

# Proposal to amend the Rotterdam Convention

## Introduction



There are over 350,000 chemicals circulating in the global economy.

One of the main aims of the Rotterdam Convention is to share the responsibility for managing international trade in certain hazardous chemicals.

**The foundation of the Convention is information-sharing to enable sound decision making.**

This empowers importing countries in deciding whether to accept chemical imports, and under what conditions. Exporting countries are required to respect those decisions.

For the fifty-four chemicals listed in Annex III, the Rotterdam Convention has effectively met its objectives. However, unforeseen circumstances have prevented listing of some chemicals, even though they have been found to meet the criteria under the Convention.

This is undermining the effectiveness of the Convention and limiting the ability of Parties to control imports of hazardous substances.

The proposal to amend Articles 7, 10, 11 and 22 of the Convention and to add a new Annex VIII, is designed to resolve this problem. The proposal will be considered by the eleventh Conference of the Parties (COP11), in May 2023.

## How does the Rotterdam Convention work?

The Convention provides a mechanism for Parties to decide whether to accept imports of hazardous chemicals listed on the Convention and to communicate this decision to exporting Parties.

Exporting Parties must obtain permission (known as 'Prior Informed Consent') from an importing Party, before they can export any chemicals listed in Annex III.



The Convention does not ban the manufacture, trade, or use of chemicals. It provides information about the hazards of listed chemicals, to help countries in deciding whether they can manage their risks, and in taking any necessary domestic regulatory or other action.

The process for listing most chemicals in Annex III of the Convention begins when one or more Parties in two or more regions notify the Convention Secretariat that they have taken 'final regulatory action' – meaning they have banned or severely restricted the chemical.

The Secretariat reviews the information provided by those Parties to see if it meets the requirements set out in Annex I of the Convention. If it meets the requirements, the Secretariat forwards the information to the Chemical Review Committee (CRC).



The CRC then determines whether the final regulatory action taken by those Parties meets the criteria set out in Annex II of the Convention. If the Annex II criteria is met, the CRC recommends to the Conference of the Parties that the chemical should be listed in Annex III and produces a Decision Guidance Document (DGD). The DGD includes information provided by the Parties in their notification, and information on uses of the chemical in a category other than the category for which the final regulatory action applies.

The COP makes the final decision, by consensus, on whether to list the chemical in Annex III and to approve the DGD so it can be available to all Parties.

## What problem is the proposal trying to solve?

The COP has not been able to agree to list some chemicals in Annex III, despite the Chemical Review Committee (CRC) recommending they should be listed, and the Conference of the Parties (COP) confirming they have met the Convention criteria for listing in Annex III.

Chemicals can only be listed in Annex III by consensus decision of the COP. Some Parties are opposing chemical listings on the basis that they are still needed in their countries or are still exported by their countries, even though chemicals listed in Annex III can still be traded, as long as prior informed consent has been obtained from the importing Party.

When the COP cannot agree to list a chemical that has been recommended for listing by the CRC, it undermines the Convention by eroding confidence in the listing process, limiting information-sharing and the ability of Parties to control imports of hazardous substances.

## The proposal in summary

The proposal simply aims to create a pathway for listing chemicals on the Convention, when the CRC has recommended them for listing, but agreement to list them in Annex III cannot be reached by the COP. The proposal is not intended to be a long-term alternative to listing a chemical in Annex III, but rather is a means by which importing Parties can benefit from a prior informed consent process, and consequent access to information, pending a chemical's ultimate listing in Annex III.

The proposal is to create a new Annex – Annex VIII – to the Convention. If the COP cannot agree to list a chemical in Annex III, a Party to the amended Convention may propose its listing in Annex VIII.

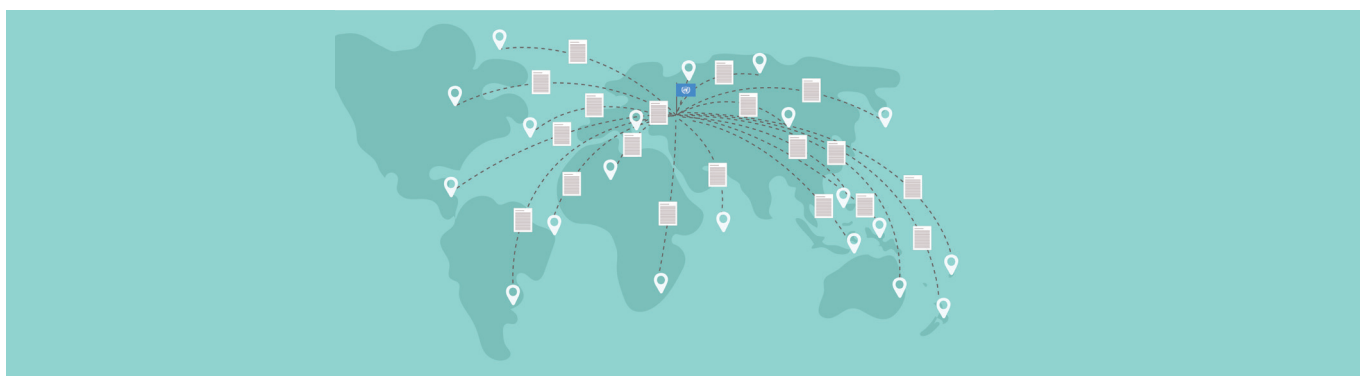
Amendments to Articles 7, 10, 11, and 22 will establish the process for listing a chemical in Annex VIII and give effect to the rights and obligations arising from a listing in Annex VIII.

## How will the proposed amendments work in practice?

If the COP decides to adopt the proposal to amend Articles 7, 10, 11, and 22 and to add a new Annex VIII, Parties to the Convention will then be asked to ratify the amendment. Ninety days after at least three fourths of the Parties have ratified the amendment, the amendment will enter into force for all Parties that have ratified it.



Then, if the CRC recommends a chemical for listing, but the COP cannot agree to list it in Annex III, the Parties to the amended Convention can consider listing it in Annex VIII.



The Parties to the amended Convention can decide by consensus, or by a three-fourths majority vote, to list the chemical in Annex VIII and approve the Decision Guidance Document. Only those Parties to the amended Convention would be eligible to participate in the decision process, as only those Parties to the amended Convention would be bound by the decision.

The decision, and the Decision Guidance Document, would then be transmitted by the Secretariat to all Parties to the amended Convention.

Once a chemical is listed in Annex VIII, all Parties to the amended Convention will be bound by the obligations relating to Annex VIII under Articles 10 and 11, and the chemical cannot be exported without explicit Prior Informed Consent from the importing Party. As Parties have the choice of whether to ratify the proposed amendments to establish the new Annex VIII, there is no proposed additional opt-out mechanism.

The matrix below explains how the PIC process will work, with respect to Parties and non-Parties to the amendment.

		IMPORTING PARTY	
EXPORTING PARTY	Has ratified the new Annex VIII	Has not ratified the new Annex VIII	
Has ratified the new Annex VIII	Importing Party bound by Article 10 Exporting Party bound by Article 11 <b>Outcome:</b> PIC procedure implemented; chemical can be traded if importing Party consents	Importing Party not bound by Article 10 Exporting Party bound by Article 11 <b>Outcome:</b> exporting Party can export in accordance with Article 11, providing it has received explicit consent from the importing non-Party.	
Has not ratified the new Annex VIII	Importing Party bound by Article 10 Exporting Party not bound by Article 11 <b>Outcome:</b> the listing process and consequent availability of information through the DGD enables the importing Party to assess potential risks and take action to manage import, through its national legal frameworks and policies.	Importing Party not bound by Article 10 Exporting Party not bound by Article 11 <b>Outcome:</b> Articles 10 and 11 do not apply to the international trade of the chemical.	

Chemicals listed in Annex VIII will still be considered for listing in Annex III and will remain before the COP for a future decision on listing in Annex III.

There would be no change in the procedures for chemicals already listed in Annex III, or for any chemical the COP agrees to list in Annex III in the future.

The proposed amendments would not affect the operations of the CRC, nor its review and recommendations to the COP in accordance with Articles 5–7 of the Convention.

## Why should you support the proposal?



- ▶ The Rotterdam Convention provides an “early warning system” for countries to help protect themselves against certain hazardous chemicals moving in international trade.
- ▶ The proposal will extend this system to help countries facing difficulties with managing unwanted shipments of hazardous chemicals.
- ▶ It will help countries to take domestic action to manage hazardous chemicals, in particular whether to allow the import of a chemical, or not to allow the import.
- ▶ It retains the aim of sharing responsibility for sound management of chemicals.
- ▶ It builds on existing Convention processes, which will remain unchanged, including the process for listing chemicals in Annex III by consensus.

### Links to further information:

- ▶ [Full proposal on Rotterdam Convention website](#)
- ▶ Explanatory video:
  - English – <https://youtu.be/cgKpm7SnrcI>
  - French – <https://youtu.be/KJhrVwg2GqM>
  - Spanish – <https://youtu.be/giraJ3HKGcA>

## Co-sponsors

The amendment proposal is co-sponsored by:

- ▶ Australia
- ▶ Burkina Faso
- ▶ Colombia
- ▶ Georgia
- ▶ Ghana
- ▶ Mali
- ▶ Republic of Maldives
- ▶ Switzerland



**For more information, or to become a co-sponsor, contact the below representatives, or any of the other countries that have co-sponsored the proposal:**

### Switzerland

Michel Tschirren

[Michel.Tschirren@bafu.admin.ch](mailto:Michel.Tschirren@bafu.admin.ch)

### Australia

Nicola Powell

[Nicola.Powell@dcceew.gov.au](mailto:Nicola.Powell@dcceew.gov.au)

