



Global Toxics Treaties: U.S. Leadership Opportunity Slips Away—

Kristin S. Schafer, Pesticide Action Network North America (PANNA)

Once again, the U.S. is squandering an opportunity for leadership in the international environmental policy arena. As the Bush administration continues to backtrack on environmental protection at home and abroad, these opportunities are increasingly few and far between. The issues at hand are global elimination of persistent chemicals and control of trade in toxics, and the opportunity is early ratification of two international treaties that effectively address these challenges: the Stockholm and Rotterdam conventions. Fast action from the White House and the Senate could still make a difference.

Many NGOs (nongovernmental organizations), including the Pesticide Action Network (PAN) International and the International POPs (Persistent Organic Pollutants) Elimination Network (IPEN), called on nations around the world to bring these important treaties into effect before the World Summit on Sustainable Development in Johannesburg, South Africa. Both treaties require fifty ratifications before implementation can begin. As of September 2002, 21 countries had ratified the Stockholm Convention, and 27 had ratified the Rotterdam Convention. The U.S. has yet to ratify either.

(aldrin, endrin, dieldrin, chlordane, dichloro-diphenyl-trichloroethane (DDT), heptachlor, hexachlorobenzene, mirex, and toxaphene) are pesticides that have been targeted for elimination by NGOs around the world since the early 1980s. The other chemicals on the convention's initial list are polychlorinated biphenyls (PCBs), dioxins, and furans. The nine listed pesticides and PCBs have already been banned in the U.S., some—like DDT—for decades. The U.S. continues to produce dioxins and furans as byproducts of chlorine-based industries and waste incineration.

The Stockholm Convention establishes various timetables for the elimination of the listed POP chemicals. Provisions specific to the ever-controversial DDT call for its ultimate elimination but allow interim use of the pesticide for malaria vector control, if use is accompanied by aggressive efforts to develop and implement safe and effective alternatives. DDT is currently used to control malaria in about two dozen countries, mostly in Africa.

The Rotterdam Convention is a complementary treaty providing important controls on international trade of highly toxic chemicals. This convention, signed by 73 nations in 1998, is the formalization of a voluntary Prior Informed Consent (PIC) procedure administered jointly by UNEP and the Food and Agriculture Organization since 1989. The Rotterdam Convention requires that any country importing pesticides and certain other hazardous chemicals must be informed of bans or severe restrictions on that chemical in other countries. This gives receiving countries the option of refusing shipments of chemicals on the grounds that they may be harmful to the environment or to the health of their populations.

U.S. customs records from U.S. ports reveal that more than 3.2 billion pounds of pesticides crossed international borders between 1997 and 2000. Nearly 65 million pounds of this total were pesticides that have either been banned or are severely restricted in the United States. Developing countries often lack the capacity to adequately evaluate and regulate highly toxic chemicals imported from their northern neighbors. The PIC procedure is the international community's response to this inequity, and it continues to be implemented on a voluntary basis, while the treaty accumulates the 50 ratifications needed to enter into force. Although the convention could be strengthened—some analysts believe that the rules for adding chemicals to the PIC list are designed to limit the number of new substances—it represents an important tool to help the international community monitor and control the world's massive trade in dangerous substances.

Key Points

- The Stockholm Convention aims to eliminate a class of chemicals that the international community has agreed is extremely dangerous to human health and the environment.
- A complementary treaty, the Rotterdam Convention, offers important controls on the international trade of highly toxic chemicals.
- The U.S. is missing an opportunity for global environmental leadership by delaying ratification of these two treaties.

The chemicals addressed under the Stockholm Convention are persistent organic pollutants. These toxic substances currently are transported across the globe, persist in the environment, accumulate in the body fat of humans and animals, and concentrate up the food chain. Even at very low levels of exposure, POPs can cause reproductive and developmental disorders, damage to the immune and nervous systems, and a range of cancers. Exposure during key phases of fetal development can be particularly damaging, and infants around the world are born with an array of POPs already in their blood. POPs are found in today's U.S. food supply, even though many of the chemicals in question have been banned in the U.S. for decades.

The global nature of these pollutants led the United Nations Environment Program (UNEP) to sponsor extensive negotiations that culminated in the signing of the Stockholm Convention on Persistent Organic Pollutants on May 23, 2001, by 91 countries as well as the European Union. The treaty identifies an initial list of twelve POPs slated for elimination. Nine of the 12

Problems with Current U.S. Policy

Just prior to Earth Day 2001, President Bush announced that he intended to sign the POPs treaty in Stockholm and move quickly toward ratification. He pointed toward the bipartisan nature of the commitment, as this was in fact the conclusion of a process overseen by his Democratic predecessor. Many U.S. NGOs welcomed the Bush administration's commitment to the treaty, and they hoped that the State Department and Senate would follow through with ratification of the Stockholm Convention and its companion, the Rotterdam Convention, before the end of 2001.

Nearly 18 months later, the required "implementing legislation" is far from the Senate floor, and must then be considered by the House. Then and only then can the Senate move forward with "advice and consent" on the treaty itself—the official process of ratification. Without decisive action in the Senate and leadership from the White House, the treaties could continue to languish well into 2003 or beyond, and the U.S. will again be lagging behind in the international environmental policy arena.

The U.S. has a history of slow ratification of international agreements, many of which have been known to languish for many years in the U.S. Senate, the State Department, or somewhere in the policy netherworld in between. Yet, in the case of the Stockholm Convention, the treaty has widespread support from the NGO community, the chemical industry, and governments around the world, and it regulates a set of chemicals that have been known for decades to be extremely dangerous.

One of the barriers to rapid ratification has been the White House's reluctance to establish a domestic system for adding new chemicals under the treaty. The initial version of legislation proposed by the administration would require congressional action for each chemical added under the international treaty—a serious barrier to action and a clear violation of the spirit of the Stockholm Convention. This is the key issue currently being debated in the Senate.

Some of the chemicals likely to be considered for addition, such as the pesticides lindane and endosulfan, are still in widespread use in both industrialized and developing nations despite clear evidence of toxicity, persistence in the environment, and bioaccumulation. Elimination of these additional chemicals is likely to be much more controversial in the U.S. than an agreement to eliminate chemicals that Congress has already banned domestically for decades. In a White House Rose Garden statement announcing his intent to sign and ratify the POPs treaty, President Bush noted that POP chemicals "respect no boundaries and can harm Americans even when released abroad." This statement, while true, does not reflect the other side of the equation—that continued use and release in the U.S. of persistent chemicals not included on UNEP's initial list under the convention can and does harm citizens in other countries around the world.

The process of adding new chemicals under the Stockholm Convention is to be governed by the precautionary principle, a concept that appears in several places in the treaty's text and is strongly supported by environmental advocates worldwide. The precautionary principle recognizes that when there is evidence that a chemical threatens "serious or irreversible damage," action should be taken even in the absence of full scientific certainty. This principle recognizes the tremendous complexity of scientific research on the environmental and health impacts of synthetic chemicals, and it directs the international community to take protective action based on available knowledge.

Most European countries are well ahead of the U.S. in embracing the precautionary principle in both domestic and international policies. In negotiating the Stockholm Convention, the U.S. strenuously opposed precautionary language, while Europe strongly promoted it. This proved, along with the issue of financing, to be one of the most contentious issues in the final hours of treaty negotiations. On the European front, Sweden recently adopted a comprehensive set of concrete national environmental quality objectives, many specifically based on the precautionary principle. In Germany, producers of new chemicals must

undergo a precautionary process of "alternatives assessment" to prove that there are no other products less harmful to the environment that could serve the same purpose as any of the new products under consideration.

During negotiation of the Rotterdam Convention, the U.S. clearly recognized the potential impact of the more precautionary and protective policies in Europe. Under the voluntary PIC procedure, a pesticide qualifies for the PIC list if it has been banned or severely restricted in any single country. The alternative proposal, supported by the U.S. and eventually incorporated into the final Rotterdam Convention, stipulates that a pesticide must be banned in two countries belonging to two separate regions to trigger the PIC procedure. The regional boundaries used for the treaty lump the U.S. and Canada into one region and the 43 countries of Europe into another. The U.S. position on this issue stemmed from concerns that bans in Europe, based on more precautionary policies, would lead the PIC process to potentially undermine markets for U.S. pesticide manufacturers. Yet, despite U.S. reluctance, the international community is moving toward precautionary approaches that will provide real protection for both human health and the environment.

Key Problems

- The Bush administration made a public commitment in early 2001 to work for rapid ratification of the Stockholm Convention.
 - The Bush administration's reluctance to establish a workable domestic system for eliminating chemicals added in the future under the Stockholm Convention represents a clear violation of the spirit of the treaty.
 - U.S. policies do not adequately reflect the precautionary principle, an approach to chemical policies prevalent in Europe and substantially more protective of human health and the environment.
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Toward a New Foreign Policy

Decisive leadership in the Senate and strong signals of support from the White House could lead to ratification of the Stockholm and Rotterdam conventions before the end of the year. Without popular pressure, however, neither is likely to happen.

Key Recommendations

- The U.S. Senate should ratify the Stockholm and Rotterdam conventions before the end of the year.
- The U.S. should develop a national implementation plan under the Stockholm Convention, focusing particularly on the elimination of dioxin emissions.
- The U.S. should phase out production and use of additional persistent chemicals that qualify as POPs under the Stockholm Convention.

The Senate must produce a version of the implementing legislation for the two conventions that ensures appropriate transparency and public notification, effectively meets treaty obligations and, in the case of the Stockholm Convention, allows a streamlined process for adding new chemicals that follows the lead of decisions taken by the countries that have ratified the convention—the “Conference of Parties.” Under the convention, an international Scientific Review Committee will be established to recommend bans

on additional chemicals. The Conference of Parties will consider these recommendations and come to agreement on any list expansion. To fulfill its treaty obligations, the U.S. must have a domestic program in place to rapidly implement decisions made under the treaty.

Once the Stockholm Convention is ratified, each national government will develop an implementation plan outlining how it will meet the treaty objectives. Many countries are initiating national implementation plans even before the convention comes into force; in developing countries, these early efforts are supported by interim funding for convention implementation through the Global Environment Facility. Some European countries, such as Finland, are moving forward with implementation even before the treaty comes into effect. To demonstrate a commitment to treaty implementation and to move forward with the treaty objectives, the U.S. should immediately initiate the development of a national implementation plan.

The primary focus of a U.S. national implementation plan should involve moving toward the elimination of POPs byproducts. Dioxins and furans pose a tremendous health risk, but strategies that support their elimination are strongly opposed by representatives of the chlorine and incineration industries.

Public interest groups tracking Environmental Protection Agency (EPA) reviews of dioxins assert that the agency’s analysis is based on methods inferior to new analytical tools developed in Europe for long-term monitoring of dioxins. The EPA’s recommendations to date generally focus on end-of-the-pipe controls and minimization rather

than the materials-substitution policies mandated by the Stockholm Convention. In addition, the EPA is not likely to recommend phasing out incineration, a major source of dioxin contaminants in the United States. An effective U.S. national implementation plan must develop an aggressive strategy to reduce and eliminate dioxin emissions in America.

The EPA’s recommendations regarding dioxins will also influence the national implementation plans of Canada and Mexico. Joint efforts to manage chemicals under the environmental side agreement of the North America Free Trade Agreement have already resulted in regional action plans regulating DDT, PCBs, and chlordane, and discussions are now shifting to dioxins, furans, and lindane. These efforts are likely to be directly incorporated into national implementation plans for the three countries and, to be effective, should reflect the progressive approach to dioxin elimination stipulated by the Stockholm Convention.

The other critical component of a U.S. national implementation plan is a strategy for evaluating the use and gradual elimination of persistent chemicals not yet listed under the Stockholm Convention. A number of states such as Washington, California, and states in the Great Lakes region are pursuing efforts to address the problem of ongoing use of persistent bioaccumulative toxins. The state of Washington, for example, recently approved funding to implement its Department of Ecology’s plan to phase out releases of persistent pollutants like mercury and dioxins. Progress underway through state-level initiatives like this can help the U.S. move toward national evaluation, reduction, and eventual elimination of persistent pollutants.

The NGO community continues to track ratification of the Stockholm and Rotterdam treaties with great interest, but the “cautious optimism” of last year is dwindling. In his 2001 speech linked to Earth Day, President Bush announced his support for the Stockholm Convention, reminding the country that “the risks are great, and the need for action is clear.” In this spirit, the Bush administration must move forward rapidly and in good faith to include under the convention persistent chemicals that are still in use domestically. If such action is not taken, the U.S. will bolster its growing international reputation of supporting (with great fanfare) global treaties that require relatively little U.S. commitment but spurning agreements—like the Kyoto Protocol—that require more substantive domestic action.

Kristin S. Schafer <kristins@panna.org>, program coordinator with Pesticide Action Network North America (PANNA), is coauthor of Nowhere to Hide: Persistent Toxic Chemicals in the U.S. Food Supply (San Francisco: PANNA, 2001). A version of this article appeared in the September 2001 (vol. 6, no. 31) issue of Foreign Policy in Focus.

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Orders and subscription information:

Mail: PO Box 4506, Albuquerque, New Mexico 87196-4506
Voice & Fax: (505) 842-8288
Email: infocus@irc-online.org

Editorial inquiries and information:

IRC Editor

Voice: (505) 388-0208
Fax: (505) 388-0619
Email: tom@irc-online.org

IPS Editor

Voice: (202) 234-9382/3 ext. 232
Fax: (202) 387-7915
Email: martha@ips-dc.org

Website: <http://www.fpif.org/>

Sources for More Information

Organizations

Center for Health, Environment and Justice

Box 6806
Falls Church, VA 22040
Voice: (703) 237-2249
Email: mrhode@chej.org
Website: <http://www.chej.org/>
Contact: Monica Rhode

Environmental Health Fund

c/o VDC
407 South Dearborn, Suite 1775
Chicago, IL 60605
Voice: (312) 566-9314
Fax: (312) 408-0682
Email: jackwein@uic.edu
Contact: Jack Weinberg

Great Lakes United

Casetty Hall
Buffalo State College
1300 Elmwood Avenue
Buffalo, NY 14222
Voice: (716) 886-0142
Fax: (716) 886-0303
Email: thbrown@delta-institute.org
Website: <http://www.glu.org/>
Contact: Tim Brown

International POPs Elimination Network (IPEN)

c/o Northern Cochair
Commonweal
Box 316
Bolinas, CA 94924
Voice: (415) 868-0970
Fax: (415) 868-2230
Email: spatton@igc.org
Website: <http://www.ipen.org/>
Contact: Sharyle Patton

Pesticide Action Network North America (PANNA)

49 Powell Street, Suite 500
San Francisco, CA 94102
Voice: (415) 981-1771
Fax: (415) 981-1991
Email: kristins@panna.org
Website: <http://www.panna.org/>
Contact: Kristin Schafer

Pesticide Action Network UK U.K.

Voice: (4420) 7274-8895
Fax: (4420) 7274-9084
Email: barbaradinham@pan-uk.org
Website: <http://www.pan-uk.org/>
Contact: Barbara Dinham

Red de Acción sobre Plaguicidas y Alternativas en México (RAPAM)

Mexico
Voice/Fax: (525) 954-7744
Email: rapam@prodigy.net.mx
Contact: Fernando Bejarano

Washington Toxics Coalition

4649 Sunnyside Avenue N., Suite 540
Seattle, WA 98103
Voice: (206) 632-1545
Fax: (206) 632-8661
Email: info@watoxics.org
Website: <http://www.watoxics.org/>
Contact: Gregg Small

World Wildlife Fund, USA

1250 24th Street NW
Washington, DC 20037-1175
Voice: (202) 861-0350
Fax: (202) 530-0743
Email: clifton.curtis@wwfus.org
Website: <http://www.worldwildlife.org/toxics/>
Contact: Clifton Curtis

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<http://www.chem.unep.ch/sc/>

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