



PROACTIVE RELEASE COVERSHEET

Minister		Portfolio	
	Hon David Parker		Minister for the Environment
	Hon Dr Duncan Webb		Minister of Commerce and Consumer Affairs
Name of package		Date to be published	
	Proactive release - New Zealand's implementation of new obligations under the Rotterdam Convention following the 2022 COP		This paper will be proactively released within 30 business days following Cabinet approval (4/09/2023)

List of documents that have been proactively released

Date	Title	Author
24/05/2023	CAB-208: New Zealand's implementation of new obligations under the Rotterdam Convention following the 2022 COP	Ministry for the Environment
06/06/2023	CAB-23-MIN-0217: Minute of Decision	Cabinet Office
1/06/2023	ENV-23-MIN-0016: Cabinet Environment, Energy and Climate Committee Minute of Decision: New Zealand's implementation of new obligations under the Rotterdam Convention following the 2022 COP	Cabinet Office
23/08/2023	CAB-231: New Zealand's implementation of new obligations under the Rotterdam Convention following the 2022 COP	Ministry for the Environment
1/09/2023	CAB-23-MIN-0418: Minute of Decision	Cabinet Office
31/08/2023	LEG-23-MIN-0177: Cabinet Legislation Committee Minute of Decision: New Zealand's implementation of new obligations under the Rotterdam Convention following the 2022 COP	Cabinet Office
21/08/2023	Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2023	Parliamentary Council Office

Information redacted	Yes	

Any information redacted in this document is redacted in accordance with the Ministry for the Environment's policy on proactive release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Redactions have been made to CAB-231. These redactions relate to legally privileged information that was provided by the Ministry of Foreign Affairs and Trade (MFAT) and MfE Legal under Section 9(2)(h) of the Official Information Act.

Furthermore, redactions have been made to CAB-23-MIN-0217 and CAB-23-MIN-0418 under Section 9(2)(f)(iv) of the Official Information Act to maintain the confidentiality of advice tendered by Ministers of the Crown and officials.

Policy and Privacy

In-Confidence

Office of the Minister for the Environment

ENV - Cabinet Environment, Energy and Climate Committee

New Zealand's implementation of new obligations under the Rotterdam Convention following the 2022 COP

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 new international obligations under the Rotterdam Convention.
- 2 The proposed amendments will add two chemicals to Schedule 2 of the Imports and Exports Order: perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds, and decabromodiphenyl ether (decaBDE). Both are industrial chemicals.

Relation to government priorities

- 3 This is a routine operational adjustment that requires Cabinet approval.

Executive Summary

- 4 The Rotterdam Convention promotes shared responsibility and cooperation in the international trade of certain hazardous chemicals among its parties. Chemicals listed in Annex III of this convention can still be moved between borders, provided the importing country gives prior informed consent (PIC). New Zealand is a party to the Rotterdam Convention.
- 5 At its most recent Conference of the Parties (COP) in June 2022, parties agreed to list two new chemicals in Annex III of the Convention:
 - a. PFOA, its salts and PFOA-related compounds.
 - i. the listing of PFOA (CAS number 335-67-1) includes several chemicals. The Rotterdam Convention provides a clear definition of which chemicals are included and excluded in its Annex III
 - b. decaBDE.
- 6 This decision means that export of PFOA, its salts and PFOA-related compounds, and decaBDE, are subject to a PIC procedure.

IN CONFIDENCE

- 7 These listings entered into force under the Convention on 22 October 2022. To give domestic effect to these listings, Cabinet approval is required to amend Schedule 2 of the Imports and Exports Order to add PFOA, its salts and PFOA-related compounds, and decaBDE.

Background

- 8 PFOA, its salts and PFOA-related compounds, and decaBDE are industrial chemicals.
- 9 There is no expected impact on New Zealand industry. Both chemicals are listed for elimination as persistent organic pollutants (POPs) under the Stockholm Convention. They are not approved for import into New Zealand under the Hazardous Substances and New Organisms Act 1996 besides certain, very specific exemptions, and they cannot be exported as a POP under Schedule 1 of the Imports and Exports Order without an export permit issued by the Environmental Protection Authority (EPA).
- 10 Despite the above controls, it is necessary to amend Schedule 2 of the Imports and Exports Order to implement our international obligations under the Rotterdam Convention. This will prevent an approval to export, without permission, being inadvertently made in future.
- 11 While the Minister of Commerce and Consumer Affairs has responsibility for the Imports and Exports Order, I have the authority to recommend policy changes on his behalf. Amendments to the Imports and Exports Order do not require statutory consultation, and I do not consider consultation to be necessary in this instance.

Implementation and timeline

- 12 Following Cabinet approval, I will issue drafting instructions to Parliamentary Counsel Office.
- 13 I will then seek Cabinet approval for regulatory amendments.
- 14 The amendments are expected to enter into force 28 days after Gazettal. I expect this will be in September 2023.

Financial Implications

- 15 There are no direct fiscal implications to the Crown from the proposals in this paper.
- 16 There are no direct impacts on New Zealand industry, as both chemicals are not approved for use in New Zealand, except for very specific purposes.

Legislative Implications

- 17 If the Committee agrees to the recommendation that these chemicals be added to Schedule 2 of the Imports and Exports Order, the Parliamentary Counsel Office will draft an appropriate Order in Council.

<https://dpmc.govt.nz/publications/co-02-4-acts-binding-crown-procedures-cabinet-decision>

Impact Analysis

Regulatory Impact Statement

- 18 The Treasury's Regulatory Impact Analysis team has determined that the proposal to amend Schedule 2 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 to fulfil New Zealand's international obligations under the Rotterdam Convention is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities.

Climate Implications of Policy Assessment

- 19 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

Population Implications

- 20 There are no gender implications in this proposal.
- 21 There are no specific implications from a disability perspective in this proposal.
- 22 There are no implications for iwi and Māori in this proposal.

Human Rights

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

Legal Risks

- 24 There are no additional legal risks that would arise from the amendment, other than those identified above.

Reputational Risks

- 25 These listings entered into force on 22 October 2022. The New Zealand government could face international criticism if the amendments were not implemented into New Zealand law, and New Zealand would not be compliant with the Rotterdam Convention. To avoid these risks, these amendments should be implemented into domestic New Zealand law as soon as possible.

Consultation

- 26 I have consulted with the Ministry for Business, Innovation and Employment, the New Zealand Customs Service, the Ministry of Foreign Affairs and Trade, the Treasury, and the Environmental Protection Authority. The Department of the Prime Minister and Cabinet was informed.

Communications

- 27 No publicity and/or communication is planned as the proposal has a low public interest and it is unlikely to be controversial.

Proactive Release

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

Recommendations

- 30 On behalf of the Minister of Commerce and Consumer Affairs, I recommend that the Committee:
- a. **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. Perfluorooctanoic acid (PFOA), its salts, and PFOA-related compounds as listed or excluded in Annex III to the Rotterdam Convention.
 - ii. Decabromodiphenyl ether.
 - b. **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