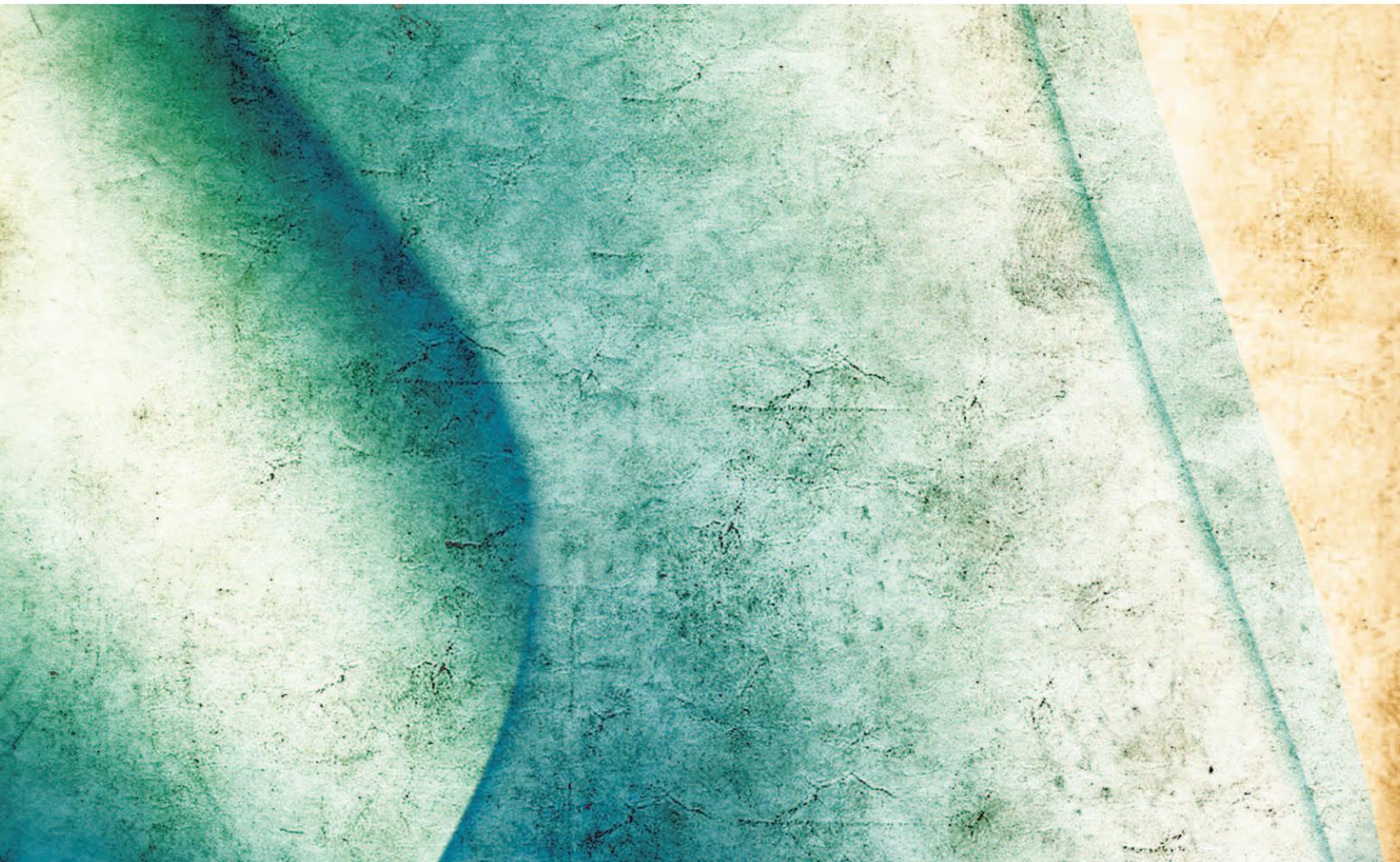




For environmental
occupational health
safe and responsible use

Rotterdam Convention

COP6 MEETING | 2013



After three frustrated attempts, where consensus has not been reached (2006, 2008 and 2011), the 150 Parties of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, will again deal with the inclusion of chrysotile in the Prior Informed Consent List (PIC List), during this Conference of the Parties (COP6) in Geneva (April 28 – May 11, 2013). There is no new scientific evidence justifying a change in the position taken before.

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WHAT IS THE LOGIC BEING APPLIED

THE CRUSADE AGAINST CHRYSOTILE ASBESTOS MUST END

The inclusion of chrysotile to the PIC list of the Rotterdam Convention must raise international concerns and would go beyond the principles of the Convention.

As with any product or substance, presenting a potential health risk (for example silica) the logical and most appropriate response is to put in place and enforce regulations to ensure the safe and responsible use of those materials before any ban.

An increasing number of scientists and governmental authorities have voiced concerns about the potential harmful health effects of some industrial substitute fibres and products proposed to replace chrysotile.

The reason is that many substitute fibres or products have not been scientifically recognized as less harmful to health than chrysotile. Furthermore, in many instances these substitutes are less durable, are more expensive and very often of lower quality.

Any approach related to the use of products of fibres presenting a potential health risk, must be based on the most recent and pertinent studies and literature. It is evident that the burden of such proof now rests with the substitute fibres and alternative products offered and found on the market.

Before going for a total ban of a product, updated scientific evidence must guide responsible people to demand in-depth studies and seriously examine, with qualified scientists, the results and make a decision in light of those results, not on public misperceptions fostered by propaganda or smear campaign. The Rotterdam Convention should not be misused to harm or to eliminate from the international commercial market any product or substance.

The crusade by a well-organized group of activists is calling for a global ban, arguing on the heritage of the past misuse and high exposures to mixtures of different asbestos fibre types, in particular the amphiboles. This crusade is generally based on the misrepresentation and selective quotations of published evidence, never taking stock of the recent studies showing the vast differences in health risk between chrysotile and the amphiboles.

The unwarranted inclusion of chrysotile on the RC PIC list is just what some are waiting for to speed up the “total ban” crusade, and at the same time will give a strong boost to the marketing of substitute fibres and alternative products which are too often unregulated and rarely scientifically proven safer and less harmful than chrysotile. This underhanded scheme must be denounced.

Numerous and recent scientific studies show that when chrysotile is mined and handled according to appropriate work practices as nowadays, it does not present any unacceptable level of risk of the health of either workers or the general public.

THE STATED OBJECTIVES OF THE ROTTERDAM CONVENTION ARE:

- To 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;
- To contribute to the environmentally sound use of those hazardous chemicals, by facilitating information exchange about their characteristics, by providing a national decision-making process on their import and export and by disseminating these decisions to Parties.

The objective is to make sure that the importing party is made full aware (by the exporting party) of the potential dangers of a particular hazardous product.

Chrysotile is being produced and has been used for a long time – and in the last few decades with sound and thorough knowledge as to its generic characteristics, health related issues, environmental aspects and its responsible and controlled usage.

Asbestos has been well researched and the research papers and scientific studies well documented and published. Refer ILO Code of Practice titled “Safe use of Asbestos” (1984) and WHO’s title “Chrysotile Asbestos” (1998) and many other research papers and in-depth studies by eminent scientists.

When such exhaustive and comprehensive data is already available in tomes to all the parties in hard print or via the internet websites, there is no need to include it in the Rotterdam Convention’s PIC procedure. In other words, there is no need for exchange of information as the information is already available with all the parties – governmental and private.

As regards “shared responsibility”, it is a fact that all the chrysotile asbestos producers and importers and users (manufacturers of asbestos-containing materials) have already been sharing the responsibility in providing warning labels, dust free packing and transportation and handling with all the care and internationally recommended pollution controls. Hence, it is unnecessary to include chrysotile in PIC list as “shared responsibility” already exists for many decades.

THEREFORE, INCLUSION OF CHRYSOTILE IN PIC LIST,

WOULD SERVE NO ADDITIONAL PURPOSE.

Inclusion of other types of asbestos in the PIC list, namely crocidolite, amosite, actinolite, anthophyllite and tremolite would not have met with any objections, as these forms of asbestos are neither produced nor commercialized internationally.

In this context, it is more important to understand that:

- Bringing chrysotile under PIC procedure is not going to stop the movement of this product from one country to another. Nor will PIC procedure bring in any additional safety measures in the practical usage of this product. Inclusion in PIC list will not serve any additional purpose except get the item into bureaucratic wrangles, unnecessary controls and difficulties for both exporting and importing parties.
- Governments and regulatory bodies in each country have adequate information as to the potential hazards of asbestos. Responsible governments have their own controls and methods to ensure its safe usage. It does not require any international mechanisms like the PIC procedure to enforce safe use.
- PIC procedure would only regulate and restrict movement of the item. It does not and cannot ensure responsible usage.
- If chrysotile was considered as a hazardous chemical, it would have been clubbed (at that time itself) with other types of asbestos such as crocidolite, amosite, actinolite, tremolite and anthophyllite which have been brought under the PIC list years ago.
- If it was not considered for inclusion at that time, what new evidence has come out (subsequently) now warranting the call for its inclusion in the PIC list?

IF CHRYSOTILE WERE IN PIC LIST:

- Being on a so called «Black list» means that chrysotile will experience discrimination in international trade up to ban of import. In order to impose a ban de facto, any country could just refuse to import a substance or to demand additional requirements for shipment of a substance (insurance, packing) which in reality will be very difficult to comply with.
- The matter of concern is decision making process. How they will make decision and what criteria will they use considering whether or not chrysotile shall be imported.
- Inclusion of chrysotile definitely will mean displacement of chrysotile from international trade.
- Exporters will face declining volume of shipments on international markets because of these restrictions.
- Customers facing the bureaucratic difficulties with shipments will be tending to switch to substitute fibers.
- Due to new requirements to transportation, insurance and other logistic expenses, the chrysotile prices will increase which by itself will be one of the factors for customers to switch to substitutes.
- Chrysotile in PIC list will be another powerful argument for the anti-asbestos lobby to demand a total ban in importing countries.
- Chrysotile industry is a big employer. Thousands of people are involved and related with this industry particularly for emerging countries. Decrease of volume of export will mean decrease in volume of production which will lead to unemployment, decrease of taxes in budget and other negative social economic consequences for workers, their families and their communities.
- Discrimination measures for chrysotile will also hit importing countries using chrysotile for building sanitary infrastructure.

The developing nations are perfectly capable of safely managing the import, transformation and use of chrysotile, probably more than any other industrial product including most asbestos replacements fibre and material. While industrial development contributes to the well-being of society, it has also brought numerous potentially hazardous products, used daily, and which are too often far more dangerous than chrysotile. In order to safely benefit from these products, we have introduced standards and developed technologies and work methods, which constitute what is called “controlled-use”. The controlled-use of chrysotile allows the continued use of chrysotile in high-density products, provided permissible exposure limits are respected (Recommendations of WHO Group of Experts).

The low cost and durability of chrysotile products particularly chrysotile-cement, permit emerging countries to develop community and industrial infrastructures, while providing quality jobs. These products when fibers are uncapsulated in a matrix and are not airborne do not present an unacceptable level of health risk to peoples. Replacement products are more expensive and do not permit the development of local industry. Further, it has not always been scientifically proven that replacement fibres, the uses of which are encouraged by international lobbies, are safer than chrysotile fibres.

Those standing to benefit from the demonization of chrysotile include first of all the litigation industry. Then there are the contractors and specialist removal firms who can charge eye-watering rates based on the assured risk of asbestos cement. Even the insurance industry benefits, since it has been allowed to set aside massive reserves against future liabilities, thus saving tax and gaining investment returns. The building industry will gain a windfall, as will the suppliers of alternative fibres – although the safety of substitutes is thus far unproven.

For many years now the chrysotile industries, are offering their expertise in the field of health and safety to protect the workers in the mines, in the manufacturing facilities and the general public. The many seminars held in specific countries on industrial hygiene, dust control and good work practices, medical surveillance, and on request helping governments and industries to implement good regulatory instruments have proven to be a great success.

Chrysotile fibre containing high-density products are more durable, less expensive, and in many instances less dangerous than some substitute products presently on the market. One thing which we must not be afraid to repeat often is that “the substitute products offered today in the market have not in too many cases been proven safer or less harmful than chrysotile fibre”.

WHAT WAS DISCUSSED IN GENEVA IN 2011

The fundamental issue regarding chrysotile that was discussed at the Rotterdam convention Conference of Parties (COP) held in Geneva, June 20-24, 2011 was the following: **Should chrysotile be designated as a dangerous substance and be subjected to the Prior Informed Consent (PIC) procedure when it is traded internationally?** Ultimately, the COP could not reach consensus and the matter was referred to the next COP to be held in two years, exactly the same way it was in the COPs held in 2006 and 2008.

A majority of countries, led by the European Union countries and among others Australia and Chile, have long been in favour of this option.

Another group of countries that represents some 70% of the world's population still use chrysotile and strongly believe this can be done safely and in a responsible manner. They are reluctant to submit international trade of chrysotile to a procedure they clearly deem redundant with other international agreements, such as Convention 162 of the International Labour organisation, and which thus becomes an unjustified impediment. There are underlying economic issues here, since products competing with chrysotile are produced in the countries that are most strongly opposed to chrysotile.

At the heart of the matter lie scientific issues; countries producing and using chrysotile believe it has been scientifically demonstrated that safe use is possible, some countries going even further and claiming an absence of adverse health impacts on their population, despite a near-century of use. They also point to the

absence of information on substitute products that have been much less studied than chrysotile as to their impact on human health.

Chrysotile is the only asbestos fibre which still is produced and commercialised nowadays. Its main use is in the manufacture of building products (sheets, pipes) made of fibre-cement.

After three frustrated attempts, where consensus has not been reached (2006, 2008 and 2011), the 150 Parties of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, will again deal with the inclusion of chrysotile in the Prior Informed Consent List (PIC List), during this Conference of the Parties (COP6) in Geneva (April 28 – May 11, 2013).

The Rotterdam Convention is currently under a “synergies” process with two other Conventions (Stockholm Convention and Basel Convention) for seeking of more efficiency, for example, by merging the three permanent secretariats or by organizing jointly, for the first time in 2013, the Conferences of the Parties.

Although the difficulties to list chrysotile asbestos have brought up a discussion on the continuous effectiveness of the Rotterdam Convention, the intensive story of chrysotile asbestos in the period 2006-2012 has revealed – beyond the chrysotile issue itself – great inconsistencies in the regulatory system of this international instrument, particularly regarding the scientific rationale of the decisions or the difficulties to assure the Parties of a proper assessment before taking decisions.

In fact the whole system is characterized by a strong role on the permanent Secretariat as occurs with other international instruments under the UN system. The relentless pursuit to list chrysotile, cost what may, is bearing witness of additional inconsistencies or even acts that have almost the nature of a legal violation.

The content of a note recently released by the Secretariat of the Rotterdam Convention and related to the provisional agenda ahead of COP6 can be construed as a breach of the Rules of Procedure and reveals a manoeuvre that could represent an abuse of authority.

This note not only shows a breach of the obligation of neutrality from the Secretariat but also a breach of the Rules of procedure and finally suggests an ever closer relationship between some bureaucrats staff of the Secretariat and some anti-asbestos interests.

The delegation of the COP6 meeting should ask to eliminate the Note by the Secretariat entitled: "Inclusion of chrysotile asbestos in Annex III to the Rotterdam Convention" (UNEP/FAO/RC/COP.6/12) from the set of meeting documents prepared ahead of COP6. The document is related to item 5 © of the provisional agenda ("Matters related to the implementation of the Convention: consideration of chemicals for inclusion in Annex III to the Convention").

This document that encloses two draft decisions should not be taken in consideration by the Parties since it is construed as a biased view of the discussion that took place during the past COP5.

By examining the second paragraph of the second draft decision enclosed in this document (quote: "Having amended the Rotterdam Convention (...) to list chrysotile asbestos"), what can one deduce is that the review of the chrysotile issue will only take place as long as this substance is listed in Annex III.

Such a review based on the new scientific evidence and current uses of chrysotile fibre is precisely what the Parties opposing to its listing are, time and time again, requesting to the Chemical Review and the Conference since the first discussion. You will certainly share the opinion that, at this stage of the discussion, a review must enlighten the Parties for a proper discussion before listing a substance not afterwards, as the Note by the Secretariat wrongly proposes.

In the absence of a clear mandate from the Conference of the Parties, the Secretariat must keep its neutral role, respecting the rule of consensus and refraining from any attempt to promote, influence or otherwise, facilitate the listing of a substance in Annex III.

The decision to list a substance belongs to the Conference of the Parties under the rules laid down by the Convention.

INTERNATIONAL ORGANIZATIONS AND THE IMPORTANCE OF THEIR POLICY INSTRUMENTS

What does the World Health Organization (WHO) Global Plan provide for?

The World Health Assembly (WHA) resolution adopting a Global Plan opens risk management scenery within chrysotile regulations. It states in its Annex (to devise and implement policy instruments on workers' health) the following:

“Who will work with Member States to strengthen the capacities of the ministries of health to provide leadership for activities related to workers' health, to formulate and implement policies and action plans, and to stipulate intersectoral collaboration. Its activities will include global campaigns for elimination of asbestos-related diseases – bearing in mind a differentiated approach to regulating its various forms – in line with relevant international legal instruments and the latest evidence for effective interventions, as well as immunization of health-care workers against hepatitis B, and other actions addressing priority work-related health outcomes.”

It goes without saying that both the workers and employers of the chrysotile industry share the same objective as the WHO, the elimination of asbestos-related diseases. Nevertheless, its achievement must be in line with both the legal and scientific aspects, and reject the inclusion of chrysotile on the PIC list as the only responsible and acceptable option available.

The International Labour Organization (ILO) Convention No. 162, Safety in the Use of Asbestos, provides for the safe use of chrysotile and cannot be used as a basis for the inclusion of chrysotile on the PIC list.

The ILO Convention No. 162 is the key legal act on asbestos at the international level. It provides for a set of risk management measures, including the safe use of chrysotile, the substitution and the prohibition depending on the fibre type, the circumstances in the workplace and the type of product manufactured.

While the International Labour Office goes through extraordinary lengths to defend and promote the flawed and defective Resolution hastily adopted in June 2006, at the same time it reaffirms the full and overriding legal force of ILO Convention 162, thus creating a status of legal uncertainty and casting unnecessary doubts and confusion among policy makers workers and industry.

As there is always somebody ready to take advantage of a chaotic situation, anti-asbestos interests are currently using the ILO Resolution as one of the main arguments for action.

One can affirm that the set of rules that the ILO Convention 162 provides for, constitutes a whole legal body and must be interpreted taking an all-embracing view. Any selective reading of the ILO Convention aimed at drawing conclusions for policy-making, undermines seriously the principles of legal certainty, public confidence and rule of law.

IMPACT OF LISTING CHRYSOTILE ON THE PIC LIST:

- There is no doubt that placing chrysotile on the RC PIC list of banned and severely restricted chemicals signals to the international community that chrysotile cannot be used safely under widely known controlled conditions. Doing so will reinforce those interests that are promoting the banning of chrysotile worldwide.
- Listing of chrysotile along with a number of pesticides currently banned will not have any other impact than to flag that it also poses similar risks and therefore should be banned globally. Recall that some industries are supporting the listing since they use replacement alternatives and likely are not proposing to list these to be a competitive product.
- The proper route to be taken is that all international organizations, such as the ILO and the WHO and all country members should strongly request that all alternative fibres, substances or products be subject to the same regulations and restrictions that chrysotile fibres are subject to.
- Amongst the different kinds of fibres found on the market today, listing chrysotile only will impose a number of complicated procedures that will create delays for its export and import. This will allow those producers that do not adhere to the requirements related to a listed product to out compete on an unfair basis the chrysotile products.

CONSIDERATIONS:

- Notwithstanding that there will be an economic impact to the listing of chrysotile to the PIC list, the chrysotile world has generally not argued its position as being only based on economic considerations. Rather, it registered its position based on the weight of scientific empirically based analysis. Consequently it supports that a chemical should only be banned if it poses an unreasonable and unmanageable risk. (Acceptable risk is not zero risk).
- The fundamental question is whether scientific integrity should outweigh competing or political interests. Moreover, to support listing could undo most of the good work done in promoting the safe and responsible use of chrysotile. As well, it could undermine the support that many customers have provided in their efforts to stem the banning of chrysotile.
- For serious consideration is the fact that listing of chrysotile is inconsistent with many domestic legislations and policies as chrysotile is neither banned nor severely restricted in many large countries of the world.
- Adding another layer of procedures for any country can openly be unnecessarily damaging to the communities that depend on the industry.

For all previous COP meetings there was nothing new added to the chrysotile file which would justify COP meetings to change the position taken on many other occasions. Everything points to the contrary.

Again in 2013, the proposal for inclusion of chrysotile must be refused. The preoccupations and hopes expressed, against the inclusion of chrysotile in the PIC list, by the competent authorities from many governments during the deliberations of precedent COP meetings must be heard again. There is no new scientific evidence justifying a change in the position taken before.

No one should allow themselves to be influenced by the anti-propaganda. Science should talk louder than perceptions and accusations. Today it is reasonable to recognize that often workers in the chrysotile industry are endowed with working environments maybe safer than the conditions that found in many other industrial sectors including the chemical industry.

Even though there are very few epidemiological studies on the long-term health effects of fibres like cellulose, para-aramids and other industrial fibres, the request for the inclusion targets chrysotile alone. This position is more political than scientific, and is sure to increase the anti-chrysotile feelings favouring substitute fibres, even though it is well known that they have not always been proven to be harmless. The fact that the Chrysotile industry and its workers did their homework, recognized the hazards, minimized the risks and implemented improved health and safety measures in the workplace is altogether a remarkable achievement, and should not through discrimination have all these efforts nullified in one shot.

Numerous countries have realized that this is another diversionary tactic designed to make people forget that countries which opted for a controlled approach and which, have demonstrated a responsible approach to safe workplace practices, are way ahead of the Rotterdam Convention. The chrysotile industry has been implementing the responsible use policy for more than 20 years. Furthermore, this natural fibre has unique properties and substitute fibres cannot really fulfill the same role. Moreover, it is an inexpensive, natural product, readily available and very durable, and energy friendly, which makes it a lot more affordable for the poorest countries. Competing interests seem to have concluded that chrysotile must be destroyed because alternative materials cannot compete.

An approach that is arbitrarily and unfairly detrimental to the marketing of chrysotile is also harmful to the poorest populations, in urgent need of infrastructures to improve their quality of life.

**“The problem with myths is that their repetition, over and over again...
...may lead millions to assume that they represent the reality.”**

**Henry St-John, Viscount Bolingbroke (1678-1751)
British Philosopher and Parliamentarian**



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