



Imports and Exports (Restrictions) Prohibition Order 2004

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 16th day of February 2004

Present:

Her Excellency the Governor-General in Council

Pursuant to section 3A(1) of the Imports and Exports (Restrictions) Act 1988, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following order.

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Schedule
Rotterdam chemicals

Order

1 Title

This order is the Imports and Exports (Restrictions) Prohibition Order 2004.

2 Commencement

This order comes into force on 24 February 2004.

3 Interpretation

In this order, unless the context otherwise requires,—

banned chemical means a chemical—

- (a) within the meaning of that term as defined in Article 2 of the Rotterdam Convention; and
- (b) to which the Rotterdam Convention applies

exportation has the meaning set out in clause 4

Minister means the Minister for the Environment

Party has the meaning given to that term by Article 2 of the Rotterdam Convention

Rotterdam chemical means a chemical to which the Rotterdam Convention applies and which is listed in the Schedule

Rotterdam Convention means the Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, done at Rotterdam on 10 September 1998; and includes the Annexes to the Convention, and any amendments to, or substitutions of, those documents that are or will become binding on New Zealand

severely restricted chemical means a chemical—

- (a) within the meaning of that term as defined in Article 2 of the Rotterdam Convention; and
- (b) to which the Rotterdam Convention applies.

4 Meaning of exportation

- (1) In this order, unless the context otherwise requires, **exportation** means any shipment in any craft for transportation to a point outside New Zealand, and **export** and **exported** have corresponding meanings.
- (2) However, goods are not exported to a Party if they are transported to that Party in transit only.

5 Exports of certain chemicals prohibited

The exportation to a Party of Rotterdam chemicals, banned chemicals, and severely restricted chemicals is prohibited, except as provided in clauses 6 and 7.

6 When Rotterdam chemicals may be exported

- (1) A Rotterdam chemical may be exported to a Party that has given notification of a final or interim decision to consent to import the chemical if the Minister has consented to the exportation.
- (2) The Minister may consent to the exportation of a chemical referred to in subclause (1) if—
 - (a) the exporter has complied with any conditions imposed by the importing Party; and
 - (b) the chemical is labelled with information that advises of the risks or hazards that the chemical poses to human health or the environment or that states where information about those risks or hazards can be obtained; and
 - (c) the export is otherwise in conformity with New Zealand's obligations under the Rotterdam Convention.
- (3) A Rotterdam chemical may be exported to a Party that has not given notification of a final or interim decision concerning the importation of the chemical if the Minister has consented to the exportation.
- (4) The Minister may consent to the exportation of a chemical referred to in subclause (3) if—
 - (a) any of the following apply:
 - (i) the chemical, at the time of importation, is registered as a chemical in the importing Party; or
 - (ii) evidence exists that it has previously been used in, or imported into, the importing Party and no regulatory action to prohibit its use has been taken; or
 - (iii) explicit consent to the import has been sought and received by the exporter through a designated national authority of the importing Party; and
 - (b) the chemical is labelled with information that advises of the risks or hazards that the chemical poses to human health or the environment or that states where information about those risks or hazards can be obtained; and
 - (c) the export is otherwise in conformity with New Zealand's obligations under the Rotterdam Convention.

7 When banned chemical or severely restricted chemical may be exported

- (1) A banned chemical or severely restricted chemical may be exported to a Party if the Minister has consented to the exportation.
- (2) The Minister may consent to the exportation of a chemical referred to in subclause (1) if—
 - (a) an export notification for that chemical has been provided to, and acknowledged by, the importing Party in accordance with Article 12 of the Rotterdam Convention; and
 - (b) the exporter has provided all information necessary for New Zealand to comply with the information requirements for export notification under Article 12 and Annexes I and V of the Rotterdam Convention; and
 - (c) the chemical is labelled with information that advises of the risks or hazards that the chemical poses to human health or the environment or that states where information about those risks or hazards can be obtained; and
 - (d) the export is otherwise in conformity with New Zealand's obligations under the Rotterdam Convention.

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**Schedule
Rotterdam chemicals**

1,2-dibromoethane (EDB)
2,4,5-T
Aldrin
Captafol
Chlordane
Chlordimeform
Chlorobenzilate
Crocidolite
DDT
Dieldrin
Dinoseb and dinoseb salts
Fluoroacetamide
HCH (mixed isomers)
Heptachlor
Hexachlorobenzene

Lindane

Mercury compounds, including inorganic mercury compounds, alkyl mercury compounds, and alkyloxyalkyl and aryl mercury compounds

Methamidophos (soluble liquid formulations of the substance that exceed 600 g active ingredient/l)

Methyl-parathion (emulsifiable concentrates (EC) with 19.5%, 40%, 50%, 60% active ingredient and dusts containing 1.5%, 2%, and 3% active ingredient)

Monocrotophos (soluble liquid formulations of the substance that exceed 600 g active ingredient/l)

Parathion (all formulations—aerosols, dustable powder (DP), emulsifiable concentrate (EC), granules (GR), and wettable powders (WP)—of this substance are included, except capsule suspensions (CS))

Pentachlorophenol

Phosphamidon (soluble liquid formulations of the substance that exceed 1000 g active ingredient/l)

Polybrominated biphenyls (PBB)

Polychlorinated biphenyls (PCB)

Polychlorinated terphenyls (PCT)

Tris (2,3-dibromopropyl) phosphate

Diane Morcom,
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 24 February 2004, controls the exportation of certain hazardous chemicals from New Zealand. The chemicals are those chemicals to which the Rotterdam Convention (the **Convention**) applies. Article 3 of the Convention (more formally known as the Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade done at Rotterdam on 10 September 1998) excludes certain chemicals from its application, for example, wastes. The

exportation of wastes is covered by the Basel Convention and controlled, as far as New Zealand is concerned, by the Customs Export Prohibition Order 2002. Other exclusions from the application of the Convention include narcotic drugs and psychotropic substances, radioactive material, chemical weapons, pharmaceuticals (including human and veterinary drugs), chemicals used as food additives, and food.

The Convention requires each Party to it (of which New Zealand is one) to put in place controls on the exportation of chemicals to which the Convention applies. Those controls are set out in clauses 6 and 7, depending on the nature of the chemical.

The Convention is due to come into force on 24 February 2004. Copies of the Convention are available for inspection free of charge at the head offices, and on or through the websites, of the following departments:

- Ministry of Economic Development (www.med.govt.nz):
- Ministry for the Environment (www.mfe.govt.nz).

As at the commencement of this order, there are no banned chemicals or severely restricted chemicals.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 19 February 2004.

This order is administered in the Ministry of Economic Development.
