



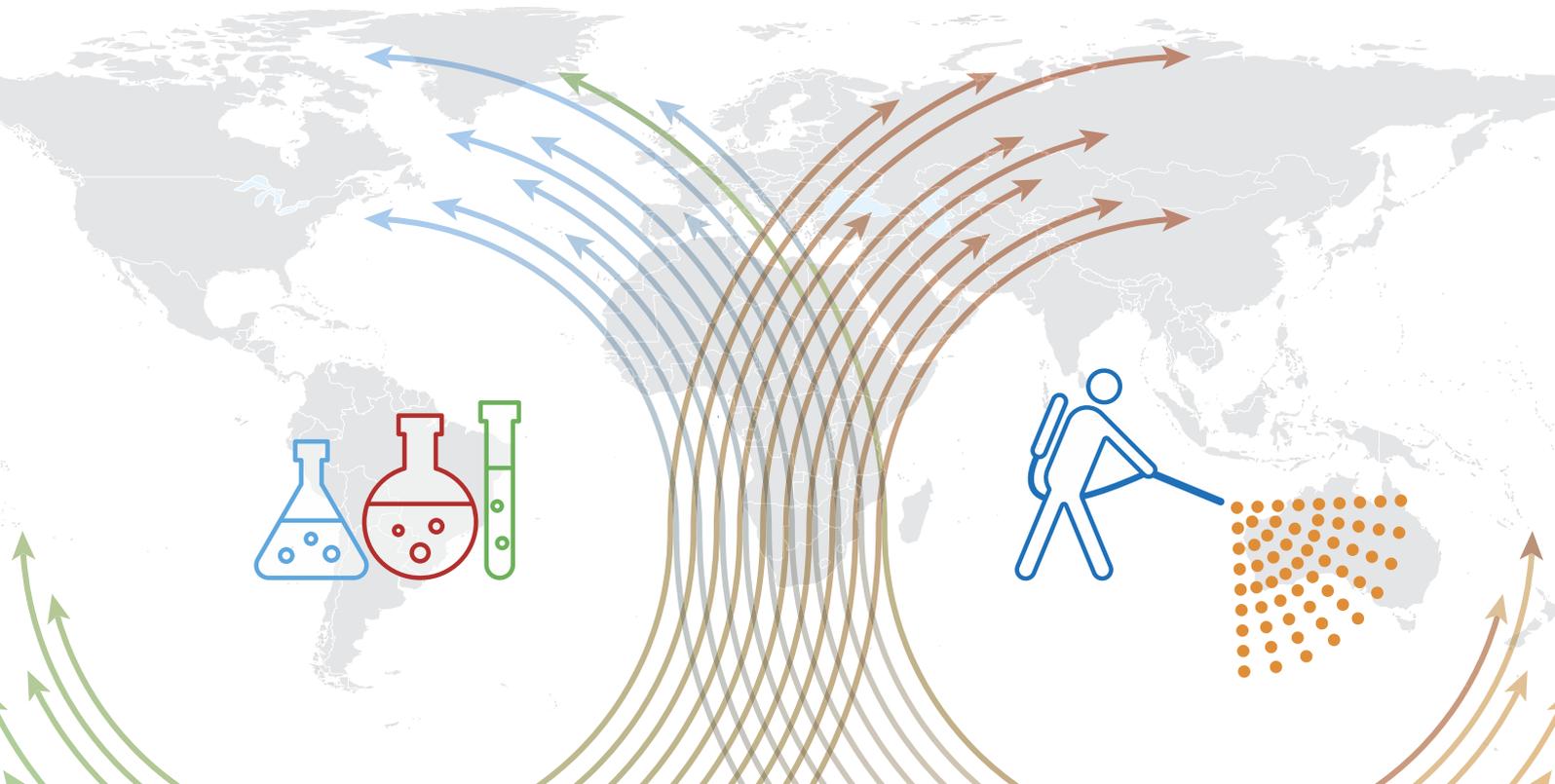
Food and Agriculture
Organization of the
United Nations



DEFINITIONS OF USE CATEGORIES UNDER THE ROTTERDAM CONVENTION

RESULTING CHALLENGES FOR PARTIES

This leaflet addresses the role of the use category in the implementation of the Rotterdam Convention and challenges that Parties may experience in this regard.



DEFINITIONS UNDER THE CONVENTION

The Rotterdam Convention covers chemicals, which, for the purpose of the Convention are categorised as pesticides, industrial chemicals and severely hazardous pesticide formulations. The Rotterdam Convention provides definitions for the terms “chemical” and “severely hazardous pesticide formulation” but not for “pesticide” and “industrial chemical”.

CHALLENGES WITH DEFINITIONS OF USE CATEGORIES

Chemicals listed under a particular use category in Annex III or subject to export notification pursuant to Article 12 of the Convention might fall into an additional or different use category, depending on domestic interpretations of parties.

Possible scenarios include the chemical being listed in Annex III in...

- a) ... one category, but the use in the country is in a different category;
- b) ... one category, but the definition of this category varies from country to country;
- c) ... one category, but a national definition of this category does not exist;
- d) ... one category, but the use in the country is in several categories;
- d) ... more than one category, but the use in the country is in one category only.

This leads to **two major challenges** with regard to:

- Implementation of the PIC procedure and provision of import responses
- Implementation of the export notification requirement pursuant to Article 12

THE PRIOR INFORMED CONSENT (PIC) PROCEDURE AND PROVISION OF IMPORT RESPONSES

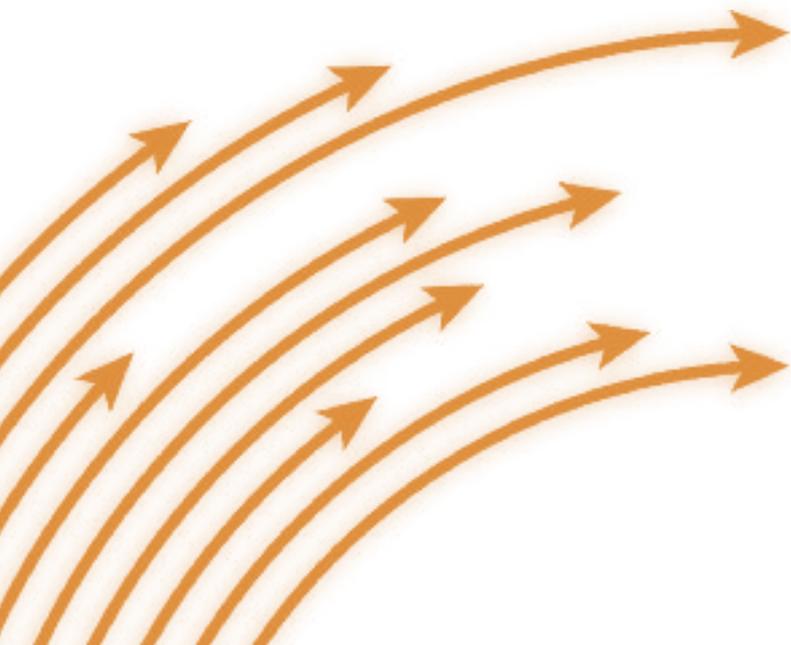
The PIC procedure is a mechanism for formally obtaining and disseminating the decisions of importing Parties as to whether they wish to receive future shipments of the chemicals listed in Annex III of the Convention and for ensuring compliance with those decisions by exporting Parties. Upon listing, a decision guidance document (DGD) is sent to all Parties requesting them to provide an import response for the use category of the chemical as stated in Annex III of the Convention.

A DGD informs *inter alia* on the use(s) of the chemical in the category under which it is listed in Annex III. It also indicates whether the chemical is used in other categories and if so, the known use(s).

EXAMPLES

i

Party A, considers the use of ethylene oxide as antimicrobial sterilant in hospitals as a pesticidal use per its national definition. If **Party A** indicates “no consent” in the import response for the chemical, it doesn’t allow the import of ethylene oxide to be used as a pesticide, including the use as a sterilant. **Party B** does not consider the use of ethylene oxide as an antimicrobial sterilant in hospitals as a pesticidal use. If **Party B** indicates “no consent” in the import response, it means that it doesn’t allow the import of ethylene oxide to be used as pesticide in plant protection. It is not clear from the import response whether it allows the import of the chemical to be used as a sterilant. In the absence of further clarifications, **Party A** may not allow the export of ethylene oxide to **Party B**, which may be expected for sterilisation of medical devices in hospitals.





EXPORT NOTIFICATION PROCEDURE

ii

The Rotterdam Convention doesn't provide a specific definition for the term "pesticide". According to the International Code of Conduct on Pesticide Management (FAO/WHO, 2014), pesticide means any substance, or mixture of substances of chemical or biological ingredients intended for repelling, destroying or controlling any pest, or regulating plant growth. Currently, at national level, definitions of pesticide may vary from country to country. For example, **Party A** follows the broader pesticide definition of the International Code of Conduct on Pesticide Management, while **Party B** considers pesticide as substances of chemical or biological ingredients used in plant protection only. Consequently, an import response from **Party A** may apply to a broader use scope than one from **Party B** for the same chemical.

iii

Ethylene oxide is listed in Annex III only as a **pesticide**. Consequently, the PIC procedure and the import responses apply to the chemical if it is used as a pesticide. In the EU, ethylene oxide, was used as a pesticide (e.g. insecticidal fumigant in agriculture), and as an industrial chemical (e.g. as an intermediate in the production of various chemicals). Nevertheless, the import response only applies to the use as pesticide and not to the use as an industrial chemical.

Export notification is a mechanism to promote the exchange of information among countries on certain hazardous chemicals. The process alerts Parties that they are receiving import of a chemical that has been banned or severely restricted in the exporting Party. Export notification provides the importing Party with the information related to the shipment of the chemical, its known risks and hazards, as well as precautionary measures.

EXAMPLES

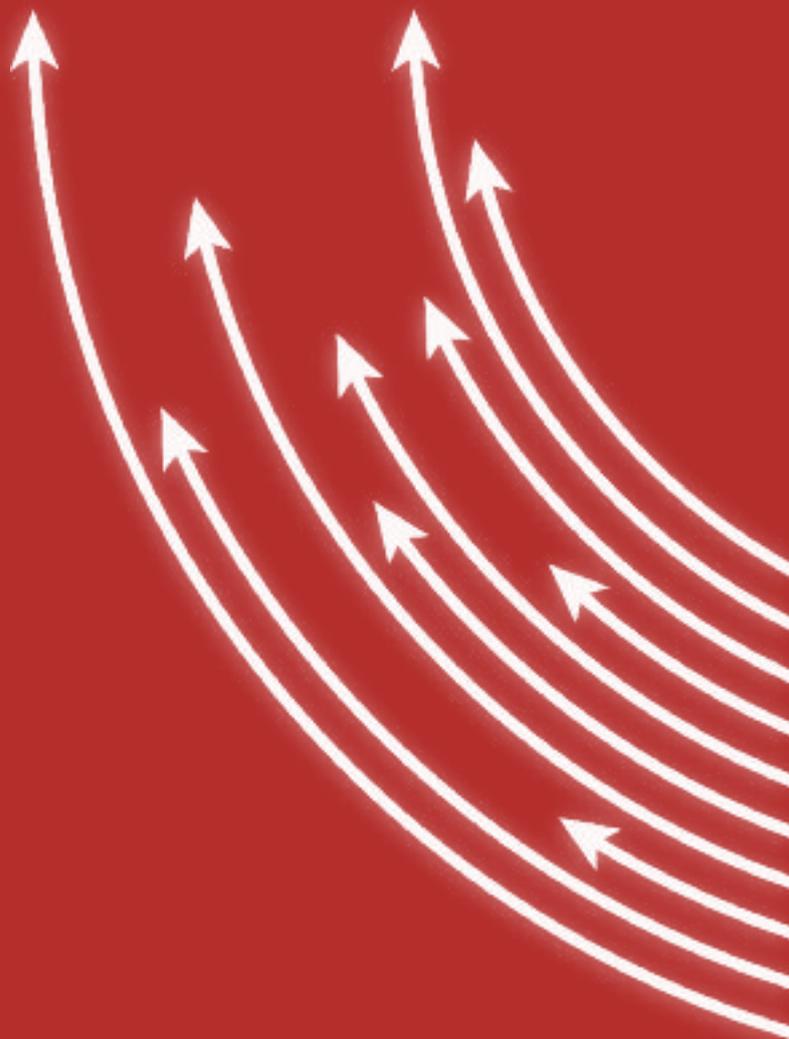
Party C has banned ethylene oxide for pesticidal use and applies a definition in accordance with the Code of Conduct, which means that also the use as sterilant is prohibited. **Party D** applies a definition for "pesticide" that refers to agricultural use only. Thus, the use as sterilant falls in the category "industrial use". An exporter of **Party C** wishing to export ethylene oxide to **Party D**. The DNA of **Party C** is obliged to submit an export notification prior to that export to the appropriate national authority (DNA for pesticides and/or industrial chemicals) of **Party D** (importing). However, **Party C** has no information on the definition applied by **Party D** and might therefore send the export notification to the DNA for pesticides, in accordance with its own definition. Consequently, the export notification is sent to the incorrect DNA and the information is not available to the responsible DNA.

POSSIBLE SOLUTIONS

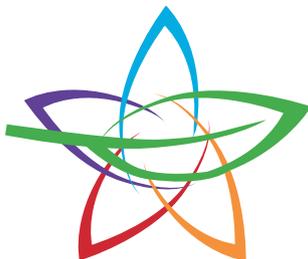
FAO and WHO encourage countries to use the Code of Conduct on Pesticide Management as a guiding reference in designing their policies and definitions. It is recommended that Parties to the Rotterdam Convention provide information on their national pesticide definition in their import response.

In addition, Parties are encouraged to inform the Secretariat about the definition of pesticides applied. The Secretariat makes that information available to all Parties.

Import responses are crucial to protect all Parties from unwanted imports of hazardous chemicals. If Parties are aware of the existence of various definitions for use categories and in particular of the term “pesticides” and the implications resulting from the use of those definitions they can take measures to fully implement the Convention.



Share Responsibility



ROTTERDAM CONVENTION

For more information see the web site
of the Rotterdam Convention

www.pic.int

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