



PIC INC-10 HIGHLIGHTS: MONDAY, 17 NOVEMBER 2003

The tenth session of the Intergovernmental Negotiating Committee (INC-10) for an International Legally Binding Instrument for the Application of the Prior Informed Consent (PIC) Procedure for Certain Hazardous Chemicals and Pesticides in International Trade opened on Monday morning, November 17, in Geneva. Following opening statements, delegates addressed organizational matters, activities of the secretariat and review of the situation as regards extrabudgetary funds, implementation of the interim PIC Procedure, and preparations for COP-1. An open-ended working group on compliance convened in the afternoon.

OPENING PLENARY

INC Chair Maria Celina de Azevedo Rodrigues (Brazil) welcomed delegates to INC-10 and introduced the opening speakers.

In his opening statement, Phillippe Roch, State Secretary, Director, Swiss Agency for the Environment, Forests, and Landscape, noted that INC-10 might be the last INC prior to the Convention's entry into force. Recognizing the Convention as one of the three pillars of the multilateral system addressing chemicals, he stressed the need for strategic coordination and coherence among multilateral agreements and processes.

Shafqat Kakakhel, UNEP Deputy Executive Director, described the Convention as the "first line" of defense against chemical hazards and a vital part of the international toolkit for protecting human health and the environment from harmful pesticides and chemicals. He also noted the Convention's role in contributing to the WSSD's goal of sound management of chemicals by 2020.

Louise Fresco, FAO Assistant Director-General, highlighted the link between the regulation of international trade in hazardous chemicals and pesticides and the need to increase food production through agricultural intensification. She noted the need for international, national and local action and coherent national policies on agriculture, environment, water and land management.

ADOPTION OF THE AGENDA: On the provisional agenda (UNEP/FAO/PIC/INC.10/1), CANADA requested that the INC address cooperation between WTO and the Rotterdam Secretariat. The INC adopted the provisional agenda as amended by Canada.

ORGANIZATION OF WORK: Chair de Azevedo Rodrigues introduced the scenario note (UNEP/FAO/PIC/INC.10/2) and said that the overall goal of INC-10 was to prepare for the Convention's entry into force. Among possible outcomes of INC-10, she highlighted the adoption of the 2004 budget, a decision on inclusion of additional chemicals and pesticides, a draft COP-1 decision on non-compliance, and a mandate to the Secretariat to

develop a technical assistance strategy. She noted that Yuri Kundiev (Ukraine) will serve as INC-10 Rapporteur, and that new bureau members for Asia and Africa need to be nominated.

ACTIVITIES OF THE SECRETARIAT AND REVIEW OF THE SITUATION AS REGARDS EXTRABUDGETARY FUNDS

Jim Willis, Joint Executive Secretary for the Interim Secretariat of the Rotterdam Convention (UNEP), presented a report on activities of the secretariat and review of the situation as regards extrabudgetary funds (UNEP/FAO/PIC/INC.10/3). The European Community (EC) requested that issues regarding implementation and the trust fund, secretariat staffing and the budget be discussed in an open-ended working group. JAPAN and FRANCE requested further explanation on the budget increase. CHILE and CUBA highlighted the importance of financing the participation of non-Party developing countries. CANADA requested that Secretariat staffing be prioritized, and suggested adding a footnote indicating that participation and conference services costs for COP-1 and COP-2 would be borne by host countries.

Willis responded that the increase in expenditure from 2003 to 2004 was largely due to changes in staff costs and workshops. He said that while it would be possible to include the proposed footnote with regard to COP-1, a decision on its inclusion to cover COP-2 would have to be deferred to COP-1.

IMPLEMENTATION OF THE INTERIM PIC PROCEDURE

STATUS OF IMPLEMENTATION: Yun Zhou, Interim Secretariat, introduced a document detailing the rate of import responses on various chemicals (UNEP/FAO/PIC/INC.10/4), drawing attention to the relatively low rate of import responses. She reported that the Secretariat had received notifications for four candidate chemicals meeting the information requirements of Annex I, and said that notifications have been verified for five additional pesticides (UNEP/FAO/PIC/INC.10/INF/6) to be considered at ICRC-5. Chair de Azevedo Rodrigues noted that providing responses will be obligatory once the Convention is in force, and requested that delegates explain the constraints they face in this area. CONGO reported that it faces legal difficulties because it lacks a national approval law for chemicals.

The DEMOCRATIC REPUBLIC OF CONGO and UGANDA said the correct national authorities in their countries have not received communications from the secretariat. The RUSSIAN FEDERATION urged the elaboration of criteria for including substances in the PIC list. EGYPT identified limited resources as a problem, while GAMBIA mentioned poor communication among focal points. Chair de Azevedo Rodrigues requested that countries review the list of designated national authorities (DNAs) and keep this information updated.



CONFIRMATION OF EXPERTS DESIGNATED FOR

THE ICRC: Elena Sobakina, Interim Secretariat, introduced a document (UNEP/FAO/PIC.10/5) containing a draft decision regarding the confirmation of experts designated for the ICRC. The plenary adopted the decision and formally appointed the experts from Canada and the Philippines.

REPORT OF ICRC-4: Reiner Arndt, ICRC Chair, presented the report of ICRC-4 (UNEP/FAO/PIC.10/6) and noted that intersessional work had begun on DGDs for parathion and tetraethyl lead and tetramethyl lead. He said that the notifications for tributyltin had been received from the EC and Japan, but that Japan's notification lacked documentation of a risk evaluation under prevailing national conditions. He said that ICRC-4 had requested INC-10 to invite the WHO's International Programme on Chemical Safety to undertake an investigation into the chrysotile form of asbestos and potential substitutes. The WHO indicated its willingness to assist with technical work and requested that the INC specify substitutes for investigation. JAPAN noted that tributyltin has been assessed under the International Maritime Organization's International Convention on the Control of Harmful Anti-Fouling Systems on Ships and asked whether this could be used in its notification.

INCLUSION OF CHEMICALS: Issues related to inclusion of other chemicals: With reference to the document on the inclusion of chemicals after the entry into force of the Convention (UNEP/FAO/PIC.10/10), Willis noted the need to address inconsistencies between Article 8 of the Convention (Chemicals in the Voluntary PIC Procedure) and text in the Resolution on Interim Arrangements. He outlined two possible courses of action. The first envisages an INC-11 just prior to COP-1, where the chemicals could be added to the interim PIC Procedure; the second entails circulating DGDs among Parties and forwarding the decision directly to COP-1. JAPAN stressed the need for adequate time to consider the draft DGDs, and Willis responded that at least six months would be left for their review. The EC cautioned against a procedure incompatible with the Convention and encouraged consultation with legal experts. Willis agreed to draft a decision with both options for Parties' consideration.

Inclusion of chemicals in the interim PIC Procedure: Bill Murray, Interim Secretariat, presented proposed amendments to the introduction to the DGDs, including: noting that the definition of chemical is as stated in the Convention under Article 2a (Definitions); deleting the reference to two notifications of regulatory action from two regions; noting that Parties include regional economic organizations; and proposing that DGDs be communicated to DNAs in accordance with both Articles 7 (Listing of Chemicals in Annex III) and 10 (Obligations in relation to Imports of Chemicals in Annex III).

DNOC and its salts: Niek van der Graaff, Joint Executive Secretary (FAO), introduced the ICRC's communication on DNOC and its salts and the draft DGD (UNEP/FAO/PIC/INC.10/8). The INC agreed with the ICRC's recommendation to make the chemical DNOC and its salts subject to the interim PIC Procedure and to approve the draft DGD.

Severely hazardous pesticide formulation, dustable powder formulations of benomyl, carbofuran, and thiram: Joint Executive Secretary van der Graaff introduced the recommendations of ICRC-4 regarding the inclusion of the substances in the interim PIC Procedure and the draft DGD (UNEP/FAO/PIC/INC.10/9). He noted that ICRC-4 had decided that the substances under consideration (Granox TBC and Spinox T) were more accurately referred to as dustable powder formulations containing benomyl at or above 7%, carbofuran at or above 10%, and thiram at or above 15%.

PREPARATIONS FOR COP-1

NON-COMPLIANCE: Masa Nagai, Interim Secretariat, introduced a document (UNEP/FAO/PIC/INC.10/19), highlighting issues relevant to non-compliance. Alistair McGlone (UK), Chair of the open-ended working group on compliance, introduced a Chair's draft text on procedures and mechanisms for handling non-compliance (UNEP/FAO/PIC.10/20), noting that the document would be a basis for negotiations at INC-10.

WORKING GROUP ON COMPLIANCE

The open-ended working group on compliance met in the afternoon to discuss the draft COP-1 decision on procedures and institutional mechanisms for handling cases of non-compliance. Delegates deliberated on the facilitative nature of the Convention and additional measures that may be taken under it. Regarding additional measures that the Convention's Compliance Committee may recommend to the COP, the NETHERLANDS noted that the criteria listed for identifying compliance difficulties allow the Committee flexibility in the choice of measures it could propose. SOUTH AFRICA, the US and others argued that the reference to the COP taking measures in accordance with international law to attain compliance exceeded the facilitative nature of the Convention, and suggested its deletion.

NIGERIA, LESOTHO, the EC and JAMAICA supported the inclusion of measures additional to facilitative ones. Delegates discussed measures including issuance of "caution" and "statement," without agreement. AUSTRALIA objected to reference to "caution" because it is a punitive measure, NIGERIA and GERMANY argued that "caution" and "statement" were not punitive, while JAMAICA, the EC, the NETHERLANDS and NIGERIA supported these measures as going beyond facilitation. CANADA warned against the proliferation of vague terminology. Disagreement remains concerning the use of these terms. EGYPT and NIGERIA opposed issuance of a statement on possible future non-compliance as a measure, while the NETHERLANDS and GERMANY highlighted the role of prevention in ensuring compliance. Delegates discussed text calling for the suspension of rights and privileges under the Convention, without agreement.

IN THE CORRIDORS

In what is likely to be the concluding chapter of the INC's work, the role of the INC Chair, Brazil's Maria Celina de Azevedo Rodrigues, received the most attention, with several speakers suggesting changing the Convention's name to the "Rodrigues Convention."

Talk amongst delegates yesterday concerned the race to become the fiftieth State to ratify the Convention, thus triggering its entry into force. On the race to become "Number 50," expectations remain high that at least one instrument of ratification will be deposited in New York this week. The current leader is Ecuador, who announced yesterday it had recently received legislative approval to ratify. However, given that Ecuador has yet to deposit an instrument of ratification, the race to ratify remains open. Rumor has it that Greece or other hopeful candidates may beat Ecuador to New York.

THINGS TO LOOK FOR TODAY

PLENARY: The Plenary will convene from 10:00 am to 1:00 pm and from 3:00 pm to 6:00 pm to continue its consideration of issues related to the inclusion of chemicals and issues arising out of ICRC-4.

COMPLIANCE WORKING GROUP: The open-ended compliance working group will reconvene at 10:00 am in Room 17, to continue deliberations on the Chair's draft text.