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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

**Report of the 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 on the work of its tenth session**

I. Opening of the session

1. The tenth session of the 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 was held at the Geneva International Conference Centre, Switzerland, from 17 to 21 November 2003.
2. The session was opened by the Chair, Ms. Maria Celina de Azevedo Rodrigues (Brazil), at 10 a.m. on Monday, 17 November 2003.
3. Opening statements were made by Mr. Philippe Roch, State Secretary, Director, Swiss Agency for the Environment, Forests and Landscape; Mr. Shafqat Kakakhel, Deputy Executive Director, United Nations Environment Programme (UNEP), and Ms. Louise Fresco, Assistant Director-General, Agriculture Department, Food and Agriculture Organization of the United Nations (FAO).
4. Mr. Roch welcomed participants and underlined the importance of the current meeting of the Committee for the Rotterdam Convention, a pillar of the multilateral system of treaties governing chemicals, which played an important role in helping developing countries to acquire the capacities, technologies and knowledge from those countries with broad experience in chemicals management. The Rotterdam Convention had also further developed the concept of partnership between State authorities, private industry and civil society. For its part, the Swiss chemical industry had set up a prior informed consent (PIC) unit even before the Convention had entered into force, and had initiated a ten-year work programme in that area.

5. Switzerland was proud to have contributed to the processes of implementing the interim PIC procedure, including through the hosting of its important meetings and the funding of workshops. In that context he recalled that Geneva would be hosting the fifth session of the Interim Chemical Review Committee in February 2004. Welcoming the undertaking by UNEP to work in a more strategic manner, he noted that the clustering of the chemicals conventions provided the necessary coherence for such an approach and suggested that Geneva, with numerous international organizations involved in the field of chemicals, represented an ideal centre for such coherence. The co-hosting of the interim secretariat of the Rotterdam Convention by FAO in Rome and UNEP Chemicals in Geneva had proved a success, and he hoped that the Conference of the Parties would decide to maintain that successful partnership.

6. Mr. Kakakhel welcomed participants to the session and conveyed his wishes for its success. Expressing appreciation to the Government of Switzerland for hosting the session, he also thanked the many Governments whose financial support had made possible the implementation of the interim PIC procedure. Since the Committee's ninth meeting, financial contributions had been received from Australia, Belgium, Canada, Finland, Germany, Japan, Madagascar, the Netherlands, Norway, Sweden, Switzerland, the United Kingdom and the United States of America.

7. Noting with profound satisfaction the continued strong cooperation between UNEP and FAO in providing the interim secretariat of the Convention, he expressed confidence that they would be able together to provide the permanent secretariat, to the full satisfaction of the Parties. He recalled that the secretariat of the Rotterdam Convention was already working closely with the secretariats of the Basel and Stockholm conventions. The Rotterdam Convention was also one of the key building blocks of chemicals safety, recognized by the World Summit on Sustainable Development.

8. Noting that, with the fiftieth instrument of ratification expected at any time, the Convention should enter into force in February 2004, he commended the work carried out in the interim period to prepare for the first meeting of the Conference of the Parties and the great progress made in implementing the interim PIC procedure, which was strong proof that the Convention served its purpose to protect human health and the environment. In that connection, he expressed thanks to the Interim Chemical Review Committee and its Chair, Mr. Reiner Arndt, for their contribution.

9. In conclusion, he saluted the diligence and diplomacy manifested by the Chair of the Committee in making the Convention a reality, and her deep commitment to its cause.

10. Ms. Fresco welcomed participants to the meeting and pointed out that, by making progress in the Rotterdam Convention, they were achieving something which would improve peoples' lives, especially those dependent on agriculture. She noted that by 2025 the world would need 60 per cent more food to meet the needs of a growing population. For many countries, sustainable intensification of agriculture offered the only way to alleviate human hunger. The challenge lay in intensifying the production of food, without significantly increasing the use of hazardous chemicals for that purpose. In that connection, countries needed to have access not just to products, but also to information.

11. In the field of chemicals management, international conventions had been put in place and substantial progress had been made, but much work was still needed at the national level. She noted that voluntary procedures such as the FAO International Code of Conduct on the Distribution and Use of Pesticides had provided valuable experience in collaboration among government ministries and between Governments and non-governmental organizations, but that further work was needed at the national level. Countries needed to reflect an increased awareness of the importance of chemicals management in their national policies. Guidelines on relevant international instruments, workshops and training to provide guidance to countries on how to implement a national unifying framework and a national policy for chemicals management were needed by many countries. Noting the importance to farmers in developing countries of the discussion at the current session on chemicals and pesticides, she stressed the need for further capacity-building and hands-on training to make the procedures work at the national and subregional levels.

12. She underlined the importance of timely ratification by countries, pointing out that the Conference of the Parties to the Rotterdam Convention made no provision for participation by non-Parties. She praised the exemplary collaboration with UNEP in the work of the interim secretariat of the Convention, which demonstrated how large international organizations could overcome the boundaries of their mandates and share their resources in pursuit of a common goal. In conclusion, on behalf of FAO, she

expressed appreciation to the Chair of the Committee for her important contribution to the progress made in the Committee.

II. Organizational matters

A. Attendance

13. The session was attended by representatives of the following Parties: Algeria, Argentina, Armenia, Australia, Austria, Belgium, Bhutan, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Canada, Chad, Chile, China, Colombia, Congo, Cook Islands, Costa Rica, Côte d'Ivoire, Cuba, Czech Republic, Democratic Republic of the Congo, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, European Community, Finland, France, Gambia, Germany, Ghana, Greece, Guinea, Guyana, Haiti, Honduras, Hungary, India, Indonesia, Iran (Islamic Republic of), Italy, Jamaica, Japan, Jordan, Kenya, Kyrgyzstan, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Madagascar, Malaysia, Marshall Islands, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco, Namibia, Nepal, Netherlands, New Zealand, Niger, Nigeria, Norway, Oman, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Samoa, Saudi Arabia, Senegal, Slovenia, South Africa, Spain, Sweden, Switzerland, Syrian Arab Republic, Thailand, The former Yugoslav Republic of Macedonia, Uganda, Ukraine, United Arab Emirates, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Zambia, Zimbabwe.

14. The observer for the Palestinian Authority also attended the session.

15. The following United Nations bodies were represented: United Nations Economic Commission for Europe, United Nations Institute for Training and Research (UNITAR), United Nations Environment Programme (UNEP).

16. The following United Nations specialized agency was represented: World Health Organization (WHO).

17. The following intergovernmental organizations were represented: Permanent Court of Arbitration, World Trade Organization (WTO).

18. The following non-governmental organizations were represented: CropLife International, Foundation for Advancements in Science and Education (FASE), International Council of Chemical Associations (ICCA), Korea Crop Protection Association, Pesticide Action Network (PAN/UK), World Wide Fund for Nature (WWF).

B. Officers

19. The following officers served in their respective capacities on the Bureau of the Committee at its tenth session:

Chair: Ms. Maria Celina de Azevedo Rodrigues (Brazil)

Vice-Chairs: Mr. Zerouali Abdelhay (Morocco)
Mr. Yuri Kundiev (Ukraine);
Mr. Bernard Madé (Canada);
Mr. Ruisheng Yue (China);

Mr. Kundiev (Vice-Chair) also agreed to serve as Rapporteur.

C. Adoption of the agenda

20. The Committee adopted the following agenda on the basis of the provisional agenda (UNEP/FAO/PIC/INC.10/1), amended to include, at the request of one representative, an item on cooperation between the interim secretariat of the Convention and the World Trade Organization (WTO):

1. Opening of the session.
 2. Organizational matters:
 - (a) Adoption of the agenda;
 - (b) Organization of work.
 3. Activities of the secretariat and review of the situation as regards extrabudgetary funds.
 4. Implementation of the interim prior informed consent procedure:
 - (a) Status of implementation;
 - (b) Confirmation of experts designated for the Interim Chemical Review Committee;
 - (c) Presentation of the report of the Interim Chemical Review Committee on the work of its fourth session;
 - (d) Inclusion of chemicals:
 - (i) Asbestos;
 - (ii) DNOC;
 - (iii) Dustable powder formulations of benomyl, carbofuran and thiram;
 - (iv) Issues related to inclusion of other chemicals;
 - (e) Issues arising out of the fourth session of the Interim Chemical Review Committee:
 - (i) Maleic hydrazide: status of implementation of decision INC8/3;
 - (ii) Possible inconsistencies in Annex III of the Convention;
 - (iii) Achievements by the Interim Chemical Review Committee;
 - (iv) Other issues.
 5. Preparations for the Conference of the Parties:
 - (a) Draft rules of procedure;
 - (b) Draft financial rules and provisions;
 - (c) Settlement of disputes;
 - (d) Non-compliance.
 6. Issues arising out of the Conference of Plenipotentiaries: support for implementation.
 7. Assignment of Harmonized System customs codes.
 8. Status of signature and ratification of the Convention.
 9. Cooperation between the interim secretariat and the World Trade Organization.
 10. Other matters.
 11. Adoption of the report.
 12. Closure of the session.
21. A list of documents before the Committee at its tenth session is contained in annex I to the present report.

D. Organization of work

22. At its opening meeting, the Committee decided, on the basis of the scenario note prepared by the Chair (UNEP/FAO/PIC/INC.10/2), to pursue its work in plenary and to establish open-ended sessional working groups as necessary.

III. Activities of the secretariat and review of the situation as regards extrabudgetary funds

23. Introducing the item, the representative of the secretariat drew attention to the documentation prepared on the subject (see annex I) and reported on the secretariat's work over the period 2002–2004.

24. Reviewing the expenditure report for 2002 and the proposed budget for 2004, he noted that the projected costs for the first meeting of the Conference of the Parties and the fifth meeting of the Interim Chemical Review Committee would be covered by the host Government, Switzerland. Recalling that, at its ninth session, the Committee had requested the Executive Director of UNEP to consider using a portion of the 13 per cent administrative fee to provide additional support to the interim secretariat for administrative and financial matters, he reported that the Executive Director had approved use of the fee to provide administrative support within the secretariat. He also announced that further contributions had been received from Australia of \$18,643, from Belgium of \$20,205, from Switzerland of \$400,000, and from the United Kingdom of \$166,030.

25. The representative of the European Community noted that its contribution to the Trust Fund for 2003 would be 100,000 euros and that it intended to make a similar contribution in 2004. The representative of Austria reported that his Government would make a contribution of 15,000 euros for 2003. The secretariat noted that it would prepare a revised list of financial pledges and contributions.

26. During the ensuing discussion, representatives requested further clarification from the secretariat on a number of items, including the proposed increase in the 2004 budget and a snapshot of 2003 expenditures and projections up to the end of the year. A number of representatives suggested strategies for reducing expenditure, including by prioritizing projects and co-locating the Rotterdam and Stockholm convention secretariats.

27. In response to the Committee's requests for clarification on aspects of the budget, the representative of the secretariat subsequently introduced three conference room papers, namely, a revision of financial pledges and contributions up to 17 November 2003; a snapshot of expenditures and budget projections for 2003; and an explanation of budget changes between 2003 and 2004.

28. The Committee voiced its appreciation for the additional clarifications provided by the secretariat. With regard to support for travel of participants to the first meeting of the Conference of the Parties, several representatives expressed concern at the decrease in funds allocated for that budget line and hoped that funds would also be identified to assist non-Party representatives from developing countries and countries with economies in transition to attend the first meeting as observers.

29. In response to an enquiry from one representative, the representative of the secretariat reported that the estimated cost for hosting subsequent meetings of the Conference of the Parties was \$750,000, not including local costs.

30. The representative of the secretariat introduced the draft decision on the budget and staffing for 2004 prepared in response to a request from the Committee. He noted that the work of the Committee had certain budgetary implications and revisions were necessary for the budget for 2004 under facilitation of implementation and ratification, which could be reduced to \$220,000, to cover a workshop in Beijing for the Asia region, printed material, the web site and a study on technical assistance needs. He noted that, to cover the cost of a one-day eleventh session of the Committee, the amount of \$125,000 would be added to the budget. The representative of Germany said that his Government would fund the cost of convening the Committee's next session, which would be held immediately before the first meeting of the Conference of the Parties.

31. Some representatives reiterated their concern at the low budget allocated for participants' travel to the Conference of the Parties. The Committee agreed to increase that figure to \$205,000, to bring it into line with the amount for travel of participants indicated in the snapshot of expenditures and budget projections for 2003.

32. The representative of Switzerland, host country for the first meeting of the Conference of the Parties, said that his Government would work with the secretariat to ensure full representation at that Conference.

33. The Committee took note of the financial pledges and contributions made for 2002 and 2003 up to and including the tenth session of the Committee and approved the staffing level and budget for 2004 as submitted by the secretariat. The budget and staffing for 2004 is contained in annex III to the present report.

IV. Implementation of the interim prior informed consent procedure

A. Status of implementation

34. Under agenda item 4 (a), the Committee had before it the documentation prepared on the subject (see annex I), comprising a note by the secretariat on the status of implementation of the interim PIC procedure and a summary of the status of notifications for five new chemicals. The representative of the secretariat noted that, as of 30 April 2003, 168 Parties were participating in the interim PIC procedure and had nominated a total of 256 designated national authorities. The decision guidance document on all formulations of monocrotophos adopted by the Committee at its ninth session had been circulated to all designated national authorities, with a request for the submission of import responses by 31 October 2003.

35. Between May 2002 and April 2003, 34 notifications of final regulatory actions had been submitted to the secretariat, of which eight were for chemicals not currently subject to the interim PIC procedure. For five chemicals – dimefox, endrin, mevinphos, vinclozolin and endosulfan – two or more notifications had been received from two PIC regions. Those were scheduled to be considered by the Interim Chemical Review Committee at its fifth session. Notifying countries and representatives at the Committee's current session were requested to provide, where available, information on the import, export and manufacture of those five chemicals.

36. The overall response rate for all 32 chemicals subject to the PIC procedure was 50 per cent; for the five pesticides added since September 1998 it was 25–29 per cent; while for those predating September 1998 it was 63 per cent for pesticides, 40 per cent for severely hazardous pesticide formulations and 34 per cent for industrial chemicals. In all, of the 168 countries participating in the interim PIC procedure, 25 (15 per cent) had provided import responses for all 32 chemicals in the PIC procedure, while 40 (24 per cent) had provided no import response at all. Of the 49 countries that were Parties to the Convention, 14 (29 per cent) had provided import responses for all chemicals while eight (16 per cent) had provided no import responses at all.

37. Between 1 May and 31 October 2003, 245 import responses had been received, which denoted a significant increase over the same six-month period in 2002. It was disappointing, however, that only 34 countries had submitted import responses for monocrotophos.

38. One representative noted that the regional workshops had improved regional awareness on implementation of the interim PIC procedure, but that problems remained in diffusing that information at the national level. Another representative said that workshops should include a means for briefing new designated national authorities. Several representatives noted that correspondence from the secretariat was not reaching the official designated national authorities and that in some instances contact details of the designated national authorities were outdated or erroneous. One representative observed that his country faced difficulties related to the registration of pesticides, which hindered submission of import responses.

39. Another representative said that the situation in terms of overall numbers of notifications was encouraging, but that the actual number of Parties submitting responses was disappointingly low and suggested that countries failing to send any import responses should be sent a specific written reminder and be requested to explain the reasons for lack of responses. Countries facing specific problems might then receive targeted assistance. He noted that, under the terms of article 11, countries must realize that continued failure to provide responses would mean that importing countries were no longer protected by the status quo. He welcomed the work of the secretariat, particularly in holding workshops to improve the capacity of developing countries and countries with economies in transition to implement the Convention, and suggested that the issue be further examined in relation to a strategic approach to technical assistance. Noting the problems faced by some countries in differentiating between the terms "consent", "no consent", and "consent subject to specified conditions", he suggested that guidelines to facilitate uniform understanding of the terminology might be taken up by the Interim Chemical Review Committee. He also reported on problems experienced in contacting designated national authorities and in obtaining acknowledgements of receipt of export notifications.

40. One representative said that the lack of import responses for some of the substances listed in the interim PIC procedure might be attributable to the fact that they were no longer produced or exported but only found as obsolete pesticide stocks or wastes.

B. Confirmation of experts designated for the Interim Chemical Review Committee

41. The Committee, which had before it the note on the issue prepared by the secretariat (UNEP/FAO/PIC/INC.10/5), considered the formal confirmation of two new experts as members of the Interim Chemical Review Committee. The Governments of Canada and the Philippines had designated the experts after the Committee's ninth session. The two designated experts had participated on an interim basis at the fourth session of the Interim Chemical Review Committee, pending formal confirmation by the Committee at its current session.

42. Decision INC-10/1 confirming the designation of Mr. Lars Juergensen (Canada) to act as member of the Interim Chemical Review Committee for the North American region, and of Ms. Aida de Vera Ordas (Philippines) for the Asian region, is contained in annex II to the present report.

C. Presentation of the report of the Interim Chemical Review Committee on the work of its fourth session

43. In its deliberations on the item, the Committee had before it the documentation prepared on the subject (see annex I). The Chair of the Interim Chemical Review Committee, Mr. Reiner Arndt (Germany), introduced the report of the Interim Chemical Review Committee on the work of its fourth session (UNEP/FAO/PIC/INC.10/6). The Interim Chemical Review Committee had reviewed the notifications of final regulatory action to ban or severely restrict parathion, tetraethyl lead and tetramethyl lead and had recommended their inclusion in the interim PIC procedure. Intersessional work to prepare the relevant decision guidance documents was under way and was expected to be finalized at the fifth session of the Interim Chemical Review Committee in February 2004. A notification on tributyl tin, received from the European Community, had been complete and had met the criteria for inclusion in the interim PIC procedure in the pesticide category; the notification from Japan had not, however, met the criteria of Annex II and the Interim Chemical Review Committee had decided that, pending the receipt of a further notification, tributyl tin could not be proposed for inclusion. He reiterated that it was not the mandate of the Interim Chemical Review Committee to assess the adequacy of a country's regulatory action, nor to undertake an internationally accepted risk assessment.

44. The Interim Chemical Review Committee had finalized, for the consideration and approval of the current meeting, the decision guidance documents on asbestos, including four amphibole forms of asbestos and chrysotile; DNOC and its salts; and dustable powder formulations containing benomyl, carbofuran and thiram.

45. He reviewed the other issues discussed at the fourth session of the Interim Chemical Review Committee, which were to be considered under item 4 (e) of the agenda, and expressed thanks to all members and observers who had assisted the work of the Interim Chemical Review Committee.

46. The Intergovernmental Negotiating Committee noted with appreciation the report of the Interim Chemical Review Committee, and expressed thanks to its Chair and to all those who had contributed to its work.

D. Inclusion of chemicals

1. Asbestos

47. In its deliberations on the item, the Committee had before it the documentation prepared on the subject (see annex I). The representative of the secretariat drew attention to the note prepared on the chemicals amosite, actinolite, anthophyllite, tremolite and chrysotile forms of asbestos (UNEP/FAO/PIC/INC.10/7), which contained a recommendation by the Interim Chemical Review Committee for their inclusion in the interim PIC procedure, a summary of the deliberations of that Committee, including a rationale for the inclusion of the chemicals based on the criteria in Annex II of

the Convention, and a tabular summary of the comments received and how they had been addressed. The draft decision guidance document was attached to the note as its annex II.

48. All representatives who took the floor expressed appreciation for the work of the Interim Chemical Review Committee in preparing the draft decision guidance document that was currently before the Committee. All representatives supported the inclusion of the four amphibole forms of asbestos in the interim PIC procedure. A number of representatives indicated that they were not prepared to agree to include chrysotile at the current time and proposed that a decision on chrysotile should be postponed until a future meeting. A number of representatives, noting that chrysotile was different from the amphibole forms of asbestos, expressed concern about the sufficiency of the scientific evidence of its carcinogenicity. Some representatives were of the view that there was insufficient information on the long-term effects of the proposed alternatives for chrysotile, which might prove to be more harmful than chrysotile itself.

49. Concerning chrysotile, the Committee had requested the International Programme on Chemical Safety (IPCS) to undertake, as soon as possible, an evaluation of chrysotile and its alternatives. The representative of the World Health Organization (WHO) advised the Committee that IPCS had conducted an assessment of chrysotile in 1998 and conveyed the willingness of her organization to work on the health assessment of alternatives to chrysotile. The Committee agreed that the Interim Chemical Review Committee should identify appropriate alternatives for IPCS to review.

50. Many representatives expressed support for the inclusion of all five forms of asbestos in the interim PIC procedure. They considered that sufficient and clear information had been provided to enable the Interim Chemical Review Committee to reach its consensus recommendation that the criteria for inclusion of chrysotile had been met, and the proper procedures had been followed. They expressed the view that the desire for additional information should not be used to stop the approval of a decision guidance document or the inclusion of the chemical in Annex III. It was also noted that Parties that had additional national risk evaluations or information on alternatives could provide that documentation to the secretariat for posting on the Rotterdam Convention web site.

51. The representative of Australia announced that his Government was in the process of finalizing a regulatory action on chrysotile, which was expected to be completed by the end of December 2003, and would be submitting its notification on the subject, accompanied by a risk evaluation.

52. One representative said that the inclusion of all forms of asbestos in the PIC procedure would make it easier for many developing countries to take decisions on asbestos, since they often lacked the capacity required to differentiate between the various forms of the substance. Noting that there was no procedural rule to prevent the postponement of action on a proposal to include a chemical, several representatives said that, while they supported the inclusion of all five chemicals contained in the draft decision guidance document currently before the Committee, they would not oppose the postponing of a decision on chrysotile.

53. The representative of the secretariat said that it was vital for the future of the Convention that the Committee should seek a way to find consensus. Under article 22, paragraph 5 (b), decisions on adoption were to be made by consensus. He noted that the Interim Chemical Review Committee had done its work well, and no one had challenged the process or recommendation. He also noted that the addition of a chemical to the Rotterdam Convention was not a stringent regulatory measure, but was designed to inform countries of what others were doing to regulate potentially harmful chemicals and allow importers to take trade-neutral decisions on future import. He urged countries to consider carefully their concerns about chrysotile, in the light of the stated objective and process of the Convention.

54. The Committee agreed to approve the addition of the four amphibole forms of asbestos, namely, amosite, actinolite, anthophyllite and tremolite, for inclusion in the interim PIC procedure and requested the secretariat to revise the decision guidance document by removing the chapter on chrysotile. The Committee also agreed to make several editorial revisions to the introduction of the decision guidance document, which was contained in annex II of document UNEP/FAO/PIC/INC.10/7. The Committee further decided that the secretariat should compile the extracted chrysotile material into a decision guidance document for subsequent consideration at the eleventh session of the Committee, under a process similar to the one to be used for the inclusion of the other chemicals pending consideration, as reflected in subsection 4 of the present section of the report.

55. Decision INC-10/2 on the inclusion of the following forms of asbestos: actinolite, anthophyllite, amosite and tremolite is contained in annex II to the present report.

2. DNOC

56. In its deliberations on the item, the Committee had before it the documentation prepared on the subject (see annex I). Introducing the item, the representative of the secretariat noted that the Interim Chemical Review Committee had recommended that the Committee should decide to include DNOC and its salts and approve the related decision guidance document. He made several editorial revisions to the introduction of the decision guidance document, which was contained in annex II of document UNEP/FAO/PIC/INC.10/8.

57. Decision INC-10/3 on the inclusion of DNOC and its salts is contained in annex II to the present report.

58. Thanking the Committee for the inclusion of the proposal, Mr. Arndt observed that one of the notifications on which the Interim Chemical Review Committee had based the proposal had come from Peru, a developing country. It was thus encouraging to note that developing countries were also in a position to submit notifications that could meet the criteria set out in the Convention.

3. Dustable powder formulations of benomyl, carbofuran and thiram

59. In its deliberations on the item, the Committee had before it the documentation prepared on the subject (see annex I). Introducing the item, the representative of the secretariat noted that the Interim Chemical Review Committee had recommended that the Committee should decide to include the severely hazardous pesticide formulation: dustable powder formulations containing benomyl, at or above 7 per cent; carbofuran, at or above 10 per cent; and thiram, at or above 15 per cent, and approve the related decision guidance document.

60. During the ensuing discussion, the Committee noted that the decision guidance document referred to particular formulations of the relevant chemicals, in combination. Accordingly, the Committee decided to refer in the decision guidance document to “dustable powder formulations containing a combination of benomyl...”. Several editorial revisions were made to the introduction to the decision guidance document, which was contained in annex II to document UNEP/FAO/PIC/INC.10/9.

61. Some representatives sought clarification on the existence of international trade in the formulation under discussion, reports of which had been received by the Interim Chemical Review Committee. The Committee was informed that there was trade in the formulations among west African countries. The Committee was advised by the secretariat that trade was not specifically identified as a limiting prerequisite in article 6 or Annex IV.

62. Decision INC-10/4 on the inclusion of severely hazardous pesticide formulations of dustable powder containing a combination of benomyl at or above 7 per cent, carbofuran at or above 10 per cent and thiram at or above 15 per cent is contained in annex II to the present report.

4. Issues related to inclusion of other chemicals

63. In its deliberations on the item, the Committee had before it the documentation prepared on the subject (see annex I). Introducing the item, the representative of the secretariat drew attention to a procedural inconsistency regarding how to include chemicals in Annex III worked on by the Committee during the period between the entry into force of the Convention and the first meeting of the Conference of the Parties. The issue concerned the substances parathion, tetraethyl lead and tetramethyl lead. The background to the issue was set out in document UNEP/FAO/PIC/INC.10/10. In that paper the secretariat suggested holding a one-day eleventh session of the Committee immediately before the first meeting of the Conference of the Parties.

64. Since the production of that document, comments had been received suggesting an alternative, more direct procedure, to the effect that those decision guidance documents that were completed by the Interim Chemical Review Committee at its fifth meeting could be circulated at least six months in advance of the first meeting of the Conference of the Parties and then be directly transmitted to that

meeting, with a request for their consideration and approval for inclusion in Annex III of the Convention. The secretariat noted that neither approach offered a perfect solution.

65. At the request of the Committee, the secretariat distributed two conference room papers. One paper described the approach where the necessary decision materials would be transmitted directly to the Conference of the Parties at its first meeting; the other would have a one-day session of the Intergovernmental Negotiating Committee immediately before the first meeting of the Conference of the Parties.

66. During the ensuing discussion, there was general consensus that the outcome of the Interim Chemical Review Committee's work on tetraethyl lead, tetramethyl lead and parathion should be submitted to whatever body the Committee decided upon to review any draft decision guidance documents prepared on those chemicals, be it an eleventh session of the Committee or the meeting of the Conference of the Parties. All representatives also supported the consideration of the draft decision guidance document on chrysotile at that future meeting.

67. Some representatives were of the view that there might still be insufficient information to warrant changing their positions on chrysotile by the date of the meeting of the body to be agreed upon. While it was noted that IPCS had agreed to carry out an evaluation of chrysotile and of the alternatives identified, it was pointed out that the gathering of sufficient data would take time.

68. The representative of the secretariat suggested that it could be helpful to the representatives seeking more information if the secretariat could collect and compile the available information on the risks of chrysotile and its alternatives and make it available to those interested countries. Such a two-track approach would retain the integrity of the main decision-making process of the Convention, while reassuring those who considered that they had insufficient data. A number of representatives supported that approach and one offered to provide his assistance. It was noted that such a course of action would not only help to resolve the problems of those who requested further data, but would also serve the purpose of the Convention with regard to exchange of information between countries on the effects of chemicals. Some representatives indicated that they understood that the additional information was not to be a prerequisite for the consideration of the decision guidance document for chrysotile or its listing.

69. The Committee agreed to convene a short eleventh session of the Intergovernmental Negotiating Committee, in the form of a conference of plenipotentiaries held immediately prior to and at the same venue as the first meeting of the Conference of the Parties, solely for the purpose of deciding on the addition of tetraethyl lead, tetramethyl lead, parathion and chrysotile to the interim PIC procedure.

70. The Committee noted that at its eleventh session it would need to adopt a resolution vesting in it the authority to add chemicals to the interim PIC procedure between the date of entry into force of the Convention and the date of the first meeting of the Conference of the Parties, and that it would be necessary for delegates attending the eleventh session of the Committee to have the appropriate credentials. The secretariat was requested to draft such a resolution in advance of the meeting for consideration by participants.

71. Decision INC-10/5 on holding a one-day eleventh session of the Intergovernmental Negotiating Committee immediately before the first meeting of the Conference of the Parties is included in annex II to the present report.

E. Issues arising out of the fourth session of the Interim Chemical Review Committee

1. Maleic hydrazide: Status of implementation of decision INC-8/3

72. Introducing the item, the representative of the secretariat drew attention to the documentation prepared on the subject (see annex I). With regard to the status of implementation of decision INC-8/3, he said that the secretariat had received information from the Government of the Republic of Korea regarding the production, use and import in that country of the choline salt of maleic hydrazide. It had also received information from CropLife International attesting to progress in developing the analytical methodology for the potassium salt of maleic hydrazide and indicating that work in that area should be completed by mid-2004.

73. The Committee took note of the information received by the secretariat from CropLife International and extended the relevant deadline to 24 September 2004. One representative expressed appreciation to the industry for its efforts to support the Convention in that area.

74. The representative of the Republic of Korea informed the Committee that the potassium salt and choline salt of maleic hydrazide with a content of free hydrazine above 1 ppm would be prohibited by the end of 2003. The Republic of Korea would also prohibit the production or import of the unstable choline salt of maleic hydrazide, such as that previously imported from Japan.

75. The representative of Japan informed the Committee that the production and use of the choline salt of maleic hydrazide in question had been voluntarily cancelled by the company. Limited stockpiles of the acid base existed but the relevant company had indicated that, if the product could not be exported to the Republic of Korea, it would be destroyed. His Government would soon submit detailed information on the stability of the substance to the secretariat.

76. The Committee took note of the information received by the secretariat from the Government of the Republic of Korea and the information provided to the Committee by the representatives of Japan and the Republic of Korea. Noting that, on the basis of the respective declarations by Japan and the Republic of Korea, the production or trade of choline salt of maleic hydrazide with a content of free hydrazine above 1 ppm should no longer exist, the secretariat requested Governments to notify the secretariat immediately should that status quo change.

2. Possible inconsistencies in Annex III of the Convention

77. Introducing the item, the representative of the secretariat drew attention to the note prepared by the secretariat on possible inconsistencies within Annex III and between Annex III and decision guidance documents (UNEP/FAO/PIC/INC.10/12). In response to a query, it was clarified that the Interim Chemical Review Committee would provide its rationale for its recommendation not to accept the other proposals of the secretariat on the inconsistencies in Annex III and that it remained possible for representatives to raise further issues once they had received that advice.

78. Decision INC-10/6 on inconsistencies within Annex III of the Convention and between Annex III and decision guidance documents is contained in annex II to the present report.

3. Achievements by the Interim Chemical Review Committee

79. Mr. Arndt drew attention to the documentation prepared on the subject (see annex I), and highlighted achievements by the Interim Chemical Review Committee during its first four sessions in three areas: review of individual chemicals; development and implementation of operational procedures and guidelines; and policy-related matters. He expressed appreciation for the work performed by members of the Committee as well as by observers.

80. The Committee took note of the report on the achievements by the Interim Chemical Review Committee and expressed its deep appreciation for the work done by the Committee and its Chair.

4. Other issues

(a) Information to be contained in the supporting documentation provided by a notifying country using a risk evaluation from another country in support of final regulatory action

81. Introducing the item, the representative of the secretariat drew attention to the documentation prepared on the subject (see annex I), which included guidelines on the scope of the bridging information to be provided by a notifying country using a risk evaluation from another country in support of final regulatory action. The guidance had been prepared by the Interim Chemical Review Committee in response to a request made by the Intergovernmental Negotiating Committee at its ninth session.

82. Representatives expressed support for the use of the guidelines prepared by the Interim Chemical Review Committee, noting that they would be applied flexibly and that all countries could base domestic regulatory action on whatever information they wished. The representative of the European Community, speaking on behalf of the European Union and its member States, stated that the Union stood ready to assist countries if they wished to apply European Union risk evaluations in support of domestic regulatory action. One representative suggested that the conditions for the use of bridging information should be precisely determined.

83. The Committee took note of the working paper prepared by the Interim Chemical Review Committee.

(b) Preparation and use of focused summaries

84. Introducing the item, the representative of the secretariat drew attention to the documentation prepared on the subject (see annex I). He noted that the Interim Chemical Review Committee had agreed that focused summaries were complementary to the process of reviewing regulatory actions and would facilitate its work. At the same time, it was stressed that the preparation of focused summaries should in no way hinder fulfilment of the mandatory requirements for the submission of notifications of final regulatory action under the Convention. The use of such summaries would be flexible and not mandatory and based on information already available.

85. The Intergovernmental Negotiating Committee took note of the working paper on the preparation and use of focused summaries prepared by the Interim Chemical Review Committee and invited designated national authorities to prepare focused summaries, on a voluntary basis, using the information at their disposal.

(c) Severely hazardous pesticide formulations – environment incident report

86. Introducing the item, the representative of the secretariat drew attention to the documentation prepared on the subject (see annex I). The Committee noted the adoption of the revised environmental incident report form by the Interim Chemical Review Committee at its fourth session.

(d) Working paper on preparing internal proposals and decision guidance documents for banned or severely restricted chemicals

87. Introducing the item, the representative of the secretariat drew attention to the documentation prepared on the subject (see annex I). The Committee noted the revision of the working paper on preparing internal proposals and decision guidance documents for banned or severely restricted chemicals by the Interim Chemical Review Committee at its fourth session.

V. Preparations for the Conference of the Parties

88. The representative of the secretariat introduced an overview of the tasks that the Committee had been mandated to perform since 1998 (UNEP/FAO/PIC/INC.10/INF/3).

89. The Committee took note of the report of the secretariat.

A. Draft rules of procedure

90. In its deliberations on the item, the Committee had before it the documentation prepared on the subject (see annex I). The representative of the secretariat recalled that, at its eighth session, the Intergovernmental Negotiating Committee had 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 meeting (UNEP/FAO/PIC/INC.8/19). A footnote to rule 45 stated, however, that paragraph 1 of rule 45 remained open because the question of whether all decisions on substance required consensus was still under review by certain delegations.

91. One representative expressed the view that all decisions on matters of substance should require consensus. Another representative stated that consensus should be required on all matters that affected the legal obligations of Parties or on similarly substantive decisions.

92. As no agreement had been reached on the issue as to whether the draft rules of procedure stipulated the need for consensus in decision-making, the Committee agreed to forward those draft rules without amendment to the Conference of the Parties for consideration at its first meeting. The text of the draft rules of procedure is reproduced in annex IV to the present report.

B. Draft financial rules and provisions

93. In its deliberations on the item, the Committee had before it the note prepared by the secretariat on the subject (UNEP/FAO/PIC/INC.10/18), as well as proposals submitted by Canada and the European Union.

94. Many representatives expressed support for establishing three trust funds: one to support the operational costs of the Convention; one to support the participation of representatives of developing country Parties and Parties with economies in transition in the meetings of the Conference of the Parties and its subsidiary bodies; and one that would be used for technical assistance under article 16 and for other purposes consistent with the objectives of the Convention. Other representatives expressed the view that two trust funds would be more efficient: one for the operating costs of the Convention and one to support meeting participation, technical assistance and related activities. That model would also provide important flexibility, potentially lower overhead costs, and conform to the policy set by the Governing Council of UNEP to limit the proliferation of convention trust funds.

95. Many representatives supported having an indicative scale adopted by consensus by the Conference of the Parties, as adjusted and based on the scale of assessments of the United Nations, for assessing contributions to the general trust fund. Two representatives noted that their Governments considered all contributions, including those made in relation to such an indicative scale, to be voluntary with regard to size and whether the contribution was given. Another representative expressed the view that agreeing to a scale of assessment represented an ethical obligation to fulfil the pledge.

96. Many representatives stressed that the provision of technical assistance to developing country Parties and Parties with economies in transition would be very important to the successful implementation of the Convention. Thus, they favoured a system that would provide adequate, timely and predictable levels of contributions for the trust fund that would be used for technical assistance. Some also expressed support for a system of assessed and mandatory contributions. One representative favoured mandatory contributions to support the participation of representatives of developing country Parties and Parties with economies in transition in the meetings of the Conference of the Parties and its subsidiary bodies. One representative noted her Government's opposition to the use of the indicative scale of assessment.

97. The Committee decided to convene an open-ended legal working group on draft financial rules, to be chaired by Mr. Alistair McGlone (United Kingdom of Great Britain and Northern Ireland), and requested that it attempt to define and narrow the differences in the three proposals before the Committee and report back to plenary on its deliberations.

98. Mr. McGlone introduced a draft text prepared by the working group. The group had made good progress, including creating a single draft text for possible consideration by the Conference of Parties. There were still outstanding issues, however, as indicated by brackets and alternative paragraphs.

99. The Committee decided to transmit the draft financial rules prepared by the working group, which are included in annex V to the present report, to the Conference of the Parties for consideration at its first meeting.

C. Settlement of disputes

100. In taking up the item, the Committee recalled its deliberations at its ninth session. The representative of the secretariat drew attention to the only remaining issue, namely, a provision in article 16 of the draft rules of arbitration and the corresponding footnote (contained in annex VI to UNEP/FAO/PIC/INC.9/21), which noted one representative's opinion concerning the provision.

101. The Committee agreed that legal experts present at the compliance working group should review the matter and report back to the plenary. Accordingly, the working group discussed the matter and proposed an agreed text of that provision.

102. The Committee decided to forward the agreed text of the draft rules on arbitration and conciliation, which are reproduced in annex VI to the present report, to the Conference of the Parties for consideration at its first meeting.

D. Non-compliance

103. In its deliberations on the item, the Committee had before it the documentation prepared on the subject (UNEP/FAO/PIC/INC.10/19 and 20). The representative of the secretariat introduced a document on reporting prepared in response to the Committee's request at its ninth session that the secretariat should prepare a draft decision on reporting and a questionnaire, reflecting the deliberations of the working group on compliance that considered the matter at the ninth session, for consideration by the Conference of the Parties at its first meeting.

104. Mr. McGlone, chair of the open-ended working group on compliance mechanisms and procedures established at the ninth session of the Committee, introduced a draft text that he had prepared on procedures and institutional mechanisms for handling cases of non-compliance, as requested by the Committee at that session. Pointing out that the text was not a negotiated document but a basis for discussion, he highlighted issues of concern such as the composition of the compliance committee to be established by the Conference of the Parties, how procedures of non-compliance were triggered and what measures should be taken in response to non-compliance.

105. The Committee decided to reconvene the open-ended working group on compliance, established at its ninth session, under the chairmanship of Mr. McGlone, and requested that it review the draft prepared by its chair, as well as the draft decision and questionnaire presented in the secretariat's note, and report back to plenary on its deliberations.

106. The working group carefully examined the chair's draft and proposed a revised text of the draft compliance mechanisms and procedures, which the chair of the group presented to the Committee. The Committee decided to forward the draft as contained in annex VII to the present report to the Conference of the Parties for consideration at its first meeting.

107. Mr. McGlone reported that the group had also considered the document on reporting and the questionnaire. The group considered the document a useful basis for further work on the subject.

108. The Committee requested the secretariat to prepare a revised document on reporting, taking into account the comments provided by the working group during the current session as well as further comments received from Governments by 31 January 2004, and to submit it to the Conference of the Parties at its first meeting.

VI. Issues arising out of the Conference of Plenipotentiaries: Support for implementation

A. Clearing-house

109. In its consideration of the item, the Committee had before it a note by the secretariat on information exchange: establishment of an electronic clearing-house (UNEP/FAO/PIC/INC.10/22). Introducing the document, the representative of the secretariat reported on the development of a clearing-house on the Rotterdam Convention web site for making available information on national evaluations and information on alternatives for chemicals subject to the interim PIC procedure. The clearing-house facility would be limited to information supplied by Parties – preferably in electronic form – which would be posted without review. In view of the limited access to the internet in some countries, lists of the information posted within the last six months would be included with each issue of the *PIC Circular*. While it was hoped that the additional activity involved in the clearing-house would be manageable within the current budget; if the volume of information provided by Parties significantly exceed expectations, it might be necessary to review that issue in the future. The secretariat had noted suggestions from countries including the provision of a “frequently asked questions” page (FAQ) and the listing of additional Chemical Abstracts Service (CAS) numbers for various chemical substances and groups, which would also be made available on the web site.

110. The Committee took note of the information presented by the secretariat and expressed appreciation for the efforts of the secretariat in establishing the clearing-house.

111. One representative expressed the view that all information on the clearing-house should be available in all six working languages of the United Nations; another urged that confidentiality concerns should not be used as a barrier for sharing information on relevant technology; and a third suggested that the secretariat should play an active role in gathering information for the clearing-house. It was also recommended that the Rotterdam Convention clearing-house should coordinate with the information exchange on capacity-building for the sound management of chemicals (INFOCAP) mechanism to avoid duplication of effort.

B. Workshops

112. Introducing the subitem, the representative of the secretariat drew attention to the documentation prepared on the subject (see annex I) and reported on the workshops organized to date, their key outcomes and impacts and the problems and challenges identified.

113. Many representatives underlined the usefulness of the workshops in raising awareness, explaining the PIC procedure, providing a forum for exchange of experiences, helping countries with the ratification of the Convention, and identifying the challenges and constraints faced by countries in seeking to implement it. It was considered that a further workshop should be held to ensure that all designated national authorities had an opportunity to attend. The representative of Switzerland expressed his Government’s satisfaction at having funded and participated in past workshops, and its commitment to supporting further workshops in all parts of the world in the future.

114. The representative of Uganda requested that a further workshop for English-speaking African countries be held in Kampala. The representative of Egypt requested that a further workshop for Arabic-speaking countries be held in his country. The representative of the Islamic Republic of Iran expressed reservations about the holding of workshops for Arabic-speaking countries only in a region which also included two non-Arabic-speaking countries and asked for an inclusive approach to cover all countries in the region when organizing workshops. The representative of China, thanking the secretariat for the organizational assistance and the Government of Switzerland for its generous funding, announced that the workshop for Asian countries would be held in Beijing in March 2004, and invited those who expected to participate to communicate to the secretariat their proposals on the syllabus, in order to make the workshop more targeted.

115. Concerning the lack of specific requests for technical assistance and the lack of follow-up to the workshops held, a number of representatives said that they had not been aware of the need for follow-up. Countries required practical support from the secretariat for the implementation of the Convention, and

the workshops should have encouraged them to request technical assistance from donors. It was observed that the secretariat had limited funding for technical assistance, and countries needed to be proactive in approaching members of the donor community.

116. Many representatives believed that the scope of the workshops should be broadened, with the aim of developing capacities to create national policies and strategies for chemicals management. In that connection, future workshops might also consider an exchange between small groups of participants from industrialized countries and those from developing countries and countries with economies in transition. Attention was also drawn to the importance of workshops for the training of trainers.

117. A number of representatives pointed to the importance of holding national-level workshops, to ensure attendance of all stakeholders and to meet training needs for the preparation of national plans and strategies for chemicals management. The preparation of such national plans and strategies went beyond the scope of the Rotterdam Convention alone and should draw on synergies with the other chemicals-related agreements.

C. Technical assistance

118. In its deliberations on the subitem, the Committee had before it the documentation prepared on the subject (see annex I). The representative of the secretariat encouraged representatives to focus discussion on two aspects: what could be undertaken in the interim period up to the first meeting of the Conference of the Parties, and what might be recommended to the Conference of the Parties by way of a longer-term strategy. Referring to article 16 of the Convention, he highlighted the importance of bilateral activities and national-level activities. While the success of the subregional workshops could be seen in, for example, the increase in import responses, the needs and challenges identified from workshops indicated that different, broader types of training were now required. Options for comprehensive technical assistance outlined in the document were not exhaustive.

119. Many representatives stressed the importance of identifying the specific needs of countries and regions and developing a strategic approach for technical assistance, and emphasized the need to set priorities to ensure the targeted and effective use of resources. Cooperation and synergies with other international bodies and agencies, regional organizations and other multilateral environmental agreements were viewed as crucial in order to derive maximum benefit from resources and experience and as a basis for a strategy for technical assistance. For example, activities could be coordinated with work on the national implementation plans of the Stockholm Convention and the web sites of different multilateral environmental agreements could be linked.

120. Several representatives said that focused follow-up to workshops and broad dissemination of results and problems would help to target assistance. Various options were suggested, such as exchange visits to developed countries to gain knowledge on procedures for implementation of the Convention and distance-learning over the internet, although it was observed that preparation of internet-based training materials might have budget implications for the secretariat.

121. One representative suggested that future assistance programmes should be targeted to institutions and not individuals and that capacity-building programmes should have priority over policy issues. Others said that assistance to designated national authorities could focus on improving their facilities, equipment and infrastructure; on laboratories to enable risk assessment and risk evaluation; and on assistance in developing legal infrastructures. Communications infrastructure and the management of chemical information at the national and regional level were particularly important and information systems should be developed that enabled countries to exchange relevant information with all stakeholders at the national and regional levels. Several representatives noted the importance of receiving assistance in risk assessment, hazard assessment and monitoring of chemicals impacts. INFOCAP was identified as a useful support for technical assistance

122. Several representatives pointed to the importance of linking chemical management issues with national development plans and strategies for health, trade and poverty alleviation. Such an approach could encourage Governments to prioritize chemical management and encourage donor contributions. Increased bilateral assistance in the lead up to the first meeting of the Conference of the Parties was recommended.

123. Several representatives reiterated the importance of establishing a trust fund designed to address technical assistance needs. One representative, suggesting that such a fund be voluntary, proposed that clear terms of reference for the fund be developed and forwarded to the Conference of the Parties at their first meeting. One representative called for the development of a definition of a strategic approach to technical assistance that could be forwarded to the Conference of the Parties at its first meeting. Another representative proposed that the secretariat conduct a study to determine priority needs for assistance, on the basis of questionnaires.

124. The representative of Germany said his Government was contributing 500,000 euros to support implementation of the Convention through bilateral and regional technical cooperation and collaboration programmes.

125. The representative of the European Commission, speaking on behalf of the member States of the European Union and of the countries acceding to the Union, submitted a conference room paper containing a draft decision on a strategic approach to technical assistance. He also made reference to various technical assistance projects that his organization was supporting, such as INFOCAP and the work by the United Nations Institute for Training and Research (UNITAR) on national profiles.

126. During the discussion on the draft decision, representatives proposed amendments and the inclusion of the following additional areas for technical assistance: illicit trade in chemicals; a study on technical assistance to be prepared by the secretariat, the need for the Development Assistance Committee of the Organization for Economic Cooperation and Development (OECD) to take into account national development plans and priorities; and assistance by the secretariat in risk assessment. One representative said that the decision should not prejudge the outcome of the discussion on financial rules. The text of the draft decision was duly revised in the light of that discussion.

127. Decision INC-10/7 on technical assistance is contained in annex II to the present report.

VII. Assignment of Harmonized System customs codes

128. The representative of the secretariat introduced the item, drawing attention to the information paper on assignment of specific Harmonized System (HS) customs codes (UNEP/FAO/PIC/INC.10/INF/1) and explained that, if the amendments to the HS customs codes were adopted by the World Customs Organization (WCO) at its session in 2004, all Parties to WCO would be obliged to implement them.

129. The Committee took note of the report of the secretariat on the assignment of specific HS customs codes and expressed satisfaction at progress in that process, which represented a valuable tool in the implementation of the Rotterdam Convention. It was underlined that all Parties should encourage their representatives to WCO to support the proposals.

VIII. Status of signature and ratification of the Convention

130. In its consideration of the item, the Committee had before it a note by the secretariat on the status of signature and ratification of the Convention (document UNEP/FAO/PIC/INC.10/INF/2). Introducing the document, the representative of the secretariat also drew attention to a brochure explaining the process of becoming a party to the Convention that had been published in four languages. Several representatives announced that the process of ratification, acceptance, approval or accession was progressing favourably and that they expected shortly to deposit the relevant instruments. A number of representatives hoped to participate at the first meeting of the Conference of the Parties and were accelerating ratification procedures to that end.

131. One representative requested that the secretariat endeavour to publish the information brochure on how to become a party to the Convention in all the official languages of the United Nations. Another representative made the same request in respect of the Convention's web site.

132. The Committee took note of the information presented by the secretariat.

IX. Cooperation between the interim secretariat and the World Trade Organization

133. In its deliberations on the item, the Committee had before it the documentation prepared on the subject (UNEP/FAO/PIC/INC.10/INF/4) as well as a proposal submitted by the Government of Canada.

134. Many representatives welcomed the information contained in the document prepared by the secretariat concerning ongoing and planned cooperation by the interim secretariat with the World Trade Organization (WTO) on aspects of the Rotterdam Convention related to international trade. Many also supported the proposal submitted by Canada while others believed that consideration of a formal decision on the matter should be taken only by the Conference of the Parties.

135. Several representatives supported the need for the Rotterdam Convention to have observer status in the WTO Committee on Trade and Environment. One representative expressed the view that the Rotterdam Convention contained trade-related provisions and that those provisions were designed to promote the safe use of chemicals and pesticides at the national level.

136. A representative, drawing attention to paragraph 2 of the note on the issue prepared by the secretariat, which stated: "relations of the Rotterdam Convention with other international agreements are governed by the eighth, ninth and tenth recitals of the Convention", observed that those relations were also governed by the Convention's second recital, which recalled "the pertinent provisions of the Rio Declaration on Environment and Development and chapter 19 of Agenda 21 on 'Environmentally sound management of toxic chemicals, including prevention of illegal international traffic in toxic and dangerous products'."

137. He also pointed out that paragraph 4 of the secretariat's note, which referred to the three issues covered by paragraph 32 of the Doha Declaration, in particular the effects of environmental measures on market access, omitted the phrase: "especially in relation to developing countries, in particular the least developed among them" and requested that those omissions should be inserted in paragraphs 2 and 4 of the secretariat's note.

138. The Intergovernmental Negotiating Committee decided to forward the draft decision, as amended by the Committee and contained in annex VIII to the present report, to the Conference of Parties for consideration at its first meeting.

X. Other matters

A. Dates and venues of future meetings

139. The representative of the secretariat informed the Committee that the fifth session of the Interim Chemical Review Committee would be held in Geneva from 2 to 6 February 2004, and that the first meeting of the Conference of the Parties would also be held in Geneva, from 20 to 24 September 2004, with its high-level segment on 23 and 24 September. The tentative date set for the Committee's eleventh session was Saturday, 18 September 2004, in Geneva. In response to an enquiry from one representative, he noted that time would be allotted to those who wished to make presentations on their offers regarding the physical location of the secretariat of the Convention.

140. The representative of Kenya expressed her Government's desire to host the second meeting of the Conference of the Parties to the Rotterdam Convention at the United Nations Office at Nairobi, Kenya.

XI. Closure of the session

141. Following the customary exchange of courtesies, the Chair declared the session closed at 1 p.m. on Friday, 21 November 2003.

Annex I

List of documents before the Committee at its tenth session

Agenda item	Subject	Document title	Symbol
1	Opening of the session		
2	Organizational matters (a) Attendance (c) Adoption of the agenda (d) Organization of work	List of participants Provisional agenda Annotated provisional agenda Scenario note for the tenth session of the Intergovernmental Negotiating Committee	UNEP/FAO/PIC/INC.10/INF/9 UNEP/FAO/PIC/INC.10/1 UNEP/FAO/PIC/INC.10/1/Add.1 UNEP/FAO/PIC/INC.10/2
3	Activities of the secretariat and review of the situation as regards extrabudgetary funds	Activities of the secretariat and review of the situation as regards extrabudgetary funds	UNEP/FAO/PIC/INC.10/3
4	Implementation of the interim prior informed consent procedure (a) Status of implementation of the interim prior informed consent procedure (b) Confirmation of experts designated for the Interim Chemical Review Committee (c) Presentation of the report of the Interim Chemical Review Committee on the work of its fourth session	Status of implementation of the interim prior informed consent procedure Status of implementation of the interim PIC procedure: Dimefox, endosulfan, endrin, mevinphos and vinclozolin Confirmation of experts designated for the Interim Chemical Review Committee Presentation of the report of the Interim Chemical Review Committee on the work of its fourth session	UNEP/FAO/PIC/INC.10/4 UNEP/FAO/PIC/INC.10/INF/6 UNEP/FAO/PIC/INC.10/5 UNEP/FAO/PIC/INC.10/6

Agenda item	Subject	Document title	Symbol
	(d) Inclusion of chemicals in the interim prior informed consent procedure	<p>Inclusion of chemicals amosite, actinolite, anthophyllite, tremolite and chrysotile asbestos and adoption of the draft decision guidance document</p> <p>Inclusion of chemical DNOC and its salts and adoption of the decision guidance document</p> <p>Inclusion of the severely hazardous pesticide formulation: dustable powder formulations containing benomyl at or above 7 per cent, carbofuran at or above 10 per cent and thiram at or above 15 per cent and adoption of the decision guidance document</p> <p>Inclusion of chemicals after entry into force of the Convention</p>	<p>UNEP/FAO/PIC/INC.10/7</p> <p>UNEP/FAO/PIC/INC.10/8</p> <p>UNEP/FAO/PIC/INC.10/9</p> <p>UNEP/FAO/PIC/INC.10/10</p>
	(e) Issues arising out of the fourth session of the Interim Chemical Review Committee	<p>Maleic hydrazide – status of implementation of decision INC-8/3</p> <p>Inconsistencies within Annex III of the Convention and inconsistencies between Annex III and decision guidance documents</p> <p>Achievements by the Interim Chemical Review Committee</p> <p>Information to be contained in the supporting documentation provided by a notifying country using a risk evaluation from another country in support of final regulatory action</p> <p>Preparation and use of focused summaries</p> <p>Other issues arising out of the fourth session of the Interim Chemical Review Committee</p>	<p>UNEP/FAO/PIC/INC.10/11</p> <p>UNEP/FAO/PIC/INC.10/12</p> <p>UNEP/FAO/PIC/INC.10/13</p> <p>UNEP/FAO/PIC/INC.10/14</p> <p>UNEP/FAO/PIC/INC.10/15</p> <p>UNEP/FAO/PIC/INC.10/16</p>

Agenda item	Subject	Document title	Symbol
5	Preparation for the Conference of the Parties (a) Draft rules of procedure (b) Draft financial rules and provisions (c) Non-compliance	Draft rules of procedure Draft financial rules Draft financial rules, proposed amendments submitted by Canada Reporting on the implementation of the Convention Draft procedures and institutional mechanisms for handling cases of non-compliance, by the chair of the working group on compliance Note by the secretariat on progress made Proposal by the Permanent Court of Arbitration for article 3 of the draft arbitration and conciliation procedures of the Rotterdam Convention	UNEP/FAO/PIC/INC.10/17 UNEP/FAO/PIC/INC.10/18 UNEP/FAO/PIC/INC.10/INF/5 UNEP/FAO/PIC/INC.10/19 UNEP/FAO/PIC/INC.10/20 UNEP/FAO/PIC/INC.10/INF/3 UNEP/FAO/PIC/INC.10/INF/8
6	Issues arising out of the Conference of Plenipotentiaries (a) Support for implementation	Compilation and analysis of the results and conclusions of workshops on the Rotterdam Convention Information exchange: establishment of an electronic clearing house Technical needs and opportunities for synergies as the basis for a possible strategic approach to technical assistance Information on ongoing technical assistance activities in other forums and related conventions	UNEP/FAO/PIC/INC.10/21 UNEP/FAO/PIC/INC.10/22 UNEP/FAO/PIC/INC.10/23 UNEP/FAO/PIC/INC.10/INF/7
7	Assignment of Harmonized System customs codes	Assignment of Harmonized System customs codes	UNEP/FAO/PIC/INC.10/INF/1
8	Status of signature and ratification of the Convention	Status of signature and ratification of the Convention as on 14 November 23	UNEP/FAO/PIC/INC.10/INF/2
9	Other matters	World Trade Organization	UNEP/FAO/PIC/INC.10/INF/4

Agenda item	Subject	Document title	Symbol
10	Adoption of the report	Report of the 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 on the work of its tenth session	UNEP/FAO/PIC/INC.10/24

Annex II

Decisions taken at the tenth session of the Intergovernmental Negotiating Committee

Decision 10/1: Confirmation of experts designated for the Interim Chemical Review Committee

The Intergovernmental Negotiating Committee,

Recalling its decision INC-6/2, in which it resolved that the 29 Governments which it had identified at its sixth session should formally designate experts for the Interim Chemical Review Committee, and its decisions INC-7/1 and INC-9/3, in which it decided formally to appoint 29 experts designated by those Governments to act as members of the Interim Chemical Review Committee,

Noting the resignation of the expert from Canada from the Interim Chemical Review Committee and the alternation of the expert from the Philippines,

1. *Decides* formally to appoint the following experts to act as members of the Interim Chemical Review Committee:

North America:	Mr. Lars Juergensen (Canada);
Asia:	Ms. Aida de Vera Ordas (Philippines);

2. *Reaffirms* the provisions of decision INC-6/2 as regards the conditions of service of the experts and of decision INC-9/3 as regards the duration of the terms of office of the experts.

Decision 10/2: Inclusion of the following forms of asbestos: actinolite, anthophyllite, amosite and tremolite

The Intergovernmental Negotiating Committee,

Noting with appreciation the work of the Interim Chemical Review Committee,

Having considered the recommendations of the Interim Chemical Review Committee on the following forms of asbestos: actinolite, anthophyllite, amosite, tremolite,

1. *Decides* to make the following chemicals subject to the interim prior informed consent procedure:

Chemical	Relevant CAS number(s)	Category
Asbestos:		
Actinolite	77536-66-4	Industrial
Anthophyllite	77536-67-5	Industrial
Amosite	12172-73-5	Industrial
Tremolite	77536-68-6	Industrial

2. *Approves* the decision guidance document on the following forms of asbestos: crocidolite, actinolite, anthophyllite, amosite, tremolite (document UNEP/FAO/PIC/INC.10/7, as amended);

3. *Notes* that the draft decision guidance document also covers crocidolite and shall replace the existing decision guidance document for that chemical.

Decision 10/3: Inclusion of DNOC and its salts

The Intergovernmental Negotiating Committee,

Noting with appreciation the work of the Interim Chemical Review Committee,

Having considered the recommendations of the Interim Chemical Review Committee on the chemical DNOC,

1. *Decides* to make the following chemical subject to the interim prior informed consent procedure:

Chemical	Relevant CAS number(s)	Category
DNOC and its salts (such as ammonium salt, potassium salt and sodium salt)	534-52-1; 2980-64-5; 5787-96-2; 2312-76-7	Pesticide

2. *Approves* the decision guidance document on the chemical DNOC and its salts (document UNEP/FAO/PIC/INC.10/8).

Decision 10/4: Inclusion of severely hazardous pesticide formulations of dustable powder containing a combination of benomyl at or above 7 per cent, carbofuran at or above 10 per cent and thiram at or above 15 per cent

The Intergovernmental Negotiating Committee,

Noting with appreciation the work of the Interim Chemical Review Committee,

Having considered the recommendations of the Interim Chemical Review Committee on severely hazardous pesticide formulations of dustable powder containing a combination of benomyl at or above 7 per cent, carbofuran at or above 10 per cent and thiram at or above 15 per cent,

1. *Decides* to make the following chemical subject to the interim prior informed consent procedure:

Chemical	Relevant CAS number(s)	Category
Dustable powder formulations containing a combination of:		Severely hazardous pesticide formulation
benomyl at or above 7 per cent,	17804-35-2	
carbofuran at or above 10 per cent	1563-66-2	
thiram at or above 15 per cent	137-26-8	

2. *Approves* the decision guidance document on dustable powder formulations containing a combination of benomyl at or above 7 per cent, carbofuran at or above 10 per cent and thiram at or above 15 per cent (document UNEP/FAO/PIC/INC.10/9).

Decision 10/5: Holding a one-day session of the Intergovernmental Negotiating Committee immediately before the first meeting of the Conference of the Parties

The Intergovernmental Negotiating Committee,

Noting that article 8 of the Convention authorizes the Conference of the Parties, at its first meeting, to decide on the addition of chemicals in Annex III that have been included in the voluntary PIC procedure before that meeting, provided it is satisfied that all the requirements of listing in that Annex have been fulfilled,

1. *Decides* to convene the eleventh session of the Intergovernmental Negotiating Committee, in the form of a Conference of Plenipotentiaries, immediately before the first meeting of the Conference of the Parties for the purpose of deciding whether to include chrysotile, tetraethyl lead, tetramethyl lead and parathion in the voluntary PIC procedure;

2. *Requests* the secretariat to circulate the draft decision guidance documents and a proposal to include chrysotile, tetraethyl lead, tetramethyl lead and parathion at least six months in advance of the eleventh session of the Intergovernmental Negotiating Committee.

Decision 10/6: Inconsistencies within Annex III of the Convention and inconsistencies between Annex III and decision guidance documents

The Intergovernmental Negotiating Committee,

Recalling the request of the Intergovernmental Negotiating Committee at its ninth session for the secretariat to prepare a housekeeping paper on inconsistencies within Annex III of the Convention and between Annex III and decision guidance documents,

Noting with appreciation the work of the Interim Chemical Review Committee in considering these inconsistencies,

Having considered the recommendations of the Interim Chemical Review Committee on these inconsistencies,

1. *Decides* to recommend the following to the Conference of the Parties:
 - (a) With regard to 2,4,5-T:
 - (i) That the entry in Annex III for 2,4,5-T be amended to read “2,4,5-T and its salts and esters”;
 - (ii) 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”;
 - (b) With regard to pentachlorophenol:
 - (i) That the entry in Annex III for pentachlorophenol be amended to read “Pentachlorophenol and its salts and esters”;
 - (ii) That section 1.1 of the decision guidance document for pentachlorophenol be amended to read “Pentachlorophenol and its salts and esters”;
 - (c) With regard to dinoseb and dinoseb salts:
 - (i) That the entry in Annex III for dinoseb and dinoseb salts be amended to read “Dinoseb and its salts and esters”;
 - (ii) That the title of the decision guidance document be amended to read “Dinoseb”;
 - (iii) 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) With regard to methyl parathion (emulsifiable concentrates EC with 19.5%, 40%, 50% and 60% active ingredient and dusts containing 1.5%, 2% and 3% active ingredient):
 - (i) That the entry in Annex III for methyl parathion (emulsifiable concentrates EC with 19.5%, 40%, 50% and 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 (D) at or above 1.5% active ingredient)”;
 - (ii) That section 1.1 of the decision guidance document for methyl parathion (emulsifiable concentrates EC with 19.5%, 40%, 50% and 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 (D) at or above 1.5% active ingredient)”;
2. *Decides* that, during the voluntary procedure:
 - (a) The listing for 2,4,5-T should be interpreted to include the salts and esters of 2,4,5-T;

- (b) The listing for pentachlorophenol should be interpreted to include the salts and esters of pentachlorophenol;
- (c) The listing for dinoseb and dinoseb salts should be interpreted to include the salts and esters of dinoseb;
- (d) The listing for methyl parathion (emulsifiable concentrates EC with 19.5%, 40%, 50% and 60% active ingredient and dusts D containing 1.5%, 2% and 3% active ingredient) should be interpreted to mean "Methyl parathion (emulsifiable concentrates (EC) at or above 19.5% active ingredient and dusts (D) at or above 1.5% active ingredient)".

Decision 10/7: Strategic approach to technical assistance

The Intergovernmental Negotiating Committee,

Having regard to article 16 of the Convention on technical assistance,

Recalling the targets for chemicals agreed at the World Summit on Sustainable Development,

Noting the report by the secretariat on the lessons learnt from past technical assistance to developing countries and countries with economies in transition,

Considering that, with the imminent entry into force of the Convention, a new strategic approach to technical assistance is required,

Welcoming the priorities for action of the International Forum on Chemical Safety and the recommendations that it adopted at its fourth session in Bangkok in November 2003,

Also welcoming the outcome of the first session of the Preparatory Committee for the Development of a Strategic Approach to International Chemicals Management, held in Bangkok from 9 to 13 November 2003, particularly those relating to capacity-building, resources and development,

Noting that hazardous chemicals and pesticides covered by the Convention can contribute to poverty through their adverse effects on human health and environmental resources,

1. *Requests* the secretariat to strengthen cooperation with other chemicals-related multilateral environmental agreements, bilateral and multilateral development agencies and programmes, as well as with non-governmental organizations and industry on technical assistance and capacity-building work;
2. *Requests* the secretariat, using the regional facilities of the United Nations Environment Programme and the Food and Agriculture Organization of the United Nations, to strengthen cooperation with regional and other organizations, where appropriate, on technical assistance and capacity-building, and to develop a proposal for the Conference of the Parties at its first meeting on the regional delivery of technical assistance to Parties;
3. *Requests* the secretariat to facilitate access to international literature, databases, risk and hazard evaluations and social and economic assessments of PIC chemicals and their alternatives, and invites countries participating in the PIC procedure to provide the secretariat with such information, or suitable references or links to such information if under copyright;
4. *Requests* the secretariat to facilitate assistance to developing countries and countries with economies in transition in their efforts to combat illegal traffic related to the Rotterdam Convention, and to participate in relevant international initiatives in this regard;
5. *Requests* the secretariat to conduct a study on the capacity-building and technical assistance needs of countries in relation to the Rotterdam Convention, on the basis of a questionnaire sent to all countries, regional economic integration organizations and participating observers, and further requests the secretariat to provide the results of that study to the intergovernmental Negotiating Committee at its eleventh session;

6. *Invites* countries to inform the secretariat of their specific problems in implementing the interim PIC procedure and of their related technical assistance needs, and requests the secretariat to circulate these to potential donors;
7. *Invites* countries to identify their capacity-building and technical assistance needs, and also invites donors to inform developing countries of their activities, through the INFOCAP network set up under the Intergovernmental Forum on Chemical Safety;
8. *Encourages* those countries that have not yet done so to develop and/or update their national profile for chemicals management in order to identify their national priorities for chemicals management and to help them develop their capacity to undertake hazard and risk assessments; and encourages those countries that already have national profiles to implement, within their capacities, the identified priority activities;
9. *Encourages* developing countries and countries with economies in transition to integrate issues of relevance to the Rotterdam Convention into their national poverty reduction strategies, national strategies for sustainable development or other national development strategies;
10. *Invites* the Development Assistance Committee of the Organization for Economic Cooperation and Development to take into account the national development strategies, in particular as they relate to technical assistance requirements under the Convention;
11. *Calls on* developing countries and countries with economies in transition to make use of existing sources of funding to finance their capacity-building needs under the Rotterdam Convention, including bilateral and multilateral cooperation programmes and, where synergies exist with activities relating to persistent organic pollutants, the support provided by the Global Environment Facility for action to control persistent organic pollutants;
12. *Invites* countries, donors and other stakeholders to promote chemicals management regional cooperation programmes within existing regional cooperation frameworks;
13. *Invites* developed countries and other donors to ensure the better integration of chemicals management in their development cooperation policies and programmes and to take account of the needs and interests of developing countries and countries with economies in transition in their chemicals and pesticides strategies;
14. *Welcomes* the proposed establishment in the draft financial rules of a [supplementary trust fund] [special trust fund] for the purpose of [facilitating] technical assistance and other related matters in support of developing country Parties and Parties with economies in transition, and invites the Conference of the Parties, at its first meeting, to adopt these provisions;
15. *Invites* industry to contribute further towards a more sustainable use of chemicals, including pesticides, in developing countries and countries with economies in transition, by providing technical assistance;
16. *Encourages* non-governmental organizations to continue their technical assistance, capacity-building and awareness-raising activities.

Annex III**Budget and staffing for 2004 as approved by the Committee****Table 1 – Budget for 2004**

Ensure effective functioning of the INC/COP		
	<i>COP1¹</i>	
	Conference services	375,000
	Participants travels	205,000
	Subtotal	580,000
	<i>ICRC5 in Geneva²</i>	
	Conference services	85,000
	Participants travels	75,000
	Subtotal	160,000
	<i>INC-11 in Geneva³</i>	
	Conference services	90,000
	Participants travel	35,000
	Subtotal	125,000
Facilitation of implementation and ratification		
	Workshops	100,000
	Printed material	35,000
	Study on technical assistance needs	75,000
	Website	10,000
	Subtotal	220,000
Office automation and databases		
	Software/hardware	40,000
	Consultants/subcontracts	0
	Subtotal	40,000
Core secretariat costs		
	Project personnel	1,321,850
	Consultants	45,000
	Administrative support	390,075
	Official travel	100,000
	Equipment and premises	5,000
	Miscellaneous	15,000
	Subtotal	1,876,925
Total		3,001,925
Administrative overheads (13%)		390,250
Total		3,392,175

¹ To be funded by Switzerland² To be funded by Switzerland³ To be funded by Germany

Table 2: Programme staff for 2004

	2004
D1	0.5
P5	2.0
P4	2.0
P3	4.0
P2	2.0
GS	5.3
TOTAL	15.8

Table 3: Standard staff costs (in dollars)

	2004 ⁴
A. Professional category	
D1	181,300
P5	161,200
P4	139,300
P3	112,600
P2/1	89,900
B. General Service category	74,300

⁴2003 United Nations standard salary costs version 13

Annex IV

Draft rules of procedure for the Conference of the Parties

I. Introduction

Scope

Rule 1

The present rules of procedure shall apply to any meeting of the Conference of the Parties to the Convention convened in accordance with Article 18 of the Convention.

Definitions

Rule 2

For the purposes of the present rules:

1. “Convention” means the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, adopted at Rotterdam, on 10 September 1998;
2. “Parties” means Parties to the Convention;
3. “Conference of the Parties” means the Conference of the Parties established by Article 18 of the Convention;
4. “Meeting” means any ordinary or extraordinary meeting of the Conference of the Parties convened in accordance with Article 18 of the Convention;
5. “Regional economic integration organization” means an organization defined in Article 2 (h) of the Convention;
6. “President” means the President of the Conference of the Parties elected in accordance with Rule 22, paragraph 1;
7. “Secretariat” means the Secretariat established by Article 19, paragraph 1 of the Convention.
8. “Subsidiary body” means the body established pursuant to Article 18, paragraph 6 of the Convention, as well as any body established pursuant to Article 18, paragraph 5 (a) of the Convention.
9. “Parties present and voting” means Parties present at the meeting in which voting takes place and casting an affirmative or negative vote. Parties abstaining from voting shall be considered as not voting.

II. Meetings

Place of meetings

Rule 3

The meetings of the Conference of the Parties shall take place at the seat(s)⁴ of the Secretariat, unless the Conference of the Parties decides otherwise or other appropriate arrangements are made by the Secretariat in consultation with the Parties.

⁴ Will depend on the decision regarding the location of the Secretariat.

*Dates of meetings**Rule 4*

1. Unless otherwise decided by the Conference of the Parties, the second and third ordinary meetings of the Conference of the Parties shall be held yearly and, thereafter, ordinary meetings shall be held every two years.

2. At each ordinary meeting, the Conference of the Parties shall decide on the date and duration of the next ordinary meeting. The Conference of the Parties should endeavour not to hold such meetings at a time that would make the attendance of a significant number of delegations difficult.

3. Extraordinary meetings of the Conference of the Parties shall be held at such times as may be decided either by the Conference of the Parties at an ordinary meeting or at the written request of any Party, provided that, within ninety days of the request being communicated to the Parties by the Secretariat, it is supported by at least one third of the Parties.

4. In the case of an extraordinary meeting held at the written request of a Party, it shall be held not more than ninety days after the date on which the request is supported by at least one third of the Parties in accordance with paragraph 3.

*Notification of meetings**Rule 5*

The Secretariat shall notify all Parties of the dates and venue of ordinary and extraordinary meetings at least sixty days before the meeting in question is due to commence.

III. Observers*Participation of United Nations, specialized agencies and non-Parties**Rule 6*

1. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not Party to this Convention, may be represented at meetings as observers.

2. Such observers may, upon invitation of the President, participate without the right to vote in the proceedings of any meeting, unless at least one third of the Parties present at the meeting object.

*Participation of other bodies or agencies**Rule 7*

1. Any body or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by the Convention and which has informed the Secretariat of its wish to be represented at a meeting as an observer may be so admitted unless at least one third of the Parties present at the meeting object.

2. Such observers may, upon invitation of the President, participate without the right to vote in the proceedings of any meeting in matters of direct concern to the body or agency they represent, unless at least one third of the Parties present at the meeting object.

Notification by Secretariat

Rule 8

The Secretariat shall notify those entitled to be observers and those which have informed the Secretariat of their wish to be represented, pursuant to rules 6 and 7, of the dates and venue of the next meeting.

IV. Agenda

Preparation of provisional agenda

Rule 9

In agreement with the President, the Secretariat shall prepare the provisional agenda for each meeting.

Items on provisional agenda for ordinary meeting

Rule 10

The provisional agenda for each ordinary meeting shall include, as appropriate:

- (a) Items arising from the articles of the Convention, including those specified in its Article 18;
- (b) Items the inclusion of which has been decided at a previous meeting;
- (c) Items referred to in rule 16;
- (d) The proposed budget as well as all questions pertaining to the accounts and financial arrangements;
- (e) Any item proposed by a Party and received by the Secretariat before the provisional agenda is circulated.

Distribution of provisional agenda

Rule 11

For each ordinary meeting, the provisional agenda, together with supporting documents, shall be distributed in the official languages by the Secretariat to the Parties at least six weeks before the opening of the meeting.

Supplementary items

Rule 12

The Secretariat shall, in agreement with the President, include any item that is proposed by a Party and has been received by the Secretariat after the provisional agenda for an ordinary meeting has been produced, but before the opening of the meeting, in a supplementary provisional agenda.

Addition, deletion, deferment or amendment of items

Rule 13

When adopting the agenda for an ordinary meeting, the Conference of the Parties may decide to add, delete, defer or amend items. Only items that are considered by the Conference of the Parties to be urgent and important may be added to the agenda.

*Agenda for extraordinary meeting**Rule 14*

The agenda for an extraordinary meeting shall consist only of those items proposed for consideration by the Conference of the Parties at an ordinary meeting or in the request for the holding of the extraordinary meeting. It shall be distributed to the Parties at the same time as the notification of the extraordinary meeting.

*Report on administrative and budgetary implications**Rule 15*

The Secretariat shall report to the Conference of the Parties on the administrative and budgetary implications of all substantive agenda items submitted to the meeting, before they are considered by it. Unless the Conference of the Parties decides otherwise, no such substantive agenda item shall be considered until at least forty-eight hours after the Conference of the Parties has received a report of the Secretariat on its administrative and budgetary implications.

*Incomplete consideration of item**Rule 16*

Any item of the agenda of an ordinary meeting, consideration of which has not been completed at the meeting, shall be included automatically in the provisional agenda of the next ordinary meeting, unless otherwise decided by the Conference of the Parties.

V. Representation and credentials*Composition of delegation**Rule 17*

Each Party participating in a meeting shall be represented by a delegation consisting of a head of delegation and such other accredited representatives, alternate representatives and advisers as it may require.

*Alternates and advisers**Rule 18*

An alternate representative or an adviser may act as a representative upon designation by the head of delegation.

*Submission of credentials**Rule 19*

The credentials of representatives as well as the names of alternate representatives and advisers shall be submitted to the Secretariat if possible not later than twenty-four hours after the opening of the meeting. Any later change in the composition of the delegation shall also be submitted to the Secretariat. The credentials shall be issued either by the Head of State or Government or by the Minister of Foreign Affairs or, in the case of a regional economic integration organization, by the competent authority of that organization.

Examination of credentials

Rule 20

The Bureau of any meeting shall examine the credentials and submit its report to the Conference of the Parties.

Provisional participation

Rule 21

Representatives shall be entitled to participate provisionally in the meeting, pending a decision by the Conference of the Parties to accept their credentials.

VI. Officers

Election of officers

Rule 22

1. At the first ordinary meeting of the Conference of the Parties, a President and four Vice-Presidents, one of whom shall act as Rapporteur, shall be elected from among the representatives of the Parties present at the meeting. These officers shall serve as the Bureau of the Conference of the Parties. Each of the United Nations regional groups shall be represented by one Bureau member. The Bureau shall remain in office until the closure of the second ordinary meeting of the Conference of the Parties, including for any intervening extraordinary meeting.

2. At the second and subsequent ordinary meetings of the Conference of the Parties, the election of officers from among the Parties to serve as the Bureau for the following meeting of the Conference of the Parties shall take place before the end of the meeting. These officers shall commence their term of office at the closure of the meeting and shall serve until the closure of the following ordinary meeting of the Conference of the Parties, including for any intervening extraordinary meeting.

3. The offices of the President and Rapporteur shall normally be subject to rotation among the United Nations regional groups. No elected officer may serve on the Bureau for more than two consecutive terms.

4. The President shall participate in meetings of the Conference of the Parties in that capacity and shall not at the same time exercise the rights of a representative of a Party. The Party concerned shall designate another representative who shall be entitled to represent the Party in the meetings and to exercise the right to vote.

5. The Chairs of the Chemical Review Committee and any other subsidiary bodies shall be members ex-officio of the Bureau.

General powers of the President

Rule 23

1. In addition to exercising the powers conferred upon the President elsewhere by the present rules, the President shall declare the opening and closing of the meeting, preside at the meetings, ensure the observance of the present rules, accord the right to speak, put questions to the vote and announce decisions. The President shall rule on points of order and, subject to the present rules, shall have complete control of the proceedings and over the maintenance of order thereat.

2. The President may propose to the Conference of the Parties the closure of the list of speakers, a limitation on the time to be allowed to speakers and on the number of times each representative may speak on a question, the adjournment or the closure of the debate and the suspension or the adjournment of a session.

3. The President, in the exercise of the functions of that office, remains under the authority of the Conference of the Parties.

Acting President

Rule 24

1. The President, if temporarily absent from a meeting or any part thereof, shall designate a Vice-President to act as President. The President so designated shall not at the same time exercise the rights of a representative of a Party.

2. A Vice-President acting as President shall have the powers and duties of the President.

Replacement of an officer

Rule 25

If an officer of the Bureau resigns or is otherwise unable to complete the assigned term of office or to perform the functions of that office, a representative of the same Party shall be named by the Party concerned to replace the said officer for the remainder of that officer's term.

VII. Subsidiary bodies

Application of rules to subsidiary bodies

Rule 26

Save as provided in rules 28 to 33, the present rules shall apply mutatis mutandis to the proceedings of any subsidiary bodies, subject to any modifications decided by the Conference of the Parties.

Establishment of subsidiary bodies

Rule 27

1. The Conference of the Parties may establish, in accordance with Article 18, paragraph 5 (a), such subsidiary bodies, as it considers necessary for the implementation of the Convention, in addition to the subsidiary body established under Article 18, paragraph 6.

2. Meetings of subsidiary bodies shall be held in public unless the Conference of the Parties or the subsidiary body concerned decides otherwise.

Quorum for non open-ended subsidiary bodies

Rule 28

In the case of a subsidiary body that is not open-ended, a simple majority of the Parties designated by the Conference of the Parties to participate therein shall constitute a quorum.

Dates of meetings

Rule 29

The Conference of the Parties shall decide on the dates of the meetings of the subsidiary bodies, taking note of any proposals to hold such meetings in conjunction with the meetings of the Conference of the Parties.

Election of officers for subsidiary bodies

Rule 30

The Chair of the Chemical Review Committee shall be elected by the Conference of the Parties. Unless the Conference of the Parties decides otherwise, the Chair of any other subsidiary body shall be elected by the Conference of the Parties. Each subsidiary body shall elect its own officers other than the Chair. The officers of such subsidiary bodies shall be elected with due regard to the principle of equitable geographical representation and shall not serve for more than two consecutive terms.

Matters for consideration

Rule 31

Subject to Article 18, paragraph 6 (b), of the Convention, the Conference of the Parties shall determine the matters to be considered by each subsidiary body and the President may, upon the request of the Chair of the subsidiary body concerned, adjust the allocation of work.

VIII. Secretariat

Duties of the heads of the Secretariat

Rule 32

1. The heads of the Secretariat shall jointly exercise the functions of that office in all meetings of the Conference of the Parties and of its subsidiary bodies. Either head of the Secretariat may designate a representative to serve in its place.

2. The heads of the Secretariat shall jointly arrange for the provision of staff and services required by the Conference of the Parties and its subsidiary bodies, within available resources. The heads of the Secretariat shall jointly manage and direct such staff and services and provide appropriate support and advice to the Bureau of the Conference of the Parties and its subsidiary bodies.

Functions of the Secretariat

Rule 33

In addition to the functions specified in the Convention, in particular in article 19, the Secretariat shall, in accordance with the present rules:

- (a) Arrange for interpretation at the meeting;
- (b) Collect, translate, reproduce and distribute the documents of the meeting;
- (c) Publish and distribute the official documents of the meeting;
- (d) Make and arrange for keeping of sound recordings of the meeting; and
- (e) Arrange for the custody and preservation of the documents of the meeting.

IX. Conduct of business

Sessions

Rule 34

Sessions of the Conference of the Parties shall be held in public, unless the Conference of the Parties decides otherwise.

*Quorum**Rule 35*

1. The President shall not declare a session of the meeting of the Conference of the Parties open or permit the debate to proceed unless at least one third of the Parties to the Convention are present. The presence of two thirds of the Parties to the Convention shall be required for any decision to be taken.

2. For the purposes of determining a quorum for a decision to be taken on a matter within the competence of a regional economic integration organization, that organization shall be counted to the extent of the number of votes it is entitled to cast in accordance with paragraph 2 of Article 23 of the Convention.

*Procedures for speaking**Rule 36*

1. No one may address a meeting without having previously obtained the permission of the President. Subject to rules 38, 39, 40 and 42, the President shall call upon speakers in the order in which they signify their desire to speak. The Secretariat shall maintain a list of speakers. The President may call a speaker to order if the speaker's remarks are not relevant to the subject under discussion.

2. The Conference of the Parties may, on a proposal from the President or from any Party, limit the time allowed to each speaker and the number of times each representative may speak on a question. Before a decision is taken, two representatives may speak in favour of and two against a proposal to set such limits. When the debate is limited and a speaker exceeds the allotted time, the President shall call the speaker to order without delay.

*Precedence**Rule 37*

The Chair or Rapporteur of a subsidiary body may be accorded precedence for the purpose of explaining the conclusions arrived at by that subsidiary body.

*Points of order**Rule 38*

During the discussion of any matter, a representative may at any time raise a point of order, on which the President shall immediately rule in accordance with the present rules. A representative may appeal against the ruling of the President. The appeal shall be put to the vote immediately and the ruling shall stand unless overruled by a majority of the Parties present and voting. A representative may not, in raising a point of order, speak on the substance of the matter under discussion.

*Decisions on competence**Rule 39*

Any motion calling for a decision on the competence of the Conference of the Parties to discuss any matter or to adopt a proposal or an amendment to a proposal submitted to it shall be put to the vote before the matter is discussed or a vote taken on the proposal or amendment in question.

*Proposals and amendments to proposals**Rule 40*

Proposals and amendments to proposals shall normally be introduced in writing, in one of the official languages, by the Parties and handed to the Secretariat, which shall circulate copies to delegations. As a general rule, no proposal or amendment to proposal shall be discussed or put to the

vote at any session unless copies of it have been circulated to delegations not later than the day preceding that session. The President may, however, permit the discussion and consideration of proposals, of amendments to proposals or of procedural motions even though such proposals, amendments to proposals or motions have not been circulated or have been circulated only the same day.

Order of procedural motions

Rule 41

1. Subject to rule 40, the following motions shall have precedence in the order indicated below over all other proposals or motions:

- (a) To suspend the meeting;
- (b) To adjourn the meeting;
- (c) To adjourn the debate on the question under discussion;
- (d) To close the debate on the question under discussion.

2. Permission to speak on a motion falling within (a) to (d) above shall be granted only to the proposer and, in addition, to one speaker in favour of and two against the motion, after which it shall be put immediately to the vote.

Withdrawal of proposals or motions

Rule 42

A proposal or motion may be withdrawn by its proposer at any time before voting on it has begun, provided that the proposal or motion has not been amended. A proposal or motion thus withdrawn may be reintroduced by any other Party.

Reconsideration of proposals

Rule 43

When a proposal has been adopted or rejected, it may not be reconsidered at the same meeting, unless the Conference of the Parties, by a two-thirds majority of the Parties present and voting, so decides. Permission to speak on a motion to reconsider shall be accorded only to the mover, to one speaker in favour of and two against the proposal, after which it shall be put immediately to the vote.

X. Voting

Right to vote

Rule 44

1. Each Party shall have one vote, except as provided for in paragraph 2.

2. A regional economic integration organization, on matters within its competence, shall exercise its right to vote with a number of votes equal to the number of its member States that are Parties to the Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right to vote, and vice versa.

Majority required

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.⁵

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.

Rule 46

If two or more proposals relate to the same question, the Conference of the Parties, unless it decides otherwise, shall vote on the proposals in the order in which they have been submitted. The Conference of the Parties may, after each vote on a proposal, decide whether to vote on the next proposal.

Division of proposals and amendments

Rule 47

1. Any representative may request that any part of a proposal or of an amendment to a proposal be voted on separately. The President shall allow the request unless a Party objects. If an objection is made to the request for division, the President shall permit two representatives to speak, one in favour of and the other against the request, after which it shall be put immediately to the vote. The President may limit the time allowed to each speaker.

2. If the request referred to in paragraph 1 is allowed or adopted, those parts of a proposal or of an amendment to a proposal that are approved shall then be put to vote as a whole. If all operative parts of a proposal or amendment have been rejected, the proposal or amendment shall be considered to have been rejected as a whole.

Amendment to a proposal

Rule 48

A motion is considered to be an amendment to a proposal if it merely adds to, deletes from, or revises parts of that proposal. An amendment shall be voted on before the proposal to which it relates is put to the vote, and if the amendment is adopted, the amended proposal shall then be voted on.

Order of voting on amendments to a proposal

Rule 49

If two or more amendments to a proposal are moved, the Conference of the Parties shall first vote on the amendment furthest removed in substance from the original proposal, then on the next amendment furthest removed therefrom, and so on, until all amendments have been put to the vote. The President shall determine the order of voting on the amendments under this rule.

⁵ Paragraph 1 of rule 46 remains open and needs to be revisited, because the question of whether all decisions on substance require consensus remains under review by certain delegations.

Method of voting for general matters

Rule 50

1. Voting, except for elections, shall normally be by show of hands. A roll call vote shall be taken if so requested by any Party. The roll call shall be taken in the English alphabetical order of the names of the Parties, beginning with the Party whose name is drawn by lot by the President. If at any time, however, a Party requests a secret ballot, that shall be the method of voting on the issue in question.

2. When the Conference of the Parties votes by mechanical means, a non-recorded vote shall replace a vote by show of hands and a recorded vote shall replace a roll call.

3. The vote of each Party participating in a roll call or recorded vote shall be included in the relevant documents of the meeting.

Conduct during voting

Rule 51

After the President has announced the beginning of voting, no representative shall interrupt the voting except on a point of order in connection with the actual conduct of the voting. The President may permit the Parties to explain their votes, either before or after the voting. The President may limit the time to be allowed for such explanations. The President shall not permit the proposer of a proposal or of an amendment to a proposal to explain his/her vote on his/her own proposal or amendment, except if it has been amended.

XI. Elections

Method of voting for elections

Rule 52

All elections shall be held by secret ballot, unless otherwise decided by the Conference of the Parties.

Absence of majority

Rule 53

1. If, when one person or one delegation is to be elected, no candidate obtains in the first ballot a majority of the votes cast by the Parties present and voting, a second ballot restricted to the two candidates obtaining the largest number of votes shall be taken. If in the second ballot the votes are equally divided, the President shall decide between the candidates by drawing lots.

2. In the case of a tie in the first ballot among three or more candidates obtaining the largest number of votes, a second ballot shall be held. If a tie results among more than two candidates, the number shall be reduced to two by lot and the balloting, restricted to them, shall continue in accordance with the procedure set forth in paragraph 1.

Election to two or more elective places

Rule 54

1. When two or more elective places are to be filled at one time under the same conditions, those candidates, not exceeding the number of such places, obtaining in the first ballot the largest number of votes and a majority of the votes cast by the Parties present and voting shall be deemed elected.

2. If the number of candidates obtaining such majority is less than the number of persons or delegations to be elected, there shall be additional ballots to fill the remaining places, the voting being restricted to the candidates obtaining the greatest number of votes in the previous ballot, to a number not more than twice the places remaining to be filled, provided that, after the third inconclusive ballot, votes may be cast for any eligible person or delegation.

3. If three such unrestricted ballots are inconclusive, the next three ballots shall be restricted to the candidates who obtained the greatest number of votes in the third of the unrestricted ballots, to a number not more than twice the places remaining to be filled, and the following three ballots thereafter shall be unrestricted, and so on until all the places have been filled.

XII. Languages and sound records

Official languages

Rule 55

The official languages of the Conference of the Parties shall be Arabic, Chinese, English, French, Russian and Spanish.

Interpretation

Rule 56

1. Statements made in an official language shall be interpreted into the other official languages.

2. A representative of a Party may speak in a language other than an official language if the Party provides for interpretation into one such official language.

Languages of official documents

Rule 57

Official documents of the meetings shall be drawn up in one of the official languages and translated into the other official languages.

Sound recordings of meetings

Rule 58

Sound recordings of the meetings of the Conference of the Parties, and whenever possible of the subsidiary bodies, shall be kept by the Secretariat, consistent with the practice of the United Nations.

XIII. Amendments to the rules of procedure

Rule 59

The present rules of procedure may be amended by consensus by the Conference of the Parties.

XIV. Overriding authority of the Convention

Precedence of Convention

Rule 60

In the event of any conflict between any provision of the present rules and any provision of the Convention, the Convention shall prevail.

XV. Miscellaneous

Italicized headings

Rule 61

The italicized headings of the present rules are for reference purposes only. They shall be disregarded in the interpretation of the rules.

Annex V

Draft financial rules

A. Scope

1. The present rules shall govern the financial administration of the Conference of the Parties to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, its subsidiary bodies and the Convention secretariat. In respect of matters not specifically provided for by the present rules, the Financial Regulations and Rules of the United Nations shall apply.

B. Financial period

2. The financial period shall be a biennium consisting of two consecutive calendar years.

C. Budget

3. The head(s) of the Convention secretariat shall prepare the budget proposal for the following biennium in US dollars and showing projected income and expenditures for each year of the biennium concerned as well as show the actual income and expenditures for each year of the previous biennia. This information shall be dispatched to all Parties to the Convention at least 90 days before the opening of the meeting of the Conference of the Parties at which the budget is to be adopted.

4. The Conference of the Parties shall consider the budget proposal and adopt an operational budget by consensus authorizing expenditures, other than those referred to in paragraphs 9, [9 bis] and 10, prior to the commencement of the financial period that it covers.

5. Adoption of the operational budget by the Conference of the Parties shall constitute authority to the head(s) of the Convention secretariat to incur obligations and make payments for the purposes for which the appropriations were approved and up to the amounts so approved, provided always that, unless specifically authorized by the Conference of the Parties, commitments are covered by related income.

6. The head(s) of the Convention secretariat may make transfers within each of the main appropriation lines of the approved operational budget. The head(s) of the Convention secretariat may also make transfers between such appropriation lines up to limits that the Conference of the Parties may set as appropriate.

D. Funds

7. A general trust fund for the Convention shall be established by the [Executive Director of the United Nations Environment Programme (UNEP)] [Director-General of the Food and Agriculture Organization of the United Nations (FAO)] and managed by the head(s) of the Convention secretariat. The fund is to provide financial support to the work of the Convention secretariat. Contributions made pursuant to paragraph 12 (a) shall be credited to this fund. Contributions made to offset operational budget expenditures that are made, pursuant to paragraph 12 (b) [by the Government hosting the Convention secretariat] or pursuant to paragraph 12 (c) [by non-Parties and] by the United Nations and FAO, shall also be credited to this fund. All budget expenditures that are made pursuant to paragraph 5 above shall be charged to the General Trust Fund.

8. Within the General Trust Fund there shall be maintained a working capital reserve at a level to be determined from time to time by the Conference of the Parties by consensus. The purpose of the working capital reserve shall be to ensure continuity of operations in the event of a temporary shortfall of cash. Drawdowns from the working capital reserve shall be restored from contributions as soon as possible.

[Alternative 1:

9. A special trust fund shall be established by the [Executive Director of UNEP] [Director-General of FAO] and managed by the head(s) of the Convention secretariat. This fund shall receive contributions pursuant to paragraphs 12 (b) and (c) that have been earmarked to support, in particular:

- (a) [Facilitation of] technical assistance, training and capacity-building in accordance with Article 16;
- (b) Appropriate participation of representatives of developing country Parties and of Parties with economies in transition in the meetings of the Conference of the Parties and its subsidiary bodies;
- (c) Other appropriate purposes consistent with the objectives of the Convention.]

[Alternative 2:

9. A special trust fund shall be established by the [Executive Director of UNEP] [Director-General of FAO] and managed by the head(s) of the Convention secretariat. The Special Trust Fund shall receive contributions pursuant to paragraphs 12 (b) and (c) that have been earmarked to support appropriate participation of representatives of developing country Parties and of Parties with economies in transition in the meetings of the Conference of the Parties and its subsidiary bodies.

9 bis. A supplementary trust fund shall be established by the [Executive Director of UNEP] [Director-General of FAO] and managed by the head(s) of the Convention secretariat. The Supplementary Trust Fund shall receive contributions pursuant to paragraphs 12 (b) and (c), other than those specified in paragraphs 7, 9 and 10 that have been earmarked to support:

- (a) [Facilitation of] technical assistance, training and capacity building in accordance with Article 16;
- (b) Other appropriate purposes consistent with the objectives of the Convention.]

10. Subject to the approval of the Conference of the Parties, the [Executive Director of UNEP] [Director-General of FAO] may establish other trust funds, that have been earmarked in accordance with paragraph 15 for purposes other than those referred to in paragraph[s] 9 [and 9 bis], provided that they are consistent with the objectives of the Convention.

11. In the event that the Conference of the Parties decides to terminate a Trust Fund established pursuant to the present rules, it shall so advise the [Executive Director of UNEP] [Director-General of FAO] at least six months before the date of termination so decided. The Conference of the parties shall decide, in consultation with the [Executive Director of UNEP] [Director-General of FAO], on the distribution of any uncommitted balances after all liquidation expenses have been met.

E. Contributions

12. The resources of the Conference of the Parties shall comprise:

- (a) Contributions made each year by parties on the basis of an indicative scale adopted by consensus by the Conference of the Parties, and based on such a scale of assessments of the United Nations as may be adopted from time to time by the General Assembly, adjusted so as to ensure that no party contributes less than 0.01 per cent of the total, that no one contribution exceeds [] per cent of the total and that no contribution from a least developed country party exceeds 0.01 per cent of the total;
- (b) Contributions made by parties in addition to those made pursuant to paragraph (a), including those made by the Government(s) hosting the Convention secretariat;
- (c) Contributions from States not parties to the Convention, as well as governmental, intergovernmental and non-governmental organizations, and other sources;
- (d) The uncommitted balance of appropriations from previous financial periods;
- (e) Miscellaneous income.

13. The Conference of the Parties shall, in adopting the indicative scale of contributions referred to in paragraph 12 (a), make adjustments to take account of contributions of parties which are not members of the United Nations, as well as those regional economic integration organizations that are parties.

14. In respect of contributions made pursuant to paragraph 12 (a):

- (a) Contributions for each calendar year are expected on 1 January of that year;
- (b) Each party shall, as far in advance as possible of the date expected for the contribution, inform the head(s) of the Convention secretariat of the contribution it intends to make and of the projected timing of that contribution.

15. Contributions made pursuant to paragraph 12 (b) and (c) shall be used in accordance with such terms and conditions, consistent with the objectives of the Convention and the Financial Regulations and Rules of the United Nations, as may be agreed between the head(s) of the Convention secretariat and the contributor.

16. Contributions made pursuant to paragraph 12 (a) from States and regional economic integration organizations that become parties to the Convention after the beginning of a financial period shall be made pro rata temporis for the balance of that financial period. Consequential adjustments shall be made at the end of each financial period for other parties.

17. All contributions shall be paid in United States dollars or the equivalent in a convertible currency into a bank account to be designated by the [Executive Director of UNEP] [Director-General of FAO], in consultation with the head(s) of the Convention secretariat.

18. The head(s) of the Convention secretariat shall acknowledge promptly the receipt of all pledges and contributions and shall inform the Parties, twice a year, of the status of pledges and payments of contributions.

19. Contributions not immediately required shall be invested at the discretion of the [Executive Director of UNEP] [Director-General of FAO], in consultation with the head(s) of the Convention secretariat. The resulting income shall be credited to the relevant fund or funds referred to in paragraphs 7, 9 [9 bis] and 10.

F. Accounts and audit

20. The accounts and financial management of all funds governed by the present rules shall be subject to the internal and external audit process of the United Nations.

21. An interim statement of accounts for the first year of the financial period shall be provided to the Conference of the Parties during the second year of the period, and a final audited statement of accounts for the full financial period shall be provided to the Conference of the Parties as soon as possible after the accounts for the financial period are closed.

G. Administrative support costs

22. The Conference of the Parties shall reimburse [UNEP] [FAO] for the services provided to the Conference of the Parties, its subsidiary bodies and the Convention secretariat from the funds referred to in paragraphs 7, 9 and 10 under such terms as may from time to time be agreed upon between the Conference of the Parties and [UNEP] [FAO] or, in the absence of such agreement, in accordance with the general policy of the United Nations.

H. Amendments

23. Any amendment to the present rules shall be adopted by the Conference of the Parties by consensus.

Annex VI

Settlement of disputes

Draft rules on arbitration

The arbitration procedure for purposes of paragraph 2 (a) of article 20 of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade shall be as follows:

Article 1

1. A Party may initiate recourse to arbitration in accordance with article 20 of the Convention by written notification addressed to the other Party to the dispute. The notification shall be accompanied by a statement of the claim, together with any supporting documents, and shall state the subject matter for arbitration including, in particular, the articles of the Convention the interpretation or application of which are at issue.

2. The claimant Party shall notify the secretariat that the Parties are referring a dispute to arbitration pursuant to article 20. The written notification of the claimant Party shall be accompanied by the statement of claim and the supporting documents referred to in paragraph 1 above. The secretariat shall forward the information thus received to all Parties.

Article 2

1. In disputes between two Parties, an Arbitral Tribunal shall be established. It shall consist of three members.

2. Each of the Parties to the dispute shall appoint an arbitrator and the two arbitrators so appointed shall designate by common agreement the third arbitrator, who shall be the President of the Tribunal. The President of the Tribunal shall not be a national of one of the Parties to the dispute, nor have his or her usual place of residence in the territory of one of these Parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

3. In disputes between more than two Parties, Parties in the same interest shall appoint one arbitrator jointly by agreement.

4. Any vacancy shall be filled in the manner prescribed for the initial appointment.

5. If the Parties do not agree on the subject matter of the dispute before the President of the Arbitral Tribunal is designated, the Arbitral Tribunal shall determine the subject matter.

Article 3

1. If one of the Parties to the dispute does not appoint an arbitrator within two months of the date on which the respondent Party receives the notification of the arbitration, the other Party may inform the Secretary-General of the United Nations who shall make the designation within a further two-month period.

2. If the President of the Arbitral Tribunal has not been designated within two months of the date of the appointment of the second arbitrator, the Secretary-General of the United Nations shall, at the request of a Party, designate the President within a further two-month period.

Article 4

The Arbitral Tribunal shall render its decisions in accordance with the provisions of the Convention and international law.

Article 5

Unless the parties to the dispute agree otherwise, the Arbitral Tribunal shall determine its own rules of procedure.

Article 6

The Arbitral Tribunal may, at the request of one of the Parties, recommend essential interim measures of protection.

Article 7

The Parties to the dispute shall facilitate the work of the Arbitral Tribunal and, in particular, using all means at their disposal, shall:

- (a) Provide it with all relevant documents, information and facilities; and
- (b) Enable it, when necessary, to call witnesses or experts and receive their evidence.

Article 8

The Parties and the arbitrators are under an obligation to protect the confidentiality of any information they receive in confidence during the proceedings of the Arbitral Tribunal.

Article 9

Unless the Arbitral Tribunal determines otherwise because of the particular circumstances of the case, the costs of the Tribunal shall be borne by the Parties to the dispute in equal shares. The Tribunal shall keep a record of all its costs and shall furnish a final statement thereof to the Parties.

Article 10

A Party that has an interest of a legal nature in the subject matter of the dispute which may be affected by the decision in the case, may intervene in the proceedings with the consent of the Arbitral Tribunal.

Article 11

The Arbitral Tribunal may hear and determine counterclaims arising directly out of the subject matter of the dispute.

Article 12

Decisions of the Arbitral Tribunal on both procedure and substance shall be taken by a majority vote of its members.

Article 13

1. If one of the Parties to the dispute does not appear before the Arbitral Tribunal or fails to defend its case, the other Party may request the Tribunal to continue the proceedings and to render its decision. Absence of a Party or failure of a Party to defend its case shall not constitute a bar to the proceedings.

2. Before rendering its final decision, the Arbitral Tribunal must satisfy itself that the claim is well founded in fact and law.

Article 14

The Arbitral Tribunal shall render its final decision within five months of the date on which it is fully constituted, unless it finds it necessary to extend the time limit for a period which should not exceed five more months.

Article 15

The final decision of the Arbitral Tribunal shall be confined to the subject matter of the dispute and shall state the reasons on which it is based. It shall contain the names of the members who have participated and the date of the final decision. Any member of the Tribunal may attach a separate or dissenting opinion to the final decision.

Article 16

The award shall be binding on the parties to the dispute. The interpretation of the Convention given by the award shall also be binding upon a Party intervening under article 10 above insofar as it relates to matters in respect of which that Party intervened. The award shall be without appeal unless the parties to the dispute have agreed in advance to an appellate procedure.

Article 17

Any controversy which may arise between those bound by the final decision in accordance with article 16 above, as regards the interpretation or manner of implementation of that decision, may be submitted by any of them for decision to the Arbitral Tribunal which rendered it.

Annex VII

Draft rules on conciliation

The conciliation procedure for purposes of paragraph 6 of Article 20 of the Convention shall be as follows.

Article 1

1. A request by a party to a dispute to establish a conciliation commission in consequence of paragraph 6 of Article 20 shall be addressed in writing to the Secretariat. The Secretariat shall forthwith inform all Parties accordingly.

2. The conciliation commission shall, unless the parties otherwise agree, be composed of five members, two appointed by each Party concerned and a President chosen jointly by those members.

Article 2

In disputes between more than two parties, parties in the same interest shall appoint their members of the commission jointly by agreement.

Article 3

If any appointments by the parties are not made within two months of the date of receipt by the Secretariat of the written request referred to in Article 1, the Secretary-General of the United Nations shall, upon request by a party, make those appointments within a further two-month¹ period.

Article 4

If the President of the conciliation commission has not been chosen within two months of the fourth member of the commission being appointed, the Secretary-General of the United Nations shall, upon request by a party, designate the President within a further two-month¹ period.

Article 5

1. The conciliation commission shall, unless the parties to the dispute otherwise agree, determine its own rules of procedure.

2. The parties and members of the commission are under an obligation to protect the confidentiality of any information they receive in confidence during the proceedings of the commission.

Article 6

The conciliation commission shall take its decisions by a majority vote of its members.

Article 7

The conciliation commission shall render a report with recommendations for resolution of the dispute within twelve months of being established, which the parties shall consider in good faith.

Article 8

Any disagreement as to whether the conciliation commission has competence to consider a matter referred to it shall be decided by the commission.

Article 9

The costs of the Commission shall be borne by the parties to the dispute in shares agreed by them. The Commission shall keep the record of all its costs and shall furnish a final statement thereof to the parties.

Annex VIII

Non-compliance

Possible decision for consideration by the Conference of the Parties on the approval of procedures and institutional mechanisms for determining non-compliance with the provisions of the Convention and for the treatment of Parties found to be in non-compliance

The Conference of the Parties,

Bearing in mind the provisions of articles 17 and 18, paragraph 5 (a), of the Convention,

Decides to adopt the procedures and institutional mechanisms for determining non-compliance with the provisions of the Convention and for the treatment of Parties found to be in non-compliance set forth in the annex to the present decision.

Annex

Establishment of a compliance committee

1. A compliance committee (hereinafter referred to as “the Committee”) is hereby established.

Members

2. The Committee shall consist of [XX] members. Members shall be nominated by Parties and elected by the Conference of the Parties. In electing members, due consideration shall be given to the principle of equitable geographical representation of [the regional groups of the United Nations] [the [interim] PIC regions].

3. Members shall have expertise and specific qualifications in the subject matter covered by the Convention. They shall serve objectively and in the best interests of the Convention.

Election of members

4. At the meeting at which the present decision is adopted, the Conference of the Parties shall elect half the members for one term and half the members for two terms. The Conference of the Parties shall, at each ordinary meeting thereafter, elect for two full terms new members to replace those members whose period of office has expired or is about to expire. Members shall not serve for more than two consecutive terms. For the purpose of the present decision, “term” shall mean the period that begins at the end of one ordinary meeting of the Conference of the Parties and ends at the end of the next ordinary meeting of the Conference of the Parties.

4 bis. If a member of the Committee resigns or is otherwise unable to complete his or her term of office or to perform his or her functions, the Party who nominated that member shall nominate an alternate to serve for the remainder of the term.

Officers

5. The Committee shall elect its own Chair. [Three] vice-chairs and a rapporteur shall be elected by the Committee in accordance with rule 30 of the rules of procedure of the Conference of the Parties.

Meetings

6. The Committee shall hold meetings as necessary and wherever possible in conjunction with meetings of the Conference of the Parties or other Convention bodies.

7. Subject to paragraph 8 below, the meetings of the Committee shall be [open [to other Parties]] [closed [to the public] [to other Parties or the public] unless the Committee and the Party whose compliance is in question agree otherwise.

[The Parties to whom the meeting is open shall not have a right to participate in the meeting unless the Committee and the Party whose compliance is in question agree otherwise.]

8. Where a submission is made with respect to the possible non-compliance of a Party, it shall be invited to participate in the consideration of the submission by the Committee. Such a Party, however, may not take part in the elaboration and adoption of a recommendation or conclusion of the Committee.

Alternative 1:

[*Quorum*

9. [Two-thirds of the] [X] members of the Committee shall constitute a quorum.

Rules of procedure

10. Except where otherwise provided in this mechanism, the rules of procedure for meetings of the Conference of the Parties shall apply, mutatis mutandis, to the decision-making and proceedings of the meetings of the Committee.]

[Alternative 2 (combined paras. 9 and 10):

The Committee shall make every effort to reach agreement on all matters of substance by consensus. [Where this is not possible the report and recommendations shall reflect the views of all the Committee members.] If all efforts to reach consensus have been exhausted and no agreement has been reached, any decision shall, as a last resort be taken by a two-third majority of the members present and voting or by [six or eight] members, whichever is greater.]

[Ten or eight] members of the Committee shall constitute a quorum.]

11. Submissions may be made in writing, through the secretariat where subparagraph[s] (a) [and (b)] appl[y][ies], by:

- (a) A Party which believes that, despite its best endeavours, it is, or will be, unable to comply with certain obligations under the Convention. Such a submission should include details as to which specific obligations are concerned and an assessment of the reason why the Party may be unable to meet those obligations. Where possible, substantiating information, or advice as to where such substantiating information may be found, may be provided. The submission may include suggestions for solutions which the Party considers may be most appropriate to its particular needs;
- [(b) A Party that has concerns or is affected by a failure to comply with the Convention's obligations by another Party [with which it is directly involved under the Convention]. A Party intending to make a submission under this subparagraph should before so doing undertake consultations with the Party whose compliance is in question. The submission should include details as to which specific obligations are concerned, and information substantiating the submission;]
- [(c) The secretariat, if, while acting pursuant to its functions under [Articles [4, 5, 10 [and][,] 11[and 12]] of] the Convention, it becomes aware of possible difficulties for any Party in complying with its obligations under [Articles [4, 5, 10 [and][,] 11 [and 12]] of] the Convention [or when it receives submissions from individuals or organizations having reservations about a Party's compliance with its obligations under the Convention]].

12. The secretariat shall forward submissions made under subparagraph 11 (a) above, within two weeks of receiving such submissions, to the members of the Committee for consideration at the Committee's next meeting.

[13. The secretariat shall, within two weeks of its receiving any submission made under subparagraph 11 (b) or making a submission under subparagraph 11(c) above, send a copy to the Party whose compliance with the Convention is in question and to the members of the Committee for consideration at the Committee's next meeting.]

14. Parties whose compliance is in question may present responses or comments at every step of the proceedings described in the present decision.

15. Without prejudice to paragraph 14 above, additional information, provided by a Party whose compliance is in question in response to a submission, should be forwarded to the secretariat within three months of the date of receipt of the submission by that Party, unless the circumstances of a particular case require an extended period of time. Such information shall be immediately transmitted to the members of the Committee for consideration at the Committee's next meeting. [Where a submission has been made pursuant to subparagraph 11 (b) above, the information shall be forwarded by the secretariat also to the Party that made the submission.]

16. The Committee may decide not to proceed with submissions which it considers to be:

- (a) De minimis;
- (b) Manifestly ill-founded.

Facilitation

17. The Committee shall consider any submission made to it in accordance with paragraph 11 above with a view to establishing the facts and the root causes of the matter of concern, and to assisting in its resolution. To that end, the Committee may provide a Party with:

- (a) Advice;
- (b) Non-binding recommendations;
- (c) Any further information required to assist the Party in developing a compliance plan, including timelines and targets.

Additional measures

18. If, after undertaking the facilitation procedure set forth in paragraph 17 above and taking into account the cause, type, degree and frequency of compliance difficulties, [as well as the capacities of the Parties whose compliance is in question] the Committee considers it necessary to propose further measures to address a Party's compliance problems, it may recommend to the Conference of the Parties that it consider [appropriate measures, to be taken in accordance with international law, to attain compliance, including]:

- (a) Further support under the Convention for the Party concerned, including facilitation, as appropriate, of access to financial resources for technical assistance and capacity-building.
- (b) Providing advice regarding future compliance in order to help Parties to implement the provisions of the Convention and to promote cooperation between all Parties;
- (c) Statement of concern regarding possible future non-compliance;
- [(d) Statement on the determination of non-compliance;]
- [(e) Issuing a caution;]
- [(f) Suspending rights and privileges under the Convention.]
- [(g) Arranging for re-export of chemicals imported in violation of the Convention]

[18 bis It is understood that as far as developing countries and countries with economies in transition are concerned, additional measures referred to in paragraph 18 should not be undertaken towards these countries, if the reasons for non-compliance are lack of technical assistance or inadequate capacity to fulfil their obligations.]

Handling of information

19. [The Committee may receive relevant information, through the secretariat, from the Parties and from all other sources.]

[19 alt: As regards paragraph 11 submissions, the Committee may only receive information:

- (a) Submitted by the secretariat from Parties pursuant to paragraphs 11 and 15;
- (b) Obtained by the secretariat from Parties while acting pursuant to its functions under the Convention; and
- (c) With the consent of the Party concerned, as requested by the Committee from any source.]

[19 bis: For the purposes of examining systemic issues of general compliance under paragraph 22, the Committee may:

- (a) Request information from all Parties;
- (b) Request relevant information from any reliable sources and outside experts; and
- (c) Consult with the secretariat and draw upon its experience and knowledge base.]

20. Subject to article 14 of the Convention, the Committee, any Party and any person involved in the deliberations of the Committee shall protect the confidentiality of information received in confidence.

Monitoring

21. The Compliance Committee should monitor the consequences of action taken in pursuance of paragraphs 17 or 18 above.

General compliance issues

22. The Compliance Committee may examine systemic issues of general compliance of interest to all Parties where:

- (a) The Conference of the Parties so requests;
- (b) The Committee, on the basis of information obtained by the secretariat, while acting pursuant to its functions under the convention, from Parties and submitted to the Committee by the secretariat, decides that there is a need for an issue of general non-compliance to be examined and for a report on it to be made to the Conference of the Parties.

Reports to the Conference of the Parties

23. The Committee shall submit a report [to each ordinary meeting of][, as appropriate, to] the Conference of the Parties reflecting:

- (a) The work that the Committee has undertaken;
- (b) The conclusions or recommendations of the Committee;
- (c) The future programme of work of the Committee, including the schedule of expected meetings which it considers necessary for the fulfilment of its programme of work, for the consideration and approval of the Conference of the Parties.

Other subsidiary bodies

24. Where the activities of the Committee with respect to particular issues overlap with the responsibilities of another Rotterdam Convention body, the Conference of the Parties may direct the Committee to consult with that body.

Other multilateral environmental agreements

[25. Where there is an overlap with obligations and responsibilities under other multilateral environmental agreements, the Conference of the Parties may request the Committee to communicate and exchange experience with similar types of committees of those other agreements and to report to the Conference of the Parties.]

Review of the compliance mechanism

26. The Conference of the Parties shall regularly review the implementation of the procedures and mechanisms set forth in the present decision.

Relationship with settlement of disputes

27. These procedures and mechanisms shall be without prejudice to article 20 of the Convention.

Annex IX**Possible decision for consideration by the Conference of the Parties on cooperation between the secretariat of the Rotterdam Convention and the World Trade Organization**

The Conference of the Parties,

Noting that the United Nations Environment Programme and the World Trade Organization have developed an informal institutional dialogue over several years, a process that started under the General Agreement on Tariffs and Trade and continued until 1994, before the existence of the World Trade Organization,

Noting also that informal dialogue has been taking place more recently between multilateral environmental agreements, including between the interim secretariat of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the World Trade Organization, to enhance synergies in particular in relation to trade and environment,

Mindful of the need to strengthen cooperation between the Rotterdam Convention and the World Trade Organization within their respective mandates,

1. *Welcomes* the enhanced cooperation between the secretariat of the Rotterdam Convention and the World Trade Organization;
 2. *Requests* the secretariat:
 - (a) To seek observer status in the Committee on Trade and Environment in Special Session and inform Parties when the request has been submitted and when it has been granted;
 - (b) To report to the Conference of the Parties of the Rotterdam Convention on any meetings of the World Trade Organization that it attends and any substantive contacts that it has with the Secretariat of the World Trade Organization;
 - (c) To monitor developments in the Committee on Trade and Environment in Special Session of the World Trade Organization and report on such developments that are relevant and could have an impact on the Rotterdam Convention and its implementation to its Conference of the Parties;
 - (d) To reflect on ways of enhancing information flows on matters of common interest with the World Trade Organization;
 3. *Further requests* the secretariat, when called upon, to provide general and factual information on the provisions of the Rotterdam Convention and advise the Parties of any information provided, and also, if the Rotterdam Convention Secretariat is requested to provide an interpretation of the provisions of the Convention, to refer such requests to the Conference of the Parties;
 4. *Encourages* Governments to apprise their representatives on the Committee on Trade and Environment in Special Session of the World Trade Organization of the present decision.
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