



United Nations
Environment Programme

Food and Agriculture Organization
of the United Nations

Distr.
GENERAL

UNEP/FAO/PIC/INC.10/12
23 June 2003

ORIGINAL: ENGLISH

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 (e) (ii) of the provisional agenda*

**Implementation of the prior informed consent procedure:
Issues arising out of the fourth session of the Interim Chemical Review Committee**

**INCONSISTENCIES WITHIN ANNEX III OF THE CONVENTION AND INCONSISTENCIES
BETWEEN ANNEX III AND DECISION GUIDANCE DOCUMENTS**

Note by the secretariat

Introduction

1. At the ninth session of the Intergovernmental Negotiating Committee, concerns were raised over inconsistencies within Annex III of the Convention and between Annex III and decision guidance documents. The secretariat was requested to prepare a "housekeeping" paper for consideration and review by the Interim Chemical Review Committee. The report of the Interim Chemical Review Committee would then be submitted to the Committee at its tenth session to serve as a basis for the preparation of a recommendation to the first Conference of the Parties and as further guidance to the operation of the Interim Chemical Review Committee.
2. At the fourth session of the Interim Chemical Review Committee, the chemicals included in Annex III of the interim Rotterdam Convention, along with the chemical descriptions in the decision guidance documents, were discussed in detail. The group which discussed the issue took the view that no changes were needed for most of the chemicals listed in Annex III.
3. The Interim Chemical Review Committee proposed changes to the entries for 2,4,5-T, pentachlorophenol, dinoseb and dinoseb salts, and methyl parathion. The changes are outlined in the report

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

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of the breakout group, which is reproduced in annex to the present note. The Interim Chemical Review Committee took the view that the exact procedure for accommodating such changes in an appropriately legally manner was best left to the Intergovernmental Negotiating Committee and the Conference of the Parties.

Possible action by the Intergovernmental Negotiating Committee

4. The Intergovernmental Negotiating Committee is requested to consider the proposed changes to the entries for 2,4,5-T, pentachlorophenol, dinoseb and dinoseb salts, and methyl parathion, and to formulate a recommendation to the Conference of the Parties regarding those changes.

Annex

REPORT OF THE BREAK-OUT GROUP ON LISTING OF CHEMICALS WITHIN ANNEX III AND BETWEEN ANNEX III AND DECISION GUIDANCE DOCUMENTS, AS AMENDED AND AGREED BY THE INTERIM CHEMICAL REVIEW COMMITTEE

The break-out group on listing of chemicals within Annex III and between Annex III and decision guidance documents (housekeeping) met on Wednesday 5 March to consider document UNEP/FAO/PIC/ICRC.4/9 and whether there were inconsistencies within Annex III of the Convention and between Annex III and the decision guidance documents that may be sufficiently important to warrant Intergovernmental Negotiating Committee and Conference of the Parties action.

The break-out group was of the view that for the majority of chemicals listed in Annex III, no housekeeping action was necessary. It was noted that there were a number of minor amendments that could be made to clean up the decision guidance documents, in particular by better correlating CAS numbers with the intended scope of the listing. However, because these minor inconsistencies were not understood to have any substantive impact on the implementation of the PIC procedure, the break-out group did not propose housekeeping changes in these cases.

The break-out group noted that, although it might have been the intent of the original expert group to list the severely hazardous pesticide formulations monocrotophos, methamidophos and phosphamidon with the term “that equal or exceed XXX g active ingredient/l”, they were instead listed as “that exceed XXX g active ingredient/l”. However, the break-out group noted that in these cases the decision guidance document and the listing in Annex III are fully consistent with one another. The break-out group was of the view that, rather than the Interim Chemical Review Committee proposing housekeeping steps for these formulations, it may be more appropriate to keep the Annex III listing of decision guidance document as is, and for Parties to propose other formulations of these pesticides under the procedures of Article 6 in the event they are experiencing problems with them.

On the basis of the presentation by the co-chairs and the ensuing discussion, the Interim Chemical Review Committee agreed to make the following recommendations to the Intergovernmental Negotiating Committee:

General Statement

A number of the following recommendations suggest that the Intergovernmental Negotiating Committee should recommend amendments to the entries for chemicals in Annex III. An alternative approach could be the use of a footnote in Annex III clarifying the scope of the entry in Annex III or other appropriate legally sufficient mechanism. In this event it may be necessary to review the decision guidance document titles for consistency.

2,4,5-T

The Interim Chemical Review Committee, in reviewing the documentation before it, understood that the intent of the decision guidance document, and consequently the listing of 2,4,5-T in Annex III, was to cover 2,4,5-T and all of its salts and esters.

The Interim Chemical Review Committee recommends that:

- (a) The Intergovernmental Negotiating Committee recommend to the Conference of the Parties that the entry in Annex III for 2,4,5-T be amended to read “2,4,5-T and its salts and esters”

- (b) The Intergovernmental Negotiating Committee recommend to the Conference of the Parties that section 1.1 of the decision guidance document for 2,4,5-T be amended to read “2,4,5-T and its salts and esters”
- (c) During the voluntary procedure that the listing for 2,4,5-T be interpreted to include the salts and esters of 2,4,5-T.

Pentachlorophenol

The Interim Chemical Review Committee, in reviewing the documentation before it, understood that the intent of the decision guidance document, and consequently the listing of pentachlorophenol in Annex III, was to cover pentachlorophenol and all of its salts and esters.

The Interim Chemical Review Committee recommends that:

- (a) The Intergovernmental Negotiating Committee recommend to the Conference of the Parties that the entry in Annex III for pentachlorophenol be amended to read “Pentachlorophenol and its salts and esters”
- (b) The Intergovernmental Negotiating Committee recommend to the Conference of the Parties that section 1.1 of the decision guidance document for pentachlorophenol be amended to read “Pentachlorophenol and its salts and esters”
- (c) During the voluntary procedure that the listing for pentachlorophenol be interpreted to include the salts and esters of pentachlorophenol.

Dinoseb and dinoseb salts

The Interim Chemical Review Committee, in reviewing the documentation before it, understood that the intent of the decision guidance document, and consequently the listing of dinoseb and dinoseb salts in Annex III, was to cover dinoseb and all of its salts and esters.

The Interim Chemical Review Committee recommends that:

- (a) The Intergovernmental Negotiating Committee recommend to the Conference of the Parties that the entry in Annex III for dinoseb and dinoseb salts be amended to read “Dinoseb and its salts and esters”
- (b) That the title of the decision guidance document be amended to read “Dinoseb”.
- (c) The Intergovernmental Negotiating Committee recommend to the Conference of the Parties that section 1.1 of the decision guidance document for dinoseb and dinoseb salts be amended to read “Dinoseb and its salts and esters”
- (d) During the voluntary procedure that the listing for dinoseb and dinoseb salts be interpreted to include the salts and esters of dinoseb.

Methyl parathion (emulsifiable concentrates (EC) with 19.5%, 40%, 50%, 60% active ingredient and dusts containing 1.5%, 2% and 3% active ingredient)

The Interim Chemical Review Committee recommends that:

- (a) The Intergovernmental Negotiating Committee recommend to the Conference of the Parties that the entry in Annex III for methyl parathion (emulsifiable concentrates (EC) with 19.5%, 40%, 50%, 60% active ingredient and dusts containing 1.5%, 2% and 3% active ingredient) be amended to read

“Methyl parathion (emulsifiable concentrates (EC) at or above 19.5% active ingredient and dusts at or above 1.5% active ingredient)”

- (b) The Intergovernmental Negotiating Committee recommend to the Conference of the Parties that the title and section 1.1 of the decision guidance document be amended to read “Methyl parathion (emulsifiable concentrates (EC) at or above 19.5% active ingredient and dusts at or above 1.5% active ingredient)”
- (c) During the voluntary procedure that the listing for methyl parathion (emulsifiable concentrates (EC) with 19.5%, 40%, 50%, 60% active ingredient and dusts containing 1.5%, 2% and 3% active ingredient) be interpreted to mean “Methyl parathion (emulsifiable concentrates (EC) at or above 19.5% active ingredient and dusts at or above 1.5% active ingredient)”
