

ROTTERDAM CONVENTION ALLIANCE: POSITION PAPER
6th Conference of the Parties to the Rotterdam Convention
Geneva, April 28 – May 10, 2013

SUMMARY

1) The purpose of the Rotterdam Convention is to advance environmental justice by providing a critical right - the Right to Prior Informed Consent – particularly to developing countries and countries with economies in transition, to whom hazardous chemicals and pesticides are increasingly being exported and where resources to safely monitor and manage these dangerous substances are often lacking or nonexistent.

ROCA calls on all Parties to the Convention to demonstrate commitment to environmental justice by supporting the consensus process, which enables the Right to Prior Informed Consent provision of the Convention to be implemented.

2) The Convention provides rights and imposes obligations in order to Achieve Responsible Trade in Hazardous Substances.

ROCA calls on countries, who export a particular hazardous substance, to practice responsible trade by supporting the recommendation of the Chemical Review Committee (CRC) regarding that hazardous substance. Exporting countries have a legal and moral duty not to undermine the Right of Prior Informed Consent that the Convention grants to importing countries.

3) The Convention provides a specific science-based process for determining which substances should be listed in Annex III of the Convention.

ROCA calls on all Parties to the Convention to act with integrity and support the recommendation of the Chemical Review Committee for COP6 to approve the listing of the following six substances in Annex III: Azinphos-methyl; Chrysotile asbestos; Perfluorooctane sulfonic acid, perfluorooctanesulfonates, perfluorooctanesulfonamides and perfluorooctanesulfonyls; Pentabromodiphenyl ether (CAS No. 32534-81-9) and pentabromodiphenyl ether commercial mixtures; Octabromodiphenyl ether commercial mixtures; liquid formulations (emulsifiable concentrate and soluble concentrate) containing paraquat dichloride at or above 276 g/L, corresponding to paraquat ion at or above 200 g/L.

4) The Convention should not be held hostage by a handful of countries acting in bad faith.

ROCA calls on all Parties to the Convention to support the removal of the square brackets from Rule 45, Paragraph 1 of the Rules of Procedure, thus allowing a decision to be taken by a two-thirds majority vote, as a last resort, if all efforts to reach consensus

have been exhausted, so that a handful of countries, acting in bad faith, may not hold the rest of the world hostage and prevent the implementation of the Convention.

5) The actions of a handful of countries, allied to the asbestos industry, are endangering the integrity and effectiveness of the Convention.

ROCA urges the Chair of COP6, at the opening of the COP, to issue a call that any Party which intends to oppose the CRC recommendation to list chrysotile asbestos, or any of the other five recommended substances, let the other Parties know right then at the outset of the conference, so that an opportunity would be provided to allow the necessary work to be done to achieve consensus.

6) ROCA is gravely disturbed that a sham conference (“International scientific conference: *Chrysotile Asbestos: Risk Assessment and Management*”, Kiev, Nov. 21-22, 2012), aimed at defeating the recommendation of the CRC to list chrysotile asbestos was falsely represented as a recommendation made by COP5, and that the conference was promoted on the PIC website and was attended by the Secretariat.

ROCA urges the Secretariat not to promote or attend sham conferences that are initiated to defeat the recommendations of the CRC. ROCA urges COP6 to reprimand the sponsors of the conference, “International scientific conference: *Chrysotile Asbestos: Risk Assessment and Management*” (the Ministry of Health of Ukraine, the National Academy of Medical Sciences of Ukraine SI Institute for Occupational Health, the Russian Academy of Medical Sciences FSBI Research Institute of Occupational Health) and a Ukrainian and a Russian institute for falsely stating in the Resolution passed at the conference, which opposed listing of chrysotile asbestos by COP6, that the conference was held in accordance with the recommendations of COP5.

7) ROCA encourages the Secretariat to continue its efforts to increase notifications in order to render the Convention more effective.

ROCA urges COP6 to approve the implementation of the Secretariat’s proposed areas for priority actions and to develop further strategies to achieve the goal of increased notifications, so as to increase the impact and effectiveness of the Convention.

8) ROCA urges the parties to COP6 to urgently move forward to implement a compliance mechanism.

ROCA urges COP6 to create a compliance committee and adopt concrete, effective procedures and mechanisms on compliance.

9) ROCA urges parties to COP6 to approve concrete and effective measures to provide needed financial and technical assistance for developing countries and countries with economies in transition.

10) ROCA urges parties to COP6 to exercise careful oversight of the synergy process and to ensure effective involvement of civil society.

ROCA POSITION PAPER FOR COP6

1) The purpose of the Rotterdam Convention is to Advance Environmental Justice by providing a Right to Prior Informed Consent

Countries attending the Rio Earth Summit in 1992:

- Noted that control over the trade in hazardous chemicals is an essential element in eradicating poverty and illness and in protecting the environment.
- Expressed concern that hazardous chemicals and pesticides, that are banned or severely restricted in industrialized countries, are increasingly being shipped to low and middle income countries or countries with economies in transition, where resources to safely monitor and manage these dangerous substances are often lacking or nonexistent.
- Expressed determination to protect human health, including the health of consumers and workers, and the environment against potentially harmful impacts from certain hazardous chemicals and pesticides in international trade.

The countries attending the Rio Earth Summit therefore decided that a legally binding international Agreement was urgently required to control traffic in hazardous chemicals. Thus, the Rotterdam Convention was created in 1998 and came into effect in 2004. One hundred and fifty countries have now ratified the Convention.

RECOMMENDATION

ROCA calls on all Parties to the Convention to demonstrate commitment to environmental justice by supporting the consensus process, which enables the provisions of the Convention to be implemented.

2) The Convention provides a Right to Importing Countries and imposes an obligation on Exporting Countries in order to Achieve Responsible Trade in Hazardous Substances

The Convention does not ban trade in hazardous substances. However, by ratifying the Convention, countries, which export a hazardous substance, make a commitment, under an international, legally binding Convention, to fulfill the obligations that the Convention imposes on exporting countries. Exporting countries have a legal and moral duty to respect – and not to block - the right of Prior Informed Consent that the Convention grants to importing countries. The Convention contains legally binding provisions that:

- Require that countries exporting hazardous substances practice **responsible trade**.

- Provide **a basic human right – the Right of Prior informed Consent** – particularly to developing countries and countries with economies in transition, where hazardous substances are increasingly shipped.
- Enable low and middle income countries and countries with economies in transition to more effectively **control their borders and protect health and the environment**, empowered with the right to refuse hazardous substances which, in their judgment, they do not have the means and resources to manage safely, or to ensure that required safety measures are in place, if they choose to allow the import of the hazardous substance.

RECOMMENDATION

ROCA calls on Parties to the Convention, who export a particular hazardous substance, to practice responsible trade by supporting the recommendation of the Chemical Review Committee (CRC) regarding that hazardous substance and to refrain from blocking the right of Prior Informed Consent that the Convention provides to importing countries.

3) The Convention provides a specific science-based process for determining which substances should be listed in Annex III of the Convention

The Chemical Review Committee (CRC), made up of 32 government-appointed scientific experts is mandated by the Convention to determine whether a specific substance meets the scientific and technical criteria of the Convention for listing as a hazardous substance under Annex III and, if so, to recommend that it be listed. The CRC follows a specific evidence-based process, prescribed in Annex I and II of the Convention.

The CRC is mandated by the Convention to play this important role in order to ensure that the recommendation whether to list a specific substance in Annex III is made by independent scientific experts, is objective and evidence-based, and is insulated from political pressures that may be exerted by vested interests, who derive financial benefit in exporting the substance, and who may not wish to notify importing countries of the health risks and the costly safety measures required.

RECOMMENDATION

- *ROCA calls on all Parties to the Convention to act with integrity and support the recommendations of the Chemical Review Committee.*
- *ROCA particularly calls on countries, which export a hazardous substance and thus have a conflict of interest, not to put their vested interests ahead of their obligations under the Convention and not to block the recommendation of the CRC to list in Annex III the particular substance they export.*

- ***ROCA calls on all Parties to the Convention to support the recommendations of the CRC to list the following substances in Annex III:***
 1. Azinphos-methyl. Azinphos-methyl is extremely toxic following acute oral and dermal exposures. Acute toxic signs induced by azinphos-methyl include tremors, convulsions, salivation and respiratory distress. Dose-related inhibition of plasma, erythrocyte and brain cholinesterase activity occurs by all exposure.
 2. Chrysotile asbestos, which is being put before the COP for the fourth time. The risk assessment concluded that human exposure to chrysotile is associated with an excess risk of asbestosis, lung cancer and mesothelioma.
 3. Perfluorooctane sulfonic acid, perfluorooctanesulfonates, perfluorooctanesulfonamides and perfluorooctanesulfonyls. PFOS fulfils the criteria for very persistent, very bioaccumulative and toxic substances. There is a statistically significant association between PFOS exposure and bladder cancer and that there appeared to be an increased risk of episodes of neoplasm of the male reproductive system, the overall category of cancers and benign growths, and neoplasms of the gastrointestinal tract.
 4. Pentabromodiphenyl ether (CAS No. 32534-81-9) and pentabromodiphenyl ether commercial mixtures. PentaBDE is widely recognized as a persistent organic pollutant with a high potential to bioconcentrate, bioaccumulate and a long-range transport to remote regions.
 5. Octabromodiphenyl ether commercial mixtures. C-OctaBDE is classified as a reproductive toxicant, due to its effects on human health, with the risk phrases "may cause harm to unborn child", and "possible risk of impaired fertility". Studies and assessments provided evidence that c-OctaBDE may cause adverse effect such as effects on reproductive organs and developmental effects.
 6. Liquid formulations (emulsifiable concentrate and soluble concentrate) containing paraquat dichloride at or above 276 g/L, corresponding to paraquat ion at or above 200 g/L. The adverse effects appeared immediately to several hours after the application of the pesticide. Symptoms reported included headaches, excessive sweating, itching, tingling, burning of the skin, skin rashes and sores, complete destruction of contaminated areas, fever, dizziness, bone pain, loss of consciousness, breathing difficulties, cough, vision.

4) The Convention should not be held hostage by a handful of countries acting in bad faith

The Rotterdam Convention (RC) Conferences of the Parties (COPs) operate on a consensus basis. In order to ensure that the Convention cannot be made unworkable by a handful of Parties acting in bad faith, the Rules of Procedure for the COP allow decisions to be taken by a two-thirds majority vote, as a last resort, when “all efforts to reach consensus have been exhausted” (Rule 45, Paragraph 1). There are still square brackets around Paragraph 1, which means that this rule is not yet in effect.

It should be noted that this same provision - allowing for a decision to be taken by a two-thirds majority vote, as a last resort, if consensus has proven impossible - is in effect under the Basel Convention (Rule 40 of the Rules of Procedure). The existence of this option, as a last resort, serves, in fact, as an incentive for Parties to achieve consensus. In the twenty years, since the Basel Convention came into effect, all decisions of the COPs have been made by consensus. It has thus proven unnecessary to take a vote.

RECOMMENDATION

ROCA calls on all Parties to the Convention to support the removal of the square brackets from Rule 45, Paragraph 1 of the Rules of Procedure, so that a handful of countries, acting in bad faith, may not hold the rest of the world hostage and prevent the effective implementation of the Convention.

5) The actions of a handful of countries, allied to the asbestos industry, are endangering the integrity and effectiveness of the Convention

A handful of countries, allied to the asbestos industry and, until now, led by Canada, has repeatedly blocked the recommendation of the CRC to list chrysotile asbestos under Annex III. At COP5, in 2011, Canada single-handedly defied the wish of the COP and refused consensus to allow chrysotile asbestos to be listed. Canada stated that the recommendation of the CRC to list chrysotile asbestos under Annex III was “appropriate” and that “the criteria for listing were met”. Canada, nevertheless, refused to allow consensus, refused to give any explanation and refused to engage in efforts to achieve consensus. Canada thus violated its obligation to practice a consensus approach and rendered null and void any possibility of a consensus being reached.

The last two asbestos mines in Canada have closed down, due to environmental and financial problems, and the Canadian government no longer has a financial or political interest in the asbestos industry. The Canadian government has announced that it will therefore no longer block the listing of chrysotile asbestos in Annex III.

We are concerned, however, that other countries who export asbestos or who have governments allied to the asbestos industry, may seek to block the listing, in order to continue to practice irresponsible export of chrysotile asbestos. Global asbestos production has been around 2 million tonnes a year for the past twenty years. Russia produces half of this amount (1 million tonnes a year), of which it exported 748,564

tonnes in 2011. We are particularly concerned that Russia may seek to block the CRC's recommendation to list chrysotile asbestos.

Asbestos is the only substance that has encountered repeated refusal to allow the recommendation of the CRC to be implemented. This blockage of the listing of chrysotile asbestos is political and is due to pressure exerted by the asbestos industry, which denies the overwhelming scientific evidence that chrysotile asbestos is a hazardous substance and which lobbies to defeat the recommendations of the CRC.

Since the Rotterdam Convention was created in 1998, the evidence that chrysotile asbestos is hazardous has grown even stronger. A requirement for a substance to be listed in Annex III is that the substance has been banned or severely restricted in at least two regions of the world. Between 2000 and 2012, the number of countries banning chrysotile asbestos has tripled from 18 countries to 54.

In light of the conduct by Canada and a tiny number of countries allied with the asbestos industry to make the achievement of consensus impossible, it is critical that other countries demonstrate the strongest determination to stop this destructive conduct, which violates the legal and moral obligation of every Party to the Convention to demonstrate bona fides (good faith).

RECOMMENDATION

- *ROCA urges the Chair of COP6, after the preliminary organizational matters (Agenda items 1, 2 and 3) have been dealt with, and prior to commencement of discussion of Agenda Item 4 (Rules of procedure), to issue a call that any Party which intends to oppose the CRC recommendation to list chrysotile asbestos, or any of the other five recommended substances, let the other Parties know at that moment at the outset of the conference.*
- *ROCA urges that Parties support this call, so that an opportunity would then be provided to allow the necessary work to be done to achieve consensus.*
- *ROCA urges that, if any country expresses an intention to oppose the CRC recommendation to list chrysotile asbestos, which has been put before COP3, COP4, COP5 and now COP6, then the Chair and Parties state the reality that COP6 faces a breakdown of the Convention, where a small number of countries are rendering consensus impossible to achieve regarding chrysotile asbestos and that, until this impasse has been resolved, no decision will be taken by COP6 on Agenda item 4, regarding Rule 45, Paragraph 1 of the Rules of Procedure which allows a two-thirds majority decision to be taken, as a last resort, in exactly this extreme situation.*

6) ROCA is gravely disturbed that a sham conference, aimed at undermining the recommendation of the CRC to list chrysotile asbestos has been falsely represented as a recommendation made by COP5

ROCA is gravely disturbed that a sham “International scientific conference: *Chrysotile Asbestos: Risk Assessment and Management*”, organized with the aim of preventing the listing of chrysotile asbestos under the RC, has been falsely represented as having been a recommendation of COP5. In reality, the conference was a recommendation put forward by Russia and The Ukraine at COP5 and was not endorsed by COP5.

The Ukraine has unsuccessfully urged at earlier COPs that the recommendation of the CRC to list chrysotile asbestos be eradicated, on the basis that a small number of Parties, allied to the asbestos industry, had blocked the recommendation at the COP.

At COP5, Russia and The Ukraine proposed “to conduct a scientific conference in order to make a grounded decision in respect of the problem concerned at the 6th Conference of (the) Parties”. The problem, to which The Ukraine and Russia referred, was how to eliminate the recommendation of the CRC to list chrysotile asbestos. The “International conference *Chrysotile Asbestos: Risk Assessment and Management*”, sponsored by the government of The Ukraine and Russian and Ukrainian institutes allied to the asbestos industry, took place on Nov. 21-22, 2012 in Kiev, Ukraine. It brought together scientists who have long been financed by and allied to the asbestos industry. As planned, the participants at the conference passed a motion, opposing the listing of chrysotile asbestos in Annex III of the RC.

The resolution falsely states: “The conference was held in accordance with recommendations of the V Conference of the Parties to the Rotterdam Convention (19-25 June 2011, Geneva).”

This sham conference, instigated to prevent chrysotile asbestos from being listed in Annex III, was promoted on the RC website. Members of the RC Secretariat attended it as observers.

RECOMMENDATION

- ***ROCA urges the Secretariat not to promote or attend sham conferences, organized by allies of the asbestos industry, or any other industry, that are intended to undermine and thwart the recommendations of the CRC.***
- ***ROCA urges COP6 to reprimand the Ministry of Health of Ukraine, the National Academy of Medical Sciences of Ukraine SI Institute for Occupational Health and the Russian Academy of Medical Sciences FSBI Research Institute of Occupational Health for falsely stating in the Resolution, that was passed at the Kiev conference and which opposed listing of chrysotile asbestos by COP6, that the conference was held in accordance with the recommendations of COP5.***

7) ROCA encourages the Secretariat to continue its efforts to increase notifications in order to render the Convention more effective

ROCA supports the proposals submitted to COP6 by the Secretariat to increase the number of notifications of final regulatory action and guidance to assist parties in their preparation. The Secretariat identified three proposed areas for priority actions:

- (a) Encourage the increased use of existing training and guidance materials and develop additional materials;
- (b) Support parties in their submission of notifications through various initiatives;
- (c) Focus on technical assistance activities to increase capacity and highlight the importance of notifications.

RECOMMENDATION

ROCA urges COP6 to approve the implementation of these proposed areas for priority actions and to develop further strategies to achieve the goal of increased notifications so as to increase the impact and effectiveness of the Convention.

8) ROCA urges COP6 to urgently move forward to implement a compliance mechanism

Article 17 of the Rotterdam Convention calls on the COP to adopt procedures and institutional mechanisms for determining noncompliance with the provisions of the Convention and for treatment of Parties found to be in non-compliance, but, to date, this has not been achieved.

COP6 will review proposals for establishing a compliance committee and for adopting procedures and mechanisms on compliance, which were developed at earlier COPs and by the contact group appointed at COP5.

RECOMMENDATION

ROCA urges COP6 to create a compliance committee and adopt concrete, effective procedures and mechanisms on compliance.

9) ROCA urges COP6 to approve concrete and effective measures to provide needed financial and technical assistance

In order for the Convention to be effectively implemented, it is essential that developing countries and countries with economies in transition be provided with needed technical and financial assistance.

RECOMMENDATION

ROCA urges COP6 to:

- *Request the Secretariat to continue its collaboration with relevant partners, such as the Global Environment Facility and its implementing agencies and the participating organizations of the Inter-Organization Programme for the Sound Management of Chemicals, to ensure that provisions relevant to the Rotterdam Convention are taken into account in the development of technical assistance projects and activities in follow-up to decision RC-3/5.*
- *Encourage countries to incorporate sound chemicals management into their national development plans and programmes to help raise the profile of chemicals management and draw attention to its importance to donor countries and private sector;*
- *Encourage countries to involve civil society organisations in the activities aimed at awareness raising on hazardous pesticides and chemicals, and implementing practical solutions at the national level.*
- *Encourage countries to carry out educational work and training with PIC Secretariat to draw attention to the benefits of understanding and using PIC to address problem pesticides and hazardous chemicals.*
- *Encourage donor countries to continue and enhance their contributions that support financial and technical support to developing countries and countries with economies in transition, and Recommend to the GEF (Global Environment Fund) that it restores its past practice of allowing NGOs with the capability to do so to execute GEF Medium Sized Projects (MSPs).*

10) ROCA urges COP6 to exercise careful oversight of the synergy process

Coordination and cooperation among the three Conventions on chemicals and waste – Basel, Rotterdam and Stockholm – can bring increased effectiveness. It is essential, however, that the unique mandate of each Convention not be weakened in the measures being proposed and adopted to achieve synergy. It is also critical that civil society be involved in strategies across the three Conventions to achieve chemical safety goals and to advance public awareness and education, as well as in monitoring the effectiveness of the synergy process.

In addition, the success of the synergy initiative is also dependent on the effective involvement of civil society both in chemical safety issues across the three Conventions as well as in public awareness and outreach. The synergy process should be under critical evaluation of the success and effectiveness of a common system for the development, management and distribution of information and outreach materials.

RECOMMENDATION

ROCA urges COP6 to:

- *Ensure that the elements and goals unique to each of the three Conventions are not sacrificed in the goal of achieving synergies among the three Conventions.*

- *Ensure effective involvement by civil society in all aspects of promoting synergies among the three Conventions, in particular in public awareness and outreach activities on all three Conventions.*
- *Monitor and critically evaluate the success and effectiveness of the synergy process.*

THE POSITION PAPER IS SUPPORTED BY THE FOLLOWING ORGANISATIONS:

ROCA (Rotterdam Convention Alliance) is an Alliance of environmental, labour and health organizations around the world working to promote the full and effective implementation of the Rotterdam Convention.

ROCA envisions a world in which all people are protected from hazardous chemicals, in which all people have access to credible scientific information, and in which trade in hazardous chemicals does not occur without prior, informed consent.