

ROTTERDAM PIC COP 4 HIGHLIGHTS: TUESDAY, 28 OCTOBER 2008

The fourth meeting of the Conference of the Parties (COP 4) of the Rotterdam Convention on the Prior Informed Consent (PIC) Procedure for Certain Hazardous Chemicals and Pesticides in International Trade continued its work on Tuesday, with delegates meeting in plenary and contact groups. In the morning, delegates furthered discussions on implementation of the Convention and cooperation between the Rotterdam, Basel and Stockholm Conventions. They then addressed appointments and nominations to the Chemical Review Committee (CRC) and the inclusion of new chemicals in Annex III of the Rotterdam Convention. Delegates agreed to include tributyltin compounds but could not reach consensus on chrysotile asbestos and endosulfan. Contact groups on compliance, budget and implementation met throughout the day.

PLENARY

IMPLEMENTATION OF THE CONVENTION: Delegates continued consideration of possible procedures to ensure the effectiveness of the Convention, including the creation of a new annex for chemicals on which consensus is not reached regarding listing in Annex III (UNEP/FAO/RC/COP.4/13).

BENIN supported a new annex while recognizing it might complicate Convention operations. NORWAY and BRAZIL called for keeping the consensus rule, while the US and the RUSSIAN FEDERATION indicated departing from the consensus rule might jeopardize their Convention ratifications. UKRAINE lamented waning enthusiasm for the Convention as political and economic interests have obstructed science-based decisions. JORDAN suggested revisiting implementation during technical assistance discussions. KENYA called for developed nations to include developing nations in their information exchange on chemicals and for nations to emulate the EU's export notifications. The US suggested greater information exchange through the PIC website and to include information on controls other than just bans and severe restrictions.

Chair Repetti asked the Secretariat to draft a decision based on proposals in Part IV of document UNEP/FAO/RC/COP.4/11 on lessons learned and points to consider on the implementation of the Convention, for consideration in plenary.

COOPERATION AND COORDINATION BETWEEN THE ROTTERDAM, BASEL AND STOCKHOLM CONVENTIONS: The three Co-chairs Osvaldo Álvarez-Pérez (Chile), Ruisheng Yue (China) and Kerstin Stendahl (Finland) of the 45-member *Ad-Hoc* Joint Working Group on Cooperation and Coordination among the Basel, Rotterdam and Stockholm Conventions (AHJWG), presented on the group's work. Based on the supplementary report developed by Nicholas Kiddle

(New Zealand), President of Stockholm Convention COP 2, the group drew up guiding principles, a list of national needs, and identified priority action areas for the coordination of joint services and management functions. The co-chairs highlighted: the innovative consultative approach adopted by the working group, noting that it is considered a best practice in ongoing discussions of international environmental governance; and that the AHJWG recommendations were adopted with minor amendments by COP 9 of the Basel Convention, in its decision IX/10, in June 2008.

Chair Repetti invited comments on the AHJWG documents (UNEP/FAO/RC/COP.4/20; 20/Add.1; INF/9 and INF/10). She suggested adopting the recommendations of the AHJWG after amending the preambular paragraphs added by the Basel Convention in order to reflect that they also pertain to the Rotterdam Convention.

BRAZIL, NIGERIA, INDIA, SENEGAL, CUBA and others drew attention to the financial implications of the recommendations, noting the contact group on budget should address them. Many, including THAILAND, NEW ZEALAND, JAPAN, PAKISTAN and PANAMA voiced their support for the recommendations. SWITZERLAND provided a historical perspective on cooperation and coordination between the three conventions and backed the draft decision. SUDAN suggested cooperation with other institutions with similar programmes or objectives to those of the chemical conventions. Chair Repetti noted the Secretariat will prepare a draft decision for adoption on Friday.

CONSIDERATION OF CHEMICALS FOR INCLUSION IN ANNEX III OF THE CONVENTION: Tributyltin compounds: The Secretariat introduced the document on the inclusion of tributyltin (TBT) compounds in Annex III of the Convention (UNEP/FAO/RC/COP.4/10), and summarized the procedure followed in developing the Decision Guidance Documents. Delegates agreed without discussion to adopt the draft decision and list TBT compounds in Annex III with the formal adoption taking place during the High-level segment later this week.

Chrysotile asbestos: The Secretariat introduced the document on the possible inclusion of chrysotile asbestos in Annex III (UNEP/FAO/RC/COP.4/8), a decision deferred from COP 3. After initial discussions indicated divisions among delegates on whether to list chrysotile asbestos, Chair Repetti proposed postponing the decision to COP 5. INDIA, MEXICO, PAKISTAN and the PHILIPPINES agreed to the Chair's proposal.

The EU opposed and urged inclusion in Annex III at this COP. He was supported by SWITZERLAND, CHILE, PERU, VENEZUELA, SUDAN, the GAMBIA, GABON, NIGERIA, THAILAND, AUSTRALIA, KUWAIT, OMAN, TANZANIA,

YEMEN, BENIN, PARAGUAY, DEMOCRATIC REPUBLIC OF THE CONGO, KENYA, MALAYSIA, DOMINICAN REPUBLIC, EQUATORIAL GUINEA, JAPAN, ARGENTINA, NORWAY, JORDAN, PANAMA and the ROTTERDAM CONVENTION ALLIANCE (ROCA). Many of these countries and the Secretariat pointed out that a listing in Annex III does not entail a ban and would allow continued use and production of the chemical. Some developing countries emphasized that a further delay would significantly hamper their ability to make informed decisions.

DEMOCRATIC REPUBLIC OF THE CONGO suggested establishing a negotiating committee. SWITZERLAND, supported by NORWAY and the EC, expressed concern that failing to act on chrysotile asbestos would undermine the dynamic nature of the Convention, and suggested that Thursday's High-level segment discuss how to break such impasses.

KAZAKHSTAN, KYRGYZSTAN, UKRAINE and VIETNAM opposed listing chrysotile asbestos in Annex III of the Convention. The RUSSIAN FEDERATION also opposed inclusion, insisting that its carcinogenicity has not been proven, and that 60,000 jobs depend on it. PUBLIC SERVICE INTERNATIONAL declared it represented workers in 161 countries, including Russia, and called for chrysotile asbestos to be added to Annex III.

Endosulfan compounds: The Secretariat introduced a document on the inclusion of endosulfan in Annex III of the Convention (UNEP/FAO/RC/COP.4/9).

INDIA, supported by PAKISTAN, but opposed by a civil society network based in Kerala state (India), said listing endosulfan was unacceptable as the notifications by Thailand and the Netherlands were based on unintentional use and that no data was available on human health impacts. The Secretariat clarified that it was not an obligation to have "both health and environmental concerns", but rather "health or environmental concerns." CHINA and the US highlighted that the COP should agree on the definition of "intentional misuse" before deciding the fate of endosulfan, while BRAZIL, supported by NEW ZEALAND and IRAN, clarified that the interpretation of intentional misuse should not delay a decision on endosulfan and that discussions should focus on the effective implementation of the Convention. The EC noted the EU exports endosulfan to 16 countries under the PIC procedure demonstrating that there is no economic justification for rejecting its listing.

CUBA, BELIZE, CHILE, OMAN, MALAYSIA, PANAMA, THAILAND, JORDAN, SUDAN, YEMEN, DOMINICAN REPUBLIC, PARAGUAY, SENEGAL, the GAMBIA and MALI were among countries in favor of the listing. A civil society representative from Benin stated that 17 smallholders had died from exposure to the chemical over the past year. JAMAICA, and others highlighted ongoing discussions under the Stockholm Convention and underscored the importance of information sharing for decision making in developing countries. In closing, Chair Repetti asked Vice-chair Barry Reville (Australia) to draft a new document on the status of the discussions on chrysotile asbestos and endosulfan for adoption later in the week.

CURRENCY OF CONVENTIONS' ACCOUNTS AND BUDGET: In the afternoon, plenary considered the outcome of a study on the use of the Euro, Swiss franc and US dollar (UNEP/FAO/RC/COP.4/18). The issue was referred to the budget contact group.

GOVERNMENT NOMINATIONS FOR THE CRC:

Delegates considered the nomination of governments to designate experts for the CRC (UNEP/FAO/COP.4/6) and the list of governments identified by COP 1 and COP 3 to nominate a member to the CRC (UNEP/FAO/RC/COP.4/CRP.1). Plenary will return to this issue on Thursday.

CONFIRMATION OF CRC APPOINTMENTS: Delegates considered the confirmation of the appointments of government-designated experts to the CRC (UNEP/FAO/RC/COP.4/5 and INF/6). Chair Repetti suggested the draft decision be amended to note that: 15, as opposed to 14, experts were to be appointed;

and that Hyacinth Chin Sue (Jamaica) be retroactively elected as the Chair of the 4th CRC meeting. A revised decision will be presented for adoption later in the week.

IMPLEMENTATION CONTACT GROUP

The contact group met in the afternoon and evening. Discussions focused on an EU proposal for a draft COP decision on chemicals for which consensus cannot be reached in the COP. The decision would be to include them in Annex III but specify that the amendments enter into force at a later date. It would also include an annex listing parties that will in the interim apply the PIC procedure on a voluntary basis. Several delegates questioned the proposal's viability given that it assumes consensus could be reached on listing the chemicals in Annex III. Many supported improving information exchange. The EU agreed to drop parts of the proposal pertaining to listing in Annex III. The AFRICAN GROUP stressed that none of the options addresses existing challenges and that developing countries' implementation problems are due largely to insufficient information exchange. After discussion reverted to the scope of the group's mandate, the Co-chair identified agreement to further explore option six of Switzerland's submission and noted that clarification on the group's mandate will be sought with the Bureau.

BUDGET CONTACT GROUP

The budget contact group met in the afternoon and the Secretariat presented the proposed triennium budget 2009-2011 (UNEP/FAO/RC/COP.4/CRP.2). Delegates discussed the implications of the recent fluctuations in exchange rates, noting differences in the US dollar-Euro rates will affect the contributions by host governments, resulting in an increase of the overall amount of assessed contributions required by parties. Delegates also reviewed shared posts among the Conventions reflected in document UNEP/FAO/RC/COP.4/CRP.5. Discussions will continue on Wednesday.

COMPLIANCE CONTACT GROUP

The compliance contact group met in the morning and addressed outstanding issues on the draft mechanism for non-compliance. Parties discussed the composition of the compliance committee, and triggers to the compliance mechanism. On the composition of the compliance committee, they agreed to include equitable geographical representation of the five regional groups of the United Nations, following similar text in the Basel Convention. An emerging agreement was evident on the acceptance of a party-to-party trigger as long as there is a failure to comply by another Party. Disagreements remained, however, on which countries (directly affected, likely to be affected, directly involved) would be able to trigger a non-compliance submission regarding another party. A small drafting group was established to seek agreement on this matter.

IN THE CORRIDORS

While some delegates went blue in the face insisting that inclusion of a chemical in Annex III is simply a question of information exchange and not tantamount to banning or severely restricting it, some privately suggested the matter is not quite so black-or-white. Some developing country participants say inclusion gives regulatory authorities leverage to negotiate with industry and users. Others worry that the cost of patented alternatives particularly for agriculture pressures them into refusing listing. One delegate insisted "listing becomes a *de facto* technical barrier to trade," and this leads to the use of potentially more harmful alternatives that do not require notification. One individual hoped that ministers will raise the issue of chrysotile and endosulfan on Thursday and "save the day," although most doubted that the political spotlight will move those opposed to the listings.