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INTERGOVERNMENTAL NEGOTIATING COMMITTEE FOR AN  
INTERNATIONAL LEGALLY BINDING INSTRUMENT FOR  
THE APPLICATION OF THE PRIOR INFORMED CONSENT  
PROCEDURE FOR CERTAIN HAZARDOUS CHEMICALS AND  
PESTICIDES IN INTERNATIONAL TRADE

Tenth session

Geneva, 17-21 November 2003

Item 4 (a) of the provisional agenda\*

**Implementation of the interim prior informed consent procedure**

**STATUS OF IMPLEMENTATION**

**Note by the secretariat**

**Introduction**

1. The purpose of the present note is to provide the Intergovernmental Negotiating Committee with information on the status of implementation of the interim prior informed consent procedure, as at 30 April 2003. The information provided in the present note summarizes the information circulated to designated national authorities by the secretariat, through the PIC Circular, pursuant to articles 4 to 7, 10, 11 and 14 of the Convention. The PIC Circular is published every six months, in June and December.

**I. DESIGNATED NATIONAL AUTHORITIES**

2. Under paragraph 4 of article 4 of the Convention, the secretariat must inform the Parties of new nominations or changes in nominations of designated national authorities.

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\* UNEP/FAO/PIC/INC.10/1.

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3. As at 30 April 2003, 168 Parties<sup>1</sup> were participating in the interim prior informed consent procedure and had nominated a total of 256 designated national authorities. The secretariat updates the list of designated national authorities as new nominations and changes to existing designated national authorities are received and distributes the complete list with the PIC circular every six months.

## II. CHEMICALS SUBJECT TO THE INTERIM PRIOR INFORMED CONSENT PROCEDURE AND DISTRIBUTION OF DECISION GUIDANCE DOCUMENTS

4. Appendix III of the PIC Circular contains a list of chemicals that are currently subject to the interim prior informed consent procedure and the date of first dispatch of the corresponding decision guidance document to designated national authorities.

5. To date, 22 pesticides, 5 severely hazardous pesticide formulations and 5 industrial chemicals are subject to the interim prior informed consent procedure. They include the chemicals listed in Annex III of the Convention and also binapacryl, toxaphene, ethylene dichloride, ethylene oxide and monocrotophos.

6. At its ninth session, in October 2002, the Intergovernmental Negotiating Committee adopted the decision guidance document for all formulations of monocrotophos, with the effect that they are now subject to the interim prior informed consent procedure. That decision guidance document was circulated to all Parties on 1 February 2003 together with a request for them to notify their decisions regarding future imports of monocrotophos by 30 October 2003. Those import decisions will be reflected in the PIC Circular of December 2003.

## III. NOTIFICATION OF FINAL REGULATORY ACTION TO BAN OR SEVERELY RESTRICT A CHEMICAL

7. Under paragraph 3 of article 5 of the Convention, the secretariat is required to circulate summaries of notifications of final regulatory actions received, having verified whether the notification contains the information required under Annex I of the Convention. Under paragraph 4 of the article, the secretariat must circulate a synopsis of the notifications of final regulatory actions which it has received, including information regarding those notifications that do not contain all the information required under Annex I of the Convention. Such synopses are communicated to Parties through the PIC Circular.

8. Table 1 below gives an overview of the number of notifications submitted under the interim prior informed consent procedure between 11 September 1998 and 30 April 2003.

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<sup>1</sup> During the interim period before the Convention enters into force, the term "Party" is understood to mean any State or regional economic integration organization having nominated a designated national authority or authorities for the purpose of participating in the interim prior informed consent procedure.

Table 1. Overview of number of notifications submitted under the interim prior informed consent procedure (11 September 1998 to 30 April 2003)

	PIC Circular XII December 2000	PIC Circular XIII June 2001	PIC Circular XIV December 2001	PIC Circular XV June 2002	PIC Circular XVI December 2002	PIC Circular XVII June 2003
Notifications submitted	66	23	40	8	7	27*
Number of notifying States	10	5**	5**	5**	1**	4**
Notifications verified as meeting the requirements of Annex I of the Convention	42	23	40	8	7	11
Notifications verified as not meeting the requirements of Annex I of the Convention	24	--	--	--	--	--
Notifications concerning chemicals already subject to the prior informed consent procedure	24	--	2	--	--	26*
Notifications concerning new chemicals not subject to the interim prior informed consent procedure	42	23	38	8	7	1

\* Of the notifications submitted, 16 remain subject to verification.

\*\* Includes the European Community (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden and United Kingdom of Great Britain and Northern Ireland).

9. As at 30 April 2003, a total of 131 notifications for 103 chemicals had been submitted which met the information requirements of Annex I. Of the 103 chemicals concerned, 82 are currently not subject to the prior informed consent procedure. Those chemicals will be candidates for further consideration once a second notification verified as meeting the information requirements of Annex I has been submitted from a second interim prior informed consent region.

10. The secretariat has received notifications which meet the information requirements of Annex I from at least two interim prior informed consent regions for four candidate chemicals: two pesticides, parathion and tributyl tin compounds, and two industrial chemicals, tetramethyl lead and tetraethyl lead. Summaries of those notifications were published in the PIC Circular. The notifications and supporting documentation were forwarded to the members of the Interim Chemical Review Committee for consideration at its fourth session.

#### IV. PROPOSAL FOR INCLUSION OF SEVERELY HAZARDOUS PESTICIDE FORMULATIONS

11. Under paragraphs 2 and 3 of article 6 of the Convention, once the secretariat has verified that a submitted proposal for a severely hazardous pesticide formulation contains the information required in part 1 of Annex IV of the Convention, it must prepare a summary of the proposal and initiate collection of the information listed in part 2 of Annex IV. Summaries of the proposals verified as complete are circulated in appendix II of the PIC Circular.

12. Within the reporting period, 1 May 2002 to 30 April 2003, no proposals for severely hazardous pesticide formulations which were verified as complete were submitted.

## V. RESPONSES CONCERNING FUTURE IMPORT OF A CHEMICAL

13. Under paragraph 2 of article 10 of the Convention, for each chemical subject to the interim prior informed consent procedure each Party must transmit to the secretariat, as soon as possible, and in any event no later than nine months after the date of dispatch of the relevant decision guidance document, a response concerning the future import of the chemical concerned. Under paragraph 4 of the article the response must consist of either a final decision or an interim response. Interim responses may include an interim decision regarding import. Under paragraph 2 of the article, if a Party modifies that response, the designated national authority must forthwith submit the revised response to the secretariat.

14. Under paragraph 10 of article 10, every six months the secretariat must inform all Parties of the responses received regarding future import, including a description of the legislative or administrative measures on which the decisions have been based, where available. This is done through appendix IV of the PIC Circular. Also, any response listed in the PIC Circular that does not address importation is considered to be an interim response that does not contain an interim decision.

15. Under paragraph 3 or article 10, the secretariat must, at the expiration of the time period given in paragraph 2 of the article, forthwith address to a Party that has not provided such a response a written request to do so. Such requests are addressed to the designated national authority through the PIC Circular. Where a Party is listed in appendix IV of the PIC Circular under the heading "Cases of failure to transmit a response", the designated national authority should consider that listing as representing a written request for that Party to provide a response for that chemical pursuant to paragraph 2 of article 10.

16. The attention of designated national authorities is also drawn through the PIC Circular to failures to transmit a response or an interim response that does not contain an interim decision for the purposes of paragraph 2 of article 11 of the Convention.

17. Table 2 below contains an overview of the level of import responses for all the chemicals subject to the interim prior informed consent procedure submitted by Parties as at 30 April 2003.

18. The first three columns present the number of import responses and the overall rate of import responses for those chemicals listed in Annex III of the Convention for which the decision guidance documents were dispatched prior to September 1998. The last three columns present the number of import responses and the overall rate of response for those chemicals added to the interim prior informed consent procedure since September 1998 and for which decision guidance documents were dispatched in September 1999 (binapacryl and toxaphene), February 2001 (ethylene oxide and ethylene dichloride) and February 2003 (monocrotophos).

19. The first row of the table presents the actual number of responses submitted against the total number of possible responses, with the response rate as at December 1999, calculated as a percentage, indicated in parentheses. The middle rows of the table present the number of additional responses received and recorded in the subsequent PIC Circulars. Totals are provided in the last two rows of the table.

Table 2. Overview of the number of importing country responses for all prior informed consent chemicals (as at 30 April 2003)

PIC Circular	Decision guidance document dispatched prior to adoption of the Convention (September 1998)			Decision guidance document dispatched after adoption of the Convention		
	Pesticides	Severely hazardous pesticide formulations	Industrial chemicals	Pesticides (Sept. 1999)	Pesticides (Feb. 2001)	Pesticide (Feb. 2003)
X (December 1999) Submitted/expected* (rate)	1,508/2,669 (57%)	165/785 (21%)	225/785 (29%)	--	--	--
XI (June 2000) Submitted/expected (rate)	+5	+6	+0	27/326 (8%)	--	--
XII (December 2000) Submitted	+128	+99	+14	+34	--	--
XIII (June 2001) Submitted	+56	+24	+15	+10	--	--
XIV (December 2001) Submitted/expected (rate)	+30	+16	+4	+13	67/330 (20%)	--
XV (June 2002) Submitted	+0	+0	+10	+0	+5	--
XVI (December 2002) Submitted	+27	+10	+5	+4	+8	--
XVII (June 2003) Submitted (rate)	+23	+10	+12	+8	+6	5
Total Submitted/expected (rate)	1,777/2,839 (63%)	330/835 (40%)	285/835 (34%)	96/334 (29%)	86/334 (25%)	5
Grand Total	2,579/5,177 (50%)					

\* The expected number of responses is calculated for all countries participating in the prior informed consent procedure at the time indicated for chemicals concerned in each column.

20. As at 30 April 2003, a total of 2,579 responses regarding future import of a chemical had been received from Parties regarding the 32 chemicals currently subject to the interim prior informed consent procedure, an overall response rate of 50 per cent. For the chemicals included since September 1998, the response rate is 25 – 29 per cent.

21. It should be noted that under article 10 of the Convention, obligations relating to the submission of import responses apply equally to all categories of chemicals subject to the interim prior informed consent procedure. Parties will be obliged to submit import responses for all those chemicals when the Convention enters into force.

## VII. ASSISTANCE PROVIDED BY THE SECRETARIAT FOR THE IMPLEMENTATION OF THE INTERIM PRIOR INFORMED CONSENT PROCEDURE

22. For import responses, notifications of final regulatory action or proposals for a severely hazardous pesticide formulation submitted to the secretariat that are verified as not meeting the information requirements of the Convention, detailed advice on the information that is missing is provided to the designated national authority concerned.

23. Since the ninth session of the Intergovernmental Negotiating Committee, three further regional training workshops have been held: for the Near East in October 2002, for Central and Eastern Europe in November 2002; and for Africa (English-speaking countries) in February 2003. The feedback from workshop participants has continued to be positive; participants have stated that the practical training provided will assist them in the implementation of the interim prior informed consent procedure. A compilation and analysis of the results of the workshops held to date is available to the Committee in document UNEP/FAO/PIC/INC.10/21 and will be considered under agenda item 6 (a).

24. The secretariat has undertaken a number of other actions aimed at assisting countries in implementing the interim prior informed consent procedure and in working towards ratification. They include working with the representatives of FAO in selected countries, providing all countries that have ratified the Convention with a status report on their implementation of the interim prior informed consent procedure, inviting countries that have not yet done so to nominate designated national authorities and so on. Information on those and other activities may be found in document UNEP/FAO/UNEP/INC.10/3, on the activities of the secretariat.

## VIII. INFORMATION ON TRANSIT MOVEMENTS

25. As at 30 April 2003, no Party had reported information to the secretariat on transit movements through its territory of chemicals subject to the interim prior informed consent procedure.

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