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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 5 (a) of the provisional agenda\*

**Preparation for the Conference of the Parties**

**DRAFT RULES OF PROCEDURE**

Note by the secretariat

1. At its eighth session, the Intergovernmental Negotiating Committee adopted and decided to forward to the Conference of the Parties the revised draft rules of procedure as submitted by the legal working group. The adopted draft rules were attached as annex III to the report of that session (UNEP/FAO/PIC/INC.8/19).
2. A footnote to rule 45 stated, however, that paragraph 1 of rule 45 remained open and needed to be revisited at the Committee's ninth session, because the question of whether all decisions on substance require consensus remained under review by certain delegations.
3. At its ninth session, the Committee agreed that paragraph 1 of rule 45 of the draft rules of procedure would need to be revisited at a future session of the Committee.
4. Accordingly, in the annex to the present note, the secretariat is providing the text of rule 45 from the draft rules of procedure, as adopted by the Committee at its eighth session.

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

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Annex

Rule 45

1. The parties shall make every effort to reach agreement on all matters of substance by consensus. If all efforts to reach consensus have been exhausted and no agreement has been reached, the decision shall, as a last resort, be taken by a two-thirds majority vote of the parties present and voting, unless otherwise provided by the Convention, by the financial rules referred to in article 18, paragraph 4, of the Convention or by the present rules of procedure.<sup>1</sup>
2. Decisions of the Conference of the Parties on matters of procedure shall be taken by a majority vote of the parties present and voting.
3. If the question arises whether a matter is one of procedural or substantive nature, the President shall rule on the question. An appeal against this ruling shall be put to the vote immediately and the President's ruling shall stand unless overruled by a majority of the parties present and voting.
4. If on matters other than elections a vote is equally divided, a second vote shall be taken. If this vote is also equally divided, the proposal shall be regarded as rejected.

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<sup>1</sup> Paragraph 1 of rule 45 remains open and needs to be revisited at PIC/INC-9, because the question of whether all decisions on substance require consensus remains under review by certain delegations.