



PIC INC-10 HIGHLIGHTS: THURSDAY, 20 NOVEMBER 2003

Delegates met in a morning Plenary to hear a report from the working group on financial rules. The INC then considered draft decisions regarding: support for implementation; asbestos; dustable powder formulations of benomyl, carbofuran and thiram; DNOC and its salts; possible inconsistencies in Annex III of the Convention; and the Secretariat's budget for 2004. The INC also considered the Secretariat's information note on cooperation with the World Trade Organization (WTO). The open-ended working group on compliance reconvened in the afternoon to continue deliberations on the Chair's draft decision on non-compliance, settlement of disputes, and reporting on the implementation of the Convention.

PLENARY

PREPARATION FOR COP-1: Report from the Working Group on Financial Rules: Chair McGlone reported that discussion had been constructive and presented a revised draft decision (UNEP/FAO/PIC/INC.10/CRP.19). While the group has reached a consensus on the separation of non-assessed and assessed contributions, unresolved issues include: the number of technical assistance trust funds and wording on facilitation; provision allowing for non-Party contributions to the general fund; and the ceiling of assessed contributions. GAMBIA, on behalf of the African Group, supported the EU proposal on two technical assistance trust funds, and also proposed widening the scope of technical assistance. The INC agreed to forward the draft decision to COP-1 for consideration.

ISSUES ARISING OUT OF THE CONFERENCE OF PLENIPOTENTIARIES: Support for Implementation: Chair de Azevedo Rodrigues introduced the draft decision on a strategic approach to technical assistance (UNEP/FAO/PIC/INC.10/CRP.15). EGYPT proposed that the draft decision include a request that the Secretariat take decisive steps to combat illicit trade in chemicals, and CHINA suggested including a request for a technical assistance feasibility study. The US, supported by CANADA, suggested that the text on trust funds be bracketed, arguing that this could prejudice the outcome of negotiations on the draft financial rules. CANADA proposed new text inviting the OECD Development Assistance Committee to review national development strategies in relation to technical assistance under the Convention. JAMAICA proposed that the Secretariat assist with risk assessments, and UGANDA emphasized the links between chemicals management and poverty eradication strategies. In the chemical, Willis introduced the revised draft decision (UNEP/FAO/PIC/INC.10/CRP.15/Rev.1). IRAN proposed a reference to

the need to upgrade national chemical profiles, and CHINA suggested bracketing text regarding "facilitating" technical assistance. The INC adopted the draft decision as amended.

IMPLEMENTATION OF THE INTERIM PIC PROCEDURE: Inclusion of Chemicals: Asbestos: The INC adopted the draft decision on asbestos (UNEP/FAO/PIC/INC.10/CRP.12), which subjects four forms of asbestos to the interim PIC Procedure. They also approved the revised DGD on asbestos (UNEP/FAO/PIC/INC.10/CRP.17).

Dustable powder formulations of benomyl, carbofuran and thiram: The INC approved a draft decision on the severely hazardous pesticide formulation (UNEP/FAO/PIC/INC.10/CRP.14) making the chemical subject to the interim PIC Procedure and approved the DGD (UNEP/FAO/PIC/INC.10/9). Delegates also approved a revised introduction to the DGD for this substance (UNEP/FAO/PIC/INC.10/CRP.6*).

DNOC and its salts: The INC approved the draft decision on DNOC and its salts (UNEP/FAO/PIC/INC.10/CRP.13), which makes the chemical subject to the interim PIC Procedure, and approved the DGD (UNEP/FAO/PIC/INC.10/8).

Issues arising out of ICRC-4: Possible inconsistencies in Annex III of the Convention: The INC approved the draft decision on inconsistencies within Annex III of the Convention and inconsistencies between Annex III and DGDs (UNEP/FAO/PIC/INC.10/CRP.11).

Issues Related to Inclusion of Other Chemicals: Draft decision on the option of holding a "mini-INC-11": Chair de Azevedo Rodrigues introduced the draft decisions on convening a "mini-INC-11" before COP-1 (UNEP/FAO/PIC/INC.10/CRP.16 and UNEP/FAO/PIC/INC.10/CRP.5/Rev.1). The RUSSIAN FEDERATION objected to the inclusion of chrysotile asbestos in the draft decision, saying it should be reconsidered by the ICRC. With the UKRAINE, he said additional information was necessary. Chair de Azevedo Rodrigues said the only question before the INC was whether to defer the chrysotile decision to COP-1 or to an INC-11, and not the validity of the ICRC's work on chrysotile. NEW ZEALAND, CHILE, and BRAZIL supported the Chair's statement. INDIA, supported by SOUTH AFRICA and CHINA, suggested creating a procedural mechanism to resolve scientific differences. Willis proposed that the Secretariat compile information on chrysotile and its substitute and make it available to interested States. The RUSSIAN FEDERATION offered to prepare the compilation and submit it to the Secretariat. The US noted that under the Resolution on Interim Arrangements, the INC does not have the authority to decide on the inclusion of chemicals in the interim PIC Procedure after the Convention's entry into force, adding it was considering proposals by Canada, EU and the Secretariat.



CANADA, EC, CUBA, CHILE and ARGENTINA supported convening an INC-11 and addressing chrysotile asbestos at the meeting. SWITZERLAND preferred moving directly to COP-1, but said they could agree to an INC-11 if it were held directly before COP-1. Following informal consultations, the US suggested that INC-11 meet "in the form of a Conference of the Plenipotentiary Parties". The US noted that this Conference would adopt a resolution authorizing the INC to include additional chemicals to the interim PIC Procedure between the date of the Convention's entry into force and COP-1. Willis agreed that this would resolve the legal difficulty arising out of the current limitations on the INC's authority. The Committee adopted the draft decision on the "mini-INC-11" (UNEP/FAO/PIC/INC.10/CRP.16) as amended by the US.

CHINA indicated that it was unable to agree to the decision to hold a Conference of Plenipotentiary Parties without first consulting his capital. Chair de Azevedo Rodrigues suggested that the decision be adopted *ad referendum* with China's reservation. She instructed China to notify her as soon as possible on their position.

OTHER MATTERS: Delegates considered the Secretariat's information note on cooperation with the WTO (UNEP/FAO/PIC/INC.10/INF.4). VENEZUELA expressed concern that the Secretariat's note omitted major issues, particularly with respect to development-related international trade issues. CANADA introduced a proposal for a draft decision directing the interim Secretariat to cooperate with the WTO and seek observer status in the WTO's Committee on Trade and Environment (CTE) in Special Session. He said that after consultations with other delegations, he was willing to delete a paragraph in the decision's preamble describing the purpose of trade-related provisions in the Rotterdam Convention. The EC expressed support for Canada's proposal and welcomed the deletion of the preambular paragraph. IRAN noted that the CTE gives observer status only to multilateral environmental agreements already in force. COSTA RICA, on behalf of the Group of Latin American and Caribbean Countries, supported by EGYPT, suggested that the draft decision be deferred to COP-1. Delegates agreed to forward the draft decision to COP-1 without the preambular paragraph.

ACTIVITIES OF THE SECRETARIAT AND REVIEW OF THE SITUATION AS REGARDS EXTRABUDGETARY FUNDS: Jim Willis, Joint Executive Secretary of the Interim Secretariat, introduced the draft decision on the Secretariat's budget for 2004 (UNEP/FAO/PIC/INC.10/CRP.18), which outlines the budget, staffing levels and standard staff costs. He proposed revising bracketed budget items dealing with facilitation of implementation and ratification, and with costs for COP-1 and INC-11. UGANDA, MOROCCO and KENYA requested additional financial support for the participation of developing countries at COP-1. SWITZERLAND committed to making funds available to ensure adequate high-level representation at COP-1. The INC adopted the 2004 budget as amended.

PREPARATION FOR COP-1: Jim Willis introduced a document outlining the progress of the INC in preparing for COP-1 (UNEP/FAO/PIC/INC.10/INF.3). He noted that substantial progress had been made, and encouraged delegates to suggest to the Secretariat additional accomplishments for inclusion in this document.

Draft Rules of Procedure: Chair de Azevedo Rodrigues noted the lack of consensus on the draft rules of procedure, and the INC agreed to transmit them to COP-1 for consideration.

WORKING GROUP ON COMPLIANCE

PREPARATIONS FOR COP-1: Non-Compliance: On the Chair's draft decision, the working group approved the proposal by the NETHERLANDS regarding wording on the COP's interaction with similar committees, with a reservation by Australia. The working group discussed opening the Compliance Committee to other Parties and the public. AUSTRALIA and MALAYSIA said they could not accept Canada's proposal on majority decision making by the Committee. The US said it could agree to Canada's proposal if, in cases of no consensus, the report and recommendations reflected the views of all Committee members. The Chair introduced revised text on submissions to the Committee. CANADA said they could accept wording on the content of submission in case of a trigger by a Party whose compliance is at issue. The working group agreed to incorporate the text in the draft decision with minor amendments. GERMANY noted they are still considering an NGO trigger. At the end of the second reading, the working group agreed to forward the draft decision to COP-1.

In addition to non-compliance, the working group completed a reading of the draft decision on reporting on the implementation of the Convention (UNEP/FAO/PIC/INC.10/19), including a questionnaire in the appendix. The group recommended that INC request the Secretariat to revise the draft decision and invite further comments by the end of January 2004.

Settlement of Disputes: JAPAN objected to the binding effect on intervening Parties of arbitral decisions. The group agreed to a suggestion by Japan to adopt language identical to that in the draft rules on arbitration of the Stockholm Convention.

IN THE CORRIDORS

Some delegates expressed frustration at the division that had first emerged on Wednesday in discussions of non-compliance, over whether to adopt a "carrot" or a "stick" approach to promote implementation. Some delegates who preferred the use of "carrots" proposed that countries experiencing difficulties in complying with the PIC Procedure could approach the Secretariat for technical assistance. The Secretariat could then determine eligibility and assist, rather than penalize, those countries facing obstacles. Some developing countries that favor the "stick" approach wanted to see a more stringent mechanism to deter exporting countries from sending unwanted chemicals across borders.

With the morning's plenary session largely taken up by a protracted debate on chrysotile asbestos, several participants were dismayed that certain countries seemed to disregard the procedures set out in the Convention by urging the ICRC to go beyond its mandate and engage in risk assessment. They echoed the Secretariat's concern voiced earlier in the week that blocking a chemical's listing in the interim PIC Procedure on the basis of scientific uncertainty about its risks was not legitimate in the context of the Convention. There was speculation that this sort of debate risked derailing the purpose of the Convention as an information exchange mechanism. It remains to be seen how these issues will be dealt with at the "mini-INC-11." Despite these disagreements, however, others were pleased that the Chair managed to keep discussions in the afternoon session on track for an early finish.

THINGS TO LOOK FOR TODAY

PLENARY: Plenary will convene at 10:00 am to hear a report from the open-ended working group on compliance and to adopt the report of INC-10.

ENB SUMMARY AND ANALYSIS: The *Earth Negotiations Bulletin* summary and analysis of PIC INC-10 will be available on Monday, 24 November 2003 online at: <http://www.iisd.ca/chemical/pic/pic10>.