

IPEN Views of Rotterdam Convention COP9

April 2019

The following is a summary statement of IPEN views on issues that COP9 will be called upon to address:

Compliance

- The Convention entered into force 15 years ago, but still does not have a compliance mechanism as required by Article 17. COP9 should adopt the proposed new compliance Annex VII.
- The proposed amendment submitted by a group of countries¹ proposes a new Annex VII for procedures and mechanism on compliance with text that is essentially identical to the text of the annex to decision RC-7/6 which is reproduced in Annex I to document UNEP/FAO/RC/COP.9/14.
- If all efforts to reach consensus on the compliance annex VII fail, it may be adopted by a three-fourths majority vote of the Parties present and voting at COP9.
- All Parties should accept the compliance Annex VII. Any Parties who opt-out will be publicly notified to all Parties by the Depositary. The new compliance Annex VII will enter into force on the expiry of one year from the the date of the communication by the Depositary of the adoption of an additional annex.
- Import response rate needs urgent improvement. 117 Parties have not yet provided import responses for one or more of the chemicals listed in Annex III to the Convention, and 11 Parties have failed to provide any import responses.²

Enhancing effectiveness

- To facilitate greater information availability and sharing, it would be useful for the World Customs Organization to assign a specific code to chemicals and mixtures (if none already exists) that are not currently listed in Annex III and for which notifications have been received and verified as containing the information required by Annex I.
- COP9 should request the Secretariat to draft an approach for securing financial resources for consideration at COP10.

Proposal to amend Article 16

- The proposed amendment³ submitted by Botswana, Cameroon, Ghana, Kenya, Lesotho, Malawi, Mozambique, Namibia, Nigeria, South Africa, Swaziland, the United Republic of Tanzania, Zambia and Zimbabwe would advance Convention implementation and should be adopted at COP9.
- Parties that do not ratify the amendment will not be bound by it. Therefore, it is important that all Parties ratify the amendment.

Proposal to amend Article 22

¹ UNEP/FAO/RC/COP.9/14/Add.1; Canada, Colombia, Costa Rica, the European Union and its member States, Ghana, Jordan, Mali, Nigeria, Peru, Switzerland, Thailand, the United Republic of Tanzania and Zambia

² UNEP/FAO/RC/COP.9/INF/6; Afghanistan, Botswana, Djibouti, Maldives, Marshall Islands, Montenegro, Namibia, Saint Vincent and the Grenadines, Sierra Leone, Somalia, and State of Palestine.

³ Article 16 Technical and financial assistance

The Parties shall, taking into account in particular the needs of developing countries and countries with economies in transition, cooperate to provide in promoting technical and financial assistance for the development of the infrastructure and the capacity necessary to manage chemicals to enable implementation of this Convention through the Global Environment Facility Trust Fund. Developed country Parties and other Parties with more advanced programmes for regulating chemicals should provide technical and financial assistance, including training, to other Parties developing country Parties and Parties with economies in transition to develop in developing their infrastructure and projects geared at strengthening their capacity to manage chemicals throughout their life-cycle, and taking informed decisions to list chemicals in Annex III of the Convention.”

- The proposal (UNEP/FAO/RC/COP.9/13/Add.1) to amend Article 22⁴ of the Rotterdam Convention submitted by a group of countries⁵ provides a way for Parties to implement a PIC procedure – especially when a small number of countries have blocked the listing of substances and formulations that meet all Convention criteria.
- The amendment proposal would allow for voting to amend Annex III as a last resort possibility when all efforts at consensus have failed. However, there may be other unintended impacts of the proposal in its current form.
- Deletion of Article 22 para 5 removes reference to the procedural steps described in Articles 5 to 9 for listing a substance or formulation in Annex III. This could result in the removal of the CRC in the listing procedure, which is not desirable and is likely not the intent of the proponents. Hence it would be wise to reformulate the amendment to include specific reference to the procedure laid down in Articles 5 to 9.
- As noted by the Secretariat, the amendment would enter into force after ratification, acceptance or approval by at least three-fourth of the Parties. Only Parties that have ratified/accepted/approved the amendment would be bound by it. This means that only these Parties could proceed with decision-making by voting, and if a decision is adopted to list a chemical by voting, only those Parties would be bound by the listing. Parties not bound by the amendment would also not be bound by obligations in Articles 10 and 11. This would create two sets of obligations in the Convention.
- Document UNEP/FAO/RC/COP.9/INF/17 provides useful analysis of this and other proposals to amend the Convention, including a voluntary informed consent procedure. The Secretariat concluded that all proposals if not ratified by all Parties will create different sets of obligations for different countries.

Listing acetochlor in Annex III

- COP9 should list acetochlor in Annex III of the Convention.
- Acetochlor is proposed for listing based on final regulatory actions taken by Burkina Faso, Cabo Verde, Chad, the Gambia, Guinea-Bissau, Mali, Mauritania, the Niger, Senegal, Togo and the European Union.
- As members of the Sahelian Pesticides Committee, Burkina Faso, Cabo Verde, Chad, the Gambia, Guinea-Bissau, Mali, Mauritania, the Niger, Senegal and Togo ban all products containing acetochlor. The EU bans all uses of plant protection products containing acetochlor.
- Acetochlor meets all Annex II criteria and has been recommended for listing by the CRC (CRC-13/1).
- In Burkina Faso, Cabo Verde, Chad, the Gambia, Guinea-Bissau, Mali, Mauritania, the Niger, Senegal, and Togo, acetochlor use resulted in unacceptable risk to human health and the environment due to contamination of ground water and surface water used as drinking water; risk to operators due to the absence of sufficient personal protection measures; high risk to non-target terrestrial plants; long-term high risk to herbivorous birds; high risk to aquatic organisms; and absence of buffer strips between treated fields and streams.
- The EU assessment noted potential human exposure to metabolite t-norchloro acetochlor when surface water is used for drinking water and that t-norchloro acetochlor is genotoxic. There is also high potential for groundwater contamination over significant areas of the EU by the relevant metabolites t-oxanilic acid, t-sulfinylacetic acid, t-sulfonic acid and s-sulfonic acid. The regulatory action was also taken because of toxicity to aquatic organisms; high acute risk to birds from contaminated drinking water and long-term risk for herbivorous birds; high risk to non-target terrestrial plants; and the lack of a valid method for quantifying residues in food of plant origin.
- Acetochlor is manufactured by Dow AgroSciences and Monsanto (among others) and has been used in maize cultivation.

Listing HBCD in Annex III

- COP9 should list HBCD in Annex III of the Convention.
- HBCD is proposed for listing based on final regulatory actions taken by Japan and Norway.
- Japan bans HBCD manufacture, import and use. Norway severely restricts HBCD production, import, export and sale of consumer products that contain HBCD above certain limits.

⁴ Article 22 Adoption and amendment of annexes
Sub-articles 1–3 remain intact as is in the Convention.

4. The proposal, adoption and entry into force of amendments to annexes to this Convention shall be subject to the same procedures as for the proposal, adoption and entry into force of additional annexes to the Convention.
Sub-article 5 is deleted.

Sub-article 6 remains intact as in the Convention.

⁵ Botswana, Cameroon, Ghana, Kenya, Lesotho, Malawi, Mozambique, Namibia, Nigeria, Swaziland, the United Republic of Tanzania and Zambia

- HBCD meets all Annex II criteria and has been recommended for listing by the CRC (CRC-13/2).
- In Japan, monitoring revealed sites with a high ecological risk. The POPRC Risk Profile documents the developmental and neurotoxic potential of HBCD in animal studies that raise concerns about harms to human health, particularly for unborn babies and young children. This concern, along with the human milk monitoring study and results of other studies in the Risk Profile document on cord serum, suggests some risk to unborn babies and young children in Japan.
- The assessment in Norway was based on a risk or hazard evaluation relevant to both human health and the environment and provides a summary of evidence of exposure to consumers in Norway, its detection in the environment (including remote areas of the arctic), biota, fish, moss, yolk sac of newly hatched chicks along with temporal trends. High or very high hazards are noted for developmental effects, acute aquatic toxicity, and chronic aquatic toxicity. Hexabromocyclododecane is highly persistent and bioaccumulates.
- HBCD was listed in the Stockholm Convention in 2013.
- HBCD is manufactured by BASF, Albemarle, and Dow Chemical.

Listing phorate in Annex III

- COP9 should list phorate in Annex III of the Convention.
- Phorate is proposed for listing based on final regulatory actions taken by Brazil and Canada.
- Brazil bans the production, use, trade, import and export of products based on phorate to protect human health. Canada severely restricts phorate use to protect the environment.
- Phorate meets all Annex II criteria and has been recommended for listing by the CRC (CRC-13/4).
- In Brazil, phorate and its metabolites were shown to be easily absorbed through skin and mucous membranes and to irreversibly block the catalytic activity of acetylcholinesterase., causing neurotoxicity in humans. Agricultural workers exposed to phorate were poisoned and killed related to the toxicity of the active ingredient. The exposure is even more dangerous due to the difficulties related to the availability and/or ineffectiveness of personal protective equipment (PPE). Regulators concluded that phorate has the potential to cause hormonal disturbances in humans and is more toxic to humans than demonstrated in tests with laboratory animals.
- The assessment in Canada found phorate to be highly toxic to all terrestrial and aquatic species tested and concluded that the substance is a significant risk to birds and wildlife. In addition, the toxic sulfoxide and sulfone transformation products are persistent and mobile.
- Phorate is manufactured by AMVAC Chemical Corporation, BASF, Paramount Pesticides Ltd., Insecticides (India) Ltd., P. I. Industries Ltd., Gujarat Pesticides Pvt. Ltd., Vimal Crop Care Pvt. Ltd., Modern Chemicals Pvt. Ltd., Sanova Pharma Chem Pvt. Ltd., Prime Agro Industries Pvt. Ltd., Insecticides India Ltd., Sudarshan Fertilisers, Sunray Chemical Industries, Trans Yamuna Fertilizers Pvt. Ltd., P. I. Industries Limited, Balaa Pesticides, Jai Chemicals (source: e-World Trade Fair), American Cyanamid Co. One Cyanamid Plaza (source: Toxnet, 2017), United Phosphorus, Cequisa, Dhanuka, Ramcides, Voltas, and Searle India among others.

Listing carbosulfan in Annex III

- COP9 should list carbosulfan in Annex III of the Convention.
- Carbosulfan is proposed for listing based on final regulatory actions taken by Burkina Faso, Cabo Verde, Chad, the Gambia, Mauritania, the Niger, Senegal, Togo and the EU.
- The EU bans all uses of plant protection products containing carbosulfan. Burkina Faso, Cabo Verde, Chad, the Gambia, Mauritania, the Niger, Senegal, and Togo ban all products containing carbosulfan due to their extremely high toxic potential to human health and especially the environment.
- Carbosulfan meets all Annex II criteria and has been recommended for listing by the CRC (CRC-11/4).
- At COP8, governments agreed that all Convention criteria had been met, but a small number of countries blocked the listing.⁶
- In Burkina Faso, Cabo Verde, Chad, the Gambia, Guinea-Bissau, Mali, Mauritania, the Niger, Senegal, and Togo the evaluation noted the low utilisation rate of protective equipment by growers and that the majority of water points were less than 100m from the fields raising concerns over pollution in water used for drinking in 50% of cases and for animals in 27% of the cases. The assessment also noted toxicity to birds, aquatic invertebrates, and bees.
- The EU assessment noted a possible exceedance of the Acceptable Daily Intake by toddlers and an acute risk to children and adults from consumption of a number of crops. The EU evaluation also raised concerns about the

⁶ Indonesia and Philippines <http://enb.iisd.org/vol15/enb15252e.html>

potential contamination of groundwater by the parent substance and a number of relevant metabolites; toxicity to bees, and a risk to birds and mammals from the uptake of residues in contaminated food items.

- Carbosulfan is manufactured by Belchim, Fargro, and Agrinon Enterprise Limited.

Listing chrysotile asbestos in Annex III

- COP9 should list chrysotile asbestos in Annex III of the Convention.
- Chrysotile asbestos is proposed for listing based on final regulatory actions taken by Australia, Chile, and the EU.
- Australia bans all uses of chrysotile asbestos with a few exemptions that are restricted in scope and time. Chile prohibits production, importation, distribution, sale and use of construction materials containing any type of asbestos. In addition, production, importation, distribution, sale and use of chrysotile and any other type of asbestos, or mixture for any item, component or product that does not constitute a construction material is prohibited, with certain specific exceptions. The EU bans all forms of asbestos, including chrysotile, and products containing these fibres added intentionally with one limited exception in the case of chrysotile.
- Chrysotile asbestos meets all Annex II criteria and has been recommended for listing by the CRC (UNEP/FAO/RC/CRC.1/28, annex I, section B).
- At COP3, governments agreed that all Convention criteria had been met, but a small number of countries blocked the listing.⁷ A small number of countries also blocked listing at COP4⁸, COP5⁹, COP6¹⁰, COP7¹¹, and COP8.¹²
- In Australia, the assessment concluded that human exposure to chrysotile is associated with an excess risk of asbestosis, lung cancer and mesothelioma.
- The assessment in Chile found adverse chronic effects in exposed workers in the asbestos cement industry.
- In the EU, the risk assessment confirmed that all forms of asbestos can cause lung cancer, mesothelioma, and asbestosis; and that no threshold level of exposure could be identified below which asbestos does not pose carcinogenic risks.
- Major chrysotile asbestos mining companies include Orenburg Minerals, Uralasbest, Eternit, China National Nonmetallic Industry Corp, and Kostanai Minerals.
- The asbestos industry paid K2 Intelligence to spy on activists campaigning to ban the use of asbestos by hiring someone to infiltrate groups as a documentary filmmaker.^{13 14 15 16 17 18} The K2 client was the Chrysotile Cement Industry of Kazakhstan, which includes Kostanai Minerals.

Listing fenthion formulation in Annex III

- COP9 should list fenthion formulation in Annex III of the Convention.
- Fenthion severely hazardous pesticide formulation (ultra-low-volume (ULV) formulations at or above 640 g active ingredient/L) is proposed for listing based on final regulatory actions taken by Chad.
- Chad restricts fenthion formulation use for avian control exclusively to the Directorate of Plant Protection and Conditioning (DPVC).
- Fenthion formulation meets all Annex II criteria and has been recommended for listing by the CRC (CRC-9/4).
- At COP8, governments agreed that all Convention criteria had been met, but a small number of countries blocked the listing.¹⁹
- The assessment in Chad noted that fenthion is a cholinesterase inhibitor and affects the central nervous, cardiovascular, and respiratory systems, and may irritate eyes and mucous membranes and like other

⁷ Canada, India, Iran, Kyrgyzstan, Peru, Russia, and Ukraine <https://enb.iisd.org/vol15/enb15147e.html>

⁸ Kazakhstan, Kyrgyzstan, Russia, Ukraine, Vietnam, and Zimbabwe <http://enb.iisd.org/vol15/enb15168e.html#COOPERATION>

⁹ Canada, Kazakhstan, Kyrgyzstan, Russia, Ukraine, Vietnam and Zimbabwe <http://enb.iisd.org/vol15/enb15188e.html>

¹⁰ India, Kazakhstan, Russia, Zimbabwe <http://enb.iisd.org/vol15/enb15210e.html>

¹¹ Cuba, India, Kazakhstan, Kyrgyzstan, Russia, Zimbabwe <http://enb.iisd.org/vol15/enb15230e.html>

¹² Belarus, India, Kyrgyzstan and Kazakhstan, Russia, Syria, and Zimbabwe, <http://enb.iisd.org/vol15/enb15252e.html>

¹³ <https://www.nytimes.com/2018/04/27/business/corporate-spy-double-agent.html>

¹⁴ <https://newmatilda.com/2017/03/05/lethal-lies-how-a-corporate-spy-for-a-kazakhstan-company-infiltrated-the-global-anti-asbestos-network/>

¹⁵ <https://newmatilda.com/2017/04/23/lethal-lies-part-two-unmasking-the-men-behind-the-global-spying-ring/>

¹⁶ <https://www.theguardian.com/world/2016/dec/08/k2-corporate-spy-infiltrated-anti-asbestos-campaign-court-told>

¹⁷ <http://www.hazards.org/asbestos/ispy.htm>

¹⁸ <http://ibasecretariat.org/lka-corporate-deceit-asbestos-espionage-at-home-and-abroad.php>

¹⁹ Ethiopia, Sudan, Uganda, and Kenya <http://enb.iisd.org/vol15/enb15252e.html>

organophosphates, fenthion is readily absorbed through the skin. Chad documented fenthion poisoning incidents including two deaths and one operator who went into a coma for a week.

- Fenthion is manufactured by Arysta Life Science.

Listing paraquat formulation in Annex III

- COP9 should list paraquat formulation in Annex III of the Convention.
- Paraquat severely hazardous pesticide formulation (emulsifiable concentrate and soluble concentrate containing paraquat dichloride at or above 276 g/L, corresponding to paraquat ion at or above 200 g/L) is proposed for listing based on final regulatory actions taken by Burkina Faso, Cape Verde, Chad, Gambia, Guinea-Bissau, Mali, Mauritania, Niger and Senegal.
- Through the Sahelian Pesticides Committee, Burkina Faso, Cape Verde, Chad, Gambia, Guinea-Bissau, Mali, Mauritania, Niger and Senegal bans any formulation containing paraquat.
- Paraquat formulation meets all Annex II criteria and has been recommended for listing by the CRC (CRC-8/7).
- At COP6, governments agreed that all Convention criteria had been met, but a small number of countries blocked the listing.²⁰ A small number of countries also blocked listing at COP7²¹ and COP8.²²
- The Sahelian Pesticides Committee evaluation noted that the paraquat pesticide formulation was found to cause human health problems to the applicators under conditions of use in Burkina Faso including 296 cases of poisoning. The assessment showed that in many cases, little or no personal protective equipment (PPE) was worn due to various factors such as lack of financial means to acquire it, inappropriateness of personal protective equipment for local climatic conditions and an underestimation of the dangers of pesticides. Adverse effects in operators included headache, excessive sweating, itching, tingling, skin burn, rashes and sores, total destruction of contaminated areas, fever, dizziness, bone pains, fainting, breathing problems, cough, blurred vision, eye pain, buzzing, stomach ache, nausea, vomiting and locked jawbones.
- Paraquat is manufactured by Syngenta which was purchased by ChemChina in 2017.

Rules of procedure

- Parties should support effective operation of the Convention by removing the brackets in Rule 45.1 to permit voting when all efforts at consensus have been exhausted.

Status of implementation

- COP9 should urge Parties to provide information on implementation of Article 11, 12, and 14 by responding to the questionnaire.
- COP9 should urge Parties to submit notifications of final regulatory actions, proposals for listing severely hazardous pesticide formulations and import responses for listed chemicals.

²⁰ India, Guatemala and Honduras <http://enb.iisd.org/vol15/enb15210e.html>

²¹ Guatemala, India and Indonesia <http://enb.iisd.org/vol15/enb15230e.html>

²² Chile, Guatemala, India and Indonesia <http://enb.iisd.org/vol15/enb15252e.html>