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Our Ref.:

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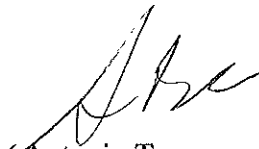
Dear Sirs,

I refer to the letter dated 02 February 2015 in which Mr Baskut Tuncak, Special Rapporteur on the implications for human rights of the sound management and disposal of hazardous substance and waste invited all UN agencies to provide inputs relevant to their mandates and activities on rights of access to information with respect to hazardous substances and wastes.

In that regard, the Development Law Branch of FAO's Legal Office provides legislative assistance on a broad range of pesticide-related matters. Given the varied nature of the support it provides in this field, they are not enumerated, but we would be pleased to provide additional information if that would be of assistance.

I am also pleased to transmit to you the reply of the Secretariat of the Rotterdam Convention on Prior Informed Consent, which is hosted by FAO, herewith attached.

Sincerely,

  
Antonio Tavares  
Legal Counsel

Special Rapporteur on human rights  
and hazardous substances and wastes  
Sustainable Human Development Section  
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## **Rotterdam Convention reply to OHCHR on rights of access to information with respect to hazardous substances and wastes**

### **Question 1**

The text of the Rotterdam Convention was adopted on 10 September 1998 by a Conference of Plenipotentiaries in Rotterdam, the Netherlands. The Convention entered into force on 24 February 2004. The Convention creates legally binding obligations for the implementation of the Prior Informed Consent (PIC) procedure.

The objectives of the Convention are

- to promote shared responsibility and cooperative efforts among Parties in the international trade of certain hazardous chemicals in order to protect human health and the environment from potential harm;
- to contribute to the environmentally sound use of those hazardous chemicals, by facilitating information exchange about their characteristics, by providing for a national decision-making process on their import and export and by disseminating these decisions to Parties.

The main mechanism is the Prior Informed Consent (PIC) Procedure. The PIC procedure is a mechanism for formally obtaining and disseminating the decisions of importing Parties as to whether they wish to receive future shipments of those chemicals listed in Annex III of the Convention and for ensuring compliance with these decisions by exporting Parties.

For each of the chemicals listed in Annex III and subject to the PIC procedure a decision guidance document (DGD) is prepared and sent to all Parties. The DGD is intended to help governments assess the risks connected with the handling and use of the chemical and make more informed decisions about future import and use of the chemical, taking into account local conditions.

All Parties are required to take a decision as to whether or not they will allow future import of each of the chemicals in Annex III of the Convention. These decisions are known as import responses. A listing of the import responses given for each chemical subject to the PIC procedure is circulated by the Secretariat to all DNAs every six months via the PIC

Circular and all import responses are available on the Convention's website.

## **Question 2**

Information is provided by Parties to the Convention. If a national decision to ban or severely restrict a chemical or pesticide for environmental and/or human health reasons, the party has to notify the Convention Secretariat about this.

The Convention specifies both the contents and the time limit for such notifications. The Secretariat will verify the notifications and inform other Parties about the notifications received. When the Secretariat has received notifications from two parties in two different PIC regions regarding a specific chemical, it shall forward the notifications to the Chemical Review Committee in order for it to review and consider recommending the chemical for inclusion in Annex III of the Convention.

The Chemical Review Committee (CRC) is a subsidiary body of the Rotterdam Convention established to review chemicals and pesticide formulations according to the criteria set out by the Convention in Annexes II and IV respectively and make recommendations to the Conference of the Parties for listing such chemicals in Annex III.

## **Question 3**

The Convention facilitates information exchange among Parties for a very broad range of potentially hazardous chemicals. The Convention requires each Party to notify the Secretariat when taking a domestic regulatory action to ban or severely restrict a chemical. A developing country Party or a Party with an economy in transition that is experiencing problems caused by a severely hazardous pesticide formulation may report such problems to the Secretariat. All Parties receive summaries of these notifications and proposals on a regular basis via the PIC Circular. When a chemical that is banned or severely restricted by a Party is exported from its territory, that Party must notify each individual importing Party before the first shipment and annually thereafter. Exports of banned or severely restricted chemicals, as well as chemicals subject to the PIC procedure, are to be appropriately labeled and accompanied by basic health and safety information in the form of a safety data sheet.

Under the Rotterdam Convention, a technical assistance programme is provided to developing country parties and parties with economies in transition in order to assist them in building their capacity (human resources, policy, legal and institutional frameworks) to fulfill their obligations in protecting human health and the environment from hazardous chemicals and to raise awareness on the issue. Technical assistance is delivered through face-to-face and online training, as well as partnerships. Regional delivery is ensured by UNEP and FAO regional offices. Technical assistance is provided upon request and according to the specific needs of the parties.

#### **Question 4**

Any Party that is a developing country or country with an economy in transition that is experiencing problems due to the impact to human health or the environment caused by a severely hazardous pesticide formulation under conditions of use in its territory, may propose to the Secretariat the listing of the severely hazardous pesticide formulation in Annex III of the Convention. In its Annex IV, the Convention specifies the documentation required from a proposing Party, the information to be collected by the Secretariat and the criteria for listing the severely hazardous pesticide formulation. The Secretariat will verify the proposals, inform other Parties about the proposals received and collect additional information as specified by the Convention. Subsequently, the Secretariat forwards the proposal to the Chemical Review Committee in order for it to review and consider recommending the pesticide formulation for inclusion in Annex III of the Convention.

#### **Question 5**

All exporting Parties are required to ensure that exports of chemicals subject to the PIC procedure do not occur contrary to the decision of each importing Party. They should ensure that import responses published in the PIC Circular are immediately communicated to their exporters, industry and any other relevant authorities, such as the Department of Customs.

#### **Question 6**

All information is available on the website.