

BRS Conventions COPs Highlights: Monday, 13 June 2022

The Basel Convention (BC) took several decisions in plenary, while contact groups continued work on BC technical, strategic, and legal matters. The Rotterdam Convention (RC) started its substantive work on the listing of chemicals and compliance.

Basel Convention

Matters Related to the Implementation of the Convention

Scientific and Technical Matters: Technical guidelines:

Mercury wastes: Magda Gosk, Co-Chair of the BC technical matters contact group, presented the decision for the mercury wastes technical guidelines (CRP.13 and CRP.13/Add.1). The BC COP adopted the decision.

Waste lead-acid batteries and other waste batteries: Co-Chair Gosk presented the decision, which calls for updating the guidelines on waste lead-acid batteries and developing technical guidelines on other waste batteries. The BC COP adopted the decision (CRP.18) with brackets around the paragraphs related to the thirteenth meeting of the OEWG (OEWG13).

Classification and hazard characterization of wastes: The BC COP adopted the decision (CHW.15/7) with the clarification, in response to ARGENTINA, that the Secretariat will consider the implications of decisions at this COP for the harmonized customs code system.

National reporting: The BC COP adopted the decision in CHW.15/8, pending confirmation by the budget group, and took note of the draft practical guidances on batteries containing lithium (CRP.21), on inventories of obsolete pesticides and pesticide-container waste (CRP.22), and on the development of inventories of plastic waste (CRP.23).

Technical Assistance: The BC COP adopted the decisions on technical assistance (CRP.17) and on Basel Convention Regional Centres (CRP.15).

BC Partnership Programme: Environmental Network for Optimizing Regulatory Compliance on Illegal Traffic (ENFORCE): BC COP President Álvarez-Pérez reported that the EU withdrew its previous suggestion for further Secretariat activities because this will be discussed as part of the deliberations on the Implementation and Compliance Committee (ICC). The BC COP adopted the ENFORCE section of the decision in CHW.15/18/Rev.1.

OEWG Work Programme: The Secretariat introduced the draft work programme (CHW.15/19).

The EU, supported by NORWAY and the UK, proposed to have OEWG13 after COP16 because there are only eleven months

between COP15 and COP16 and countries face a heavy agenda including upcoming negotiations for the treaty on plastic pollution.

Algeria for the AFRICAN GROUP, Iran, for the ASIA-PACIFIC GROUP, CANADA, BRAZIL, PAKISTAN, DOMINICAN REPUBLIC, COLOMBIA, KAZAKHSTAN, ARGENTINA, ANTIGUA AND BARBUDA, PERU, GUATEMALA, BELIZE, SWITZERLAND, and CHINA supported holding OEWG13 before COP16, underscoring its critical role in facilitating the COP's work. INDONESIA supported the proposed work programme.

The UK and CHINA suggested organizing a hybrid COP.

SWITZERLAND suggested including consideration of Annex II amendments in the OEWG's work programme, noting the potential adoption of the e-waste amendments by this COP.

BC COP President Álvarez-Pérez will organize consultations with regional groups.

Rotterdam Convention

Matters Related to the Implementation of the Convention

Listing of Chemicals: Chemical Review Committee (CRC):

The Secretariat introduced the developments of the CRC (RC/COP.10/5, INF/9, 4/Rev.1).

Noluzuko Gwayi (South Africa), CRC Chair, reported on the Committee's work, including its review of notifications of final regulatory action on several chemicals.

COLOMBIA and SWITZERLAND noted that, due to the pandemic, meetings were online and shorter, which led to prioritizing the consideration of the notifications for some chemicals, which in turn has created a heavy workload for the next meeting.

The EU lauded the CRC's work and supported in principle the draft decision, but preferred to request the CRC to identify an interim chair by 15 July 2022 for CRC18 and to consider the election of the chair at RC COP11.

INDONESIA encouraged closer cooperation between the CRC and other scientific committees and organizations.

ARGENTINA expressed concern about the rigor of risk evaluations reviewed by the CRC.

The US welcomed the CRC's work but said there is a lack of rigor and consistency in its decisions. CROPLIFE INTERNATIONAL stated that qualitative statements on risks do not meet important risk evaluation criteria and CRC meetings often lack meaningful debate.

Parties agreed to invite the Secretariat to prepare a draft decision.

Decabromodiphenyl ether (DecaBDE): The Secretariat introduced the documents (RC/COP.10/9, Add.1, INF/10, 11, 8/Rev.1).

The EU, SOUTH AFRICA, THAILAND, SWITZERLAND, PAKISTAN, EL SALVADOR, NICARAGUA, NIGERIA, NORWAY, NEW ZEALAND, CANADA, MEXICO, INDONESIA, the UK, MAURITIUS, GUYANA, CHILE, DOMINICAN REPUBLIC, NIGER, the MALDIVES, KAZAKHSTAN, GABON, ANTIGUA AND BARBUDA, TUNISIA, GUATEMALA, NEPAL, AUSTRALIA, HONDURAS, SERBIA, BOLIVIA, and MALAYSIA supported the listing, noting that all of the criteria for listing decaBDE in Annex III have been met. Several parties indicated that listing in Annex III would only make the chemical subject to the PIC procedure, not a ban.

IRAN requested to defer the listing to the next RC COP due to his country's use of this chemical.

The US supported listing but expressed concern that one of the supporting documents considered at CRC15 was not available in the CRC's working language.

IPEN supported the listing, underscoring the presence of this toxic chemical in toys and breastmilk, and lamented the exemptions in the SC's listing.

Noting one objection, RC COP Vice-President Khashashneh proposed to return to this issue.

Perfluorooctanoic acid (PFOA), its salts, and PFOA-related compounds: The Secretariat introduced the documents (RC/COP.10/12, 12/Add.1, INF/12, 13 and 8/Rev.1).

The EU, SWITZERLAND, the UK, PAKISTAN, SOUTH AFRICA, NORWAY, MAURITIUS, MEXICO, NICARAGUA, CHILE, INDONESIA, HONDURAS, NIGERIA, SERBIA, CANADA, NEW ZEALAND, AUSTRALIA, and IPEN supported listing. Many parties noted that listing substances does not constitute a ban.

Emphasizing that PFOA is a widespread global pollutant that contaminates drinking water and is extremely costly to remediate, IPEN said effective fluorine-free alternatives are available for all uses.

The EU, JAPAN, and CANADA supported requesting the Secretariat to prepare an indicative list of PFOA, its salts, and related compounds, which would be posted to the RC website and updated periodically to facilitate the implementation of the PIC procedure.

IRAN called for deferring the discussion of listing to the next COP.

Parties adopted the first part of the decision, which concludes that all requirements for listing have been met.

RC COP Vice-President Khashashneh invited parties to adopt the second part of the decision, to list the substances in Annex III to the RC.

IRAN opposed. RC COP Vice-President Khashashneh said the COP would return to this issue.

Acetochlor: The Secretariat introduced the documents (RC/COP.10/6, 6/Add.1, INF/8/Rev.1). RC COP Vice-President Khashashneh reminded delegates that COP9 decided that all the criteria for listing acetochlor in Annex III were met and invited parties to adopt a decision to list the substance.

INDONESIA, BOSNIA AND HERZEGOVINA, the EU, REPUBLIC OF CONGO, the MALDIVES, EL SALVADOR, LEBANON, DOMINICAN REPUBLIC, NORWAY, NICARAGUA, NIGERIA, PAKISTAN, MEXICO, MAURITIUS, CHILE, the UK, SWITZERLAND, PANAMA, AUSTRALIA, MONTENEGRO, and URUGUAY supported listing. Several parties emphasized that acetochlor is harmful to human health and that listing facilitates information exchange and does not constitute a ban. The EU underscored that there is no conclusive evidence that listing has any impact on trade.

IPEN supported listing as a first step in controlling trade, emphasizing that acetochlor can permanently undermine human health and affect future generations, and encouraged the FAO to prepare a list of safe alternatives.

GUATEMALA, supported by ARGENTINA and SERBIA, objected to listing acetochlor, saying that this would limit its availability, increase the cost of agricultural production, and affect food security. He said that listing constitutes a "de facto ban" on substances. IRAN noted acetochlor is used in his country and requested deferring this issue to the next COP.

CROPLIFE INTERNATIONAL said that: insufficient scientific rigor was applied to review some of the notifications of final regulatory action; listing is tantamount to a ban; and reduced availability of effective crop protection tools like acetochlor is a risk to the global trade of cost-effectively produced food.

Noting the objections to listing acetochlor, RC COP Vice-President Khashashneh said he would return to this agenda item later in the meeting.

Carbosulfan: The Secretariat introduced the documents (RC/COP.10/7, Add.1, INF/8/Rev.1). RC COP Vice-President Khashashneh reminded delegates that parties agreed at COP8 that all requirements for listing carbosulfan in Annex III had been met, but could not reach an agreement on listing at COP8 or COP9.

MAURITIUS, BOSNIA AND HERZEGOVINA, MEXICO, SENEGAL, NIGERIA, the EU, PANAMA, URUGUAY, NEPAL, NICARAGUA, DOMINICAN REPUBLIC, CHILE, the UK, the MALDIVES, NORWAY, SERBIA, HONDURAS, and SAUDI ARABIA supported the listing.

INDIA, PARAGUAY, and GUATEMALA opposed the listing, noting that carbosulfan is an important insecticide used in their countries and saying that listing would significantly impact their agricultural production. IRAN and INDONESIA asked to defer the listing due to the importance of carbosulfan for food security.

BRAZIL suggested different solutions, noting that listing would lead some international certification agencies to ban carbosulfan and consequently create trade barriers for this important insecticide, which he said lacks substitutes.

CROPLIFE INTERNATIONAL said there is no direct causal relationship between the use of carbosulfan and the reported detriments to human health and the environment and called upon parties to reject the CRC's recommendation.

Noting parties' divergent views, RC COP Vice-President Khashashneh established a Friends of the President group to consider possible ways forward for listing acetochlor and carbosulfan, to be co-chaired by Marit Randall (Norway) and Carol Theka (Malawi). He listed interested parties and invited other parties to join. The group met in the evening.

Compliance: The Secretariat introduced the documents (RC/COP.9/14/Rev.1 and INF/52), including a draft decision requesting the Compliance Committee to examine systemic issues of general compliance issues of interest to all parties.

PAKISTAN, supported by NEPAL, encouraged enhanced cooperation and coordination between the RC compliance committee and the BC ICC.

South Africa, for the AFRICAN GROUP, and NEPAL emphasized the need for financial and technical assistance to facilitate compliance. NIGERIA and BOTSWANA underscored the importance of compliance to the RC's effectiveness.

CANADA introduced a proposed programme of work for the RC Compliance Committee for the 2022-2023 biennium (CRP.10), noting the CRP was co-sponsored by Burkina Faso,

Chile, Mali, Senegal, Switzerland, and the UK. The proponents of the CRP highlighted that it would allow the Committee to begin its work immediately and support countries in implementing their commitments.

EL SALVADOR, ZAMBIA, NIGER, SUDAN, NICARAGUA, MALI, and ANTIGUA AND BARBUDA supported the CRP.

Parties agreed to adopt the decision in CRP.10, pending confirmation from the budget group.

Stockholm Convention

Matters Related to the Implementation of the Convention

Compliance: SC COP President Kalnins reported that, from the contact group discussions, there was strong support to continue engaging on this issue and suggested that the contact group further discuss: triggers; measures, or what could be the outcome of the facilitation procedure undertaken; and what further action the committee could recommend to parties. Parties agreed.

Contact Groups

BC Technical Matters: In the contact group, co-chaired by Magda Gosk (Poland) and Patrick McKnell (UK), delegates agreed to a draft decision on incineration on land (D10) and specifically engineered landfill (D5).

The group turned to the waste prevention and minimization section of the plastic wastes technical guidelines. Three countries, opposed by a group, suggested specifying that policies and measures for waste prevention and minimization should account for national circumstances, needs, and priorities, and parties would be “encouraged to,” rather than “should” undertake such policies. The opposing group noted that these guidances are not legally-binding. Participants discussed the table of examples of policies and measures, with one developing country suggesting deleting a ban on single-use plastics, opposed by others. An observer, supported by a party, suggested adding a tax on virgin plastic. Discussions continued.

BC Legal Matters: The contact group, co-chaired by Mari-Liis Ummik (Estonia) and Florisvindo Furtado (Cabo Verde), met in the morning for the second reading of the ICC decision and e-waste in the evening.

On the ICC decision, the discussion revolved around the expansion of its mandate. After many parties expressed concern about the punitive nature of the proposed amendment, delegates agreed to delete most of the new text, focusing on the text that would allow the ICC to issue a determination of non-compliance in case of non-reporting. A developing country group supported the deletion of all the proposed text on the expanded mandate, noting that ICC’s mandate already includes a more general cautionary statement of non-compliance. The group said the legal implications of the proposed determination are unclear. Parties agreed to reassess the proposal later.

On e-waste, parties came to the understanding that on the Switzerland-Ghana proposal, the decision text will be short, with parties being flexible on the exact numbering, and on the timeline of entry into force. Most parties characterized the plastics timeline as too tight, with some suggesting January 2025 as a potential timeline for this amendment. Discussion continued in the evening.

BC Strategic Matters: The contact group, co-chaired by Keima Gardiner (Trinidad and Tobago) and Yaser Abu Shanab (Palestine), read the draft decision text on the work to improve

the functioning of the PIC procedure. Participants agreed to note with concern that “the challenges in the implementation of the PIC procedure increasingly hinder the transboundary movement of hazardous and other wastes and their environmentally sound management.”

In the paragraph inviting parties and observers to submit information on challenges in the PIC procedure’s implementation and views to improve its functioning, many countries underscored the need to recognize the challenges that developing countries face and their need for financial and technical assistance. One group opposed mentioning such challenges and needs. A party indicated that not all developing countries may need financial and technical assistance and suggested using ‘often’ to qualify such needs. Participants ultimately agreed on recognizing the challenges and needs of developing countries by referring to the technical assistance needs assessment conducted by the Secretariat. Discussions will continue.

Technical Assistance and Financial Resources: The contact group, co-chaired by David Kapindula (Zambia) and Premysl Stepanek (the Czech Republic), resumed work on the financial mechanism draft decision. Parties aimed at finding a compromise on the remaining aspects of the decision: addressing the low level of responses to the needs assessment questionnaires; assessment of funding for PCBs elimination before the deadline; and GEF replenishment and accessibility. On the first two issues, one party proposed a combination of revisions as a compromise, which did not work for several parties that considered the proposal to dilute the language regarding the responsibility to provide financial support. Similarly, no solution was found on GEF replenishment and its accessibility. Co-Chair Stepanek proposed that a small drafting group address GEF replenishment and accessibility, and asked parties to consult on other outstanding issues to hopefully reach an agreement in the next contact group session.

In the Corridors

It was a day of two halves. The morning featured a short plenary and several adopted decisions under the BC. It seemed smooth, but like the proverbial duck, there was furious paddling below as contact groups worked to complete their work to a looming deadline. The plastic wastes technical guidelines had completed reading a third of its paragraphs, for the first time.

In the afternoon, the Rotterdam melodrama replayed on loop, prompting one long-time delegate to lament “this is discouraging.” As with previous years, country after country would support listing a chemical, stressing that it is about information exchange, not a ban. Then, a few countries would raise objections, citing their need to use the chemical. The script would start again for the next chemical.

The two Stockholm-listed chemicals, decaBDE, and PFOA, were expected by many to go through, but they proved vulnerable to the quagmire of Rotterdam decision making. The pesticides remained stuck. As one party observed, actions by parties and other actors that cite the RC may go beyond the Convention’s information exchange, which gives pause to countries that use these chemicals.

Leaving the plenary, a delegate noted that the President had “many, many friends” in his group to discuss carbosulfan and acetochlor. An observer noted that all these friends were parties, angry that “a lack of transparency is the Convention’s problem, and this won’t solve it.”