

# ROTTERDAM CONVENTION

## AN OVERVIEW



## ABOUT TOXICS LINK

Toxics Link is an environmental NGO, dedicated to bringing toxics related information into the public domain both relating to struggles and problems at the grassroots as well as global information to the local levels. We work with other groups around the country as well as internationally in an understanding that this will help bring the experience of the ground to the fore, and lead to a more meaningful articulation of issues. Toxics Link also engages in on-the ground work especially in areas of municipal, hazardous and medical waste management and food safety among others. We are also involved in a wider range of environmental issues in Delhi and outside as part of a coalition of non-governmental organisations. Our work on Bio medical waste management has spanned over 20 long years, entailing significant diverse body of work such as policy engagement, improving on ground compliance to the rules, involved in setting standards, creating models in healthcare facilities, ongoing research on occupational safety, training and capacity building of all stakeholders and creation of training modules. The Toxics-Free Health Care programme of Toxics Link has worked extensively for ensuring responsible health care practices and use of safer technologies in India, and strong commitment to a clean and safe environment. The programme aims to green the healthcare practices in the country.

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for a toxics-free world

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# ROTTERDAM CONVENTION

## AN OVERVIEW

The **Rotterdam Convention on Prior Informed Consent Procedures for Certain Hazardous Chemicals and Pesticides in International Trade** is a multilateral agreement which establishes a procedure for obtaining and exchanging information between countries regarding certain hazardous chemicals that have been banned or severely restricted by Parties. It was adopted at a conference in Rotterdam in September 1998 and came into force in 2004.

The Convention has 165 Parties, which includes India, the EU, Russia and China, but excludes the US, Egypt, Myanmar and Bangladesh. It gives governments tools to ensure that they have the information needed to assess the risks posed by hazardous chemicals and to make informed decisions on their future import. It also has known synergies with other multilateral environmental agreements, specifically Basel and Stockholm Conventions. However, unlike the Basel and Stockholm Conventions, the Rotterdam Convention is very poorly understood.

### Objectives of Rotterdam Convention<sup>1</sup>

- 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.
- To contribute to the environmentally sound use of those hazardous chemicals, by facilitating information exchange about their characteristics, by providing for a national decision-making process on their import and export and by disseminating these decisions to Parties.

<sup>1</sup> Article 1, Rotterdam Convention

## Procedures of Rotterdam Convention

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To achieve its objectives the Convention includes two key provisions, namely the **Prior Informed Consent (PIC) Procedure** and **Information Exchange**.

### ABOUT PIC PROCEDURE

**PIC Procedure** is a formal mechanism for obtaining and disseminating the decisions of importing Parties as to whether they wish to receive future shipments of those chemicals listed in Annex III of the Convention and for ensuring compliance with these decisions by exporting Parties. The procedure:

- Does NOT involve international bans
- Helps participating countries learn more about the characteristics of potentially hazardous chemicals that may be shipped to them
- Initiates a decision-making process on the future imports of these chemicals by countries independently
- Helps convey this decision to other countries<sup>2</sup>

### ABOUT INFORMATION EXCHANGE

Under **Information Exchange** all countries are required to notify the Secretariat when taking any domestic regulatory action to ban or severely restrict a chemical. When such a chemical is exported from a Party's territory, that Party must notify each individual importing Party. The chemical must also be appropriately labelled and accompanied by basic health and safety information.

## What is Annex III?<sup>3</sup>

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- It is a list of pesticides and industrial chemicals that are subject to PIC Procedure. For listing a chemical in Annex III it must –
  - Be banned or severely restricted for health or environmental reasons by two or more Parties;
  - Approved by the Conference of Parties to be included in Annex III, based on a consensus of the Parties.
- There are a total of 54 chemicals listed in Annex III, 35 pesticides (including 3 severely hazardous pesticide formulations), 18 industrial chemicals, and 1 chemical in both the pesticide and the industrial chemical categories.

The decisions are based on a **Decision Guidance Document (DGD)**, which is prepared for each chemical listed in Annex III and helps governments understand the risks associated with the handling and use of the chemical. Countries do not automatically adopt controls for chemicals listed in the

<sup>2</sup> <https://www.agriculture.gov.au/agriculture-land/farm-food-drought/ag-vet-chemicals/international/rotterdam>

<sup>3</sup> <http://www.pic.int/TheConvention/Chemicals/AnnexIIIChemicals/tabid/1132/language/en-US/Default.aspx>

Rotterdam Convention. Each chemical must be separately ratified by the country following inclusion in Annex III.

## Importance of Rotterdam Convention

Concerns about hazardous chemicals and their dumping significantly predate their regulation through international treaties. The international community recognised need to build the capacity of importing countries to make informed decisions on the import and management of hazardous chemicals. For this reason, the **International Register of Potentially Toxic Chemicals** (now **UNEP Chemical**) was established in the 1976 to function as a scientific data bank for the collection and dissemination of information on the environmental and toxicological effects of chemicals. However, the initiative didn't go far enough.<sup>4</sup>

The earliest guidelines on the international trade of hazardous chemicals were the **International Code of Conduct for the Distribution and Use of Pesticides**, published by FAO in 1985, and the **London Guidelines for the Exchange of Information on Chemicals in International Trade**, published by UNEP in 1987. These guidelines failed to incorporate a compulsory PIC regime, due to resistance from North countries. Impetus for a legally binding regime came from **Agenda 21** of the **Rio Declaration**, which urged the adoption of a legally binding PIC procedure in relation to trade in hazardous chemicals by year 2000.

## Successes of Rotterdam Convention

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Rotterdam Convention filled the urgent need to regulate international trade in hazardous chemicals and pesticides, given their disturbing health and environmental impacts. Developing countries import hazardous and severely restricted chemicals mainly because they lack the requisite information on these products. Thus, the Convention –

- Tries to bridge this information gap.
- Respects the autonomy of the importing state to make independent informed decisions on future imports.
- Divides responsibility of regulating the international trade in hazardous chemicals and pesticides between importing and exporting states.

The Convention's work is primarily done at the macroscopic, national level, since hazardous chemicals have been known to cross borders and impact the health and environment of people in other

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<sup>4</sup> Pallemaerts M. *Toxics and Transnational Law: Regulation of Toxic Substances As Legal Symbolism*. Oxford: Hart Pub; 2003.

countries. Additionally, hazardous chemicals often have wide-ranging and long-lasting effects that can impact large populations and ecosystems. Therefore, it is essential to take a comprehensive approach to regulating their use and minimizing their harm, involving governments and other international bodies to develop and enforce necessary policies. This is enabled by the Rotterdam Convention by establishing a framework for international cooperation and exchange of information on the use and management of hazardous chemicals.

Apart from mandating information disclosure by exporters and providing a decision guidance document to importers, developing countries are also given technical support. This includes assistance in creating individualised national action plans to regulate chemical trade and combat the use of hazardous pesticides. In a 2018 study at the University of Göttingen, Germany, researchers found that when an exporter (typically an OECD country) ratifies the Rotterdam Convention, lower amounts of hazardous chemicals are shipped from OECD countries to non-OECD countries.<sup>5</sup> One reason behind its success is that **the solutions devised are never imposed on the states**; work is carried out with each nation individually to generate the most beneficial and long-lasting outcomes.

## Recent Developments at Rotterdam Convention

The 11th Conference of Parties (COP-11) of the Rotterdam Convention was held between 10th and 12th May, 2023. Only one of the seven chemicals up for listing in Annex III could secure the required consensus. The requirement of consensus has resulted parties even small number blocking the listing of hazardous chemicals thus undermines the purpose of the Convention of information sharing also prevents Parties from exercising their 'Right to know'. Therefore, to break this deadlock, an amendment seeking to modify Articles 7, 10, 11 and 22 of the Convention and to add a new Annex VIII was proposed at the COP.

### Features of the Amendment

- Chemicals that receive the support of a three fourth majority, but can't secure consensus, can be listed under Annex VIII, and will have to be traded on the basis of explicit consent by the receiving Party.
- The proposed amendment only affects the Parties that ratify it. For example, if an importing Party ratifies the amendment and an exporting party doesn't, the importer would be bound by the 'Obligations in relation to imports of chemicals listed in Annex III' (Article 10 of RC) but the exporter will not be bound by the 'Obligations in relation to exports of chemicals listed in Annex III' (Article 11 of RC).

<sup>5</sup> <https://www.econstor.eu/bitstream/10419/172768/1/1010723960.pdf>

The proponents of the Amendment hold the view that by allowing a parallel system of prior consent between ratifying parties, the amendment can help strengthen the Rotterdam Convention. Moreover, through the creation of two separate Annexes with differing obligations, the proposed amendment can help address the impasse in the Convention without undermining the consent principle, as listing chemicals in Annex III would still require a consensus of all Parties. Unfortunately, the amendment was voted down, falling slightly short of the 75% votes needed.

## Rotterdam Convention: Misunderstood

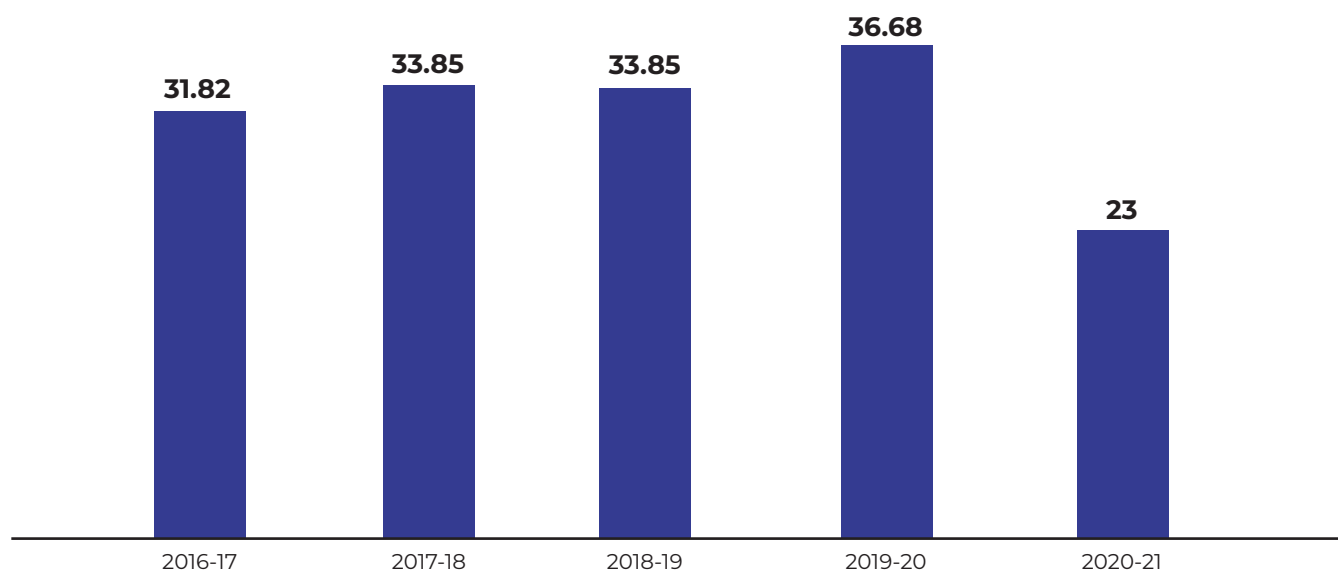
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Rotterdam Convention is highly misunderstood by its parties across the globe. It has been observed that states do not fully understand the many benefits of the Rotterdam Convention. As a result, whenever a new chemical is proposed for listing to Annex III, countries producing the chemical, as well as the countries that depend on its use, inevitably come out in opposition of the listing.

In the 10<sup>th</sup> Conference of Parties of the Rotterdam Convention (COP-10), held in June 2022, the **proposal to add carbosulfan** to Annex III was opposed by India, Paraguay, and Guatemala. These countries asserted that listing of carbosulfan would significantly impact their agricultural production, given that it is an important insecticide used in their countries, and lacks viable substitutes. Such objections to listing new chemicals comes from the **mistaken identification of Annex III as a “banned list”, rather than a “watch list”**. Opposing Parties usually raise the concern that if significant chemicals get added to the list, their availability in the market will reduce due to creation of trade barriers.

These **fears are largely unfounded**. Take the example of carbofuran, which was listed in Annex III of the Convention in 2017. The volume of imported carbofuran consumed in India was not affected by the listing – it remained at the same level between 2017-18 and 2018-19, and even increased by 9% in 2019-20. This shows that the listing of carbofuran did not lead to the creation of any trade barriers.

**Fig 1. Consumption of Imported Carbofuran in India (in MT)**  
(Data was last updated in June 2021, so figures for 2020-21 are incomplete)



## The case of Chrysotile Asbestos

According to the World Health Organisation, “Exposure to asbestos, including chrysotile, causes cancer of the lung, larynx and ovary, mesothelioma (a cancer of the pleural and peritoneal linings) and asbestosis (fibrosis of the lungs).”<sup>6</sup> Efforts to list the compound under Annex III of the Convention have been repeatedly blocked a few countries, including India, which is a net importer of asbestos

In fact, **India is the largest importer of asbestos**, with a 46 per cent share of asbestos imported globally. In 2020, India imported 361,164 tonnes of chrysotile, **more than one-third of which came from countries where the toxic mineral has been banned**<sup>7</sup>. Importantly, India’s vote against the listing of chrysotile hampers its own ability to monitor the imports of the toxic and carcinogenic chemical.

In conclusion, it is in interest of all countries, including India, to **strengthen the Rotterdam Convention and support the inclusion of more hazardous chemicals** under the ambit of Rotterdam Convention. To strengthen the Convention, Parties will need to come together to create a **robust central monitoring mechanism** to ensure that the PIC procedure is uniformly enforced. In addition, there is a need to **build the capacity of developing states to enable them assess the risks of chemicals** being imported. These measures will go a long way in protecting human health as well as the environment.

<sup>6</sup> <https://www.who.int/publications/i/item/9789241564816>

<sup>7</sup> <https://www.aljazeera.com/news/2022/12/12/why-does-india-continue-trading-asbestos#:~:text=The%20report%20noted%20that%20almost,Poland%20and%20South%20Africa%20respectively.>



