

## **PIC COP5 HIGHLIGHTS: TUESDAY, 21 JUNE 2011**

The fifth Conference of the Parties (COP5) to the Rotterdam Convention on Prior Informed Consent (PIC) convened for its second day in Geneva, Switzerland on Tuesday, 21 June 2011.

In the morning, delegates considered chemicals to be listed in Annex III. During the afternoon delegates discussed matters related to the CRC and synergies. A contact group on budget and technical assistance also met throughout the day.

### **MATTERS RELATED TO THE IMPLEMENTATION OF THE CONVENTION**

**STATUS OF IMPLEMENTATION:** The Secretariat introduced the document (UNEP/FAO/RC/COP.5/6) on possible approaches to dealing with chemicals recommended for listing in Annex III by the CRC but on which the COP is unable to reach consensus. SOUTH AFRICA and NIGERIA called for a contact group to draft a decision on possible approaches. COLOMBIA, CUBA and VENEZUELA suggested a new annex might violate the spirit of the Convention, while SWITZERLAND preferred it. The EU announced it would circulate a conference room paper (CRP) proposing a COP decision allowing for temporary and voluntary application of the PIC procedure on a specific chemical until the next COP.

Noting the potential downstream consequences of failing to list chrysotile asbestos, AUSTRALIA suggested establishing a contact group to resolve technical misunderstandings regarding the chemical, and if this is not possible to consider other approaches. UKRAINE, with the RUSSIAN FEDERATION, stressed the need to ensure that the notifications are done correctly, and cautioned against abandoning consensus. The CHRYSOTILE INSTITUTE emphasized the importance of consensus and said creating new annexes would weaken the Convention.

Jim Willis emphasized that in the absence of a decision to list a substance in Annex III, CRC-recommended substances must be considered at every COP.

Delegates agreed to establish a contact group to first consider possible listing of the substance, and, if it is unable to reach agreement, to prepare an approach for dealing with CRC-recommended substances on which COP is unable to reach consensus. Karel Blaha (Czech Republic), and Hala Al-Easa (Qatar), agreed to co-chair the contact group.

**CHEMICAL REVIEW COMMITTEE:** The Secretariat introduced the documents (UNEP/FAO/RC/COP.5/7/Rev.1; UNEP/FAO/RC/COP.5/8-9). Delegates agreed to confirm the proposed appointments to the CRC.

President Gwayi then introduced nominations of governments which will designate experts to the CRC (UNEP/FAO/RC/COP.5/8), noting that the actions underlined in the paper

included the submission of country nominations by regional groups. Parties requested the Secretariat to draft a decision on this matter.

CRC Chair Marit Randall (Norway) presented reports of the CRC5, CRC6 and CRC7 (UNEP/FAO/RC/COP.5/9, Add.1/Rev.1, Add.2/Rev.1 and Add.3). In the ensuing discussion, the EU welcomed the continuing work of the CRC on the application of the Annex II criteria, noting that this work should improve the number of notifications meeting the criteria in the future. The AFRICAN GROUP urged the COP to recognize regional studies as an appropriate tool for use in notifications.

NORWAY, supported by CANADA and the US, recognized the important role of observers in the work of the CRC and stressed that this should continue. On UNEP's legal interpretation of "intentional misuse," CANADA underscored that listing cannot be justified on this basis alone. CROPLIFE INTERNATIONAL expressed concern about the CRC's application of the Annex 2 and Annex 4 criteria, stating that current practices lack rigor.

### **CONSIDERATION OF CHEMICALS FOR INCLUSION IN ANNEX III TO THE CONVENTION: Alachlor and Aldicarb:**

The Secretariat discussed the review of alachlor (UNEP/FAO/RC/COP.5/14) and aldicarb (UNEP/FAO/RC/COP.5/15) for inclusion in Annex III, the list of chemicals and pesticides banned or restricted for health and environmental reasons. President Gwayi stated that the adoption process for each chemical included: review of notifications from different regions on the chemical; recommendations from the CRC; and agreement of parties that the chemical meets requirements in articles 5 and 7 of the Convention, stating that notifications were received from at least two PIC regions and that notifications satisfy the criteria as listed in Annex II. Decisions to list both chemicals were adopted and will enter into force on 24 October 2011.

**Endosulfan:** The Secretariat introduced the documents (UNEP/FAO/RC/COP.5/12-13), and President Gwayi opened the floor for discussion. Parties' statements focused on the availability of technical assistance.

CUBA called for inclusion of references to financial and technical assistance in the decision. President Gwayi suggested that Cuba submit relevant text to the budget and technical assistance contact group. Masa Nagai, UNEP Legal Adviser, clarified that decisions on CRC recommendations are technical, and said political issues should be discussed elsewhere. CUBA, supported by ARGENTINA, emphasized that COP decisions are political and have policy consequences. IRAN suggested putting language in the draft report to address Cuba's concerns. The EU, supported by NORWAY, recalled that similar concerns were resolved under the Stockholm Convention as part of technical

assistance discussions, and suggested proceeding to listing. MAURITANIA called for an immediate decision on Annex III listing. Delegates agreed to revisit this issue later in the week.

**Chrysotile asbestos:** The Secretariat introduced its note on listing chrysotile asbestos (UNEP/FAO/RC/COP.5/11). The UKRAINE, KAZAKHSTAN, KYRGYZSTAN, and VIET NAM opposed listing, stating that the scientific case regarding risks is inconclusive, and that suitable substitutes are not available. INDIA and SUDAN opposed the listing, citing respective pieces of national evidence suggesting the substance can be used safely. GUINEA requested these studies be made available for comparative analysis in the Convention. UKRAINE said the recommendation made by the CRC was not made by consensus. ZIMBABWE, the RUSSIAN FEDERATION, and the ASBESTOS INFORMATION CENTRE opposed listing chrysotile asbestos and, with IRAQ, questioned the evidence of harm to human health. The INTERNATIONAL ALLIANCE ON TRADE UNION ORGANIZATIONS opposed the listing, emphasizing that tens of thousands of jobs would be lost.

JAMAICA, NIGERIA, ZAMBIA, JORDAN, SWITZERLAND, KENYA, MALDIVES, ARGENTINA, GUINEA, BOLIVIA, VENEZUELA, REPUBLIC OF KOREA, SENEGAL, NORWAY, DOMINICAN REPUBLIC, THAILAND, SAUDI ARABIA, the ROTTERDAM CONVENTION ALLIANCE, AUSTRALIA and the EU supported listing chrysotile asbestos in Annex III.

Parties in support noted that: CRC recommendations clearly indicate asbestos is a hazardous substance, harmful to human health and the environment, as stated by the WHO; that PIC is important for developing countries which have weak legal and institutional structures for addressing hazardous materials; that risk assessment evaluations indicate asbestos risk is difficult to manage; and that listing the chemical is different from restricting it and the goal of the Convention is to enhance transparency through the PIC procedure.

AUSTRALIA suggested considering ways to ensure the Convention can meet its objectives if the substance is not listed at COP5. SWITZERLAND proposed that the functionality of the Convention be evaluated and improved. The EU proposed a contact group to address this issue.

President Gwayi postponed further discussion until after consideration of approaches for dealing with chemicals recommended by CRC on which COP is unable to reach consensus.

**INFORMATION EXCHANGE:** The Secretariat introduced the documents (UNEP/FAO/RC/COP.5/20 and UNEP/FAO/RC/COP.5/INF/8.)

The EU emphasized the need for a well-functioning, practical, cost-efficient and regularly updated information exchange system. The COP asked the Secretariat to draft a decision on the proposed strategic plan for establishing procedures for the Rotterdam Convention component of the joint clearinghouse mechanism.

#### **ENHANCING COOPERATION AND COORDINATION AMONG THE BASEL, ROTTERDAM AND STOCKHOLM CONVENTIONS**

The Secretariat introduced the documents (UNEP/FAO/RC/COP.5/25, 25/Add.1-6, and UNEP/FAO/RC/COP.5/INF/11-12, INF12/rev.1, INF/14-17) on this item, highlighting the Stockholm Convention's Decision SC 5/27 (UNEP/FAO/RC/COP.5/INF/17) on this issue, and outlining the minor editorial changes necessary for adoption of a substantively identical decision at COP5.

ARGENTINA, ECUADOR, the EU, NORWAY, and SWITZERLAND expressed support for the synergies process.

ECUADOR emphasized the importance of institutionalizing meetings of the joint bureau.

COP5 requested that the Secretariat prepare a draft decision based on the decisions taken by COP5 of the Stockholm Convention, containing appropriate modifications.

#### **CONTACT GROUPS**

**BUDGET AND TECHNICAL ASSISTANCE:** The contact group, Co-Chaired by Kerstin Stendahl (Finland) and Mohammed Khashashneh (Jordan) on budget and technical assistance began its work on Tuesday morning, and worked into the evening.

In the morning, the Secretariat introduced documents (UNEP/FAO/RC/COP.5/22-24 and Add.1, and UNEP/FAO/RC/COP.5/INF/9), as well as additional explanatory documentation, including the scale of assessment and the status of the fund balance and operating reserve as of December 2010. She noted that the proposed budget had been prepared to reflect both the Executive Secretary's scenario and a nominal growth scenario.

Co-Chair Stendahl noted that, as the budget decision should mirror the one taken during Stockholm Convention's last COP, the group will also discuss the financial rules.

SWITZERLAND proposed reflecting the reallocation of half of their contribution to the Voluntary Fund in the nominal growth scenario, with some developed country parties proposing instead that only a quarter of the Swiss contribution go into the Voluntary Fund. Both proposals will be discussed. One regional bloc suggested that the exchange rate used in both the scenarios be an average from January 2010.

In the evening, the group discussed the legality of reallocating host country contributions to the voluntary trust fund, considering that assessed contributions will increase.

On technical assistance, Co-Chair Khashashneh informed delegates they would need to consider the Cuban proposal to include technical assistance for new chemicals in the budget.

The Secretariat then introduced the documents (UNEP/FAO/RC/COP.5/19 and UNEP/FAO/RC/COP.5/INF/17), as well as additional information including a summary of the costs of individual elements of the proposed work programme for the regional and national delivery of technical assistance for 2012-2013, presented under both budget scenarios.

A few parties noted that technical assistance is funded by voluntary funds and is therefore not secure.

One developed regional group sought clarification on the need for technical assistance on the four new chemicals up for listing, suggesting that technical assistance in terms of workshops and training meetings could be undertaken by UNITAR or FAO.

Developing countries then prioritized additional technical assistance activities, including hands-on training, resource kits, electronic tools, and a help desk. A developed country noted that the clearinghouse mechanism already provides similar functions, and called for greater efficiency in the process. The Secretariat emphasized that resources are needed to assist developing countries in interpreting and implementing complicated technical DGDs provided by the experts in the CRC.

#### **IN THE CORRIDORS**

Tuesday's negotiations got off to an efficient start with the swift adoption of decisions to list alachlor and aldicarb. However, progress ground to a halt when parties considered endosulfan and some parties called for linking decisions to list with guarantees of financial and technical assistance.

Within the contact group, however, delegates were thoroughly confused as to how to deal with technical assistance activities relating to banned substances (such as endosulfan). "Very few countries will need it once the ban comes into force," said one. "It's the interpretation of the DGDs for which we will need assistance," answered a small country.

In response to the numerous times the Stockholm Convention was invoked during the contact group deliberations, several concluded that some delegates appeared confused about what falls under Rotterdam's definition of assistance. Others said, ironically, "for all the attention spent on developing synergies among the chemicals Conventions, a clearer understanding of the respective mandates is what's needed."