

BRS Conventions COPs Highlights: Tuesday, 14 June 2022

The Rotterdam Convention (RC) continued its discussion on the listing of chemicals and then turned to the effectiveness of the Convention. The Basel Convention (BC) adopted decisions. Contact groups met on BC technical, legal, and strategic matters, and on RC listing. A drafting group met on technical assistance and financial resources.

Basel Convention

Matters Related to the Implementation of the Convention

Scientific and Technical Matters: Technical guidelines:

POPs wastes: The Secretariat presented a draft decision (CRP.4), as well as technical guidelines (CRP.14/Add.1, CRP.14/Add.2, CRP.14/Add.3). COP adopted the decision pending the budget decision.

Incineration on land (D10) and on specially engineered landfill (D5): The Secretariat presented the draft decision (CRP.12) and guidelines (CRP.12/Add.1, CRP.12/Add.2).

ARGENTINA proposed developing additional guidelines, including for opening and closing landfills, citing a manual on management of hazardous waste developed with Canada, which could enable developing countries to learn and be proactive with issues caused by hazardous waste mismanagement.

The COP adopted the decision pending budget approval.

BC Partnership Programme: Secretariat presented draft decisions on Partnership on Plastics Waste (CRP.24) and on Household Waste Partnership (CRP.25). COP adopted both draft decisions.

OEWG Work Programme: BC COP President Álvarez-Pérez reminded delegates that, on Monday, the COP parked discussions on this matter (CHW.15/19) pending a decision on whether and when to hold OEWG13. Following consultations with regional groups, he proposed to hold OEWG13 in Geneva, face-to-face only, for three days during the week commencing 20 February 2023.

Citing uncertainty related to the COVID-19 pandemic, CHINA called for ensuring that OEWG13 could be hybrid if necessary. BC COP President Álvarez-Pérez cited “considerable costs” associated with hybrid meetings, and said that there was no response to requests to share costs. He noted only China requested this option, and CHINA noted many observers and individual government delegates were online.

BC COP President Álvarez-Pérez suggested replicating in the decision the text delineating conditions for online participation in the current meetings of the BRS COPs, as set out in the report of the May meeting of the Bureau. He noted this text allows for online participation, subject to the availability of resources,

when delegates are prevented from attending due to COVID-19 restrictions or a positive test.

Parties agreed to this amendment and adopted the decision.

Rotterdam Convention

Rules of Procedure

The COP deferred the issue to its next meeting and will continue adopting decisions by consensus (RC/COP.10/3).

Matters Related to the Implementation of the Convention

Status of Implementation: The Secretariat introduced relevant documents (RC/COP.10/4, INF/6, 7).

BOSNIA AND HERZEGOVINA and SERBIA reported on regional efforts with support from FAO to build technical capacity, which resulted in submitting final notifications of regulatory action for five substances.

The EU introduced a draft decision (CRP.12) that she said mostly replicates the text of the previous COP decision on this matter. She welcomed progress with notifications of final regulatory action and urged parties to submit missing import responses and work on the overall quality of data and submissions, as well as keep information on designated national authorities updated.

NIGERIA, MEXICO, and PAKISTAN stressed the importance of information for decision making and requested the continuation of support for technical capacity-building, including for customs officers.

The COP adopted a decision as outlined in CRP.12.

Listing of Chemicals: Fenthion (ultra-low-volume formulations at or above 640 g active ingredient/L): The Secretariat introduced documents (RC/COP.10/10, 10/Add.1, INF/8/Rev.1). RC COP Vice-President Khashashneh reminded delegates that at COP8 parties agreed that all requirements for listing have been met.

MEXICO, SRI LANKA, AUSTRALIA, INDIA, DOMINICAN REPUBLIC, CANADA, SOUTH AFRICA, PANAMA, BOLIVIA, NIGERIA, the EU, NICARAGUA, the MALDIVES, SWITZERLAND, the UK, IRAN, INDONESIA, and NORWAY thanked the CRC for its work and supported the listing, with the EU and others stressing that listing would not constitute a ban or hinder trade.

CHAD recalled they proposed the listing due to cases of fenthion poisoning in 2019, commended the potential listing and, with NIGERIA, requested the Secretariat, FAO, and donors to provide technical and financial support to develop alternatives for use against quelea quelea birds to ensure food security.

KENYA, ETHIOPIA, and SUDAN opposed the listing, stressing the lack of alternatives and citing their vulnerability

to quelea quelea birds that damage crops and undermine food security.

RC COP Vice-President Khashashneh noted objections to listing and said he would propose a way forward once all chemicals proposed for listing are introduced.

Paraquat dichloride formulations: The Secretariat introduced the documents (RC/COP.10/11, Add.1, INF/8/Rev.1), inviting parties to consider including in Annex III the liquid formulations containing paraquat dichloride at or above 276 g/L, corresponding to paraquat ion at or above 200 g/L. RC COP Vice-President Khashashneh noted that at COP6, parties decided that all requirements for listing had been met but since then had been unable to reach consensus on this issue.

NORWAY, the EU, the UK, SWITZERLAND, PANAMA, NICARAGUA, AUSTRALIA, TRINIDAD AND TOBAGO, SOUTH AFRICA, NIGERIA, and SRI LANKA supported listing, noting that listing would not constitute a ban.

IRAN said that he could support listing in 2023 after his country bans the chemical.

INDIA strongly opposed listing, noting the use of these formulations as pesticides for controlling crop production. ARGENTINA, PARAGUAY, and GUATEMALA also opposed, saying listing would affect food security. Citing a lack of research showing significant health and environmental impacts and a lack of economically viable alternatives, INDONESIA proposed to defer consideration.

AGROCARE opposed any measures, including listing, which would affect production and food security when there is no viable alternative.

WOMEN ENGAGE FOR A COMMON FUTURE supported listing, underscoring the severe risks that farmers in developing countries face when accessing severely hazardous pesticides like paraquat dichloride formulations.

RC COP Vice-President Khashashneh said he would propose a way forward later in the plenary.

Chrysotile asbestos: The Secretariat introduced the documents (COP.10/8, Add.1, INF/8/Rev.1), noting that COP3 decided that the listing criteria had been met, but parties could not reach consensus on listing since then.

KAZAKHSTAN disagreed with the CRC's recommendation and suggested excluding the listing of chrysotile asbestos from the COP agenda, according to rule 16 in the rules of procedure.

The RUSSIAN FEDERATION objected to listing and called for ending consideration of the listing of this chemical at the COP pending additional expert review. BOTSWANA and PAKISTAN opposed listing, citing inconclusive scientific evidence.

Noting that chrysotile asbestos is a cost-effective option in the construction industry in developing countries and economies in transition, INDIA opposed listing.

The EU, CANADA, AUSTRALIA, SOUTH AFRICA, NIGERIA, the UK, EL SALVADOR, BOSNIA AND HERZEGOVINA, NICARAGUA, PANAMA, NORWAY, IRAN, KENYA, CHILE, COLOMBIA, NIGER, GEORGIA, the REPUBLIC OF CONGO, URUGUAY, and the US supported listing. Many noted national bans of this chemical said a listing would provide information that would help protect workers and communities.

INTERNATIONAL ALLIANCE OF TRADE UNION ORGANIZATIONS "CHRYSOTILE" strongly opposed listing, suggesting there were outdated notifications and a lack of conclusive scientific evidence on health impacts.

CONFEDERATION OF ENTERPRISES OF KAZAKHSTAN suggested ending the listing discussion, noting the economic contributions of the industry in Kazakhstan.

Citing the example of Nepal, which is still struggling to stop imports of asbestos despite a national ban in 2015, IPEN urged parties to list chrysotile asbestos at this meeting.

AUSTRALIAN COUNCIL OF TRADE UNIONS urged parties to list chrysotile asbestos and indicated that the RC's PIC procedure would protect countries' right to know about the import of hazardous chemicals, which aligns with the principle of a safe and healthy working environment recently recognized by the International Labour Organization.

CEMENT AND LIME AND ALLIED WORKERS UNION OF ZIMBABWE urged parties to list chrysotile asbestos to protect workers' health and safety and said that the refusal by certain parties is driven by economic interest.

UNION AID ABROAD-APHEDA shared the experience of a worker in an asbestos textile factory in Indonesia who witnessed declining health conditions, underscored that it is a myth to say asbestos is safe and called upon parties to list this chemical.

RC COP Vice-President Khashashneh established a contact group, co-chaired by Marit Randall (Norway) and Carol Theka (Malawi), to discuss paraquat dichloride formulations, fenthion formulations, and chrysotile asbestos.

Enhancing the effectiveness of the Convention: The Secretariat presented relevant documents (RC/COP.10/13, 13/Add.1, INF/14, 15).

RC COP Vice-President Khashashneh asked participants to focus on the proposed draft decision on the dissemination strategy for obtaining and using information and its use in capacity-building and technical assistance activities (RC/COP.10/13), and on the proposed amendment to Article 16 (RC/COP.10/13/Add.1).

The EU, supported by CANADA, NORWAY, and JAPAN introduced proposed amendments to the draft decision (CRP.11).

BRAZIL proposed considering an electronic approach to the PIC procedure to enhance its effectiveness and, with the US, noted technical barriers to trade that come from listing used by some international certification agencies to block exports of certain products and goods.

NIGERIA lauded cooperation with the World Customs Organization (WCO), which allowed it to develop harmonized system (HS) customs codes for some chemicals.

The RUSSIAN FEDERATION opposed paragraph 3(b) from CRP.11, which prescribed the inclusion of chemicals proposed for listing into the scope of the strategy. The EU agreed to remove the paragraph, and the decision was adopted as amended.

Proposed Article 16 amendment: PAKISTAN, THAILAND, ZIMBABWE, NIGERIA, MEXICO, BRAZIL, INDONESIA, KENYA, TANZANIA, VENEZUELA, and SENEGAL supported the amendment, with SENEGAL also proposing to include the RC within the work of regional centers for BC and SC. INDIA and IRAN also supported the amendment but called for removing a reference to a link between providing financial assistance and listing of chemicals.

South Africa, for the AFRICAN GROUP, asked for continued intersessional work on the proposal if this COP does not adopt it, with the aim to address it at the next meeting.

Reaffirming commitment to provide financial assistance to developing country parties, the EU, NORWAY, JAPAN, and CANADA opposed the amendment. The EU noted that financial support is covered in decisions, which include issues under the RC in the GEF focal area of chemicals and waste, as well as the UNEP special programme on institutional strengthening for the chemicals cluster.

SAUDI ARABIA noted reservations about expanding the scope of Article 16 and merging technical and financial assistance and opposed the amendment.

IPEN expressed concern regarding the lack of progress on listings and urged parties to adopt decisions on decaBDE and PFOA, which are already listed under the SC, highlighting the need for enhancing the RC's effectiveness and for the WCO to assign HS codes for chemicals before they are added to Annex III.

RC COP Vice-President Khashashneh proposed to consult with interested parties and will report back to the plenary.

Contact Groups

BC Technical Matters: The contact group was co-chaired by Magda Gosk (Poland) and Patrick McKnell (the UK). Participants agreed to the decision on further consideration of plastic waste, after deleting two paragraphs related to the Secretariat and regional centres providing support for the implementation of the BC's plastic waste-related provisions. They noted these actions were covered by the technical assistance decision.

Acknowledging that this is the last day for this group to meet, participants agreed to the decision that would extend the mandate of the small intersessional working group to update the plastics waste draft technical guidelines. The group continued discussions to further progress the technical guidelines.

BC Legal Matters: The contact group, co-chaired by Mari-Liis Ummik (Estonia) and Florisvindo Furtado (Cabo Verde), read both the Annex VIII (hazardous waste) and Annex II (categories of wastes requiring special consideration) listings side-by-side in an attempt for the Annex II entry to "mirror the intent" rather than the specifics of the Annex VIII listing. After Co-Chair Ummik suggested parties were nearing agreement on the Annex VIII listing, one party requested to change "components" to "equipment," which, Co-Chair Ummik said, would counter the agreement in the room that if a piece of equipment contains a hazardous component, then the whole equipment should be considered hazardous waste. The party requested their change be included. Discussions continued.

BC Strategic Matters: The contact group, co-chaired by Keima Gardiner (Trinidad and Tobago) and Yaser Abu Shanab (Palestine), reviewed the decision on the strategic framework, focusing on actions to be taken before COP16, scheduled for 2023. Parties tried to find a middle ground between the original proposals of a group, for information exchange, and a party, to establish an intersessional group to develop a new framework. Discussions centered on a proposal for a small intersessional working group to consider the report of the final evaluation of the strategic framework and identify areas for improvement.

Some suggested that the group should embark on developing a new strategic framework. A group stressed the limited time and resources available before the next COP and said that the scope of work should be reviewing the report to improve the existing framework. Three parties called for highlighting the need for further technical assistance, capacity building, cooperation, and technology transfer when reviewing the report's recommendations.

Options for the group's membership included 25, 35, and open-ended, with seven members from each regional group funded. A party suggested that equitable geographic representation is not necessary.

The Co-Chairs stressed the need to complete this decision by the end of the day.

RC Listing: In this contact group, Co-Chairs Marit Randall (Norway) and Carol Theka (Malawi), invited participants to express concerns and challenges regarding the listing of paraquat, fenthion, and chrysotile asbestos and to suggest possible ways forward.

On paraquat and fenthion, several developing countries underscored the lack of effective and economically viable alternatives. They were also concerned that listing would lead private standard-setting bodies to ban these pesticides. Others stressed that actions taken by private standard-setting bodies fall outside of the RC's scope and suggested parties engage with private actors to clarify that listing is not a ban. Two countries suggested engaging with the World Trade Organization to identify possible ways forward through discussions on technical barriers to trade.

Some countries asked for technical and financial assistance to manage agrochemicals, including from the FAO to identify alternatives.

One group asked if entry into force of the amendment after one or two years after the COP decision could help find agreement. A developing country suggested three years could be feasible for fenthion.

On chrysotile asbestos, four parties called for new scientific data to support listing. One party suggested that, if chrysotile asbestos can be listed, all chemicals should be listed. One developing country requested to remove this item from the COP agenda, whereas a group noted that all parties should comply with the rules of the RC.

The Co-Chairs will prepare a draft decision on the way forward.

In the Corridors

The increasingly heated discussions in the plenary and negotiation rooms foreshadowed the coming heatwave in Geneva. Some were surprised at an hour-long, spirited discussion on whether to allow online participation at the OEWG. Pleas from Co-Chairs of the BC contact groups were heard across the rooms, as delegates needed to finish their work, preferably before leaving the venue for the night. On the plastics technical guidelines, weary participants admitted defeat, especially since they had not completed a full first reading of this complex document.

The RC again could not agree to list the remaining chemicals on its agenda. A contact group on the two pesticides and chrysotile asbestos was more of a discussion forum than a negotiation space, while some observers were unsure if the Friends of the President group progressed on acetochlor and carbosulfan. They hoped the "divide and conquer" approach could work, or at least isolate three less-agreeable chemicals on the agenda from those with a chance, however small, of being listed. As attention turned to the effectiveness of the RC, one noted the differences from the BC and SC. For those treaties, listing brings an array of obligations that require financial assistance. For the RC, they noted the reasons given to object to the listings were outside the scope of the RC: the availability of alternatives, the actions of private standard-setting agencies, and even the science itself.

With (proverbial, not real) mercury set to rise over the coming days, many hoped that tempers wouldn't fray as delegates race to complete their work in three short days remaining for this set of meetings.