



United Nations  
Environment Programme

Food and Agriculture Organization  
of the United Nations

Distr.  
GENERAL

UNEP/FAO/PIC/INC.9/5  
09 June 2002

ORIGINAL: ENGLISH

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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

Ninth session

Bonn, 30 September-4 October 2002

Item 4 (a) of the provisional agenda\*

IMPLEMENTATION OF THE INTERIM PRIOR INFORMED CONSENT PROCEDURE: STATUS OF  
IMPLEMENTATION OF THE INTERIM PRIOR INFORMED CONSENT PROCEDURE

Note by the secretariat

Introduction

1. The purpose of the present note is to provide the Intergovernmental Negotiating Committee with information on the status of implementation of the interim prior informed consent (PIC) procedure, as at 30 April 2002. The information summarizes that which has been circulated to Designated National Authorities by the secretariat, in line with articles 4 to 7, 10, 11 and 14 of the Convention, through the PIC Circular. The PIC Circular is published every six months, in June and December.

I. DESIGNATED NATIONAL AUTHORITIES

2. In line with article 4, paragraph 4, of the Convention, the secretariat informs the Parties of new nominations or changes in nominations of Designated National Authorities.

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\* UNEP/FAO/PIC/INC.9/1.

3. As at 30 April 2002, 166 Parties<sup>1</sup> were participating in the interim PIC procedure, and had nominated a total of 250 Designated National Authorities. The secretariat updates the list of Designated National Authorities as new nominations and changes to existing Designated National Authorities are received and distributes the complete list together with the PIC circular every six months.

## II. CHEMICALS SUBJECT TO THE INTERIM PIC PROCEDURE AND DISTRIBUTION OF DECISION GUIDANCE DOCUMENTS

4. Appendix III of the PIC Circular contains a list of chemicals that are currently subject to the interim PIC procedure and the date of first dispatch of the corresponding decision guidance document to Designated National Authorities.

5. To date, 21 pesticides, five severely hazardous pesticide formulations and five industrial chemicals are subject to the interim PIC procedure. These include the chemicals listed in annex III of the Convention as well as binapacryl, toxaphene, ethylene dichloride and ethylene oxide. The Negotiating Committee, at its sixth session, in July 1999, and its seventh session, in November 2000, adopted decision guidance documents for binapacryl and toxaphene and for ethylene oxide and ethylene dichloride, respectively, with the effect that these four chemicals are now subject to the interim PIC procedure.

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

6. In line with article 5, paragraph 3, of the Convention, the secretariat is required to circulate summaries of notifications of final regulatory action received, having verified whether the notification contains the information required under annex I of the Convention. In line with article 5, paragraph 4, of the Convention, the secretariat is to circulate a synopsis of the notifications of final regulatory action it has received, including information regarding those notifications that do not contain all the information required under annex I of the Convention. Such a synopsis is provided in the PIC Circular.

7. Table 1 below gives an overview of the number of notifications submitted under the interim PIC procedure between 11 September 1998 and 30 April 2002.

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<sup>1</sup> During the interim period before the Convention enters into force, a “Party” is understood to mean any State or regional economic integration organization having nominated a Designated National Authority or Authorities for the purpose of participating in the interim PIC procedure.

Table 1. Overview of number of notifications submitted under the interim PIC procedure

(11 September 1998 to 30 April 2002)

	PIC Circular XII December 2000	PIC Circular XIII June 2001	PIC Circular XIV December 2001	PIC Circular XV June 2002
Notifications submitted	66	23	40	8
Number of notifying States	10	5 <sup>2</sup>	5 <sup>2</sup>	5 <sup>2</sup>
Notifications verified to meet the requirements of annex I of the Convention	42	23	40	8
Notifications verified not to meet the requirements of annex I of the Convention	24	--	--	--
Notifications on chemicals already subject to the PIC procedure	24	--	2	--
Notifications on new chemicals not subject to the interim PIC procedure	42	23	38	8

8. Overall the number of countries submitting notifications appears to be relatively constant. There would also appear to have been an increase in the submission of notifications for new chemicals which are not presently included in the interim PIC procedure, as well as in the proportion of these notifications that have been verified as complete. However, due to the limited data available, it is difficult to draw any firm conclusions regarding trends.

9. Despite the decline in the number of submitted notifications, the secretariat has received notifications which met the information requirements of annex I from at least two interim PIC regions for three candidate chemicals (two pesticides, DNOC and dinoterb, and one industrial chemical, asbestos). Summaries of these notifications were published in PIC Circular. The notifications and supporting documentation were forwarded to the members of the Interim Chemical Review Committee for consideration at its third session.

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

10. In line with article 6, paragraph 2, of the Convention, once the secretariat has verified that a submitted proposal for a severely hazardous pesticide formulation contains the information required in part 1 of annex IV of the Convention, it is to prepare a summary of the proposal and initiate collection of the information listed in part 2 of annex IV. The summaries of the proposals verified as complete are included in appendix II of the PIC Circular.

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<sup>2</sup> Includes the European Community (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden and United Kingdom).

11. As at 30 April 2002, one State had submitted two proposals for a severely hazardous pesticide formulation, which were verified as complete. Summaries of these proposals were published in PIC Circular XIV (December 2001). The proposals were forwarded to the members of the Interim Chemical Review Committee for consideration at its third session.

#### V. TRANSMITTAL OF A RESPONSE CONCERNING FUTURE IMPORT OF A CHEMICAL

12. In line with article 10, paragraph 2, of the Convention, for each chemical subject to the interim PIC procedure, each Party shall transmit to the secretariat, as soon as possible, and in any event no later than nine months after the date of dispatch of the decision guidance document, a response concerning the future import of the chemical concerned. In line with article 10, paragraph 4 of the Convention, the response shall consist of either a final decision or an interim response. The interim response may include an interim decision regarding import. In line with article 10, paragraph 2, of the Convention, if a Party modifies this response, the Designated National Authority must forthwith submit the revised response to the secretariat.

13. In line with article 10, paragraph 3, of the Convention, the secretariat shall, at the expiration of the time period given in article 10, paragraph 2, forthwith address to a Party that has not provided such a response a written request to do so, through its Designated National Authority. This is done through the PIC Circular. Where a Party is listed in appendix IV of the PIC Circular under the heading "Cases of failure to transmit a response", the Designated National Authority should consider this to represent a written request for that Party to provide a response for that chemical in line with article 10, paragraph 2.

#### VI. INFORMATION ON RESPONSES RECEIVED CONCERNING FUTURE IMPORT OF A CHEMICAL

14. In line with article 10, paragraph 10, of the Convention the secretariat shall, every six months, inform all Parties of the responses received regarding future import, including a description of the legislative or administrative measures on which the decisions have been based, where available, and information on cases of failure to transmit a response. This is done via appendix IV of the PIC Circular.

15. Any Party is considered to have failed to transmit an import response if the secretariat has not received a response from the Designated National Authority within nine months of the date of dispatch of the decision guidance document to the Party. For each chemical, appendix IV of the PIC Circular identifies each Party and gives the date on which the secretariat first informed the Parties, through publication of the PIC Circular, that the Party had failed to transmit a response. In addition, any response listed in the PIC Circular not addressing importation is considered as an interim response that does not contain an interim decision.

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

17. Table 2 below contains an overview of the level of import responses for all of the chemicals subject to the interim PIC procedure submitted by Parties as at 30 April 2002. The first three columns present the number of import responses and the overall rate of import responses for those chemicals for which the decision guidance documents were dispatched prior to September 1998 and that are listed in annex III to the Convention. The last two columns present the number of import responses and the overall rate of response for those chemicals added to the interim PIC procedure since September 1998 and for which decision guidance documents were dispatched in September 1999 (binapacryl and toxaphene) and February 2001 (ethylene oxide and ethylene dichloride). The first row of the table presents the actual number of responses submitted against the total number of possible responses, with the response rate (calculated as a percentage) indicated in parentheses, as at December 1999. The middle rows of the table present the number of

additional responses received and recorded in the individual subsequent PIC Circulars. Totals are provided in the last two rows of the table.

Table 2. Overview of the number of importing country responses for all PIC chemicals  
(as at 30 April 2002)

PIC Circular	Decision guidance document dispatched prior to adoption of the Convention (September 1998)			Decision guidance document dispatched after adoption of the Convention	
	Pesticides	Severely hazardous pesticide formulations	Industrial chemicals	Pesticides (Sept. 1999)	Pesticides (Feb. 2001)
X (December 1999) Submitted/expected <sup>2</sup> (rate)	1,508/2,669 (57%)	165/785 (21%)	225/785 (29%)	--	--
XI (June 2000) Submitted/expected	+5	+6	+0	27/326 (8%)	--
XII (December 2000) Submitted	+128	+99	+14	+34	--
XIII (June 2001) Submitted	+56	+24	+15	+10	--
XIV (December 2001) Submitted/expected	+30	+16	+4	+13	67/330 (20%)
XV (June 2002) Submitted	+0	+0	+10	+0	+5
Submitted/expected (rate)	1,727/2,822 (61%)	310/830 (37%)	268/830 (32%)	84/332 (25%)	72/332 (22%)
Grand Total	2461/5,146 (48%)				

18. As at 30 April 2002, a total of 2461 responses regarding future import of a chemical had been received from Parties regarding the 31 chemicals subject to the interim PIC procedure. This represents an overall response rate of 48 per cent.

19. For pesticides, including severely hazardous pesticide formulations listed in annex III to the Convention, there were no new import responses reported in the most recent PIC Circular (June 2002). This decreasing number of submissions may reflect the fact that the number of countries participating in the interim PIC procedure has stabilized. In general, there are a significant number of countries that have provided no import responses for any of the chemicals in the interim PIC procedure.

20. In the case of those chemicals for which decision guidance documents were distributed in September 1999 (binapacryl, toxaphene) there were no import responses reported in the most recent PIC Circular (June 2002). The overall rate of import responses for the four chemicals added to the interim PIC procedure since September 1998 is relatively low at 22 to 25 per cent.

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

<sup>2</sup> The expected number of responses is calculated for all countries participating in the PIC procedure at the time indicated for chemicals concerned in each column.

## VII. ASSISTANCE PROVIDED BY THE SECRETARIAT FOR THE IMPLEMENTATION OF THE INTERIM PIC PROCEDURE

22. For each import response, notification of final regulatory action or proposal for a severely hazardous pesticide formulation submitted to the secretariat that is verified as not meeting the information requirements of the Convention, detailed advice on the information that is missing is provided to the Designated National Authority.

23. At its eighth session, the Intergovernmental Negotiating Committee requested the secretariat to provide hands-on training to Designated National Authorities, through regional workshops, in the implementation of the interim PIC procedure and to develop guidance to Designated National Authorities. Workshops have been held in Jamaica for the English speaking countries of Latin America and the Caribbean (8 to 12 April 2002) and Senegal for French speaking African countries (10 to 14 June 2002). The programme for these workshops was oriented towards practical hands-on training in the operation of the interim PIC procedure. The feedback from workshop participants has been positive, with their stating that the practical training provided will assist them in the implementation of the interim PIC procedure. In the course of the workshops, countries were provided with a status report on their submission of import responses which clearly identified those chemicals for which import responses had not been received. One way in which to gain an indication of the success of these workshops and of the follow-up by participating countries will be to monitor the number of importing country responses submitted by these countries in the next 6 to 12 months.

24. The secretariat has also developed guidance for Designated National Authorities on the operation of the interim PIC procedure. The guidance sets out all of the actions required of Designated National Authorities in performing their functions in accordance with the Convention. A working draft of the guidance document will be made available to participants at the ninth session of the Intergovernmental Negotiating Committee.

## VIII. INFORMATION ON TRANSIT MOVEMENTS

25. As at 30 April 2002, no Party had reported to the secretariat information on transit movements through its territory of chemicals included in the interim PIC procedure.

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