



Implementing the PIC Convention in the EC

Key documents

- Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade
- Regulation (EC) No 304/2003 of the European Parliament and of the Council concerning the export and import of dangerous chemicals
(OJ L 63, 6.3.2003, p. 1)

Rotterdam Convention

- Steps in development – based on international voluntary arrangements, INC negotiations 1995-1998, Diplomatic Conference in 1998 agreed Convention and interim measures
- Status – entered into force February 2004, 104 Parties, including EC and 22 of its Member States

Convention objectives

- To promote shared responsibility and co-operative efforts among Parties in order to protect human health and the environment by:
 - facilitating information exchange about the characteristics of certain hazardous chemicals in international trade;
 - providing for a national decision-making process on their import and export and disseminating these decisions

Core elements of the Convention

- Listing of PIC chemicals
- Dissemination of import decisions and respect thereof
- Export notification
- Information to accompany exports

Listing of PIC chemicals

- Notification of domestic regulatory actions
- At least one notification from each of two PIC regions needed
- Information reviewed by Chemical Review Committee, which recommends inclusion and prepares draft decision guidance document (DGD)
- COP decides on listing and approves DGD

Dissemination of import decisions

- DGD for each chemical circulated to all Parties
- Parties shall transmit a response within 9 months to the Secretariat. Responses published every 6 months (PIC Circular)
- Exporting Parties must comply with import responses.
- If no response, for certain time export not allowed unless certain conditions fulfilled (registration/previous exports/explicit consent)

Export notifications

- Made by all exporting Parties that have notified domestic regulatory actions
- Prior to first export following domestic regulatory action and then prior to first export in any subsequent calendar year
- Notification requirement may be waived by importing Party
- Obligation ends when chemical is added to PIC procedure and import response of importing Party has been published

Information to accompany exports

- Exports of both PIC chemicals and domestically banned or severely restricted (BOSR) chemicals must be adequately labelled
- For occupational purposes a safety data sheet (SDS) has to be sent to each importer
- Information should, as far as practicable, be given in at least 1 official local language
- HS customs codes to be shown on shipping documents

Regulation 304/2003

- Adopted under Art.175
- Co-decision procedure – first reading agreement
- Adoption January 2003/Entry into force March 2003

Objectives (Art.1)

- To implement the Rotterdam Convention
- To ensure that all dangerous chemicals are packaged and labelled in accordance with Community legislation when exported.

Scope (Art. 2)

- Chemicals subject to PIC procedure.
- Chemicals that are BOSR within the Community.
- All chemicals when exported as regards packaging and labelling.

Exemptions

- Broadly in line with Convention.
- Main differences:
 - ◆ some definitions in Community legislation
 - ◆ chemicals for personal use not exempted
 - ◆ 10 kg cut-off for research/analysis

Definitions(Art.3)

- As per Convention, with certain adaptations / additions.
- Main changes:
 - ◆ Use of chemical sub-categories for purposes of determining need for export notification of chemicals banned or severely restricted within the Community.
 - ◆ Inclusion of certain articles containing chemicals.
 - ◆ Extension of export notification to chemicals subject to PIC procedure.
 - ◆ Preparations when subject to labelling obligations

Designated National Authorities and Commission role (Art.4 and 5)

- Each MS to designate DNA(s) and inform Commission
- Commission is common DNA for EC, working in close co-operation with DNAs of MS.
- Commission co-ordinates EC participation at CoP, CRC etc.
- Steps to ensure appropriate EC representation on CRC etc.

Chemicals subject to export notification, PIC notification, PIC procedure (Art.6)

- Annex I Part 1 - chemicals subject to export notification (BOSR within the EC in at least a use sub-category)
- Annex I Part 2 - chemicals also subject to PIC notification procedure (BOSR within the EC in a Convention use category)
- Annex I Part 3 - chemicals subject to PIC procedure
- Lists published on internet:
<http://ecb.jrc.it/edex/>

Export notifications (Art.7)

- Applies to Part I of Annex I chemicals exported to any country, and irrespective of use.
- Annual notification by each exporter before first export of a chemical (information as per Annex III). Notification from the first exporter each year forwarded by Commission.
- Central register of notifications on EDEXIM.
- Requirement ends when chemical added to PIC procedure and importing Party has given import response or indicates no notification required.
- For rules on articles see Article 14.

Export notifications received from Parties (Art.8)

- Central role for Commission
- Information to be published on EDEXIM
- Available at:
<http://ecb.jrc.it/edex/>

Participation in the PIC notification procedure (Art.10)

- Chemicals BOSR in EC or a MS in a Convention use category qualify for notification (Part 2 of Annex I).
- Commission to make notifications (with information as per Annex II). Also on behalf of MS after consultation of others.
- Notifications from other Parties circulated by Commission to MS for evaluation of need for possible EC measures.

Information to the Secretariat about chemicals not qualifying for PIC notification (Art.11)

- Applies to chemicals:
 - ◆ BOSR within the EC only in a use sub-category.
 - ◆ BOSR in one or more MS when PIC notification is inappropriate.
- In line with information exchange provisions of Convention.

Obligations in relation to imports (Art.12)

- Commission decisions to establish EC import responses for chemicals subject to PIC procedure on basis of existing EC legislation.
- If necessary, consideration of EC measures to deal with risks presented by chemicals concerned on the basis of the DGD distributed by the Secretariat.

Obligations in relation to exports (Art.13)

- Import decisions of importing countries for chemicals subject to PIC procedure must be respected.
- No export of such PIC chemicals and chemicals BOSR within the EC and qualifying for PIC notification without explicit consent of importing country.
- General obligations on expiry dates; and size and packaging and purity specifications for pesticides.

Controls on export of certain chemicals and articles (Art.14)

- Articles containing, in non-reacted form, PIC chemicals or BOSR chemicals qualifying for PIC notification are subject to export notification rules.
- Certain chemicals and articles in Annex V are totally banned for export (eg POPs, mercury-containing soaps).

Information to accompany exported chemicals (Art.16)

- All dangerous chemicals to be packaged and labelled in accordance with Community legislation unless importing country requires otherwise.
- Where appropriate, production and expiry dates to be shown.
- Safety data sheets to be provided.
- Whenever practicable, all information to be in official/principal language of importing country.

Obligations of Member States for controlling import and export (Art.17)

- Authorities such as customs offices responsible for monitoring of imports/exports of chemicals in Annex I to be designated.
- Targeted and co-ordinated control of compliance, with regular reporting.

Penalties (Art. 18)

- Enforcement a matter for MS.
- Penalties fixed by MS.
- Must be effective, proportional and dissuasive.

Monitoring and reporting (Art.9 and 21)

- Exporters and importers to provide annual reports on quantities of chemicals traded; MS to forward annual national reports (as per Annex IV) to Commission, which publishes an overall summary (Art.9)
- Monitoring by MS and Commission on operation of Regulation. Regular reports from MS. Regular synthesis report by Commission to Council and Parliament (Art.21)

Article 22 - Updating Annexes

- To be read in conjunction with Article 24 - committees.
- Inclusion of chemicals in parts 1 and 2 of Annex I to be decided by regulatory committee procedure.
- All other amendments to Annex I and all other annexes except Annex V to be decided by advisory committee procedure.
- Inclusion of chemicals/articles in Annex V (export ban) to be decided by the European Parliament and the Council.

Article 23 - Technical Notes for Guidance

- To assist implementation:
 - ◆ Guidance document for DNAs on EDEXIM
 - ◆ Guide to Regulation published
- Use of such documents increasing practice in chemicals field.

Key differences with Convention

- Applies to exports to all countries and irrespective of intended use
- Export notification
 - ◆ Wider range of chemicals covered
- Export restrictions
 - ◆ Need for explicit consent of importing country if chemical is listed in parts 2 or 3 of Annex I (i.e. PIC chemical or qualifies for PIC notification)
 - ◆ Possibility for total export bans

Main DNA Obligations

■ Administrative

- ❖ Designate authorities (Art 4 and 17).
- ❖ Ensure EC participation in Convention and appropriate representation in CRC etc (Art 5).
- ❖ Seek explicit consent for exports of chemicals listed in parts 2 and 3 of Annex I (Art 13.6).
- ❖ Forward 3rd country export notifications to Com (Art 8).
- ❖ Consult Com and other MS about possible PIC notifications based on national regulatory actions (Art 10.7).

Main DNA Obligations, cont.

- ❖ For PIC chemicals, inform Com of national regulatory actions so these can be reflected in EC import decisions (Article 12.2); and disseminate those decisions to importers etc (Art 12.5).
- ❖ To forward 3rd country import responses for PIC chemicals to exporters etc (Art 13.3).
- ❖ To give opinions on Com proposals for Com import decisions (Art 12.1) and for updating Annexes I-IV and VI (Art 22).

Main DNA obligations, cont.

■ Enforcement

- ❖ Ensure compliance, including the establishment of penalties for infringements (Art 18).
- ❖ Verify export notifications with Annex III and forward these to Com (Art 7.1); check whether explicit consent has been obtained where needed (Article 13.6).

■ Monitoring and reporting

- ❖ Provide Com with annual aggregated reports on trade in Annex I chemicals (Art 9).
- ❖ Provide Com with regular monitoring reports on operation of procedures (Art 21), including compliance activities (Art 17).