



PIC-10 HIGHLIGHTS: WEDNESDAY, 19 NOVEMBER 2003

Delegates met in morning and afternoon plenary sessions to continue deliberations on: the implementation of the interim PIC Procedure; preparations for COP-1; activities of the Secretariat and review of the situation as regards extrabudgetary funds; and issues arising out of the Conference of Plenipotentiaries, in particular support for implementation and technical assistance. A working group on financial rules convened in the afternoon.

PLENARY

IMPLEMENTATION OF THE INTERIM PIC PROCEDURE: Inclusion of Chemicals: Chair de Azevedo Rodrigues introduced a document with the modified introduction to the DGDs on asbestos and DNOC (UNEP/FAO/PIC/INC.10/CRP.4), which was adopted without objection. Referring to the modified introduction to the DGD on the severely hazardous pesticide formulation (UNEP/FAO/PIC/INC.10/CRP.6), the US noted that national regulatory action is only required by one Party for the listing of a severely hazardous pesticide that is proposed to the Secretariat.

Jim Willis, Joint Executive Secretary of the Interim Secretariat, introduced a draft decision (UNEP/FAO/PIC/INC.10/CRP.5) recommending that ICRC-5 complete work on the DGDs on tetraethyl lead and tetramethyl lead, and parathion, and forward them to COP-1 for consideration. He said that the DGD on chrysotile asbestos should also be subject to the process outlined in the draft decision.

The RUSSIAN FEDERATION suggested that the DGD on chrysotile be returned to the ICRC to allow additional scientific data to be gathered. NEW ZEALAND and AUSTRALIA said it was previously agreed that the Secretariat would produce a separate DGD for chrysotile. Chair de Azevedo Rodrigues confirmed that the DGD would not return to the ICRC, and emphasized that there was no reference to additional studies in Annex II. She also reminded delegates that the Convention does not take economic and trade considerations into account.

The EU supported the draft decision with the inclusion of chrysotile and suggested that in order to avoid delays, a decision to include the relevant chemicals in Annex III be made at COP-1, with entry into force dependent upon ratification by notifying countries. CHILE expressed concern that chrysotile would be included in the procedure without discussion of the DGD and, with ARGENTINA, questioned whether another INC would be held prior to COP-1. CANADA, US and the RUSSIAN FEDERATION supported holding another INC. SWITZERLAND said that INC-

11 would have to be convened in the same time slot as COP-1. Discussion of the issue was suspended pending revision of the draft decision.

PREPARATION FOR COP-1: Report from the Compliance Working Group: The NETHERLANDS, on behalf of the Chair, reported that the working group had completed a first reading of the Chair's draft COP decision.

Draft Rules of Procedure: Masa Nagai, Interim Secretariat, introduced the draft rules of procedure (UNEP/FAO/PIC/INC.10/17). AUSTRALIA stressed its support for consensual decision-making. The US said that it could accept a majority decision-making process on some issues, but not where a decision may impact the legal obligations of Parties or of a particular Party, or establish a framework under the Convention, particularly with regard to the adoption of non-compliance procedures, the Conciliation Commission, and the terms of reference for the Chemical Review Committee. The chair invited delegates to consult informally, noting that unless progress was made, the existing draft rules of procedures would be forwarded to COP-1.

Draft Financial Rules: Masa Nagai introduced the draft financial rules (UNEP/FAO/PIC/INC.18). The EU introduced its proposal (UNEP/FAO/PIC/INC/CRP.8) to establish a supplementary trust fund for technical assistance and other appropriate purposes, financed on a voluntary basis. CHILE, CHINA, GAMBIA, KENYA, MOROCCO, KENYA, NORWAY and UGANDA supported the proposal, while JAPAN objected to it. CANADA proposed amendments to the draft financial rules (UNEP/FAO/PIC/INC.10/INF.5), and suggested that the financial period be defined to accommodate a COP-1 held on an even-numbered year. He objected to the establishment of an additional trust fund. The US expressed concern that itemizing trust fund purposes would elicit unnecessary debate. The plenary then established a working group on financial rules to consider the issue.

Settlement of Disputes: Masa Nagai outlined the need for INC-10 to consider a footnote to Article 16 in the draft rules on arbitration under the draft rules on settlement of disputes in the report of INC-9 (UNEP/FAO/PC/INC.9/21). Article 16 addresses whether intervening third Parties are bound by the final decision of the Arbitral Tribunal. The footnote records the view of one delegation that such a provision was unique in rules on arbitration for MEAs and that a precedent exists under the International Court of Justice to the effect that a decision of the Court had not been binding on an intervening party. JAPAN stated that the decision should not be binding and suggested looking at the wording used in a similar issue discussed at INC-7. CHINA requested clarification of the definition of "Party" in different articles. Chair de Azevedo de Rodrigues requested that the draft rules be sent to COP-1 for further consideration.



ACTIVITIES OF THE SECRETARIAT AND REVIEW OF THE SITUATION AS REGARDS EXTRABUDGETARY FUNDS: Regarding expenditures and budget projections for 2003 (UNEP/FAO/PIC/INC.10/CRP.9/Rev.1), Willis presented corrections to the figures on workshops and official travel for FAO.

On the budget for 2003 and 2004 (UNEP/FAO/PIC/INC.10/CRP.10), he noted that the footnote for facilitation of implementation and ratification should be bracketed for further consideration. The EU requested that the Secretariat produce a draft budget decision as soon as possible.

ISSUES ARISING OUT OF THE CONFERENCE OF PLENIPOTENTIARIES: Support for Implementation: Sheila Logan, Interim Secretariat, introduced a document on the establishment of an electronic clearing house for information on chemical risk evaluation additional to that in the DGDs (UNEP/FAO/PIC/INC.10/22). The EU recommended the inclusion of information gathered under Article 14 (Information Exchange), and cautioned against duplication of the Information Exchange Network on Capacity Building for the Sound Management of Chemicals (INFOCAP). MOROCCO expressed concerns that confidentiality issues could obstruct information flows, and CHINA requested that the clearing house use all official UN languages.

Bill Murray introduced documents containing the results of regional workshops (UNEP/FAO/PIC/INC.10/21) and providing information on ongoing technical assistance (UNEP/FAO/PIC/INC.10/INF/7). He noted that not all countries had followed up with specific requests for technical assistance, and that without such requests it would be difficult to mobilize funds. JAMAICA, UGANDA and EGYPT said that they had not been aware of the application process for further technical assistance from the Secretariat. GAMBIA, supported by SWITZERLAND and CANADA, emphasized the need to link national strategies on poverty eradication with the sound management of chemicals. ARGENTINA stressed the need for capacity building to manage chemical products. MOROCCO highlighted the need for domestic workshops and proposed the development of national strategies and action programmes for chemical safety. CANADA proposed a focus on "training of trainers" workshops.

Jim Willis introduced the document on technical assistance needs and opportunities for synergies as the basis for a possible strategic approach to technical assistance (UNEP/FAO/PIC/INC.10/23), highlighting the need for both short-term and long-term strategies. He proposed several options for consideration at INC-10 and COP-1, including: building upon UNEP and FAO infrastructure at the regional level; strengthening cooperation with other chemicals-related MEAs; increasing cooperation with regional organizations; and requesting COP-1 to consider a technical cooperation trust fund. VENEZUELA emphasized the need to consider the relationship between trade and environment, and EL SALVADOR, supported by ARGENTINA, called for assessment of technical assistance and follow-up measures. GHANA highlighted the use of information communication technologies and the management of information. THAILAND identified the need for support for risk assessment and management and monitoring the impacts of chemicals.

On the proposal for a trust fund, SWITZERLAND called for a voluntary fund and requested that the Secretariat develop terms of reference for consideration at COP-1. SOUTH AFRICA said there was an urgent need to provide assistance for developing countries to comply with their obligations under the Convention. The EU introduced a draft decision on technical assistance (UNEP/FAO/PIC/INC.10/CRP.15). CHINA suggested that the Secretariat carry out a feasibility study on technical assistance before COP-1.

UNITAR noted several new technical assistance programs including an upcoming workshop on synergies among multilateral chemical agreements, and WHO expressed its willingness to cooperate with the Secretariat on issues such as chemical poisonings. Willis clarified that the list of technical assistance needs in the Secretariat's document was not exhaustive, and noted that several suggestions had budgetary implications.

WORKING GROUP ON FINANCIAL RULES

The working group on financial rules convened in the afternoon and nominated Alistair McGlone (UK) as Chair. The group adopted language separating non-assessed from scale-assessed contributions in order to allow donors to earmark and control their use of non-assessed contributions. The EU presented its proposal to establish a supplementary technical assistance trust fund (UNEP/FAO/PIC/INC.10/CRP.8). CANADA expressed a preference for maintaining only one non-assessed trust fund, and suggested specifying that its targets include facilitation of technical assistance, training and capacity building. Together with the US, he noted that specifically-targeted trust funds would pose problems to Parties that make non-earmarked contributions.

The US also noted that additional trust funds would entail additional costs and stressed that all contributions, whether assessed or not, are voluntary. Erik Larsson, Interim Secretariat, suggested that a decision regarding the number of trust funds be made at COP-1. CHINA, MALAYSIA, NORWAY and SOUTH AFRICA supported the EU proposal, while ARGENTINA favored the Canadian compromise. CHINA requested widening the targets beyond facilitation of technical assistance.

The working group agreed not to determine when the biennial financial period begins; and agreed that the budget be prepared in US dollars and show projected income and expenditures for each year of the biennium concerned, as well as actual income and expenditures for each year of the previous biennium. The group agreed on language limiting the creation of new trust funds to those based on voluntary contributions, and to a Canadian proposal that text on the transmission of contributions be amended to account for variance in dates between calendar and fiscal years. Upon clarification from the Secretariat, the working group agreed that there is no need to provide for sub-accounts. It also clarified that income from contributions not immediately required should be credited to the fund that produced it.

IN THE CORRIDORS

With several countries urging another INC meeting prior to COP-1, some delegates seemed eager to keep the negotiating "party" going for one more round. With several chemicals still to be added to the list, some saw a possible INC-11 as an opportunity to accelerate the process. Others suspected that some countries which are unlikely to be Parties by COP-1 wanted one last chance to influence the direction of the Convention and may be using the process to delay action on certain chemicals. With the legal status of such an INC-11 in doubt, however, it may be the lawyers who are left with a "hangover after the festivities."

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 preparations for COP-1, and issues arising out of the Conference of Plenipotentiaries.

COMPLIANCE WORKING GROUP: The open-ended compliance working group will reconvene today in Room 17, to begin a second reading of the Chair's draft COP decision.