



SUMMARY OF THE ELEVENTH SESSION OF THE INC FOR AN INTERNATIONAL LEGALLY BINDING INSTRUMENT FOR THE APPLICATION OF THE PRIOR INFORMED CONSENT PROCEDURE FOR CERTAIN HAZARDOUS CHEMICALS AND PESTICIDES IN INTERNATIONAL TRADE AND THE FIRST CONFERENCE OF THE PARTIES TO THE ROTTERDAM CONVENTION: 18-24 SEPTEMBER 2004

The first Conference of the Parties to the Rotterdam Convention (COP-1) was held from 20-24 September 2004, in Geneva. Immediately preceding COP-1, the eleventh session of the Intergovernmental Negotiating Committee for an International Legally Binding Instrument for the Application of the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (INC-11) was held on Saturday, 18 September 2004, in Geneva. Over 534 participants representing more than 135 governments and a number of intergovernmental and non-governmental organizations and United Nations agencies attended the sessions.

The prior informed consent (PIC) procedure aims to promote shared responsibility between exporting and importing countries in protecting human health and the environment from the harmful effects of the trade of certain hazardous chemicals. The Rotterdam Convention was adopted in September 1998, and entered into force on 24 February 2004. To date, the Convention has 74 Parties, including 73 States and the European Community (EC).

At INC-11, delegates agreed to add tetraethyl lead, tetramethyl lead and parathion to the interim PIC Procedure, but did not reach consensus on the addition of chrysotile asbestos. COP-1 successfully adopted all the decisions required to make the legally binding PIC Procedure operational. Delegates addressed procedural issues and other decisions associated with the entry into force of the Convention and the setting up of the COP and subsidiary bodies. As part of this work, COP-1 took decisions on: composition of the PIC regions; inclusion of chemicals added to the interim PIC Procedure in Annex III; adoption of financial rules and provisions for the COP, subsidiary bodies, and the Secretariat; establishment of the Chemical Review Committee (CRC); cooperation with the World Trade Organization (WTO); settlement of disputes; and the location of the Secretariat.

A BRIEF HISTORY OF THE PRIOR INFORMED CONSENT PROCEDURE

Growth in internationally traded chemicals during the 1960s and 1970s prompted efforts by the international community to safeguard people and the environment from the harmful results of such trade. These efforts resulted in the development of the International Code of Conduct for the Distribution and Use of Pesticides by the Food and Agriculture Organization (FAO) and the London Guidelines for the Exchange of Information on Chemicals in International Trade by the United Nations Environment Programme (UNEP). Both the Code of Conduct and the London Guidelines include procedures aimed at making information about hazardous chemicals more readily available, thereby permitting countries to assess the risks associated with their use. In 1989, both instruments were amended to include a voluntary PIC Procedure, managed jointly by FAO and UNEP, to help countries make informed decisions on the import of chemicals that have been banned or severely restricted.

At the United Nations Conference on Environment and Development held in Rio de Janeiro in 1992, delegates adopted Agenda 21, which contains in Chapter 19 an international strategy for action on chemical safety and called on States to achieve, by the year 2000, full participation in and implementation of the PIC Procedure, including possible mandatory applications of the voluntary procedures contained in the amended London Guidelines and the Code of Conduct.

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In November 1994, the 107th meeting of the FAO Council agreed that the FAO Secretariat should proceed with the preparation of a draft PIC convention as part of the joint FAO/UNEP programme. In May 1995, the 18th session of the UNEP Governing Council adopted Decision 18/12, authorizing the Executive Director to convene, with the FAO, an INC with a mandate to prepare an international legally binding instrument for the application of the PIC Procedure.

NEGOTIATION OF THE CONVENTION: The first session of the INC was held from 11-15 March 1996, in Brussels. Delegates completed a preliminary review of a draft outline for a future instrument, and established a working group to identify which chemicals the instrument should include. The second session of the INC met from 16-20 September 1996, in Nairobi, and produced a draft convention text. At the third session of the INC, which met from 26-30 May 1997, in Geneva, delegates considered the revised text of draft articles for the instrument. Debate centered on the scope of the proposed convention. The fourth session of the INC took place from 20-24 October 1997, in Rome, with delegates considering the revised text of draft articles for the instrument. The fifth session of the INC met from 9-14 March 1998, in Brussels. Delegates made progress on a consolidated draft text of articles, and reached agreement on the draft text of the PIC convention and on a draft resolution on interim arrangements.

CONFERENCE OF PLENIPOTENTIARIES: The Conference of Plenipotentiaries on the Convention on the PIC Procedure was held from 10-11 September 1998, in Rotterdam, the Netherlands. Ministers and senior officials from nearly 100 countries adopted the Rotterdam Convention, the Final Act of the Conference, and a Resolution on Interim Arrangements. Sixty-one countries signed the Convention and 78 countries signed the Final Act. In line with the new procedures contained in the Convention, the Conference adopted numerous interim arrangements for the continued implementation of the voluntary PIC Procedure. It also invited the INC to: establish an interim subsidiary body to carry out the functions that will be permanently entrusted to the CRC; define and adopt PIC regions on an interim basis; adopt, on an interim basis, the procedures for including banned or severely restricted chemicals in Annex III to the Convention; and decide on the inclusion of additional chemicals under the interim PIC Procedure. Finally, the Conference invited UNEP and FAO to convene further INCs during the period prior to the Convention's entry into force and to oversee the operation of the interim PIC Procedure.

INC-6: INC-6 was held from 12-16 July 1999, in Rome. INC-6 resulted in draft decisions on the definition and provisional adoption of the PIC regions (Africa, Europe, Asia, Latin America and the Caribbean, Near East, Southwest Pacific, and North America), the establishment of an interim CRC, and the adoption of draft decision guidance documents (DGDs) for chemicals already identified for inclusion.

ICRC-1: The first session of the Interim Chemical Review Committee (ICRC) took place from 21-25 February 2000, in Geneva. The Committee agreed to recommend two chemicals, ethylene dichloride and ethylene oxide, for inclusion in the interim PIC Procedure, and forwarded draft DGDs for those chemicals to INC-7 for consideration.

INC-7: The seventh session of the INC was held from 30 October to 3 November 2000, in Geneva. Delegates addressed, *inter alia*: implementation of the interim PIC Procedure; issues arising out of the Conference of Plenipotentiaries; and preparations for the COP, such as discontinuation of the interim PIC Procedure

and financial arrangements. Delegates also adopted DGDs for ethylene dichloride and ethylene oxide, as well as a policy on contaminants within chemicals.

ICRC-2: The second session of the ICRC was held from 19-23 March 2001, in Rome. In light of INC-7's adoption of a general policy on contaminants within chemicals, the ICRC considered the DGD on maleic hydrazide. It also addressed: ICRC's operational procedures; inclusion of monocrotophos in the interim PIC Procedure; and the use of regional workshops to strengthen the links between designated national authorities (DNAs) and the work of the ICRC and the INC. It also forwarded recommendations to the INC on cooperation and coordination in the submission of notifications of final regulatory actions.

INC-8: The eighth session of the INC was held from 8-12 October 2001, in Rome. INC-8 resolved a number of complex questions associated with the discontinuation of the interim PIC Procedure and on conflict of interest in the ICRC, although some issues, such as treatment of non-Parties after discontinuation of the interim PIC Procedure and composition of the PIC regions, were deferred for consideration at INC-9.

ICRC-3: The third meeting of the ICRC was held from 17-21 February 2002, in Geneva. The ICRC recommended the addition of monocrotophos, Granox TBC and Spinox T, DNOC, and five forms of asbestos to the interim PIC Procedure.

INC-9: The ninth session of the INC was held from 30 September to 4 October 2002, in Bonn. Delegates agreed on the inclusion of monocrotophos in the interim PIC Procedure, and to recommendations on the range and description of DNOC, asbestos, and Granox TBC and Spinox T. In preparation for the first COP, INC-9 made progress on the draft financial rules and provisions, procedures for dispute settlement, mechanisms for handling non-compliance, and discontinuation of the interim PIC Procedure.

ICRC-4: The fourth session of the ICRC was held from 3-7 March 2003, in Rome. ICRC-4 completed the DGDs on asbestos, DNOC, and Granox TBC and Spinox T, and addressed new candidate chemicals for inclusion in the interim PIC Procedure, including a review of the notifications of final regulatory actions to ban or severely restrict parathion, tetraethyl lead, tetramethyl lead, and tributyltin. It also addressed issues referred to it from INC-9, including consistency in the listing of chemicals contained in the interim PIC Procedure, and guidance on the type of information that should be provided by a notifying country using a risk evaluation from another country in support of their final regulatory action. It reviewed a provisional form for reporting on environmental incidents related to the use of pesticides.

INC-10: The tenth session of the INC was held from 17-21 November 2003, in Geneva. Delegates agreed to add four forms of asbestos, DNOC, and dustable powder formulations of benomyl, carbofuran and thiram (formerly referred to as Granox T and Spinox TBC) to the interim PIC Procedure, but deferred to the next meeting a decision on including a fifth form of asbestos, chrysotile. Delegates also agreed to hold INC-11 in advance of COP-1 in order to facilitate the transition from the interim to the legally-binding procedures, including adding further chemicals to the interim PIC Procedure.

ICRC-5: The fifth meeting of the ICRC was held from 2-6 February 2004, in Geneva. The ICRC discussed notifications of final regulatory action to ban or severely restrict five chemicals: dimefox, endrin, endosulfan, mevinphos, and vinclozolin; and considered draft DGDs on tetraethyl lead and tetramethyl lead and parathion. On the notifications, the ICRC did not recommend that



any of the five chemicals be subject to the interim PIC Procedure, since the notifications did not meet all the criteria listed in Annex II. On tetraethyl and tetramethyl lead and parathion, the ICRC approved draft DGDs and forwarded recommendations for their inclusion in the interim PIC Procedure to the INC.

INC-11 REPORT

On Saturday, 18 September, Chair Maria Celina de Azevedo Rodrigues (Brazil) welcomed delegates to the one-day INC-11 session, convened as a Conference of Plenipotentiaries, and introduced the opening speakers. Shafqat Kakakhel, UNEP Deputy Executive Director, noted that the chemicals to be addressed by INC-11 are widely known for their adverse effects on human health and the environment. Louise Fresco, FAO Assistant Director-General, highlighted the lessons learned in: developing processes for the implementation of the Convention during the interim period; increasing policy coherence at the international and national levels; and interagency cooperation, particularly between UNEP and FAO.

Delegates adopted the agenda (UNEP/FAO/PIC/INC.11/1) without amendment. The Committee then decided to conduct its work in plenary and to apply the rules of procedure of the INC. Bernard Madé (Canada) presented the report of the Credentials Committee to the Conference of Plenipotentiaries. The Committee decided that the Bureau would act as the Credentials Committee. The Credentials Committee reported that the credentials of the plenipotentiary representatives of 77 countries were in order.

RESOLUTION ON THE PROCESS FOR INCLUSION OF CHEMICALS IN THE INTERIM PIC PROCEDURE

Jim Willis, Joint Executive Secretary for the Secretariat of the Rotterdam Convention (UNEP), introduced a draft resolution on the process for inclusion of additional chemicals discussed by INC-11 in the interim PIC Procedure (UNEP/FAO/PIC/INC.11/2). The decision was adopted by the INC without amendment.

Final Decision: Decision INC.11/1 on the addition of chemicals to the interim PIC Procedure between the date of entry into force and the date of the opening of COP-1 extended the period for the inclusion of additional chemicals under the interim PIC Procedure until the date of the opening of COP-1. It also gave authority to the INC, convened in the form of a Conference of Plenipotentiaries, to decide on the inclusion of additional chemicals.

IMPLEMENTATION OF THE INTERIM PIC PROCEDURE

REPORT OF ICRC-5: ICRC Chair Reiner Arndt introduced the report of ICRC-5 (UNEP/FAO/PIC/INC.11/3). He observed that the Committee decided not to recommend the inclusion of the chemicals dimefox, endrin, endosulfan, mevinphos, and vinclozolin in the interim PIC Procedure because the notifications had not met all the requirements of Annex II. He noted that the ICRC had prepared an explanatory note on "risk evaluation" to guide COP-1 when considering the operation procedures of the Chemical Review Committee (CRC). The Committee took note of the report of the ICRC and expressed thanks to Arndt.

INCLUSION OF CHEMICALS IN THE INTERIM PIC PROCEDURE: Parathion: Bill Murray, Secretariat, introduced the ICRC's communication and draft DGD (UNEP/FAO/PIC/INC.11/4).

Final Decision: Decision INC.11/2 includes parathion in the interim PIC Procedure and approves the draft DGD on that chemical.

Tetraethyl and Tetramethyl Lead: Sheila Logan, Secretariat, introduced the recommendations of ICRC-5 on the inclusion of tetraethyl and tetramethyl lead in the interim PIC Procedure and the corresponding draft DGD (UNEP/FAO/PIC/INC.11/5).

Final Decision: Decision INC.11/3 makes tetraethyl and tetramethyl lead subject to the interim PIC Procedure and approves the draft DGD on that chemical.

Chrysotile Asbestos: Logan introduced the ICRC's communication on the inclusion of chrysotile asbestos in the interim PIC Procedure and the draft DGD (UNEP/FAO/PIC/INC.11/6). The Russian Federation, Ukraine, Kazakhstan, and Kyrgyzstan did not support the inclusion of chrysotile asbestos in the interim PIC Procedure, highlighting a lack of scientific data relating to risk levels, relevant threshold values, and health effects on human populations. Canada opposed the inclusion of chrysotile asbestos in the interim PIC Procedure at this time, noting that it has advocated controlled use of the substance both domestically and internationally. Indonesia, Zimbabwe, Colombia, Mexico, Iran, Ghana, India and China also indicated their opposition to including chrysotile asbestos.

Chile, Egypt, Norway, New Zealand, Tanzania, Argentina, the Gambia, Jamaica, Congo, and Guinea spoke in favor of including chrysotile asbestos in the interim PIC Procedure. The EC strongly supported inclusion, noting that all the criteria for inclusion listed in Annex II (Criteria for listing banned or severely restricted chemicals in Annex III) had been met and that all procedures had been followed correctly. He argued that not including chrysotile asbestos would set a negative precedent for the Convention's future that could paralyze future decision making.

Final Outcome: Delegates at INC-11 were unable to reach a consensus on the inclusion of chrysotile asbestos, thus the substance was not listed in the interim PIC Procedure.

PRESENTATION OF THE STUDY ON TECHNICAL ASSISTANCE NEEDS

Logan introduced a Secretariat study on technical assistance needs (UNEP/FAO/PIC/INC.11/INF/1). The Committee took note of the report.

CLOSING PLENARY

In the closing plenary, Willis provided an oral overview of the report of the meeting (UNEP/FAO/PIC/INC.11/7). Several countries asked that the report reflect delegates' gratitude and best wishes to Chair de Azevedo Rodrigues, and thanks to the Secretariat, the ICRC and all INC host countries. Delegates then adopted the report of the meeting.

After consideration of the report, Joint Executive Secretaries Jim Willis (UNEP) and Niek van der Graaff (FAO) presented Chair de Azevedo Rodrigues and ICRC Chair Arndt with a token of their appreciation. Chair de Azevedo Rodrigues gavelled the meeting to a close at 4:15 pm.

COP-1 REPORT

On Monday, 20 September, Niek van der Graaff, Joint Executive Secretary for the Secretariat of the Rotterdam Convention (FAO), welcomed delegates to COP-1 and introduced the opening speakers.

Shafqat Kakakhel, UNEP Deputy Executive Director, cited the importance of the Rotterdam Convention as an effort to provide a lasting solution to the problems posed by hazardous chemicals and pesticides. Louise Fresco, FAO Assistant Director-General, stressed the need to move forward into the future of the Rotterdam



Convention and continue its progress. Phillippe Roch, State Secretary, Director, Swiss Agency for the Environment, Forests, and Landscape, welcomed delegates to Geneva and cited the importance of coordinating international efforts to manage chemicals.

ORGANIZATIONAL MATTERS

On Monday, delegates elected Philippe Roch (Switzerland) as President of COP-1, and Dessalegne Mesfin (Ethiopia), Yusef Shuraiki (Jordan), Maria Teriosina (Lithuania) and Maria Celina de Azevedo Rodrigues (Brazil) as Bureau members. The plenary then adopted the provisional agenda (UNEP/FAO/RC/COP.1/1), with an amendment deleting a reference to chrysotile asbestos under item 6 (Chemicals included by INC-11).

In order to effectively conduct their work, delegates agreed to create a Committee of the Whole (COW) on Monday morning, chaired by de Azevedo Rodrigues. The COW met from Monday afternoon through Wednesday evening, with the mandate of preparing a package of decisions for consideration at the high-level segment, held on Thursday and Friday. A legal drafting group convened on Wednesday and Thursday to finalize decisions for submission to the plenary. Delegates also met in contact groups addressing legal and budget issues, the selection of PIC regions, and the establishment of the CRC.

In Plenary on Friday, Mesfin, Chair of the Credentials Committee, submitted the final report of the Credentials Committee. He noted that 69 Parties had submitted credentials making them eligible to participate in COP-1, but that only 62 Parties had provided credentials meeting the requirements for their participation on the vote on the location of the Secretariat. Ecuador and Mali asked that the report reflect that they had been unable to submit their original credentials for reasons of “*force majeure*.”

The following report summarizes these meetings according to the agenda.

ADOPTION OF THE RULES OF PROCEDURE FOR THE COP

Delegates discussed this item in plenary on Monday and in the COW on Wednesday. The legal drafting group considered the rules of procedure on Monday.

In plenary on Monday, President Roch noted that Rule 45, which deals with the use of two-thirds majority voting in cases of non-consensus on substantive issues, remained unresolved. Advocating the principle of decision making by consensus, Australia, supported by Malaysia and Jordan, objected to the text on voting and supported the formation of a legal group to address the question. The European Community (EC) supported adoption of the rules of procedure as currently drafted, including the two-thirds majority provision. Delegates adopted the draft rules of procedure for COP-1, with the exception of Rule 45. They also agreed to the creation of an open-ended legal group, chaired by Alistair McGlone (United Kingdom) to address this and other legal issues.

On Tuesday, McGlone reported to the COW on the completion of the group’s work on this issue, and on Wednesday he introduced a Conference Room Paper (CRP) to the COW on the adoption of the rules of procedure for the COP (UNEP/FAO/RC/COP.1/CRP.2). He explained the group had struck a compromise on Rule 45, retaining reference to reaching agreement by consensus but bracketing a sentence on a two-thirds majority vote when consensus could not be reached. He proposed that the Rules of Procedure be adopted with the exception of the reference to voting,

postponing decision on this item to a future COP. The COW agreed to forward the matter to the COP, and on Friday COP-1 adopted the decision.

Final Decision: The final decision (UNEP/FAO/RC/COP.1/CRP.2) adopts the rules of procedure for the COP contained in the annex to the decision, with the exception of a sentence in Rule 45 relating to taking decisions, as a last resort, by a two-thirds majority vote of the Parties present and voting. The rules in the annex relate to several issues, including: participation of observers, agenda setting, subsidiary bodies, the secretariat, and voting and elections.

REPORT ON THE ACHIEVEMENTS OF THE INC

On Monday, delegates listened to a report on the achievements of the INC (UNEP/FAP/RC/COP.1/3), presented by INC Chair de Azevedo Rodrigues. Delegates took note of the report on the INC’s achievements.

MATTERS STIPULATED BY THE CONVENTION FOR ACTION BY COP-1

COMPOSITION OF THE PIC REGIONS: This agenda item was considered by the COW on Monday, Tuesday and Wednesday, and in a contact group on Tuesday morning.

On Monday, Bill Murray, Secretariat, introduced a note on the composition of the PIC regions (UNEP/FAO/RC/COP.1/4). He explained that INC-6 had agreed to base the interim PIC regions on the seven FAO regions, and noted that INC-9 had proposed that the PIC regions be based: either on the geographical distribution of Parties at the time of COP-1; or on the regions used during the interim PIC Procedure, pending consideration of the geographical distribution of Parties at that time.

Many developing countries called for basing the PIC regions on the five UN regions. The EC, supported by Canada and the Republic of Korea, noted that the use of the seven interim PIC regions for notification purposes facilitated the triggering of the review process and supported continued use of these regions. Chile agreed, but stressed the need to use UN regions in electing the Bureau and selecting members of the CRC. Murray explained that the PIC regions were used only for notification purposes, and clarified that under Article 5.5 (Procedures for banned or severely restricted chemicals) notification from two PIC regions is necessary to trigger the chemical review process. He further highlighted that if the UN regions had been used as interim PIC regions, several chemicals added to Annex III by COP-1 would not have met the notification requirements for consideration by the Interim Chemical Review Committee. Delegates agreed to convene an open-ended contact group on the issue.

On Tuesday, the contact group chaired by Lorenzo González Videla (Argentina) continued discussions. Several delegations highlighted that while the PIC regions are meant to be used only for notification purposes, the interim PIC regions were in fact applied in other contexts, such as financial assistance and the Convention’s subsidiary bodies. Delegates agreed to limit the application of the PIC regions to notification purposes, and to recommend that regional groups review the assignment of countries to the PIC regions. When González Videla reported this agreement to the COW, Nigeria, on behalf of the African Group, asked that all African countries be grouped in one PIC region.

On Wednesday, the COW considered a draft decision, the annex of which specifies the countries in each of the seven PIC regions (UNEP/FAO/RC/COP.1/CRP.3). Delegates agreed to submit the decision to the COP, with a change to Iran’s group assignment in the annex.



On Friday in plenary, Willis introduced the draft decision, and COP-1 adopted the decision.

Final Decision: The final decision on the composition of PIC regions for the purposes of Article 5.5 (UNEP/FAO/RC/COP.1/CRP.3/Rev.2), decides to adopt the regions and listing of countries outlined in the annex as the PIC regions “only” for the purposes of Article 5.5 of the Convention. The annex lists the countries belonging to the seven regions of Africa, Asia, Europe, Latin America and the Caribbean, Near East, North America and Southwest Pacific.

ADOPTION OF FINANCIAL RULES FOR THE COP AND ANY SUBSIDIARY BODIES AND FINANCIAL PROVISIONS GOVERNING THE FUNCTIONING OF THE SECRETARIAT: This agenda item was considered by the COW on Monday and in plenary on Friday. It was also discussed by the legal group on Tuesday, by a budget group Wednesday and Thursday, and by an informal group on Friday.

On Monday, the Secretariat introduced the draft financial rules and provisions for the COP, its subsidiary bodies and the Secretariat (UNEP/FAO/RC/COP.1/16). Delegates agreed to forward them to the legal group, chaired by McGlone. The legal group took up the issue on Tuesday and was then reconvened as a budget group, still chaired by McGlone, which continued discussions Wednesday and Thursday.

On Friday in plenary, McGlone introduced the draft decision on the adoption of the financial rules (UNEP/FAO/RC/COP.1/CRP.20). He explained that consensus had not been reached on capping contributions by any one Party at 22% of the total budget, nor on capping contributions by a developing country at 0.6% of the total budget. Argentina stressed the difficulties facing some developing countries whose contributions, under the UN scale of assessments, exceed those of several developed countries. Jamaica emphasized the small size and vulnerability of the economies of Caribbean countries, and explained that concerns over participation costs account for the low participation by such countries in the Convention. The EC stated that the UN scale of assessments provides a fair and equitable basis for the financial rules and stressed that it is based on objective criteria which take into account the economic situation of each country.

Delegates agreed to create an open-ended informal group, chaired by McGlone, to reach consensus on the financial rules and on the budget. After deliberations, McGlone reported back to plenary that consensus had been reached. Parties agreed to request that the COP-1 President write to the Chair of the competent UN committee expressing some Parties’ concerns about the effects of the application of the UN scale of assessments for contributions. Parties adopted the decision as amended.

Final Decision: The final decision (UNEP/FAO/RC/COP.1/CRP.20) outlines the financial rules for the COP and its subsidiary bodies. It specifies the financial period for the Convention as a biennium of two consecutive years and establishes a general trust fund and a special trust fund for the Convention, both to be managed by the Secretariat.

The decision specifies that the resources of the COP shall comprise contributions made by Parties on the basis of the UN scale of assessments, adjusted so that no Party contributes less than 0.01% of the total, no Party’s contribution exceeds 22% of the total, and no contribution from a least developed country exceeds 0.01% of the total. The rules also specify that the contributions will be adjusted to reflect the addition of new Parties at the end of each biennium, unless the COP decides otherwise.

ESTABLISHMENT OF THE CRC: This agenda item was taken up by the COW from Monday to Wednesday, and in plenary on Friday. Discussions were also held in a contact group on Tuesday, and in a “Friends of the Chair” group on Wednesday.

On Monday, van der Graaff introduced to the COW documents relating to the establishment of the CRC (UNEP/FAO/RC/COP.1/17) and the rules and procedures for preventing and dealing with conflicts of interest relating to the CRC’s activities (UNEP/FAO/RC/COP.1/31). Developed and developing countries disagreed on what size and regional framework would meet the Convention’s requirement for equitable geographical distribution and balance between developed and developing country Parties in the CRC, as specified under Article 18 (Conference of Parties). Several developing countries supported geographical representation on the basis of the five UN regions, while developed countries highlighted the success of the ICRC, whose composition was based on the seven interim PIC regions. A few developed countries expressed concern over the budgetary implications of a larger CRC.

On Tuesday, van der Graaff highlighted remaining areas of disagreement and delegates agreed that an open-ended contact group would continue discussions on CRC-related issues. The contact group, chaired by González Videla, met in afternoon and evening sessions on Tuesday. Participants reached agreement on the length of experts’ terms, the nomination process, provisions for rotation, frequency of meetings and the language of operation. Participants discussed several size and composition options based on the five UN regions without reaching an agreement.

On Wednesday, in the COW, González Videla reported on progress made in the contact group. Delegates agreed to create a “Friends of the Chair” group, consisting of 11 Parties and chaired by González Videla, to reach an agreement on the CRC’s size and composition.

On Friday in plenary, Willis introduced the decision on the establishment of the CRC (UNEP/FAO/RC/COP.1/CRP.8/Rev.2), which was adopted with several amendments. COP-1 also adopted a draft decision on the rules and procedures for preventing and dealing with conflicts of interest relating to the activities of the CRC (UNEP/FAO/RC/COP.1/CRP.17).

Final Decisions: The final decision on the CRC (UNEP/FAO/RC/COP.1/CRP.8/Rev.2) decides to establish a 31-member CRC, with eight members from the African States, eight members from the Asian and Pacific States, three members from the Central and Eastern European States, five members from the Latin American and Caribbean States and seven members from the Western European and other States.

Annex I to the decision specifies the distribution of countries across the five regional groups, and Annex II lists the governments identified to nominate members to the CRC.

According to the decision, participating governments must provide their nominations to the Secretariat by 1 December 2004. Experts will normally serve four-year terms, for no more than two consecutive terms. The decision also makes provisions to ensure that membership rotates every two years by specifying that half the initial nominations are for two years only. The CRC shall meet annually, beginning in February 2005.

The final decision on rules of procedure for preparing and dealing with conflicts of interest relating to CRC activities (UNEP/FAO/RC/COP.1/CRP.17) decides that CRC members shall, annually, disclose activities, including business or financial inter-



ests, which might call into question their ability to discharge their duties and responsibilities. It also adopts a procedure for the implementation of the declaration of interests detailed in the annex.

MATTERS STIPULATED BY THE CONVENTION FOR ACTION BY THE COP

ENCOURAGEMENT OF THE WORLD CUSTOMS ORGANIZATION TO ASSIGN SPECIFIC HARMONIZED SYSTEM CUSTOMS CODES TO THE CHEMICALS LISTED IN ANNEX III: On Tuesday in the COW, Willis introduced a draft decision encouraging the World Customs Organization to assign Harmonized System customs codes to the chemicals listed in Annex III (UNEP/FAO/RC/COP.1/18). The draft decision was approved by the COW and adopted on Friday in the plenary.

Final Decision: The final decision (UNEP/FAO/RC/COP.1/CRP.15) encourages the World Customs Organization to assign specific Harmonized System customs codes to the individual chemicals or groups of chemicals listed in Annex III, and requests the Secretariat to continue to work with the World Customs Organization.

CONSIDERATION OF ARRANGEMENTS BY UNEP AND FAO FOR PROVISION OF THE SECRETARIAT: This agenda item was addressed by the COW on Tuesday. Willis introduced a draft decision inviting UNEP and FAO to make arrangements for provision of the Rotterdam Convention Secretariat and present them to COP-2 for consideration and approval (UNEP/FAO/RC/COP.1/19). The EC, supported by Norway, proposed an amendment inviting UNEP and FAO to appoint an Executive Secretary in consultation with the COP through the Bureau. Japan said the appointment should be approved by the COP. Delegates agreed on the inclusion of an amendment which provides for the appointment of the Executive Secretary in consultation with the COP, and the legal group provided a revised draft decision reflecting this (UNEP/FAO/RC/COP.1/CRP.16/Rev.1). A second revised draft was put before the COP on Friday and was adopted.

Final Decision: Recognizing that the location of the Secretariat will influence arrangements for the provision of that Secretariat, this decision (UNEP/FAO/RC/COP.1/CRP.16/Rev.2) invites UNEP and FAO to make arrangements for the Secretariat functions, and invites them to continue to perform the Secretariat functions for the Convention based on existing arrangements.

NON-COMPLIANCE: On Tuesday, Murray introduced a draft decision on procedures and institutional mechanisms for determining non-compliance (UNEP/FAO/RC/COP.1/20), stressing that Article 17 (Non-compliance) asks the COP to develop and approve procedures of non-compliance "as soon as practicable." Australia and the Gambia expressed reservations about adopting a non-compliance regime at COP-1. In the COW on Thursday, the EC, with Canada, Egypt, Japan, Norway, South Africa and Switzerland, introduced a proposal (UNEP/FAO/RC/COP.1/CRP.12), supported by Malaysia, to convene an open-ended *ad hoc* working group on non-compliance immediately prior to COP-2. A revised CRP was presented to and adopted by the plenary on Friday.

Final Decision: The decision on non-compliance (UNEP/FAO/RC/COP.1/CRP.12/Rev.1) agrees to convene an open-ended *ad hoc* working group on Article 17 (Non-compliance) immediately prior to COP-2, with a mandate to continue deliberations on this issue.

SETTLEMENT OF DISPUTES: On Tuesday Masa Nagai, Secretariat, introduced draft rules on arbitration (UNEP/FAO/RC/COP.1/21) and conciliation (UNEP/FAO/RC/COP.1/22). The draft rules were considered by the legal group. Delegates adopted these rules, as amended by the legal group, in plenary on Friday.

Final Decision: This decision adopts the rules on arbitration and conciliation (UNEP/FAO/RC/COP.1/CRP.14).

MATTERS STIPULATED BY THE CONFERENCE OF PLENIPOTENTIARIES FOR ACTION BY THE CONFERENCE OF THE PARTIES AT ITS FIRST MEETING

PHYSICAL LOCATION OF THE SECRETARIAT: Teriosina chaired the discussions on this agenda item. In plenary on Monday, Patrick Szell, Secretariat, introduced a joint proposal by Switzerland, Italy and Germany on the procedure for selecting the physical location of the Convention's Secretariat (UNEP/FAO/RC/COP.1/32), which delegates adopted.

On Thursday in plenary, Teriosina introduced presentations of the offers and drew attention to the relevant documents (UNEP/FAO/RC/COP.1/23, 32, INF/5, INF/5/Add.1, INF/6, INF/6/Add.1, and INF/6/Add.2). The offer by Germany to host the Secretariat in Bonn was presented by: Jürgen Trittin, Federal Minister of Environment, Nature, Conservation and Nuclear Safety, Germany; and Bärbel Dieckmann, Mayor of Bonn. The offer by Switzerland and Italy to host the Secretariat in Geneva and Rome was presented by: Moritz Leuenberger, Swiss Federal Councillor in charge of the Federal Department of Transport, Communications and Energy; Amb. Paolo Bruni, Permanent Representative of Italy to the UN in Geneva; Mariapia Garavaglia, Deputy Mayor of Rome; and Amb. Beat Nobs, Swiss Agency for Environment, Forests and Landscape.

On Friday in plenary, Teriosina detailed the voting procedures for Parties. Voting took place between 10:15 am and 12:15 pm on Friday.

After completion of the voting, Teriosina announced that delegates had selected Geneva and Rome to host the Secretariat.

Final Decision: The final decision (UNEP/FAO/RC/COP.1/CRP.22) accepts the offer from Switzerland and Italy, and instructs FAO and UNEP to begin making practical arrangements for the Secretariat.

DISCONTINUATION OF THE INTERIM PIC PROCEDURE: In the COW on Tuesday, Murray introduced a document on discontinuing the interim PIC Procedure (UNEP/FAO/RC/COP.1/24), and a document and two draft decisions on transitional arrangements (UNEP/FAO/RC/COP.1/26). Delegates took note of the documents, and agreed to the draft decisions on transitional arrangements. After consideration by the legal drafting group, the decisions on transitional arrangements were approved in plenary on Friday.

Final Decisions: The final decisions (UNEP/FAO/RC/COP.1/CRP.18) establish a transition period of two years from entry into force during which the interim PIC Procedure will continue to operate, and clarify the roles of Parties and non-Parties in the transitional period.

MATTERS RECOMMENDED BY THE INC FOR ACTION BY COP-1

AMENDMENTS TO ANNEX III: On Monday, Murray introduced the documents on the chemicals to be listed in Annex III by the COP under Article 8 (Chemicals in the voluntary PIC Procedure) (UNEP/FAO/RC/COP.1/5-14). He noted that 14 chemicals



were proposed for inclusion. Parties agreed to add all 14 chemicals to Annex III, with a date of entry into force of 1 February 2005, and referred the matter to the legal group to determine final wording.

Delegates considered technical amendments to Annex III on Tuesday. Murray introduced a document and a draft decision addressing inconsistencies within Annex III of the Convention and inconsistencies between Annex III and DGDs in the wording used to list chemicals (UNEP/FAO/RC/COP.1/26). Canada suggested that a footnote be added noting that the Chemical Abstracts Service registry numbers listed were those of the parent compounds. Delegates accepted the draft decision, as amended by Canada.

In the COW on Thursday, delegates agreed to forward to the COP the revised draft from the legal group (UNEP/FAO/RC/COP.1/5/Rev.1). The plenary approved the decision on Friday.

Final Decision: The final decision (UNEP/FAO/RC/COP.1/5/Rev.1) adds the following chemicals to Annex III: binapracyl; toxaphene; ethylene dichloride; ethylene oxide; monocrotophos; DNOC and its salts; dustable powder formulations containing specific amounts of benomyl, carbofuran, and thiram; actinolite, anthophyllite, amosite and tremolite asbestos; tetraethyl and tetramethyl lead; and parathion. It also makes technical amendments to Annex III, and amends the entries in Annex III for 2,4,5-T, pentachlorophenol, dinoseb and dinoseb salts, and methyl parathion for consistency.

OPERATIONAL PROCEDURES FOR THE CHEMICAL REVIEW COMMITTEE: On Wednesday, the COW considered the operational procedures for the CRC. Murray introduced a document on the working procedures and guidance for the CRC, outlining the working papers, guidelines and policy-related issues developed by the ICRC, and including an explanatory note from ICRC-5 on criteria for risk evaluation (UNEP/FAO/RC/COP.1/27 and 27/Add.1). Delegates took note of the information and agreed to forward the information to the CRC for its consideration and possible adoption.

TECHNICAL ASSISTANCE STRATEGY: On Tuesday in the COW, Murray introduced the INC's recommendations for action by COP-1 regarding the regional delivery of technical assistance to Parties (UNEP/FAO/RC/COP.1/28). On Wednesday, the EC introduced a CRP containing a draft decision on the proposal on regional delivery of technical assistance to the Parties (UNEP/FAO/RC/COP.1/CRP.7), explaining that it drew on the original draft decision contained in the INC's recommendations on the issue. Countries proposed a number of amendments referring to: the Regional Centers and Regional Coordinating Centers of the Basel Convention; the importance of promoting synergies between chemicals-related Multilateral Environmental Agreements (MEAs); national implementation plans; and the needs of least developed countries.

On Wednesday afternoon in the COW, the EC introduced a revised draft decision incorporating the proposed amendments (UNEP/FAO/RC/COP.1/CRP.7/Rev.1). Following consultations with the legal group, a revised draft decision was presented to the COP on Friday (UNEP/FAO/RC/COP.1/CRP.7/Rev.3). Switzerland, supported by Argentina and Tanzania, proposed the inclusion of text highlighting the role of the World Bank and the Global Environment Facility in encouraging synergies between chemicals-related MEAs, and requesting that the Secretariat feed information on enabling implementation in developing countries to UNEP's Intergovernmental Strategic Plan for Technology Support and Capacity Building and to the Preparatory Committee for the

Development of a Strategic Approach for International Chemicals Management (SAICM). The decision was adopted by plenary on Friday with the inclusion of Switzerland's proposal.

Final Decision: The decision on the technical assistance strategy (UNEP/FAO/RC/COP.1/CRP.7/Rev.3) requests that the Secretariat:

- facilitate coordination of regional activities through existing bodies, such as regional offices of the FAO and UNEP;
- invite other regional entities to exploit synergies and participate in the regional delivery of technical assistance, with specific reference to the Basel Convention Regional Centers and Regional Coordinating Centers; and
- prepare a programme of activities with associated costs.

The decision identifies several priority areas for assistance, including: ratification, procedures for notification, export notifications, proposals for severely hazardous pesticides formulations, decision making on imports of listed chemicals, and information exchange. Furthermore, the decision identifies specific cross-cutting elements that reach across international chemicals management as synergistic issues to be targeted for technical assistance. The work of the Secretariat on the technical assistance strategy will be presented to COP-2 for a review of progress in implementation.

PROPOSAL BY THE AFRICAN GROUP: On Wednesday, Nigeria, on behalf of the African Group, introduced a draft decision concerning the establishment of a financial mechanism for the implementation of the Convention (UNEP/FAO/RC/COP.1/CRP.9). The draft decision requests that the Secretariat conduct a study on options for establishing a financial mechanism, and to include in the 2004-2005 budget the resources required for the study.

Several developing countries supported the proposal. Japan said it supported the draft decision as long as the proposed budget for 2005 remained the same. On Friday the African Group introduced a revised proposal (UNEP/FAO/RC/COP.1/CRP.9/Rev.1), expanding on the objectives of the study, and including the costs for the study in the 2005-2006 budget. The EC, supported by Canada, proposed amending text on the purpose of the study, proposing the study explore "the possibilities for financial support," rather than "the possible options for establishing a lasting and sustainable financial mechanism." Brazil, Guinea and Ethiopia rejected this new wording, and Norway proposed compromise language, which the African Group accepted in the spirit of compromise. The decision was adopted as amended.

Final Decision: The decision concerning the establishment of a financial mechanism for the implementation of the Convention (UNEP/FAO/RC/COP.1/CRP.9/Rev.1) requests the Secretariat to conduct a study into the possible options for lasting and sustainable financial mechanisms that will enable developing countries to implement adequately the provisions of the Convention.

COOPERATION WITH THE WORLD TRADE ORGANIZATION: On Tuesday in the COW, Murray introduced a document and a draft decision on cooperation between the Rotterdam Convention Secretariat and the World Trade Organization (WTO) (UNEP/FAO/RC/COP.1/29). Canada said it had prepared a revised draft decision after consultations with a number of countries and groups. Discussion was suspended on this issue pending the availability of the revised draft decision from Canada.

On Wednesday in the COW, Canada introduced the revised draft decision. Norway, the EC, Malaysia, New Zealand, and the US supported Canada's proposal. Venezuela requested that the decision be modified to include information on the basis for coop-



eration. In the afternoon, after consultations, Canada suggested that text be inserted into the decision making reference to a note by the Secretariat on cooperation with the WTO (UNEP/FAO/RC/COP.1/INF/8). Delegates accepted the draft decision, as amended by Canada, and the decision was approved in plenary on Friday.

Final Decision: The final decision (UNEP/FAO/RC/COP.1/CRP.4/Rev.2) requests the Secretariat to seek observer status in the WTO Committee on Trade and Environment in Special Session, and to report to the COP on WTO matters.

ACTIVITIES OF THE SECRETARIAT AND ADOPTION OF A BUDGET

BUDGET: On Tuesday in the COW, Willis introduced a note by the Secretariat on its activities and on the adoption of a budget (UNEP/FAO/RC/COP.1/30 and 30/Add.1). The COW took note of the Secretariat's report, and set the agenda item aside for consideration by a budget contact group. A budget contact group met on Wednesday and Thursday to discuss the issue, and in plenary on Friday, delegates considered a draft decision submitted by the group (UNEP/FAO/RC/COP.1/CRP.21). This item was considered along with the item on financial rules in an open-ended informal group on Friday afternoon, where the inclusion of the indicative scale of assessments was discussed. Delegates agreed to adopt the indicative scale of assessments for 2005 and 2006, based on the UN scale of assessments, and agreed that the Secretariat modify the figures to take into account contributions from Switzerland and Italy.

Final Decision: The decision (UNEP/FAO/RC/COP.1/CRP.21) adopts the budget for the 2005-2006 biennium. The decision sets an indicative scale of assessments for 2005 and 2006, and includes provisions for a meeting of an *ad hoc* working group on non-compliance, and for a study on a financial mechanism. The decision also authorizes adjustment, before the end of the biennium, to the scale of assessments to reflect the addition of new Parties.

REPRESENTATION IN THE SECRETARIAT: On Thursday in the COW, delegates considered a proposal by the African Group requesting better representation from Africa in the Secretariat (UNEP/FAO/RC/COP.1/CRP.10). Brazil, on behalf of the Latin American and Caribbean Group, and supported by Malaysia and New Zealand, suggested that the submission apply to all developing countries. The Gambia indicated that it did not support deleting specific reference to Africa. Canada noted that it did not have adequate statistics to verify the under representation of developing countries. Jamaica, supported by Jordan, suggested a compromise referring to under representation in developing countries in general, and Africa in particular. Nigeria, on behalf of the African Group, accepted Jamaica's suggestion. New Zealand suggested that the document refer to the "undesirability" of an imbalance in regional distribution, rather than the existence of an imbalance. Delegates agreed to the proposal, as amended by Jamaica and New Zealand, and forwarded it to the COP, where it was approved on Friday.

Final Decision: The decision (UNEP/FAO/RC/COP.1/CRP.10/Rev.1) notes the undesirability of an imbalance in regional distribution of Secretariat posts, notes the existence of high technical expertise within developing countries and African countries in particular, and recommends that UNEP and FAO ensure adequate representation from developing countries at senior grades in the Convention's Secretariat.

OTHER MATTERS

Other matters were addressed in plenary on Friday.

The EC, with Australia, noted that notifications for chrysotile asbestos had been received from Parties in two different PIC regions, and called for the consideration of chrysotile asbestos by the CRC at its first meeting.

Argentina reiterated a request it had made at INC-10 seeking clarification on the existence of international trade in dustable powder formulations of benomyl, carbofuran and thiram, and asked that the issue be added to COP-2's agenda.

Willis introduced, and COP-1 adopted, a draft decision submitted by the EC, paying tribute to the Government of Switzerland for its hospitality in hosting COP-1 (UNEP/FAO/RC/COP.1/CRP.19).

Final Decision: The decision (UNEP/FAO/RC/COP.1/CRP.19) expresses gratitude to the Government of Switzerland, the authorities of the city of Geneva, and through them, to the people of Switzerland, for their welcome, their hospitality, and their contribution to the success of the Convention.

HIGH-LEVEL SEGMENT

COP-1 President Philippe Roch (Switzerland) opened the high-level segment on Thursday morning, and delegates heard opening addresses by: Moritz Leuenberger, Swiss Federal Councillor in charge of the Federal Department of Transport, Communications and Energy; Klaus Töpfer, UNEP Executive Director; and Louise Fresco, FAO Assistant Director-General.

FORMAL STATEMENTS BY PARTIES, OBSERVER

STATES AND ORGANIZATIONS: On Thursday afternoon and on Friday morning, delegates heard statements from ministers and heads of delegations. Key themes addressed in these statements are summarized below.

Significance of the entry into force of the Rotterdam

Convention: Several countries made reference to the Convention in the context of Chapter 19 of Agenda 21, adopted in 1992 at the UN Conference on Environment and Development, and of the Johannesburg Plan of Implementation, adopted at the World Summit on Sustainable Development.

A number of countries expressed hope that the Convention would address the problem of stockpiles of obsolete chemicals, and Rwanda called for assistance in the inventory and elimination of stockpiles of listed chemicals that entered his country illegally following the 1994 genocide.

Technical assistance: Many developing countries, including Egypt, Indonesia, Syria and Venezuela, emphasized the importance of technical assistance for the successful implementation of the Convention, with Romania also highlighting its importance for countries with economies in transition. Denmark, Uruguay, and several others welcomed COP-1's decision on a technical assistance strategy.

Sweden announced her country's decision to increase its official development assistance to 1% of GDP by 2006, and planned contribution of approximately US\$130 million to environment issues. The US noted its active involvement in providing funding and technical expertise to countries. The World Health Organization (WHO) said it would continue to provide technical information on the chemicals and pesticides under consideration for inclusion in the Convention. The Basel Convention noted the work of its Regional and Subregional Centers in enhancing the capacity of developing countries and countries with economies in transition.



Financial mechanisms: Several developing countries, including Brazil, Burkina Faso, Kenya, Jordan and Morocco, stressed the need for a financial mechanism for the implementation of the Convention by developing countries. South Africa noted with regret that the financial mechanism had not been resolved at COP-1, and expressed hope that the feasibility of a financial mechanism will be considered and reviewed at COP-2.

Synergies between chemicals-related MEAs: Many countries, including Algeria, Argentina, Belarus, Sweden and Syria, highlighted the need for and of potential of synergies between the Rotterdam Convention and other international and regional processes, including the Basel and Stockholm Conventions, the Montreal Protocol on Substances that Deplete the Ozone Layer, and SAICM. Argentina and the Republic of Korea encouraged the participation of all relevant stakeholders in chemicals management.

Domestic issues: Many countries outlined different aspects of their national legislation and domestic efforts to promote implementation of the Rotterdam Convention.

The importance of chemicals for economic and social development: Many developing countries, including Algeria, Burkina Faso and Ghana, acknowledged that certain chemicals play a major role in the social and economic development of countries, in particular as relating to agriculture, but also urged caution in their management and trade. The WHO noted the importance of ensuring that the poorest people are not disproportionately exposed to chemical risks.

The listing of chemicals in Annex III (Chemicals subject to the PIC Procedure): Romania and others welcomed the inclusion at COP-1 of 14 additional chemicals and pesticides following the interim PIC Procedure, with France and others expressing regret that delegates did not reach consensus on the addition of chrysotile asbestos. The EC underscored that COP decisions to add additional chemicals to Annex III are of a political nature, and expressed hope that decisions will be taken in line with the objectives of the Convention. Ukraine stressed the need to take countries' economies and capacities into account, as well as ecology and health concerns. The Czech Republic stressed the importance of including all substances that meet the criteria for Annex II (Criteria for listing banned or severely restricted chemicals in Annex III).

Future of the Rotterdam Convention: Kenya expressed its desire to host COP-3 in Nairobi. Belarus, Indonesia, Kenya, Morocco, the US and Venezuela, announced their intent to ratify the Convention. Venezuela called upon COP-1 to take into account the special situation of countries not yet Parties to the Convention but already fulfilling its provisions. Denmark emphasized that the Rotterdam Convention does not ban the use of chemicals, but rather gives countries the "freedom of choice" to say no to a chemical's import. He regretted the lack of agreement on non-compliance, and expressed hope for a positive outcome at COP-2.

CLOSING PLENARY

Töpfer commended COP-1 for a constructive meeting with extremely concrete and progressive outcomes. Brazil, supported by Argentina, Jordan and Egypt, expressed disappointment at the adoption of the UN scale of assessments for the budget, emphasizing that it will be forced to sacrifice implementation projects to pay for organizational contributions. The EC recognized the efforts made by developing countries, and in particular the Latin American and Caribbean Group, to come to agreement on the scale of assessments. Marking his departure from UNEP, Jim Willis, Secretariat,

expressed his appreciation to his colleagues in the Secretariat for their spirit of camaraderie. President Roch gavelled the meeting to a close at 6:50 pm.

A BRIEF ANALYSIS OF INC-11 AND COP-1

Back-to-back sessions of the eleventh Intergovernmental Negotiating Committee (INC-11) and the first Conference of Parties (COP-1) led to a busy week for the Rotterdam Convention. INC-11 was convened specifically to add parathion, tetraethyl lead, tetramethyl lead and chrysotile asbestos in the interim PIC Procedure, so that they could then be included in Annex III at COP-1. COP-1 had a substantial agenda of mostly procedural items. While the week got off to a stormy beginning, with INC-11 disagreeing over the inclusion of chrysotile asbestos in Annex III, COP-1 ran smoothly and efficiently, and the meeting successfully adopted all the decisions required to make the legally binding PIC Procedure operational. Nevertheless, a number of issues generated heated discussions at COP-1, and disagreements between developed and developing countries on representation and financing issues cast shadows over an otherwise productive week. On financing issues, disagreements surrounded both the creation of a financial mechanism for technical assistance and the use of the UN scale of assessments for contributions to the Convention's trust fund. On representation issues, negotiations focused on the size and composition of the Chemical Review Committee (CRC), the members of which should be appointed, according to Article 18(6)(a) of the Convention, "on the basis of equitable geographical distribution, including ensuring a balance between developed and developing Parties."

This analysis will review the progress achieved at COP-1, including the establishment of the PIC regions, the adoption of procedural and financial rules, and the addition of 14 chemicals to the PIC Procedure. It will also consider the implications of four of the most debated issues: the failure to list chrysotile asbestos at INC-11; the composition of the CRC; the establishment of a financial mechanism; and the assessment of contributions to the budget. It will conclude by assessing the possible implications of INC-11 and COP-1 for the future of the Rotterdam Convention.

PROGRESS ACHIEVED

COP-1 began on a high note with the incorporation, on the first day, of 14 new chemicals into Annex III of the Convention, thanks to the work carried out throughout the interim PIC Procedure. COP-1 also succeeded at adopting all the decisions required to operationalize the legally binding PIC Procedure. This included the adoption of rules of procedure and financial rules, the composition of the PIC regions, and the establishment of the CRC. Delegates agreed to use seven PIC regions for notification purposes, which will facilitate meeting the requirement of notification from two regions to trigger a chemical's review process. This agreement reflects Parties' commitment to expanding the scope of the Convention. Deliberations focused largely on procedural matters, while potentially contentious issues which did not require adoption at COP-1, such as the rules on non-compliance, were set aside for consideration by COP-2.

CHRYSOTILE ASBESTOS

INC-11 started with considerable enthusiasm, stimulated by the successful accomplishments of the INC over the last five years, under the strong and dedicated stewardship of Chair Maria Celina de Azevedo Rodrigues (Brazil). INC-11 succeeded in including



three new chemicals in the PIC list for consideration at COP-1. However, delegates could not reach consensus on the inclusion of chrysotile asbestos in Annex III to the Convention (Chemicals subject to the PIC Procedure). Even though the Interim Chemical Review Committee (ICRC) had determined that the notifications on the substance met the Convention's criteria for listing banned or severely restricted chemicals in Annex III, a handful of countries, for the most part asbestos producers, strongly opposed the inclusion of the substance in the PIC procedure.

The impasse led to disillusionment among several delegates and observers, who feared that this was indicative of a future where the economic and political considerations of some Parties may preclude the listing of other hazardous chemicals traded internationally, even if the CRC finds their listing appropriate. Furthermore, discussions revealed that some confusion remains regarding the purpose of the PIC Procedure. Some countries' interventions reflected the assumption that the PIC Procedure constitutes a *de facto* "blacklist" on international trade in the chemicals listed in Annex III. Reacting to this impression, others repeatedly emphasized that the Convention's aim is not to ban international trade in the listed chemicals, but rather to warn parties about the risks of certain substances.

COMPOSITION OF THE CHEMICAL REVIEW COMMITTEE (CRC)

One of the hotly debated issues at COP-1 was the composition of the CRC, which many see as having a "gatekeeper" role in the addition of new chemicals to the PIC Procedure. While the CRC is tasked with examining the notifications for listing new chemicals, it is also a forum for the exchange of information and expertise, and could play a significant role in building the capacity of participating Parties. Heated discussions concerned the number of delegates assigned from each region, as well as the size of the committee itself. While many developed countries proposed maintaining the seven PIC regions used in the ICRC, this proposal was rejected by developing countries, who stressed that the PIC regions were unfair. They explained that with seven regions, some developed countries in small regions would be guaranteed a seat on the CRC, while developing countries whose regions encompassed many countries would rarely be directly represented.

After agreement was reached to base composition on the five UN regions, views diverged on how many experts to assign to each region. Noting financial constraints, a few developed countries favored a small group with few members from each region, while other developed countries called for more experts from their region to get closer to a one-to-one balance between developed and developing countries. Others stressed the need for equitable geographic distribution, with regions with many developing countries asking for more experts than smaller regions, while countries from the southern hemisphere advocated for larger groups from each region to increase the likelihood of their interests being represented. At the conclusion of these contentious deliberations, Parties agreed on a 31-member CRC. This compromise, whereby each region received fewer seats than it had hoped for, left everyone, as the Chair of the Committee of the Whole noted, "equally unhappy." While it remains to be seen whether this delicate balance is cemented in the coming years, it symbolizes a significant step forward in the efficient functioning of the binding PIC Procedure.

FINANCIAL MECHANISM FOR TECHNICAL ASSISTANCE

Unlike the Basel and Stockholm Conventions, the Rotterdam Convention does not provide for a financial mechanism to specifically sponsor capacity building and technical assistance activities. Article 16 of the Convention calls only for bilateral assistance, requiring Parties to "cooperate in promoting technical assistance for the development of the infrastructure and the capacity necessary to manage chemicals to enable implementation of [the] Convention," taking into account the needs of developing countries and countries with economies in transition. At COP-1, many developing country delegations stressed the need to create a financial mechanism specifically to support capacity building activities, which would enable them to comply with their obligations under the Convention. The African Group submitted a proposal requesting that the Secretariat conduct a study into the possible options for establishing a "lasting and sustainable" financial mechanism for that purpose. This proposal received wide support from developing countries, while developed countries remained skeptical about the need to create a financial mechanism they would have to contribute to. After heated discussions in which the African Group argued to retain the text of its proposal, delegates agreed to request the COP to conduct a study which looks at existing, as well as possible future, financial mechanisms.

This issue could lead to further controversy because the creation of a financial mechanism would require an amendment to the Convention. Some have suggested that the creation of a financial mechanism is premature, given that existing bilateral assistance opportunities to strengthen chemicals management capacities have not been sufficiently explored and utilized. The African Group's proposal to carry out a study for the eventual creation of a financial mechanism, rather than directly asking for the establishment of such a mechanism, may prove to be the most strategic approach. Indeed, the proposal may gain wider acceptance if bilateral assistance opportunities prove to be insufficient to support the Convention's implementation by developing countries and other Parties.

BUDGET AND CONTRIBUTIONS

Another decision required of COP-1 was the adoption of financial rules and a budget. Significant controversy surrounded the scale of contributions to the trust fund for the implementation of the Convention. Discussion focused on the use of the UN scale of assessments, and how that scale could be modified for the Convention's purposes. Developed countries argued that on the basis of this indicative scale no one Party's contribution should make up more than 22% of the total amount contributed. Developing countries countered that no one developing country Party's contribution should exceed 0.6% of the total. Brazil and Argentina advocated the 0.6% cap, pointing out that their contributions based on the UN scale would be larger than those of several developed countries (for example, Austria and Denmark). The European Community strongly advocated maintaining the UN scale. The final decision adopted the UN scale, without the 0.6% cap. In a statement in the final plenary, supported by Argentina and others, de Azevedo Rodrigues made an impassioned statement criticizing the "absurd irony" of the decision, saying that the inability of developed countries to compromise during negotiations left her with a "bitter taste," as the Convention was negotiated precisely because while developing countries have very limited capacity to ensure the safe use of hazardous chemicals, they face the greatest problems related to their use. Nevertheless, she expressed hope that the spirit that had guided the negotiations of the Rotterdam Convention would



ultimately prevail, with the goal of a safer and healthier world in mind. De Azevedo Rodrigues' remarks were greeted by a round of applause in the plenary hall.

MOVING FORWARD

COP-1 represents a significant step toward the effective implementation of the Rotterdam Convention, as it launched the legal, financial and technical framework that will allow the legally binding PIC Procedure to function on a permanent basis. Perhaps more prominently, the COP added 14 new chemicals to Annex III, illustrating the potential for the Convention to strengthen its reach as it matures. This is a significant development if one takes into account that as adopted in 1998, the Convention applied to a total of 27 chemicals. According to some, it also suggests that the INC's determination to continue the operation of the PIC Procedure on an interim basis after the adoption of the Convention was a "wise decision" to work toward a full-fledged legally binding PIC.

However, the disagreements over chrysotile asbestos, as well as on the composition of the CRC, technical assistance, and the budget, suggest that the next several COPs will likely be the stage for substantive debate. While building upon the strong momentum of the INC process and the interim PIC Procedure that are widely considered to have been successful, COP-2 will have significant work to do to ensure the continuing success and effectiveness of the Rotterdam Convention.

UPCOMING MEETINGS

SECOND SESSION OF THE PREPARATORY COMMITTEE FOR THE DEVELOPMENT OF A STRATEGIC APPROACH TO INTERNATIONAL CHEMICALS MANAGEMENT (SAICM PREPCOM 2): SAICM PrepCom 2 will be held from 4-8 October 2004, in Nairobi, Kenya. For more information, contact: UNEP Chemicals; tel: +41-22-917-8191; fax: +41-22-797-3460; e-mail: chemicals@unep.ch; Internet: <http://www.chem.unep.ch/saicm/>

THIRD SESSION OF THE STOCKHOLM CONVENTION EXPERT GROUP ON BAT-BEP: The third meeting of the Expert Group on Best Available Techniques (BAT) and Best Environmental Practices (BEP) for the Stockholm Convention will be held from 11-16 October 2004, in Tokyo, Japan. For more information, contact: UNEP Chemicals; tel: +41-22-917-8191; fax: +41-22-797-3460; e-mail: chemicals@unep.ch; Internet: http://www.pops.int/documents/meetings/bat_bep/3rd_session/Default.htm

GLOBAL WOMEN'S ASSEMBLY ON ENVIRONMENT: WOMEN AS THE VOICE FOR ENVIRONMENT (WAVE): This meeting will take place from 11-13 October 2004, in Nairobi, Kenya. For more information, contact: Olivier Deleuze, UNEP; tel: +254-20-624-686; fax: +254-20-623-679; e-mail: Olivier.Deleuze@unep.org; Internet: http://www.unep.org/dpdl/cso/GWAE_background.asp

SECOND ANNUAL EU SUSTAINABLE CHEMICALS MANAGEMENT CONFERENCE: This meeting will take place from 12-14 October 2004, in Brussels, Belgium. It will focus on the REACH chemicals policy. For more information, contact: Dan Craft, Conference Producer, EU Conferences; tel: +44-14-9530-0011; fax: +44-14-9530-9372; e-mail: dan.craft@euconferences.com; Internet: <http://www.euconferences.com/frachemical04.htm>

SEVENTH MEETING OF THE CONFERENCE OF THE PARTIES (COP-7) TO THE BASEL CONVENTION: Basel COP-7 is scheduled to be held in Geneva, Switzerland, from 25-29 October 2004. For more information, contact: Secretariat of the Basel Convention; tel: +41-22-917-8218; fax: +41-22-797-3454; e-mail: sbc@unep.ch; Internet: <http://www.basel.int>

GEF NGO CONSULTATION AND COUNCIL MEETING: The next Global Environment Facility (GEF) NGO Consultation and Council Meeting will take place from 15-19 November 2004, in Washington, DC, US. For more information, contact: GEF Secretariat; tel: +1-202-473-0508; fax: +1-202-522-3240; e-mail: secretariat@TheGEF.org; Internet: http://gefweb.org/participants/Council/Meeting_Schedule/meeting_schedule.html

16TH MEETING OF THE PARTIES TO THE MONTREAL PROTOCOL: This meeting will be held from 22-26 November 2004, in Prague, Czech Republic. Delegates will continue their negotiations on phasing-out the use of various ozone-depleting substances such as hydrochlorofluorocarbons and methyl bromide. For more information, contact: Ozone Secretariat, UNEP; tel: +254-2-62-3850; fax: +254-2-62-3601; e-mail: ozoneinfo@unep.org; Internet: <http://www.unep.org/ozone/>

TENTH CONFERENCE OF THE PARTIES TO THE UNFCCC: The tenth Conference of the Parties (COP-10) to the UN Framework Convention on Climate Change (UNFCCC) will meet from 6-17 December 2004, in Buenos Aires, Argentina. For more information, contact: UNFCCC Secretariat; tel: +49-228-815-1000; fax: +49-228-815-1999; e-mail: secretariat@unfccc.int; Internet: <http://www.unfccc.int>

ROTTERDAM CONVENTION CHEMICAL REVIEW COMMITTEE: The first session of the Chemical Review Committee for the Rotterdam Convention is tentatively scheduled for February 2005. For more information, contact: Niek van der Graaff, FAO; tel: +39-6-5705-3441; fax: +39-6-5705-6347; e-mail: niek.vandergraaff@fao.org; or UNEP Chemicals; tel: +41-22-917-8191; fax: +41-22-797-3460; e-mail: chemicals@unep.ch; Internet: <http://www.pic.int>

23RD SESSION OF THE UNEP GOVERNING COUNCIL/GMEF: The 23rd session of the UNEP Governing Council/Global Ministerial Environment Forum is scheduled to be held from 21-25 February 2005, in Nairobi, Kenya. For more information, contact: Beverly Miller, Secretary for UNEP Governing Council; tel: +254-2-623-431; fax: +254-2-623-929; e-mail: beverly.miller@unep.org; Internet: <http://www.unep.org>

FIRST CONFERENCE OF THE PARTIES TO THE STOCKHOLM CONVENTION: POPs COP-1 will take place from 2-6 May 2005, in Punta del Este, Uruguay. For more information, contact: Stockholm Convention Secretariat; tel: +41-22-917-8191; fax: +41-22-797-3460; e-mail: ssc@chemicals.unep.ch; Internet: <http://www.pops.int>

SECOND CONFERENCE OF THE PARTIES TO THE ROTTERDAM CONVENTION (PIC COP-2): PIC COP-2 is tentatively scheduled for early October 2005, in Rome, Italy. For more information, contact: Niek van der Graaff, FAO; tel: +39-6-5705-3441; fax: +39-6-5705-6347; e-mail: niek.vandergraaff@fao.org; or UNEP Chemicals; tel: +41-22-917-8191; fax: +41-22-797-3460; e-mail: chemicals@unep.ch; Internet: <http://www.pic.int>