



PIC INC-7 HIGHLIGHTS

WEDNESDAY, 1 NOVEMBER 2000

On the third day of INC-7, delegates met in morning and afternoon Plenary sessions. Participants discussed, *inter alia*, discontinuation of the interim PIC procedure, rules of procedure for the COP, financial arrangements, settlement of disputes and non-compliance.

PREPARATION FOR THE CONFERENCE OF THE PARTIES (COP)

DISCONTINUATION OF THE INTERIM PIC PROCEDURE: Niek van der Graaff, FAO, outlined Issues Associated with the Discontinuation of the Interim PIC Procedure (UNEP/FAO/PIC/INC.7/12). He emphasized the complexity of issues associated with transition from the interim procedure to the Convention procedure, such as how to address notifications from non-Parties.

The US proposed continuing the interim procedure for one year after COP-1, but not continuing the mandate of the INC and ICRC. CANADA noted that while 163 countries currently participate in the interim procedure, once the Convention enters into force with 50 ratifications, 113 countries will be non-Parties and therefore unable to participate. He suggested, with support from the European Community (EC), ARGENTINA, AUSTRALIA, ECUADOR, HUNGARY, REPUBLIC OF KOREA, NIGERIA, SAMOA and TANZANIA, a transition period longer than one year, and asked the Secretariat to identify options for managing the transition by INC-8.

COLOMBIA said the COP is the highest authority and should make decisions regarding non-Parties. The RUSSIAN FEDERATION suggested a gradual convergence of the interim procedure and the Convention in order to facilitate countries' ratification. The EC supported maintaining the interim procedure but emphasized that duplication should be avoided. The US clarified that the interim procedure would continue one year from COP-1, not one year from entry into force of the Convention. She noted that this would result in a transition period of close to two years and suggested consideration of measures, such as allowing non-Parties to participate as observers in the COP and CRC and placing documents on the Internet, in order to mitigate possible negative effects. COLOMBIA stressed that transparent information exchange in the Convention allows good import decisions and emphasized that it

should not be a trade barrier. She asked for clarification regarding the consequences of continuing the interim procedure and noted that how non-Parties are treated could have trade implications. Chair Rodrigues responded that without a continued interim procedure there could be many countries not applying PIC if they are not Parties once the Convention is in force.

UKRAINE stressed that ratification can be a lengthy process requiring assistance from the Secretariat. UGANDA observed that the Secretariat would be the link between past and future and that discussions should focus on how to encourage non-Parties to join. INDIA highlighted the experience of the Chemical Weapons Convention in allowing time for countries to become Parties. SWITZERLAND supported Canada's proposal that the Secretariat prepare an options paper and proposed extending the interim procedure until COP-2. IRAN said that a gap in implementation could damage the aim of the Convention and proposed that the Secretariat prepare a questionnaire asking governments when they will ratify and to state reasons for delay or obstacles to ratification. Chair Rodrigues noted that, while ratification always takes time, after two years there is often an acceleration of ratifications.

KENYA said that trade between Parties and non-Parties should continue during the transition period. AUSTRALIA encouraged delegates to provide comments to the Secretariat regarding different options. Chair Rodrigues set 1 February 2001 as the date for submission of comments. SAMOA suggested that CRC membership criteria should include equitable geographic distribution. CHINA supported a transitional period while warning of potential adverse effects on non-Parties. The US highlighted the need for legal advice to clarify the situation of different notifications in the Convention during the interim period. Plenary agreed to take note of the document.

RULES OF PROCEDURE FOR THE COP: Jim Willis, UNEP, introduced draft rules of procedure, possible options for financial rules, settlement of disputes and non-compliance as a package of activities in preparation for the COP. Noting that certain items were more urgent than others, he directed delegates to the documents Draft Rules of Procedure of the Conference of the Parties (UNEP/FAO/PIC/INC.7/7) and Settlement of Disputes (UNEP/FAO/PIC/INC.7/9). Summarizing their background, he said the draft rules for COP-1 adoption were a "first start" and highlighted the settlement of disputes annexes on arbitration and

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conciliation. Chair Rodrigues signaled the intent to form a working group to review the documents and invited general comments. Delegates indicated general support for a working group.

Regarding rules of procedure, the EC, *inter alia*: queried the 90-day period applying to extraordinary COP meeting requests; queried the six-week minimum period for agenda distribution before ordinary meetings, and advocated internet distribution; supported, with NEW ZEALAND but opposed by the US, a suggested variation to the quorum rule stating that a regional economic integration organization counts according to voting entitlement; called for clarification in the majority required rule; and, regarding secret ballot as a method of voting, supported amendment to promote transparency. The US stressed amending the threshold requirement for a secret ballot from just one party to, at the very least, a majority. NEW ZEALAND, supported by the US, said holding ordinary meetings annually is too frequent and proposed 18 months to 2 years with the flexibility to vary.

FINANCIAL ARRANGEMENTS: Jim Willis outlined Possible Options for Financial Rules, including Financial Provisions for the Permanent Secretariat and a Draft Budget for the First Biennium (UNEP/FAO/PIC/INC.7/8), highlighting elements found in the rules adopted by other multilateral environmental agreements (UNEP/FAO/PIC/INC.7/INF/4). He suggested the Secretariat produce a draft of financial rules based on elements in other agreements. CANADA, FRANCE and the UK supported, *inter alia*: a biennial financial period; financial rules adopted by consensus; and creation of a special fund constituted by voluntary contributions. The US opposed use of the UN scale for contributions, noting the existence of alternative assessment methodologies. CUBA, INDONESIA, IRAN, KENYA and SAMOA supported use of the UN scale. CUBA said that targeting contributions for certain projects should be avoided. KENYA supported voluntary contributions not subject to scale. CANADA inquired about financing for intersessional Bureau meetings, and Willis replied that they had not been included in the budget. Chair Rodrigues commented that e-mail has solved many coordination problems, and said the Secretariat would draft financial rules and present them at INC-8.

SETTLEMENT OF DISPUTES AND NON-COMPLIANCE: Regarding settlement of disputes, FRANCE, on behalf of the EC, advocated the Convention on Biological Diversity (CBD) as a model. CANADA said a working group on compliance should be created at the next INC and recommended that the Secretariat, in consultation with Parties, develop a compliance procedure model and also draft a mechanism for periodic reporting on obligations for adoption by the COP. The UK recommended that the working group on rules and dispute settlement take advantage of precedents under other MEAs but update elements where appropriate.

Regarding procedures and institutional mechanisms for determining non-compliance (UNEP/FAO/PIC/INC.7/10), Chair Rodrigues noted the need to adopt a recommendation on this issue due to its importance for many parties. FRANCE, on behalf of the EC, supported by AUSTRIA, promoted the adoption of a non-compliance mechanism which is as effective as possible but flexible enough to allow exchange of and access to information. AUSTRIA highlighted the benefits of looking at other international regimes. COLOMBIA said an effective mechanism would

contribute to the success of the Convention. The US pointed to the Montreal Protocol as having an exemplary mechanism, but said non-compliance was not a priority above others.

Chair Rodrigues suggested requesting the Secretariat to develop a non-compliance model and another for reporting, which is not provided for in the Convention. CANADA, supported by FRANCE on behalf of the EC, AUSTRALIA, LESOTHO, the UK and THE SUDAN, volunteered to draft a preliminary reporting model. COLOMBIA opposed and, supported by AUSTRALIA, suggested that interested Parties send their comments to the Secretariat. The UK said Article 18, paragraph 5 of the Convention provides authority for the adoption of a reporting model. LESOTHO asked for provision of incentives to promote compliance.

Chair Rodrigues invited Parties interested in supporting the Secretariat in developing a model of non-compliance and reporting to send their comments by 1 February 2001. Chair Rodrigues proposed creation of a legal working group on the issues of non-compliance, dispute settlement and rules of procedure, with Patrick Szell (UK) as Chair.

IMPLEMENTATION OF THE INTERIM PIC PROCEDURE

INTERIM CHEMICAL REVIEW COMMITTEE: Jim Willis described and delegates agreed on amendments to Confirmation of Experts Designated for the Interim Chemical Review Committee (UNEP/FAO/PIC/INC.7/3). The amendments reflect three changes to the designated experts, and include changes to preambular text in the annexed INC draft decision appointing the experts.

OTHER MATTERS

Jim Willis advised that agreement had been reached to hold ICRC-2 from 19-23 March 2001 and INC-8 from 8-12 October 2001, both at the FAO in Rome. CAMEROON announced his President's authorization by law to ratify the Convention and the taking of steps to deposit the instrument of ratification.

IN THE CORRIDORS

With the overall lack of disagreement at PIC-7, some proffered that outstanding PIC implementation issues must now be addressed by national capitals. Others viewed the complexities of managing overlapping interim and Convention procedures as a serious predicament. Several characterized emerging problems with non-Parties as critical, while others saw funding as the key problem should the interim and Convention PIC procedures run together for a lengthy period. A source close to the negotiations suggested that UNEP and FAO governing bodies may be called upon to provide guidance.

THINGS TO LOOK FOR TODAY

PLENARY: Delegates will reconvene in Plenary at 3:00 pm in Room 2 of the Geneva International Conference Centre to consider the report of the contact group on contaminants, hear an update on the progress of the Legal Working Group and discuss the assignment of Harmonized System customs codes.

LEGAL WORKING GROUP: The Legal Working Group will meet at a time and place to be announced to discuss rules of procedure for the COP, dispute settlement and non-compliance.