



PIC INC-9 HIGHLIGHTS TUESDAY, 1 OCTOBER 2002

Delegates to PIC INC-9 met in a morning Plenary to consider procedures for handling cases of non-compliance under the agenda item on preparation for the COP, and issues arising out of ICRC-3 under the item on implementation of the interim PIC procedure. In the afternoon, PIC regional groups gathered to discuss membership of the ICRC, an informal group met to discuss the budget, and an open-ended working group convened to consider the compliance mechanism.

PLENARY

PREPARATION FOR THE CONFERENCE OF THE PARTIES: Non-compliance: Masa Nagai, Interim Secretariat for the Rotterdam Convention, introduced documents on procedures and institutional mechanisms for handling cases of non-compliance (UNEP/FAO/PIC/INC.9/16) and on a possible reporting procedure relating to the Convention's implementation (UNEP/FAO/PIC/INC.9/15). He explained that the document on procedures and mechanisms contains a revised model for handling non-compliance, and recalled the INC-8 decision that the open-ended working group formed to address this issue should reconvene at INC-9.

Several Parties said the working group should meet as soon as possible. CANADA said the group should allow Parties to articulate their various positions so that a comprehensive negotiating document could be prepared in time for INC-10. DENMARK, speaking for the EU, highlighted the significance it attaches to this issue, and supported using the documents introduced by the Secretariat as a basis for detailed deliberations. SWITZERLAND said the compliance mechanism should be in place by the time the Convention enters into force.

JAPAN stated that Parties' difficulties in implementation and compliance must be taken into account, and stressed that the working group should address both compliance and the reporting system. The US, supported by AUSTRALIA, said compliance procedures should be "simple, flexible and facilitative."

IMPLEMENTATION OF THE INTERIM PIC PROCEDURE: Issues arising out of ICRC-3: Delegates considered issues arising from ICRC-3 for which guidance was requested by the INC, as outlined in two documents. The first document (UNEP/FAO/PIC/INC.9/8) addresses issues concerned with determining whether a final regulatory action has been taken as a consequence of risk evaluation relevant to the prevailing conditions in the notifying country. The second (UNEP/FAO/PIC/INC.9/9) examines the consistency between the scope of reported national regulatory actions and the inclusion of chemicals in the interim PIC procedure.

Establishing whether a final regulatory action has been taken as a consequence of risk evaluation relevant to the conditions in the notifying country: ICRC Chair Reiner Arndt introduced issues raised under this sub-item, as outlined in the first document (UNEP/FAO/PIC/INC.9/8). On the matter of preventive regulatory actions for pesticides, delegates agreed that these actions must meet the definitions of a "final regulatory action" and a "banned chemical" under Article 2. CHINA stressed the need to discuss whether notification of such an action meets the criteria of Article 5 (procedures for banned or severely restricted chemicals).

On the relationship between the Annex II criteria and the final regulatory actions on chemicals not previously used in a country, INC-9 agreed that a country has to meet the Annex II criteria when it notifies of a ban on a chemical proposed for use in the country. In the case where a country provides notification of a ban on a chemical that has never been proposed for use in the country, Arndt suggested that INC-9 consider whether: as a part of a country's general policy on chemicals, a ban would be expected to meet the Annex II criteria; such notifications need to be supplemented by a risk evaluation; and the extent to which this documentation meets the criteria would be considered on a case-by-case basis.

CHINA recommended that all notifications meet the criteria in Annex II and include a risk evaluation. The US supported the use of risk evaluations and the consideration of the adequacy of supplementary documentation on a case-by-case basis. The EUROPEAN COMMUNITY supported a case-by-case approach, but stressed that a basic risk evaluation might suffice in some circumstances, highlighting that, under the Stockholm Convention, countries can take preventive actions if a chemical has intrinsically hazardous properties. The INC agreed that the ICRC consider the issue on a case-by-case basis.

ICRC Chair Arndt then asked the INC to provide guidance on whether the ICRC can accept risk evaluations from neighboring countries with similar conditions to the notifying country with respect to pesticide use. The EUROPEAN COMMUNITY, supported by the US and others, stressed the need for detailed supplementary documentation, or bridging information, demonstrating that the prevailing conditions in the notifying country are comparable to those in the country that undertook the risk evaluation. He recommended that the sufficiency of this information be judged by the ICRC on a case-by-case basis. CANADA proposed that the ICRC develop its own guidance regarding the necessary supplementary documentation. BRAZIL expressed concern about creating additional burdens for developing countries.

Scope of reported national regulatory actions and inclusion of chemicals in the interim PIC procedure: ICRC Chair Arndt presented the second document on matters arising from ICRC-3 (UNEP/FAO/PIC/INC.9/9) addressing the inclusion of chemicals - DNOC, GRANOX TBC and SPINOX T - in the interim PIC procedure.

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On the inclusion of DNOC, Arndt highlighted two proposed options: listing DNOC and one salt (ammonium salt) or the covering of all forms of DNOC including all products containing any or all salts. The EUROPEAN COMMUNITY, supported by PERU, UKRAINE, SWITZERLAND, ARGENTINA, AUSTRALIA, US, CHINA and BRAZIL, requested that DNOC and all associated salts be subject to the PIC procedure. He also called on the ICRC to undertake a review of existing notifications to check for substances that are comparable to DNOC. UKRAINE called for the consideration of WHO decisions on the use of DNOC under high temperatures. CHINA suggested that country notifications list all the characteristics of DNOC and its salts. The RUSSIAN FEDERATION cautioned that not all DNOC salts are used in agriculture and not all are toxic. INC Chair Rodrigues noted that a decision will be taken at INC-10 and suggested that in cases of inconsistent information, the Secretariat should seek clarification.

On the inclusion of GRANOX TBC and SPINOX T, Arndt expressed the ICRC's concern over listing a single specific formulation because changes to the specified percentages of any active ingredients could remove the formulation from the scope of the PIC procedure. The ICRC provided the INC with three options: (a) only formulations containing the level of active ingredients identified; (b) formulations containing a combination of active ingredients at the same level or more hazardous than those in the formulation identified; or (c) powdered formulations of carbofuran at the same level as identified or greater. The INC approved option (b).

On determining the range of products containing DNOC to be included in the interim PIC procedure, Arndt presented two options to the INC: (a) list DNOC, its salts, and their associated Chemical Abstract Service (CAS) numbers in Annex III; or (b) list only DNOC and its CAS number (requiring states to review all relevant DGDs to determine which salts are applicable). The EUROPEAN COMMUNITY indicated that it preferred to keep Annex III concise and uncluttered, but suggested that, to provide some additional details, the listing could refer to "DNOC and its salts." SWITZERLAND supported option (a), believing this would reduce confusion. AUSTRALIA stated that there should be as much detail as possible, but supported the EUROPEAN COMMUNITY's compromise proposal. Arndt suggested that a database listing the chemicals covered by the DGDs be compiled. The Plenary adjourned without reaching a decision.

WORKING GROUP ON COMPLIANCE

The Working Group on Compliance met in the afternoon and elected Alistair McGlone (UK) as Chair. The EU said the Secretariat's Note (UNEP/FAO/PIC/INC.9/16) on procedures and institutional mechanisms for handling cases of non-compliance is a good starting point for discussion. The US underscored that the entire document is bracketed, and proposed postponing the development of the compliance mechanism. AUSTRALIA recommended approaching the document as an "elements paper" rather than a negotiating text. CANADA, LESOTHO and BRAZIL proposed a practical approach in working towards a draft mechanism.

Chair McGlone invited delegates to share their experiences on the practical issues relating to the scope of the mechanism, in particular their views on models from other conventions. AUSTRALIA and the US recommended determining types of non-compliance before establishing tools for compliance. To ascertain the problems that will need to be addressed, JAPAN advised that reporting tools be developed before the compliance mechanism is negotiated. Chair McGlone suggested that both general elements and practical aspects of the mechanism be discussed.

The Working Group discussed the draft text paragraph by paragraph. On text outlining objectives, the US objected to a proposal that the compliance committee determine non-compliance and

preferred that the committee promote compliance instead. Delegates agreed to delete the paragraph entirely, with several delegates underscoring that Article 17 is the guiding principle for the compliance mechanism.

Regarding the establishment of a compliance committee, delegates discussed whether it should be an *ad hoc* body, whether it should be subsidiary to the COP, and how often it should meet. Delegates agreed to a suggestion by AUSTRALIA to clarify that the compliance committee only take on compliance-related functions. Chair McGlone suggested that the group reconvene on Wednesday.

INFORMAL MEETING ON THE BUDGET

Jim Willis, Joint Executive Secretary of the Interim Secretariat, opened the meeting, noting that delegates had expressed divergent opinions on the budget during Monday's Plenary. Delegates proposed, *inter alia*, that INC-9: agree on the major elements and line items of the Secretariat's budget, deleting the non-core items and qualifying budget increases for 2003 and 2004; take note of the proposed 2004 budget and deferring a final decision to INC-10; and consider the establishment of a budget committee. In response to these proposals, Willis noted that the Secretariat will develop a model for a more detailed budget based on a combination of the format used in Annex II and Annex IV(B) to the Secretariat's Note on its activities and the budget (UNEP/FAO/PIC/INC.9/4), which will cover a four-year period with footnotes on items to be revisited by the COP. He indicated that this model would explain changes and increases in budget and provide information on budget allocation for workshops. He also noted that INC-10 would establish a budget committee.

REGIONAL GROUP MEETINGS

PIC regional groups met during the afternoon to discuss ICRC membership. The results of these discussions will be reported back to Plenary.

IN THE CORRIDORS

As INC-9 took up complex matters such as issues arising from ICRC-3 and compliance, delegates noted that, in spite of the technical and sensitive nature of these discussions, a spirit of civility and cooperation remained. The compliance group provided a talking point for delegates, with observers noting widely differing views on the shape of the proposed compliance mechanism, and on the timing for establishing its details. While developed countries, such as Australia and the US, favored a more cautious approach leading to a facilitative, flexible mechanism, some developed and developing countries would clearly prefer early work to establish the details of a strict regime. One particularly contentious point appears to be whether the compliance committee should be a subsidiary body under the COP, or a more independent group open to a broader membership.

THINGS TO LOOK FOR TODAY

PLENARY: Plenary will convene at 10:00 am and is expected to hear reports from the PIC Regions and other groups. It will then take up the item on preparation for the COP, including sub-items on draft financial rules and provisions and on the settlement of disputes.

COMPLIANCE GROUP: The Working Group on Compliance is expected to meet in the afternoon to resume discussion on the Annex to the relevant document (UNEP/FAO/PIC/INC.9/16).

SIDE EVENT: The Intergovernmental Forum on Chemical Safety will host a side event on the Information Exchange Network on Capacity Building for the Sound Management of Chemicals (INFOCAP) at 1:00 pm in Room A/C.