



## POPS INC-3 HIGHLIGHTS THURSDAY, 9 SEPTEMBER 1999

On the fourth day of INC-3, delegates met in a morning Plenary session to hear reports from the LDG, the contact group on measures to reduce or eliminate POPs releases, the Implementation Group and the Negotiation Group. In the afternoon, the Implementation Group discussed EU and Canadian submissions on technical assistance and the Negotiation Group discussed procedure and criteria for adding new chemicals and information exchange. The contact group on measures to reduce or eliminate POPs releases met throughout the day and a contact group on byproducts met in an evening session.

### PLENARY

LDG Chair Patrick Szell (UK) reported that the group covered the standard procedural articles and addressed adoption and amendment of annexes. He presented three options for amending annexes and explained that the opt-out and opt-in options allow countries time for national parliamentary scrutiny before an amendment enters into force, while amendments enter into force automatically after a specified period under the consensus and automaticity procedure. He stated that all three options are not mutually exclusive and can be used together.

Contact group Chair Charles Auer (US) reported on the group's progress. He highlighted textual changes, including substituting the option "take the legal measures necessary to eliminate" for "take effective measures to eliminate," referencing exemptions as "general exemptions" and insertion of language prohibiting export or import of banned chemicals except for environmentally sound destruction/disposal. He said the group addressed eight of the chemicals and placed them into the annex on elimination, but that work on DDT and PCBs and a public health exemption remained outstanding. Of the eight chemicals placed in the annex, aldrin, endrin and toxaphene did not have specific exemptions identified, while HCB, chlordane, dieldrin, heptachlor and mirex had country-specific exemptions. A date of expiry was only identified for two uses of HCB. The group identified a need for countries to determine specific exemptions before INC-3 and a need for capacity building in banning chemicals domestically. NIGERIA and IRAN identified possible loopholes in the listed general exemptions. NIGERIA, on behalf of the African Group, stressed maintaining language on technical and financial assistance.

Implementation Group Chair Maria Cristina Cardenas Fischer (Colombia) reported that the group held general discussions on technical assistance, focusing on technical assistance activities and the eligibility and mechanism for the assistance. The group addressed the article's structure and favored a short, non-exhaustive formula. The group emphasized enhanced coordination among donors and recipients.

Chair John Buccini (Canada) reported that the Negotiation Group discussed the draft article on procedure and criteria for identifying additional POPs, but did not agree on a manner in which to forward the text to the LDG. The EU reminded delegates of its proposal on procedure with possible decisions to be taken at the diplomatic conference and by the COP, and promised the EU would produce a proposal for the article.

### NEGOTIATION GROUP

The Negotiation Group continued discussions on how to forward the article on procedure and criteria to the LDG. The EU suggested the LDG look at what elements could be addressed in an article, in an annex and outside the body of the convention, either in a decision taken by the diplomatic conference or by the COP. NORWAY stressed that a diplomatic conference decision could determine procedure for the interim period, as in the case of the Rotterdam Convention. The US said addressing interim measures needed further consideration.

Stating that the procedure is a critical policy issue and that the key elements should be reflected in the convention itself, AUSTRALIA, with CANADA, felt uncomfortable giving the LDG the mandate to contemplate incorporation of the procedure. The US said the mandate was vague, requested that guidance on inclusion into the convention and annexes be given to the LDG and identified key elements for inclusion in the convention. The EU, with NORWAY, suggested the LDG look at precedents in other arrangements in terms of what elements are usually contained in articles, annexes or decisions by the diplomatic conference or the COP. Buccini, supported by the US, proposed the LDG look at key elements within the convention's text and consider placement of other elements.

To the criteria on the proposed reasons for concern/adverse effects, NORWAY, preferred use of adverse effects stating that either: toxicity or ecotoxicity data; or a comparison of toxicity or ecotoxicity data or other information deemed relevant by the nominating party be provided. The US, CANADA and AUSTRALIA opposed, while the EU opposed obligatory comparisons. Buccini said a contact group would address this. Regarding the annex on socioeconomic considerations, COLOMBIA, on behalf of GRULAC, proposed that references to costs of risk reduction control measures and alternatives be modified to "environmental and health costs." ICELAND proposed "costs, including environmental and health costs." Delegates agreed.

Buccini suggested that the annexes on screening criteria, information requirements for the risk profile and socioeconomic considerations be sent to the LDG, with the exception of the toxicity provision. Delegates agreed. The EU expressed concern over calling the text a draft article. ICELAND suggested sending the draft text on procedure to the LDG for legal scrutiny, and removing the heading "article." The US said that the transmission of the EU's

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proposal to the LDG should not set a precedent. The EU agreed on forwarding the text on the condition that the EU's proposed article be forwarded as well. The text was forwarded to the LDG and the EU's text will be discussed in the Negotiation Group before transmission to the LDG.

On the issue of preventing newly developed chemicals, the EU proposed text under the article on measures to reduce or eliminate releases, stating each party shall take necessary measures to prevent newly developed chemicals that exhibit POPs characteristics from being produced, made commercially available or used. CANADA presented two options: appropriate measures to identify and prevent releases in accordance with national laws; and consideration of criteria and procedures for new or newly developed chemicals within the parties' national regulatory and assessment schemes. AUSTRALIA supported the second option, but without "new or newly developed." POLAND requested reference to criteria which apply to the twelve initial POPs. JAMAICA suggested replacing developed with discovered chemicals. Buccini recommended that the EU chair a contact group to discuss the suggested reformulations and develop a new proposal.

Regarding the article on information exchange, SOUTH AFRICA, CANADA and the US preferred that information be exchanged in a manner consistent with national laws. Opposing, IRAN and YEMEN supported language stating that information be exchanged in a transparent and non-discriminatory manner. CANADA proposed a list of information relevant to cost-effective alternatives, including: development and use of best available techniques; development and use of alternatives; and evaluation of risks that such alternatives pose to human health and the environment. To this list, the GAMBIA supported adding indigenous practices. IRAN opposed a provision on confidential information. JAPAN supported its retention, citing Intellectual Property Rights laws on newly developed chemicals. IRAN supported provisions on information exchange through the Secretariat and the Secretariat acting as a clearing-house mechanism (CHM) for other relevant information. YEMEN expressed concern that the Secretariat was the only point through which information could be exchanged. The US suggested a provision stating that parties "may" exchange information through the Secretariat instead of "shall."

Contact Group Chair Charles Auer reported that the group had fulfilled the terms of its mandate. He said DDT and PCBs remain bracketed in both annexes on prohibitions and restrictions, and that public health emergency needed further consideration. Buccini announced that Paul Whyllie (Jamaica) would chair a contact group to discuss byproducts, mandating the group to develop text reflecting an action-plan based approach.

### IMPLEMENTATION GROUP

The Implementation Group considered EU proposed text for the article on technical assistance. The text calls for: international cooperation; assessment of infrastructure and capacity at the local and national levels; and promotion of five capacity building areas. MICRONESIA opposed specification of capacity building areas and, asking for details on the "who" and "how," emphasized the need for guidance on how to coordinate donors. URUGUAY, supported by ARGENTINA, said the text on capacity building areas listed were more limited than those agreed upon at INC-2. LESOTHO, supported by ARGENTINA and ANGOLA, called for assessments at the regional and subregional levels. NIGER urged countries to continue support for initial work on inventories in developing countries. IRAN, supported by NIGER and ANGOLA, called for reference to assistance for POPs destruction technology. INDIA supported an indicative list for capacity building areas and suggested additional areas, *inter alia*: sending experts for problem solving; technology for new products; conduct of studies; and preparation of guidance documents. LESOTHO expressed concern that the text overlooked technology transfer, rehabilitation of contaminated areas and formulation of national implementation plans. CANADA opposed detailing every capacity building need, stating that "action necessary to implement the Convention" covers all

aspects of implementation. ECUADOR said the article should detail a mechanism for identifying donors and recipients. The SEYCHELLES said the procedure for receiving assistance should be detailed. GHANA called for reference to a coordinating body at the national level. IRAN remarked that the EU proposal lacked strong obligations. EGYPT emphasized that means of implementation must be discussed.

Delegates next considered a Canadian proposal on a CHM on technical assistance. ICELAND emphasized the importance of having information on supply and demand of technical assistance and the value of the CHM function. TANZANIA noted the proposal could allow for both information exchange and technical assistance. AUSTRALIA agreed with the Canadian proposal's request that the Secretariat examine past CHM experiences in terms of demand and supply coordination for technical assistance and report back at INC-4. LESOTHO queried the success of CHM and, in response, the FAO highlighted a mechanism to coordinate assistance for integrated pest management. The US underscored coordination and streamlining of activities. The EU stressed connecting financing sources with needs and information. MICRONESIA envisioned a one-stop facility for technical assistance and, with VENEZUELA, stressed the article must address more than just information provision. GREENPEACE INTERNATIONAL called for enhanced availability of technical assistance to meet specific implementation demands. He cautioned against assuming that enough resources exist and that a CHM will be the only additional cost. PAKISTAN suggested pooling donor funds into the GEF under a POPs elimination fund. The GEF said the global nature of POPs brought them under its mandate.

Chair Cardenas requested firm proposals on what should be included in the article on technical assistance, building on the EU text. EGYPT stressed technical assistance to build landfills and incinerators to destroy POPs stockpiles, supported development of training and awareness programmes at the subregional levels and called for a transparent mechanism for requesting technical assistance. NIGER underscored the need for assured assistance in follow-up to inventories. PERU requested articulation of the linkage between technical and financial assistance. CHINA emphasized support similar to that provided under the Montreal Protocol. The EU, TANZANIA, AUSTRALIA and the US preferred broad language with regard to capacity building. The EU said the proposed text would include any activities required in the national implementation plan. VENEZUELA offered to present a GRULAC proposal the next day. The group agreed to consider a compilation text comprised of the EU proposal and a paragraph on CHM based on the Canadian proposal.

### IN THE CORRIDORS

Early in the day, some delegates fretted that text on procedure and criteria for additional POPs would not make it to legal drafting at INC-3 given the apparent deadlock on the issue. Some forecasted that the legal drafting group would finish the week lounging in the cafe. All such ideas evaporated when the Negotiation Group discovered a way forward. By day's end, the Legal Drafting Group had received text on procedure and criteria, with prohibition and restriction measures following closely on its heels. As one aptly put it, the legal drafting group now has "its plate full."

### THINGS TO LOOK FOR TODAY

Plenary will convene at 10:00 am to hear reports from the Implementation and Negotiation Groups, the LDG and the contact groups. Following Plenary, the working and contact groups will reconvene. The Negotiation Group will discuss the EU proposed article on procedure and criteria and information exchange. The Implementation Group will continue deliberations on draft text for the article on technical assistance. The LDG will consider criteria and procedure.