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INTERIM CHEMICAL REVIEW COMMITTEE

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Item 6 (d) of the provisional agenda*

**OPERATIONAL PROCEDURES FOR THE INTERIM CHEMICAL REVIEW COMMITTEE -
REPORT OF THE WORK OF TASK GROUP 4 ON CO-OPERATION AND CO-ORDINATION
IN THE SUBMISSION OF NOTIFICATIONS OF FINAL REGULATORY ACTION**

Note by the secretariat

1. The Interim Chemical Review Committee, at its first session, reviewed its operational procedures. The Committee identified four priority tasks and decided to set up a task group for each of them to work inter-sessionally. Task group 4 was charged with the following: to cooperate and coordinate work on notifications under article 5 and article 6.
2. Annexed to this note is the report of task group 4 submitted to the secretariat. The report provides brief background information on the objective and composition of the task group and information on how its work was organized. Finally, in sections E and F respectively, the report identifies issues for consideration by the Interim Chemical Review Committee and provides specific recommendations on how the Committee might proceed.

* UNEP/FAO/PIC/ICRC.2/1.

Annex

**REPORT ON THE WORK OF TASK GROUP 4:
COOPERATION AND COORDINATION IN THE SUBMISSION OF
NOTIFICATIONS OF FINAL REGULATORY ACTION**

A. OBJECTIVES OF THE TASK GROUP

1. The objectives of task group 4, established at the first session of the Interim Chemical Review Committee are to:

- (a) Develop a process for the identification of candidate regulatory actions, which may meet the requirements of article 5 of the Convention (control actions to ban or severely restrict pesticides and industrial chemicals);
- (b) Ensure that notifications are accompanied with documentation that meets the requirements of annex 1 of the Convention.

B. COMPOSITION OF THE TASK GROUP

2. Members of the task group 4, assigned at the first meeting of the Interim Chemical Review Committee
Cathleen Barnes (lead)
Reiner Arndt
Marc Debois
Karel Gijsbertsen
Jan Ferdinand Goede

Subsequent to ICRC-1, two additional members were named:

Ian Coleman
William Murray

C. BACKGROUND

3. Under the voluntary PIC procedure, countries developed inventories of regulatory control actions which they believed fit the criteria for bans or severe restrictions, and submitted notifications of these control actions to the Secretariat. Many of these notifications were not acted upon prior to the conclusion of the negotiations on the Rotterdam Convention. Article 5 of the Convention identifies the procedures for Parties to follow for notifying the Secretariat of an action to ban or severely restrict a pesticide or industrial chemical. Annex I of the Convention includes specific information requirements for countries to satisfy in support of article 5 notifications. Annex II of the Convention includes specific criteria for the Interim Chemical Review Committee (ICRC) to use in its evaluation of the submitted notifications of control actions

4. At the Conference of Plenipotentiaries (Rotterdam, September 1998), countries adopted a Resolution on Interim Arrangements for the operation of the interim PIC procedure until such time as the Convention entered into force. , Paragraph 9 of the Resolution concerns notifications of control actions.

“...9. Decides that nominations of designated national authorities, notifications of control actions and import decisions made under the original PIC procedure shall remain in effect under the interim PIC procedure unless and until the State or regional economic integration organization concerned notifies the interim secretariat in writing that it has decided otherwise;...”

5. Subsequently, the Interim Secretariat reviewed the notifications of control actions submitted under the voluntary PIC procedure, and informed countries whether or not they met the requirements of annex I of the Convention. None of the notifications on file with the Secretariat met these requirements. As of the first session of the Interim Chemical Review Committee (Geneva, March 2000), the Secretariat had no valid notifications from two PIC regions for review by the Committee.

D. ORGANIZATION OF WORK

6. At the first session the Interim Chemical Review Committee it was agreed to give priority attention to four tasks, including the need to cooperate and coordinate work on Article 5 notifications. The task group was formed, and an initial draft of a function statement and work plan was developed in July 2000. This initial exercise raised a number of issues that needed further discussion before work could progress. These issues relate to: whether countries can agree to priorities for the resubmission of old notification; procedures which countries can use to develop appropriate Article 5 notifications; the sources countries may use to assemble the notifications; some obstacles that currently complicate notifications for new control actions. An informal meeting of the task group during the seventh session of the Intergovernmental Negotiating Committee (Geneva October 30 – November 3 2000) elaborated upon these issues; the following reflects the results of the discussion.

E. ISSUES FOR CONSIDERATION BY THE INTERIM CHEMICAL REVIEW COMMITTEE

7. Coordination of Review of 'Old' Notifications

The Interim Resolution directed countries to address the current status of 'old' notifications; that is, those submitted during the voluntary PIC procedure, but not acted upon in any way. Subsequent guidance provided by the seventh session of the Intergovernmental Negotiating Committee directed countries to prioritize the work on notifications for chemicals that were not already subject to the interim PIC procedure. Consistent with this direction, the Committee should consider ways to conserve resources of countries and the Committee itself. One approach might be for the Committee to consider developing criteria for prioritizing the review of notifications for chemicals not presently subject to the interim PIC procedure. Clearly, the criteria of annex 2 of the Convention provide the basis for any analysis, and in particular, that there is some evidence that the chemical is still in international trade. As an initial step the task group is proposing to review a consolidated list of notifications from North America, the European Union and Australia to identify any chemicals in common. A determination of whether, and to what extent, any of the chemicals are still in use in developing countries would be an important consideration in any priority setting exercise.

8. Lack of documentation to support old regulatory actions

Most of the notifications submitted under the voluntary PIC procedure are approximately 10 years old. The task group noted that it is likely that the notifications from developed countries were based upon risk assessments or evaluations substantial enough to warrant government action at the time they were taken. However, the level of documentation of those risk evaluations is highly variable and may not meet current standards as in some cases little supporting information may be found in regulatory agency files. An important question is to what extent can one country's files be supplemented by documentation from other sources? Can/should these sources include:

- international peer reviewed evaluations prepared by international organizations (e.g. WHO/JMPR reviews)
- harmonized, peer-reviewed actions resulting from regional coordination activities (e.g., EU or NAFTA)
- Specific files or information from other countries, which took similar actions, in particular where the detailed reviews, and supporting materials are publicly available.

Pursuant to the Rotterdam Convention, any review or information sharing to supplement a notification of control action would necessarily be limited to information on hazard evaluations, since countries notifying under article 5 are expected to provide information about use, exposure and risk management in their country.

Identification of internationally recognized sources of chemical hazard information may be of use in supplementing available information and in identifying priorities among existing notifications for chemicals not subject to the interim PIC procedure as proposed in point 1 above. This information may also be of particular utility to developing countries in assembling article 5 notifications.

9. Opportunities for Coordination of Future Notifications

Countries may wish to give consideration to the prospect of coordinating future regulatory actions among PIC regions. For instance, the OECD Pesticide Working Group has initiated a work-sharing program. One result of this activity will be an improved understanding of what other countries have planned, through the exchange of lists of anticipated regulatory reviews. The OECD work presents an opportunity for improved communication among countries and, to the extent possible and desirable, coordination of proposed regulatory actions. Other regional harmonization work, such as that undertaken pursuant to the North American Free Trade Agreement, or the collaboration within the European Union, may offer additional opportunities for coordination.

10. Relationship of Current Regulatory Approaches to Definitions in the Rotterdam Convention

When countries are considering whether new, or current, regulatory actions comply with article 5 of the Convention, they may be faced with a number of factors that either facilitate or complicate the decision to submit a control action notification. An examination of these factors may be a further reason to explain the lack of notifications currently before the Secretariat.

A review of current regulatory processes/practices for pesticides suggests that there may be several reasons for countries having difficulty in developing and submitting notifications for pesticides. Generally current practices incorporate a risk reduction approach and go far beyond the relatively simple decision to eliminate all or virtually all uses of a pesticide. For instance, gradual use reductions avoid the creation of obsolete pesticide stocks and significant waste management demands. The Committee may wish to consider common and current regulatory practices which control risks of existing chemicals already on the market, and which prevent risks from chemicals prior to their introduction to the market as the basis for a discussion paper. The end result might be the development of some practical guidance to countries in developing notifications of control actions. Some issues to consider include

- control measures rarely result in a complete “ban” of all uses of any given chemical;
- severe restrictions and risk reduction measures can be expressed in a variety of different ways; how can countries determine the significance of such reductions;
- risks can be reduced through sequential regulatory activities which may occur over an extended period of time; how do these sequential actions relate to a ‘final’ regulatory action;
- frequently, registrations are simply not “renewed” which achieves the national goal of reducing or eliminating further use, but would not be captured as a ban or severe restriction;
- what would constitute adequate documentation of a withdrawal action;
- Differences between regulatory practices/control measures for pesticides and industrial chemicals.

F. RECOMMENDATIONS TO THE INTERIM CHEMICAL REVIEW COMMITTEE

11. To effectively comply with the Interim Resolution, the Committee may wish to consider:
- a) The development of an issues/discussion paper on national experiences in equating current regulatory practices with the requirements of the interim PIC procedure. This could be brought to a INC for consideration and be basis for some form of guidance to designated national authorities in developing notifications. This issue would also need to be flagged for consideration with respect to industrial chemicals
 - b) Identifying the challenges in preparing notifications of control actions for actions taken several years ago, primarily as adequate details of the risk evaluation are frequently lacking. One option could be to explore how available international/regional hazard assessments can be used to supplement national actions, recognising that the overlying risk assessment part would still be needed e.g. linking the hazard to the conditions in the country which took the control action;
 - c) Encourage countries to identify opportunities to coordinate or cooperate in submission of notifications for new control actions with a particular emphasis on building on work underway in other international or regional fora. This might be initiated by a review of published review schedules; work underway in existing cooperative programmes e.g. that in place within OECD Pesticides Working group, NAFTA, EU etc.
