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

Tenth session

Geneva, 17-21 November 2003

Item 9 of the provisional agenda*

Other matters

WORLD TRADE ORGANIZATION

Note by the secretariat

1. At its ninth session, the Intergovernmental Negotiating Committee noted “the increasing links on trade issues between the Rotterdam Convention and the work of the World Trade Organization (WTO)” and “requested the secretariat to prepare a paper detailing the ongoing and planned cooperation with WTO on aspects of the Rotterdam Convention related to international trade.” (UNEP/FAO/PIC/INC.9/21, para. 150).

2. Relations of the Rotterdam Convention with other international agreements are governed by the eighth, ninth and tenth recitals of the Convention, which read as follows:

“Recognizing that trade and environment policies should be mutually supportive with a view to achieving sustainable development,

Emphasizing that nothing in this Convention shall be interpreted as implying in any way a change in the rights and obligations of a Party under any existing international agreement applying to chemicals in international trade or to environmental protection,

Understanding that the above recital is not intended to create a hierarchy between this Convention and other international agreements . . . ”

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

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Cooperation between WTO and multilateral environmental agreements

3. Within WTO, issues of trade and environment are considered by the WTO Committee on Trade and Environment (CTE), which was created following the adoption of the 1994 Ministerial Decision on Trade and Environment. The mandate of CTE includes: “to identify the relationship between trade measures and environmental measures in order to promote sustainable development and to make appropriate recommendations on whether any modifications of the provisions of the multilateral trading system are required.”
4. At the Fourth WTO Ministerial Conference in Doha, Qatar, in November 2001, ministers agreed to launch negotiations on certain aspects of trade and environment. These negotiations aim at covering, among other things, the relationship between WTO rules and trade obligations under multilateral environmental agreements, as well as procedures for information exchange between multilateral environmental agreements and WTO committees, including criteria for granting observer status. In Doha, ministers also instructed CTE to focus its work on three issues: the effects of environmental measures on market access; the relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights, and labelling requirements for environmental purposes.
5. CTE membership is open to WTO members. A number of intergovernmental organizations, including several multilateral environmental agreements, have observer status at its meetings. The following multilateral environmental agreements have requested and obtained observer status: Convention on Biological Diversity; Convention on International Trade in Endangered Species of Wild Fauna and Flora; International Commission for the Conservation of Atlantic Tunas; United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa. The United Nations Environment Programme (UNEP) also has observer status with CTE. WTO has observer status at meetings of the UNEP Governing Council and attends meetings of multilateral environmental agreements as an observer.
6. Since 2000, WTO has been issuing on a regular basis the Matrix on Trade Measures Pursuant to Selected MEAs (WT/CTE/W/160/Rev.2), in response to a request by members of CTE. The matrix describes briefly a number of multilateral environmental agreements, with special focus on trade-related dispute settlement provisions in each of them.
7. The interim secretariat of the Rotterdam Convention participated in multilateral environmental agreement information sessions of CTE at its invitation in order to provide information on the Convention. Since, however, observer status with CTE is granted only to multilateral environmental agreements which are in force, the secretariat of the Rotterdam Convention has not formally been invited as an observer to the meetings. The ongoing cooperation with WTO has therefore been limited to informing CTE about the Convention on an ad hoc basis. Also, UNEP meetings, including representatives of secretariats of multilateral environmental agreements, have been organized back-to-back with WTO meetings.
8. At the first meeting of the WTO Trade Negotiations Committee, on 1 February 2002, it was agreed that negotiations on trade and environment would take place during special sessions of CTE. The latest scheduled special session of CTE, initially due for October 2003, has been postponed until further notice in order to allow for a period of reflection after the Fifth WTO Ministerial Conference, held in Cancun in September 2003.
9. As indicated in paragraph 4 above, there is an opportunity for negotiations on information exchange with WTO and on obtaining observer status with CTE and other relevant WTO bodies, should the Conference of the Parties of the Convention so decide. Observer status might enable the secretariat to provide WTO bodies with continuous information on the development of the Convention’s procedures, prevent potential overlaps in implementation of the procedures and ensure that treatment of trade and environment issues under the Rotterdam Convention remains mutually supportive with WTO activities.
