



HIGHLIGHTS OF INC-3 FRIDAY, 10 SEPTEMBER 1999

On the fifth day of INC-3, delegates met in Plenary to hear reports from the Implementation and Negotiation Groups, the LDG and the contact groups on prohibition and restrictions, newly developed chemicals and byproducts. Following Plenary, the Negotiation Group addressed, *inter alia*, information exchange, newly developed chemicals and exemptions. The Implementation Group continued to consider text for the article on technical assistance and held general discussions on financial assistance.

PLENARY

Charles Auer (US), Chair of the contact group on prohibition and restrictions, reported on PCB discussions, noting insertion of bracketed language in both elimination and prohibition annexes and agreement on elimination of production and new uses of PCBs. The group viewed the public health emergency exemption as a specific chemical exemption but did not achieve consensus. Chair Whyllie (Jamaica) of the contact group on byproducts reported on the group's preliminary meeting which initiated discussions on a Norway/Iceland joint submission. Kevin Buckett (Australia) reported general agreement reached by the contact group discussing Norway's proposed language for a criteria on adverse effects in the annex containing information and criteria requirements for the proposal and review of proposed POPs. Jose Tarazona (Spain) reported on contact group discussions considering language proposals on screening of new chemicals with POPs properties. He noted agreement on measures to manage emergence of new POPs, but difficulties over specific needs and types of controls. LDG Chair Patrick Szell (UK) noted the LDG had reorganized the article on national implementation plans to improve clarity. On the question of cross-referencing language in other instruments, such as the Basel Convention, the LDG identified no legal impediment but stressed caution in using such an approach. Szell said the technique did not bind a non-party to the cross-referenced convention. On the interface between the Basel and POPs conventions, he identified the need for comparative policy analysis addressing gaps and overlaps. Implementation Group Chair Cardenas (Colombia) reported on discussions regarding EU and Canadian proposals on the technical assistance article. Chair Buccini (Canada) highlighted the Negotiation Group's difficult deliberations in determining drafting instructions for the LDG concerning the article on procedure and criteria.

NEGOTIATION GROUP

In discussion on procedure and criteria, NEW ZEALAND said the EU's proposed article overly-abbreviated the procedure set out by the CEG. A contact group, chaired by Iceland, was established to draft text on procedure. Regarding the article on information exchange, BURKINA FASO, CHINA, TOGO and TANZANIA supported information exchange in a transparent and non-discrimi-

natory manner. The US proposed including information related to risks, as well as economic and social costs. The REPUBLIC OF KOREA called for exchange of legal information on national laws and administrative systems. On confidential information, CAMEROON, the PHILIPPINES, ARGENTINA, TANZANIA and SWITZERLAND supported deletion of a provision on confidentiality. An NGO coalition called for availability of all relevant information on POPs, including information regarding production and trade.

On information exchange through the Secretariat, the EU and CANADA proposed language to reflect that other methods could also be used. SAUDI ARABIA added information could be exchanged between parties. Regarding the Secretariat serving as a clearing-house mechanism (CHM), CANADA highlighted the UNEP Chemicals CHM on POPs as a good basis for discussion. He also proposed a CHM on matching financial and technical assistance needs. Delegates agreed to a CHM, national focal point[s] and Secretariat involvement in the exchange of information, but not on confidential information.

Chair Auer submitted the revised text, including annexes and exemptions, prepared by the contact group on prohibitions and restrictions. Traversing the annex entries on substance, activities, compliance date and specific exemptions, he highlighted that chlordane, heptachlor, DDT and PCBs, which appear in the elimination annex, were all bracketed. He said DDT and PCBs were also bracketed in the restriction annex. IRAN, supported by CHINA, proposed language making the POPs prohibition and restriction requirements "subject to accessibility of financial and technical assistance." Auer confirmed that country entries in the annexes for exemptions were not complete. The US, with CANADA, bracketed "production" in the provision on restrictions on production and use. The PESTICIDES ACTION GROUP AND ALTERNATIVES FOR LATIN AMERICA stressed pursuing the goal of POPs elimination. Delegates agreed to forward the text without the general exemptions and with the Iranian proposal to the LDG.

Auer outlined text for the proposed general exemptions: research; *de minimis* contaminants in products; articles in use; use as a closed-system intermediate; and end-use. Delegates agreed on a general exemption for research, but not on the other exemptions. Delegates did not agree on whether to place exemptions in an article or in the annexes. The EU supported placement in the annexes, CANADA and the REPUBLIC OF KOREA in an article, the GAMBIA and INDONESIA specified the article under scope, and AUSTRALIA, the article on measures to reduce or eliminate. Many countries requested further elaboration of closed-system. The EU expressed concern that an end-use exemption would leave a loophole in the convention and supported its deletion. MALI, INDIA, MALAYSIA, INDONESIA and SOUTH AFRICA, on behalf of the African Group, agreed. The US supported retaining the exemption.

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INDONESIA, YEMEN and MALAYSIA asked for clear definition on *de minimis*. The REPUBLIC OF KOREA supported all the exemptions. GREENPEACE INTERNATIONAL regretted the number and magnitude of general exemptions and stressed they would create loopholes which could lead to increases of POPs, particularly before entry into force. In preparation for INC-4, Buccini suggested the Secretariat look at issues related to the exemptions on *de minimis* contamination, articles in use and closed-system use for more informed discussions.

Tarazona presented the new chemicals contact group's text on addressing newly developed chemicals. The text states that parties shall take measures within their regulatory and assessment schemes for new or newly developed chemicals to address POPs properties with a view to avoiding creation of additional POPs. Delegates indicated broad support for a provision on new chemicals. SWITZERLAND supported the proposed location of the provision in the article on measures to reduce and eliminate releases. A number of delegations expressed concern with the term "creation" of additional POPs, indicating it may capture unintended circumstances such as POPs creation during research. The US proposed referring only to "new chemicals" and specifying to avoid commercialization of additional POPs. The UKRAINE agreed and supported substituting "emergence" for "creation." CANADA preferred a simple reference to "chemicals" to capture existing chemicals coming up for review. Chair Buccini preferred treating this as a separate issue, as the CEG's recommendation covered new chemicals. The EU proposed bracketing "avoiding the creation" and adding "prohibiting the commercialization." The US opposed "prohibiting." The RUSSIAN FEDERATION preferred referencing environmental impacts as opposed to specifying creation or commercialization. In response, the US suggested, and the RUSSIAN FEDERATION supported, referring to releases. The Plenary agreed to reconvene the contact group.

Whyllie reported on the byproduct contact group's further deliberations on a Norway/Iceland proposal on byproducts. He noted, *inter alia*: definition of "best available techniques;" discussions on reducing "total" release of byproducts; a proposed aim of continuing minimization; a possible need to define "technique;" and discussion on the need for a separate action plan for byproducts. Reporting on the contact group's results on procedure, Halldor Thorgeirsson (Iceland) said the group drafted text capturing the key elements identified as critical for inclusion, but did not address the POPs review committee, the precautionary principle or elements related to timing and the role of the Secretariat. ARGENTINA bracketed references to observers. The text was forwarded to the LDG.

IMPLEMENTATION GROUP

On technical assistance, PERU introduced a GRULAC proposal calling for, *inter alia*: Secretariat coordination of assistance; extension of assistance to the regional and subregional levels; indication of needs in national reports; and establishment of regional and subregional capacity building centers. INDIA submitted a proposal for a technical assistance mechanism to provide: information; capacity development; infrastructure development; and technology transfer. MICRONESIA supported the Indian proposal and added making cleaner materials available. The EU reintroduced its proposal with text from the Canadian proposal for a CHM on technical assistance. TANZANIA, speaking for the African Group, submitted a proposal ensuring technical assistance for, *inter alia*: inventories and release registers; destruction of stockpiles; sustainable alternatives; and national action plans. Several delegations, including MICRONESIA, EGYPT, SENEGAL and URUGUAY, identified complimentary areas among the proposals and supported amalgamating them. The SEYCHELLES agreed, preferring that the Indian proposal serve as the framework. SOUTH AFRICA, supported by TANZANIA, proposed establishing a small group to consolidate the proposals. CANADA, with AUSTRALIA and the US, said negotiation of text based on the proposals was premature and suggested the original proposals be forwarded to INC-4. INDIA asked why negotiation

could not take place now and called for identification of differences. Cardenas suggested the Secretariat prepare a compilation text.

Delegates later considered the Secretariat compilation. The EU said the compilation text was difficult to read and, with the US and CANADA, supported reverting to the individual proposals. CANADA and the EU emphasized the need for indication of their individual submissions, which were included in the text as a joint proposal. MICRONESIA suggested integrating all elements of the proposals and deleting references to countries in order to focus on content rather than origin. ECUADOR agreed. The US countered the text would not be appropriate without attribution. Delegates agreed to include the individual proposals in the report of the meeting.

In discussion on the structure for the article on financial assistance and mechanisms, CHINA and PERU recommended establishing an individual multilateral funding mechanism. CHINA said the GEF's funding areas do not encompass POPs. CANADA, with AUSTRALIA, the EU, the US, JAPAN and EGYPT, opposed a new multilateral fund. CANADA recommended examining and strengthening existing financial and technical mechanisms. INDIA suggested a separate financial mechanism using bilateral and multilateral assistance. ECUADOR proposed a dual financial/technical mechanism along with an additional voluntary mechanism. URUGUAY underscored the need to ensure proper channeling of funds. The EU proposed text promoting, *inter alia*: availability of financial resources; multiple-source funding; existing funds and financial mechanisms; and private sector involvement. MICRONESIA disagreed with the language in the proposal and opposed using one funding organization. EGYPT supported use of existing resources, noting that establishment of a multilateral fund would require time and prolong implementation. GREENPEACE INTERNATIONAL emphasized the greater efficiency of technical assistance over financial transfers. IRAN introduced a proposal for an independent financial mechanism to cover incremental costs of implementing the convention. TANZANIA proposed a financial mechanism similar to that of the Montreal Protocol.

INDIA noted the majority of POPs elimination projects are being carried out in developing countries through their own financing. CANADA said aid agencies need direct requests for funding to determine demand. The CZECH REPUBLIC noted that supply will need to develop to meet demand. URUGUAY said existing funding sources may not be specific enough to address the convention's needs. GREENPEACE INTERNATIONAL recalled a UNEP Governing Council decision acknowledging a gap between actions to be taken on POPs and countries' financial and technical capacity. Noting a lack of resources for countries trying to address POPs, he called for an obligation to find new resources if existing resources are proven inadequate. GEF highlighted projects on regional POPs releases assessments, pesticide management for agriculture and disease vector control. LESOTHO noted overlap between all proposals and suggested combining them. Cardenas suggested compiling and forwarding proposals as options to be discussed at INC-4.

IN THE CORRIDORS

At the end of the day, delegates leaving the Implementation Group seemed uncertain as to exactly what they had agreed upon in annexing country proposals to the report of the meeting. While some delegates were pleased at the prospect of the proposals providing fodder for discussion at INC-4, others feared the proposals would materialize as an awkward draft text for the article.

THINGS TO LOOK FOR TODAY

Plenary will convene to hear reports from the Implementation and the Negotiation Groups and the LDG. The Implementation Group will consider financial assistance and the report of its work. The Negotiation Group will review the week's progress.