

BRS Conventions COPs Highlights: Monday, 8 May 2023

The Basel Convention (BC) adopted several decisions, including on technical assistance. The Rotterdam Convention (RC) took up the listing of chemicals, including consideration of two new chemicals and five outstanding from previous COPs. Contact groups met on BC technical matters, budget, BC legal matters, RC effectiveness, RC listing, and Stockholm Convention (SC) compliance.

Basel Convention

Scientific and Technical Matters: Technical guidelines on environmentally sound management of waste lead-acid batteries and other batteries: Noting that the budget group had cleared the draft decisions, the BC COP adopted the draft decision on waste batteries other than waste lead-acid batteries (CRP.4) and agreed to continue work on the revised technical guidelines on the ESM of waste lead-acid batteries (CRP.5) and other waste batteries (CRP.6).

E-waste Technical Guidelines: Noting that the budget group had cleared the decision, the BC COP adopted the draft decision on the e-waste technical guidelines (CRP.15), which adopts, on a provisional basis, the e-waste technical guidelines (CRP.16).

Technical Assistance: Noting that the draft decision had been cleared for its budgetary implications, the BC COP adopted it as in CRP.7.

Rotterdam Convention

Listing of Chemicals in Annex III: The Secretariat introduced the Chemical Review Committee (CRC) developments and related documents (RC/COP.11/5, 2, INF/3-5).

CRC Chair Noluzuko “Zukie” Gwayi outlined the Committee’s recent work, highlighting the backlog of notifications of final regulatory action (FRA), including 38 notifications on 12 chemicals and four severely hazardous pesticide formulations. She noted this was due to an increase in the number of notifications and the effects of the COVID pandemic.

The EU and NIGERIA supported the decision.

INDONESIA asked the Secretariat to increase communication on the outcomes of CRC meetings.

ZAMBIA and NIGERIA encouraged further training opportunities for incoming CRC members. TANZANIA called for capacity building to help countries undertake risk evaluations necessary for notifications of FRA.

SAUDI ARABIA noted the dangers of some of these substances, citing pesticides, and called for information on alternatives.

ARGENTINA said notifications of FRAs recently adopted by the CRC involved a non-specific survey, which he said was insufficient for risk evaluation. He called for a strict application of the listing criteria by the CRC.

An observer from the US expressed concerns regarding the lack of rigor in risk evaluations and encouraged parties to look carefully at that criteria for listing.

GREMIAGRO GUATEMALA cited the CRC’s inconsistencies in its decisions regarding the notifications of FRA from Mozambique, two of which the Committee agreed met the criteria in 2021, but four of which it could not agree on in 2022.

AFRICAN CENTER ON ENVIRONMENTAL HEALTH lauded the CRC’s work and lamented the industry’s role in influencing COP decisions.

IPEN called for including paraquat, fenthion, acetochlor, and carbosulfan in Annex III, noting they are highly hazardous. She characterized listing as an important first step for countries to learn how to manage these chemicals safely.

IEE called for delegates to think of future generations when making their decisions.

FAO highlighted its work to identify and assess alternatives to highly hazardous pesticides.

The COP adopted the decision, amended to reflect the new Australian member on the Committee, pending confirmation from the budget group.

Terbufos: The Secretariat introduced the draft decision (RC/COP.11/12) and decision guidance document (12/Add.1; INF/8/Rev.1, 11, 12).

JAPAN, PAKISTAN, the EU, AUSTRALIA, PANAMA, CHILE, NORWAY, SWITZERLAND, INDONESIA, NICARAGUA, IRAN, NIGERIA, the MALDIVES, MEXICO, EL SALVADOR, ZAMBIA, NEW ZEALAND, URUGUAY, DOMINICAN REPUBLIC, BOLIVIA, SRI LANKA, SERBIA, TANZANIA, the RUSSIAN FEDERATION, PERU, INDIA, REPUBLIC OF KOREA, PALESTINE, CAMBODIA, CANADA, KYRGYZSTAN, MAURITIUS, SOUTH AFRICA, VANUATU, KENYA, ESWATINI, VENEZUELA, SAMOA, ETHIOPIA, CAMEROON, and CONGO supported listing.

GREMIAGRO GUATEMALA said that Mozambique’s notification of FRA failed to meet the criteria for risk evaluation because it was based on a generic survey on pesticide use that was not specific to terbufos and how it is typically applied.

The RC COP agreed to list terbufos in Annex III as a pesticide.

Iprodione: The Secretariat introduced the draft decision (RC/COP.11/10) and decision guidance document (10/Add.1).

PAKISTAN, TRINIDAD AND TOBAGO, JAPAN, TÜRKIYE, EL SALVADOR, the UK, PANAMA, the EU, SWITZERLAND, AUSTRALIA, MEXICO, NICARAGUA, NORWAY, NEW

ZEALAND, MAURITIUS, the MALDIVES, SRI LANKA, NIGERIA, PERU, SERBIA, TANZANIA, HONDURAS, CONGO, SOUTH AFRICA, BOSNIA AND HERZEGOVINA, MALAWI, BOLIVIA, SAMOA, and VANUATU supported listing. Many cited their domestic regulations to ban or restrict the use or import of iprodione.

INDONESIA, ARGENTINA, IRAN, GUATEMALA, ECUADOR, and the RUSSIAN FEDERATION opposed listing, citing their need for its ongoing use and suggesting that listing could give iprodione a “stigma” that could trigger a ban, raise trade barriers, or increase the price of agricultural inputs. The RUSSIAN FEDERATION expressed doubt that the notification of FRA met the Annex IV criteria.

CROPLIFE INTERNATIONAL stressed that iprodione is an essential tool for many growers and is not a highly hazardous pesticide according to WHO criteria. He questioned if the notification of FRA met the risk evaluation criteria and cited the negative effects of listing due to private standards actions in response to listing.

GREMIAGRO GUATEMALA reiterated its concerns that the notification of FRA did not meet the risk evaluation criteria.

A contact group on RC listing was established, co-chaired by Marit Randall (Norway) and Caroline Theka (Malawi).

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 Secretariat introduced the draft decision (RC/COP.11/11) and decision guidance document (11/Add.1).

Many countries supported listing, including PANAMA, BURKINA FASO, IRAN, JAPAN, AUSTRALIA, CHILE, the UK, SRI LANKA, the MALDIVES, SERBIA, SENEGAL, NICARAGUA, MEXICO, CAMBODIA, BOLIVIA, SWITZERLAND, NEW ZEALAND, PAKISTAN, TÜRKIYE, BOSNIA AND HERZEGOVINA, MAURITIUS, JAMAICA, CAMEROON, CANADA, and the EU. The EU pointed to a study that listing pesticides in the RC does not affect its price or availability.

ARGENTINA, SYRIA, GUATEMALA, PARAGUAY, INDONESIA, and VENEZUELA opposed listing, citing a lack of alternatives and its importance to the agricultural sector. ARGENTINA said that, in practice, private certification schemes ban substances listed in Annex III.

Discussions will continue on Tuesday.

Carbosulfan: The Secretariat introduced the draft decision (RC/COP.11/7) and decision guidance document (7/Add.1).

EL SALVADOR, DOMINICAN REPUBLIC, PANAMA, MEXICO, BOSNIA AND HERZEGOVINA, JAPAN, PAKISTAN, NICARAGUA, AUSTRALIA, IRAN, the UK, PERU, CHILE, MAURITIUS, the MALDIVES, TÜRKIYE, NEW ZEALAND, SENEGAL, CHAD, SWITZERLAND, SERBIA, SRI LANKA, CAMEROON, ZAMBIA, BOLIVIA, URUGUAY, SAMOA, ESWATINI, TANZANIA, CAMBODIA, VANUATU, NIGER, the EU, NIGERIA, KUWAIT, BOTSWANA, VENEZUELA, NORWAY, CANADA, MALAWI, and LIBERIA support the listing. Many cited their existing domestic regulations to ban or restrict the use or import of carbosulfan.

INDIA and INDONESIA opposed the listing, citing the importance of using carbosulfan in agriculture, significantly contributing to their economies.

CROPLIFE INTERNATIONAL cited the importance of carbosulfan in crop protection, saying that its inclusion in Annex III would put food security and affordability at stake. He

underlined that listing carbosulfan would not be a scientifically based decision.

The Secretariat mandated the contract group to discuss further the draft decision in listing carbosulfan.

Acetochlor: The Secretariat introduced the draft decision (RC/COP.11/6) and decision guidance document (6/Add.1).

Many expressed support for listing, including MEXICO, AUSTRALIA, TÜRKIYE, CHILE, NICARAGUA, JAPAN, BOSNIA AND HERZEGOVINA, the UK, PAKISTAN, NEW ZEALAND, SRI LANKA, BOLIVIA, ECUADOR, SWITZERLAND, SERBIA, the EU, SAMOA, HONDURAS, CONGO, CAMEROON, NIGERIA, PERU, NORWAY, MAURITIUS, the MALDIVES, VANUATU, SENEGAL, LIBERIA, and COLOMBIA.

GUATEMALA, IRAN, ARGENTINA, VENEZUELA, and PARAGUAY opposed listing, citing their ongoing need for acetochlor for controlling resistant weeds.

IEE cited the benefits of listing to provide information to farmers and underlined that the RC should not promote the views of multinational corporations.

CROPLIFE INTERNATIONAL disputed that Annex II criteria were met by the notifications of FRA provided and said the CRC did not apply sufficient scientific rigor. He said that listing could unnecessarily stigmatize chemicals and that it is not a highly hazardous pesticide.

The COP added acetochlor to the mandate of the RC listing contact group.

Compliance: The Secretariat introduced the procedures and mechanisms (RC/COP.11/14) and membership of the Committee (INF/16).

The EU supported the draft decision but suggested two changes in the document. She proposed adding the phrase “subject to the availability of resources” to paragraph 2 on providing national legislation and other measures to the Secretariat. She also proposed replacing “usefulness and need” with “importance” in paragraph 6 on the development of expertise of the Compliance Committee.

PAKISTAN and BRAZIL support the draft decision. Noting the linkages between effectiveness and compliance, BRAZIL called for financial, legal, and technical support for developing countries.

CHILE proposed a change in Section 7 of the Annex on cooperation between the BC and RC Committees to include the exchange of views as well as information.

The RC COP adopted the draft decision, pending confirmation by the budget group. The Secretariat will provide a version of the draft decision containing the amendments.

Contact Groups

Technical Assistance and Financial Resources: The contact group on technical assistance and financial resources met in the afternoon, co-chaired by David Kapindula (Zambia) and Toks Akinseye (UK). Parties deliberated on the draft decision on the effectiveness evaluation as it relates to the financial resources and mechanism.

Parties discussed the review process of the financial mechanism and deliberated on textual changes related to activities for 2020-2024. They could not agree on elements in this section of the text.

A representative from the GEF addressed comments from the floor related to specific funding to waste and chemical projects.

One party raised the issue of access to GEF funds and how some countries do not have access. Some queried the projects on

polychlorinated biphenyl (PCB) and the amount of funding from the GEF devoted to the SC.

Parties further deliberated on the ability of the financial mechanism to meet the needs of developing country parties and parties with economies in transition. Whereas developing country delegates were urging for a reference to the “ever-increasing” challenges faced by developing countries, some developed countries preferred alternative words such as “evolving” or “ever-changing.”

After a break for parties to consult did not solve the impasse, the Co-Chair appealed to parties to talk in the margins to resolve the outstanding issues at their next meeting.

BC Technical Matters: The contact group, co-chaired by Patrick McKell (UK) and Magda Gosk (Poland), continued working on the plastic wastes technical guidelines. Discussions returned to the bracketed text of Extended Producer Responsibility (EPR). One country introduced its text proposal highlighting the importance of clarifying that EPR should be voluntary, with national circumstances taken into consideration, saying there is no “one-size-fits-all” solution. Many countries opposed the wording introduced by the proposal, including on inserting “voluntary,” noting that several countries have mandatory EPR systems in place.

Delegates also questioned the suitability of the guidelines to introduce a new definition of EPR, referencing the existing definition provided by the ESM toolkit. A long debate ensued on the “bottom-up approach” concept, with some in favor and many opposing its inclusion in the guidelines. There was a common understanding among delegates that EPR systems should be tailored to national circumstances. Several attempts to reach consensus failed, and the text was parked for further consideration.

Diverging views on the definition of EPR systems and the “bottom-up approach” also dominated deliberations on a table listing examples of policy instruments and measures to prevent and minimize waste. Little progress was made on the text on the identification of hazardous plastic wastes, particularly PVC waste containing cadmium and lead stabilizers. Without major progress in clearing the remaining brackets, the group closed for a lunch break, scheduled to continue working on its mandate in the afternoon.

In the afternoon, the group returned to considering EPR with a proposal developed by a drafting group. Countries reached agreement to reflect that EPR systems need to consider market conditions, and national capabilities and circumstances, and that countries have full control of what is covered in EPR, how it will be implemented, and define who the producer is.

There were diverging views on whether to include a possibility for international EPR systems. One delegate noted that such a system could only be voluntary as opposed to national systems, which may be mandatory. Delegates agreed on reflecting the ideas contained in the “bottom-up approach,” but without specific reference to this concept.

In the early evening, delegates cleared all the brackets from the section on EPR. Considering the limited time left for the contact group, several delegates and the Co-Chairs expressed concern about the pace of negotiations.

BC Legal Matters: Co-Chairs Katrin Kaare (Estonia) and Florisvindo Furtado (Cabo Verde) sought views on the draft decision on providing further legal clarity. They debated whether COP17 should consider the revised proposals for Annex IV and revised recommendations on the review of Annexes I and III.

Parties favoring deletion and retention of this paragraph expressed the need to consult.

RC Enhancing Effectiveness: Co-Chairs Linroy Christian (Antigua and Barbuda) and Martin Lacroix (Canada) convened the contact from morning into the afternoon to further discuss the revised proposal (CRP.4) to amend Articles 7, 10, 11, and 22 and to add a new Annex VIII to the Convention.

Continuing discussions from Sunday, where proponents addressed concerns and matters for clarification, the Co-Chairs requested that the parties consider the text. This was met with strong opposition from some parties who cited procedural issues in the work of the contact group.

The parties were divided on opening the text for discussions. The proponents reaffirmed the mandate of the contact group to discuss the proposals. The opponents said there are still fundamental issues to address before discussing the text.

On the proposed new Annex, some parties queried *inter alia*: the legal implications of listing non-ratifiers; the relationship to Annex III; and the reasonings behind the proposal, given that the RC has successfully listed chemicals.

The proponents said there is precedent for the approach taken in the proposed Annex under international law and that it is in line with treaty law.

One party called a point of order to stop discussions and withdraw the proposal, which the Co-Chairs said was inappropriate as the COP had already tasked the contact group with the mandate to review the proposal. They said that such points of order should be raised in plenary. Some parties expressed confusion about the process of determining the contact group’s mandate.

Some parties supported opening the text, while others wanted to keep it closed. In the end, the Co-Chairs proposed discussing elements of the text as comments without opening it up. Parties then discussed elements of the “closed text.”

In the Corridors

Delegates faced somewhat existential Convention questions of growth and evolution on Monday. In finance discussions, there were unresolved debates on how to reflect the growing, changing, or evolving needs of countries as the SC continues to expand the list of chemicals in its Annexes.

The RC Annex III grew slightly as countries agreed to list terbufos. The early win, however, proved short-lived. Countries did not agree on the other new chemical, iprodione. Then the usual story unfolded again for pesticides previously discussed by the COP.

This stunted growth pattern motivated the proposal discussed in RC effectiveness. The debate was heated among the two camps: one strongly believing that consensus is the way and the other saying that it’s time to find alternative ways to list chemicals that most, but not all, countries agree on.

During the break, some were surprised at the tactics on display; for one, it was “malicious compliance” with the rules of procedure. More optimistically, another called the contact group “a gentle drag.” One delegate wondered if the amendment could be agreed to at this COP. Coming from the plastic wastes group, a delegate shared a similar sombre reaction to the curtailed progress.

Headed to evening contact groups, some hoped that the SC could grow a compliance branch and the Conventions could find new ways to twist their work together on illegal traffic and trade. However, as these issues evolve, each day signals a closer step to see how these Conventions mature by the end of the TripleCOP.

