

SUMMARY OF THE FOURTH MEETING OF THE CONFERENCE OF THE PARTIES TO THE ROTTERDAM CONVENTION: 27–31 OCTOBER 2008

The fourth meeting of the Conference of the Parties (COP 4) of the Rotterdam Convention on the Prior Informed Consent Procedure (PIC) for Certain Hazardous Chemicals and Pesticides in International Trade convened on 27-31 October 2008, at the headquarters of the Food and Agriculture Organization of the United Nations (FAO) in Rome, Italy. Over 510 participants, representing more than 126 governments, UN agencies, and intergovernmental and non-governmental organizations (NGOs), attended the meeting.

COP 4 adopted 13 decisions, including the addition of tributyltin compounds (TBT) to Annex III of the Convention (Chemicals subject to the PIC procedure). The meeting also adopted: a programme of work and budget for the triennium 2009-11; a decision on implementation; and the recommendations of the *Ad Hoc* Joint Working Group on Enhancing Cooperation and Coordination among the Basel, Rotterdam and Stockholm Conventions (AHJWG). However, it could not agree on the inclusion of endosulfan in Annex III. Delegates also addressed those issues that eluded consensus during the last meeting of the COP but could not agree on mechanisms and procedures for non-compliance and the inclusion of chrysotile asbestos in Annex III of the Convention. A high-level segment was held on 30–31 October, with ministers and heads of delegation holding panel discussions on the theme: “Sound chemicals management: relieving the burden on public health.” A special pledging event held on Friday garnered some support for specific items in the Rotterdam Convention’s programme of work.

The inclusion of TBT compounds in Annex III, the adoption of the decision on synergies with other conventions and the agreement on priorities in the programme of work and budget provided evidence of progress in the work of the COP. Issues unresolved at this COP and forwarded to COP 5 pertain to: compliance, effective implementation, and listing of chrysotile asbestos and endosulfan in Annex III.

A BRIEF HISTORY OF THE ROTTERDAM CONVENTION

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 effects of such chemicals. This led to the adoption of the International Code of Conduct for the Distribution and Use of Pesticides by the 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 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 banned or severely restricted chemicals. At the UN Conference on Environment and Development held in Rio de Janeiro, Brazil, in 1992, delegates adopted Agenda 21, which includes an international strategy for action on chemical safety (Chapter

IN THIS ISSUE

A Brief History of the Rotterdam Convention	1
COP 4 Report	2
Implementation of the Convention	3
Issues Arising out of Previous COP Meetings	6
Report on the Activities of the Secretariat	8
Programme of Work and Consideration of the Proposed Budget for the Biennium 2009–2010	8
High-Level Segment	9
Closing Plenary	10
A Brief Analysis of COP 4	10
Upcoming Meetings	12
Glossary	12

This issue of the *Earth Negotiations Bulletin* © <enb@iisd.org> is written and edited by Soledad Aguilar, Wangu Mwangi, Olivia Pasini, Keith Ripley, and Anne Roemer-Mahler. The Digital Editor is Francis Dejon. The Editor is Pamela S. Chasek, Ph.D. <pam@iisd.org> and the Director of IISD Reporting Services is Langston James “Kimo” Goree VI <kimo@iisd.org>. The Sustaining Donors of the *Bulletin* are the United Kingdom (through the Department for International Development – DFID), the Government of the United States of America (through the Department of State Bureau of Oceans and International Environmental and Scientific Affairs), the Government of Canada (through CIDA), the Danish Ministry of Foreign Affairs, the German Federal Ministry for Economic Cooperation and Development (BMZ), the German Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (BMU), the Netherlands Ministry of Foreign Affairs, the European Commission (DG-ENV), and the Italian Ministry for the Environment, Land and Sea. General Support for the *Bulletin* during 2008 is provided by the Norwegian Ministry of Foreign Affairs, the Government of Australia, the Austrian Federal Ministry of Agriculture, Forestry, Environment and Water Management, the Ministry of Environment of Sweden, the New Zealand Ministry of Foreign Affairs and Trade, SWAN International, Swiss Federal Office for the Environment (FOEN), the Finnish Ministry for Foreign Affairs, the Japanese Ministry of Environment (through the Institute for Global Environmental Strategies - IGES), the Japanese Ministry of Economy, Trade and Industry (through the Global Industrial and Social Progress Research Institute - GISPRI), and the United Nations Environment Programme (UNEP). Funding for translation of the *Bulletin* into French has been provided by the International Organization of the Francophonie (IOF). Funding for the translation of the *Bulletin* into Spanish has been provided by the Ministry of Environment of Spain. The opinions expressed in the *Bulletin* are those of the authors and do not necessarily reflect the views of IISD or other donors. Excerpts from the *Bulletin* may be used in non-commercial publications with appropriate academic citation. For information on the *Bulletin*, including requests to provide reporting services, contact the Director of IISD Reporting Services at <kimo@iisd.org>, +1-646-536-7556 or 300 East 56th St., 11A, New York, NY 10022, USA.

19), and called on states to achieve full participation in, and implementation of, the PIC procedure by 2000, with the possible adoption of a legally-binding PIC Convention.

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 FAO, an intergovernmental negotiating committee (INC) with a mandate to prepare an international legally-binding instrument for the application of the PIC procedure. The INC held five sessions between March 1996 and March 1998, during which a draft of the PIC Convention was produced, revised, and ultimately agreed upon, as well as a draft resolution on interim arrangements.

CONFERENCE OF PLENIPOTENTIARIES: The Conference of Plenipotentiaries of the PIC Convention was held from 10-11 September 1998, in Rotterdam, the Netherlands. Ministers and senior officials from approximately 100 countries adopted the Rotterdam Convention, the Final Act of the Conference, and a Resolution on Interim Arrangements. 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 and 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 6-11: In the period prior to the Convention's entry into force, six INC meetings were held. They agreed to draft decisions on the definition and provisional adoption of PIC regions, the establishment of an Interim Chemical Review Committee, and the adoption of draft Decision Guidance Documents (DGDs) for chemicals already identified for inclusion in the PIC procedure. They also prepared draft decisions for the first Conference of the Parties, including on financial arrangements and dispute settlement procedures. Chemicals added to the interim PIC procedure during these sessions include ethylene dichloride and ethylene oxide, monocrotophos, four forms of asbestos, dinithro-ortho-cresol (DNOC), and dustable powder formulations of benomyl, carbofuran, thiram, tetraethyl lead, tetramethyl lead, and parathion. The inclusion of a fifth form of asbestos, chrysotile, has remained under discussion since INC-10.

COP 1: The first COP to the Rotterdam Convention, held in Geneva, Switzerland, from 20-24 September 2004, 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, such as the: composition of the PIC regions; inclusion of chemicals in Annex III recommended during the interim period; adoption of financial rules and provisions for the COP, the 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.

COP 2: The second COP to the Rotterdam Convention met from 27-30 September 2005 in Rome, Italy. Delegates discussed and adopted decisions on: the programme of work and the budget for 2006; operational procedures of the CRC; the finalization of the arrangements between UNEP and FAO for the provision of the Secretariat to the Rotterdam Convention; pilot projects on the delivery of regional technical assistance; and cooperation and synergies between the Basel, Rotterdam and Stockholm Conventions. Delegates agreed to forward a bracketed text on a compliance mechanism to COP 3 and to task the Secretariat with a study on financial mechanisms.

COP 3: The third COP to the Rotterdam Convention met from 9-13 October 2006 in Geneva, Switzerland. COP 3 considered reports on activities within the Convention's mandate and adopted 16 decisions on, *inter alia*: the programme of work; implementation of the Convention; financial mechanisms; and cooperation and coordination among the Basel, Rotterdam and Stockholm Conventions. Delegates did not reach agreement on mechanisms and procedures for non-compliance and deferred the decision on including chrysotile asbestos in Annex III to COP 4.

COP 4 REPORT

Bakary Kante, speaking on behalf of UNEP Executive Director Achim Steiner, welcomed participants to COP 4 and called for the meeting to send a strong signal that governments are ready to work together. He said the Convention is not about banning chemicals, but rather informed chemical management. He urged three foci for COP 4: unity, compliance and strategic partnership. He characterized compliance as the big challenge and said a compliance mechanism for the Convention is long overdue. He also called for greater synergy between the Basel, Stockholm and Rotterdam Conventions to enhance effectiveness.

Modibo Tiémoko Traoré, FAO, speaking on behalf of FAO Director-General Jacques Diouf, said increasing food production entails boosting intensive agricultural methods and possibly using more pesticides, underscoring the Convention's relevance. He stressed the focus of the Convention is not on banning chemicals and needs to be constantly updated to meet its objective of shared responsibility and informed decision making.

Peter Kenmore, Co-Executive Secretary of the Rotterdam Convention (FAO), also emphasized information sharing as central to the Convention, and said that the 10th anniversary of the Convention's adoption is a good time to reflect on lessons learned. He further highlighted the large number of participants at COP 4.

After welcoming delegates, COP 4 Chair Andrea Repetti (Argentina) stressed that the Convention has been recognized as a first line of defense because it enables countries to access relevant information and make informed decisions. Chair Repetti introduced, and COP 4 adopted, the agenda for the meeting (UNEP/FAO/RC/COP.4/1 and Add.1) and the scenario note (UNEP/FAO/RC/COP.4/2). On rules of procedure (UNEP/FAO/RC/COP.4/3), El Salvador, on behalf of the Latin America and Caribbean Group (GRULAC), stressed that brackets pertaining to voting rules in paragraph 1 of rule 45 should remain. Chair

Repetti suggested, and delegates agreed, not to take a formal decision on the matter noting that decisions on substantive matters will continue to be taken by consensus.

In addition to Chair Repetti, officers for the meeting elected at COP 3 were: Abdoulaye Traoré (Mali), Hamoud Darwish Salim Al-Hasani (Oman), Daniela Ioana Florea (Romania) and Barry Reville (Australia).

During the week, delegates addressed all agenda items in plenary, with additional meetings of contact groups on implementation, non-compliance and budget, and a Friends of the Chair group addressing the listing of chrysotile asbestos and endosulfan. A high-level segment was held on Thursday and Friday, together with a special pledging event on Friday afternoon. The following report summarizes the discussions on each agenda item.

IMPLEMENTATION OF THE CONVENTION

STATUS OF IMPLEMENTATION: COP 4 addressed the Convention's status of implementation on Monday, Wednesday and Thursday in plenary. Delegates considered several documents including: on the status of implementation (UNEP/FAO/RC/COP.4/4), a review of the implementation of the Convention's key obligations (UNEP/FAO/RC/COP.4/11), opportunities for information exchange on chemicals recommended for listing (UNEP/FAO/RC/COP.4/12), and ensuring the Convention's continued effectiveness (UNEP/FAO/RC/COP.4/13).

After the Secretariat introduced the draft decision on Wednesday, Argentina suggested amending a paragraph inviting parties to consider the extent to which "political concerns" prevent the submission of proposals to list severely hazardous pesticide formulations in Annex III, proposing to replace it with "difficulties." Belize proposed "non-technical problems." The Secretariat emphasized only one submission on severely hazardous pesticide formulations had been received to date, and noted that while underlying technical problems were well understood, the paragraph sought to establish the extent of related political problems. Delegates agreed to an amended paragraph that invites parties to consider which "obstacles" are preventing them from submitting such proposals. The decision was adopted by plenary on Friday, with minor amendments.

Final Decision: In the final decision on progress in the implementation of the Rotterdam Convention (UNEP/FAO/RC/COP.4/CRP.11), the COP, *inter alia*:

- acknowledges the importance of adequate national infrastructure for pesticide and industrial chemical management in developing countries for their submission of notifications of final regulatory action to ban or severely restrict those substances and to take decisions and report on the import of chemicals listed in Annex III;
- encourages parties to make use of the information on national regulatory actions to ban or severely restrict chemicals under the Convention and the evaluations of chemicals by the Stockholm Convention's Persistent Organic Pollutant Review Committee (POPRC) to strengthen national decision-making;
- invites parties to consider which obstacles prevent the

submission of proposals to list severely hazardous pesticide formulations in Annex III;

- requests parties that have yet to submit import responses for all of the chemicals listed in Annex III to do so in a timely manner; and
- requests the Secretariat to undertake a review of the current regulatory processes for industrial chemicals and pesticides to determine their relationship to the definitions of banned or severely restricted chemicals in Article 2 of the Convention and to submit the results of its review for consideration at COP 5.

ENSURING CONTINUED EFFECTIVENESS:

Delegates discussed how to ensure the Convention's continued effectiveness in plenary on Monday. On Monday afternoon, a contact group, co-chaired by Kateřina Šebková (Czech Republic) and Siti Ibrahim (Malaysia), was established. It met throughout the week and ended its deliberations on Thursday evening. Consensus on a draft decision on the continued effectiveness of the Convention was not reached, and the bracketed text was forwarded to plenary. Delegates considered documents on implementation relevant to ensuring the Convention's continued effectiveness (UNEP/FAO/RC/COP.4/4, COP.4/11, COP.4/12 and COP.4/13). Discussions focused primarily on the Secretariat's note on effectiveness (UNEP/FAO/RC/COP.4/13) and a proposal introduced by Switzerland (UNEP/FAO/RC/COP.4/CRP.4), which put forward six options to address chemicals that meet the Convention's criteria and have been recommended by the CRC for listing, but on which the COP does not reach consensus about inclusion in Annex III. The options proposed to:

- introduce voting on the addition of chemicals to Annex III;
- create a new annex for chemicals that cannot be listed;
- create a new annex for parties that cannot agree to listing certain chemicals;
- adopt a standalone decision with a list of countries for which the entry into force of listing a specific chemical is delayed;
- include a clause specifying that the entry into force of the PIC procedure is delayed for specific countries, in the COP decision that lists a certain chemical in Annex III; and
- take a standalone decision with a list of chemicals recommended for listing in Annex III but for which the COP was unable to reach consensus (option six).

The standalone decision envisaged in option six would include: a recognition that the requirements of the Convention are fulfilled and that the chemical will be discussed again at the next COP; a request to the Secretariat to circulate the draft DGD to all parties and to assist parties to adopt and submit import decisions and make them available through the PIC Circular; and a call on parties to apply the PIC procedure on an interim basis.

In initial discussions, Benin supported a new annex while recognizing it may complicate Convention operations. Most participants, however, expressed their preference for not amending the Convention and maintaining the rule of consensus for adding chemicals to Annex III. GRULAC opposed creating a new annex to the Convention. Norway and Brazil called for

keeping the consensus rule. Argentina, supported by Canada, stated that introducing voting for Annex III would create a dual system that could weaken the Convention. Japan emphasized that the Convention drafters intended Annex III listing to be determined by consensus. The US and the Russian Federation indicated departing from the consensus rule might jeopardize their ratification of the Convention.

Delegates also discussed capacity problems in the context of ensuring implementation and effectiveness, with Peru asking the Secretariat to strengthen capacity for regional information exchange and Jordan suggesting revisiting implementation during technical assistance discussions. Kenya called for developed nations to include developing nations in their information exchange on chemicals and for countries to emulate the European Union's (EU) export notifications.

Several delegations supported enhancing information exchange to improve implementation with Argentina proposing to adopt a resolution whereby the Secretariat could promote information exchange by e-mailing new product information to designated national authorities, including regulatory measures taken. The European Commission encouraged parties to utilize existing DGDs to improve national notification processes and requested that the Secretariat set up a priority list of chemicals for notification. The US suggested greater information exchange through the PIC website and to include information on controls other than just bans and severe restrictions.

Contact group discussion initially focused on option six of Switzerland's proposal, shifting on Tuesday to a proposal by the EU for a draft decision on chemicals for which consensus cannot be reached in the COP. The decision would be to include the chemicals in Annex III, but specify that the amendments enter into force at a later date. It also would include an annex listing parties that will, in the interim, apply the PIC procedure on a voluntary basis. The African Group stressed that none of the options presented addressed existing challenges and that developing countries' implementation problems are due largely to insufficient information exchange and weak stakeholder coordination.

South Africa, for the African Group, submitted a proposal inviting parties to consider applying the PIC procedure on a voluntary basis to chemicals recommended by the CRC, and requesting the Secretariat to circulate the draft DGDs to all parties and publish import decisions through the PIC Circulars and the website. While most delegates agreed to use the proposal as the basis for further work, several delegates underscored their reluctance to negotiate a permanent procedure in the eventuality that the COP might fail to reach consensus on the inclusion of chemicals in Annex III. Argentina, New Zealand, Australia and others stated that establishing a permanent mechanism for the voluntary application of the PIC procedure could weaken the Convention. New Zealand also said that in the absence of a better understanding of the reasons for the COP's inability to reach consensus, any solution designed in the contact group might not work. Canada proposed language on enhancing risk

assessments and risk management. China proposed a paragraph calling on developed country parties to provide assistance to enhance developing countries' capacity building.

Delegates agreed on preambular paragraphs of a draft decision but could not agree on the operational paragraphs. During Friday's closing plenary, the COP decided to forward the draft decision including bracketed text to the next COP for further consideration.

Final Decision: The draft decision (UNEP/FAO/RC/COP.4/CRP.19) contains preambular paragraphs that are largely without brackets. They, *inter alia*:

- acknowledge the objective of the Convention and the need to enhance information exchange;
- recognize the concerns raised at COP 3 and COP 4 about those chemical(s) recommended by the CRC for inclusion in Annex III, but for which consensus could not yet be reached by the COP; and
- recognize the need of developing countries for enhanced in-depth information exchange, strengthened technical assistance and capacity building.

Consensus could not be reached on the operational paragraphs, which remain bracketed, concerning, *inter alia*:

- the voluntary application of the PIC procedure;
- the kind of information to be exchanged;
- whether the information should be published only on the Convention's website or also through the PIC Circulars; and
- the provision of technical and financial assistance to developing country parties.

Furthermore, parties did not agree on whether, in the draft decision, the COP "decides," "decides to invite," "recommends," or "invites the Parties to consider" the actions mentioned in the operational paragraphs.

CONFIRMATION OF THE APPOINTMENTS OF GOVERNMENT-DESIGNATED EXPERTS TO THE CRC:

On Tuesday in plenary, delegates considered the confirmation of appointments of government-designated experts to the CRC (UNEP/FAO/RC/COP.4/5 and INF/6). The Secretariat reported that following the end of the two-year term of Bettina Hitzfield (Switzerland) as Chair of the CRC, the Committee had appointed two new members at its third meeting in March 2007 to serve *ad interim* subject to confirmation by COP 4. On Wednesday, the Secretariat introduced, and the COP adopted, the draft decision on confirmation of the appointments of CRC members.

Final Decision: In the final decision on appointments (UNEP/FAO/RC/COP.4/CRP.10), the COP confirmed that 15, as opposed to 14, experts were to be appointed to the CRC for a period of four years commencing on 1 October 2007. Hyacinth Chin Sue (Jamaica) was retroactively elected as the Chair of the 4th CRC meeting, while Karmen Krajnc (Slovenia) was appointed Chair of the Committee for its fifth meeting.

NOMINATION OF GOVERNMENTS TO DESIGNATE NEW EXPERTS FOR THE CRC: On Tuesday in plenary, 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. Following consultations among regional groups, delegates adopted the decision in plenary on Friday.

Final Decision: The COP decided (UNEP/FAO/RC/COP.4/CRP.16) that the following parties shall designate, by May 2009, CRC experts for the four-year period from 1 October 2009: Iran, Pakistan, Qatar and Yemen for Asia and the Pacific; Ecuador, Jamaica and Peru for GRULAC; Côte d'Ivoire, Kenya, Mauritania and Sudan for the African Group; Armenia and Poland for the Central and Eastern European States; and Canada, the Netherlands, New Zealand and Spain for the Western Europe and Others Group.

REPORT OF THE CRC ON THE WORK OF ITS THIRD AND FOURTH MEETINGS: On Wednesday in plenary Karmen Krajnc, Chair of the CRC's fifth meeting, presented, and the COP took note of, the report of the CRC's third and fourth meetings (UNEP/FAO/RC/COP.4/7) and on chemicals scheduled for review at the Committee's fifth meeting (UNEP/FAO/RC/COP.4/INF/4).

CONSIDERATION OF CHEMICALS FOR INCLUSION IN ANNEX III OF THE CONVENTION: Tributyltin compounds: On Tuesday the Secretariat introduced the document on the inclusion of TBT compounds in Annex III (UNEP/FAO/RC/COP.4/10), and summarized the procedure followed in developing the Decision Guidance Documents (DGD). On Friday, the draft decision was formally adopted without amendment.

Final Decision: In its decision (UNEP/FAO/RC/COP.4/CRP.8), COP 4 decided to amend Annex III of the Convention to include all tributyltin compounds after the entry for "Toxaphene," and have the amendment enter into force for all parties as of 1 February 2009.

Chrysotile asbestos: On Tuesday, the Secretariat introduced the document on the 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, supported by India, Mexico, Pakistan and the Philippines, proposed postponing the decision to COP 5.

The EU, 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), opposed and urged inclusion in Annex III at this COP. Kazakhstan, Kyrgyzstan, Ukraine, Vietnam, the Russian Federation and Zimbabwe opposed listing chrysotile asbestos in Annex III. Noting lack of consensus, the Chair asked a Friends of the Chair group to work out a compromise on a draft.

On Friday, the Friends of the Chair presented a draft decision moving consideration of chrysotile asbestos to the agenda of COP 5. Ukraine first said the draft decision did not reflect the full scientific debate about the chemical and opposed the

decision, but then withdrew opposition as long as its comments were reflected in the COP report. The decision was adopted without amendment.

ROCA expressed shock and distress at the COP decision.

Final Decision: In its final decision (UNEP/FAO/RC/COP.4/CRP.20), COP 4:

- decides to refer the inclusion of chrysotile asbestos in Annex III to COP 5; and
- encourages parties to make use of all available information on chrysotile asbestos to assist others, particularly developing countries and countries with economies in transition, to make informed decisions regarding its import and management and to inform other parties of those decisions using the information exchange provisions laid down in Article 14 of the Convention.

Endosulfan: On Tuesday, the Secretariat introduced a document on the inclusion of endosulfan in Annex III of the Convention (UNEP/FAO/RC/COP.4/9). Following lack of agreement, a Friends of the Chair group met throughout the week chaired by Vice-Chair Barry Reville (Australia) and prepared a draft decision, which was adopted on Friday.

India and Pakistan opposed listing. China and the US highlighted that the COP should agree on the definition of "intentional misuse" before deciding the fate of endosulfan, while Brazil and others clarified that the interpretation of intentional misuse should not delay a decision on the substance. Many, including Cuba, Belize, Chile and Senegal, favored listing.

Following the Friends of the Chair discussions, Vice-Chair Reville introduced the draft decision and delegates agreed to add reference to "interested observers" with regards to: requesting views on the application of criterion Annex II (d) (take into account that intentional misuse is not in itself an adequate reason to list a chemical in Annex III); and on the Secretariat providing the opinion on "intentional misuse" and the application of criterion Annex II (d) to the CRC and to all parties.

Debate ensued over two bracketed options, on whether "a party" or "some parties" considered that criterion Annex II (d) had not been applied correctly by the CRC, with Sudan, Belize, Yemen and others wishing to keep "a party," noting that India had opposed. India drew attention to the draft COP 4 report (UNEP/FAO/RC/COP.4/L.1/Add.1), which states that a representative with support from several others said there was insufficient evidence of significant adverse effects of endosulfan on human health and the environment, and thus, with Iran and China, favored referring to "some parties." The EC, opposed by Brazil, suggested reflecting the actual number of parties in the decision. Australia proposed "a small number of parties." In a spirit of compromise, delegates agreed to "a small number of parties."

Brazil suggested that the next COP would have to take a decision on the final meaning of "intentional misuse," not just for endosulfan but for all substances, and suggested adding text to this effect. The EC and Australia clarified that the next COP will indeed have the opportunity to review the meaning of

unintentional use. Brazil lamented that concurrent contact groups had not permitted him to clarify text earlier but agreed to drop the suggestion. The draft decision was adopted as amended.

Further to the adoption of the decision, several parties made statements. Belize asked for voluntary information exchange. Switzerland backed Belize and asked for the report of the meeting to note that “a small number means one.” The EC, supported by Switzerland, Oman, the Gambia, Peru and others, made a statement encouraging parties to apply, on a voluntary and time-limited basis, the PIC procedure to chemicals recommended for listing, but on which parties have not yet reached consensus. Ukraine and the Russian Federation noted that introducing a voluntary procedure would be a step backwards.

On the refusal to list chrysotile asbestos and endosulfan, Australia, New Zealand and Brazil noted that until the underlying reasons for a lack of consensus were known, a solution would not be found.

Final Decision: In its final decision (UNEP/FAO/RC/COP.4/CRP.21), the COP is aware that the failure to reach consensus so far has created concerns in all parties. Additionally, taking into account that a small number of parties considered that criterion Annex II (d) had not been applied correctly, the COP *inter alia*:

- requests that parties and interested observers provide their views on the application of criterion Annex II (d) to the Secretariat;
- requests that the Secretariat provide these views to the UNEP legal office for it to review its previous advice to the CRC regarding clarification of the meaning of “intentional misuse” and the application of criterion Annex II (d);
- requests that the Secretariat provide this opinion to the CRC and to all parties and interested observers;
- decides that the COP 5 agenda shall include further consideration of a draft decision to amend Annex III to include endosulfan; and
- encourages parties to make use of all available information on endosulfan, to make informed decisions regarding the import and management of endosulfan and to inform other parties of those decisions using the information exchange provision.

ISSUES ARISING OUT OF PREVIOUS COP MEETINGS

NON-COMPLIANCE: On Monday, the Secretariat introduced to plenary a document containing a draft mechanism on non-compliance, including procedures and institutional mechanisms for determining non-compliance with the provisions of the Convention and for the treatment of parties found to be in non-compliance (UNEP/FAO/RC/COP.4/14). The document contained text with brackets on issues outstanding since COP 3. A contact group, chaired by Denis Langlois (Canada), was established and met throughout the week. Notwithstanding efforts made, delegates could not reach consensus.

During the week, participants in the contact group worked to remove brackets from the text, with discussions generally divided across developed/developing country lines. GRULAC, China, Iran, South Africa, Argentina, Cuba, the African Group and Brazil supported a facilitative and more restricted approach

to a compliance mechanism (limiting the Secretariat’s role in triggering the mechanism). The EU, Switzerland and Norway pressed for a more comprehensive mechanism, with the EU noting it should be efficient, effective, balanced and transparent.

Delegates reached agreement on several issues, including the composition of the compliance committee, where they agreed to include equitable geographical representation of the five UN regional groups, following similar text in the Basel Convention. The party-to-party trigger remains in brackets although there was an initial agreement that it would be limited to those cases where there is a failure to comply by another party, and the trigger involves only those two countries concerned. The greatest hurdle for delegates pertained to the role of the Secretariat in referring to the committee matters that come to their attention.

Four intractable issues remained by the end of the week, and Chair Langlois made a final attempt to present a “package proposal” on all outstanding items, which included:

- decision-making procedures of the committee (consensus vs. voting);
- allowing the Secretariat to trigger the compliance mechanism (whether to restrict the capacity of the Secretariat to trigger the mechanism regarding specific obligations by parties, or based on information received from parties only, or prevent it altogether from triggering the mechanism);
- measures to address non-compliance (whether the compliance committee may recommend measures to the COP); and
- the handling of information (whether the committee may receive information from any – or restricted – sources, and whether it would need the consent of the party concerned).

On Friday, a draft decision with brackets was forwarded to plenary, proposing it be forwarded to COP 5. New Zealand urged reflection by parties during the intersessional period to promote the more effective work of the Convention, the EU expressed its disappointment, and the African Group emphasized they would like to maintain the Secretariat as a neutral body, with an administrative role. Plenary adopted a decision to defer this issue to COP 5.

Final Decision: The decision (UNEP/FAO/RC/COP.4/CRP.25) forwards to COP 5 the draft text on procedures and mechanisms on compliance with the Rotterdam Convention to be used as a basis for further discussions.

The draft mechanism on compliance includes agreed text in sections on: establishment of a compliance committee, membership, election of members, officers, monitoring, general compliance issues, report to the COP, other subsidiary bodies, information sharing with other relevant multilateral environmental agreements, review of the compliance mechanism and relationship with settlement of disputes.

Brackets remain on text pertaining to: decision making by the Committee by voting or consensus; triggers to the non-compliance mechanism by other parties and the Secretariat; measures to address compliance issues, namely whether the Committee may recommend to the COP to consider and undertake additional actions; and sources of information that the committee will be able to consider in evaluating a case.

REPORT ON THE IMPLEMENTATION OF DECISION RC-3/5 ON FINANCIAL MECHANISMS: On Wednesday, the Secretariat introduced this agenda item and relevant documents (UNEP/FAO/RC/COP.4/15; INF/5; and INF/5/Add.1). Chile, supported by China, presented a proposal for a decision to establish a team of three independent experts to assess costs for implementing the Convention during the 2009-2012 period for developing countries and countries with economies in transition (UNEP/FAO/RC/COP.4/CRP.7), and pointed out that a similar team had been used by the Stockholm Convention. The EU, supported by Norway, said a new study was not a priority and called for the Secretariat to continue soliciting data from parties. Argentina proposed the Secretariat define a uniform and transparent methodology for parties to conduct their own assessments. The Secretariat pointed out that the current method solicits few answers. He said the proposed study would cost US\$90,000-100,000 and the Secretariat does not have in-house capacity to undertake it. Noting lack of consensus, Chair Repetti asked Chile to serve as informal facilitator to develop a way forward. On Friday, Chile presented a draft decision that was adopted by plenary without amendment.

Final Decision: In its final decision (UNEP/FAO/RC/COP.4/CRP.24) the COP: welcomes information received on the issue of the costs of implementing the Convention from 2007-2008; invites parties and others to provide information that can assist in assessing the implementation costs; requests the Secretariat to work with relevant partners such as the Global Environment Facility and the UN Institute for Training and Research (UNITAR) to ensure that provisions relevant to the Convention are taken into account when developing technical assistance projects and activities in follow-up to decision RC-3/5; and invites the 20th Meeting of Parties to the Montreal Protocol to consider the extent to which cooperation between the Protocol and the Rotterdam Convention can be enhanced.

NATIONAL AND REGIONAL DELIVERY OF TECHNICAL ASSISTANCE: On Monday in plenary, the Secretariat introduced a report on the regional and national delivery of technical assistance (UNEP/FAO/RC/COP.4/16) and a list of regional, subregional and national meetings undertaken in support of the ratification and implementation of the Rotterdam Convention (UNEP/FAO/RC/COP.4/INF/7). Delegates from more than 30 developing countries and countries with economies in transition highlighted national and regional experiences, noting the importance of continuing and strengthening work on technical assistance. The Secretariat introduced a costed programme for the regional and national delivery of technical assistance activities in the 2009-2010 biennium (UNEP/FAO/RC/COP.4/17) and delegates commenced discussions on this item on Wednesday.

The EU welcomed the global nature of the programme, highlighting work with other structures reinforcing the Secretariat's work. Several countries noted national infrastructure for managing chemicals as a priority, with many calling for a shift from workshops to pilot projects. Spain drew attention to Barcelona's Regional Activity Center for Cleaner Production as potentially serving all three chemicals conventions. Several

countries highlighted the importance of boosting customs capacity and export control procedures, while others touched on the need to accord industrial chemicals as much policy attention as pesticides. The Secretariat confirmed that 28 countries that had not yet received technical support would be covered by the next stage of the programme.

During Thursday's plenary, the Secretariat presented a draft decision, which was amended. On Friday afternoon, the Secretariat re-introduced the draft decision and clarified that it had been revised to take into account uncertainty about the outcome of the budget contact group discussions on Thursday evening. The decision was adopted in Friday's plenary, with the addition of a request for the Secretariat to undertake the activities in accordance with available resources.

Final Decision: In its final decision (UNEP/FAO/RC/COP.4/CRP.17/Rev.1), the COP notes the programme for the regional and national delivery of technical assistance for 2009-2011 and requests parties to contribute to the Voluntary Special Trust Fund. It further requests the Secretariat to, *inter alia*:

- facilitate the implementation of technical assistance in line with Article 19 of the Convention and to focus the programme of work on issues and needs identified by developing countries and countries with economies in transition;
- take into account opportunities for joint activities with the secretariats of the Basel and Stockholm Conventions and with the Strategic Approach to International Chemicals Management (SAICM); and
- prepare a detailed costed programme of activities for the regional and national delivery of technical assistance to present to COP 5, based on the level of resources likely to be available from all sources for the biennium 2012-2013.

CURRENCY OF CONVENTIONS' ACCOUNTS AND BUDGET: On Tuesday, the 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, which decided that there was no need to establish a reserve fund to protect the Rotterdam Convention budget from currency fluctuations.

COOPERATION WITH THE WORLD TRADE ORGANIZATION: The Secretariat introduced this issue (UNEP/FAO/RC/COP.4/18), including a report by the Chair of the WTO Committee on Trade and Environment in Special Session to the Trade Negotiations Committee (UNEP/FAO/RC/COP.4/INF/11) on Wednesday.

During discussions, the WTO noted that a more recent report on the state of the negotiations is available. Argentina and India supported the Secretariat in seeking observer status in the WTO Trade and Environment Committee's regular sessions. A decision was adopted in plenary on Thursday.

Final Decision: In the final decision (UNEP/FAO/RC/COP.4/CRP.14), the COP takes note of the progress made towards the implementation of decision RC-1/15 on cooperation between the Secretariat and the WTO; and requests the Secretariat to seek observer status in the WTO Committee on Trade and Environment, and to inform parties when the request has been submitted and when it has been granted.

COOPERATION AND COORDINATION BETWEEN THE ROTTERDAM, BASEL AND STOCKHOLM CONVENTIONS:

On Tuesday, three Co-Chairs of the *Ad-Hoc* Joint Working Group on Cooperation and Coordination among the Basel, Rotterdam and Stockholm Conventions (AHJWG) presented on the group's work and delegates discussed the relevant documents (UNEP/FAO/RC/COP.4/20, 20/Add.1, INF/9 and INF/10). During discussion on Tuesday, the Co-Chairs highlighted: the innovative consultative approach adopted by the AHJWG and that the group's recommendations had been adopted with minor amendments by COP 9 of the Basel Convention, in its decision IX/10, in June 2008.

Chair Repetti suggested adopting the recommendations of the AHJWG after amending the preambular paragraphs added by the Basel Convention to reflect that they also pertain to the Rotterdam Convention. Brazil and others drew attention to the recommendations' financial implications; while Thailand and others voiced their support for the recommendations. Sudan suggested cooperation with other institutions with similar programmes or objectives to those of the chemical conventions. The draft decision was adopted in plenary on Friday.

Final Decision: In the final decision (UNEP/FAO/RC/COP.4/CRP.9), the COP adopts the recommendation of the AHJWG that consists of five parts:

- organizational issues in the field, including: coordination at the national level, programmatic cooperation in the field, and coordinated use of regional offices and centers;
- technical issues, including: national reporting, compliance mechanisms and cooperation on technical and scientific issues;
- information management and public awareness issues, including: joint outreach and public awareness, information exchange/clearing-house mechanism on health and environmental impacts, and joint input into other processes;
- administrative issues, including: joint managerial functions, resource mobilization, and financial management and audit functions; and
- decision making, including: coordinated meetings, extraordinary meetings of the COPs in which it decides to convene simultaneous extraordinary meetings of the COP to the Basel, Rotterdam and Stockholm Conventions, and review arrangements.

REPORT ON THE ACTIVITIES OF THE SECRETARIAT

On Monday, the Secretariat presented, and delegates took note of, the reports on Secretariat activities and finances (UNEP/FAO/RC/COP.4/21 and 22, and INF/13). The Secretariat noted a cut in technical services due to insufficient contributed funds.

PROGRAMME OF WORK AND CONSIDERATION OF THE PROPOSED BUDGET FOR THE BIENNIUM 2009–2010

On Monday, Donald Cooper, Co-Executive Secretary of the Rotterdam Convention (UNEP), introduced the programme of work and budget (UNEP/FAO/RC/COP.4/23 and Add.1), proposing a triennial (instead of biennial) budget for 2009-11,

in order to align the Rotterdam Convention budget cycle with that of the Stockholm and Basel Conventions (UNEP/FAO/RC/COP.4/CRP.2).

Switzerland and others highlighted the importance of linking the programme of work to the budget, and ensuring new staff positions are in line with the synergies package already accepted at Basel Convention COP 9. Argentina announced the imminent payment of all its arrears to the Convention.

A contact group on budget, chaired by Ositadinma Anaedu (Nigeria) and Paul Garnier (Switzerland) was established, and met throughout the week. The contact group addressed: shared staff positions; priorities in the programme of work of the Convention; contributions by parties to the core budget of the Convention; the situation of parties in arrears with their contributions to the Convention; income and expenditures; changes in reserve and fund balance for the years 2005-2008; and the status of the Rotterdam Convention Trust Fund.

During discussions, the EU and others welcomed the triennial budget and the new presentation in line with the Basel Convention, noting they provide good examples of synergies. Delegates discussed the implications of the recent fluctuations in exchange rates, noting differences in the US dollar-euro rates will affect contributions by host governments, resulting in an increase of the overall amount of assessed contributions required by parties. The budget contact group reviewed the relevant documents and decided to consider a triennial budget on an exceptional basis. Delegates considered three options: a 0% nominal change; a 10% increase; and a budget that meets the Secretariat's request for the programme of work. They also considered management issues among the Rotterdam, Stockholm and Basel Conventions, and the need for additional programme officers, as well as mechanisms to promote the payment of arrears in parties' contributions.

On Friday, Contact Group Chair Anaedu presented to plenary a draft decision on financing and budget for the triennium 2009-2011. He noted that, considering budget restrictions, the contact group had identified priority activities in the programme of work, based on suggestions by the African Group and GRULAC. COP 4 adopted the decision with minor amendments.

Final Decision: In its decision (UNEP/FAO/RC/COP.4/CRP.23, Add.1 and Add.2), COP 4, *inter alia*:

- adopts a three-year budget cycle for the period 2009-2011 in order to facilitate synchronization of the budget cycle of the Rotterdam Convention with that of UNEP, FAO, and the Stockholm and Basel Conventions;
- approves a budget of US\$11,714,199 for the triennium;
- invites the Executive Secretaries to write to the relevant parties in arrears noting the importance of submitting contributions on time, and authorizes the Executive Secretaries to agree with parties in arrears on payment schedules to clear all outstanding arrears within six years; and
- welcomes the establishment of four chemicals and waste cluster officials funded by UNEP and notes they will service the three chemicals conventions and SAICM.

The annexes to the decision include financial tables (UNEP/FAO/RC/COP.4/CRP.23/Add.1) and contain a procedure for the allocation of funding from the special voluntary trust fund for facilitating the participation of parties in the COP (UNEP/FAO/RC/COP.4/CRP.23/Add.2).

HIGH-LEVEL SEGMENT

On Thursday and Friday afternoon, delegates heard statements by ministers and high-level authorities in plenary. Closed ministerial panel discussions on the theme: “Sound chemicals management: relieving the burden on public health” were held Thursday afternoon.

Chair Repetti and Donald Cooper, Co-Executive Secretary of the Rotterdam Convention, welcomed delegates to the high-level segment on Thursday. On Friday, Hamoud Darwish Salim Al-Hasani, Oman, chaired the high-level segment.

James Butler, FAO Deputy Director-General, noted the impacts of the food crisis and climate change on the use of chemicals, and Achim Steiner, UNEP Executive Director, underscored the importance of enhancing synergies among the different mechanisms available to further the sound management of chemicals. Maria Neira, World Health Organization Director of Public Health and Environment, said asbestos kills 90,000 people each year, and stressed the Convention can only support public health if chemicals are included in Annex III.

Paolo Ducci (Italy), Djona Atchenemou (Chad), Supat Wangwongwatana (Thailand), Ladislav Miko (European Commission), Aundre Franklyn (Jamaica) and Laurent Stefanini (France), on behalf of the EU, backed listing of chemicals in Annex III. Karel Blaha (Czech Republic) reminded delegates that COP 3 had missed the opportunity to list chrysotile asbestos. Reiner Arndt (Germany) called on those blocking the inclusion of chemicals to reassess their position. Xu Qing Mua (China) noted that because of its lack of technical capacity, China wants “a progressive strategy” on including new chemicals in the Convention. R.H. Khwaja (India) emphasized strategies for global chemicals management must respect nations’ sovereign right to use chemicals for the “national good,” while Masayoshi Mizuno (Japan) pointed out that the sovereign right of each government to ban or severely restrict chemicals does not depend on them being listed in Annex III.

Others highlighted the role of technical assistance in the Convention, with Aram Harutyunyan (Armenia) stressing the role of regional seminars. Kwadwo Adjei-Darko (Ghana), highlighted the need for a harmonized pesticide registration system. Elhady Papa Koly Kourouma (Guinea) called for capacity building for the lifecycle management of chemicals. Tiatia Faumuina Liuga (Samoa) stressed the sustainable management of chemicals is of great concern to small island developing states. Rodrigo Mena (Ecuador) promoted a multisectoral management approach. Anatole Kanyenkiko (Burundi) called for support for the implementation of the Convention’s recommendations. Elmi Obsieh Wais (Republic of Djibouti) drew attention to the importance of synergies, and Katharina Kummer Peiry, Executive Secretary, Basel Convention, welcomed the support shown for the synergies process.

Maznah Mazlan (Malaysia), Ferenc Falus (Hungary), Basheir Taha Nasar Elz Ubair (Sudan), Carlos De Freitas (Venezuela), Salifou Sawadogo (Burkina Faso), James Ole Kiyiapi (Kenya), and Luis Llano Imas (Paraguay) addressed the health aspects of chemical management.

On trade, Bruno Oberle (Switzerland) said the Convention is about the credibility of the chemicals industry. Ganesh Shah (Nepal) noted the spread of chemical substances through commodity value chains is an inevitable consequence of globalization. Raúl Ángel Vidable (Argentina) said chemical manufacturers and importers must work with state administrations under the principle of shared responsibility. Nolwazi Cobbinah (South Africa) noted trade implications for chemicals listed in the Convention. Jean Marie Koumba Souvi (Gabon) called the Convention a first line of defense to offset future tragedies by limiting the import of hazardous substances. Rakotobe Tovondriaka (Madagascar) said Madagascar is a big consumer of pesticides and its green revolution likely means it will consume even more. Noting that most developing countries are importers of chemicals, Ramon Paje (Philippines) stressed the importance of full disclosure by exporters.

On their national experiences with implementation, Sliviu Stoica (Romania) said implementation was facilitated by transposing EU legislation. Mohamed Ould Ahmed Salem (Mauritania) said his country had adopted SAICM as its planning framework. Antonio Marcondes de Carvalho (Brazil) described measures taken nationally to ensure sound chemicals management. Kouassi Ayikoe (Togo) urged all parties to keep to the Johannesburg Summit commitments on chemicals for 2020. Illalkamar Ag Oumar (Mali) indicated his country’s commitment to enhance the implementation of the three chemicals conventions. Ana María González del Valle Begazo (Peru) highlighted work to develop a national profile of chemical substances, linked to the PIC mechanism. Jorge Chen (Mexico) underscored the importance of coordinating instruments for chemicals management, creating the basis for integrated public policies. Deo Mtasiwa (Tanzania) said his country has a five-year Convention implementation plan. Jamil Ahmad (Pakistan) supported cooperative efforts and shared responsibility among parties to protect against the negative impacts of chemicals.

Several NGO representatives, including Pesticide Action Network Africa, THANAL and ROCA, addressed the Conference with the latter emphasizing the Convention is about protecting health and the environment, not trade. She urged countries “blocking majority will” to reconsider their position on chrysotile asbestos and endosulfan.

REPORT ON MINISTERIAL PANELS: Bakary Kante, UNEP, reported to plenary on Friday regarding the ministerial panels held on Thursday. He defined topics discussed as: the need to evaluate the status of issues addressed at the Rotterdam Convention to determine priority actions; the importance of developing enabling legislation and a regulatory framework to govern chemicals trade; and the need to empower customs authorities and the judiciary to combat corruption. Cross-cutting issues identified included technical assistance, information exchange and funding.

On the global perspective, ministers identified the need to enhance synergies among the chemicals conventions, including through: the streamlining of meetings; South-South cooperation and information sharing; and ensuring the principle of reciprocity in trade.

CLOSING PLENARY

On Friday afternoon, a special ceremony convened at 3:00 pm to encourage parties to support specific aspects of the programme of work, in funding or in kind as technical assistance. The EC announced an additional €2.1 million contribution to the SAICM Quick Start Programme and said it was seeking a further €400,000 over the next two years for the Rotterdam Convention. The Czech Republic noted that it would co-sponsor a side event on the green customs initiative together with Nigeria at the next UNEP Governing Council and is donating €25,000 toward that event. Switzerland said it would strengthen its work with UNITAR on national programmes to implement the Rotterdam Convention. The Pesticide Action Network offered its support in monitoring of health impacts of chemicals.

Delegates returned to the plenary hall at 4:00 pm to tackle outstanding issues, including the listing of endosulfan and chrysotile asbestos, the budget, non-compliance, and implementation of decision RC-3/5 on financial mechanisms. They also adopted the report of the credentials committee and elected the Bureau for COP 5 including: Nolwazi Cobbinah, South Africa (Chair); Kerstin Stendahl, Finland (Rapporteur); Hamoud Darwish Salim Al-Hasani, Oman; Magdalena Balicka, Poland; and Rocío Eden Wynter, Mexico.

The Secretariat then announced that the fifth meeting of the COP will be convened in 2011, either in June or in December, in Geneva, Switzerland. Following concern by the EU that holding the COP in December would stretch the intersessional period to three years, and requesting that the dates be brought forward as much as possible, the Secretariat agreed provisionally adopt the dates of 20-24 June 2011 for the meeting, with a view to exploring possibilities for a slot earlier in the year.

The final item was the adoption of the report of the COP. The Secretariat introduced the two report documents (UNEP/FAO/RC/COP.4/L.1 and L.1/Add.1), which were subsequently adopted including minor comments and amendments from the floor. Chair Repetti declared COP 4 closed at 8:08 pm.

A BRIEF ANALYSIS OF COP 4

After three days of heavy rain, on the final day of COP 4 some glimpses of sunshine peeked over FAO headquarters in Rome. Delegates were nonetheless divided about whether rays of light were also filtering inside the conference rooms. Issues that came to light at COP 4 concern the inclusion of TBT in Annex III (the first new chemical group to enter the list since COP 1), technical assistance priorities in the programme of work and a synergies package with the Rotterdam and Basel Conventions. Persistent dark clouds hover, however, on the issue of compliance and the inclusion of chemicals of economic importance (“live” chemicals) in the PIC procedure.

Given a difficult COP 3 two years ago, and the fact that a new “difficult” chemical, endosulfan, was to be addressed by COP 4 two weeks after protracted discussions on the same chemical at the Persistent Organic Pollutants Review Committee of the Stockholm Convention only two weeks earlier, many delegates arrived in Rome with low expectations, to the point that some worried about the very future of the Convention. Along these lines, the issue of the Convention’s continued effectiveness took center stage in Rome, underpinning most other major discussions. This analysis addresses the debates over three key areas that are shaping the Rotterdam Convention: the Convention’s effectiveness, the challenge that international chemicals agreements face in addressing “live chemicals” (those still widely used, as opposed to those mostly obsolete), and the issue of synergies.

AGONY OR GROWING PAINS: IMPLEMENTATION AND EFFECTIVENESS OF THE PIC PROCEDURE

Since the last listing of a chemical in Annex III during COP 1, delegates have been concerned about the effectiveness of the Convention’s implementation, although the main problem seems to be not the Convention’s implementation on the ground, but decision-making by the COP. Divergent perspectives were evident in the debates on the topic, with delegates talking past one another, some focusing on decision-making procedures – in particular to include new substances in Annex III – and others looking at wider chemical regulation and implementation issues.

Some delegations, notably the EU and Switzerland, and the Secretariat identified the inability of the COP to reach consensus on chemicals satisfying the Convention’s criteria for inclusion in Annex III as the main stumbling block for effective implementation. Many developing country delegations, however, focused on weak capacity as a major problem for the Convention’s implementation and effectiveness. This divergence hampered initial negotiations especially as both issues were dealt with simultaneously in the same contact group, even though the group’s mandate referred to COP decision-making only.

The thought starter prepared by the Secretariat proposed to overcome the COP’s inability to reach consensus by amending the Convention to introduce either voting procedures to list chemicals in Annex III or creating a new annex with a list of chemicals for which parties would voluntarily apply the PIC procedure. Both proposals were rejected by most parties on the grounds that they might create a permanent default mechanism or “two-speed convention” and therefore undermine the incentive for listing chemicals in Annex III. Also, efforts by the EU and Switzerland to develop a mechanism that would specifically address the deadlock on chrysotile asbestos and endosulfan at COP 4 were opposed by several parties, such as New Zealand and Australia, who expressed concern that even an interim mechanism for specific chemicals could weaken the incentive to reach consensus on listing. Some cautioned about too quick an abandonment of the hard-won achievement of transforming the voluntary PIC procedure into a legally binding instrument. Rather than throwing the baby out with the bathwater, some delegates argued the reasons for the COP’s inability to reach

consensus needed to be better understood. They felt something could be achieved by strengthening notifications on regulatory action, which would make it more difficult for those opposed to listing chemicals in Annex III to couch political concerns in arguments about scientific uncertainty. Others said political interests are a necessary part of international agreements and needed to be addressed as such.

After four days of intense negotiations, discussions on a host of different alternatives did not garner sufficient support from the floor. All that parties managed to agree on is the need to strengthen the main objective of the Rotterdam Convention: information exchange. However, the COP ultimately failed to agree on the details: the kind of information to be exchanged and the channels of dissemination to be used.

While many a tired and frustrated face was seen coming out of the contact group on Thursday night, most delegates agreed that all efforts to reach rapprochement at COP 4 had been exhausted, and decided to continue debating the issue at the next COP.

THE NEW CHALLENGE: LIVE CHEMICALS

Given the COP's perennial inability to reach consensus on listing chrysotile asbestos, delegates anticipated another round of protracted negotiations at COP 4, not only on this substance, but also on endosulfan – an insecticide recommended by the CRC for Annex III listing. If the difficult discussions on the issue at the Stockholm Convention's POPRC 4 in October were anything to go by, endosulfan had all the attributes to become, as one delegate put it, "the second insolvable chemical."

The debates on chrysotile asbestos and endosulfan brought into sharp focus the challenges faced by both the Rotterdam and Stockholm Conventions as they address a growing number of "live" chemicals, that is chemicals still widely produced, traded and used particularly in the agricultural and industrial sectors. The opposition to addressing chrysotile asbestos and endosulfan was led by the main producer and user countries, with Ukraine and India, respectively, their most vocal advocates.

Many delegates used the plenary discussions to emphasize that the listing of substances in Annex III of the Convention does not amount to anything like a ban on their production, use and trade, but several participants also admitted that the issue was in fact more complicated. They noted that some developing countries, perhaps because of the lack of local capacity to undertake their own risk evaluations, seemed to utilize Annex III listing or even a CRC recommendation as a screening tool to ban or restrict the use of chemicals, thereby effectively creating a technical barrier to trade.

In the end, notwithstanding efforts to untangle the matter in a Friends of the Chair group during the week, Friday's plenary eventually adopted a decision postponing the potential listing of chrysotile asbestos and endosulfan to COP 5. Many expressed disappointment that the COP once again could not move CRC recommendations forward, while others noted that listing one out of three chemicals in Annex III – tributyltin compounds (TBT) – can be considered a success and that the debates on chrysotile

asbestos and endosulfan had enabled countries to put their cards on the table, ultimately kick-starting the debate on "live chemicals" in the Rotterdam Convention.

SOME PROGRESS AT L(E)AST: SYNERGIES WITH THE STOCKHOLM AND BASEL CONVENTIONS

One of the key issues for consideration at this COP was that of synergies with the Basel and Stockholm Conventions, and in particular the recommendations of the *Ad Hoc* Joint Working Group on the work of the three conventions. Some delegations were concerned about the potential reopening of previously agreed text, including the holding of a joint ExCOP (or the so-called "super COP"). Reality, in fact, surprised many delegates, when the issue of cooperation and synergies among the conventions sailed smoothly through plenary. Delegates were unanimous in supporting the recommendations on synergies and expressing hope that the super COP may in fact provide the way to advance international chemicals management.

Many hoped that enhanced synergies among the three conventions could also help raise the political profile of international chemicals management and contribute to the more efficient use of resources for technical assistance. As Katharina Kummer Peiry, Executive Secretary, Basel Convention, noted in her closing remarks, as the oldest of the three conventions, the Basel Convention can share its wealth of experience such as in building partnerships with industry or offering its network of 14 regional centers for training, technology transfer and capacity building. During COP 4, Spain's regional center offered its support in building synergies to further sound chemical management activities. Others warned, however, that some of the problems faced by the Rotterdam Convention will not be solved simply by achieving greater synergies with the other chemicals conventions.

FUTURE OUTLOOK: SLOW BUT STEADY WINS THE RACE

Notwithstanding some initial concerns over the COP's capacity to take decisions effectively, COP 4 managed to list one chemical, agree on synergies with other conventions and prioritize technical assistance. Several delegates pointed out that a Convention's fate is not sealed during its earliest COPs, but rather derived from its steady progress over time.

In fact, national chemicals regulation and implementation of PIC procedures for hazardous chemicals, as well as technical assistance programmes towards this goal, have grown steadily since the Convention's entry into force. This might eventually do more for the Convention's effective implementation than the contentious compliance procedure or bringing specific chemicals into Annex III. As one delegate put it, "the Convention is taking baby steps, but at least it is still moving forward."

With a decade of experience under its belt, it now remains to be seen if getting the synergies package through the final Stockholm Convention "hoop" in May 2009, leading to the convening of the super COP, will strengthen international environmental governance in the chemicals sector, ultimately enabling the Rotterdam Convention to achieve its goals.

UPCOMING MEETINGS

STAKEHOLDERS' MEETING TO REVIEW THE DRAFT BUSINESS PLAN TO PROMOTE A GLOBAL PARTNERSHIP FOR DEVELOPING ALTERNATIVES TO DDT: This meeting will be held in Geneva, Switzerland, from 3-5 November 2008. For more information, contact: Paul Whyllie, Programme Officer, Stockholm Convention Secretariat; tel: +41-22-917-8729; fax: +41-22-917-8098; e-mail: ssc@pops.int; internet: <http://www.pops.int>

FOURTH POPs INFORMATION WAREHOUSE WORKSHOP IN EAST ASIAN COUNTRIES: This meeting will be held in Seoul, Republic of Korea, from 3-4 November 2008. For more information, contact: Kyunghee Choi, Director, National Institute of Environmental Research, Ministry of Environment; tel: +82-32-560-7206; fax: +82-32-568 2041; e-mail: nierchoi@me.go.kr

MEETING OF THE GLOBAL MONITORING PLAN COORDINATION GROUP: Taking place from 10-12 November 2008, in Geneva, Switzerland, this meeting will be attended by the nominated coordination group members from all five UN regions. The meeting will facilitate preparation of the global monitoring report and evaluate the first phase of the global monitoring plan. For more information, contact: Katarína Magulová, Programme Officer, Stockholm Convention Secretariat; tel: +41-22-917-8729; fax: +41-22-917-8098; e-mail: ssc@pops.int; internet: <http://www.pops.int>

INFORMAL WORKSHOP ON STAKEHOLDERS' INFORMATION NEEDS ON CHEMICALS IN ARTICLES/ PRODUCTS: This informal workshop will be held in Bangkok, Thailand, from 2-4 December 2008. For more information, contact: SAICM Secretariat; tel: +41-22-917-8532; fax: +41-22-797-3460; e-mail: saicm@chemicals.unep.ch; internet: http://www.chem.unep.ch/unepsaicm/cheminprod_dec08/default.htm

EXPERT MEETING TO FURTHER DEVELOP THE STANDARDIZED TOOLKIT FOR IDENTIFICATION AND QUANTIFICATION OF DIOXIN AND FURAN RELEASES: This expert meeting will be held from 3-4 December 2008, in Geneva, Switzerland, to prepare proposals for Stockholm Convention COP 4 for revising and updating the Toolkit. For more information, contact: Stockholm Convention Secretariat; tel: +41-22-917-8729; fax: +41-22-917-8098; e-mail: ssc@pops.int; internet: <http://www.pops.int>

FOURTH MEETING OF THE CONFERENCE OF THE PARTIES TO THE STOCKHOLM CONVENTION ON PERSISTENT ORGANIC POLLUTANTS: COP 4 will be held from 4-8 May 2009, in Geneva, Switzerland. For more information, contact: Stockholm Convention Secretariat; tel: +41-22-917-8729; fax: +41-22-917-8098; e-mail: ssc@pops.int; internet: <http://www.pops.int>

SECOND SESSION OF THE INTERNATIONAL CONFERENCE ON CHEMICALS MANAGEMENT: This meeting will convene from 11-15 May 2009, in Geneva, Switzerland. For more information, contact SAICM Secretariat:

tel: +41-22-917-8532; fax: +41-22-797-3460; e-mail: saicm@chemicals.unep.ch; internet: <http://www.chem.unep.ch/saicm/iccm/ICCM2/iccm2.htm>

EXTRAORDINARY MEETINGS OF THE CONFERENCES OF THE PARTIES TO THE BASEL, ROTTERDAM AND STOCKHOLM CONVENTIONS: The ExCOP of the three chemicals conventions will take place, pending approval by the next meeting of the Stockholm Convention COP, in coordination with the eleventh special session of the UNEP Governing Council/Global Ministerial Environment Forum. These simultaneous meetings are aimed at giving high-level political support to the process of enhancing cooperation and coordination among the three conventions. For more information, contact: Rotterdam Convention Secretariat (UNEP); tel: +41-22-9178296; fax: +41-22-917-8082; e-mail: pic@pic.int; Rotterdam Convention Secretariat (FAO); tel: +39-6-5705-2188; fax: +39-6-5705-6347; e-mail: pic@fao.org; internet: <http://www.pic.int>; Stockholm Convention Secretariat; tel: +41-22-917-8729; fax: +41-22-917-8098; e-mail: ssc@pops.int; internet: <http://www.pops.int>; Basel Convention Secretariat; tel: +41-22-917-8218; fax: +41-22-797-3454; e-mail: sbc@unep.ch; internet: <http://www.basel.int>

FIFTH MEETING OF THE CONFERENCE OF THE PARTIES TO THE ROTTERDAM CONVENTION: COP 5 has been provisionally scheduled for 20-24 June 2011 in Geneva, Switzerland. For more information, contact: Rotterdam Convention Secretariat (UNEP); tel: +41-22-917-8296; fax: +41-22-917-8082; e-mail: pic@pic.int; Rotterdam Convention Secretariat (FAO); tel: +39-6-5705-2188; fax: +39-6-5705-6347; e-mail: pic@fao.org; internet: <http://www.pic.int>

GLOSSARY

AHJWG	<i>Ad Hoc</i> Joint Working Group on Enhancing Cooperation and Coordination among the Basel, Rotterdam and Stockholm Conventions
CRC	Chemicals Review Committee
DGD	Decision Guidance Documents
PIC	Prior Informed Consent Procedure
POPRC	Stockholm Convention Persistent Organic Pollutant Review Committee
ROCA	Rotterdam Convention Alliance
SAICM	Strategic Approach to International Chemicals Management
TBT	Tributyltin compounds