



# ROCA

## Rotterdam Convention Alliance

## ROCA position paper in preparation of the Rotterdam Convention COP 5

The Rotterdam Convention was established in 1998 and entered into force in 2004. The Convention is designed as the tool to ensure the **Prior Informed Consent (PIC)** of countries importing hazardous chemicals and pesticides. The Convention was developed because of a global problem with public health effects, environmental contamination and lack of awareness caused by harmful chemicals. Information is the key word of the Convention. There are currently 143 Parties to the Convention (countries which ratified the Convention).

From hundreds of harmful chemicals being regulated in different countries, to date, only 40 chemicals are subject to the PIC procedure. Although a legally binding instrument, some of the Rotterdam Convention's key provisions are being misused by some of the Parties, breaking the long-known international rule of bona fides. Besides, some key provisions of the Convention are not being applied by the Parties, and the absence of control of compliance leads to a never-ending review and assessment of the health and environment hazards of long-known hazardous substances and products.

### **NGO observers long to see the Rotterdam Convention become the effective legally binding agreement that it should be.**

The 3rd Conference of the Parties (COP3) in 2006 was the very first time that the Chemical Review Committee (CRC) of the Convention, put forward a recommendation for a substance to

be placed on the Convention's list of hazardous substances. The substance in question was chrysotile asbestos. Hazardous substances had, prior to this, been placed on the Convention's list in Annex III, but this had been done by voluntary agreement. For example, crocidolite asbestos, actinolite asbestos, anthophyllite asbestos, amosite asbestos and tremolite had all been placed voluntarily on the Convention's list. These are, however, substances that are no longer traded in the world.

At COP3, a handful of asbestos exporting/using countries, led by Canada and supported by India, Iran, Kyrgyzstan, Peru, and Ukraine refused to allow the CRC's recommendation on chrysotile to be adopted. At COP4 in 2008, the recommendation of the CRC to list chrysotile asbestos was brought forward once more, together with the recommendation to list tributyltin and endosulfan. Both the recommendation to list chrysotile asbestos and endosulfan were blocked. The decision to block the addition of chrysotile asbestos was this time led by parties from the Eastern European and Central Asian region (in particular Ukraine, Kyrgyzstan).

To date, only the recommendation of the CRC to list tributyltin has been implemented.

This refusal to allow the rights in the Convention to be implemented has caused a crisis. The recommendations of the CRC were not adopted and countries found themselves in a serious situation: it put into question the Parties' commitment to uphold the integrity of the CRC framework and the work of its experts. To maintain and prevent further threats to the integrity of the CRC and its work, the Rotterdam Convention COP5 should ensure the successful

listing of the recommended substances. The Parties that engaged in the negotiations of the Rotterdam Convention sought to promote and substantially improve the flow of information by establishing a 'right-to-know' mechanism which provides developing countries with valuable information warning them of health and environmental problems with certain hazardous chemicals and pesticides. Based on the information provided by exporting Parties, countries have the right to prohibit imports of chemicals included in PIC.

The effects of the Convention aim to:

1. **Provide Parties with more information about health and environmental problems of chemicals that are in the CRC review process and/or listed in Annex III;**
2. **Prevent unwanted imports of hazardous chemicals in PIC;**
3. **Improve regulation of chemicals, especially in developing countries;**
4. **Stimulate a search for safer alternatives, including Integrated Pest Management (IPM).**

The Rotterdam Convention is a unique *legally binding agreement* that promotes countries' right-to-know by channeling the appropriate information about environmental hazards. While the Convention does not include an objective to ban chemicals like the Stockholm Convention on persistent organic pollutants, the Convention nevertheless, is an important international information tool that gives developing countries a clear right to defend themselves from exposure to hazardous chemicals through the PIC process. Participants to COP 5 should seize the opportunity to uphold the objectives of the Rotterdam Convention by

adopting the recommendations of CRC and providing the mechanism that allow countries to make prior informed decisions.

### **Uphold effective chemical review process**

The mechanism for adding chemicals for Prior Informed Consent are outlined in Article 22 of the Convention and the work of the CRC established under Article 18 of the Convention.

Chemicals are listed in Annex III of the Rotterdam Convention by decisions of COP based on the CRC recommendations and Paragraph 5 of article 22 which states that decisions to amend Annex III are to be taken by consensus. At COP3 and COP4, this approach was misused by a small number of Parties which block listing chrysotile asbestos and endosulfan in Annex III. It was an unfortunate precedent that had significant implications for the Convention's continued effectiveness and diminishes the work of the CRC. Developing countries and economies in transition have been denied their right to take informed decisions on the use of that chemical.

**Our constituents urge Parties to uphold the integrity of the Convention at COP5**

### **Amending the Rule of Procedure to seek 2/3 majority vote in absence of consensus for adding chemicals to Annex III**

To address the issue of lack of consensus at COPs on chemicals recommended by the CRC for listing in Annex III

#### **COP5 should:**

- Adopt the approach which involves amending the decision-making process for the addition of chemicals to Annex III of the Convention. The decision making process for the inclusion of chemicals in Annex III should follow article 22, Paragraph 3 and 4, an approach used in other annexes in the Convention.
- Encourage Parties to speed up the ratification of the amendment to the decision making process to achieve its entry into force by COP6.
- Support the removal of the square brackets around the second sentence of Paragraph 1 of rule 45 of the Rules of procedure for the COP to allow decisions to be taken by two-thirds majority vote, when "all efforts to reach consensus have been exhausted", and thus allow the Convention to be effectively implemented, as intended.

### **List the chemicals recommended by the Chemical Review Committee under Annex III**

COP5 should welcome the recommendations of the CRC on listing **Endosulfan, Chrysotile Asbestos, Alachlor, Aldicarb and Azinphos-methyl in Annex III**. Listing all these known hazardous chemicals in Annex III will facilitate information exchange, help countries improve national chemicals management regimes and reduce harm to human health and the environment. The Rotterdam Convention is based on a fair and transparent scientific process carried out by the Chemical Review Committee (CRC). The CRC plays a critical role by ensuring that the review mechanism of the Convention, – in particular Annex II outlining the criteria to review candidate chemicals, – is used objectively and that science is the cornerstone of the review process. A failure to support recommendations developed by the scientific body of the Convention may be evidence that Parties do not trust the work of the CRC. The Convention would then fail in achieving its mandate.

#### **Endosulfan**

Decisions at COP5 of the Stockholm Convention on Persistent Organic Pollutants resulted in the listing of endosulfan to Annex A for its elimination. The decision confirms that endosulfan is a POP that warrants global elimination actions because of its range of impact on human health and the environment. A listing of endosulfan in Annex III of the Rotterdam Convention would provide governments with critical information conducive to taking action in preventing imports of hazardous chemicals into their countries.

#### **Chrysotile Asbestos**

Asbestos is known to result in the death of more than 100,000 people every year. "For every life lost to asbestos, a shattered family is left behind. The human cost of asbestos use is too high. My husband paid the ultimate price for his job with his life. I miss Alan every day; our daughter will never dance at her wedding with her beloved father. The dismal truth is that this happens to thousands of people every year", says Linda Reinstein, widow of an asbestos victim.

The CRC has recommended the listing of chrysotile asbestos to Annex III of the Rotterdam Convention at COP3 and again at COP4 as chrysotile asbestos meets all criteria for the listing. Its listing is only objected to by a tiny number of countries who have expressed an interest to maintain and support financial interest in this chemical while disregarding the public health interests,

in particular vulnerable populations like workers and consumers and their family members. This development in the negotiations does not reflect the objectives of the Rotterdam Convention. Listing of chrysotile asbestos in Annex III and thus its formal adoption under the Convention will help countries to protect their people from a highly hazardous substance.

#### **Alachlor, Aldicarb, Azinphos-methyl**

Alachlor is a herbicide that could cause severe diseases like multiple myeloma, colorectal cancer, and leukaemia. Aldicarb is a multi-use pesticide that can be linked to different types of cancer. And Azinphos-methyl is a broad spectrum insecticide.

#### **COP5 should:**

- Adopt the listing of Endosulfan, Chrysotile Asbestos, Alachlor, Aldicarb and Azinphos-methyl in Annex III of the Convention as recommended by the CRC. These chemicals satisfy all criteria of being severely hazardous for human health and the environment and are being phased out or already prohibited in more than two regions. Endosulfan was banned globally at COP5 to the Stockholm Convention on POPs.

### **Non-Compliance**

Compliance is a fundamental and crucial element to strengthen the implementation and achieve the obligations of the Rotterdam Convention. As long as no functioning non-compliance mechanism is in place, no Party is forced to implement the provisions of the Convention. Article 17 of the Convention requires the COP to develop a compliance system "as soon as practicable." The non-compliance committee, established at COP3, should seek solutions for the outstanding issues, which are decision-making, trigger mechanisms and punitive measures. The Rotterdam Convention should urgently adopt effective compliance control mechanisms as is the case for WTO (World Trade Organisation): chemicals trade should at least benefit from the same control instrument as general trade. This would also be incentive for the Parties to implement the Convention's provisions.

#### **COP5 should:**

- Approve procedures and institutional mechanisms for determining and treating non-compliance to secure a sound implementation of the provisions to the Convention.

## Technical and Financial Assistance

Developing countries and countries with economies in transition need technical and financial assistance to achieve the goals of the Convention. While many countries are experiencing economic challenges, the need for financial and technical assistance will not diminish and will continue to be in demand in the absence of assistance.

### COP5 should:

- 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).

## Synergies

To date, decisions made on synergies have focused on administrative matters to improve coordination and cooperation among the three Conventions on chemicals and waste – Basel, Rotterdam and Stockholm. Civil society adds that the elements and goals unique to each of the three Conventions should not be sacrificed to the goal of achieving synergies among the three Conventions.

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. ■

### COP5 should:

- Ensure that the elements and goals unique to each of the three Conventions should not be sacrificed to 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.

The **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.

The **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.

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- BIOM Kyrgyzstan
- Canadian Environmental Law Association CELA
- Corporate Accountability Desk of The Other Media, India
- Eco-Accord Russia
- Ecological Restorations Ghana
- International Ban Asbestos Secretariat
- International Labor Rights Forum
- IPEN – The International POPs Elimination Network
- Pesticide Action Network
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- Right on Canada
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