead Chromate Usage Decrease?

In summary, those preparing Notifications should use the best available evidence to make the case that the notified regulatory action:

- *Already led to a significant decrease* in national lead chromate usage, or
- *Will result in a significant, demonstrated decrease* in national lead chromate usage when:
 - The notified regulation has fully entered in force, and/or
 - The notifying country is better able to enforce adequate compliance with the notified regulatory action, and/or
 - When better data or evidence on both past and present lead chromate usage is available.

Satisfying the Convention's Listing Criteria (a), (c), and (d)



For Additional information and other *Lead Chromates and the Rotterdam Convention* PowerPoint presentations, please visit IPEN's [website](https://ipen.org/site/listing-lead-chromates-under-rotterdam-convention). (<https://ipen.org/site/listing-lead-chromates-under-rotterdam-convention>)