The third Conference of the Parties (COP-3) to the Rotterdam Convention on the Prior Informed Consent (PIC) Procedure for Certain Hazardous Chemicals and Pesticides in International Trade opened Monday at FAO headquarters in Rome. In the morning, delegates heard opening statements by representatives of the UN Food and Agriculture Organization (FAO) and United Nations Environment Programme (UNEP), and addressed organizational matters, rules of procedure, implementation of the Convention, and non-compliance issues. In the afternoon, delegates continued meeting in plenary in parallel with the budget contact group and the working group on non-compliance.

OPENING PLENARY

President Ruisheng Yue (China), welcoming the Republic of Congo as the Convention’s 109th signatory, said commitments made when ratifying the Convention should now be turned into action.

Frits Schlingemann, UNEP, on behalf of Achim Steiner, UNEP Executive Director, reviewed progress made in the last 15 years, and reiterated Annex III (Chemicals subject to the PIC Procedure) inclusion is not a recommendation to ban global trade or use. He urged parties to review the list of more than 160 chemicals for which a first notification has been made, and encouraged development of national plans or strategies for implementation.

ORGANIZATIONAL MATTERS

President Yue introduced, and COP-3 adopted, the annotated agenda for the meeting and its organization of work (UNEP/FAO/RC/COP.3.1 and Add.1). Underscoring the COP-3 outcome will guide the Convention’s implementation for the next two years, he referred delegates to his Scenario Note (UNEP/FAO/RC/COP.3/2), and highlighted the need to: agree on the 2007-2008 programme of work and budget; provide guidance on non-RC/COP.3/2), and highlighted the need to: agree on the 2007-2008 programme of work and budget; provide guidance on non-RC/COP.3/2), and highlighted the need to: agree on the 2007-2008 programme of work and budget; provide guidance on non-RC/COP.3/2), and highlighted the need to: agree on the 2007-2008 programme of work and budget; provide guidance on non-RC/COP.3/2), and highlighted the need to: agree on the 2007-2008 programme of work and budget; provide guidance on non-RC/COP.3/2), and highlighted the need to: agree on the 2007-2008 programme of work and budget; provide guidance on non-
"illegal use." AUSTRALIA urged clarification of "intentional misuse." and requested the CRC to seek legal advice from UNEP, and delegates agreed.

Treaty restrictions and other Multilateral Environment Agreements (MEAs): The Secretariat presented UNEP/FAO/RC/COP.3/9, on the Convention’s treatment of substances in which trade is prohibited or restricted by the Stockholm Convention, the Montreal Protocol and International Maritime Organization Convention.

SWITZERLAND, supported by NEW ZEALAND, the EU and AUSTRALIA supported a case-by-case approach to prioritization of chemicals. The US opposed basing decisions on another MEA’s criteria. COP-3 agreed to the Secretariat’s proposal to assign a lower priority to chemicals included in the Stockholm Convention or Montreal Protocol, and not to assign a lower priority to chemicals considered for inclusion, or due to be phased out, under these agreements.

Consideration of a Chemical to be included in the Convention’s Annex III: Chrysotile asbestos: On UNEP/FAO/RC/COP.3/8 Annex II, President Yue underscored the legal validity of using previously considered notifications in including chemicals in Annex III. CANADA, NORWAY and CHILE said they were satisfied with the process’ legality. KYRGYZSTAN, supported by the RUSSIAN FEDERATION, said they understood the process for including chrysotile asbestos was not observed. President Yue stressed that the COP had not considered this issue and the Secretariat confirmed UNEP legal officers’ advice that a lack of consensus does not invalidate notifications. SWITZERLAND supported this advice. President Yue deferred discussions on the issue.

Issues from Previous Cops: non-compliance: Noting the Convention’s Article 17 (Non-compliance) specifies development of rules and procedures on this issue, the Secretariat introduced this agenda item (UNEP/FAO/RC/COP.3/12), and recalled COP-2 decision (RC-2/3) to consider the procedures and mechanisms on non-compliance for adoption at COP-3. President Yue agreed, and delegates agreed, to establish a working group to further consider this issue, with Denis Langlois (Canada) as its Chair.

Report on Activities of the Secretariat: President Yue introduced the report on activities of the Secretariat (UNEP/FAO/RC/COP.3/22) and Status of Designated National Authorities (DNAs) (UNEP/FAO/RC/COP.3/INF.2). The Secretariat asked delegates to review the list of DNAs and make any necessary corrections. Delegates took note of the report.

Programme of Work and Proposed Budget: 2007-2008: The Secretariat introduced the agenda item on the 2007-2008 programme of work and budget (UNEP/FAO/RC/COP.3/23 and Corr.1, UNEP/FAO/RC/COP.3/24 and Corr.1, and UNEP/FAO/RC/COP.3/INF.12). He drew attention to: ongoing support of FAO and UNEP for Secretariat operations; status of contributions; issues associated with host country support; expenditures, noting that COP-3 cost more than anticipated; and issues related to staffing. Lamenting payment delays, the EU said it was looking for ways to pay future contributions on time. A budget contact group was established.

The Secretariat introduced the currency study (UNEP/FAO/RC/COP.3/18). The EU said it was not in a position to use multicurrency systems, that there was no basis for changing the status quo, and that the matter should be reconsidered at COP-4. MEXICO preferred maintaining the status quo and establishing a contingency fund.

Working Groups: Non-compliance: Working Group Chair Langlois stressed the COP-3 mandate to adopt procedures and mechanisms on non-compliance, and invited comments on five issues that remain bracketed on establishment of a compliance committee (UNEP/FAO/RC/COP.3/12 Annex): membership; open versus closed meetings; consensus versus vote-based decision making; triggers for the non-compliance procedure; and possible measures to address non-compliance. Many parties supported a facilitative rather than punitive mechanism, while the EU, ETHIOPIA and MALI stressed the need for an appropriate response to non-compliance.

On membership, while parties generally agreed on equitable geographical distribution of balance between developed and developing country participation, some parties supported composition based on UN regions, while others favored PIC regions, with the US stating that PIC regions better reflect current bilateral trade discussions.

Many parties agreed that consensus should be reached if possible, but if not, a two-thirds majority vote should be implemented, which JAPAN and AUSTRALIA opposed.

The EU further proposed the committee be open to the public, with interventions on specific issues only made upon approval of a party concerned. SOUTH AFRICA, ETHIOPIA, JAMAICA, ECUADOR, VENEZUELA and CHILE supported a process open to the public, with some stating the non-compliant party could protest. NORWAY encouraged NGO participation.

OMAN, CHINA, GHANA, THAILAND, MALAYSIA and others said discussions should only involve parties, although some considered the non-compliant party could agree to an open process. SWITZERLAND, supported by the US, said the committee could work more effectively if closed, with CANADA highlighting closed sessions under the Montreal Protocol as being conducive to a balanced process.

On triggers, AUSTRALIA advocated party self-invocation only, while the EU suggested accepting submissions on non-compliance from parties, the Secretariat, individuals and groups, provided safeguards are in place. JAPAN opposed party-to-party triggers. CHINA, SOUTH AFRICA and the US said the Secretariat should not trigger the process, while SWITZERLAND and NORWAY said it could be helpful, and MALAYSIA proposed the Secretariat’s involvement if the matter is not resolved within a certain timeframe.

Many parties opposed the more punitive measures outlined, while the EU favored stricter compliance measures, including a declaration of non-compliance and, opposed by JAPAN and CANADA, suspension of parties’ rights and privileges. OMAN supported first establishing a clear financial mechanism, and CHINA and INDIA highlighted the link between the financial mechanism and compliance. GHANA suggested an “implementation” rather than “compliance” committee. The US said the COP-2 decision does not require consensus at COP-3, but that every effort to reach consensus should be made.

Delegates then discussed existing non-compliance mechanisms and examined the Montreal Protocol, the Basel Convention and the Cartagena Protocol on Biosafety, particularly regarding dispute settlement procedure and suspension of rights and privileges. Chair Langlois adjourned the session, encouraging informal consultations.

Budget: This contact group met in the afternoon and agreed to appoint Paul Garnier (Switzerland) as Chair, reviewed the Secretariat’s latest budget figures, contained in UNEP/FAO/COP.3/INF12, and agreed to revise figures to reflect delegates’ comments. The group also looked at draft elements for a decision on 2007-2008 financing and budget. The group will continue its work on Tuesday.

In the Corridors: As COP-3 opened in Geneva’s glorious autumn sunshine, delegates were overheard chatting about their expectations for the meeting. Some placed great importance on the format of discussions on chrysotile asbestos, and the announcement that the issue would be discussed in a Friends of the Chair group raised a few eyebrows. One delegate complained about the lack of transparency whereas others suggested the format of discussions does not matter, since inclusion of chrysotile is a political “yes” or “no” question. As discussions began anew on non-compliance, another delegate risked the prediction that an agreement on a non-punitive mechanism, in step with other MEAs, will be reached by the end of the week. Other delegates, noting lack of progress at COP-2, feared “irreconcilable differences” would prevent consensus from emerging. Another delegate expressed the strong hope that agreement would be reached, as the working group cost well over a quarter of a million dollars.