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**Basel Convention on the Control of
Transboundary Movements of Hazardous
Wastes and Their Disposal**

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**Rotterdam Convention on the Prior
Informed Consent Procedure for Certain
Hazardous Chemicals and Pesticides in
International Trade**



**Stockholm Convention on Persistent
Organic Pollutants**

**Conference of the Parties to the
Basel Convention on the Control
of Transboundary Movements
of Hazardous Wastes and
Their Disposal
Twelfth meeting**
Geneva, 4–15 May 2015
Item 7 of the provisional agenda*
Other matters

**Conference of the Parties to the
Rotterdam Convention on the
Prior Informed Consent Procedure
for Certain Hazardous Chemicals
and Pesticides in International
Trade
Seventh meeting**
Geneva, 4–15 May 2015
Item 8 of the provisional agenda**
Other matters

**Conference of the Parties to the
Stockholm Convention on
Persistent Organic Pollutants
Seventh meeting**
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**Admission of observers: report on experiences with using the
application forms and practices followed**

Note by the Secretariat

As referred to in documents UNEP/CHW.12/24, UNEP/FAO/RC/COP.7/18 and UNEP/POPS/COP.7/34, the annex to the present note contains a report by the Secretariat to the Conference of the Parties to the Basel Convention at its twelfth meeting, the Conference of the Parties to the Rotterdam Convention at its seventh meeting, and the Conference of the Parties to the Stockholm Convention at its seventh meeting on experiences with using the application forms referred to in paragraph 1 of decisions BC-11/22, RC-6/14 and SC-6/28 and the practices followed regarding the admission of observers to meetings of the bodies of the Basel, Rotterdam and Stockholm conventions. The report should be read in conjunction with the abovementioned meeting documents on admission of observers. The present note, including its annex, has not been formally edited.

* UNEP/CHW.12/1.

** UNEP/FAO/RC/COP.7/1.

*** UNEP/POPS/COP.7/1.

Annex

Report on experiences with using the application forms and practices followed regarding the admission of observers to meetings of the bodies of the Basel, Rotterdam and Stockholm conventions

I. Background

1. Following the meetings of the conferences of the parties to the Basel, Rotterdam and Stockholm conventions in May 2013, the Secretariat made available on the respective conventions websites the procedure and application form for admission as an observer at meetings of the Conference of the Parties.¹

2. Between the 2013 and 2015 meetings of the conferences of the parties, the Secretariat has maintained a list of national and international, governmental and non-governmental bodies and agencies represented as observers at the meetings of the respective Conference of the Parties for the purpose of notifying observers of those meetings and for official communications during the periods between meetings of the conferences of the parties and their subsidiary bodies. The updated lists of such bodies and agencies previously admitted as observers to meetings of the Conference of the Parties are also available on the respective convention website.²

II. Experiences with using the application forms for admission as an observer

3. In accordance with the relevant provisions of the respective conventions and the corresponding provision of the rules of procedure,³ bodies or agencies requesting to be represented by observers at meetings need to demonstrate that they meet the following criteria:

- (a) The request is made by a body or agency;
- (b) The requesting body or agency is national or international, governmental or non-governmental;
- (c) The requesting body or agency is qualified in fields relating to the transboundary movement of hazardous wastes as well as their management and disposal (for requests relating to the Basel Convention); or the requesting body or agency is qualified in matters covered by the Convention (for requests relating to the Rotterdam and/or Stockholm Convention(s)).

4. The respective decisions of the conferences of the parties requested⁴ the Secretariat to continue to confirm that bodies or agencies making requests for admission as observers meet the relevant criteria in accordance with the Convention and the rules of procedure. Between May 2013 and 30 September 2014, the Secretariat received from entities using the application form for admission as an observer and informing the Secretariat of their wish to be represented by observers at meetings of the Convention bodies:⁵

- (a) Eight requests relating to bodies of the Basel Convention;
- (b) Three requests relating to bodies of the Rotterdam Convention;
- (c) Nine requests relating to bodies of the Stockholm Convention.

¹ <http://www.basel.int/Procedures/AdmissionofObservers/tabid/3658/Default.aspx>;
<http://chm.pops.int/Procedures/AdmissionofObservers/tabid/3676/Default.aspx>;
<http://www.pic.int/default.aspx?tabid=4299>.

² See note 1 above.

³ Paragraph 6 of Article 15 of the Basel Convention and rule 7 of the rules of procedure; paragraph 7 of Article 18 of the Rotterdam Convention and rule 7 of the rules of procedure; paragraph 8 of Article 19 of the Stockholm Convention and rule 7 of the rules of procedure.

⁴ Decision BC-11/; RC-6/14; SC-6/28.

⁵ Lists of these requests, together with those received after 30 September 2014, are contained in documents UNEP/CHW.12/INF/47; UNEP/FAO/RC/COP.7/INF/23; and UNEP/POPS/COP.7/INF/43.

In addressing these requests, the Secretariat used the information required in the form towards confirming that the bodies or agencies making requests for admission as observers meet the relevant criteria in accordance with the Convention and the rules of procedure.

5. In response to concerns about requiring bodies or agencies requesting admission as observers to provide official documents detailing the mandate, scope and legal status of the body or agency, the form adopted at the eleventh meeting of the Conference of the Parties was revised to request “Information describing the body or agency”, which is to be provided “if available”. Consequently, the Secretariat has faced difficulty to confirm the existence of a body or agency, in accordance with the criteria.

6. In order to confirm that the entities making requests for admission as observers meet the relevant criteria in accordance with the Convention and the rules of procedure, the Secretariat needs to be able to request and receive documents relating to the existence or establishment of the body or agency. Without this step, the Secretariat would only be able to confirm the name of the body or agency, rather than its existence in accordance with criteria (a) referred to in paragraph 3 above.

7. Parties may wish to consider the practices of other multilateral environmental agreements (MEAs), Food and Agriculture Organization of the United Nations, United Nations Economic and Social Council (ECOSOC) and United Nations Environment Programme regarding admission of observers, specifically some of the information required on the status of the body or agency described below. In most instances, information on legal status is required when requesting admission as an observer to meetings of the relevant body. The practices of these entities are summarized as follows:

(a) Convention on Biological Diversity:⁶ The applicable steps require interested bodies or agencies to include, among other information, their statutes/by-laws/rules or terms of reference when informing the Secretariat of their wish to be represented as an observer to meetings of the Conference of the Parties and its subsidiary bodies;

(b) Convention on International Trade in Endangered Species of Wild Fauna and Flora:⁷ By Resolution Conf. 13.8, the sixteenth meeting of the conference of the parties to CITES decided that bodies or agencies wishing to be represented by observers “...should be registered...only if it demonstrates to the satisfaction of the Secretariat that it is ... an organization in its own right, with a legal persona and an international character, remit and programme of activities;”

(c) Food and Agriculture Organization of the United Nations:⁸ Intergovernmental organizations having concluded an agreement with the Food and Agriculture Organization which contains specific provisions to this effect have a right to attend meetings of the Conference as observers. Those non-governmental organizations which have consultative status are also entitled to send observers to Conference sessions. Other intergovernmental organizations, as well as non-governmental organizations having specialized consultative status or liaison status, may be invited on a provisional basis by the Director-General. These provisions, as well as the criteria to be met by relevant organizations are set out in Rule XVII of the Governing Rules of the Organization and also in the FAO Policy Concerning Relations with International Non-Governmental Organizations (FAO Basic Texts, Volume II, Section M);

(d) United Nations Convention to Combat Desertification:⁹ Organizations wishing to be accredited as an observer to the sessions of this convention’s bodies should submit the documents and information listed according to requirements, including official documents detailing the mandate and scope of the organization such as the approved statute of establishment, registration certificate, charter or constitution of the association and any other official document that explains the organization’s purpose, aims and initiatives;

⁶ Rule 7 of the rules of procedure for meetings of the Conference of the Parties to the Convention on Biological Diversity; Paragraph 2, Annex to decision IX/29.

⁷ Rule 7 of the rules of procedure for meetings of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

⁸ See for example Arrangements for the 38th session of the Conference
<http://www.fao.org/docrep/meeting/028/mg541e.pdf> ;

Basic Texts available at <http://www.fao.org/docrep/meeting/022/K8024E.pdf#page=21&zoom=100>

⁹ Article 22, paragraph 7 of the UNCCD and Rule 7 of the rules of procedure of the Conference of the Parties; Accreditation guidance and information notes (<http://www.unccd.int/en/Stakeholders/civil-society/Accreditation-process/Pages/default.aspx>).

(e) United Nations Economic and Social Council:¹⁰ When submitting the online application for consultative status, components of supporting documents to be provided are: copy of constitution/charter and/or statutes/by-laws and amendments to those documents; copy of certificate of registration: According to resolution 1996/31 an organization “should attest that it has been in existence for at least two years as at the date of receipt of the application by the Secretariat”;

(f) United Nations Environment Programme:¹¹ According to current UNEP practice, civil society organizations seeking accreditation need to forward documents, which should include among others a copy of its constitution /charter and/or statutes/by-laws and amendments to those documents, and list of affiliates; and a copy of certificate of registration;

(g) United Nations Framework Convention on Climate Change:¹² Supporting documents required to be attached to an application for admission as an observer include, among others: Certificate of incorporation/registration/establishment of the organization issued by a government authority of a State Party to the International Court of Justice, a State Member of the United Nations or one of its specialized agencies or of the International Atomic Energy Agency; Certificate of the non-profit and/or tax-exempt status of the organization issued by a government authority of a State Member of the United Nations.

III. Practices followed regarding the admission of observers to meetings of the bodies of the Basel, Rotterdam and Stockholm conventions

8. Rule 7 of the respective rules of procedure for the conferences of the parties to the Basel, Rotterdam and Stockholm conventions contain similar provisions regarding criteria applicable to bodies or agencies requesting to be represented by observers, namely:

- (a) A body or agency;
- (b) National or international, governmental or non-governmental;
- (c) Qualified in matters covered by the Convention.¹³

9. Following adoption of similar decisions by the respective conferences of the parties in May 2013, several practices under the Basel, Rotterdam and Stockholm conventions regarding the admission of observers to meetings of the conferences of the parties and, as appropriate, subsidiary bodies have been aligned. However, different practices remain between the Basel Convention, on the one hand, and the Rotterdam and Stockholm conventions, on the other hand, with respect to what constitutes a “body” or “agency”.

10. Within the practice followed regarding admission of observers to meetings of the bodies to the Rotterdam and Stockholm conventions, “body” or agency” is understood to refer only to not-for-profit or non-governmental organizations and associations. Within the context of the meetings of the bodies to the Basel Convention, a different approach has been followed to allow industry, including individual companies and academia to be represented as observers at meetings.

¹⁰ <http://csonet.org/?menu=83>.

¹¹ See Application form and “Modalities for Accreditation of civil society organizations at the United Nations Environment Assembly (UNEA) of the United Nations Environment Programme (UNEP)” (<http://www.unep.org/civil-society/Portals/24105/documents/Accreditation/modalities/Accreditation%20modalities%20final,%20revised,%2011.07.14.pdf>)

Non-governmental organizations are accredited with observer status to the United Nations Environment Assembly of the United Nations Environment Programme (UNEA) according to Rule 69 of the rules of procedure to the Governing Council of UNEP. UNEA rules of procedure remain under discussion following its first session, with agreement yet to be reached on accreditation criteria and the accreditation process - further consultations are expected at the second session.

¹² Article 7, paragraph 6 of the Convention and rule 8 of the draft rules of procedure. UNFCCC Online Admission System (OAS): Admitted Observer Organizations (IGOs and NGOs) User Manual (May 2014).

¹³ Rule 7 of the rules of procedure for the Conference of the Parties to the Basel Convention refers to qualification in fields relating to the transboundary movement of hazardous wastes as well as their management and disposal; Rule 7 of the rules of procedure for the Conference of the Parties to the Rotterdam Convention, as well as the same rule for the Conference of the Parties to the Stockholm Convention refer to qualification in matters covered by the Convention.

11. As at 30 September 2014, in relation to the Basel Convention 52 observers had been admitted within the category of industry and 4 observers had been admitted within the category of academia; for the Rotterdam Convention 7 industry associations had been represented by observers; for the Stockholm Convention 13 industry associations and 2 research organizations had been represented by observers. Further bodies and agencies have been admitted within the category of non-governmental organizations with relation to the three conventions.

12. Those entities meeting the criteria in accordance with the Rotterdam or Stockholm Convention and the respective rules of procedure but not constituted as not-for-profit or non-governmental organizations and associations have been present at meetings, within a category of "Others". Representatives in this category have different badges to observers and may be present at the meeting but may neither participate in it nor be included on the list of participants.

IV. Conclusions

13. Regarding experiences in using the application form for admission of observers, in particular the difficulties referred to above, the conferences of the parties may wish to approve respective revised application forms for admission as an observer at meetings of bodies of the conventions,¹⁴ clarifying the information required on the status of the body or agency. This would enable the Secretariat to confirm the existence of a body or agency, in accordance with the relevant criteria in accordance with the Convention and the rules of procedure.

14. Regarding the practices for admission of observers, the points raised in the present report could be addressed in various ways by the conferences of the parties. However, given that alignment would significantly alter practices regarding the admission of observers, the conferences of the parties may wish to maintain current practices.

15. The conferences of the parties could nonetheless decide to align practices in relation to what constitutes a "body" or "agency", either by:

(a) The Conference of Parties to the Basel Convention aligning its practice with those of the Rotterdam and Stockholm conventions; or

(b) The conferences of parties to the Stockholm and Rotterdam conventions aligning their practices with that of the Basel Convention.

16. Should the conferences of the parties decide to align practices to enable only bodies or agencies that are not-for-profit or non-governmental associations or organizations to be represented by observers ((paragraph 15 (a) above), they may also wish to agree that the list of bodies and agencies represented as observers at meetings include those represented at previous meetings of the Conference of the Parties. Any such aligned practice would therefore be applied from the closing of the twelfth meeting of the Conference of the Parties to the Basel Convention.

17. In the event of such a decision to align as stated in paragraph 16 above, the conferences of the parties may also wish to consider confirming the category of "Others". This would mean that entities meeting the criteria in accordance with the relevant provisions of the Convention and the respective rules of procedure but not constituted as not-for-profit or non-governmental organizations and associations could be present at meetings but may neither participate in them nor be included on the list of participants.

18. In the event that the conferences of the parties decide to maintain current practices, no further action would be needed.

¹⁴ Annexes to documents UNEP/CHW.12/24, UNEP/FAO/RC/COP.7/18 and UNEP/POPS/COP.7/34: revisions to the previously approved form are indicated in track change mode.