

2023 Judicial Colloquium
3-4 April 2023
Palais des Nations



Judicial protection of human rights and public interests against environmental pollution from chemicals and wastes

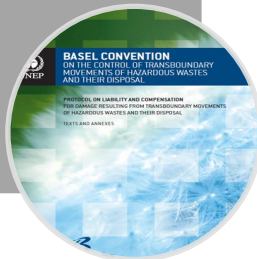
Ms. Susan Wingfield, Programme Management Officer
Secretariat of the Basel, Rotterdam and Stockholm Conventions

31 March 2023

A Framework for Life Cycle Management

- **Adoption:** 22 March 1989
- **Entry into force:** 5 May 1992
- **Parties:** 190
- **Scope:** Hazardous wastes and other wastes
- **Key provisions:**
 - Minimization of generation
 - Promotion of environmentally sound management
 - Conditions and procedure for controlling transboundary movements

Basel Convention



- **Adoption:** 10 September 1998
- **Entry into force:** 24 February 2004
- **Parties:** 165
- **Scope:** banned or severely restricted chemicals and SHPFs (annex III)
- **Key provisions:**
 - **Prior Informed Consent procedure for export/import** (annex III)
 - **Exchange of information** on a broad range of potentially hazardous chemicals

Rotterdam Convention

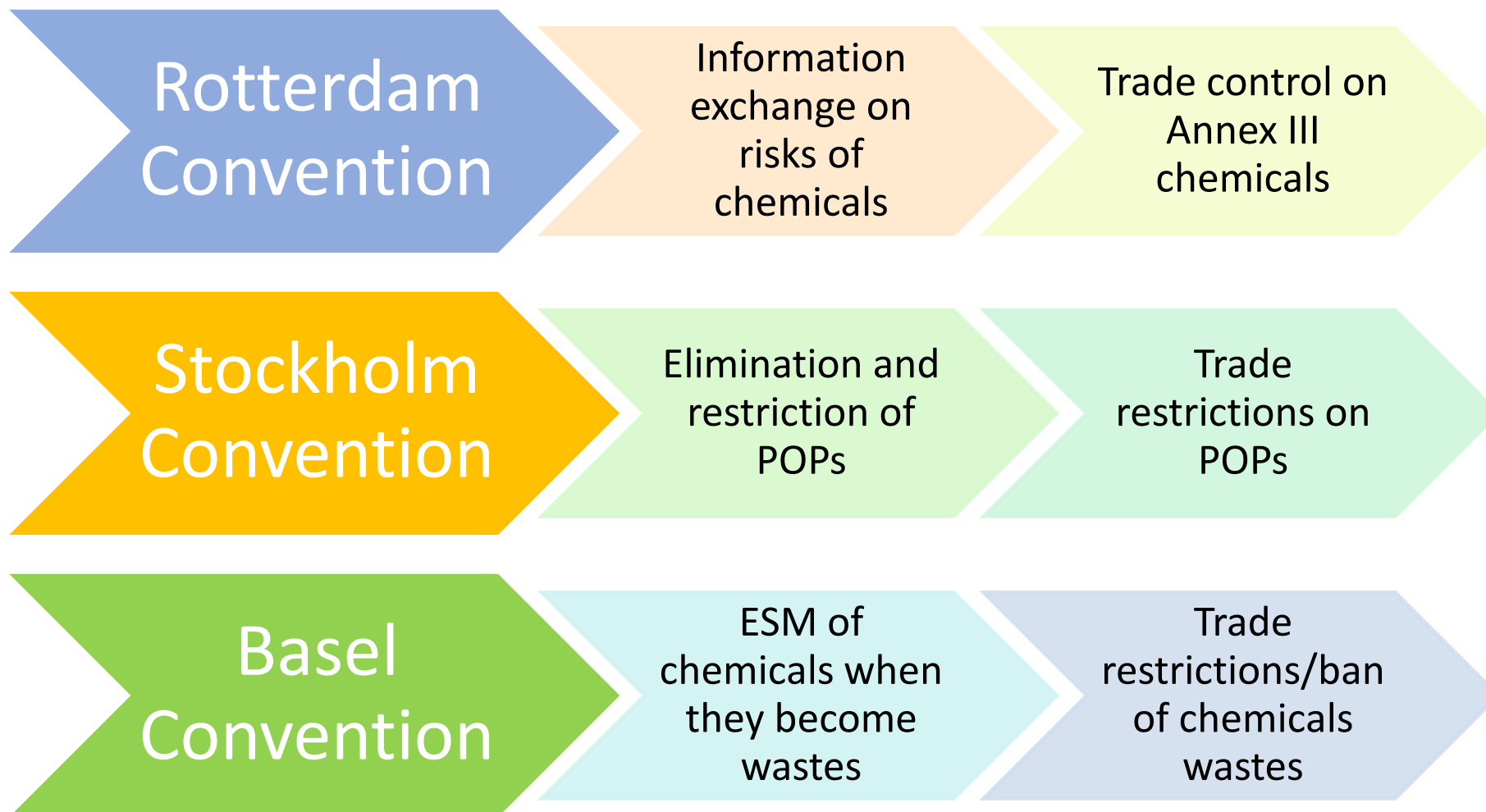


- **Adoption:** 22 May 2001
- **Entry into force:** 17 May 2004
- **Parties:** 186
- **Scope:** Persistent Organic Pollutants
- **Key provisions:**
 - **Elimination** (POPs in annex A)
 - **Restriction** (POPs in annex B)
 - **Reduction or elimination** (unintentionally produced POPs in annex C)

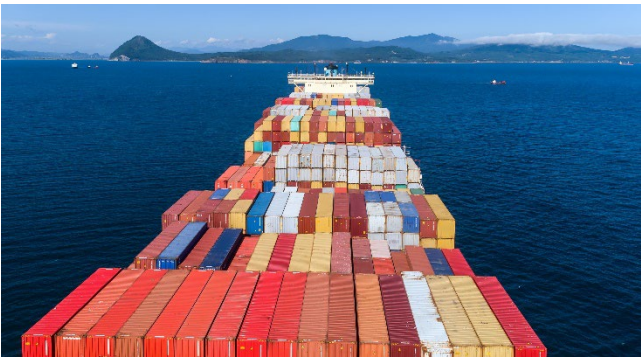
Stockholm Convention



Why are these three Conventions working together ?







3 Pillars of the Basel Convention

- ☐ **Minimize** the generation of hazardous wastes in terms of quantity and degree of hazard
- ☐ **Promote** the environmentally sound management of hazardous wastes and other wastes
- ☐ **Control** transboundary movements of hazardous wastes and other wastes (conditions and the PIC procedure)

Controlling Transboundary Movements

- **Conditions:** transboundary movement only among Parties (exception - Article 11 Agreements);
- **PIC** = Prior Informed Consent Procedure
- **Four stages:**
 1. notification of proposed shipment;
 2. written consent to proposed shipment;
 3. issuance of movement document;
 4. confirmation of ESM disposal.
- **Right to restrict or ban** imports, transits or exports





Ban Amendment

Entry into force
5 December 2019

Prohibition of exports of hazardous wastes from Annex VII Parties (Liechtenstein, EU and OECD member States) to other States

- Applies to movements for resource recovery and recycling operations as well as final disposal operations



MAIN PROVISIONS UNDER THE ROTTERDAM CONVENTION

The **ROTTERDAM** Convention



Objective (Article 1):

- **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; and
 - **Contribute to their environmentally sound use.**

Scope:

- **Chemicals** falling into 3 categories: **pesticides; severely hazardous pesticide formulations & industrial chemicals.**
 - Listed in **Annex III**, or
 - Banned or severely restricted **by a Party**



Transposing the **Rotterdam Convention** into **national legislation**

- Parties need to implement various legislative or administrative measures to implement the Convention, including to:
 - Ensure **timely decisions** on **import** of chemicals in Annex III
 - Communicate and make **import responses available** to those concerned in its jurisdiction
 - Ensure that **exporters in jurisdiction comply** with decisions within deadlines in Convention
-



MAIN PROVISIONS UNDER THE STOCKHOLM CONVENTION

The **STOCKHOLM** Convention



Objective (Article 1):

“Mindful of the precautionary approach”, **to protect human health and the environment** from the harmful impacts of **POPs**

Scope: What are POPs?

Chemicals with the following properties:

- ☐ high toxicity
- ☐ persistence
- ☐ mobility
- ☐ high concentration (bio-accumulate)



Transposing the **Stockholm** Convention into national legislation



Parties have obligations to take legal and administrative measures necessary to:

- ❑ **Eliminate** production and use of Annex A chemicals and their import and export
- ❑ **Restrict** production and use of Annex B chemicals and control their import and export
- ❑ **Reduce or eliminate** releases from unintentional production

Transposing the **Stockholm** Convention into national legislation

Parties' other obligations may also require the adoption of legal and administrative measures or adjustment of legal frameworks to:

- ▣ Reduce or eliminate **releases from stockpiles and wastes**
 - ▣ Develop and endeavor to implement **national implementation plans** e.g. processes for consultation and adoption
 - ▣ **Exchange of information** relevant to **alternatives** and **reduction or elimination** of production, use and release of POPs
-



IMPORTANCE OF JUDICIARY WITH RESPECT TO THE BRS CONVENTIONS

Effective implementation and enforcement of the Conventions

Parties required to establish laws and regulations to control the production, use, and disposal of hazardous chemicals and wastes

Potential role of judiciary in following cases:

- ❑ Illegal transport of hazardous wastes across borders or failure to comply with requirements for the environmentally sound management of such wastes (BC)
 - ❑ Failure to obtain the necessary approvals before importing or exporting hazardous chemicals (RC)
 - ❑ Production or use of listed POPs in violation of the Convention (SC)
-

Promoting compliance with the Conventions

Importance of provisions under BRS Conventions in supporting judiciary:

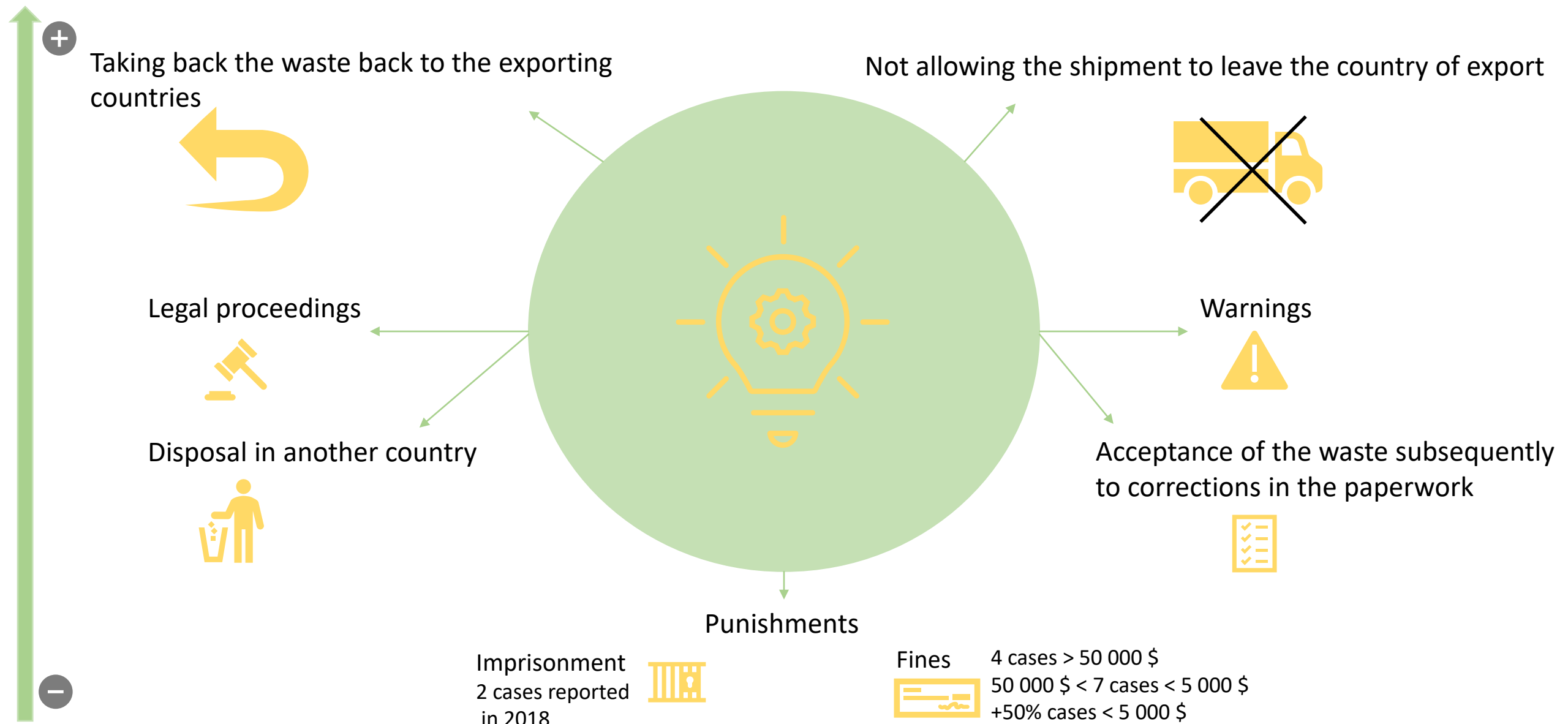
- **Transparency, reporting and information exchange** → helps to identify non-compliance and to develop strategies for addressing it
 - **Compliance procedures and mechanisms** → to address instances of non-compliance by Parties and remedial action
 - **Dispute settlement mechanisms** → encourage dialogue and cooperation between parties and may lead to the involvement of an international judiciary body, should both parties agree to it
-



ILLEGAL TRAFFIC UNDER THE BASEL CONVENTION

Transboundary movements not following the appropriate notification and consent procedures or resulting in deliberate dumping of wastes constitute illegal traffic, which is to be considered criminal under national legislation

From the most to the less used methods of resolution of cases of illegal traffic



Conclusions

Judicial actors are essential for enforcing environmental laws and tackling environmental pollution:

- Interpreting international treaties → determining the scope, underlying principles, and application to specific cases
- Ensuring that international environmental law is applied consistently
- Adjudicating disputes and prescribing remedial action

Judiciary is essential in the chain of implementation and enforcement of MEAs

- All links in the chain (legislation, prosecutors, police, customs) needed in support of judiciary
-

Thank you

For more information
<http://www.brsmeas.org/>

Email:
susan.wingfield@un.org

**12 RESPONSIBLE
CONSUMPTION
AND PRODUCTION**





TOOLS TO SUPPORT PARTIES

Basel Convention: Guidance documents and Technical guidelines

Specific guidance and technical guidelines on

- Development, review and update of **Legal frameworks**
- **ESM** of waste streams and **disposal operations**
- Other relevant information on **implementation** e.g. TBM

on the **Convention website**, hard copies on request

Publications

- Brochures & Leaflets
- Bulletin
- Declarations
- Guidance Manuals**
- Technical Guidelines
- Training Manuals
- Other



Basel Convention & Basel Protocol on Liability and Compensation Texts and Annexes

العربية, 中文, English, Français, Русский, Español

Guidance Manuals

4 **BASEL CONVENTION**
Benchmark report aimed at facilitating reporting under paragraph 3 of Article 13 of the Basel Convention - Examples reflecting Parties' good practices

Download

Arabic: French:
Chinese: Russian:
English: Spanish:

3 **BASEL CONVENTION**
Revised guidance document on improving national reporting by Parties to the Basel Convention

Download

Arabic: French:
Chinese: Russian:
English: Spanish:

2 **BASEL CONVENTION**
Guide for the development of national legal frameworks to implement the Basel Convention

Download

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Development, review and update of legal frameworks: Basel Convention

❖ Guide for the Development of National Legal Frameworks to implement the Basel Convention

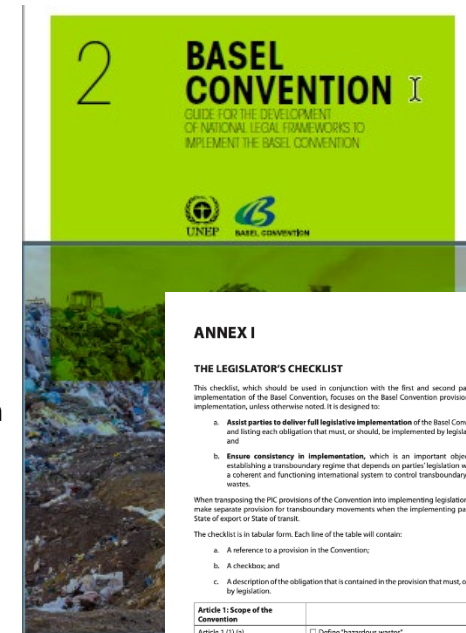
To help Parties ensure they have in place adequate legal framework to fully implement the Convention

- Primary guidance document to develop new legislation or review existing legislation
- Process for drafting legislation and content of the legislative provisions
- Templates that can be used to transpose Convention's provisions in national legislation and examples of implementing legislation


❖ Manual for the implementation of the Basel Convention + Legislator's checklist

The checklist is designed to:

- Assist Parties to deliver full legislative implementation of the Basel Convention, by separating out and listing each obligation that should be implemented by legislation
- Ensure consistency in implementation, which is an important objective for creating a coherent and functioning international system to control TBM of hazardous wastes





Guidance for Specific Stakeholders: Prosecutors and Customs







BASEL CONVENTION
INSTRUCTION MANUAL ON THE
PROSECUTION OF ILLEGAL TRAFFIC
OF HAZARDOUS WASTES OR OTHER WASTES


Instruction manual on the prosecution of illegal traffic of hazardous wastes or other wastes

Download

Arabic:  French: 

Chinese:  Russian: 


English:  Spanish: 

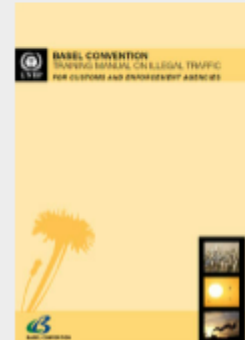


MANUAL
FOR CUSTOMS OFFICERS
ON HAZARDOUS CHEMICALS
AND WASTES UNDER
THE BASEL, ROTTERDAM
AND STOCKHOLM
CONVENTIONS
2014

Manual for customs officers

The interactive Manual for Customs on hazardous chemicals and wastes under the Basel, Rotterdam and Stockholm conventions will enhance your knowledge of the three global treaties that contribute to safely managing the production, movement, use and disposal of hazardous chemicals and wastes.



English: 







BASEL CONVENTION
TRAINING MANUAL ON ILLEGAL TRAFFIC
FOR CUSTOMS AND ENFORCEMENT AGENCIES

Basel Convention Training Manual on Illegal Traffic for Customs and Enforcement Agencies

Download

Arabic:  French: 

Chinese:  Russian: 

English:  Spanish: 

Illegal Traffic

Guidance to prevent and combat illegal traffic available on Convention website

- Brief leaflets and detailed guidance for specific stakeholders



Guidance

Guidance is developed under the authority of the Conference of the Parties with a view to achieving the objectives of preventing and combating illegal traffic.



Guidance on the implementation of the Basel Convention provisions dealing with illegal traffic (paragraphs 2, 3 and 4 of Article 9)

Download

Arabic: French:
Chinese: Russian:
English: Spanish:



Guidance Elements for Detection, Prevention and Control of Illegal Traffic in Hazardous Waste

Download

Arabic: French:
Chinese: Russian:
English: Spanish:



Instruction manual on the prosecution of illegal traffic of hazardous wastes or other wastes

Download

Arabic: French:
Chinese: Russian:
English: Spanish:

Other Guidance and Publications

National Reporting

- Information on the procedure for transmitting **National Reports** can be found on the Convention website
- An **Electronic Reporting System** is available for use by parties to submit **annual national reports**

Electronic Reporting System of the Basel Convention

The Electronic Reporting System (ERS) of the Basel Convention is the tool to be used by Parties to submit their annual national reports, pursuant to Article 13 (3) of the Convention.

The ERS was developed to make it easier for Parties to submit their national reports and for fulfilling the requests from the Conference of the Parties in the area of Reporting.

How to consult previously submitted reports:

Reports submitted by Parties can be viewed on the following website:

[Individual reports](#) - for all parties for 2001 to 2019.

Please note that previously submitted reports can only be accessed in a read-only mode.

How to submit reports:

The Focal point to the Basel Convention is the authority responsible for submitting annual reports to the Secretariat, by the 31 December of each year.

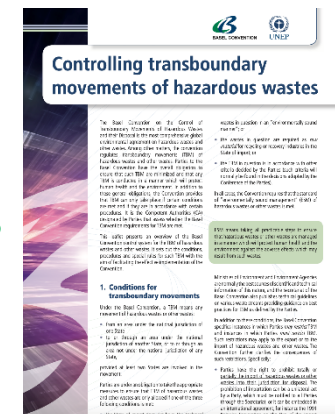
The Focal point is provided with account details (username and password) that allow access to ERS for submitting national reports. If you are the Focal point of your country and have not received such information, please send a request by email to sbc_natrep@atp.brsmas.org.

- To submit a new report, the Focal point needs to log into the ERS and fill-in the questionnaire for the specific year, for which links are listed below (see Questionnaires-listed by year).
- If you have forgotten your account details to log into the ERS, use the account recovery functionality.



Leaflets

- Designation of **competent authorities** and **focal point**
- Controlling transboundary movements of **hazardous wastes**
- Guide to the Control System



Rotterdam Convention: Guidance documents and Resource Kit

Resource Kit

- Comprehensive **source of information**
- To **assist** becoming a Party and in **implementation** issues
- Different types of tools: Guidance, toolkits, case studies, e-learning and references
- Flexible, simple to use, for broad range of users

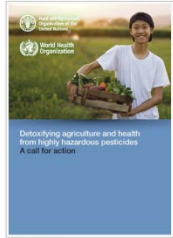
Resource kit

Publications
Evaluation Form

Resource kit

The Resource Kit is a comprehensive source of information on the Rotterdam Convention intended to assist countries in the ratification process and in the implementation of the Convention. It has been designed to be flexible, simple to use and to meet the needs of a broad range of end users.




General | Guidance | Toolkits | Cases studies | E-learning | References




Detoxifying agriculture and health from highly hazardous pesticides: A call for action

Highly hazardous pesticides (HHPs) are of particular concern due to the adverse health effects they can cause to human health and the environment. This brochure, developed by FAO and WHO has the objective to increase awareness on the availability of sustainable alternatives to HHPs, including biological products, low risk chemical pesticides and agroecologically based practices.

[English](#)



Addressing hazardous child labour and reducing risks posed by hazardous pesticides

The Rotterdam Convention Secretariat (NSPRD) and the Child Labour in Agriculture Prevention team in ESP in FAO have established a strong collaboration throughout the last years. The objective of this brochure is to provide different stakeholders with an array of information pertaining to hazardous pesticides and child labour/safety, informing them on the role they can play and giving them tools and resources to address the issue.

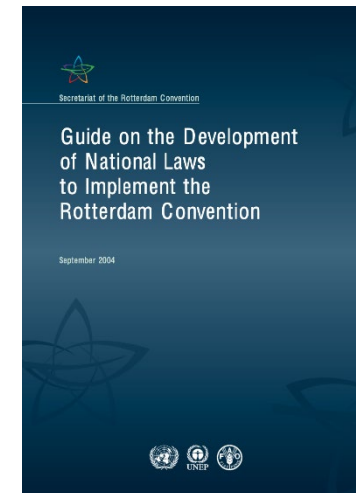
Development, review and update of Legal Frameworks: Rotterdam Convention

❖ Guide on the Development of National Laws to Implement the Rotterdam Convention

- Designed as a reference document and training tool to assist in the development of national laws to implement the Rotterdam Convention.
- Suggests possible actions to [implement the Rotterdam Convention](#) in the context of national laws on the [management of pesticides and chemicals](#). It also includes suggestions on ways to link such actions to the implementation of other international instruments on chemicals, in support of an integrated approach

❖ Legislators' Checklist

- Assist Parties to deliver full [legislative implementation](#) of the Rotterdam Convention and ensure [consistency](#) in implementation
- [Tabular form](#), with references to provisions and description of obligation to be implemented



Development, review and update of legal frameworks:

Stockholm Convention

❖The Checklist for the Legislator

- To identify the most fundamental matters that should be addressed in national implementing legislation
- Tool for the legislator drafting national implementing legislation or other measures.

❖Developing National Legal Frameworks to Implement the Stockholm Convention on Persistent Organic Pollutants – A Guide

Stockholm Convention on Persistent Organic Pollutants (POPs)

Checklist for the Legislator

This checklist is meant to be a tool for Parties to assist them in fully implementing their obligations under the Stockholm Convention. Parties should always consult the provisions of the Convention in conjunction with the present checklist - as in terms of legal basis, it is the text of the Convention which prevails - as well as the decisions of the Conference of the Parties corresponding to the relevant matters.

The checklist seeks to identify the most fundamental matters that should be addressed in national implementing legislation. It does not, however, address all matters that a legislator could choose to address in national legislation. The checklist is aimed at being a tool for the legislator who will be drafting the national implementing legislation. Accordingly, it does not address all of the Parties' obligations under the Stockholm Convention that would normally be implemented administratively, such as providing financial resources. However, it does address some obligations that could be implemented through legislation or administrative measures, such as cooperating to provide technical assistance.

There may be additional measures that may be appropriate under national law to support the enforcement of such laws implementing the Convention.

In addition to the present checklist, the legislator should also refer to the following document: "Developing National Legal Frameworks to Implement the Stockholm Convention on Persistent Organic Pollutants – A Guide". This document can be found on the Stockholm Convention website.

Please note that, in the following table, for ease of reference, principal Convention obligations that may be considered as more specific are highlighted in blue and the more general ones are highlighted in yellow:

	Legislative, Administrative or Other Measures Required	Relevant Convention provisions	Notes
HUMAN HEALTH AND ENVIRONMENT	To protect human health and the environment from POPs	Article 1	The Stockholm Convention on POPs purports to achieve this main objective. Such provision sets out a general obligation to be pursued by Parties. Please note that the preamble of the Convention recalls other international sources of law and legally binding instruments, which Parties need to consider in implementing the obligations as prescribed in the Convention.
MEASURES TO REDUCE OR ELIMINATE RELEASES FROM INTENTIONAL	Prohibit and eliminate the production and use, and the import and export of chemicals listed in Annex A, subject to certain exceptions. Restrict the production and use of the chemicals listed in	Article 3(1)-(2) and (5), Annexes A and B	Annex A allows for registration of specific exemptions in accordance with Article 4, except for the use of PCBs according to the provisions of this Annex, which may be exercised by all Parties. Annex B provides for elimination of the production and use of DDT, except for Parties included in a DDT Register that restrict production