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ENVIRONMENT DIRECTORATE

**Joint Meeting of the Chemicals Committee and the Working Party on Chemicals,  
Pesticides and Biotechnology**

**OECD Accession Review of Costa Rica in the Field of Chemicals**

**Summary report**

This report, produced at the request of Costa Rica, is based on the Secretariat's evaluation report that was part of Costa Rica's accession review in the field of chemicals [ENV/JM/ACS(2018)2]. It was declassified by the Joint Meeting of the Chemicals Committee and the Working Party on Chemicals, Pesticides and Biotechnology through written procedure on 18 December 2019.

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# Foreword

1. The OECD Council decided to open accession discussions with Costa Rica on 9 April 2015. On 8 July 2015, the Council adopted a Roadmap for the Accession of Costa Rica to the OECD Convention (the Roadmap) setting out the terms, conditions and process for accession. The Roadmap provides that in order to allow the Council to take an informed decision on the accession of Costa Rica, Costa Rica will undergo in-depth reviews by 22 OECD technical committees, including the Chemicals Committee.
2. This Summary Report has been produced at the request of Costa Rica and is based on the Secretariat's evaluation report that was part of Costa Rica's accession review in the field of chemicals dating from 10 January 2018.
3. In accordance with paragraph 14 of Costa Rica's Roadmap, the Chemicals Committee agreed to declassify this Summary Report and publish it under the authority of the Secretary-General, in order to allow a wider audience to become acquainted with its content. Publication of this document and the analysis and recommendations contained in the Summary Report do not prejudice in any way the results of the review of Costa Rica conducted by technical committees as part of Costa Rica's process of accession to the OECD.

# Acronyms

EIA	Environmental Impact Assessment
EU	European Union
GLP	OECD Principles of Good Laboratory Practice
IHR	WHO International Health Regulations
IUCLID	International Uniform Chemical Information Database
MAD	Mutual Acceptance of Data
MEAs	Multilateral Environmental Agreements
OECD	Organisation for Economic Co-operation and Development
PCBs	Polychlorinated Biphenyls
PPP	Polluter-Pays Principle
PRTR	Pollutant Release and Transfer Register
SAICM	Strategic Approach to International Chemicals Management
SETENA	National Environmental Technical Secretariat
TRIPS	WTO Trade-Related Aspects of Intellectual Property Rights Agreement
WHO	World Health Organization
WTO	World Trade Organization

# 1. Introduction

4. The accession review of Costa Rica in the field of chemicals, conducted by the Chemicals Committee, took place in 2016-18, in line with the Roadmap for the Accession of Costa Rica to the OECD. The Chemicals Committee evaluated the willingness and ability of Costa Rica to implement any substantive OECD legal instruments within the committee's competence, and Costa Rica's policies and practices as compared to OECD best policies and practices in the field of chemicals. The Chemicals Committee evaluation covered 19 OECD legal instruments: three OECD Council Decisions, five OECD Council Decisions-Recommendations, ten OECD Council Recommendations and one Declaration in the field of chemicals.

5. The review was based on Costa Rica's February 2016 "Initial Memorandum", in which Costa Rica set out its position vis-à-vis all OECD legal instruments in force at the time. It took also into account Costa Rica's September 2016 "Brief Note" providing an overview of the institutional, legal and policy frameworks in the fields of chemicals, its May 2017 "Report on Planned Industrial Chemicals Programme" and its December 2017 "Revised Position". Other written material provided by Costa Rica, as well as the Secretariat's missions to San José, also contributed to the evaluation.

6. On 13 April 2018, the Chemicals Committee completed its review of Costa Rica, concluding that Costa Rica is willing and able to implement the OECD legal instruments in the field of chemicals and that Costa Rica's policies and practices are consistent with OECD best policies and practices.

7. This Summary Report presents the main elements of the evaluation report on chemicals. Most information on Costa Rica's policies and legislation has not been updated since December 2017.

## 2. Policy, legal and institutional frameworks on chemicals management

### 2.1. Policy framework

8. Key national policy documents on chemicals management are:

- the National Profile for the Rational Management of Chemical Substances, prepared in 2008 under the Strategic Approach to International Chemicals Management (SAICM) framework and with the assistance of the United Nations Institute for Training and Research; and
- the National Policy on Chemical Safety (Executive Decree 40148-S-MINAE-MAG-MTSS-RE-H), adopted on 1 February 2017. The objectives of the Policy are to:
  - minimize risks through the sound management of chemical substances, including articles and goods containing such substances, throughout their life cycle;
  - promote knowledge and information sharing, as well as public awareness as key decision-making elements;
  - integrate governance through a multi sectoral and multi stakeholder approach to achieve the sound management of chemical substances;
  - build institutional capacities and technical assistance regarding every aspect of the sound management of chemical substances;
  - prevent and control illicit international trafficking of chemical substances.

An action plan to support the implementation of the Policy is being developed.

9. In the context of the OECD accession process, Costa Rica prepared also the Industrial Chemicals Management Programme, the Chemical Accidents Prevention and Response Programme and the Plan for the Implementation of a PRTR System, with a goal to establish or strengthen its policy and legal framework in these areas.

10. In the period of the OECD accession review, Costa Rica actively sought advice on various aspects of chemicals management from OECD Members and Partners (e.g. Canada, Chile, Colombia, and the European Union) and made efforts to build on their experience in the development of a comprehensive chemicals management system.

## 2.2. Legal framework

11. The Constitution of Costa Rica of 1949 addresses the protection of the environment and includes the right of all persons to live in a healthy and ecologically balanced environment (Articles 46 and 50). It obliges the State to guarantee the protection of this right.

12. Costa Rica has in place framework legislations related to various aspects of chemicals management, including:

- the General Health Law of 1973 that addresses the management of toxic and dangerous substances and products;
- the Organic Environmental Law of 1995 that addresses the environment policy of Costa Rica;
- the Ministry of Labour and Social Security Organic Law of 1955 that authorises this Ministry to deal with the occupational issues;
- the Firefighters Department Law of 2002;
- the National Emergency and Risk Prevention Law of 2005.

13. Costa Rica has in place legal instruments addressing certain chemicals (e.g. chemicals covered by the Multilateral Environmental Agreements); groups of chemicals (e.g. pesticides, biocides, cosmetics; hygienic products or polychlorinated biphenyls) or individual chemicals (e.g. lead or mercury).

14. In the case of pesticides and biocides (the Executive Decree N°36630-COMEX-MEIC-S of 2011), cosmetics (the Executive Decree 35031-COMEX-S-MEIC of 2008) and hygienic products (the Executive Decree 34887-COMEX-S-MEIC of 2008), the applicable legal instruments in Costa Rica implement the relevant Central American Technical Regulations. These legal instruments cover, among others, the registration of these chemicals, their labelling and the mutual recognition of their registration in the participating Central American countries, with a goal of creating a functioning customs union.

15. In relation to industrial chemicals, the key piece of legislation is the Executive Decree 28113-S of 1999. It regulates the registration of certain chemicals (based on their hazardous properties), provision of information on them (e.g. through the safety data sheets), their classification and labelling. However, this decree in its current form does not address comprehensively the industrial chemicals produced in or imported to Costa Rica nor allows for their systematic investigation.

16. The Costa Rican authorities acknowledged this gap and consequently prepared an Industrial Chemicals Management Programme, which started being put in place as of 2018. Benefitting from the fact that the framework legislation mentioned in paragraph 9 allows adopting regulatory measures to regulate a wide scope of technical aspects i.e. in the form of executive decrees, they decided to follow this path to close the gaps encountered in relation to industrial chemicals management, including confidentiality and proprietary aspects. The Executive Decree 40705-S, which constitutes the first revision of the Executive Decree 28113-S of 1999, was published on 2 November 2017.

17. In 2017, Costa Rica progressed in strengthening its legal framework on the access to public information with the adoption of two decrees – the Executive Decree 40199-MP on the Open Data and the Executive Decree 40200-MP-MEIC-MC on the transparency and access to the public information.

## 2.3. Institutional framework

18. The main ministries that oversee the chemicals management policy in Costa Rica are:

- the Ministry of Health, responsible for chemical products in general as well as the Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and their Disposal and

Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade;

- the Ministry of the Environment and Energy, responsible for natural resources, environmental protection, pollution control and the implementation of the Stockholm Convention on Persistent Organic Pollutants; the Minamata Convention on Mercury and SAICM;
- the Ministry of Agriculture and Livestock, responsible for pesticides and the Rotterdam Convention;
- the Ministry of Labour and Social Security, responsible for the occupational safety and health;
- the Firefighters Department, responsible for civil protection, including chemical accidents.

19. Enforcement is generally performed by the respective ministries or their subsidiary bodies, like the State Sanitary Service under the Ministry of Agriculture and Livestock or the Environmental Comptroller under the Ministry of Environment and Energy.

20. The Technical Co-ordination Secretariat for the Management of Chemical Substances (a multi-stakeholder co-ordination mechanism on chemicals management) was established in 2006. It is composed of the representatives of the Ministry of Agriculture and Livestock; the Ministry of Health, the Ministry of Environment and Energy; the Ministry of External Relations and Cult; Customs; the Council of the Occupational Health, as well as representatives of NGOs, industry and academia. The functions of this body cover, inter alia, supporting the national authorities in developing and implementing policies, strategies and programmes related to chemicals management; preparation of technical and legal recommendations related to legal and regulatory proposals and dissemination of the information to the public.

21. The National Policy on Chemical Safety, referred to in paragraph 5, tasks the Ministry of the Environment and Energy (through the Technical Co-ordination Secretariat for the Management of Chemical Substances) with the overall leadership and co-ordination of actions related to the implementation of this policy.

22. A dedicated Chemicals Committee was established for the accession process to the OECD, comprised of officials from the Ministry of Health, the Ministry of Environment and Energy, the Ministry of Foreign Trade, the Ministry of Science and Technology, the Ministry of Agriculture and Livestock, the Firefighters Department and the National Nanotechnology Laboratory. This committee prepared, for instance, the proposal for Costa Rica's Industrial Chemicals Management Programme.

23. Since 2011, Costa Rica has also in place a specific co-ordination mechanism for the registration of pesticides (Single Window for Pesticide Registration Agricultural Use, Adjuvants and Related Substances, established through the Executive Decree 36549-MAG-S-MEIC-MINAET) that supports activities of the Ministry of the Environment and Energy, the Ministry of Health and the Ministry of Agriculture and Livestock. A similar mechanism is being developed for the purposes of a PRTR reporting (one-stop-shop).

24. The Environmental Administrative Tribunal, in operation since 1997, is an independent body responsible for the enforcement of environmental and natural resource-related legislation.

25. The human, technical and financial resources for chemicals management are a recurring challenge for chemicals management in Costa Rica. This challenge was already identified in 2008 in the National Profile for the Rational Management of Chemical Substances and can also be noted in the National Policy on Chemical Safety. The Industrial Chemicals Management Programme highlights in particular the needs in relation to the capacity building and strengthening of the institutions involved in chemicals management

## 3. Implementation of OECD legal instruments

### 3.1. Mutual Acceptance of Data and the Good Laboratory Practice instruments

26. This group of legal instruments includes:

- the Decision of the Council concerning the Mutual Acceptance of Data in the Assessment of Chemicals [[OECD/LEGAL/0194](#)] – this instrument contains two distinct parts, one which is a legally-binding Decision, and one which is a Recommendation:
  - Part I requires that data generated in an Adherent country in accordance with the OECD Test Guidelines and the OECD Principles of Good Laboratory Practice (GLP) shall be accepted in other Adherents for purposes of assessment and other uses relating to the protection of human health and the environment;
  - Part II recommends that Adherent countries, in the testing of chemicals, apply the OECD Test Guidelines and the OECD Principles of GLP.
- the Decision-Recommendation of the Council on Compliance with Principles of Good Laboratory Practice [[OECD/LEGAL/0252](#)] – this instrument requires that, in Adherent countries in which testing is being carried out pursuant to OECD Principles of GLP, countries shall establish procedures for monitoring of compliance with GLP. It also recommends that in developing and implementing national procedures for monitoring compliance with GLP Principles, Adherent countries apply the guidance set out in Annexes I and II to this Council Decision-Recommendation.

27. In the accession process, Costa Rica confirmed that it will accept non-clinical safety data generated according to the OECD Test Guidelines and the OECD Principles of GLP from OECD Members and non-member full Adherents to the legal instruments related to the Mutual Acceptance of Data (MAD).

28. Implementation of Costa Rica's Industrial Chemicals Management Programme should allow it to assess the safety of industrial chemicals. However, the country has already a number of decrees in place for the registration of certain chemical products, like hazardous products, cosmetics, hygiene products, household cleaners, food additives and pesticides. None of the provisions in this regulatory framework prevents Costa Rica from accepting data generated by using the OECD Test Guidelines and following the OECD GLP. Some of the existing legal instruments, for instance related to pesticides, like the Executive Decree 40059-MAG-MINAE-S of 2016), require the use of the OECD Test Guidelines.

29. Costa Rica is contemplating the establishment of a GLP Compliance Monitoring Programme under its Industrial Chemicals Management Programme.

### 3.2. General Management of Chemicals instruments

30. This group of legal instruments related to the general management of new and existing chemicals includes:

- the Recommendation of the Council establishing Guidelines in Respect of Procedure and Requirements for Anticipating the Effects of Chemicals on Man and in the Environment [[OECD/LEGAL/0154](#)]. This instrument recommends that Adherents establish new procedures or extend existing procedures for anticipating the effects of chemicals taking into account the guidelines contained in the Annexes to this instrument;
- the Decision of the Council concerning the Minimum Pre-marketing Set of Data in the Assessment of Chemicals [[OECD/LEGAL/0199](#)]. This instrument requires that sufficient information should be available, in Adherent countries, on the properties of new chemicals before they are marketed. It recommends that the minimum pre-marketing set of data listed in the Annex to this instrument can serve as a basis for a meaningful first assessment of the hazards of a chemical to health and the environment.
- the Decision-Recommendation of the Council on the Systematic Investigation of Existing Chemicals [[OECD/LEGAL/0232](#)]. This instrument requires that Adherents establish or strengthen national programmes to systematically investigate existing chemicals in order to identify those that need to be managed. Further, this instrument recommends that Adherents, when investigating existing chemicals and reviewing information on such chemicals, take into account the technical guidance provided in the Annexes to this instrument.
- the Decision-Recommendation of the Council on the Co-operative Investigation and Risk Reduction of Chemicals [[OECD/LEGAL/0441](#)]. This instrument is composed of two parts:
  - the Co-operative Investigation and Assessment Part which focuses on the development of harmonised hazard and exposure assessment methodologies for chemicals, collaborative assessment, information dissemination and sharing the burden of information generation;
  - the Risk Prevention or Reduction Part which focuses on risk prevention and reduction, including the establishment and strengthening of national risk reduction programmes, the implementation of the Globally Harmonised System of Classification and Labelling, the undertaking of concerted activities to prevent or reduce the risks of chemicals taking into account a life-cycle perspective and the sharing of best practices regarding risk management approaches including socioeconomic assessment.

31. In relation to [OECD/LEGAL/0154](#), there is a regulatory framework in place in Costa Rica for some types of chemicals and certain information on them is required from the industry. However, this framework is used only to a very limited extent for anticipating the effects of chemicals. To address this gap, Costa Rica prepared an Industrial Chemicals Management Programme, which started being put in place as of 2018. The National Policy on Chemical Safety constitutes a policy framework for the Programme, while the current regulatory framework and the implementing measures will be modified or adopted, as appropriate, to address the provisions of the Programme. Moreover, Costa Rica's institutional, technical and human capacity to perform the management of chemicals will be strengthened under the implementation of the Programme. The Ministry of Health and the Ministry of Environment and Energy are the main authorities responsible for the implementation of the Programme. The Programme addresses the financial, human and technical needs required for its implementation and identifies the source of the required resources (i.e. using the general budget of the authorities or providing additional funds, where needed). Of particular importance for the provisions of [OECD/LEGAL/0154](#) is that the implementation of the Programme should enable Costa Rica to collect and generate information to perform initial assessments of chemicals.

32. The scope of the Programme covers both new and existing chemicals. Costa Rica committed to address under the planned assessments of chemicals both human and environmental hazards of chemicals; to modify the regulatory framework to be able to request additional data on chemicals from the industry (e.g. data on quantities, uses or toxicological studies), as well as to develop criteria for the prioritization activities. Costa Rica also committed to strengthening its risk management measures under the Programme. In line with the administrative requirements of [OECD/LEGAL/0154](#), the Programme addresses the responsibility of industry for generating information on chemicals and providing it to the authorities, as well as the clear division of tasks between the various public authorities. The implementation of the Programme is expected to strengthen the dissemination of information on chemicals in the supply chain and to the public. In the Programme, Costa Rica also included actions to strengthen surveillance and monitoring activities related to planned assessments of chemicals. The main regulatory instrument for addressing industrial chemicals, the Executive Decree 28113-S of 1999, is under revision and the legal instrument implementing GHS labelling in the country was adopted in June 2017. Costa Rica has undertaken communication activities with various stakeholders in relation to the Programme.

33. In relation to [OECD/LEGAL/0199](#), Costa Rica has legislation in place in the field of domestic pesticides and hygienic products (the General Health Law of 1973, the Executive Decree 30043-S of 2001, the Executive Decree 36630-COMEX-MEIC-S of 2011 implementing the Central American Technical Regulation RTCA 65.03.44:07 and the Executive Decree 34887-COMEX-S-MEIC of 2008 implementing the Central American Technical Regulation RTCA 71.03.37:07). In line with the minimum pre-marketing set of data listed in the Annex to Decision [OECD/LEGAL/0199](#), Costa Rica requires that certain data on the properties of such chemicals are provided prior to their placing on the market. Moreover, information consistent with the one recommended in the Annex to Decision [OECD/LEGAL/0199](#) is requested for some hazardous chemicals prior to their marketing. However, the regulatory framework mentioned above does not apply comprehensively to industrial chemicals. Therefore, in order to be in line with the provisions of [OECD/LEGAL/0199](#), Costa Rica committed to include in the Industrial Chemicals Management Programme all the minimum pre-marketing set of data contained in the Annex to [OECD/LEGAL/0199](#) to ensure that this information is available for all new chemicals before they are marketed. Costa Rica includes relevant activities, in particular the modification of the Executive Decree 28113-S of 1999, in the action plan for the Programme.

34. In relation to [OECD/LEGAL/0232](#), Costa Rica currently has no national programme that allows for a systematic investigation of existing chemicals. To address this gap, actions are proposed under the comprehensive Industrial Chemicals Management Programme. The Programme will apply to all industrial chemicals on the market that will need to be registered. Companies will provide information gradually (e.g. as of entry into force of the modified regulatory framework for those chemicals currently not registered by the Ministry of Health and at the time of renewal of the registration for those already registered); periodically and the amount of information requested will vary depending on the hazard classification of the chemical and Costa Rica's prioritization activities. Costa Rica intends to use the International Uniform Chemical Information Database (IUCLID) to gather information on chemicals and integrate available information in the Integrated Information Management System for its further use and dissemination. Moreover, for more efficiency, in its Programme, Costa Rica plans to use publically available information on chemicals produced by other countries and organisations. This approach was considered reasonable, considering the relatively small size of the country, the profile of its chemical sector, and the available resources at the disposal of public authorities.

35. Upon the implementation of the Programme, Costa Rica should have the means to collect, estimate and generate information needed for a systematic investigation of chemicals. The Programme includes several elements that should enable Costa Rica to perform a meaningful investigation of chemicals. In particular, it builds on selection criteria and a priority-setting process, as described in the Annex I to [OECD/LEGAL/0232](#). An inter-institutional body will be established to support the performance of prioritisation activities. Moreover, the Programme already includes the initial criteria for prioritisation as

well as an initial list of prioritized chemicals (and the manual for the prioritisation is under preparation). The Programme also contains actions that should allow for performance measurement of the Programme, e.g. the use of the information from the poison centres or from the environmental monitoring.

36. Regarding the Co-operative Investigation and Assessment Part of [OECD/LEGAL/0441](#), Costa Rica expressed its willingness to co-operate with the OECD Members in efforts aiming at the development of assessment methodologies and criteria to determine which chemicals are suitable candidates for risk reduction activities, as well as in performing the assessments of chemicals. Several activities dedicated to the strengthening of national resources and capacities of the entities involved in the assessing the health and environmental impacts of chemicals are included in Costa Rica's Industrial Chemicals Management Programme.

37. Regarding Risk Prevention or Reduction Part of [OECD/LEGAL/0441](#), the existing Costa Rican regulatory framework contains measures that aim to reduce the risks of selected chemicals to the environment and/or the health of the general public or workers (e.g. in relation to lead, mercury, asbestos or inhalable products). Moreover, the Executive Decree 39321-MTSS of 2015 establishes the National Policy of Occupational Safety. The Occupational Health Council under the Ministry of Labour and Social Security is responsible for the co-ordination of state policy in this area, for instance by preparing regulations dealing with safety at work. In 2017, the Costa Rican Department of Social Security and the National Poison Centre initiated a one-year awareness raising campaign on the prevention of intoxications aimed at the public, with a special focus on children. Reduction of risks from chemicals is one of the objectives of the National Policy on Chemical Safety and the development of the national risk reduction programme within this Policy is planned under the Industrial Chemicals Management Programme. Costa Rica is advancing in the implementation of the Globally Harmonized System of Classification and Labelling of Chemicals (GHS) that will be the basis for the hazard assessment of chemicals. The Executive Decree 40457-S, adopted on 29 June 2017, establishes the requirement to label the chemical products in line with the GHS. The Executive Decree 40705-S, adopted on 2 November 2017, implements the GHS classification into the Costa Rican regulatory framework.

38. To address gaps mentioned in this section, Costa Rica prepared an action plan and requested a timeframe for implementation of the relevant legal instruments until the end of 2023.

### 3.3. Confidential and Non-confidential Data on Chemicals and Proprietary Rights instruments

39. This group of legal instruments includes:

- the Recommendation of the Council concerning Protection of Proprietary Rights to Data submitted in Notifications of New Chemicals [[OECD/LEGAL/0203](#)]. This instrument recommends that authorities in Adherent countries who receive, from companies, notifications of new chemicals (which include proprietary test data) require each notifier to identify the laboratories which produced such data, or provide certification of the right to use data. It also recommends that such authorities not accept from a notifier, data for which the notifier cannot provide a certification of the right of use, if the laboratories are not owned or otherwise affiliated with the notifier;
- the Recommendation of the Council concerning the Exchange of Confidential Data on Chemicals [[OECD/LEGAL/0204](#)]. This instrument recommends that Adherent countries take steps towards creating conditions, which will allow the exchange of confidential data among countries. Principles by which it can be done are provided in the Appendix to this instrument;
- the Recommendation of the Council concerning the OECD List of Non-Confidential Data on Chemicals [[OECD/LEGAL/0205](#)]. This instrument recommends that Adherent countries, for purposes of assessment and for other uses relating to protection of man and the environment,

facilitate the disclosure and exchange of data belonging to the OECD List of Non-Confidential Data which is set out in the Appendix to this instrument.

40. In relation to [OECD/LEGAL/0203](#), Costa Rica has in place legislation for protecting proprietary data for certain new chemicals. The Law on the Undisclosed Information of 2000 implements in Costa Rica Section 7 of the WTO Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement. It applies in general to confidential information regarding trade and industrial secrets but also contains explicit provisions addressing pharmaceuticals and pesticides. In line with this Law, in the case of submission of undisclosed test or other data related to the marketing of pharmaceutical or agricultural chemical products that utilize new chemical entities, such data are protected against unfair commercial use. In line with the Executive Decree 34927-J-COMEX-S-MAG of 2008, a registrant of a new pharmaceutical or pesticide is obliged to accompany data with a sworn statement that he/she is in legitimate possession of data or that data were obtained in a legitimate way from a third party. This statement is essential to proceed with the registration of such chemicals in Costa Rica and addresses key elements of [OECD/LEGAL/0203](#).

41. However, the existing regulatory framework does not apply comprehensively to industrial chemicals and currently the identification of the laboratory that produced data on new chemicals is required only in the case of pesticides. Therefore, as part of the implementation of the Industrial Chemicals Management Programme, Costa Rica committed to modifying its regulatory framework on industrial chemicals to address the provisions of [OECD/LEGAL/0203](#) in a comprehensive manner and requested a timeframe do so until the end of 2020.

42. In relation to [OECD/LEGAL/0204](#), Costa Rica has in place legislation for protecting confidential information. In line with the Costa Rican Law on Undisclosed Information of 2000, it is allowed to disclose data where necessary to protect the public (understood to include both human health and environment). It requires that steps be taken to ensure that information is protected against unfair commercial use. The existing regulatory framework allows the authorities in Costa Rica to sign bilateral agreements in this field with authorities from other countries. Therefore, the exchange of confidential information on a case-by-case basis can take place if the conditions of the Law on the Undisclosed Information of 2000 are met. The General Law 6227 of 1978 on public administration obliges public authorities to act only within the grounds of the existing legal framework as well as to substantiate all their decisions. Costa Rica is a party to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the Stockholm Convention on Persistent Organic Pollutants which contain provisions that subject the exchange of confidential information on chemicals to its protection on mutually agreed terms. To better reflect the provisions of [OECD/LEGAL/0204](#) and to be able to apply it more comprehensively to industrial chemicals, Costa Rica has proposed further steps to facilitate the exchange of confidential data.

43. In relation to [OECD/LEGAL/0205](#), although Costa Rica currently has no specific law on the access to information, its Constitution of 1949 guarantees free access to administrative departments for purposes of information on matters of public interest. This constitutional right has been reflected in the jurisprudence of the Costa Rican Supreme Court of Justice. Costa Rica stated that the term “matter of public interest” covers all the information belonging to the OECD List of Non-Confidential Data. In 2017, Costa Rica adopted two decrees (the Executive Decree 40199-MP and the Executive Decree 40200-MP-MEIC-MC) that strengthen the regulatory framework in the area of access to public information and Open Data, as well as facilitating access to such information. A draft Law on the access to public information has also been prepared. Finally, the Executive Decree 40059-MAG-MINAE-S of 2016, regulating the registration of pesticides, clarifies that any data claimed to be confidential under the Costa Rican regulatory framework cease to be considered as such if they have been legally put into the public domain anywhere in the world. The current regulatory framework in Costa Rica requires the provision of information on certain chemicals (e.g. pesticides, hazardous chemicals or hygienic products), in line with the OECD List of Non-Confidential Data. Costa Rica indicates that no provision prevents this information from being exchanged upon request. In the action plan for the Industrial Chemicals Management Programme, Costa Rica included further

actions to facilitate and strengthen the exchange and dissemination of non-confidential data on chemicals to the public through the implementation of the Integrated Information Management System for chemicals.

### 3.4. Chemical Accident Prevention, Preparedness and Response instruments

44. This group of legal instruments includes:

- the Decision of the Council on the Exchange of Information concerning Accidents Capable of Causing Transfrontier Damage [[OECD/LEGAL/0240](#)]. Under this instrument, Adherents shall exchange information and consult one another with the objective of preventing accidents capable of causing transfrontier damage;
- the Decision-Recommendation of the Council concerning Provision of Information to the Public and Public Participation in Decision-making Processes related to the Prevention of, and Response to, Accidents Involving Hazardous Substances [[OECD/LEGAL/0239](#)]. Under this instrument, Adherents shall ensure that the potentially affected public is:
  - provided with specific information on the appropriate behaviour and safety measures they should adopt in the event of an accident,
  - informed of the nature, extent and potential off-site effects on human health or the environment, and
  - provided with opportunities to comment prior to decisions being made by public authorities concerning siting and licensing of hazardous installations;
- the Recommendation of the Council concerning Chemical Accident Prevention, Preparedness and Response [[OECD/LEGAL/0319](#)]. Under this instrument, Adherents are recommended to establish or strengthen national programmes for the prevention of, preparedness for, and response to accidents involving hazardous substances and to take into account the OECD Guiding Principles for Chemical Accident Prevention, Preparedness and Response and the OECD Guidance on Safety Performance Indicators;
- the Recommendation of the Council concerning the Application of Polluter-Pays Principle to Accidental Pollution [[OECD/LEGAL/0251](#)].<sup>1</sup> This legal instrument recommends that Adherents apply the Polluter-Pays Principle (PPP) in the case of accidental pollution at hazardous installations. This implies that the costs of reasonable measures to prevent and control the accidental pollution should be borne by the operators of the hazardous facilities or by those who are at the origin of the accident.

45. While Costa Rica has no borders with OECD Member countries, it is committed to developing and implementing mechanisms to encourage information exchange related to the prevention of accidents capable of causing trans-frontier damage and reducing damage should an accident occur, in line with the provisions of [OECD/LEGAL/0240](#). Under its Chemical Accidents Prevention and Response Programme, it committed to establishing an adequate regulatory framework (or modifying the existing one), securing resources and developing and implementing mechanisms for information exchange. An executive decree on the international notification procedure on the impact of transboundary environmental impacts related to pollution in the development of works or projects entered into force in 2017. This decree established a mechanism for provision of information and for consultations with potentially affected countries and identified the National Environmental Technical Secretariat (SETENA) as the main competent authority in Costa Rica. Under the WHO International Health Regulations (IHR), Costa Rica established a National

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<sup>1</sup> The accession review of this instrument was carried out by both the OECD Chemical Committee and the Environment Policy Committee.

Focal Point located within the Ministry of Health. This framework allows reporting to WHO on events that may constitute a public health emergency of international concern (IHR apply to chemical events).

46. In relation to [OECD/LEGAL/0239](#), the Executive Decree 31849-MINAE-S-MOPT-MAG-MEIC of 2004 that regulates environmental impact assessment (EIA) in Costa Rica has provisions that require, in the case of all projects having a potentially high environmental impact (including the installations relevant for the chemical industry), the submission of environmental impact studies to the public authorities. The environmental impact studies contain information that is relevant to [OECD/LEGAL/0239](#). For instance, they have to include the evaluation of environmental risks and contingency plans. The information about the availability of the environmental impact studies for public consultation is published in a national newspaper and all documents produced as part of the EIA process are open to the public. Authorities are accordingly obliged to undertake further measures to facilitate public access to information on environmental impact studies.

47. In line with the Executive Decree 39472 S of 2016, a sanitary permit holder is required to implement an emergency plan within four months of receipt of the permit. The provision of information and communication to the public and establishments in the vicinity of the installation are currently only recommended to be taken into account in the elaboration of the plan, but this aspect is to be strengthened under the proposed Chemical Accidents Prevention and Response Programme. In principle, non-confidential information relevant to [OECD/LEGAL/0239](#), related to the operation of the facilities requiring a sanitary permit, could also be requested by the public directly from the public authorities, if it was in their possession. However, at the moment, the implementation of emergency plans is verified during inspection only and the regulatory framework does not explicitly request operators to provide this information to the authorities. This is an area where the improvements were proposed by Costa Rica under the planned Programme.

48. In the case of an accident, firefighters are empowered by law to ask for any needed collaboration from the information media and this tool can be used to inform a potentially affected population. Moreover, a system is in place for communicating the alerts directly to all mobile phones in use on Costa Rican territory. The Firefighters Department has also developed an application for mobile phones that provides instant information on all emergencies in Costa Rica, including accidents related to dangerous chemicals. This application allows for further developments to provide fine-tuned advice to the public on how to behave in case of a chemical accident.

49. The right to participate in environmental proceedings is guaranteed by the Costa Rican Constitution of 1949 and is reflected in the jurisprudence of the Costa Rican Supreme Court of Justice. This right obliges the state to facilitate public access to environmental proceedings and allow active participation. This right is reflected for instance in the Executive Decree 31849-MINAE-S-MOPT-MAG-MEIC of 2004 which regulates the procedures for the EIA. This decree includes an interactive participatory procedure. The public can request to be a party to the EIA procedure (and be notified of every step) and to make comments. It also establishes that any observation made by the public should be taken into account in the respective administrative procedure. Moreover, the Executive Decree 31793-MP that regulates the National Plan for the Risk Prevention and Response to Emergencies includes provisions for the participation of representatives of non-governmental organisations in the regional and municipal Emergency Committees.

50. The current regulatory framework in Costa Rica addresses several elements of [OECD/LEGAL/0239](#), for instance the provision of information to the public upon request; the responsibility of industry and public authorities concerning prevention of, and response to, accidents; as well as giving the public the opportunity to participate in the licensing process. However, there is room for significant improvement. Therefore, Costa Rica requested a timeframe until the end of 2022 for implementation of [OECD/LEGAL/0239](#) and described actions to facilitate the public access to information both with and without request, e.g. by requesting the provision of further information on installations dealing with

hazardous chemicals and by incorporating the available information into the publically accessible Integrated Information Management System for chemicals.

51. In relation to [OECD/LEGAL/0319](#), Costa Rica already addresses certain aspects of this legal instrument, as it has a legal framework to reduce the risk of and response to emergency situations. It is established, in particular, by the National Emergency and Risk Prevention Law of 2005 and completed by the implementing regulations. This framework applies to all kinds of risks, both of natural and human origin, and therefore is applicable to accidents involving hazardous substances. This law also establishes the National Commission for Risk Prevention and Emergency Response as the leading national authority in this area. The overall objective of the Costa Rican framework, to establish an effective system that will guarantee the reduction of risk related to emergencies as well as timely, co-ordinated and effective management of the emergency situations, is covering chemical accidents in its scope. Nevertheless, under the planned Chemical Accidents Prevention and Response Programme, Costa Rica proposes that this overall objective be fine-tuned to focus on installations dealing with hazardous chemicals.

52. When it comes to on-site emergency plans, the Executive Decree 39502-MP of 2015 provides standardised requirements and content of an emergency plan in the workplace. This decree is expected to be modified to better describe the division of tasks between industry and authorities in the area of chemical accidents. In line with the Executive Decree 39472 S of 2016, such an emergency plan is required from operators of facilities that require a sanitary permit.

53. Currently, monitoring of the safety of hazardous installations in the case of industrial chemicals is the responsibility of the Ministry of Health. In line with the General Health Law of 1973, this institution is in charge of all matters relevant to hazardous chemicals. However, in line with the Firefighters Department Law of 2002 and the Executive Decree 37615-MP of 2013, firefighters are in charge of the co-ordination of the activities of all stakeholders in the case of hazardous chemicals incidents. The Costa Rican Firefighters Department has specifically equipped units to deal with hazardous materials. Firefighters use the Emergency Response Guidebook, developed by authorities from three OECD Member countries (Canada, Mexico and the USA, in co-operation with Argentina) which reflects the best practice in these countries. In this respect, the planned strengthening of the role of the Firefighters Department in the inspection of preventive measures applied in major-risk installations under the Chemical Accidents Prevention and Response Programme should be considered as positive (currently they have such role in the area of fire prevention).

54. The Firefighters Department has initiated a country-wide project to establish a database of existing buildings and installations in order to better assess potential risks. The Costa Rican Firefighters Department also collaborates with its counterparts in Central America<sup>2</sup> in the framework of the Central American Isthmus Confederation of Firefighters where a common Manual of Essential Competencies for Central American Firefighters was published in 2017 and contains a dedicated chapter on incidents with hazardous substances.

55. Nevertheless, currently Costa Rica does not have a specific regulatory framework that would allow it to comprehensively address the prevention of, preparedness for, and response to accidents involving hazardous substances, in particular in the case of major-risk installations. To address this gap, Costa Rica requested a timeframe until the end of 2022 for implementation of [OECD/LEGAL/0319](#) and committed to undertake several actions. In particular, Costa Rica prepared a Chemical Accidents Prevention and Response Programme. This Programme covers (apart from actions indicated earlier) the strengthening of control frameworks (for instance, identification of major-risk installations; modification or adoption of the regulatory framework to require additional information to be provided on these installations, in particular the safety reports); improved division of tasks between industry and authorities, enhanced inspections of major-risk installations; accident documentation, reporting and investigation, and the adoption of safety

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<sup>2</sup> From El Salvador, Guatemala, Honduras, Nicaragua and Panama.

performance indicators. Costa Rica also confirmed that Annex III of [OECD/LEGAL/0319](#) would be used to define the list of hazardous substances.

56. The implementation of the Programme includes the reactivation of the inter-institutional Technological Emergencies Technical Advisory Committee under the National Commission for Risk Prevention and Emergency Response, involving governmental bodies as well as industry and academia. Taking into account their respective responsibilities, the Ministry of Health, the Firefighters Department, the Ministry of Environment and Energy and the National Commission for Risk Prevention and Emergency Response will be the key authorities for the implementation of the Programme.

57. Costa Rica confirms that the Programme was developed building on the OECD legal instruments on chemical accidents and the OECD Guiding Principles for Chemical Accident Prevention, Preparedness and Response, as well as the regulatory framework in the European Union and guidelines of the United Nations Environment Programme. Costa Rica commits to sharing information and experience through the Major Accident Reporting System scheme and to disseminate and promote the use of the OECD Guiding Principles for Chemical Accident Prevention, Preparedness and Response and the OECD Guidance on Safety Performance Indicators.

58. The Programme should enable Costa Rica to establish a system for the prevention of, preparedness for, and response to accidents involving hazardous substances comparable to those of OECD Members, as well as to optimize the use of available resources.

59. The application of the PPP criteria, described in the appendix to [OECD/LEGAL/0251](#), is reflected in Costa Rica in the General Health Law of 1973 and the Organic Environmental Law of 1995 that provide the main legal framework for the operators of hazardous facilities to be charged with bearing the costs of preventing and controlling accidental pollution. The existing system also prevents, in general, the government from assuming those costs by means of subsidies or tax advantages.

60. The General Health Law of 1973 prohibits any activity that leads to the deterioration of the state of the environment. The Executive Decree 39472-S of 2016 regulates the conditions to be met by the operators of the facilities that require a sanitary permit (covering a broad category of installations classified as presenting high, medium and low risk to human health and the environment), for instance by having an emergency plan and occupational safety programme in place.

61. The Organic Environmental Law of 1995 establishes a strict liability regime by stating that whoever pollutes the environment or causes it any harm is held liable. It applies to both action and negligence. This law, in consistency with [OECD/LEGAL/0251](#), sets up a list of administrative and legal sanctions applicable in case of pollution, as well as demands compensation for environmental damage. For instance, SETENA is tasked under the EIA with establishing bond guarantees for fulfilling the environmental obligations by the operators. Such bonds have to be deposited and could be used in case of accidental pollution. The costs borne by the Firefighters Department in case of an emergency, in line with the Firefighters Department Law of 2002, have to be recovered from the caused the emergency.

62. In line with [OECD/LEGAL/0251](#), Costa Rica establishes fees for the evaluation and services related to environmental impact assessments, sanitary permits and other environmental control instruments required under the Costa Rican regulatory framework. For instance, in the case of contaminated sites, costs related to remediation plans, monitoring reports and taking control samples are borne by the operators, in line with the Executive Decree 37757-S of 2013.

63. Costa Rica has a number of institutions tasked with enforcing liability and recovery of costs related to damage caused by accidental pollution. In particular, the Administrative Environmental Tribunal, a decentralised body of the Ministry of the Environment and Energy, is responsible for establishing compensation related to accidental pollution. The Tribunal has dealt with cases of accidental pollution related to hazardous substances.

### 3.5. Pollutant Release and Transfer Registers (PRTRs) instrument

64. The Recommendation of the Council on Pollutant Release and Transfer Registers (PRTRs) [[OECD/LEGAL/0440](#)], recommends that Adhering countries take steps to establish, implement, evaluate and revise publicly available pollutant release and transfer register systems.

65. The Costa Rican legal framework includes the fundamental right of every person to live in a healthy and environmentally balanced environment; empowers public authorities to address emissions and discharges through technical regulations as well as to adopt measures to prevent or correct environmental pollution. This supports the implementation of a PRTR system in Costa Rica. Costa Rica took initial steps to establish a PRTR system in 2011-2012, under a regional project focusing on the design of a regional PRTR system. It included, inter alia, performing a pilot project on a PRTR reporting with the participation of 10 Costa Rican companies.

66. Costa Rica has a regulatory framework that requires industry to report certain air emissions (e.g. the Executive Decree 36651-S-MINAET-MTSS of 2012 on emissions from boilers and furnaces or the Executive Decree 40557-S of 2017 on the emissions from cement kilns) and releases to water (e.g. the Executive Decree 33601-MINAE-S of 2006 on wastewater discharges). Moreover, the authorities are undertaking activities to implement electronic reporting that should facilitate both the collection of data as well as their use and dissemination, which therefore is relevant for a future PRTR system. For instance, under the Integrated Waste Management Law of 2010, the National Waste Handling Information System was set up and regulated in 2019. It will incorporate the Hazardous Waste Information System set up in 2015.

67. Nevertheless, Costa Rica's current system does not allow for integrated reporting; as well as the compilation and appropriate use of the information required under Costa Rican regulatory framework. Therefore, Costa Rica requested a timeframe until the end of 2023 for implementation of [OECD/LEGAL/0440](#) and prepared a Plan for the Implementation of a PRTR System.

68. The objectives of this Plan, in line with [OECD/LEGAL/0440](#), include addressing risks to humans and the environment; integrated multi-media reporting of releases and transfers of pollutants; defining the reporting sources and making data available to the public. The activities proposed cover both the system's development and its implementation phases. Costa Rica indicates that a new decree is needed to define the obligations of public authorities and industry and to avoid duplicative reporting. The PRTR system is expected to initially cover pollutants currently reported from point sources, thereby allowing for integration with the existing reporting systems and reduction of costs for public and private stakeholders. The scope of the PRTR system is to be expanded gradually to cover, for instance, additional substances or non-point sources. The information is to be reported annually and the system should allow for data verification as well as identifying geographical distribution of releases and transfers. The system should have the flexibility to be altered in response to changing needs and the PRTR data will be made available to the public.

69. The Plan for the Implementation of a PRTR system clarifies public administration responsibilities in relation to the development and implementation of the PRTR system, with the Ministry of Health and the Ministry of the Environment and Energy as the leading authorities. An institutional commission composed of both authorities was established in 2017. In the Plan, Costa Rica addresses the human, technical and financial needs required for the implementation of the PRTR and identifies the source of required resources. The PRTR Implementation Plan was developed by the authorities and put to stakeholders' consultations in 2017. The capacity building activities of PRTRs were undertaken within a project under a trilateral co-operation between Costa Rica, Chile and Spain entitled "Capacity building activities for the implementation of PRTR in Costa Rica".

70. Costa Rica confirmed that it would take [OECD/LEGAL/0440](#) and OECD guidance documents on PRTRs into account in the implementation of its PRTRs system. The future PRTR should support the evaluation of the progress of environmental policies in Costa Rica, for instance the Costa Rican Industrial

Chemicals Management Programme, and should allow the country to better collaborate and share information with other countries.

71. Costa Rica participated in the preparation of the Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean, within the framework of the Economic Commission for Latin America and the Caribbean. This agreement was adopted at Escazú, Costa Rica, on 4 March 2018 (Costa Rica signed it on 27 September 2018) and includes a provision on the implementation of a PRTR system by its future parties.

### 3.6. Specific Chemicals instruments

72. This group of legal instruments includes:

- the Recommendation of the Council on Measures to Reduce all Man-made Emissions of Mercury to the Environment [[OECD/LEGAL/0111](#)]. This instrument recommends that Adhering countries adopt measures to reduce all man-made emissions of mercury to the environment to the lowest possible levels. Particular attention is to be paid to the elimination of alkyl-mercury compounds from all uses that allow this material to reach the environment in any way, and the maximum possible reduction of mercury in discharges from all industrial plants using or manufacturing products containing mercury chemicals. In addition, it recommends that Adhering countries take actions to eliminate alkyl-mercury compounds in agriculture, eliminate mercury compounds from use in the pulp and paper industry and to achieve the maximum possible reduction in the discharges of mercury from mercury-cell chlor-alkali plants;
- the Recommendation of the Council concerning Information Exchange related to Export of Banned or Severely Restricted Chemicals [[OECD/LEGAL/0210](#)]. This instrument recommends that if a chemical is banned or severely restricted in an Adhering country, and that chemical is exported, information should be provided from that country to the importing country to enable the latter to make timely and informed decisions concerning that chemical. When exchanging such information, countries should take into account the Guiding Principles which are set out in the Appendix to this instrument;
- the Decision-Recommendation of the Council on Further Measures for the Protection of the Environment by Control of Polychlorinated Biphenyls [[OECD/LEGAL/0230](#)]. This instrument aims to ensure the cessation among Adherents, except in a few cases, of the manufacture, import, export and sale of new uses of Polychlorinated Biphenyls (PCBs), products, articles or equipment containing PCBs, and equipment which specifically requires the use of PCBs. Adherents shall ensure that appropriate controls are applied to existing uses of PCBs, as well as to any associated storage and transport, in order to prevent the release of PCBs into the environment or fires involving PCBs. This instrument also addresses existing products, articles or equipment contaminated by PCBs, as well as the disposal of PCBs and other wastes containing PCBs.
- the Recommendation of the Council on the Safety Testing and Assessment of Manufactured Nanomaterials [[OECD/LEGAL/0400](#)]. This instrument recommends that Adherents apply the existing international and national chemical regulatory frameworks, adapted to take into account the specific properties of manufactured nanomaterials, when managing risks of manufactured nanomaterials. For this purpose, Adherents should use the tools in the documents listed in the Annex to this instrument and, when testing manufactured nanomaterials, apply the OECD Test Guidelines, adapted as appropriate. In addition, Adherents should apprise the Chemicals Committee on technical issues related to the safety testing and assessment of nanomaterials and make the safety data related to nanomaterials available to the public.
- the Declaration on Risk Reduction for Lead [[OECD/LEGAL/0285](#)]. In this instrument, governments of Adhering countries declare, among other things, that they will develop, continue or strengthen,

as appropriate, national and co-operative efforts considered necessary to reduce risks from exposure to lead while giving highest priority to actions which address the risk of exposure from food and beverages, water, air, occupational exposure and other potential pathways in accordance with Annex I of this instrument.

73. In relation to [OECD/LEGAL/0111](#), several legal instruments in Costa Rica aim to ensure the reduction of man-made emissions of mercury to the environment. For instance, the Executive Decree 27769-MAG-S of 1998 prohibits the registration, production, use, export and import of mercury containing products in agriculture. A moratorium on gold mining (using mercury) is in place in the country since 2010 (the Executive Decree 35982-MINAET) and the Law 8904 of 2010 on declaring Costa Rica free of open pit metal mining established an 8-year-period to eliminate the use of mercury in metal mining. Costa Rica regulates the emissions and discharges from waste co-incineration facilities (the Executive Decree 39136-S-MINAE of 2015); cement kilns (the Executive Decree 40557-S of 2017) and glass kilns (the Executive Decree 38237-S of 2014). The use of mercury in paints is restricted (the Executive Decree 24334-S of 1994). Mercury, its compounds and mercury-containing products are addressed in the Executive Decree 37788-S-MINAE of 2013 and the Executive Decree 27001-MINAE of 1998 that consider these products as hazardous waste. The level of mercury is monitored in drinking water (the Executive Decree 38924-S of 2015) and wastewater (the Executive Decree 33601-S-MINAE of 2006). Exceeding the established threshold values of mercury in soil may trigger monitoring and/or decontamination activities (the Executive Decree 37757-S of 2013). Costa Rica does not have, and does not intend to have, coal powered power plants. Costa Rica neither manufactures products containing mercury nor uses mercury in any production processes (i.e. there is no paper industry nor chlor-alkali plant).

74. Costa Rica is a Party to the Minamata Convention on Mercury as of 19 January 2017. This Convention requires actions to reduce mercury air emissions, the use of mercury in products and industrial processes, and to address the trade and supply of mercury. Ratification of this Convention and implementation of identified actions related to its implementation, e.g. on the use of mercury in mercury added products; artisanal small-scale gold mining and the health aspects of the use of mercury, should further strengthen Costa Rican measures to reduce man-made emissions of mercury to the environment. The Ministry of Environment and Energy, together with the Ministry of Health, are the main authorities responsible for mercury related activities.

75. In relation to [OECD/LEGAL/0210](#), Costa Rica is a Party to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade which is based on the Guiding Principles of [OECD/LEGAL/0210](#). The Convention is implemented in Costa Rica through the Law 8705 of 2009 and the Executive Decree 35416-RE of 2009. The minimum information needed to alert an importing country, as stipulated in the Guiding Principles of [OECD/LEGAL/0210](#), is included in the Law 8705 of 2009. Costa Rica has provided the Secretariat of the Rotterdam Convention with responses for all industrial chemicals covered by Annex III to the Convention and subject to the prior informed consent procedure. The Ministry of Health and the Ministry of Agriculture and Livestock are the main responsible authorities in Costa Rica.

76. In relation to [OECD/LEGAL/0230](#), Costa Rica is a Party to the Basel, Rotterdam and Stockholm Conventions. These conventions cover the restriction, elimination and management of PCBs. Costa Rica banned the manufacture, import, transit, registration, commercialisation or use of PCBs as well as products containing PCBs (the Executive Decree 30050-S of 2001). Registration, import and use of PCBs or PCBs containing products are only allowed for research purposes, upon authorisation. The Executive Decree 40697-MINAE-S, addressing the identification and elimination of PCBs in oils and/or in the equipment and waste that contains or is contaminated with PCBs, was published in 2017.

77. In 2014-18, the Ministry of Environment and Energy led a project called “Integrated PCB Management in Costa Rica”, to strengthen the implementation measures related to existing uses and environmentally sound management of PCBs, in line with Costa Rica's obligations under the Stockholm

Convention. The project delivered meaningful outcomes, including the publication of the “Technical guide on the management of PCBs” in 2015; the completion of the inventory of equipment contaminated with PCBs that is not in use and the improvement of conditions of temporary storage of PCBs in electrical companies. The information system for the purposes of the national inventory of PCBs was developed as well.

78. Fluids, material and equipment containing PCBs, in line with the Executive Decree 37788-S-MINAE of 2013 and the Executive Decree 27001-MINAE of 1998, are considered as hazardous waste and should be managed in line with these legal instruments that define their appropriate storage, transport and disposal. Export of material or equipment contaminated by PCBs for waste disposal is performed taking into account the provisions of the Basel Convention and requires prior authorization. In line with the response provided by Costa Rica under the Rotterdam Convention, there is no consent for the import of PCBs.

79. In relation to [OECD/LEGAL/0400](#), one of the sections of Costa Rica’s National Science, Technology and Innovation Plan addresses nanotechnology and new materials. The research projects are carried out in particular by the National Nanotechnology Laboratory and the Technological Institute of Costa Rica’s Nanotechnology Group. Costa Rica is not assessing the safety of manufactured nanomaterials; however, it states that [OECD/LEGAL/0400](#) will be taken into account during the development of the framework for the assessment of industrial chemicals. Costa Rica expresses its intention to apply this legal instrument and use the tools listed in its Annex, adapted as appropriate, when managing the risks of manufactured nanomaterials.

80. In relation to [OECD/LEGAL/0285](#), efforts to reduce risk from exposure to lead, addressing several aspects of this instrument, have already been or are being undertaken in Costa Rica and are reflected in its current legislative framework. For instance, the use of lead in gasoline was prohibited by the Executive Decree 19088-S-MEIC-MIRENEM of 1989. The use of lead in paints is restricted for general products and prohibited for products affecting children (the Executive Decree 24334-S of 1994). The level of lead is monitored in drinking water (the Executive Decree 38924-S of 2015), wastewater (the Executive Decree 33601-S-MINAE of 2006) and in the air (the Executive Decree 39951-S of 2016). Costa Rica regulates the emissions of lead from cement kilns (the Executive Decree 40557-S of 2017), glass kilns (the Executive Decree 38237-S of 2014) and emissions and discharges from waste co-incineration facilities (the Executive Decree 39136-S-MINAE of 2015). Lead, its compounds and lead-containing products are addressed in the Executive Decree 37788-S-MINAE of 2013 and the Executive Decree 27001-MINAE of 1998 that consider them as hazardous waste to be managed in line with these legal instruments. Passing the established threshold values of lead in soil may trigger monitoring and/or decontamination activities (the Executive Decree 37757-S of 2013). Lead-acid batteries are subject to extended producer responsibility in line with the Executive Decree 38272-S of 2014.

### 3.7. Multilateral Environmental Agreements and SAICM

81. Costa Rica is a Party to the multilateral environmental agreements (MEAs) identified by the OECD Chemicals Committee as being of importance, accepting the same level of responsibilities in relation to these MEAs as OECD Member countries. The identified MEAs were the Vienna Convention for the Protection of the Ozone Layer and its Montreal Protocol on Substances that Deplete the Ozone Layer (with amendments), the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, the Cartagena Protocol on Biosafety to the Convention on Biological Diversity, the Stockholm Convention on Persistent Organic Pollutants (POPs) and the Minamata Convention on Mercury.

82. With respect to the Strategic Approach to International Chemicals Management (SAICM), Costa Rica participates in the work of SAICM since its establishment; the National Focal Point for SAICM is in place and the National Policy on Chemical Safety closely follows the objectives of SAICM.