



Recommendation of the Council
concerning Information Exchange
related to Export of Banned or
Severely Restricted Chemicals

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Date(s)

Adopted on 04/04/1984

Background Information

The Recommendation concerning Information Exchange related to Export of Banned or Severely Restricted Chemicals was adopted by the OECD Council on 4 April 1984 on the proposal of the Joint Meeting of the Management Committee of the Special Programme on the Control of Chemicals and the Chemicals Group (today under the responsibility of the Chemicals Committee), endorsed by the Environment Committee. This instrument recommends that if a chemical is banned or severely restricted in an Adherent, and that chemical is exported, information should be provided from that country to the importing country to enable the latter to make timely and informed decisions concerning that chemical. Further, when exchanging such information, Adherents should take into account the Guiding Principles which are set out in the Appendix to the Act.

THE COUNCIL,

HAVING REGARD to Articles 2 d), 3, and 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

HAVING REGARD to the Resolution of the Council of 18 May 1971, concerning a Procedure for Notification and Consultation on Measures for Control of Substances Affecting Man and His Environment [C(71)73(Final)], and the agreement of the Council of 18 July 1974 to continue the Procedure [C/M(74)18 Part II(Final), Item 197];

HAVING REGARD to the Decision of the Council of 21 September 1978 concerning a Special Programme on the Control of Chemicals and the Programme of Work established therein and the Resolution of the Council of 12 May 1981, extending the duration of that Programme [C(78)127(Final) and C/M(81)7(Final), Item 86];

HAVING REGARD to the Recommendation of the Council of 26 July 1983 concerning the Protection of Proprietary Rights to Data Submitted in Notifications of New Chemicals [C(83)96(Final)];

HAVING REGARD to the Recommendation of the Council of 26 July 1983 concerning the Exchange of Confidential Data on Chemicals [C(83)97(Final)];

HAVING REGARD to the Recommendation of the Council of 26 July 1983 concerning the OECD List of Non-Confidential Data on Chemicals [C(83)98(Final)];

HAVING REGARD to the Decision-Recommendation of the Council of 1 February 1984, on Transfrontier Movements of Hazardous Waste [C(83)180(Final)];

BEARING IN MIND that the Governments of the OECD Member countries have recognised "the responsibility they share to safeguard and improve the quality of the environment, both nationally and in a global context" (Declaration on Environmental Policy, 1974);

CONSIDERING that the export of chemicals hazardous to man and the environment is a matter of increasing international concern;

CONSIDERING that importing countries have the primary responsibility for the protection of man and the environment from the hazards associated with chemicals imported into their territories;

CONSIDERING that OECD Member countries are among the major producers, exporters and importers of chemicals and that, by virtue of the experience and expertise they possess concerning chemicals control, they can assist each other as well as non-member importing countries to make timely and informed decisions about chemicals entering their territories;

CONSIDERING that concerted action in this regard could contribute to and support national efforts to control the hazards associated with chemicals while minimising competitive and trade distortions;

On the proposal of the Joint Meeting of the Management Committee of the Special Programme on the Control of Chemicals and the Chemicals Group, endorsed by the Environment Committee:

I. **RECOMMENDS** that if a chemical is exported which is banned or severely restricted in the exporting Member country, information be provided from that country to the importing country to enable the latter to make timely and informed decisions concerning that chemical.

II. **RECOMMENDS** that, in exchanging information related to export of chemicals which are banned or severely restricted in the country of export, Member countries take into account the Guiding Principles set out in the Appendix hereto, which is an integral part of this Recommendation.

III. **RECALLS** that the Complementary Information Exchange Procedure established by the Chemicals Group in June 1977 calls for early and rapid exchange of information among Member countries on regulatory actions, planned or taken, concerning the control of chemicals.

IV. INVITES non-member countries to take note of the provisions contained in this Recommendation and to consider applying them.

V. INSTRUCTS the Secretary-General to take the necessary steps to ensure the wide distribution of this Recommendation and to maintain communication with other international organisations working in this field.

VI. INSTRUCTS the Environment Committee and the Management Committee of the Special Programme on the Control of Chemicals to review actions taken by Member countries with a view to facilitating the practical implementation of this Recommendation, and to report thereon to Council no later than three years after its adoption.

APPENDIX

GUIDING PRINCIPLES ON INFORMATION EXCHANGE RELATED TO EXPORT OF BANNED OR SEVERELY RESTRICTED CHEMICALS

Introduction

1. While importing countries have the primary responsibility for protection of health and the environment from risks associated with imports of chemicals which have been banned or severely restricted for use in exporting countries, exporting Member countries should take steps to assist importing countries in making timely and informed decisions.

2. These Guiding Principles:

- i) Provide for an information exchange which will give an importing country a better opportunity to determine its need for action on chemicals banned or severely restricted in the exporting Member country; they do not deal with the control of export of such chemicals;
- ii) Should not preclude, in any way, national authorities from instituting wider and more frequent information exchange;
- iii) Apply to exports from one Member country to another, as well as to exports to non-member countries;
- iv) May be implemented by countries through public or private entities designated or authorised by them to do so;
- v) Are not designed to apply to export of hazardous waste.

Scope

3. For purposes of these Guiding Principles, a banned or severely restricted chemical includes any chemical that is the subject of a control action taken by a competent authority in the exporting Member country:

- i) To ban or severely restrict the use or handling of the chemical in order to protect human health or environment domestically; or
- ii) To refuse a required authorisation for a proposed first time use of the chemical based upon a decision in the exporting Member country that such use would endanger human health or the environment.

Guiding Principles

4. Where an exporting Member country has taken control action to ban or severely restrict chemicals, such exporting Member country should make relevant information available to importing countries.

5. If an export of a banned or severely restricted chemical occurs, the exporting Member country should ensure that necessary steps are taken to provide the importing country with relevant information so as to alert it to that fact. It is the intention that, in so far as possible, the alert information should be provided prior to export, but it is recognised that this may not always be possible, and that the procedures of the exporting country should not be such as to delay or control the export.

6. The minimum information needed to alert the importing country would be:

- i) The fact that an export is expected or about to occur;
- ii) The chemical identification/specification;
- iii) A summary of control action taken in the exporting Member country. If the control action bans or restricts certain uses but allows other uses, such information should be included. Information on the rationale for the control action may also be included;
- iv) The fact that additional information is available and the indication of the contact point in the exporting Member country to which a request for additional information should be addressed.

7. The provision of such information to the importing country would be on a one-time basis when the first export following the control action in the exporting Member country occurs. It should recur in the case of any significant development of new information or condition surrounding the control action. For purposes of the Guiding Principles, where the use of a chemical has been banned or severely restricted before adoption of these Guiding Principles, "the first export following the control action" shall be deemed to be the first export after adoption of these Guiding Principles, unless the exporting Member country has already provided such information.

8. The exporting Member country should also take the necessary steps to provide to the importing country, at its request, additional available information which would assist the importing country in determining its needs for action in relation to assessment of chemicals in protection of man or the environment.

9. The provision of information by the exporting Member country must take into account the protection of the confidentiality of data in the importing country and the protection of proprietary rights and also the resources which would be required in the exporting Member country to provide this information.

10. The additional information needed in the importing country to determine its need for action would be:

- i) Rationale for the control action taken, and the readily available data used by the exporting Member country to reach its control decision; and
- ii) Such other information surrounding the circumstances of the export/import transaction as may be agreed upon by the exporting and importing countries.

11. While the procedures in exporting Member countries for providing relevant information to importing countries will vary, there are certain elements which should be common to the procedures established in all exporting Member countries:

- i) Provision for determining when a control action has been taken which would initiate the information exchange and for informing exporters and other appropriate parties of such determination;

- ii) Provision for assuring that the information exchange to each importing country is initiated when the first export to that country following the control action in the exporting Member country occurs;
- iii) Provision for sending the alert information to the importing country on a one-time-notification basis, except where the exporting Member country wishes to have more frequent information exchange.

12. The importing Member country should establish internal procedures for the receipt and handling of information from the exporting Member country. While these internal procedures will vary from one importing Member country to another, there are certain matters which should be provided for:

- i) The designation of a recipient by the importing Member country to receive the alert information;
- ii) Procedures for reviewing the alert information to determine the need for additional information;
- iii) Internal procedures for receiving and acting on the additional information before requesting such information;
- iv) Procedures for determining whether the additional information needed in the importing Member country is available from sources other than the exporting Member country;
- v) Procedures to maintain confidentiality of information and to protect proprietary rights when claimed by the exporting Member countries.

13. Any control measures applied to an imported chemical for which information has been received within the framework of the Guiding Principles should not be more restrictive than those applied to the same chemical produced domestically or imported from a country other than the one that supplied the information.

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