



**THE FIFTH SESSION OF THE
INTERGOVERNMENTAL NEGOTIATING
COMMITTEE FOR AN INTERNATIONAL
LEGALLY BINDING INSTRUMENT FOR
IMPLEMENTING INTERNATIONAL ACTION
ON CERTAIN PERSISTENT ORGANIC
POLLUTANTS (POPS):
4-9 DECEMBER 2000**

The fifth session of the Intergovernmental Negotiating Committee (INC-5) for an International Legally Binding Instrument for Implementing International Action on Certain Persistent Organic Pollutants (POPs) begins today, in Johannesburg, South Africa. Delegates to INC-5 will continue preparation of an international legally binding instrument for implementing international action on certain POPs grouped into three categories: 1) pesticides: aldrin, chlordane, DDT, dieldrin, endrin, heptachlor, mirex and toxaphene; 2) industrial chemicals: hexachlorobenzene (HCB) and polychlorinated biphenyls (PCBs); and 3) unintended byproducts: dioxins and furans.

As the last of the five scheduled negotiating sessions, the goal of INC-5 is to conclude negotiations and produce a complete text of the POPs convention for signing at the Stockholm Diplomatic Conference in May 2001. The major tasks for participants in Johannesburg include reaching agreement on financial resources and mechanisms, resolving outstanding issues surrounding measures to reduce or eliminate releases, and finalizing the placement of substances in annexes. Additionally, delegates will need to consider the preamble, objective and definitions of the draft convention, since the Committee has not yet discussed these items. During the week, INC-5 will also consider, *inter alia*: national action plans; technical assistance; exemptions for DDT for combating diseases like malaria; stockpiles of obsolete or unwanted pesticides; and draft resolutions to be adopted by the Diplomatic Conference.

A BRIEF HISTORY OF THE POPS NEGOTIATIONS

During the 1960s and 1970s, the use of certain chemicals and pesticides in industry and agriculture increased dramatically. Many of these chemicals are important to modern society, but can also pose a serious threat to human health and the environment. In particular, a certain category of chemicals known as persistent organic pollutants (POPs) recently attracted international attention due to a growing body of scientific evidence indicating that expo-

sure to very low doses of certain POPs can lead to cancer, damage to the central and peripheral nervous systems, diseases of the immune system, reproductive disorders and interference with normal infant and child development. POPs are chemical substances that persist, bioaccumulate and pose a risk of causing adverse effects to human health and the environment. With further evidence of the long-range transport of these substances to regions where they have never been used or produced, and the consequent threats they now pose to the environment worldwide, the international community has called for urgent global action to reduce and eliminate their release into the environment.

Prior to 1992, international action on chemicals primarily involved developing tools for information exchange and risk assessment. For example, in 1985 the FAO established an International Code of Conduct for the Distribution and Use of Pesticides and, in 1987, UNEP created a set of London Guidelines for the Exchange of Information on Chemicals in International Trade. In 1992, the UN Conference on Environment and Development (UNCED) adopted Agenda 21. Chapter 19 of Agenda 21, "Environmentally Sound Management of Toxic Chemicals Including Prevention of Illegal International Traffic in Toxic and Dangerous Products," called for the creation of an Intergovernmental Forum on Chemical Safety (IFCS). Agenda 21 also called for the establishment of the Inter-Organization Programme on the Sound Management of Chemicals (IOMC) to promote coordination among international organizations involved in implementing Chapter 19.

In March 1995, the UNEP Governing Council (GC) adopted Decision 18/32 inviting the IOMC, the IFCS and the International Programme on Chemical Safety (IPCS) to initiate an assessment process regarding an initial list of 12 POPs. In response to this invitation, the IFCS convened an *Ad Hoc* Working Group on POPs, which developed a workplan for assessing these substances. The assessments included available information on the chemistry, sources, toxicity, environmental dispersion and socioeconomic impacts of the 12 POPs.

In June 1996, the *Ad Hoc* Working Group convened a meeting of experts in Manila, the Philippines, and concluded that sufficient information existed to demonstrate the need for international action to minimize the risks from the 12 POPs, including a global legally binding instrument. The meeting forwarded a recommendation to the UNEP GC and the World Health Assembly (WHA) that immediate international action be taken. In February 1997, the UNEP GC adopted Decision 19/13C endorsing the conclusions

This issue of the *Earth Negotiations Bulletin* © <enb@iisd.org> is written and edited by Richard Campbell <richard@iisd.org>, Jon Hanks <jon.hanks@iiee.lu.se>, Wendy Jackson <wendy@iisd.org>, Jonathan Krueger Ph.D. <jkrueger@iisd.org> and Leila Mead <leila@iisd.org>. The Digital Editor is Andrei Henry <andrei@iisd.org>. 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 Netherlands Ministry of Foreign Affairs, the Government of Canada (through CIDA and DFAIT), the United States (through USAID), the Swiss Agency for Environment, Forests and Landscape (SAEFL), the United Kingdom Department for International Development (DFID), the European Commission (DG-ENV) and the Rockefeller Foundation. General Support for the *Bulletin* during 2000 is provided by the German Federal Ministry of Environment (BMU) and the German Federal Ministry of Development Cooperation (BMZ), the Danish Ministry of Foreign Affairs, the Ministry of Environment and the Ministry of Foreign Affairs of Austria, the Ministries of Foreign Affairs and Environment of Norway, the Ministries of Foreign Affairs and Environment of Finland, the Government of Australia, the Ministry of Environment and the Ministry of Foreign Affairs of Sweden and BP Amoco. Logistical assistance and travel support has been provided by the UNEP Chemicals Unit for coverage of this meeting. The *Bulletin* can be contacted by e-mail at <enb@iisd.org> and at tel: +1-212-644-0204; fax: +1-212-644-0206. IISD can be contacted by e-mail at <info@iisd.ca> and at 161 Portage Avenue East, 6th Floor, Winnipeg, Manitoba R3B 0Y4, Canada. The opinions expressed in the *Earth Negotiations Bulletin* are those of the authors and do not necessarily reflect the views of IISD and other funders. Excerpts from the *Earth Negotiations Bulletin* may be used in non-commercial publications only and only with appropriate academic citation. For permission to use this material in commercial publications, contact the Director of IISD Reporting Services. Electronic versions of the *Bulletin* are sent to e-mail distribution lists and can be found on the Linkages WWW server at <http://www.iisd.ca>. The satellite image was taken above Johannesburg ©2000 The Living Earth, Inc. <http://livingearth.com>. For information on the *Earth Negotiations Bulletin*, send e-mail to <enb@iisd.org>.



and recommendations of the IFCS. The GC requested that UNEP, together with relevant international organizations, prepare for and convene an intergovernmental negotiating committee (INC) with a mandate to develop, by the end of 2000, an international legally binding instrument for implementing international action, beginning with the 12 specified POPs. The first meeting of the INC was also requested to establish an expert group for the development of science-based criteria and a procedure for identifying additional POPs as candidates for future international action. Also in February 1997, the second meeting of the IFCS decided that the IFCS *Ad Hoc* Working Group would continue to assist in preparations for the negotiations. In May 1997, the WHA endorsed the recommendations of the IFCS and requested that the World Health Organization (WHO) participate actively in negotiations of the international instrument.

INC-1: The first session of the Intergovernmental Negotiating Committee (INC-1) was held from 29 June – 3 July 1998, in Montreal, Canada. Delegates from approximately 90 countries, as well as representatives from UN agencies, nongovernmental organizations (NGOs), intergovernmental organizations (IGOs) and industry, met with a clear spirit of cooperation, mutual purpose and shared responsibility. INC-1 elected bureau members, considered its programme of work, as well as possible elements for inclusion in an international legally binding instrument, and established the Implementation Aspects Group (IAG) to address technical and financial assistance. INC-1 requested the Secretariat to prepare a document for INC-2 containing material for possible inclusion in an international legally binding instrument based on discussions at INC-1 and government and NGO submissions.

INC-1 also established the Criteria Expert Group (CEG) as an open-ended technical working group mandated to elaborate proposals for science-based criteria, and to develop a procedure for identifying additional POPs as candidates for future international action, to be presented to the INC at or before its fourth session. INC-1 directed the CEG to incorporate criteria pertaining to persistence, bioaccumulation, toxicity and exposure in different regions, taking into account the potential for regional and global transport, including dispersion mechanisms for the atmosphere and the hydrosphere, migratory species and the need to reflect possible influences of marine transport and tropical climates.

CEG-1: The first session of the Criteria Expert Group (CEG-1) was held from 26-30 October 1998, in Bangkok, Thailand. Over 100 delegates from approximately 50 countries gathered to consider the CEG's programme of work, including the development of science-based criteria for identifying additional POPs as candidates for future international action. At CEG-1, delegates also considered the development of a procedure for identifying additional POPs, including the information required at different stages of the procedure, and who would nominate, screen and evaluate a substance as a future POPs candidate.

INC-2: INC-2 was held from 25-29 January 1999, in Nairobi, Kenya. Discussions among the delegates from over 100 countries were largely based on the Secretariat-prepared outline of an international legally binding instrument. After general discussions on this document, delegates divided into the IAG and the Negotiating Group. The Negotiating Group examined the text of the outline and completed preliminary discussions on: measures to reduce or eliminate releases of POPs into the environment; national implementation plans; information exchange; public information, awareness and education; and research, development and monitoring. The IAG held general discussions on possible capacity-building activi-

ties requiring technical and financial assistance. A contact group on annexes also met to begin placing the 12 POPs into annexes for: prohibited production and use; chemicals with restricted production and use; and chemicals subject to certain release reporting and release reduction or elimination measures.

CEG-2: The second session of the Criteria Expert Group (CEG-2) met from 14-18 June 1999, in Vienna, Austria. Approximately 140 participants representing 60 countries attended the meeting to build upon the work of CEG-1 in the development of scientific criteria and a procedure for adding additional POPs to the initial list of 12. The CEG succeeded in completing its work in two rather than three sessions, and proposed a procedure that provides for the establishment of a review committee or committees to apply screening criteria and to prepare a risk profile and risk management evaluation for proposed substances. The CEG submitted its recommendations to INC-3.

INC-3: INC-3 met from 6-11 September 1999, in Geneva, Switzerland, and brought together delegates from 120 countries, as well as representatives from UN agencies, NGOs, IGOs and industry. INC-3 adopted the report of the CEG and approved the CEG's recommendations as a basis for further negotiation. In the Negotiating Group, delegates made advances on language for articles on measures to reduce or eliminate releases, national implementation plans, the listing of substances in annexes, and information exchange. In the IAG, delegates continued discussions on technical assistance and financial resources and mechanisms, and many governments and regional groups submitted draft text for these articles.

INC-4: INC-4 met from 20-25 March 2000, in Bonn, Germany, and was attended by approximately 500 representatives from 121 countries, IGOs and NGOs. Contentious issues revolved around measures to reduce or eliminate releases, technical assistance, and financial resources and mechanisms. While INC-4 succeeded in drafting articles on technical assistance and financial resources and mechanisms, the text is still heavily bracketed and developed and developing country positions remain divided. Delegates devoted much time to addressing control measures (Article D) and made some headway on elimination language with respect to byproducts. INC-4 also addressed and made progress on articles regarding: national implementation plans; listing of substances; information exchange; public information, awareness and education; and research, development and monitoring. INC-4 did not have time for discussion of the preamble, objective and definitions, and left these articles for consideration at INC-5.

THINGS TO LOOK FOR TODAY

OPENING PLENARY: Delegates will convene at 10:00 am in Ballroom 1 of the Sandton Conference Centre for an opening Plenary session to address organizational matters and hear statements from UNEP Executive Director Klaus Töpfer and a representative of the South African government. INC Chair John Buccini (Canada) will ask delegates whether they wish to use the Chair's draft convention text or the INC-4 draft text as the basis for negotiations. It is expected that discussion in the afternoon will center on draft Article K (Financial resources and mechanisms).

MEETINGS DURING THE WEEK: The INC will meet in Plenary for the entire week. The Legal Drafting Group, as well as regional and contact groups, will meet as needed during the week.