



## PROACTIVE RELEASE COVERSHEET

<b>Minister</b>	Hon Penny Simmonds	<b>Portfolio</b>	Environment
<b>Name of package</b>	New Zealand's implementation of terbufos under the Rotterdam Convention following the 2023 Conference of the Parties	<b>Date to be published</b>	06/09/24

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
29 July 2024	<a href="#">CAB-24-MIN-0269 – Cabinet Minute of Decision</a>	Cabinet Office
25 July 2024	<a href="#">LEG-24-MIN-0140 – Cabinet Legislation Committee Minute of Decision</a>	Cabinet Office
22 July 2024	<a href="#">CAB-450 – Cabinet paper: New Zealand's implementation of terbufos under the Rotterdam Convention following the 2023 Conference of the Parties</a>	Minister for the Environment
26 June 2024	<a href="#">Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2024</a>	Parliamentary Counsel Office
16 June 2024	<a href="#">BRF-4885 – Briefing: New Zealand's implementation of terbufos under the Rotterdam Convention following the 2023 Conference of the Parties</a>	Ministry for the Environment
15 April 2024	<a href="#">CAB-24-MIN-0121 – Cabinet Minute of Decision</a>	Cabinet Office
10 April 2024	<a href="#">ECO-24-MIN-0057 0140 – Cabinet Economic Policy Committee Minute of Decision</a>	Cabinet Office
5 April 2024	<a href="#">CAB-370 – Cabinet paper: New Zealand's implementation of new obligations under the Rotterdam Convention following the 2023 Conference of the Parties</a>	Minister for the Environment
20 March 2024	<a href="#">BRF-3946 – Briefing: New Zealand's implementation of new obligations under the Rotterdam Convention following the 2023 Conference of the Parties</a>	Ministry for the Environment

**Information redacted****YES**

Any information redacted in this document is redacted in accordance with the Ministry for the Environment's policy on proactive release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

**Summary of reasons for redaction**

Some information has been withheld from *CAB-24-MIN-0269 Report of the Cabinet Legislation Committee Minute* and *CAB-24-MIN-0121 Report of the Cabinet Economic Policy Committee Minute* as the information is out of scope.

Some information has been withheld from *BRF-3946 New Zealand's implementation of new obligations under the Rotterdam Convention following the 2023 Conference of the Parties* under Section 9(2)(g)(i) of the Official Information Act to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty.



# Cabinet

## Minute of Decision

*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

### Report of the Cabinet Legislation Committee: Period Ended 26 July 2024

On 29 July 2024, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 24 July 2024:

Out of scope	[REDACTED]	[REDACTED]
Out of scope	[REDACTED]	[REDACTED]
Out of scope	[REDACTED]	[REDACTED]
Out of scope	[REDACTED]	[REDACTED]
Out of scope	[REDACTED]	[REDACTED]
Out of scope	[REDACTED]	[REDACTED]
Out of scope	[REDACTED]	[REDACTED]
Out of scope	[REDACTED]	[REDACTED]
Out of scope	[REDACTED]	[REDACTED]

Out of scope	[REDACTED]	[REDACTED]
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Out of scope	[REDACTED]	[REDACTED]
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LEG-24-MIN-0140	<b>Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2024</b> Portfolio: Environment	CONFIRMED
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Out of scope	[REDACTED]	[REDACTED]
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Out of scope	[REDACTED]	[REDACTED]
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Rachel Hayward  
Secretary of the Cabinet



# Cabinet Legislation Committee

## Minute of Decision

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### Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2024

**Portfolio**                      **Environment**

On 25 July 2024, the Cabinet Legislation Committee:

- 1        **noted** that in April 2024, the Cabinet Economic Policy Committee agreed that the chemical terbufos be listed in Schedule 2 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 to fulfil New Zealand's international obligations under the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade [ECO-24-MIN-0057];
- 2        **noted** that the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2024 will give effect to the decision above;
- 3        **authorised** the submission to the Executive Council of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2024 [PCO 26488/4.0];
- 4        **noted** that the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2024 will be gazetted on 1 August 2024 and will come into force on 30 August 2024.

Vivien Meek  
Committee Secretary

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**Present:**

Hon Simeon Brown (Chair)  
Hon Paul Goldsmith  
Hon Tama Potaka  
Hon Simon Watts  
Hon Brooke van Velden  
Hon Nicole McKee  
Hon Casey Costello  
Hon Chris Penk  
Hon Penny Simmonds  
Hon Andrew Bayly  
Hon Scott Simpson  
Todd Stevenson, MP  
Jamie Arbuckle, MP

**Officials present from:**

Officials Committee for LEG

**In-Confidence**

Office of the Minister for the Environment

LEG - Cabinet Legislation Committee

**New Zealand's implementation of terbufos under the Rotterdam Convention following the 2023 Conference of the Parties**

**Proposal**

- 1 This paper seeks authorisation for the submission to the Executive Council of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2024.
- 2 This Order in Council will add one new chemical, terbufos, to Schedule 2 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 (Imports and Exports Order), to fulfil New Zealand's international obligations under the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention).
- 3 The Cabinet Economic Policy Committee agreed on 10 April 2024, followed by Cabinet on 15 April 2024, that terbufos be listed in Schedule 2 of the Imports and Exports Order to fulfil New Zealand's international obligations under the Rotterdam Convention, and invited the Minister for the Environment to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above decision [ECO-24-MIN-0057 Minute refers].
- 4 There are no direct impacts on New Zealand industry, as terbufos is not approved for use in New Zealand.

**Relation to government priorities**

- 5 This is a routine operational adjustment that requires Cabinet approval.

**Executive Summary**

- 6 The Rotterdam Convention promotes shared responsibility and cooperation in the international trade of certain hazardous chemicals among its parties.
- 7 At the Conference of the Parties to the Rotterdam Convention in May 2023, parties agreed to list one new chemical in Annex III of the Convention: terbufos. Chemicals listed in Annex III of the Convention can still be moved between borders, provided the importing country gives prior informed consent.
- 8 The listing of terbufos in the Rotterdam Convention entered into force globally on 22 October 2023. To give domestic effect to this listing, Cabinet approval is required to amend Schedule 2 of the Imports and Exports Order to add terbufos.

**Background**

- 9 Terbufos is a soil insecticide used commonly on sorghum, maize, beet, and potatoes. It has been found to pose risk to aquatic organisms due to its toxicity. It is known to have harmful effects on human health and the environment.

- 10 There are no direct impacts on New Zealand industry, as terbufos is not approved for use in New Zealand. Since 1 July 2023, terbufos can no longer be imported or manufactured in New Zealand under the Hazardous Substances and New Organisms Act 1996, following the Environmental Protection Authority's reassessment of organophosphates and carbamates in 2013 (APP201045).<sup>1</sup> Safer alternatives must now be used in place of it.
- 11 It is still necessary to amend Schedule 2 of the Imports and Exports Order to implement our international obligations relating to the export of terbufos under the Rotterdam Convention.
- 12 While the Minister of Commerce and Consumer Affairs has Parliamentary responsibility for the Imports and Exports Order, I as the Minister for the Environment have the authority to recommend policy changes on his behalf. The Minister of Commerce and Consumer Affairs has been consulted on this Cabinet paper.

### Analysis

- 13 The Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2024 (appendix 1) will add one new chemical, terbufos, to Schedule 2 of the Imports and Exports Order.
- 14 The proposed amendment to the Imports and Exports Order will give effect to the policy agreed to by the Cabinet Economic Policy Committee on 10 April 2024 and by Cabinet on 15 April 2024 [ECO-24-MIN-0057 Minute refers].
- 15 The proposed amendment to include terbufos in Schedule 2 of the Imports and Exports Order is necessary to fulfil New Zealand's international obligations under the Rotterdam Convention.

### Implementation

- 16 If agreed to by Cabinet, the changes would be notified in the New Zealand Gazette on 1 August 2024 and will come into force 28 days afterwards on 30 August 2024.

### Cost-of-living Implications

- 17 I consider that the proposal in the Cabinet paper will not impact New Zealanders' ability to maintain their standard of living.

### Financial Implications

- 18 There are no direct fiscal implications to the Crown from the proposals in this paper.

### Legislative Implications

- 19 The changes to the Imports and Exports Order can be made by Order in Council.
- 20 Pursuant to s3A(1) of the Imports and Exports (Restrictions) Act 1988 (the Act) the Governor General must be satisfied that the Order is necessary to give effect to international obligations. As New Zealand is a party to the Rotterdam Convention, and adoption of the chemical listings into New Zealand law is required under that

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<sup>1</sup> <https://www.epa.govt.nz/assets/FileAPI/hsno-ar/APP201045/13c074049d/APP201045-APP201045-Evaluation-and-Review-report.pdf>

convention, the Minister for the Environment can advise the Governor-General that she should be satisfied that the statutory test under s3A(1) of the Act has been met.

### **Certification by Parliamentary Counsel**

- 21 The draft Order in Council has been certified by the Parliamentary Counsel Office (PCO) as being in order for submission to Cabinet.

### **Impact Analysis**

#### *Regulatory Impact Statement*

- 22 The Treasury's Regulatory Impact Analysis Team determined that the proposal to add the pesticide terbufos to Schedule 2 of the Imports and Exports Order is exempt from the requirement to provide a Regulatory Impact Statement. This is on the grounds that the amendment is the minimum necessary to meet international obligations that are binding on New Zealand under the Rotterdam Convention.

#### *Climate Implications of Policy Assessment*

- 23 The Climate Implications of Policy Assessment (CIPA) Team was consulted and confirmed that the CIPA requirements did not apply to this proposal as the threshold for significance was not met.

### **Population Implications**

- 24 There are no population implications of this proposed amendment.

### **Human Rights**

- 25 The proposal is not inconsistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

### **Use of external Resources**

- 26 No external resources were engaged in this proposal.

### **Consultation**

- 27 The Ministry for the Environment has consulted with the Ministry for Business, Innovation and Employment, the New Zealand Customs Service, the Ministry for Foreign Affairs and Trade and the Environmental Protection Authority. The Department of the Prime Minister and Cabinet was informed.

### **Communications**

- 28 This amendment will be notified to our trading partners in accordance with New Zealand's transparency obligations as a member of the World Trade Organisation.
- 29 No other publicity and/or communication is planned as the proposal has a low public interest and it is unlikely to be controversial.



## Proactive Release

- 30 This paper will be proactively released within 30 business days following Cabinet approval. Proactive release will be subject to redaction as appropriate under the Official Information Act.

## Recommendations

The Minister for the Environment recommends that the Committee:

- 1 **note** that on 10 April 2024 the Cabinet Economic Policy Committee agreed, and on 15 April 2024 Cabinet approved, that terbufos be listed in Schedule 2 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 to fulfil New Zealand's international obligations under the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade [ECO-24-MIN-0057 Minute refers];
- 2 **note** that the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2024 will give effect to the Cabinet approval;
- 3 **authorise** the submission to the Executive Council and the Governor General of the Imports and Exports (Restrictions) Prohibitions Order (No 2) 2004 Amendment Order 2024;
- 4 **note** that the Imports and Exports (Restrictions) Prohibitions Order (No 2) 2004 Amendment Order 2024 will be gazetted on 1 August 2024 and will come into force on 30 August 2024.

Authorised for lodgement

Hon Penny Simmonds

Minister for the Environment

**I N C O N F I D E N C E**

**Appendix 1: Amendments to Schedule 2 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 as drafted by Parliamentary Counsel Office**

**I N C O N F I D E N C E**

**Imports and Exports (Restrictions) Prohibition Order  
(No 2) 2004 Amendment Order 2024**

**Order in Council**

At Wellington this                      day of                      2024

Present:  
in Council

This order is made under section 3A(1) of the Imports and Exports (Restrictions) Act 1988—

- (a) on the advice and with the consent of the Executive Council; and
- (b) after the precondition specified in that section has been met.

**Contents**

	Page
1 Title	1
2 Commencement	2
3 Principal order	2
4 Schedule 2 amended	2

**Order**

- 1 Title**  
This order is the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2024.

**2 Commencement**

This order comes into force on 30 August 2024.

**3 Principal order**

This order amends the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004.

**4 Schedule 2 amended**

In Schedule 2, insert in its appropriate alphabetical order:

Terbufos

Clerk of the Executive Council.

**Explanatory note**

*This note is not part of the order but is intended to indicate its general effect.*

This order, which comes into force on 30 August 2024, amends the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 (the **principal order**). The order inserts the name of 1 new chemical (terbufos) into Schedule 2 of the principal order to reflect the amendment made in 2023 to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*:

This order is administered by the Ministry of Business, Innovation, and Employment.



## Briefing: New Zealand's implementation of terbufos under the Rotterdam Convention following the 2023 Conference of the Parties

Date submitted: 13 June 2024

Sub Security level: Unclassified

MfE priority: Non-urgent

Actions sought from Ministers		
<i>Name and position</i>	<i>Action sought</i>	<i>Response by</i>
To Hon Penny SIMMONDS <b>Minister for the Environment</b>	Agree to submit the attached Cabinet paper to the Cabinet Legislation Committee	19 June 2024
CC Hon Andrew BAYLY <b>Minister of Commerce and Consumer Affairs</b>	Note the following briefing and the attached Cabinet paper to the Cabinet Legislation Committee	

Actions for Minister's office staff	
Return the signed briefing to the Ministry for the Environment ( <a href="mailto:ministerials@mfe.govt.nz">ministerials@mfe.govt.nz</a> ).	

Appendices and attachments	
1. CAB-450 New Zealand's implementation of terbufos under the Rotterdam Convention following the 2023 Conference of the Parties	
2. Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2024 as drafted by Parliamentary Counsel Office	

Key contacts at Ministry for the Environment			
<i>Position</i>	<i>Name</i>	<i>Cell phone</i>	<i>First contact</i>
Principal Author	Mariska Wouters		
Responsible Manager	Sarah Kenward	027 288 9374	
General Manager	Glenn Wigley	027 4917 806	✓

Minister's comments

# New Zealand's implementation of terbufos under the Rotterdam Convention following the 2023 Conference of the Parties

## Key messages

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1. On 10 April 2024, the Cabinet Economic Policy Committee agreed that terbufos be listed in Schedule 2 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 (Imports and Exports Order) to fulfil New Zealand's international obligations under the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention). The Committee also invited you as the Minister for the Environment to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above decision.
2. This briefing seeks your agreement to lodge the attached draft Cabinet paper *CAB-450 New Zealand's implementation of terbufos under the Rotterdam Convention following the 2023 Conference of the Parties* with the Cabinet Legislation Committee.
3. The Cabinet paper seeks authorisation for the submission to the Executive Council of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2024, to include the chemical terbufos in Schedule 2 of the Imports and Exports Order.
4. This amendment would ensure that New Zealand complies with its obligations under the Rotterdam Convention.

## Recommendations

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We recommend that you:

- a. **note** that Parties to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, including New Zealand, agreed to list terbufos under this convention effective from 22 October 2023
- b. **note** that terbufos will need to be added to Schedule 2 of the Imports and Exports (Restrictions) Prohibitions Order (No 2) 2004 to fulfil New Zealand's obligations under the Rotterdam Convention
- c. **note** that the Minister of Commerce and Consumer Affairs has Parliamentary responsibility for the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004, but that you as the Minister for the Environment have the authority to recommend policy changes on his behalf
- d. **note** that Cabinet approval is required to authorise the submission to the Executive Council of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2024 which would add terbufos to Schedule 2 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004

- e. **agree** to submit the attached Cabinet paper to the Cabinet Legislation Committee meeting on 27 June 2024, subject to any changes resulting from your review and Ministerial consultation.

Yes | No

## Signatures

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Glenn Wigley  
General Manager – Waste & HSNO Policy  
**Climate Mitigation and Resource  
Efficiency**



Hon Penny SIMMONDS  
**Minister for the Environment**

Date

16/6/24

# **New Zealand's implementation of terbufos under the Rotterdam Convention following the 2023 Conference of the Parties**

## **Purpose**

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1. This briefing seeks your agreement to lodge the attached draft Cabinet paper (appendix 1). The Cabinet paper requests authorisation for the submission to the Executive Council of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2024 (appendix 2), to include the pesticide terbufos in Schedule 2 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 (Imports and Exports Order).
2. This amendment would ensure that New Zealand complies with its obligations under the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention).

## **Background**

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3. The Rotterdam Convention promotes shared responsibility and cooperation amongst parties on the international trade of particular hazardous chemicals. Chemicals listed under the Rotterdam Convention can still be moved across borders, but the importing country must first give prior informed consent.
4. The Conference of the Parties to the Rotterdam Convention at its meeting in May 2023 adopted one new chemical listing under the convention's Annex III: terbufos. This listing entered into force internationally under the Rotterdam Convention on 22 October 2023 [briefing note BRF-3946 refers].
5. The Cabinet Economic Policy Committee agreed on 10 April 2024, followed by Cabinet on 15 April 2024, that terbufos be listed in Schedule 2 of the Imports and Exports Order to fulfil New Zealand's international obligations under the Rotterdam Convention, and invited the Minister for the Environment to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above decision [ECO-24-MIN-0057 Minute refers].
6. The attached Amendment Order will enable terbufos to be added to Schedule 2 of the Imports and Exports Order, to fulfil New Zealand's international obligations under the Rotterdam Convention.
7. While the Minister of Commerce and Consumer Affairs has responsibility for the Imports and Exports Order, the Minister for the Environment has the authority to recommend policy changes on his behalf.

## **Analysis and advice**

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8. To authorise the submission to the Executive Council of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2024, Cabinet approval



is required. Legislation does not require consultation in order to amend the Imports and Exports Order.

9. There is no expected impact on New Zealand industry from listing terbufos under the Imports and Exports Order. Since 1 July 2023, terbufos can no longer be imported or manufactured in New Zealand under the Hazardous Substances and New Organisms Act 1996, following the Environmental Protection Authority's reassessment of organophosphates and carbamates in 2013 (APP201045).<sup>1</sup> Safer alternatives must now be used in place of it.
10. The proposed amendments to the Imports and Exports Order will give effect to the policy agreed to by the Cabinet Economic Policy Committee on 10 April 2024 and by Cabinet on 15 April 2024 [ECO-24-MIN-0057 Minute refers].
11. The proposed amendment is necessary to meet New Zealand's international obligations under the Rotterdam Convention.

## **Te Tiriti analysis**

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12. No Tiriti issues are associated with the proposals in this briefing.

## **Other considerations**

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### **Consultation and engagement**

13. The Ministry for the Environment has consulted with the Ministry for Business, Innovation and Employment, the New Zealand Customs Service, the Ministry for Foreign Affairs and Trade and the Environmental Protection Authority. The Department of the Minister and Cabinet was informed. Public consultation was not required under the Imports and Exports Order.
14. This amendment will be notified to our trading partners in accordance with New Zealand's transparency obligations as a member of the World Trade Organisation.
15. No other publicity or communication is planned as the proposal has a low public interest and it is unlikely to be controversial. Furthermore, amendments to the Imports and Exports Order do not require consultation.

### **Legal issues**

16. No legal issues are associated with the proposals in this briefing.

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<sup>1</sup> <https://www.epa.govt.nz/assets/FileAPI/hsno-ar/APP201045/13c074049d/APP201045-APP201045-Evaluation-and-Review-report.pdf>

## **Financial, regulatory and legislative implications**

17. No financial, regulatory, or legislative implications are associated with the proposals in this briefing.

## **Next steps**

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18. If you agree to recommend to Cabinet that it authorise the submission to the Executive Council of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2024, we propose the next steps:
- submit the attached Cabinet paper to the Cabinet Legislation Committee meeting on 27 June 2024, subject to any changes resulting from your review
  - lodge the Cabinet paper on 20 June 2024
  - undertake Ministerial consultation on this minor and technical change from 13-19 June 2024.

**Appendix 1: CAB-450 New Zealand's implementation of terbufos under the Rotterdam Convention following the 2023 Conference of the Parties**

**Appendix 2 Imports and Exports (Restrictions) Prohibition Order (No 2) 2004  
Amendment Order 2024 as drafted by Parliamentary Counsel Office**



# Cabinet

## Minute of Decision

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### Report of the Cabinet Economic Policy Committee: Period Ended 12 April 2024

On 15 April 2024, Cabinet made the following decisions on the work of the Cabinet Economic Policy Committee for the period ended 12 April 2024:

Out of scope	[REDACTED]	[REDACTED]
Out of scope	[REDACTED]	[REDACTED]
Out of scope	[REDACTED]	[REDACTED]
Out of scope	[REDACTED]	[REDACTED]
Out of scope	[REDACTED]	[REDACTED]
Out of scope	[REDACTED]	[REDACTED]
Out of scope	[REDACTED]	[REDACTED]
Out of scope	[REDACTED]	[REDACTED]

ECO-24-MIN-0057

**New Zealand's Implementation of New  
Obligations Under the Rotterdam Convention  
Following the 2023 Conference of the Parties**  
Portfolio: Environment

CONFIRMED

Out of scope

Out of scope

Out of scope

Out of scope

Out of scope

Out of scope

Rachel Hayward  
Secretary of the Cabinet



# Cabinet Economic Policy Committee

## Minute of Decision

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### New Zealand's Implementation of New Obligations Under the Rotterdam Convention Following the 2023 Conference of the Parties

**Portfolio**                      **Environment**

On 10 April 2024, the Cabinet Economic Policy Committee:

- 1        **agreed** that terbufos be listed in Schedule 2 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 to fulfil New Zealand's international obligations under the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade;
- 2        **invited** the Minister for the Environment to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above decision.

Rachel Clarke  
Committee Secretary

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**Present:**

Rt Hon Christopher Luxon  
Hon David Seymour  
Hon Brooke van Velden  
Hon Shane Jones  
Hon Chris Bishop (Chair)  
Hon Simeon Brown  
Hon Todd McClay  
Hon Tama Potaka  
Hon Matt Doocey  
Hon Melissa Lee  
Hon Simon Watts  
Hon Penny Simmonds  
Hon Chris Penk  
Hon Andrew Bayly  
Hon Andrew Hoggard  
Hon Mark Patterson  
Simon Court MP

**Officials present from:**

Office of the Prime Minister  
Officials Committee for ECO

**In-Confidence**

Office of the Minister for the Environment

Cabinet Economic Policy Committee

**New Zealand's implementation of new obligations under the Rotterdam Convention following the 2023 Conference of the Parties**

**Proposal**

- 1 This paper seeks Cabinet agreement to amend the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 (Imports and Exports Order) to meet new international obligations under the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.
- 2 The proposed amendment will add one chemical, the pesticide terbufos (CAS 13071-79-9), to Schedule 2 of the Imports and Exports Order.

**Relation to government priorities**

- 3 This is a routine operational adjustment that is required to meet New Zealand's obligations under the Rotterdam Convention. New Zealand ratified this Convention in 2003.

**Executive Summary**

- 4 The Rotterdam Convention promotes shared responsibility and cooperation in the international trade of certain hazardous chemicals among its parties. Chemicals listed in Annex III of this Convention require prior informed consent (PIC) from the importing country before they are imported.
- 5 At its most recent Conference of the Parties (COP) in May 2023, Parties agreed to list one new chemical in Annex III of the Convention, the pesticide terbufos. This decision means that import and export of terbufos are subject to a PIC procedure.
- 6 The listing entered into force under the Rotterdam Convention on 22 October 2023. To give domestic effect to the listing, Cabinet approval is required to amend Schedule 2 of the Imports and Exports Order to add terbufos.
- 7 While the Minister of Commerce and Consumer Affairs has responsibility for the Imports and Exports Order, I have the authority to recommend policy changes on their behalf. Amendments to the Imports and Exports Order do not require statutory consultation, and I do not consider consultation to be necessary in this instance.

**Background**

- 8 Terbufos is a soil insecticide used commonly on sorghum, maize, beet, and potatoes. It has been found to pose risk to aquatic organisms due to its toxicity. It is known to have harmful impacts on human health and the environment.



## Analysis

- 9 The listing of terbufos under the Rotterdam Convention came into effect globally on 22 October 2023.
- 10 Since 1 July 2023, terbufos can no longer be imported or manufactured in New Zealand under the Hazardous Substances and New Organisms Act 1996 (the HSNO Act) following the Environmental Protection Authority's (EPA) reassessment of organophosphates and carbamates in 2013 (APP201045).<sup>1</sup> Safer alternatives must now be used in place of it.
- 11 It is still necessary to amend Schedule 2 of the Imports and Exports Order to implement our international obligations under the Rotterdam Convention.

## Cost-of-living Implications

- 12 There are no implications on New Zealanders' ability to maintain their standard of living arising from the proposals in this paper which mean that after 1 July 2023 terbufos could no longer be imported or manufactured in New Zealand under the HSNO Act. Due to existing restrictions and limited use of the substance, New Zealand is unlikely to export terbufos.<sup>2</sup>

## Financial Implications

- 13 There are no direct fiscal implications to the Crown from the proposals in this paper.

## Legislative Implications

- 14 If the Committee agrees to the recommendation, then I will instruct the Parliamentary Counsel Office to draft an appropriate Order in Council to have this chemical added to Schedule 2 of the Imports and Exports Order.

## Impact Analysis

### *Regulatory Impact Statement*

- 15 The Treasury's Regulatory Impact Analysis Team has determined that the proposal to add the pesticide terbufos to Schedule 2 of the Imports and Exports Order is exempt from the requirement to provide a Regulatory Impact Statement. This is on the grounds that the amendment is the minimum necessary to meet international obligations that are binding on New Zealand under the Rotterdam Convention.

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<sup>1</sup> <https://www.epa.govt.nz/database-search/hsno-application-register/view/APP201045>

<sup>2</sup> Substances containing terbufos must be disposed of in accordance with the controls set out for the approvals for the substances containing terbufos by the EPA. This allows for disposal by exporting the substance as waste, subject to a permit under the Basel Convention.

*Climate Implications of Policy Assessment*

- 16 The Climate Implications of Policy Assessment (CIPA) Team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

**Population Implications**

- 17 There are no gender implications in this proposal.
- 18 There are no specific implications from a disability perspective in this proposal.
- 19 There are no implications for iwi and Māori in this proposal.

**Human Rights**

- 20 There are no inconsistencies between the proposal and the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993.

**Consultation**

- 21 The Ministry for the Environment has consulted with the Ministry for Business, Innovation and Employment, the New Zealand Customs Service, the Ministry of Foreign Affairs and Trade, the Treasury, the Ministry for Primary Industries, the Ministry of Health, and the Environmental Protection Authority. The Department of the Prime Minister and Cabinet was informed.
- 22 Furthermore, amendments to the Imports and Exports Order do not require statutory consultation.

**Communications**

- 23 This amendment will be notified to our trading partners in accordance with New Zealand's transparency obligations as a member of the World Trade Organisation.
- 24 No other publicity and/or communication is planned as the proposal has a low public interest and it is unlikely to be controversial.

**Proactive Release**

- 25 Consideration of the proactive release of this paper will be delayed to coincide with consideration of the proactive release for a subsequent and related Cabinet paper that is intended to be lodged with the Cabinet Legislation Committee following the drafting of the required Order in Council. The proactive release of both papers will then be considered at the same time.
- 26 Any release will be subject to redactions as appropriate under the Official Information Act 1982.

## Recommendations

The Minister for the Environment recommends on behalf of the Minister of Commerce and Consumer Affairs, that the Committee:

- a. **agree** that terbufos be listed in Schedule 2 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 to fulfil New Zealand's international obligations under the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade;
- b. **invite** the Minister for the Environment to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above proposal.

Authorised for lodgement

Hon Penny SIMMONDS

Minister for the Environment



## Briefing: New Zealand's implementation of new obligations under the Rotterdam Convention following the 2023 Conference of the Parties

Date submitted: 04/03/2024

Security level: Policy and Privacy

MfE priority: Not urgent

### Actions sought from Ministers

Name and position	Action sought	Response by
To Hon Penny SIMMONDS  Minister for the Environment	<b>Agree</b> to the proposed recommendations to implement new obligations under the Rotterdam Convention following the 2023 COP	18/03/2024
Cc: Hon Andrew BAYLY  Minister of Commerce and Consumer Affairs	<b>Note</b> the following briefing	18/03/2024
Cc: Hon Andrew HOGGARD  Minister for Food Safety	<b>Note</b> the following briefing	18/03/2024

### Actions for Minister's office staff

**Forward** this briefing to the Minister of Commerce and Consumer Affairs and the Minister for Food Safety

**Return** the signed briefing to the Ministry for the Environment ([ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz)).

### Appendices


1. CAB-370 New Zealand's implementation of new obligations under the Rotterdam Convention following the 2023 Convention of the Parties
2. Rotterdam Convention Decision (RC-11/3): Listing of terbufos in Annex III to the Rotterdam Convention (CAS No. 13071-79-9)

### Key contacts at Ministry for the Environment

Position	Name	Cell phone	First contact
Principal Author	David Spiegel	027 901 1080	
Responsible Manager	Sarah Kenward	027 288 9374	✓

Acting General Manager	Monique Esplin	027 332 7768	
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# New Zealand's implementation of new obligations under the Rotterdam Convention following the 2023 Conference of the Parties

## Key messages

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1. The purpose of this briefing is to seek your agreement to lodge the attached Cabinet paper with the Cabinet Economic Policy Committee.
2. Parties to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (the Rotterdam Convention), including New Zealand, agreed at last year's Conference of the Parties (COP) to list terbufos in Annex III of the Rotterdam Convention, making this chemical subject to the prior informed consent procedure.
3. The Cabinet paper recommends that Cabinet agrees to amend the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 to include the chemical terbufos (CAS 13071-79-9).
4. This amendment will ensure that New Zealand complies with its obligations under the Rotterdam Convention.

## Recommendations

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We recommend that you:

- a. **note** that Parties to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade agreed to list terbufos in Annex III of the Rotterdam Convention, making this chemical subject to the prior informed consent procedure from 22 October 2023
- b. **note** that terbufos will need to be added to Schedule 2 of the Imports and Exports (Restrictions) Prohibitions Order (No 2) 2004 to fulfil New Zealand's obligations under the Rotterdam Convention
- c. **note** that the Minister of Commerce and Consumer Affairs has Parliamentary responsibility for the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004, but that you as the Minister for the Environment have the authority to recommend policy changes on his behalf
- d. **note** that amendments to the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 do not require statutory consultation
- e. **note** that privileged material such as documents drafted by the Parliamentary Counsel Office will need approval from both you, as the responsible Minister, and the Ministry for the Environment's Chief Legal Advisor to share draft legislation with

the Environmental Protection Authority (the permitting agency) during the drafting process for the amendment to the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004

- f. **note** that this briefing and appendices will be released proactively on the Ministry for the Environment's website after a consequential Cabinet paper with draft legislation has been given consideration by the Cabinet Legislation Committee
- g. **approve** release of the draft regulations to the Environmental Protection Authority on an 'in-confidence' basis and subject to legal professional privilege

Yes | No

- h. **agree** to circulate the draft Cabinet paper, amended in accordance with your comments, for ministerial consultation

Yes | No

- i. **agree** to submit the attached Cabinet paper to the Cabinet Economic Policy Committee, subject to any changes resulting from your review and Ministerial consultation.

Yes | No

## Signatures

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Monique Esplin

**Acting General Manager – Waste & HSNO Policy**

Date



Hon Penny SIMMONDS

**Minister for the Environment**

Date

19/3/24

## **Purpose**

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1. The purpose of this document is to seek your approval to amend the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 to implement the new listing of terbufos under the Rotterdam Convention as agreed during the 2023 Conference of the Parties (COP).

## **Background**

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### **About the Convention**

2. The Rotterdam Convention establishes a consent process for the trade in certain hazardous chemicals. These chemicals can still be moved between borders but listing in Annex III makes the pesticide or industrial chemical subject to the Convention's Prior Informed Consent procedure. Parties<sup>1</sup> must agree by consensus before a chemical can be added to Annex III. There are now over 50 listed chemicals.
3. The prior informed consent procedure enables countries to make informed decisions to consent to import the chemicals they are prepared to receive, and not to consent to import those they decide they cannot manage safely.

### **Administering the Convention**

4. New Zealand ratified the Rotterdam Convention in 2003. This means that we need to ensure that the export of Rotterdam Convention chemicals receive permission in advance from a receiving country that is Party to the Convention, and that we must give permission for any proposed import into New Zealand. This is done in two ways as outlined in paragraphs 5 – 11 below.

#### *Export of Rotterdam Convention chemicals*

5. The Imports and Exports (Restrictions) Act 1988 enables the prohibition of the import and export of goods and allows a conditional prohibition. This means that importing or exporting can happen, subject to a permit, and this also allows the setting of conditions.
6. The Imports and Exports (Restrictions) Prohibition Order (No.2) 2004 (the Order) made under the Act controls the export of Rotterdam chemicals (as well as imports

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<sup>1</sup> "Party" means a State or regional economic integration organization that has consented to be bound by the Convention and for which the Convention is in force, including New Zealand.



and exports under the Basel Convention<sup>2</sup> and the export of Stockholm Convention<sup>3</sup> chemicals).

7. The Environmental Protection Authority (EPA) is the permitting agency for the Order.

#### *Import of Rotterdam Convention chemicals*

8. New Zealand's decisions on the import of hazardous substances, including Rotterdam chemicals, are made under the Hazardous Substances and New Organisms Act 1996 (HSNO Act).
9. If a Rotterdam chemical is approved under the HSNO Act, then an Import Response concerning the future import of the chemical concerned (required under Article 10 of the Rotterdam Convention) will be submitted indicating that import is permitted, subject to whatever controls are attached to the HSNO Act approval.
10. Conversely, if an Annex III Rotterdam chemical is not approved under the HSNO Act then an Import Response will be submitted to the Rotterdam Secretariat indicating the chemical cannot be imported into New Zealand in accordance with Article 10 of the Rotterdam Convention.
11. Rotterdam chemicals that are agricultural compounds also require authorisation under the Agricultural Compounds and Veterinary Medicines Act 1997 before they can be imported. This legislation is administered by the Ministry for Primary Industries.

#### **Decision-making under the Convention**

12. Decisions are made by the Parties to the Rotterdam Convention at the biennial Conference of the Parties (COP). The COP is held in parallel with the COPs for the Stockholm Convention and the Basel Convention (known as the 'Triple COP'). The Chemical Review Committee, a scientific body under the Rotterdam Convention, makes recommendations to the COP for listing chemicals in Annex III of the Convention. The recommendations are circulated to the Parties two months prior to the COP to enable consideration by the Parties.
13. New Zealand is represented at the Triple COP by officials from the Ministry for the Environment (the Ministry) and the Environmental Protection Authority (EPA).
14. Prior to each Triple COP officials seek approval from the Minister for the Environment for specific policy positions, and from the Minister of Foreign Affairs for the composition of the New Zealand delegation. Following the Triple COP

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<sup>2</sup> Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal

<sup>3</sup> Stockholm Convention on Persistent Organic Pollutants

officials provide the Minister for the Environment with a briefing summarising the outcomes and to outline next steps.

15. The next Triple COP will be held from 28 April to 9 May 2025.

### **Terbufos – new chemical listing**

16. At the most recent COP, held in May 2023, Parties adopted terbufos as a new chemical listing under Annex III of the Rotterdam Convention.
17. Terbufos is a soil insecticide used commonly on sorghum, maize, beet, and potatoes. It has been found to pose a risk to aquatic organisms due to its toxicity. Terbufos is also known to have harmful impacts on human health and the environment.
18. The decision to add terbufos to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade came into effect on 22 October 2023.

## **Analysis and advice**

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19. To give effect to the decision under the Rotterdam Convention to list terbufos, Cabinet approval will be required to include this chemical in Schedule 2 of the Order. A statutory consultation is not required.
20. The Minister of Commerce and Consumer Affairs has Parliamentary responsibility for the Order. As Minister for the Environment, you have the authority to recommend policy changes on their behalf.
21. New Zealand's implementation of the listing under the Rotterdam Convention has not met the deadline on 22 October 2023. This means New Zealand is not currently compliant with the Rotterdam Convention. However, since 1 July 2023, terbufos has not been able to be imported or manufactured in New Zealand under the Hazardous Substances and New Organisms Act (HSNO Act) following the EPA's reassessment of organophosphates and carbamates in 2013 (APP201045). Safer alternatives must now be used in place of it. To avoid risk to our international reputation, the amendments to implement the Rotterdam Convention should be implemented into New Zealand legislation as soon as possible.
22. The Ministry for Primary Industries has advised that terbufos does not need to be added to Schedule 1 of the Agricultural Compounds and Veterinary Medicines (Exemptions and Prohibited Substances) Regulations 2011 (the ACVM regulations), which would prohibit its use as an agricultural product. The reason for this is that it is not possible for a product to be registered under the ACVM regulations without an approval under the HSNO Act.

23. In general, all draft Government legislation prepared by or on behalf of the Parliamentary Counsel Office (PCO) is subject to legal professional privilege<sup>4</sup> and the Minister responsible for draft Government legislation must therefore approve its release outside the Crown<sup>5</sup> in all circumstances.
24. Collaboration with the EPA, which is a Crown entity, but not a public service agency under Schedule 2 of the Public Service Act, <sup>6</sup> will be required on this amendment, including the sharing of information. Consulting with the EPA on the workability of the draft legislation is critical because the EPA implements the Order.
25. The Ministry's Chief Legal Advisor must approve the release of the draft legislation to the EPA as a Crown entity. This is a process guided by the Cabinet Office circular CO (19) 2: *Attorney-General's Protocol for Release of Draft Government Legislation outside the Crown*.<sup>7</sup> Sharing the legislation with the EPA will be necessary because the EPA will have responsibilities for implementation under the legislation. The EPA will be required to hold the draft legislation in confidence.
26. As the responsible Minister you must approve release of the draft legislation under paragraph 9.2 of the Cabinet Office Circular referred to in paragraph 25 above. Therefore, approval is sought from you before the Ministry's Chief Legal Advisor can provide approval for its release to the EPA.

## **Te Tiriti analysis**

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27. No Tiriti issues are associated with the proposals in this briefing.

## **Other considerations**

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### **Consultation and engagement**

28. The Ministry for the Environment has consulted with the Environmental Protection Authority, the Ministry for Business, Innovation and Employment, the Ministry of Foreign Affairs and Trade, the Ministry of Health, the Ministry for Primary Industries, the New Zealand Customs Service, and the Treasury. The Department of the Prime Minister and Cabinet was informed.
29. This amendment will be notified to our trading partners in accordance with New Zealand's transparency obligations as a member of the World Trade Organisation.

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<sup>4</sup> Section 131, Legislation Act 2012

<sup>5</sup> Crown means Ministers of the Crown, the departments of the public service as specified in Schedule 2 of the Public Service Act 2020, the New Zealand Police, and the New Zealand Defence Force.

<sup>6</sup> The Environmental Protection Authority is listed in Part 1, Schedule 1 of the Crown Entities Act 2004.

<sup>7</sup> <https://www.dpmc.govt.nz/publications/co-19-2-attorney-generals-protocol-release-draft-government-legislation-outside-crown>

30. No other publicity or communication is planned as the proposal has a low public interest and it is unlikely to be controversial. Furthermore, amendments to the Order do not require consultation.

## **Risks and mitigations**

31. These listings entered into force under the Rotterdam Convention on 22 October 2023. The New Zealand government could face international and domestic criticism if the amendment is not implemented into New Zealand legislation, and New Zealand would not be compliant with the Rotterdam Convention. To avoid this reputational risk, the amendments should be implemented into New Zealand legislation as soon as possible.
32. There are no direct impacts on New Zealand industry because since 1 July 2023, terbufos has no longer been able to be imported or manufactured in New Zealand under the HSNO Act. This resulted from the EPA reassessment of organophosphates and carbamates in 2013 (APP201045). Safer alternatives must now be used in place of it.

## **Legal issues**

33. There are no legal risks that would arise from the amendment. However, it is noted that there is a requirement for approval from the Minister and the Ministry's Chief Legal Advisor is obtained to enable the draft legislation to be shared with the EPA.

## **Financial, regulatory, and legislative implications**

34. There are no direct fiscal implications to the Crown from the proposals in this paper.

## **Next steps**

35. If you agree with our recommendations, the next steps are:
- a. the Ministry will incorporate any feedback you have on the attached Cabinet paper and will prepare a version for Ministerial consultation if required
  - b. your office will circulate the draft Cabinet paper, with any required changes, to your Ministerial colleagues for their consultation
  - c. subject to your approval, the Ministry will provide the paper for lodgement on 4 April 2024. The Ministry aims to present the paper to the Cabinet Economic Policy Committee on 10 April 2024 for the next following Cabinet meeting on 15 April 2024.

***Appendix 1: “CAB-370 New Zealand’s implementation of new obligations under the Rotterdam Convention following the 2023 Conference of the Parties”***

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Please see Appendix 1: as attached via email to the Minister’s office.

## Appendix 2: Rotterdam Convention Decision (RC-11/3): Listing of terbufos in Annex III to the Rotterdam Convention (CAS No. 13071-79-9)

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*The Conference of the Parties,*

*Noting with appreciation the work of the Chemical Review Committee,*

*Having considered the recommendation of the Chemical Review Committee to make terbufos (CAS No. 13071-79-9) subject to the prior informed consent procedure and, accordingly, to list it in Annex III to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade as a pesticide,*

*Satisfied that all the requirements for listing in Annex III to the Rotterdam Convention have been met,*

1. *Decides to amend Annex III to the Rotterdam Convention to list the following chemical:*

<i>Chemical</i>	<i>Relevant CAS number(s)</i>	<i>Category</i>
Terbufos	13071-79-9	Pesticide

2. *Also decides that this amendment shall enter into force for all Parties on 22 October 2023;*
3. *Approves the decision guidance document on terbufos.<sup>8</sup>*

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<sup>8</sup> UNEP/FAO/RC/COP.11/12/Add.1, annex.

<https://www.brsmeas.org/Decisionmaking/COPsandExCOPs/2023COPs/Meetingsdocuments/tabid/9373/ctl/Download/mid/26126/language/en-US/Default.aspx?id=67&ObjID=52371>