



PIC INC-8 HIGHLIGHTS TUESDAY, 9 OCTOBER 2001

On the second day of INC-8, delegates met in morning and afternoon Plenary sessions to discuss aspects related to implementation of the interim prior informed consent (PIC) procedure and preparation for the Conference of the Parties (COP). A working group on legal issues met in the afternoon to discuss outstanding issues regarding the draft rules of procedure.

IMPLEMENTATION OF THE INTERIM PIC PROCEDURE

ADOPTION OF DECISION GUIDANCE DOCUMENTS:

Regarding adoption of decision guidance documents for already identified chemicals (UNEP/FAO/PIC/INC.8/6), delegates discussed an Interim Chemical Review Committee (ICRC) recommendation to the INC that maleic hydrazide not be subject to the interim PIC procedure and that a decision guidance document not be developed, provided that identified manufacturers submit written confirmation by 1 January 2002 that the level of free hydrazine not exceed 1 ppm, and that they comply with the FAO specifications for the potassium salt of maleic hydrazide by 1 January 2004. INC Chair Maria Celina de Azevedo Rodrigues (Brazil) proposed that if these conditions were not met, the issue would be referred back to the ICRC. The EU, NORWAY and the US supported the Chair's proposal. CHINA, supported by the REPUBLIC OF KOREA, said if the products were only used domestically, manufacturers should not be required to submit written confirmations. SWITZERLAND proposed reconsidering the action if new information shows that products do not meet the standard. On encouraging manufacturers to provide confirmation, the US clarified that companies should provide confirmations to the designated national authorities who would then submit the information to the Secretariat and requested language to reflect this. With this and the addition of language reflecting the Chair's proposal to refer the issue back to the ICRC if the conditions are not met, the suggested action was approved.

CONTAMINANTS: ICRC Chair Reiner Arndt (Germany) introduced a document on issues arising out of the second session of the ICRC (UNEP/FAO/PIC/INC.8/7). Regarding contaminants in industrial chemicals, delegates agreed that although the issue is important, it is not the highest priority, and recommended addressing it in future sessions of the ICRC once a notification of this nature has been submitted.

ISSUES ASSOCIATED WITH THE OPERATIONAL PROCEDURES FOR THE ICRC: On cooperation and coordination in the submission of notifications of final regulatory actions, Arndt noted that the ICRC recommended: updating and resubmit-

ting notifications that do not satisfy the criteria of the interim procedure; calling upon designated national authorities and NGOs to help identify the scope of ongoing international trade in certain chemicals; and considering whether countries can provide updated scientific data to support old notifications. ARGENTINA supported the recommendation to provide supplementary data, while AUSTRALIA and the US requested that the ICRC further examine the issue. The EU and NORWAY said that priority should be given to notifications of chemicals not yet covered by the PIC procedure. Delegates left the issue of updated scientific data for further consideration by the ICRC, and endorsed the remaining recommendations with language stating that countries "might wish" to prioritize notifications.

Arndt described the ICRC recommendation that countries use Chemical Abstract Service (CAS) numbers and precise chemical descriptions in identifying chemicals subject to the interim PIC procedure, reiterating that despite this recommendation, any changes to Annex III must be made by the COP. Delegates endorsed the ICRC's recommendation.

INCLUSION OF CHEMICALS IN THE INTERIM PIC PROCEDURE: Chair Rodrigues reported that there are currently no chemicals that require inclusion in the interim PIC procedure.

ANALYSIS OF PROBLEMS ENCOUNTERED BY PARTIES IN PREPARATION OF NOTIFICATIONS: Bill Murray, interim Secretariat, presented an analysis of problems frequently encountered by Parties in preparing notifications of final regulatory actions (UNEP/FAO/PIC/INC.8/8), noting that 56 of 165 participating states have submitted notifications, and that of the 14 countries that have ratified the Convention, only five have submitted notifications. Regarding a proposal to revise the notification form, CANADA suggested the Secretariat develop and distribute model forms. Many delegations said it would be premature to change the form because the PIC procedure is still in its infancy. CUBA pointed out that many problems faced by designated national authorities are due to training and capacity limitations, and, with COLOMBIA, emphasized increased use of direct assistance. JAMAICA stressed that developing countries have limited laboratory facilities, and therefore may have insufficient capacity for informed decision making. LESOTHO pointed out that there have been no notifications from his country because there have been no regulatory actions.

Delegates did not endorse proposals on revising the notification form and establishing a target date, but endorsed proposals referring to: provision of hands-on training; consultation with designated national authorities; and preparation of an issue paper on compatibility of current regulatory practices with notification

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procedures. SWITZERLAND requested a procedural clarification for the notification of substances banned in advance of the PIC process. Chair Rodrigues responded that this is the prerogative of the notifying country, since out-of-production chemicals are not exported and are therefore not within PIC's purview. EGYPT responded that in many instances previously banned substances are stockpiled in developing countries where they may eventually be put to use, and asked how these countries will be made aware of the status of such substances if notifications are not mandatory. Niek van der Graaff, Executive Secretary of the Rotterdam Convention, replied that substances within this category should be addressed on a case-by-case basis.

SUBMISSION OF NOTIFICATIONS OF CHEMICALS ALREADY SUBJECT TO THE PIC PROCEDURE:

Regarding submission of notifications of chemicals already subject to the PIC procedure and possible options to reconcile the need for information exchange with available resources (UNEP/FAO/PIC/INC.8/9), Bill Murray highlighted three options: continuation of submitting full notifications; a two-track approach depending on the scientific basis for the national regulatory action; and no obligation to submit a notification for Parties that have provided an import response. He said possible action by the INC would be to, *inter alia*, consider whether to adopt a specific policy relating to this issue. The US supported the first option. NEW ZEALAND suggested using this option for a limited period of time, with the Secretariat reporting back on its effectiveness. Chair Rodrigues said countries are encouraged to communicate difficulties they are encountering in presenting notifications.

CONFLICT OF INTEREST PROCEDURES FOR THE ICRC: Niek van der Graaff recalled the INC's request to the Secretariat to collect information on procedures and forms used to address matters such as conflict of interest, disclosure and recusal in use by scientific bodies in other conventions (UNEP/FAO/PIC/INC.8/10). Antonio Tavares, interim Secretariat, outlined the document, describing the code of conduct of the Technology and Economic Assessment Panel (TEAC) under the Montreal Protocol, as well as the development of a form by the FAO and the WHO for the disclosure of information by experts. AUSTRALIA, the EU, NIGERIA and others stated that establishing procedures to avoid conflict of interest is critical to the functioning of the Rotterdam Convention. Chair Rodrigues said that the issue must be resolved at INC-8, proposed that further discussion be carried out in a working group, and asked Colombia to chair the group.

PREPARATION FOR THE COP

DRAFT RULES OF PROCEDURE FOR THE COP: Jim Willis, Executive Secretary of the Rotterdam Convention, noted that outstanding issues had been carried forward from the INC-7 legal drafting group regarding draft rules on: dates of meetings; participation of other bodies or agencies; election of officers; quorum; majority required; and method of voting for general matters. He emphasized that these issues required resolution at INC-8. Regarding outstanding legal matters, CANADA, BELGIUM and AUSTRALIA expressed interest in discussing compliance matters prior to the completion of INC-8. Chair Rodrigues stated that such a discussion would be possible if time permitted.

ASSIGNMENT OF SPECIFIC HARMONIZED SYSTEM CUSTOMS CODES: Jim Willis presented the report on Harmonized System customs codes (UNEP/FAO/PIC/INC.8/18), and outlined the Secretariat's cooperation with the World Customs Organization (WCO). He stressed that in order to avoid delaying the assignment of Harmonized System codes until 2012 or later, the Convention should enter into force by 2004. KENYA, NIGERIA and SENEGAL called for capacity building of the customs officers and designated national authorities. AUSTRALIA recalled a single

high-level code proposal. CANADA and the US discussed more specific codes. COLOMBIA suggested working with the World Trade Organization.

Responding to the comments, Jim Willis said a single high-level code would not be acceptable to the WCO, and noted UNEP's work on capacity building for customs officers. Concluding the discussion, Chair Rodrigues suggested: requesting that the Secretariat pursue work with the WCO; inviting countries working with the codes to cooperate with the Secretariat; and striving to meet the WCO deadline of 2004 by promptly ratifying the Convention.

ISSUES ASSOCIATED WITH THE DISCONTINUATION OF THE INTERIM PIC PROCEDURE: Bill Murray introduced the note on options and feasible solutions regarding discontinuation of the interim PIC procedure (UNEP/FAO/PIC/INC.8/16). He said it is premature to draft recommendations to the COP prior to a review by the INC, and welcomed deliberations on the document. Chair Rodrigues suggested establishing a working group on the issue. While agreeing with the recommendation to initiate a working group, the US encouraged efforts to avoid situations in which non-Parties can force the obligations of a Party. KENYA said that since the Convention aims to foster broad participation, the working group should provide incentives to those experiencing difficulties ratifying the Convention. In response, Chair Rodrigues said that the principles identified for guidance in discontinuation of the interim PIC procedure (UNEP/FAO/PIC/INC.8/16) should structure the working group's efforts, and nominated SRI LANKA and AUSTRALIA as Co-Chairs, to which Plenary agreed.

DRAFT FINANCIAL RULES AND PROVISIONS: Jim Willis introduced a paper outlining a set of draft rules as requested by INC-7 (UNEP/FAO/PIC/INC.8/12). He noted that the rules are comprised of both a set of draft rules and an assessment methodology. Chair Rodrigues invited comments requesting that complex negotiating positions be reserved for the legal drafting group. Responding to the paper, the EU, with NORWAY, expressed its qualified support for the draft rules, noting reservations. IRAN suggested that delimitations on total contributions be subject to future negotiation. Chair Rodrigues supported the idea while noting that any final decision rests with the COP. The US suggested alternative assessment methodologies might be considered and stressed that no financial obligations are binding.

IN THE CORRIDORS

In terms of organizational efficiency, the "quiet overachievers" of the interim PIC Secretariat again have proven their mettle, allowing delegates to efficiently move forward through the agenda and effortlessly churn out recommendations. However, as some observers pointed out, this does not disguise the fact that the low number of ratifications – 16 out of the required 50 – clouds aspirations for entry into force of the Convention by the September 2002 World Summit on Sustainable Development.

THINGS TO LOOK FOR TODAY

PLENARY: Delegates are expected to reconvene in Plenary from 10:00 – 11:00 am in the Green Room at FAO Headquarters to discuss non-compliance.

WORKING GROUPS: Working Groups on discontinuation of the interim PIC procedure and on conflict of interest in the ICRC are expected to convene at 11:00 am.

DRAFTING GROUP: The legal drafting group is expected to reconvene at 10:00 am to conclude discussion of the draft rules of procedure and begin discussion of financial rules.