

## BRS Conventions COPs Highlights: Tuesday, 9 May 2023

The Basel Convention (BC) adopted decisions related to enhancing the prior informed consent (PIC) procedure and compliance. The Rotterdam Convention (RC) returned to its consideration of chemicals for listing in Annex III. Contact groups met on a range of issues, including BC technical matters, BC legal matters, RC effectiveness, RC listing, joint issues, technical assistance and financial resources, and Stockholm Convention (SC) compliance.

### Basel Convention

**Scientific and Technical Matters: Technical guidelines on POPs wastes:** Noting that the budget group had cleared the draft decision, the BC COP adopted the technical guidelines (CRP.10). The draft technical guidelines on POPs wastes (CRP.12) and on perfluorooctane sulfonic acid (PFOS), its salts, and perfluorooctane sulfonyl fluoride (PFOF), and on perfluorohexane sulfonic acid (PFHxS) wastes (CRP.13) will be taken up on Wednesday.

**Work to improve the prior informed consent procedure:** Noting that the budgetary implications had been cleared, the BC COP adopted the draft decision (CRP.16).

**Committee Administering the Mechanism for Promoting Implementation and Compliance:** Noting that the budgetary implications had been cleared, the BC COP adopted the draft decision (CRP.18).

**Basel Convention Partnerships: Subscription fees:** The EU proposed that the membership fees under the terms of reference be amended for PACE II and the household and plastic wastes partnerships, due to the challenging current financial management of these partnerships.

The Secretariat will draft a decision on the subscription system of PACE II and the household and plastic wastes partnerships.

### Rotterdam Convention

**Listing of Chemicals in Annex III: Paraquat:** The discussion continued from Monday. SAMOA, NORWAY, the RUSSIAN FEDERATION, VANUATU, PERU, JORDAN, and GUYANA supported listing. The RUSSIAN FEDERATION suggested improving the rules of the Convention as the same chemicals have been considered for inclusion for a long time.

ECUADOR opposed the listing, suggesting that paraquat's inclusion will have a negative impact on its trade and economy.

IEE pointed out that arguments based on economic losses and food insecurity must not be considered as they are not criteria for listing a chemical under Annex III.

PESTICIDE ACTION NETWORK emphasized that listing paraquat does not imply a ban on its use but facilitates better information exchange between parties.

Since no consensus was reached, the RC COP President Berejiani proposed that its listing be included in the provisional agenda of the next COP.

**Chrysotile asbestos:** The Secretariat introduced the draft decision (RC/COP.11/8) and decision guidance document (8/Add.1).

MAURITIUS, CANADA, JAPAN, IRAN, NORWAY, COLOMBIA, EL SALVADOR, MOLDOVA, the EU, UKRAINE, SERBIA, NEW ZEALAND, MEXICO, AUSTRALIA, REPUBLIC OF KOREA, ARGENTINA, PERU, the MALDIVES, BOLIVIA, URUGUAY, CAMEROON, NIGERIA, SWITZERLAND, VANUATU, SAMOA, ESWATINI, PANAMA, and the UK supported the listing. Many cited their domestic regulations to ban or restrict the use or import of chrysotile asbestos. Several countries underscored that listing the chemical does not ban its use but facilitates information exchange.

The RUSSIAN FEDERATION, KAZAKHSTAN, ZIMBABWE, INDIA, KYRGYZSTAN, and PAKISTAN opposed the listing, suggesting a lack of up-to-date scientific literature showing the negative impact of chrysotile asbestos on workers' health.

An observer from the US supported listing all proposed chemicals.

The INTERNATIONAL LABOUR ORGANIZATION (ILO), UNION AID ABROAD, AUSTRALIAN COUNCIL OF TRADE UNIONS, and INTERNATIONAL FEDERATION OF BUILDING AND WOODWORKERS underscored the negative impacts of the chemical on public health and urged listing.

ESDO, SOLIDAR SUISSE, and IPEN urged for the inclusion of the chemical to protect workers' health.

The INTERNATIONAL ALLIANCE OF TRADE UNION ORGANIZATIONS "CHRYSTOLE," INTERNATIONAL CHRYSTOLE ASSOCIATION, and CONFEDERATION OF EMPLOYERS OF KAZAKHSTAN opposed the listing, saying that the chemical can be safely handled and does not present any significant risk to workers' health.

Since no consensus was reached to include chrysotile asbestos in Annex III, RC COP President Berejiani proposed that its listing be included in the provisional agenda of the next COP.

**Inclusion of fenthion (ultra-low-volume formulations at or above 640 g active ingredient/L):** The Secretariat introduced the draft decision (RC/COP.9/11) and decision guidance document (9/Add.1).

CANADA, INDIA, INDONESIA, EL SALVADOR, MEXICO, the MALDIVES, AUSTRALIA, the EU, PANAMA, NORWAY,

SRI LANKA, PAKISTAN, JAPAN, IRAN, NEW ZEALAND, CHAD, REPUBLIC OF KOREA, TANZANIA, BOTSWANA, SWITZERLAND, MAURITIUS, CAMEROON, URUGUAY, and TÜRKIYE supported listing fenthion as a severely hazardous pesticide formulation in Annex III. BOTSWANA offered to share its experience using falcons, instead of fenthion, to control quelea birds.

ETHIOPIA and KENYA opposed, citing a lack of cost-effective alternatives, with KENYA noting its domestic action to restrict use but also its concern that listing could reduce availability for emergency use.

RC COP President Berejani suggested that parties consult and the plenary will resume its consideration later during the week.

**RC Effectiveness:** The Secretariat introduced a report on efforts to enhance effectiveness (RC/COP.11/13), a proposal to amend Article 16 (technical assistance) (RC/COP.11/13/Add.1), and a report on the implementation of the information dissemination strategy (INF/13). RC COP President Berejani invited comments on these topics and Brazil's CRP.3 for an intersessional process that was previously submitted.

**On Article 16,** the EU cited various fora for financial assistance, including the GEF and Special Programme. TANZANIA and KENYA supported the amendment to enhance the implementation of the Convention. JAPAN suggested that the effectiveness of the PIC procedure is not related to funding.

The RC COP agreed to put the issue on the agenda of COP12 and noted in the report that it could not conclude its consideration of this matter.

On the information dissemination strategy, the EU saw merit in continuing these activities, including involving a broader audience, especially at the national level. The RC COP took note of the information and requested the Secretariat continue its implementation activities and report to COP12.

**On CRP.3,** BRAZIL underlined that not all parties believed that all efforts have been exhausted. He explained the CRP as an effort to consider all the obstacles related to listing chemicals through a structured debate that could provide recommendations to COP 12.

CHINA, INDIA, ARGENTINA, NIGERIA, SAUDI ARABIA, SYRIA, and IRAN stressed the need to reach consensus on listing decisions and disagreed with voting processes, with CHINA objecting to voting on proposals to amend the Convention. With KENYA, they supported an intersessional process to hear all parties' views and challenges.

The EU recalled the Riga intersessional process, which COLOMBIA and CHILE said included collecting data on trade and other impacts of listing chemicals. The EU, SWITZERLAND, CANADA, COLOMBIA, and CHILE questioned the necessity of another intersessional process. SWITZERLAND questioned the rationale and expected outcomes. The UK said CRP.3 is based on the assumption of the undesirable effects of listing, for which there was insufficient evidence.

BRAZIL, INDIA, ARGENTINA, and KAZAKHSTAN requested that CRP.3 be discussed in the contact group on effectiveness. AUSTRALIA, the EU, SWITZERLAND, CANADA, the UK, COLOMBIA, CHILE, and NORWAY said that CRP.3 is related to the implications of listing chemicals and suggested that the RC listing group discuss the proposal. BRAZIL responded that its proposal (CRP.3) is not an alternative to the proposal to add an Annex (CRP.4, to add a new Annex), and they are closely related.

SAUDI ARABIA and KAZAKHSTAN said the CRP.4 violated the rules of procedure. COLOMBIA and NORWAY noted that

legal advice was provided in the contact group and the proposal fully aligns with the rules of procedure. The Secretariat clarified that the procedures for introducing new amendment proposals and CRPs were followed.

IEE suggested a closed list of criteria for not including a chemical.

INDIAN CHEMICAL COUNCIL stressed that consensus leads to informed decision making that increases support for decisions.

RC COP President Berejani stated she would consult with parties on how to best take the proposal forward.

### Contact Groups

**Joint Issues:** Co-Chaired by Ole Thomas Thommesen (Norway) and Jeannelle Kelly (Saint Kitts and Nevis), the contact group aimed to focus on synergies regarding illegal trade and traffic. One party requested to discuss international cooperation and coordination. Several opposed, stressing that the group agreed to a decision and forwarded it to plenary.

One party proposed that the Secretariat investigate historical responsibility of illegal dumping resulting from developed countries' waste. This was opposed by several developed and developing countries, who noted that the Secretariat does not have enforcement officers or others with the expertise to investigate. Some questioned what the term "historical responsibility" means in the context of the BC. Delegates agreed to add a footnote recalling parties' obligations under the BC and to delete the suggested new text.

One party suggested that the Secretariat identify best practices for financial compensation resulting from developed countries' waste. Delegates agreed to add a footnote that references the BC Protocol on Compensation and Liability and delete the suggested new text. With additional amendments, delegates cleared the draft decision.

**Technical Assistance and Financial Resources:** Co-chaired by David Kapindula (Zambia) and Toks Akinseye (UK), the contact group discussed the draft decision on the financial mechanism (COP.11/17).

The parties returned to the paragraphs on the methodology, to deliberate text related to the needs of developing country parties. Developed country parties urged for the use of the word 'evolving' while developing countries urged for the word 'ever-increasing' regarding the needs of developing countries. After some time, the parties compromised on the text, which was short-lived after a developed country party, which missed the opportunity to comment, requested reversing discussions on the compromise. Co-Chair Kapindula (Zambia) requested parties to further consider the matter and return with some compromises at the next meeting.

The group then started discussions on the draft decision (COP.11/CRP.2) to develop a resource mobilization strategy, submitted by Ghana, for the African region.

One developing country discussed the guidelines on partnerships, the definition of non-state actors, a roadmap toward resource mobilization, and a mandate to the Secretariat on operationalizing documents on mobilizations.

A developed country queried the relationship of this proposal to SAICM's work on the industry's involvement in the integrated approach to financing, seeking clarity on the rationale behind a roadmap under BRS. A developing country said there is no relationship between the proposal and SAICM, suggesting that this should have been under the Budget contact group and not in this working group.

A group of developing countries referenced the need for a specific fund for resource mobilization, noting that this practice is done in biodiversity and climate change.

Co-Chair Akinseye appealed to parties to reflect on the discussions and to return with some compromise to move forward.

**BC Legal Matters:** Co-Chairs Katrin Kaare (Estonia) and Florisvindo Furtado (Cabo Verde) reconvened the group to finalize their work on the decision on providing further legal clarity (CHW.16/14).

An outstanding item from previous meetings was quickly resolved by integrating further developments in the work of the expert working group after OEWG14. It was accepted without further deliberations. Parties agreed to the final draft decision.

**BC Technical Matters:** The contact group, co-chaired by Patrick McKell (UK) and Magda Gosk (Poland), continued working on the plastic wastes technical guidelines, taking up bracketed text on waste prevention and minimization.

During discussions, delegates replicated text from the extended producer responsibility (EPR) section related to the “bottom-up approach,” which was agreed, does not reference the concept explicitly, but refers to its constituent ideas. They inserted *inter alia* “taking into consideration national resources, capabilities and circumstances, and priorities” and “participatory initiatives and solutions.” One country emphasized the importance of clarifying that countries have “full control” when selecting their measures to prevent and minimize waste. Opposing this wording, another country suggested alternate language for resolving the last remaining brackets in the paragraph for all parties to consider during lunch break.

In the afternoon, the group returned to discussions on countries’ role in implementing measures on waste prevention and minimization. Several countries expressed concern that the prevention and minimization of hazardous wastes, a main objective of the BC, could be undermined by the formulation put forward by one country. They further noted the inadequacy of reiterating text agreed from the EPR section in this context. The group failed to reach consensus and the sentence was referred to informal discussions.

On chemical recycling, delegates discussed a proposal to start the section with a disclaimer, highlighting the lack of evidence on whether chemical recycling qualifies as environmentally sound management (ESM). Views in the room strongly diverged on how much visibility should be given to chemical recycling, with many suggesting moving the entire section on chemical recycling to an Appendix given its potential adverse effects on human health and the environment. Some countries insisted on keeping it in the main body, highlighting its innovative potential. Noting an impasse, the Chair suggested discussions.

The group moved on in its effort to resolve outstanding issues in the document with some success in clearing the text from brackets.

**RC Effectiveness:** Co-Chairs Linroy Christian (Antigua and Barbuda) and Martin Lacroix (Canada) convened the contact group to further discuss the proposal to amend Articles 7, 10, 11, and 22 of the Rotterdam Convention and to add a new Annex VIII (CRP.4).

The Secretariat provided a summary of how CRP.4 arrived at the point of consideration by the contact group, in accordance with the relevant provisions of the Convention.

These include:

- a prior communication to the parties on the proposal;
- an invitation to parties to provide comments prior to the COP;

- the compilation of party comments (RC/COP.11/INF/15);
- introduction of the CRP to the COP for its consideration;
- the proposal and agreement on Co-Chairs by the COP; and
- the mandate to the contact group to further discuss the proposal.

Co-Chair Christian then proposed proceeding to a first reading of the text.

The group then considered revisions to Article 7, which would add references to the proposed Annex VIII. Some parties commented on the interaction and relationship between Annex III and Annex VIII. These comments include, *inter alia*: that the two Annexes will exist in parallel, thereby confusing countries; that it will compromise the perception of Annex III; that it goes against the Vienna Convention; and that it has negative implications on developing countries.

In clarifying the interaction between the two Annexes, the proponents noted, *inter alia*: that the new Annex can be considered as a subsidiary of Annex III; that the new Annex will offer higher protection to developing countries since more chemicals will be subject to PIC procedure; and that there is legal precedent for the approach that is well within the parameters of the Vienna Convention.

Throughout the first reading of the text, opposing parties continued to point out issues of concern while proponents explained and answered queries point by point.

One party asked about the implications of the proposal at the national level when customs officers have to act on it. One developed country said that irrespective of the RC, national laws and regulations take precedence and that countries that ban chemicals not listed in the RC do so without the need to consult with the RC.

Some parties agreed on the interim nature of Annex VIII, with one noting that there should be a time frame for a chemical to remain in the new Annex before it moves to Annex III.

Discussions continued on the text.

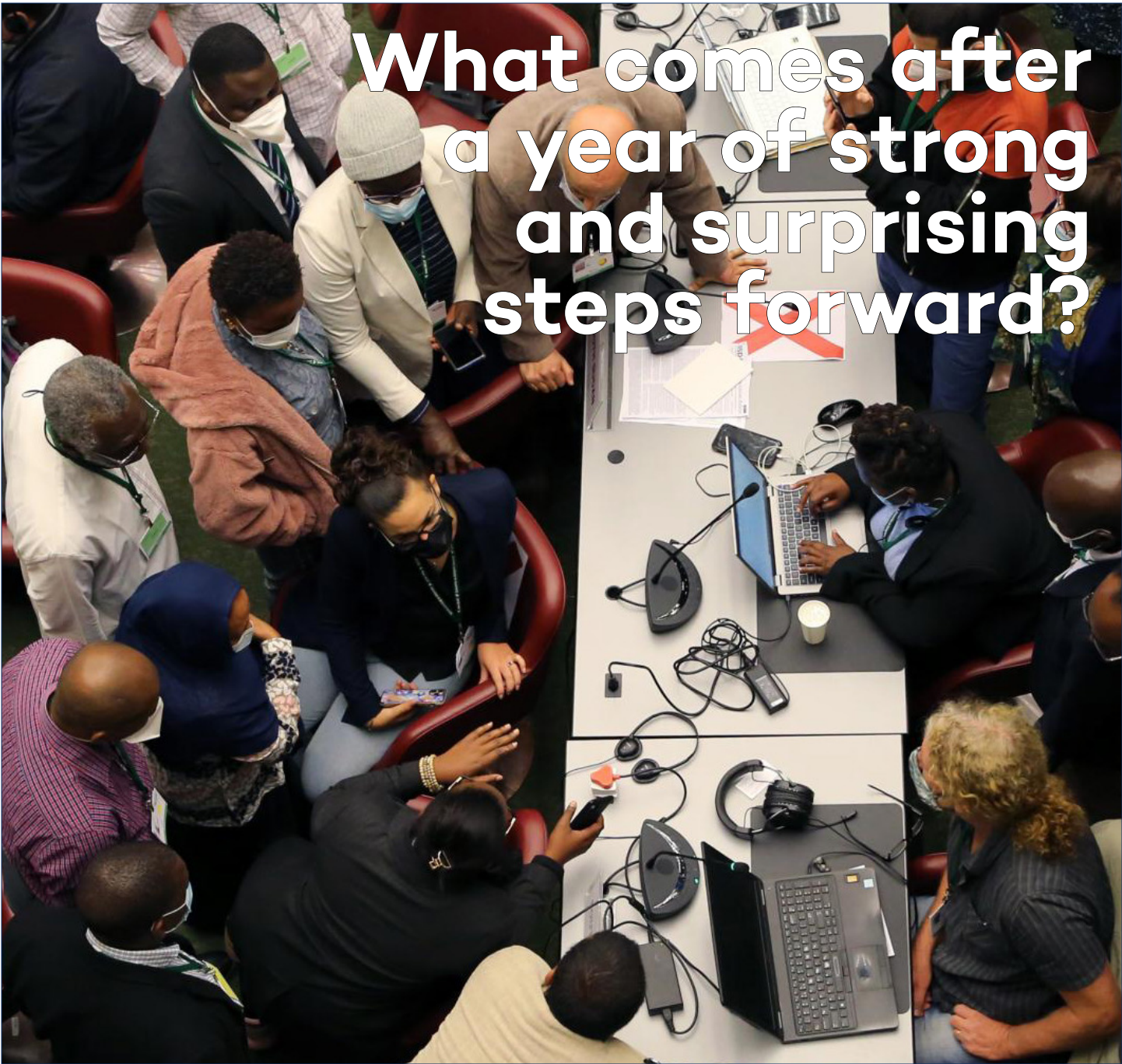
### ***In the Corridors***

The day started with a light-hearted moment, as a new objective for the day was announced: to find Rex the Dinosaur on the ENB webpage. It takes a keen eye and concerted effort to find Rex. As a socially conscious dinosaur, he can be a bit shy. Perhaps it was suggested as a shared goal to sharpen delegates’ observational skills and resolve as they search for solutions while negotiation days dwindle.

Some with sharp eyes noticed climate jargon seeping into some discussions, including bottom-up, national circumstances and capabilities, and historical responsibility. Generally proposed by the same party, some delegates doubted how well these ideas apply to chemicals and wastes. One worried about “polarized climate politics” finding their way to the “friendly” TripleCOP.

More obviously, the RC Bureau huddled with the Co-Chairs of the effectiveness contact group and the Secretariat legal advisors before the afternoon plenary. The chat produced an agreement for an additional slot for the contact group – from 10 pm to 11:30, breaking the 11 pm rule to leave the venue, and prompting nervous laughter in plenary. For some, it was more time for bilateral consultations. Consultations are surely needed, one noted as she left plenary, due to “the debate on where to debate,” Brazil’s proposal for intersessional work on the RC’s effectiveness remains unresolved. With only three days remaining, time is of the essence to allow either the RC contact group or the RC listing contact group to sharpen their minds and reach an agreement.





What comes after  
a year of strong  
and surprising  
steps forward?

# The State of Global Environmental Governance 2022

