

**ENVIRONMENT PROTECTION ACT, 2001
(ACT NO. XX OF 2002)**

**Export and Imports of Certain Dangerous Chemicals
Regulations, 2002**

BY virtue of the powers conferred by article 9 of the Environment Protection Act, 2001, hereinafter referred to as "the Act", the Minister for Home Affairs and the Environment has made the following regulations:-

1. (1) The title of these regulations is the Export and Imports of Certain Dangerous Chemicals Regulations, 2002.

(2) (a) These regulations shall come into force on such date as the Minister responsible for the environment may by notice in the Gazette appoint and different dates may be so appointed for different provisions and different purposes of these regulations.

(b) A notice under paragraph (a) of this sub-regulation may make such transitional provisions as appear to the Minister to be necessary or expedient in connection with the provisions thereby brought into force.

(3) These regulations provide for the establishment of a system of notification and information for imports from and exports to third countries of certain chemicals which are banned or severely restricted on account of their effects on human health and the environment and to apply the international notification and 'prior informed consent' (PIC) procedure established by the United Nations Environment Programme (UNEP) and the Food and Agriculture Organization (FAO).

(4) The purpose of these regulations is also to ensure that the provisions of regulations on the classification, packaging and labelling of substances dangerous to man or the environment when they are placed on the market in Malta shall also apply to such substances when they are exported from Malta to third countries.

(5) These regulations do not apply to substances or preparations imported or exported for the purposes of analysis or

scientific research and development as defined in article 2, where the quantities involved are sufficiently small that they are unlikely to affect human health or the environment adversely.

2. (1) In these regulations, unless the context otherwise Interpretation. requires:

“banned chemical” means a chemical which has, for health or environmental reasons, been prohibited for all uses by final governmental regulatory action;

“chemical subject to notification” means any of the chemical substances listed in Schedule I and preparations containing any of these chemicals if the preparation has a labelling obligation under any other legislative provision as a result of the presence of the Schedule I chemical;

“chemical subject to the PIC procedure” means each chemical listed in Schedule II, whether by itself or in preparations, whether manufactured or obtained from nature, unless its concentration in a preparation is insufficient for a labelling requirement under any other legislative provision;

“competent authority” means the Chemicals Coordinating Committee established under the Chemicals Co-ordinating Committee Regulations, 2002.

“import” means the physical introduction into the customs territory of Malta of products which are placed under a customs procedure other than transit procedure;

“export” means:

(a) the permanent or temporary export of products in terms of the customs legislation in force, or

(b) the re-export of products not meeting the conditions referred to in paragraph (a) hereof which are placed under a customs procedure other than transit procedure;

“labelling” means the provision on a label of information related to the potential hazard to health, safety or the environment from use of the chemical; it does not, however, refer to labelling requirements for the transport of dangerous goods;

“prior informed consent” or “PIC” means the principle that the international shipment of a chemical which is banned or severely restricted in order to protect human health or the environment should not proceed without the agreement, where such agreement exists, or contrary to the decision of the designated national authority of the importing country;

“reference number” means the number assigned by the competent authority to each chemical, subject to notification when it is exported for the first time to a third country. This number remains unchanged for every subsequent export of the same chemical to the same third country;

“scientific research and development” means scientific experimentation, analysis or chemical research carried out under controlled conditions; it includes the determination of intrinsic properties, performance and efficacy, and scientific investigation related to product development;

“severely restricted chemical” means a chemical for which, for health or environmental reasons, virtually all uses have been prohibited by final regulatory provision but for which certain specific uses remain authorised.

Exports to third countries.

3. (1) When a chemical subject to notification is due to be exported to a third country for the first time following the date when it becomes subject to the provisions of these regulations, the exporter shall provide the competent authority, no later than 30 days before the export is due to take place, with the information contained in Schedule III to these regulations necessary to enable the competent authority to effect a notification. The competent authority shall take the necessary measures to ensure that the appropriate authorities of the country of destination receive notification of the intended export. Such notification, which shall as far as possible be made at least 15 days before export, must comply with the requirements set out in the said Schedule III.

(2) Where the export of a chemical relates to an emergency situation in which any delay may endanger public health or the environment in the importing country, the provisions referred to above may be waived wholly or partly at the discretion of the competent authority.

(3) New notification according to the foregoing provisions of this article must be given for exports which take place subsequent to major changes to national legislation concerning the marketing and use or labelling of the substances in question or whenever the composition

of the preparation in question changes to such an extent that the labelling of such preparation is altered. The new notification must comply with the requirements set out in Schedule III hereto and must indicate that it is a revision of a previous notification.

(4) As regards the transmission of information within the meaning of subregulation (1) hereof, the competent authority shall take account of the need to protect the confidentiality of data and ownership both in Malta and in the countries of destination.

(5) The following shall not be regarded as confidential:

(i) the names of the substance;

(ii) the names of the preparation;

(iii) the names of substances in Annex I to these regulations contained in the preparation and their percentage in the preparation;

(iv) the names of the main impurities in the substances in Schedule I hereof;

(v) the name of the manufacturer or exporter;

(vi) information on the precautions to be taken, including the category of danger, the nature of the risk and the relevant warnings;

(vii) physico-chemical data concerning the substances;

(viii) the summary results of the toxicological and ecotoxicological tests;

(ix) the possible ways of rendering the substance harmless;

(x) the information contained in the safety data sheet;

(xi) the country of destination.

4. (1) Annex II to these regulations shall comprise the following:

Participation in the international notification and 'prior informed consent' (PIC) procedure.

(a) the international list of banned and severely restricted chemicals subject to the PIC procedure established by the UNEP and FAO;

(b) a list of the countries participating in the PIC scheme;
and

(c) the decisions of these countries regarding the import of the chemicals listed in paragraph (a) above.

(2) The exporter shall comply with the decision of the country of destination participating in the PIC procedure.

(3) If a participating importing country does not make a response or responds with an interim decision which does not address importation, the status quo with respect to imports of the chemical should continue. This means that the chemical should not be exported without the explicit consent of the importing country, unless it is a pesticide which is registered in the importing country or is a chemical the use or importation of which has been allowed by other action of the importing country.

Packaging and
labelling.

5. (1) Dangerous chemicals which are intended for export shall be subject to the legislative provisions on packaging and labelling covering dangerous preparations. This obligation shall be without prejudice to any specific requirements of the importing third country. The label need comply with the requirements of the importing third country only if such requirements ensure that the label has all the health, safety and environment-related information which its use in Malta would require.

(2) The information on the label shall, as far as practicable, be given in the language or languages, or in one or more of the principal languages, of the country of destination or of the area of intended use.

Notification from
third countries.

6. Where the competent authority receives a notification from the competent authority of a third country concerning the export to Malta of a chemical the manufacture, use, handling, consumption, transport and, or sale of which is subject to prohibition or substantial legal restriction under that country's legislation, it shall publish in the Gazette a copy of that notification, together with all relevant information.

7. As regards the information supplied pursuant to the preceding paragraph, the competent authority shall take account of the need to protect the confidentiality of data and ownership. Exchange of information and monitoring.

8. (1) The list of chemicals in Annex I to these regulations may be reviewed by the competent authority, particularly in the light of experience gained in implementing these regulations. Updating of Schedules.

(2) In determining whether regulatory action qualifies as a ban or severe restriction, the effect of the action on any one of three major use categories must be considered. These categories are:

- (a) plant protection products;
- (b) industrial chemicals;
- (c) consumer product chemicals.

(3) If, for health or environmental reasons, the control action bans or severely restricts the use of a chemical in any one of these categories of use, it will be included in Schedule I hereto.

9. Any person shall be guilty of an offence under these regulations if: Offences.

(a) he fails to comply with any provision of these regulations or with any order lawfully given in terms of any provision of these regulations; or

(b) he contravenes any restriction, prohibition or requirement imposed by or under these regulations; or

(c) he acts in contravention of any of the provisions of these regulations; or

(d) he conspires or attempts, or aids, or abets, any other person by whatever means, including advertising, counselling or procurement to contravene the provisions of these regulations or to fail to comply with any such provisions, including any order lawfully given in terms of any of the provision of these regulations, or to contravene any restriction, prohibition or requirement imposed by or under the said regulations.

10. Any person who commits an offence against these regulations shall, on conviction, be liable: Penalties.

(a) on a first conviction to a fine (*multa*) of not less than five hundred liri but not exceeding one thousand liri;

(b) on a second or subsequent convictions, to a fine (*multa*) of not less than one thousand liri, but not exceeding two thousand liri or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment:

Provided that the court shall order any person who has been found guilty of committing an offence against these regulations to pay for the expenses incurred by the competent authority as a result of the said offence, the revocation of the permit issued by the competent authority and the confiscation of the *corpus delicti*, if applicable.

Applicability of
Cap. 9.

11. (1) The provisions of articles 23 and 30 of the Criminal Code shall, *mutatis mutandis*, apply to proceedings in respect of offences against these regulations, so however that the disqualification from holding or obtaining a licence, permit or authority shall in no case be for less than one year.

(2) Notwithstanding the provisions of article 370 of the Criminal Code, proceedings for an offence against these regulations shall be held before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, and shall be in accordance with the provisions of the Criminal Code regulating the procedure before the said courts as courts of criminal judicature.

(3) Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal to the Court of Criminal Appeal from any judgement given by the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) in respect of proceedings for any offence against these regulations.

Language of
Schedules.

12. Schedules I to III to these regulations are being published in the English language with the English text of these regulations.

ANNEX

ANNEX I

Chemical	CAS No (a)	EINECS No (b)	Use category (c)	Use limitation (d)
1. Mercuric oxide	21908-53-2	244-654-7	p	b
2. Mercurous chloride (calomel)	10112-91-1	233-307-5	p	b
3. Other inorganic mercury compounds			p	b
4. Alkyl mercury compounds			p	b
5. Alkoxyalkyl and aryl mercury compounds			p	b
6. Aldrin	309-00-2	206-215-8	p	b
7. Chlordane	57-74-9	200-349-0	p	b
8. Dieldrin	60-57-1	200-484-5	p	b
9. DDT	50-29-3	200-024-3	p	b
10. Endrin	72-20-8	200-775-7	p	b
11. HCH containing less than 99,0 % of the gamma isomer	608-73-1	210-168-9	p	b
12. Heptachlor	76-44-8	200-962-3	p	b
13. Hexachlorobenzene	118-74-1	204-273-9	p	b
14. Camphechlor (toxaphene)	8001-35-2	232-283-3	p	b
15. Polychlorinated biphenyls (PCB), except mono- and dichlorinated biphenyls	1336-36-3	215-648-1	i	b
16. Polychlorinated terphenyls (PCT)	61788-33-8	262-968-2	i	b
17. Preparations with a PCB or PCT content higher than 0,005 % by weight			i	b
18. Tris (2,3-dibromopropyl) phosphate	126-72-7	204-799-9	i	sr
19. Tris-aziridinyl-phosphin oxide	545-55-1	208-892-5	i	sr
20. Polybrominated biphenyls (PBB)			i	sr
21. Asbestos fibres :				
Crocidolite	12001-28-4		i	b
Amosite	12172-73-5		i	b
Anthophyllite	77536-67-5		i	b
Actinolite	77536-66-4		i	b
Tremolite	77536-68-6		i	b
22. Nitrofen	1836-75-5	217-406-0	p	b
23. 1,2 Dibromoethane	106-93-4	203-444-5	p	b
24. 1,2 Dichloroethane	107-06-2	203-458-1	p	b
25. Pentachlorophenol and its salts and esters	87-86-5	201-778-6	i	sr
26. Ugilec 121			i	b
27. Ugilec 141	76253-60-6	278-404-3	i	sr
28. DBBT	99688-47-8		i	b
29. Ethylene oxide	75-21-8	200-849-9	p	b
30. Dinoseb, its acetate and salts	88-85-7	201-861-7	p	b
31. Binapacryl	485-31-4	207-612-9	p	b
32. Capadafol	2425-06-1	219-363-3	p	b
33. Dicofol containing < 78 %, p,p'-dicofol or > 1 g/kg of DDT and DDT related compounds	115-32-2	204-082-0	p	b

Chemical	CAS No (a)	EINECS No (b)	Use category (c)	Use limitation (d)
34. (a) Maleic hydrazide, and its salts, other than its choline, potassium and sodium salts; (b) Choline, potassium and sodium salts of maleic hydrazide containing more than 1 mg/Kg of free hydrazine expressed on the basis of the acid equivalent	123-33-1	204-619-9	p	b
35. Quintozene containing more than 1 g/Kg of hexachlorobenzene or > 10 g/Kg of pentachlorobenzene	82-68-8	201-435-0	p	b
36. 2-Naphthylamine	91-59-8	202-080-4	i	sr
37. Benzidine	92-87-5	202-199-1	i	sr
38. 4-Nitrobiphenyl	92-93-3	202-204-7	i	sr
39. 4-Aminobiphenyl	92-67-1	202-177-1	i	sr

(a) CAS = Chemical Abstracts Service.

(b) EINECS = European Inventory of Existing Commercial Chemical Substances.

(c) Use category:

p : plant protection product

i : industrial chemical

(d) Use limitation:

sr : severe restriction

b : ban

ANNEX

Annex II

The information contained in this Annex is based on the PIC Circular XIII — June 2001

1. List of chemicals subject to the international PIC procedure

The following chemicals have been introduced in the PIC procedure following control actions reported by participating countries.

Decision Guidance Documents (DGDs) have been prepared to help countries to make import decisions concerning those chemicals. Nevertheless, the DGD is not the only information taken into account by countries when they take their import decision.

Therefore, the import decision does not necessarily refer to the uses mentioned in the DGD.

For some chemicals, the PIC procedure applies to certain specific formulations only. These chemicals are denoted by the symbol (*). For further details please refer to the list of import responses in section 3.

Pesticides (including severely hazardous pesticide formulations)

2,4,5-T	CAS No 93-76-5	EC No 202-273-3
Aldrin	CAS No 309-00-2	EC No 206-215-8
Binapacryl	CAS No 485-31-4	EC No 207-612-9
Captafol	CAS No 2425-06-1	EC No 219-363-3
Chlordane	CAS No 57-74-9	EC No 200-349-0
Chlordimeform	CAS No 6164-98-3	EC No 228-200-5
Chlorobenzilate	CAS No 510-15-6	EC No 208-110-2
DDT	CAS No 50-29-3	EC No 200-024-3
Dieldrin	CAS No 60-57-1	EC No 200-484-5
Dinoseb and dinoseb salts	CAS No 88-85-7	EC No 201-861-7
EDB (1,2-dibromoethane)	CAS No 106-93-4	EC No 203-444-5
Ethylene dichloride	CAS No 107-06-2	EC No 203-458-1
Ethylene oxide	CAS No 75-21-8	EC No 200-849-9
Fluoroacetamide	CAS No 640-19-7	EC No 211-363-1
HCH (mixed isomers)	CAS No 608-73-1	EC No 210-168-9
Heptachlor	CAS No 76-44-8	EC No 200-962-3

Hexachlorobenzene	CAS No 118-74-1	EC No 204-273-9
Lindane	CAS No 58-89-9	EC No 200-401-2
Mercury compounds such as:		
— mercuric oxide	CAS No 21908-53-2	EC No 244-654-7
— mercurous chloride (calomel)	CAS No 10112-91-1	EC No 233-307-5
— other inorganic mercury compounds		
— alkyl-mercury compounds		
— alkoxy-alkyl and aryl-mercury compounds		
Methamidophos (*)	CAS No 10265-92-6	EC No 233-606-0
Methyl parathion (*)	CAS No 298-00-0	EC No 206-050-1
Monocrotophos (*)	CAS No 6923-22-4	EC No 230-042-7
Parathion (*)	CAS No 56-38-2	EC No 200-271-1
Phosphamidon (*)	CAS No 13171-21-6/23783-98-4/297-99-4	EC No 236-116-5
Pentachlorophenol	CAS No 87-86-5	EC No 201-778-6
Toxaphene	CAS No 8001-35-24	EC No 232-283-3

Industrial chemicals

Crocidolite	CAS No 12001-28-4	EC No 310-127-6
Polybrominated biphenyls (PBBs)	CAS Nos 36355-01-8, 27858-07-7, 13654-09-6	EC Nos 252-994-2, 248-696-7, 237-137-2
Polychlorinated biphenyls (PCBs)	CAS No 1336-36-3	EC No 215-648-1
Polychlorinated terphenyls (PCTs)	CAS No 61788-33-8	EC No 262-968-2
Tris(2,3 dibromopropyl)phosphate	CAS No 126-72-7	EC No 204-799-9

(*) Specific formulations only. See section 3.

ANNEX III

Information required pursuant to Article 4

Reference No

1. *Identity of the substance to be exported*

- name in nomenclature of the International Union of Pure and Applied Chemistry,
- other names (usual name, trade name, abbreviation),
- EC number and CAS number,
- CUS number and combined nomenclature code,
- main impurities of the substance, when particularly relevant.

2. *Identity of the preparation to be exported*

- trade name or designation of the preparation,
- for each substance listed in Annex I, percentage and details as specified under 1.

3. *Information on the export*

- country of destination,
- country of origin,
- expected date of first export,
- estimated amount of the chemical to be exported to the destination country in the year following the first export,
- intended use in the country of destination, if known,
- name, address and other relevant particulars of the importer or importing company.

4. *Designated national authorities*

The name, address, telephone and telex or fax numbers or e-mail of the designated authority in the European Union from which further information may be obtained.

The name, address, telephone and telex or fax numbers or e-mail of the designated authority in the importing country.

5. *Information on precautions to be taken, including category of danger and risk and safety advice*6. *Use of the chemical in the European Union*

- use category(ies) subject to control measure (ban or severe restriction),
- use category(ies) for which the chemical is not severely restricted or banned,
(Use categories, as defined in Annex I to the Regulation).

7. *Summary of regulatory restrictions and reasons for them*8. *Additional information*9. *Acknowledgement of receipt*

The above information should be provided on an export notification form as shown hereafter.

(Exporters are required to provide information on items 1, 2, 3, 5, 6 and (if any) 8.)

EUROPEAN COMMISSION

Regulation (EEC) No 2455/92

Export notification form for a banned or severely restricted chemical

(Chemical No in Annex I to the Regulation:..... var.....)

EXPORT NOTIFICATION REFERENCE No

1. IDENTITY OF THE CHEMICAL SUBSTANCE TO BE EXPORTED (1)

Name(s) of chemical:.....

Relevant impurities

EC No CAS No CUS No CN code

2. IDENTITY OF THE PREPARATION TO BE EXPORTED (1)

Name(s) of preparation:.....

Name(s) of constituent chemical(s) banned or severely restricted: (all relevant chemicals must be listed)

(i) % in preparation:..... EC No CAS No CUS No CN code

(ii) % in preparation:..... EC No CAS No CUS No CN code

3. INFORMATION ON THE EXPORT (1)

Origin Destination

Expected date of first export

Estimated amount of the chemical to be exported to the destination country in the year following the first export.....

Intended use in the country of destination, if known

Name, address and other relevant particulars of the importer or importing company

4. DESIGNATED NATIONAL AUTHORITIES

in the European Union

in the importing country

.....

.....

.....

.....

.....

.....

Representative of exporting country

.....

Signature

Official stamp

Date

(1) Please complete either item 1 or 2.

Data Sheet for a banned or severely restricted chemical

(If a preparation contains more than one chemical which is banned or severely restricted in the European Union, data sheets on the additional chemicals must be attached hereto.)

CHEMICAL NAME(S)

EC No CAS No CUS No CN Code

5. LABELLING REQUIREMENTS FOR THE CHEMICAL

Classification

Labelling

Symbols

Risk phrases

Safety phrases

LABELLING REQUIREMENTS FOR THE PREPARATION

Classification

Labelling

Symbols

Risk phrases

Safety phrases

6. USE OF THE CHEMICAL IN THE EUROPEAN UNION

Use category(ies) subject to the control measure (ban or severe restriction)

Use category(ies) for which the chemical is not severely restricted or banned

(use categories as defined in Annex I to the Regulation)

7. SUMMARY OF REGULATORY RESTRICTIONS AND REASONS FOR THEM

.....

.....

Reference to Community legislation

.....

.....

Reasons supporting the control action/reasons for banning the use in the European Union

.....

.....

8. ADDITIONAL INFORMATION

9. ACKNOWLEDGEMENT OF RECEIPT

EUROPEAN COMMISSION

Regulation (EEC) No 2455/92

Confirmation of receipt of an export notification

Please add the date and signature, and return to the following address:

.....
.....
.....
.....

Fax:

I confirm that we have received the export notification form bearing the export reference No (ERN)

.....

Signature Date

Official stamp:

Note: If the address on the export notification form is incorrect, or if the form should be sent to a different authority, please give details below:
