

In Confidence

Office of the Minister for the Environment

Chair, Cabinet Economic Development Committee

New Zealand's implementation of new chemical listings under the Rotterdam Convention

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 international obligations under the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention).
2. The amendments proposed will add two new listings of chemicals to Schedule 2 of the Imports and Exports Order: phorate and hexabromocyclododecane (HBCD).
3. This will give effect to the decision to list phorate and HBCD under the Rotterdam Convention, adopted by New Zealand and other Parties at the Conference of the Parties held from 29 April to 10 May 2019. This decision means that export of phorate and HBCD will require prior informed consent (PIC) from the importing Party from 16 September 2019.

Background

4. The Rotterdam Convention promotes shared responsibility and cooperation amongst 'Parties' on the international trade of particular hazardous chemicals. Chemicals listed under the Convention can still be moved across borders, but the importing country must first give PIC.
5. Decisions on the listing of new chemicals under the Convention are made by the biennial Conference of the Parties and must be adopted by consensus. The Convention does not have an 'opt out' procedure.
6. To give domestic effect to new chemical listings under the Rotterdam Convention, Cabinet approval is required to amend Schedule 2 of the Imports and Exports Order. The legislation does not mandate a consultation process.
7. HBCD is an industrial chemical and phorate is a pesticide. There is no expected impact on New Zealand industry as neither chemical is approved for use in New Zealand under the Hazardous Substances and New Organisms Act 1996 (HSNO Act).
8. It is nevertheless necessary to amend the Imports and Exports Order in order to correctly implement our international obligations under the Rotterdam Convention. This will prevent an approval to import being made.

9. 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.

Consultation (with other agencies, departments, interest groups etc)

10. 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, the Environmental Protection Authority. The Department of the Prime Minister and Cabinet was informed.

Financial implications

11. There are no direct fiscal implications to the Crown from the proposals in this paper.
12. There are no direct impacts on New Zealand industry, as both chemicals are already not approved for use in New Zealand.

Legislative implications

13. If the Committee agrees that the chemicals should be added to the Imports and Exports Order, the Parliamentary Counsel Office will draft an appropriate Order in Council to amend Schedule 2 of the Imports and Exports Order.

Regulatory impact analysis

14. The Regulatory Quality Team at the Treasury has determined that the regulatory proposal in this paper is exempt from the requirement to provide a Regulatory Impact Assessment, on the basis that it has no or minor impacts on businesses, individuals or not for profit entities.

Human rights

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

Gender implications

16. There are no gender implications in this proposal.

Disability perspective

17. There are no specific implications from a disability perspective in this proposal.

Publicity

18. No publicity is planned as the proposal has a low public interest and it is unlikely to be controversial.

Proactive Release

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

Recommendations

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

1. **Agree** that the following chemicals 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:
 - i. Phorate;
 - ii. Hexabromocyclododecane (HBCD).

2. **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 David Parker

Minister for the Environment