

# Legislation to Implement the PIC Convention with respect to Pesticides

## Introduction

This paper outlines an approach for legislation to control exports of certain pesticide products from Canada. Commitments have been made in Canada (*October 1994*) and internationally (*March 1998*) to prevent the export of certain pesticides of concern, unless the country of destination has been duly notified of the impending export and has an opportunity to consent to or refuse the export.

## The Pesticide Registration Review (PRR)

In 1990 the multistakeholder Pesticide Registration Review (PRR) made several recommendations regarding the export of pest control products. The recommendations were as follows:

**Cancelled and suspended pest control products:** The PRR recommended that legislation prohibit the export of pest control products for which registration had been cancelled or suspended in Canada for health or environmental reasons. A person who wished to export such a product could require the Minister to convene a Board of Review to determine if and on what conditions the ban might be eased or modified. The final decision would rest with the Minister. If the Minister agreed to permit the export, the designated national regulatory authority in the country of destination would be notified and their consent to importation would be required prior to shipment.

**Severely restricted pest control products:** The PRR recommended that the legislation only allow the export of products severely restricted in Canada for health or environmental reasons if the designated national regulatory authority in the country of destination had been notified and had consented to the importation prior to shipment.

**Voluntarily withdrawn and unregistered pest control products:** Any pest control product that had been voluntarily withdrawn or whose registration had been denied in Canada for health or environmental reasons could be exported after the designated national regulatory authority was notified and provided a specified period of time to respond. If a response was not received, the product could be exported.

## Government Decision

In the 1994 *Government Proposal for the Pest Management Regulatory System* (Purple Book), the government proposed to control exports of products of concern as recommended by the PRR, but through export permits to be issued by the Minister rather than requiring Boards of Review. In February 1995, the Government announced that it was proceeding with the reforms to the pesticide regulatory system as outlined in the Purple Book.

## Convention on the Prior Informed Consent (PIC) Procedure

The primary objective of the Convention is to ensure that banned and severely restricted chemicals, including pesticides, that are subject to the PIC procedure are not exported unless the country of import has provided their "prior informed consent" regarding receipt of shipments of the chemical. A second objective is to ensure that importing countries are notified when products subject to regulatory action in the exporting country, i.e., potential candidates for the PIC procedure, are exported. A third objective is to ensure that adequate safety information accompany shipments of these products.

Many of the Convention's provisions can be implemented in Canada through administrative means. However, legislation will be required in some important areas. The following section describes the proposed approach to implement the legislative requirements of the Convention with respect to pesticides, while at the same time, implementing the 1995 Government decision.

## **Pesticide Legislation**

The legislation would establish a *Pest Control Products Export Control List*. The List would include all products subject to the PIC procedure, as well as other products whose registration had been cancelled, denied, withdrawn or severely restricted in Canada for health or environmental reasons, in other words, those products identified as potential candidates for the PIC procedure due to regulatory action in Canada.

All products on the *Export Control List* could only be exported under the authority of an export permit. For products subject to the PIC procedure, the permit would only be issued if the legislative provisions that are adopted to meet the requirements of Articles 11 and 13 of the PIC Convention have been satisfied. For products notified as being banned or severely restricted in Canada but not yet included in the PIC procedure, the permit would only be issued if the legislative provisions adopted to meet the requirements of Articles 12 and 13 have been satisfied.

The legislation would also ensure that a permit would not be issued for the export of any pesticide that was prohibited from export under any other Act of Parliament.

## **Implementation of Legislation**

The current *Pest Control Products Act* (PCPA) does not include authority to make regulations which would implement the export permit regime outlined above. As indicated in the *Government Proposal*, proposed amendments to the PCPA would include such authority. In the meantime, regulations for an export regime applicable to pesticides could be made under the *Canadian Environmental Protection Act*, once it is amended. These would be revoked once amendments to the PCPA are passed and export control regulations are made.

Promulgation of the regulations would follow the normal regulatory process, with consultation through the Canada Gazette. Key stakeholders would be consulted on the proposed regulations in advance of publication in the Canada Gazette.