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Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade
Conference of the Parties
Fifth meeting
Geneva, 20–24 June 2011
Item 5 (b) of the provisional agenda*

Matters related to the implementation of the Convention: Chemical Review Committee

Reports of the Chemical Review Committee

Note by the Secretariat

Addendum

Report of the Chemical Review Committee on the work of its fifth meeting

1. The annex to the present note contains the report of the Chemical Review Committee on the work of its fifth meeting.

Possible action by the Conference of the Parties

2. The Conference of the Parties may wish to take note of the report and consider any particular requests therein.

* UNEP/FAO/RC/COP.5/1/Rev.1.

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Annex

Report of the Chemical Review Committee on the work of its fifth meeting

Introduction

1. The Chemical Review Committee, hereinafter referred to as the Committee, was established pursuant to decision RC-1/6 of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, adopted in September 2004 at the first meeting of the Conference of the Parties to the Convention, with a membership of 31 government-designated experts.

2. In accordance with paragraph 13 of decision RC-1/6 and pursuant to the provisions of Articles 5, 6, 7 and 9 of the Rotterdam Convention, the functions and responsibilities of the Committee are to make recommendations on the inclusion of chemicals notified as banned or severely restricted; to make recommendations on the inclusion of severely hazardous pesticide formulations; to prepare, as appropriate, relevant draft decision guidance documents; and to make recommendations on the removal of chemicals from Annex III of the Convention.

I. Opening of the meeting

3. The fifth meeting of the Committee was held at the headquarters of the Food and Agriculture Organization of the United Nations in Rome from 23 to 27 March 2009. The meeting was opened at 10 a.m. on Monday, 23 March 2009 by Ms. Karmen Krajnc (Slovenia), Chair of the Committee.

4. Mr. Peter Kenmore, Co-Executive Secretary of the Rotterdam Convention, welcomed the new members of the Committee and thanked those whose terms of office would come to an end following the current meeting for their hard work. He spoke of the tasks facing the Committee during the week and urged the members to ensure that, when applying the criteria set out in the Convention to the chemicals before them, the basis for decisions was clearly set out in the rationales developed, so as to inform those who were unable to participate and also the Conference of the Parties at its fifth meeting. He called upon the members to continue their hard work and dedication and thanked them for their efforts to date, particularly during the periods between the Committee's meetings. In conclusion, he wished the members of the Committee and observers a successful meeting.

II. Organizational matters

A. Officers

5. The following officers served on the Bureau of the Committee for this meeting:

Chair: Ms. Karmen Krajnc (Slovenia)

Vice-Chairs: Mr. Mohammed Khashashneh (Jordan)
Mr. Klaus Berend (Netherlands)
Mr. Ernest Mashimba (United Republic of Tanzania)
Mr. Michael Ramsay (Jamaica)[1]

Mr. Berend agreed to serve as rapporteur.

B. Attendance

6. The session was attended by the following 29 experts: Mr. Hamoud Darwish Salim al-Hasani (Oman), Mr. Klaus Berend (Netherlands), Ms. Anja Bartels (Austria), Mr. Hubert Binga (Gabon), Ms. Kyunghee Choi (Republic of Korea), Mr. Ignacio Figueroa Cornejo (Chile), Mr. Idris Adamu Goji (Nigeria), Ms. Noluzuko Gwayi (South Africa), Mr. Mohamad Jamal Hajjar (Syrian Arab Republic), Mr. Masayuki Ikeda (Japan), Ms. Amala Jayasekara (Australia), Mr. Aloys Kamatari (Rwanda), Mr. Mohamed Ammar Khalifa (Libyan Arab Jamahiriya), Mr. Mohammed Oqlah Hussein Khashashneh (Jordan), Ms. Karmen Krajnc (Slovenia), Mr. Iurii Kundiev (Ukraine), Ms. Darina Liptakova

1 As Mr. Mario Yarto (Mexico) was unable to attend the meeting, Mr. Michael Ramsay (Jamaica) was elected to replace him as Vice-Chair for the current meeting.

(Czech Republic), Mr. Gamini K. Manuweera (Sri Lanka), Mr. Ernest Mashimba (United Republic of Tanzania), Mr. Mansourou Moudachirou (Benin), Mr. Mario Nichelatti (France), Mr. Magnus Nyström (Finland), Mr. Gopal Krishna Pandey (India), Mr. Michael Frank Ramsay (Jamaica), Ms. Marit E. Randall (Norway), Ms. Norma Ethel Sbarbati-Nudelman (Argentina), Mr. Ousmane Sow (Senegal), Ms. Hang Tang (Canada) and Mr. Shan Zhengjun (China).

7. Observers from the following countries and regional economic integration organizations were present: Argentina, Australia, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Burkina Faso, Canada, China, Cyprus, Democratic People's Republic of Korea, Ecuador, Estonia, European Commission, Germany, Guatemala, Haiti, Hungary, Iran (Islamic Republic of), Italy, Japan, Libyan Arab Jamahiriya, Oman, Peru, Poland, Qatar, Russian Federation, Saudi Arabia, Slovakia, Sweden, Switzerland, Turkey, Ukraine, United Republic of Tanzania, United States of America.

8. A representative of the United Nations Environment Programme attended the session.

9. The following non-governmental organizations were also represented: Berne Declaration, CropLife International, Indian Chemical Council, Pesticide Action Network, Swiss Association of the Chemical and Pharmaceutical Industry, Women in Europe for a Common Future.

10. A complete list of participants was circulated as document UNEP/FAO/RC/CRC.5/INF/10/Rev.2

C. Adoption of the agenda

11. At its opening meeting, the Committee adopted the following agenda on the basis of the provisional agenda (UNEP/FAO/RC/CRC.5/1):

1. Opening of the session.
2. Organizational matters:
    (a) Adoption of the agenda;
    (b) Organization of work.
3. Review of the outcome of the fourth meeting of the Conference of the Parties.
4. Listing of chemicals in Annex III to the Rotterdam Convention:
    (a) Report of the Bureau on the preliminary review of notifications and proposed priorities for chemicals scheduled for review by the Chemical Review Committee;
    (b) Review of notifications of final regulatory actions to ban or severely restrict a chemical:
        (i) Azinphos-methyl;
        (ii) Endosulfan;
        (iii) Methyl parathion;
        (iv) Mirex;
        (v) Paraquat;
        (vi) Phorate;
        (vii) Hexachlorobenzene;
        (viii) Hexachlorobutadiene.
    (c) Consideration of the draft decision guidance documents for:
        (i) Alachlor;
        (ii) Aldicarb.
5. Other matters.
6. Adoption of the report.
7. Closure of the meeting.

12. The Committee agreed that, to ensure that there was a clear understanding of its work, experience acquired in using the guidance to intersessional task groups in preparing for the current

meeting and the guidance for intersessional drafting groups in preparing draft decision guidance documents could be discussed under agenda item 5, "Other matters", if considered necessary.

D. Organization of work

13. At its opening meeting, the Committee decided to conduct its work in plenary at meetings each day from 9 a.m. to 12.30 p.m. and from 2 p.m. to 5 p.m., subject to adjustments as appropriate. It also decided that task groups and drafting groups would be formed as necessary.

14. The representative of the Secretariat drew the Committee's attention to the meeting documents, which had been circulated to participants prior to the meeting and made available on the Convention website.

15. The main tasks before the Committee were to review the notifications of final regulatory action and relevant supporting documentation for eight chemicals, namely: azinphos-methyl, endosulfan, methyl parathion, mirex, paraquat, phorate, hexachlorobenzene and hexachlorobutadiene, to determine whether they met the requirements of the Convention, and to review and finalize the draft decision guidance documents for alachlor and aldicarb.

III. Review of the outcome of the fourth meeting of the Conference of the Parties

16. In considering the item, the Committee had before it a note by the Secretariat on the role and mandate of the Committee (UNEP/FAO/RC/CRC.5/3). The representative of the Secretariat made a presentation on the outcome of the fourth meeting of the Conference of the Parties, noting that the Conference had agreed to list tributyl tin compounds in Annex III to the Convention, but had been unable to reach consensus on the inclusion of endosulfan and chrysotile asbestos. For the former, he noted the Conference's agreement that a further legal opinion on the application of the "intentional misuse" criterion in Annex II (d) to the Convention would be made available to the Committee at its sixth meeting, given that a small number of representatives had opposed the inclusion of endosulfan on the grounds that the notification of final regulatory action from Thailand was not acceptable, as it was based on intentional misuse of the chemical. For both chemicals, he said that the Conference had encouraged Parties to make use of all available information in deciding whether to allow imports of those substances and to communicate with others in accordance with Article 14 of the Convention. He also pointed out decision RC-4/2 in which the Conference had confirmed the appointment of 15 new government-designated experts to the Committee and decision RC-4/3 in which the Conference had nominated the Governments eligible to designate experts to the Committee to replace those whose terms expired in September 2009.

17. The Committee took note of the outcome of the fourth meeting of the Conference of the Parties.

IV. Listing of chemicals in Annex III of the Rotterdam Convention

18. The representative of the Secretariat drew attention to document UNEP/FAO/RC/CRC.5/INF/3 on working procedures and policy guidance for the Committee. He noted that they were devised to facilitate the work of the Committee by ensuring consistency and transparency. He urged the members to take due note of the document during their deliberations on candidate chemicals.

A. Report of the Bureau on the preliminary review of notifications and proposed priorities for chemicals scheduled for review by the Chemical Review Committee

19. In considering the item, the Committee had before it a note by the Secretariat setting out the results of the Bureau's preliminary review of notifications and proposed priorities scheduled for review by the Committee at its fifth meeting (UNEP/FAO/RC/CRC.5/2/Rev.1).

20. The Chair said that, following the priorities proposed by the Bureau, as set out in the above-mentioned document, the eight chemicals for consideration by the Committee had been clustered into the three proposed groups. Thus, endosulfan had been placed in the first group, which included chemicals for which it was possible that notifications from at least two prior informed consent (PIC) regions would meet the criteria of the Convention. Azinphos-methyl, phorate, methyl parathion, mirex, paraquat, hexachlorobenzene and hexachlorobutadiene had been placed in the second group of chemicals, for which there might only be a notification from a single PIC region that would meet the criteria of the Convention. Based on the preliminary review, no candidate chemicals had been placed in

the third group of chemicals, for which there did not appear to be any notifications that met the criteria of Annex II.

21. The Committee agreed to consider the notifications before it in line with the priorities recommended by the Bureau in document UNEP/FAO/RC/CRC.5/2/Rev.1.

B. Review of notifications of final regulatory actions to ban or severely restrict a chemical

1. Chemicals for which, following a preliminary review, at least two notifications appeared to meet the criteria of Annex II

(a) Endosulfan

22. The Committee had before it new notifications on endosulfan from Burkina Faso, Cape Verde, the Gambia, Mali, Mauritania, the Niger and Senegal, as contained in document UNEP/FAO/RC/CRC.5/5, and the supporting documentation, contained in document UNEP/FAO/RC/CRC.5/5/Add.2. It also had before it the notification from the European Community that it had reviewed at its third meeting, for which it had prepared a rationale for its decision that the notification had met the requirements of the Convention. That rationale was set out in annex V to the report of the Committee's third meeting (UNEP/FAO/RC/CRC.3/15, annex II) and had been reproduced in document UNEP/FAO/RC/CRC.5/5/Add.1.

23. Ms. Bartels presented the report of the intersessional task group that had been established to undertake a preliminary assessment of the submitted notifications and supporting documentation on endosulfan and that had comprised herself as coordinator and Mr. Nichelatti, Mr. Sow, Mr. Moudachirou, Mr. Manuweera, Ms. Jayasekara, Mr. Mashimba, Mr. Khalifa, Mr. Berend, Mr. Pandey, Mr. Jamal Hajjar, Ms. Randall, Mr. Binga, Mr. Ramsay, Mr. Figueroa Cornejo, Mr. Khashashneh and Ms. Sbarbati-Nudelman as members.

24. She noted that the notifications from the seven countries that were all members of the Sahelian Pesticides Committee related to the use of endosulfan as a pesticide (insecticide and acaricide) in cotton. The regulatory action in all cases related to a ban. The notification from Burkina Faso was the only one that contained information on estimated levels of import of endosulfan; the other notifications contained neither estimations on quantities produced, exported and used, nor information on social and economic effects. The task group had concluded that the information requirements of Annex I had been met.

25. With regard to Annex II, the final regulatory action in all the notifications had been taken to protect human health and the environment. As such the criterion in Annex II (a) had been met. She said that the notified regulatory actions had been based on risk evaluations taking into account local exposure conditions of pesticide operators and of the aquatic environment. In the countries concerned, endosulfan application was carried out by hand-held backpack sprayers. The notifying Parties had reviewed the endosulfan application procedures in Australia and the United States of America. The notifications indicated that in the Sahel region of Africa there was limited use of personal protective equipment as a result of the climatic conditions, cost of equipment and lack of training in its use. In addition, there were human dwellings close to spraying areas and bystander risk exposure was thus high.

26. She said that Burkina Faso had undertaken a risk evaluation for surface water, based in part on modelling and in part on risk assessments undertaken in Australia and the United States extrapolated to the prevailing conditions in the Sahelian countries. Accordingly, the task group had concluded that the criteria in Annex II (b) (i), (b) (ii) and (b) (iii) had been met. Turning to criterion (c) of Annex II she said that a ban would eliminate the use of endosulfan and would be considered to have significantly reduced risk. As the basis for the regulatory action included human health concerns, the regulatory action would be broadly applicable to other countries. There was evidence of ongoing international trade. Accordingly, the task group had concluded that the criteria in Annex II (c) (i), (c) (ii), (c) (iii) and (c) (iv) had been met. There was no evidence that intentional misuse had been the basis for the final regulatory action: thus the criterion in Annex II (d) had been met. The task group had therefore concluded that the notifications from the seven countries cited above had met all the criteria in Annex II.

27. Several members commended the task group on its work and endorsed its conclusions.

28. The member from India, endorsed by an observer, said that paragraph 1 of Article 5 to the Convention stated that the notification of final regulatory action should be made as soon as possible, and in any event no later than 90 days after the date on which the final regulatory action had taken effect. Given that the notification from the African region had not been submitted within that time

frame, it should be considered null and void and the discussion of endosulfan should proceed no further, he said.

29. The Chair noted that concern but pointed out that, as a legal interpretation of the Convention, it was beyond the mandate of the Committee, which was a technical body, and would more appropriately be dealt with by the Conference of the Parties. The Secretariat was invited to comment on the concern raised.

30. The representative of the Secretariat drew attention to a legal opinion prepared by the Senior Legal Officer of the United Nations Environment Programme, which stated that the Convention contained no provision to invalidate a notification of a final regulatory action notified by a Party on the grounds of its late submission. Thus, a notification, even if submitted after the deadline of the required period, once verified by the Secretariat and submitted to the Committee, remained valid.

31. The Committee agreed that the process of reviewing the notifications relating to endosulfan should continue and requested that the question about the consequences of not respecting the 90-day period referred to in paragraph 1 of Article 5 of the Convention should be brought to the attention of the Conference of the Parties.

32. The Committee agreed to follow a step-by-step approach by which it would review each of the criteria in Annex II.

33. On the criterion in Annex II (a), the member from India argued that the criterion had not been met. He said that pesticides could not bear the blame for causing health problems if the persons using them had been unable to take the correct precautionary measures. Rather, there was a need to provide proper training and ensure the availability of appropriate equipment.

34. The Chair pointed out that what was at issue was not whether the Committee agreed that the Parties in question had been correct in taking the final regulatory action, but whether the Parties had been intending to protect human health or the environment in so doing. The Chair drew the Committee's attention to the text of the decision of the Sahelian Pesticides Committee (reproduced in document UNEP/FAO/RC/CRC.5/5/Add.2), which clearly stated that the decision had been taken to protect human health and the environment, thereby meaning that the criterion had been met. The Committee agreed that the criterion in Annex II (a) had been met.

35. The Committee reached consensus that the criteria in Annex II (c) had been met, as the action was a ban, so the quantities used and the risk would be reduced; as the basis for the regulatory action included human health concerns, the regulatory action would be broadly applicable to other countries; and the Committee had been able to confirm that there was ongoing international trade.

36. The Committee discussed the criterion in Annex II (b) (iii). In response to a comment by an observer that the model used by the Burkina Faso authorities did not employ genuine quantitative measurements confirming that concentrations of endosulfan could cause potential adverse effects on the aquatic environment, Ms. Bartels said that, in the view of the task group, a quantitative risk evaluation had been unnecessary. The model had been analysed and the task group had decided that it was appropriate.

37. In response to the comment from the member from India that there were doubts as to the validity of the model, and that it was necessary to bear in mind the global context of endosulfan use, the Chair pointed out that the model was recognized internationally and that the specific terms of the criterion in question related to the prevailing conditions within the Party taking the action.

38. One observer, drawing attention to the policy guidance devised by the Committee and reproduced in document UNEP/FAO/RC/CRC.5/INF/3, said that the bridging information submitted by Burkina Faso was insufficient to assess the risk evaluation. He highlighted the principles that should be applied when considering the information, as set out in that document, and stressed that the Committee could not simply take a statement by the notifying country at face value without undertaking further investigations and research.

39. Ms. Bartels refuted that claim, saying that the Committee's role was to examine the information provided to it and to judge if it was sufficient. The Chair stressed that the Committee had complied with the guidance referred to by the observer.

40. Another observer said that there was a risk that data were being used selectively, i.e., only data that related to increased exposure, rather than to decreased exposure. It would be helpful for the Committee to have more complete bridging information so as to reach a sounder decision on the appropriateness of using risk evaluations from another country.

41. The member from India argued that there were significant data gaps that needed to be filled before any decision could be taken.

42. Given its inability to reach a decision on whether the criterion in Annex II (b) (iii) had been met, the Committee agreed to establish an informal drafting group, chaired by Ms. Bartels, to discuss the issue further.

43. Subsequently, Ms. Bartels reported that, during discussions in the informal drafting group, the member from India had been requested to provide specific reasons as to why the criteria for endosulfan had not been met. He had replied that data to satisfy the criteria in Annex II (b) (i), (b) (ii) and (b) (iii) should be generated in the notifying country and that all criteria should be linked to prevailing conditions there.

44. One member voiced his concern that such a view would call into question all past work carried out by the Committee, including that which had been endorsed by the Conference of the Parties. It was accepted that hazard data were not always generated in notifying countries but taken from recognized international sources. The Chair added that the working procedures and policy guidance for the Committee, which had been reviewed by the Conference of the Parties, confirmed that such data were acceptable.

45. The member from India reiterated his view that there was no room for interpretation of the Convention language, which, in his opinion, clearly stated that the criteria in Annex II (b) (ii) and (iii) must be met according to conditions prevailing in the notifying country.

46. One member reiterated his growing unease at the underlying message that he considered was being sent by the member from India, which was that all data had to be generated within the notifying country, including hazard data. That, he said, ran counter to international principles that permitted countries to use data produced according to scientifically recognized methods. It was not feasible to require that all data should be generated within notifying countries. Another member endorsed that point of view and requested clarification on how to proceed further.

47. The member from India argued that the fact that the data used had been generated in Australia and the United States meant that it contravened the requirements of Annex II (b) (iii), which stated that the final regulatory action should be based on a risk evaluation involving prevailing conditions within the Party taking the action. He stressed that there would be adverse consequences for humans if the correct protective measures and methods were not employed, wherever the location. He drew attention to the working paper on bridging information contained in document UNEP/FAO/RC/CRC.5/INF/3, which stated that “to satisfy criterion (b) (iii), bridging information providing evidence of the prevailing conditions in the notifying country would have to be submitted”. As in his view no such data were available, the criterion could not be met.

48. One member said that there was a fundamental difference in opinion between the member from India and the other Committee members in that the former was insisting that all data should be produced in the notifying party, whereas the latter was willing to accept bridging information, as was the past practice of the Committee. She noted that data on use patterns and exposures had been provided in the African notifications.

49. The member from India asked how the data from Australia and the United States could be extrapolated to an African scenario, given the sheer number of variables involved, not least the climatic and soil conditions.

50. One member referred to the need to take a step-by-step approach and urged the member from India to agree that the studies and risk evaluations undertaken by Australia and the United States were valid. The Committee eventually agreed that those risk evaluations were acceptable.

51. The member from India drew attention to document UNEP/FAO/RC/CRC.5/5/Add.2, noting that data contained in table V therein demonstrated that endosulfan had a low impact on groundwater, unlike other pesticides. He asked what empirical evidence had been provided to show that groundwater was being affected by endosulfan. In response to the assertion by several members that the matter at issue was surface water, as demonstrated in table IV in that same document, rather than groundwater, he argued that it was a contextual matter, pointing out that in some cases groundwater could become contaminated and those dependent on it would suffer accordingly.

52. The Committee concluded that, according to the prevailing conditions in the Sahel, endosulfan posed a risk to surface water.

53. The Chair said that the Committee would only be able to determine how the remaining concerns of the member from India, in particular whether extrapolation was acceptable, could be tackled if they

were clearly understood. She therefore established an informal drafting group, to be chaired by Mr. Nyström, to discuss how the risk evaluations conducted in Australia and the United States had been extrapolated to the prevailing conditions of use in the Sahel.

54. Subsequently, Mr. Nyström reported back that the drafting group had reviewed the health issues involved and had reached agreement, first, that the scientific data underlying the risk evaluations conducted in Australia and the United States were valid; second, that the laboratory toxicity data underlying those evaluations were valid and relevant to prevailing conditions in Africa; and, third, that the dose rates were compatible with prevailing conditions in Africa.

55. The drafting group had not reached agreement, first, on whether susceptibility, as established for Australia and the United States, was applicable to Africa; second, whether the risk evaluations in African countries took into account the possibilities available to African workers to protect themselves and their surroundings; third, whether the availability of equipment and training should be considered as description of prevailing conditions; and, fourth, what type of additional information was needed.

56. In its review of the environmental issues involved, the drafting group had been unable to reach agreement on the need to validate the model used for the Sahelian countries. The member from India, who had insisted on the need for such validation, had been requested to provide further substantiation of the grounds for that insistence and to report back to the Committee thereon.

57. The member from India introduced a conference-room paper setting out his position on the notifications relating to endosulfan. He argued that the notifications from the African region should not be considered because it had been submitted too late (after the 90-day period specified in paragraph 1 of Article 5 of the Convention); that two dates had been provided for final regulatory action, thus invalidating the notification as the Convention did not allow for multiple dates of entry into force for a single final regulatory action; and that there had been inadequate adoption of bridging information and subsequent non-compliance with the criterion in Annex II (b) (iii) to the Convention. The position paper has been reproduced in part 4 of annex II to the present report.

58. On the first issue, the Chair recalled that the Committee had been furnished with a legal opinion by the Senior Legal Officer of the United Nations Environment Programme that had said that notifications could be considered even outside of the 90-day time limit.

59. The member from India said that a legal opinion was unnecessary, given that the Convention was extremely clear in its provisions. The Secretariat was at fault for having permitted the notification to come before the Committee, he claimed.

60. The representative of the Secretariat explained that, having received the legal opinion that the notification could be considered, the Secretariat could do no more than to permit it to come before the Committee.

61. On the second issue raised by the member from India, the Chair said that there was no question of two regulatory actions. Rather, it was clear from the supporting documentation (UNEP/FAO/RC/CRC.5/5/Add.2) that there was a single regulatory action that contained two implementation dates: one the date when distribution stopped, the other the date when all final uses were stopped, so as to phase out all stocks of endosulfan in the country in question.

62. The member from India said that the Committee risked setting a dangerous precedent and that it had never accepted two dates in the past. He questioned whether another date had been given to circumvent the problem of the original notification being time-barred.

63. Several members refuted that statement and pointed out previous examples of two dates being given in a notification. One member suggested including an explanation of how the issue had been dealt with previously in the guidance document for intersessional task groups reviewing notifications.

64. One observer pointed out that the Sahelian countries' final regulatory action on endosulfan had entered into force on 13 November 2007, with the objective of ending the use of that chemical by 31 December 2008. Accordingly, the regulatory act had been in force since 13 November 2007. The PIC Circular of December 2008 correctly showed the date of entry into force of the final regulatory action as 13 November 2007. He made a comparison with a notification by the European Community on endosulfan in which the date of entry into force of the final regulatory action had been shown as 2 June 2006, even though the Community had allowed uses to continue until 31 June 2007. He said that the Sahelian notifications should be treated in the same way.

65. The member from India said that, in the light of the comment made by the observer, the actions of the Committee appeared to smack of double standards.

66. The representative of the Secretariat said that it was clear that the ban had taken effect from the date upon which the decision had been signed, 13 November 2007, and had permitted uses until the end of November 2008. He stressed that there had been only one final regulatory action.

67. On the third issue of concern raised by the member from India, the Committee agreed that the informal drafting group chaired by Mr. Nyström would work to identify differences in opinion with regard to bridging information based on the position paper prepared by the member from India.

68. The member from India, stressing that he was of an open mind and willing to listen to all opinions voiced, drew attention to the draft rationales on hexachlorobenzene and hexachlorobutadiene for the Canadian notifications, and urged the Committee to provide more information on endosulfan so that the draft rationale would be as complete as those rationales.

69. Subsequently, Mr. Nyström reported back on the work of the drafting group. He explained that it had dealt systematically with the concerns raised by the member from India and identified possible ways in which they might be resolved satisfactorily. He presented a paper that set out the group's conclusions.

70. In the ensuing discussion, the member of India suggested some additions to the paper that were accepted by the Committee. The Committee adopted the paper as amended, which was circulated to members and included in part 5 of annex II to the present report.

71. Taking those outstanding concerns into account the Committee established a drafting group to prepare a rationale as to how the notifications from the seven Sahel countries had met the information requirements of Annex I and the criteria of Annex II to the Convention. The Committee subsequently adopted the rationale on endosulfan, which is included in part 1 of annex II to the present report.

72. The Committee also adopted a decision by which it decided, in the light of past practice in drafting decision guidance documents for chemicals for which there were two notifications from two different PIC regions, to establish a drafting group to develop a decision guidance document for endosulfan for consideration at its next meeting on the understanding that responses to the outstanding questions regarding the notifications from the Sahelian countries would be made available at its next meeting to inform further discussion on whether all the criteria in Annex II had been met. The decision is included in part 2 of annex II to the present report.

73. The Committee subsequently adopted the draft workplan for the intersessional drafting group on endosulfan, which is set out in part 3 of annex II to the present report.

2. Review of notifications of final regulatory actions to ban or severely restrict a chemical: chemicals for which, following a preliminary review, only one notification appeared to meet the criteria of Annex II

(a) Azinphos-methyl

74. The Committee had before it new notifications and supporting documentation on azinphos-methyl submitted by Canada and Thailand, contained in documents UNEP/FAO/RC/CRC.5/4, UNEP/FAO/RC/CRC.5/4/Add.1 and Add.2.

75. Mr. Berend presented the work of the intersessional task group that had undertaken a preliminary assessment of the new notifications and their supporting documentation. The group had comprised himself as coordinator and Ms. Choi, Mr. Goji, Mr. Yarto, Mr. al-Hasani, Ms. Krajnc, Ms. Bartels, Ms. Jayasekara, Ms. Sbarbati-Nudelman, Mr. Khashashneh, Ms. Tang and Mr. Shan as members.

76. He said that the notification from Canada related to a severe restriction on the use of azinphos-methyl as a pesticide. The notification said that the ultimate goal was the complete phase-out of the pesticide. Information on estimated levels of production, import, export and use was not provided. The task group had concluded that the notification from Canada met the information requirements in Annex I.

77. With regard to Annex II, the notification explained that the regulatory action had been taken to protect human health: thus the criterion in Annex II (a) had been met. The referenced hazard data had been taken from internationally recognized sources and the risk evaluation had been reviewed in accordance with recognized procedures and scientific principles, taking into account prevailing conditions in Canada. Accordingly, the task group had concluded that the criteria in Annex II (b) (i), (b) (ii) and (b) (iii) had been met. Turning to the criteria in Annex II (c), he said that the chemical was being phased out from December 2005 with registration for limited uses and stewardship programmes in place until the end of 2012: thus it could be considered that quantities and risk had been significantly reduced. As the basis for the regulatory action included human health concerns, the regulatory action

would be broadly applicable to other countries. There was evidence of ongoing international trade. Accordingly, the task group had concluded that the criteria in Annex II (c) (i), (c) (ii), (c) (iii) and (c) (iv) had been met. There was no evidence that intentional misuse had been the basis for the final regulatory action: thus the criterion in Annex II (d) had been met. The task group had therefore concluded that the notification had met all the criteria in Annex II. The Committee agreed that the notification from Canada had met all the criteria in Annex II to the Convention.

78. He said that the notification from Thailand related to a ban of the use of azinphos-methyl as a pesticide. The pesticide had never been imported for use in the country. Information on the likely relevance of the final regulatory action to other States and regions, on the social and economic effects of the action or on alternatives and relative risks had not been provided. The task group had concluded that the notification from Thailand met the information requirements in Annex I.

79. With regard to Annex II, the notification had clearly indicated that the regulatory action had been taken to protect human health: thus the criterion in Annex II (a) had been met. The hazard data provided were from internationally recognized sources but there was no evidence of a risk evaluation having been carried out under the prevailing conditions in Thailand. The task group had therefore concluded that the criterion in Annex II (b) (iii) had not been met but that the criteria in Annex II (b) (i) and (b) (ii) had been met for the hazard data in the notification. Thailand had prohibited the substance as a preventive measure: thus it could be considered that the expected quantities and risks had been significantly reduced. As the basis for the regulatory action included human health concerns the regulatory action would be broadly applicable to other countries. There was evidence of ongoing international trade. Accordingly, the task group had concluded that the criteria in Annex II (c) (i), (c) (ii), (c) (iii) and (c) (iv) had been met. There was no evidence that intentional misuse had been the basis for the final regulatory action: thus the criterion in Annex II (d) had been met. The task group had therefore concluded that the notification from Thailand had not met the criterion in Annex II (b) (iii) and that the criteria in Annex II (b) (i) and (b) (ii) had been met only for available hazard data. The Committee agreed that the notification from Thailand had not met all the criteria in Annex II to the Convention.

80. Accordingly, as only one notification of final regulatory action from one PIC region had met the criteria in Annex II, it was agreed that azinphos-methyl could not be proposed for inclusion in Annex III to the Convention at the current time.

81. A drafting group was established to draft a rationale as to how the notification for azinphos-methyl submitted by Canada had met the information requirements of Annex I and the criteria of Annex II to the Convention and was requested to report to the Committee on its work. The Committee subsequently adopted the rationale on azinphos-methyl, as set out in part A of annex III to the present report.

(b) Methyl parathion

82. The Committee had before it a new notification and supporting documentation on methyl parathion submitted by Uruguay, contained in documents UNEP/FAO/RC/CRC.5/6, UNEP/FAO/RC/CRC.5/6/Add.1 and Add.2. It also had before it the notification from the European Community that it had reviewed at its first meeting, for which it had prepared a rationale for its decision that the notification met the requirements of the Convention. That rationale was set out in annex V to the report of the Committee's first meeting (UNEP/FAO/RC/CRC.1/28, annex V, paras. 8–14) and had been reproduced in document UNEP/FAO/RC/CRC.5/6/Add.1.

83. Ms. Sbarbati-Nudelman presented the work of the intersessional task group that had undertaken a preliminary assessment of the new notification and its supporting documentation. The group had comprised herself as coordinator and Ms. Jayasekara, Mr. Jamal Hajjar, Mr. Binga and Mr. Goji as members.

84. She said that the notification from Uruguay related to a severe restriction on the use of methyl parathion as some minor uses of microcapsule formulations remained. Information on estimated levels of production, import, export and use was not provided. The task group had concluded that the notification from Uruguay met the information requirements in Annex I.

85. With regard to Annex II, the notification explained that the regulatory action had been taken to protect human health: thus the criterion in Annex II (a) had been met. The hazard data provided in the notification included references to unspecified publications of the World Health Organization and the Pan American Health Organization. As no specific reference had been provided, the task group had considered that the criteria in Annex II (b) (i) and (b) (ii) had not been met. There was no evidence that a risk evaluation had been conducted under the prevailing conditions in Uruguay: thus the criterion in Annex II (b) (iii) had not been met. Accordingly, the task group concluded that the criteria in Annex II

(b) (i), (b) (ii) and (b) (iii) had not been met. Turning to criteria Annex II (c), she said that there was no information provided regarding use prior to the regulatory action: thus there had been no way to determine whether the quantity of methyl parathion used would decrease or the risk would actually be reduced following the final regulatory action. Accordingly, the task group had concluded that the criteria in Annex II (c) (i) and (c) (ii) had not been met. As the basis for the regulatory action included human health concerns the regulatory action would be broadly applicable to other countries. There was evidence of ongoing international trade. Accordingly, the task group had concluded that the criteria in Annex II (c) (iii) and (c) (iv) had been met. There was no evidence that intentional misuse had been the basis for the final regulatory action: thus the criterion in Annex II (d) had been met. The task group had therefore concluded that the notification from Uruguay had not met the criteria in Annex II (b) (i), (b) (ii) and (b) (iii) or (c) (i) and (c) (ii). The Committee agreed that the notification from Uruguay had not met all the criteria of Annex II to the Convention.

86. Accordingly, as only one notification of final regulatory action from one PIC region, reviewed at the Committee's first meeting, had met the criteria of Annex II, the Committee concluded that methyl parathion could not be proposed for inclusion in Annex III to the Convention at the current time.

(c) Mirex

87. The Committee had before it new notifications and supporting documentation on mirex submitted by Cuba and Uruguay, contained in documents UNEP/FAO/RC/CRC.5/7, UNEP/FAO/RC/CRC.5/7/Add.1, Add. 2 and Add.3. It also had before it the notification from Canada that it had reviewed at its second meeting, for which it had prepared a rationale for its decision that the notification met the requirements of the Convention. That rationale had been set out in annex III to the report of the Committee's second meeting (UNEP/FAO/RC/CRC.2/20, annex III, section D) and had been reproduced in document UNEP/FAO/RC/CRC.5/7.Add.1.

88. Mr. Figueroa Cornejo presented the work of the intersessional task group that had undertaken a preliminary assessment of the new notifications and their supporting documentation. The group had comprised himself as coordinator and Ms. Gwayi, Ms. Jayasekara, Mr. Kundiev and Ms. Liptakova as members.

89. He said that the notification from Uruguay related to a ban of the use of mirex as a pesticide. The task group had concluded that the notification from Uruguay met the information requirements in Annex I.

90. With regard to Annex II, the notification explained that the regulatory action had been taken to protect human health and the environment: thus the criterion in Annex II (a) had been met. He said that the notification from Uruguay had taken into consideration that the substance was subject to the Stockholm Convention on Persistent Organic Pollutants. As such, and based on the information available in the notification, the task group had considered that the criteria in Annex II (b) (i) and (b) (ii) had been met for hazard data. The final regulatory action had not been based on a risk evaluation involving prevailing conditions in Uruguay: thus the criterion in Annex II (b) (iii) had not been met. Turning to the criteria in Annex II (c), he said that a ban would eliminate the use of mirex and that would be considered to have significantly reduced exposure. As the basis for the regulatory action included human health concerns, the regulatory action would be broadly applicable to other countries. Accordingly, the task group had concluded that the criteria in Annex II (c) (i), (c) (ii) and (c) (iii) had been met. As regards criterion (c) (iv), there was no conclusive evidence of ongoing international trade There was no evidence that intentional misuse had been the basis for the final regulatory action: thus the criterion in Annex II (d) had been met. The task group had therefore concluded that the notification from Uruguay did not meet the criteria in Annex II (b) (iii) and that the criteria in Annex II (b) (i) and (b) (ii) had been met only for available hazard data. The Committee agreed that the notification from Uruguay had not met all the criteria in Annex II to the Convention.

91. He said that the notification from Cuba related to a ban of the use of mirex as a pesticide. The task group had concluded that the notification from Cuba met the information requirements in Annex I.

92. With regard to Annex II, the notification explained that the regulatory action had been taken to protect human health and the environment: thus the criterion in Annex II (a) had been met. The final regulatory action had not been taken on the basis of a hazard or risk evaluation under prevailing conditions. The task group had concluded that the criteria in Annex II (b) (i), (b) (ii) and (b) (iii) had not been met. Turning to the criteria in Annex II (c), he said that a ban would eliminate the use of mirex and would be considered to have significantly reduced exposure. As the basis for the regulatory action included human health concerns, the regulatory action would be broadly applicable to other countries. Accordingly, the task group had concluded that the criteria in Annex II (c) (i), (c) (ii) and (c) (iii) had been met. As regards criteria c (iv), there was no conclusive evidence of ongoing international trade.

There was no evidence that intentional misuse had been the basis for the final regulatory action: thus the criterion in Annex II (d) had been met. The task group had therefore concluded that the notification from Cuba did not meet the criteria in Annex II (b) (i), (b) (ii) and (b) (iii). The Committee agreed that the notification from Cuba had not met all the criteria in Annex II to the Convention.

93. Accordingly, as only one notification of final regulatory action from one PIC region, which had been reviewed at the Committee's second meeting, had met the criteria set out in Annex II, the Committee concluded that mirex could not be proposed for inclusion in Annex III to the Convention at the current time.

(d) Paraquat

94. The Committee had before it new notifications and supporting documentation on paraquat submitted by Sweden, Uruguay and Sri Lanka, contained in documents UNEP/FAO/RC/CRC.5/8, UNEP/FAO/RC/CRC.5/8/Add.1/Rev.1, Add.2, Add.3, Add. 4 and Add.5.

95. Ms. Randall presented the work of the intersessional task group that had undertaken a preliminary assessment of the new notifications and their supporting documentation. The group had comprised herself as coordinator and Mr. Berend, Mr. Manuweera, Mr. Nyström, Ms. Bartels, Mr. Ramsay, Mr. Sow, Ms. Tang and Mr. Nichelatti as members.

96. She said that the task group had concluded that the notification from Sweden, relating to regulatory actions to ban pesticide uses of paraquat had met the information requirements in Annex I.

97. With regard to Annex II, the notification from Sweden explained that the regulatory action had been taken to protect human health and the environment: thus the criterion in Annex II (a) had been met. Adequate information that a risk evaluation had been conducted under the prevailing conditions in Sweden had not been provided: thus the criterion in Annex II (b) (iii) had not been met. Accordingly, the task group had concluded that the criteria in Annex II (b) (i) and (ii) had been met but that the criterion in Annex II (b) (iii) had not been met. Turning to the criteria in Annex II (c), she said that a ban would eliminate the use of paraquat and would be considered to have significantly reduced exposure. As the basis for the regulatory action included human health concerns it would be broadly applicable to other countries. There was evidence of ongoing international trade. Accordingly, the task group had concluded that the criteria in Annex II (c) (i), (c) (ii), (c) (iii) and (c) (iv) had been met. There was no evidence that intentional misuse had been the basis for the final regulatory action: thus the criterion in Annex II (d) had been met. The task group had therefore concluded that the notification from Sweden had not met the criterion in Annex II (b) (iii).

98. In the ensuing discussion, one member said that, being conversant with Swedish, he had reviewed the information on prevailing conditions submitted by Sweden and had found that it did contain data confirming that the risk evaluation had been made in accordance with prevailing conditions in the country. The Chair suggested that Sweden should be invited to resubmit its supporting information accompanied by an English translation, so that the notification could be revisited by the Committee at its sixth meeting. The Committee agreed that the notification from Sweden had not met all the criteria of Annex II to the Convention.

99. Ms. Randall said that the task group had concluded that the notification from Uruguay to severely restrict pesticide uses of paraquat had met the information requirements in Annex I.

100. With regard to Annex II, the notification from Uruguay explained that the regulatory action had been taken to protect human health: thus the criterion in Annex II (a) had been met. The references for the hazard data provided were incomplete: thus the criteria in Annex II (b) (i) and (ii) had not been met. The notification did not include information on exposure under the prevailing conditions: thus the criterion in Annex II (b) (iii) had not been met. Accordingly, the task group had concluded that the criteria in Annex II (b) (i), (b) (ii) and (b) (iii) had not been met. Turning to the criteria in Annex II (c), she said that the severe restriction did not confirm that there would be a reduction in the use of paraquat or significantly reduced exposure: thus the criteria in Annex II (c) (i) and (c) (ii) had not been met. As the basis for the regulatory action included human health concerns it would be broadly applicable to other countries. There was evidence of ongoing trade: thus the criteria in Annex II (c) (iii) and (c) (iv) had been met. There was no evidence that intentional misuse had been the basis for the final regulatory action: thus the criterion in Annex II (d) had been met. The task group had therefore concluded that the notification from Uruguay did not meet the criteria in Annex II (b) (i), (b) (ii) and (b) (iii) or the criteria in Annex II (c) (i) and (c) (ii). The Committee agreed that the notification from Uruguay had not met the criteria in Annex II to the Convention.

101. She said that the task group had concluded that the notification from Sri Lanka to severely restrict pesticide uses of paraquat had met the information requirements in Annex I.

102. With regard to Annex II, the notification from Sri Lanka explained that the regulatory action had been taken to protect human health: thus the criterion in Annex II (a) had been met. Adequate information that a risk evaluation had been conducted under the prevailing conditions in Sri Lanka had been provided: thus the criteria in Annex II (b) (i), (b) (ii) and (b) (iii) had been met. Accordingly, the task group had concluded that the criteria in Annex II (b) (i), (b) (ii) and (b) (iii) had been met. Turning to criteria (c) of Annex II, she said that the severe restriction confirmed that there would be a reduction in the quantity of the chemical used and that there would be significantly reduced exposure. As the basis for the regulatory action included human health concerns it would be broadly applicable to other countries. There was evidence of ongoing international trade. Accordingly, the task group had concluded that the criteria in Annex II (c) (i), (c) (ii), (c) (iii) and (c) (iv) had been met. There was evidence that intentional misuse had been the basis for the final regulatory action: thus the criterion in Annex II (d) had not been met. The task group had therefore concluded that the notification from Sri Lanka had not met the criterion in Annex II (d).

103. One observer queried the task group's conclusion that the notification from Sri Lanka had failed to meet the criterion of Annex II (d), pointing out that, according to the legal opinion on intentional misuse contained in the policy guidance on the application of the criteria in Annex II (b) (i), (b) (ii) and (b) (iii) (UNEP/FAO/RC/CRC.5/INF/3), the criterion was only not met "if intentional misuse is the sole reason for the final regulatory action". In the case of Sri Lanka, intentional misuse of the chemical had been the main reason, not necessarily the sole reason, for the regulatory action and the background documentation suggested a broader spectrum of poisoning by the chemical, which could include accidental poisoning.

104. Ms. Randall explained that the task group had concluded that the notification had failed to meet the criterion because the documentation had contained no evidence of exposure to the chemical from sources other than self-poisoning. The Committee agreed that the notification from Sri Lanka had not met all the criteria of Annex II to the Convention.

105. Accordingly, as no notifications of final regulatory action had met the criteria of Annex II, the Committee concluded that paraquat could not be proposed for inclusion in Annex III to the Convention at the current time.

(e) Phorate

106. The Committee had before it new notifications and supporting documentation on phorate submitted by Canada and Thailand, contained in documents UNEP/FAO/RC/CRC.5/9, UNEP/FAO/RC/CRC.5/9/Add.1 and Add.2.

107. Mr. Manuweera presented the work of the intersessional task group that had undertaken a preliminary assessment of the new notifications and their supporting documentation. The group had comprised himself and Mr. Kamatari, Mr. Nyström, Ms. Tang, Mr. Shan and Mr. Kashashneh as members.

108. He said that the notification from Canada related to a severe restriction of the use of phorate as a pesticide. The task group had found that the notification met the information requirements in Annex I.

109. With regard to Annex II, the notification from Canada explained that the regulatory action had been taken to protect the environment: thus the criterion in Annex II (a) had been met. The data provided had been generated according to scientifically recognized methods and the action taken by Canada had been based on information on hazards and modelling data of the estimated concentration in the environment in Canada to the end points of the concerned effect. Accordingly, the task group had concluded that the criteria in Annex II (b) (i), (b) (ii) and (b) (iii) had been met. Turning to criteria (c) of Annex II, as the basis for the regulatory action included environmental concerns, it would be broadly applicable to other countries. There was evidence of ongoing international trade. Accordingly, the task group had concluded that the criteria in Annex II (c) (i), (c) (ii), (c) (iii) and (c) (iv) had been met. There was no evidence that intentional misuse had been the basis for the final regulatory action: thus the criterion in Annex II (d) had been met. The task group had therefore concluded that the notification had met all the criteria in Annex II.

110. In the ensuing discussion, an observer noted that data on volumes of pesticides imported or used were missing from the notification from Canada. When the regulation was a ban, that lack of data was less important. In the current case, however, when the final regulatory action was a severe restriction, it was important to have quantitative data as there was otherwise no way to determine whether virtually all uses had ceased. Mr. Manuweera responded that the lack of such data had been discussed by the task group. Given that phorate had initially been recommended for use on five crops but was now only permitted for potatoes there clearly was a severe restriction and consequent reduction in use. The member from Canada added that phorate was only used in 1 of the 11 provinces in Canada, and that the

only use remaining on potatoes was to control wireworm, which confirmed the severe restriction. The Committee agreed that the notification from Canada had met all the criteria of Annex II to the Convention.

111. He said that the notification from Thailand related to a ban of phorate as a pesticide. The task group had found that the notification from Thailand met the information requirements in Annex I.

112. With regard to Annex II, the notification from Thailand explained that the regulatory action had been taken to protect human health in the event of occupational exposure: thus the criterion in Annex II (a) had been met. The hazard data had been taken from internationally recognized sources: thus the task group had considered that the criteria in Annex II (b) (i) and (b) (ii) had been met for hazard data. There was no evidence of a risk evaluation having been carried out under the prevailing conditions in Thailand: thus the criterion in Annex II (b) (iii) had not been met. Thailand had in place a policy to ban certain substances listed in the World Health Organization publication *Recommended Classification of Pesticides by Hazard* without justification as a preventive measure, a policy that could be considered to significantly reduce exposure. Turning to criteria (c) of Annex II, as the basis for the regulatory action included human health concerns, the regulatory action would be broadly applicable to other countries. There was evidence of ongoing international trade. Accordingly, the task group had concluded that the criteria in Annex II (c) (i), (c) (ii), (c) (iii) and (c) (iv) had been met. There was no evidence that intentional misuse had been the basis for the final regulatory action: thus the criterion in Annex II (d) had been met. The task group had therefore concluded that the notification from Thailand had not met the criteria in Annex II (b) (iii) and that the criteria in Annex II (b) (i) and (b) (ii) had been met only for available hazard data. The Committee agreed that the notification from Thailand had not met all the criteria of Annex II to the Convention.

113. Accordingly, as only one notification of final regulatory action from one PIC region met the criteria of Annex II, it was agreed that phorate could not be proposed for inclusion in Annex III to the Rotterdam Convention at the current time.

114. A drafting group was established to draft a rationale as to how the notification for phorate submitted by Canada had met the information requirements of Annex I and the criteria of Annex II to the Convention and was requested to report to the Committee on its work. The Committee subsequently adopted the rationale on phorate, as set out in part B of annex III to the present report.

(f) Hexachlorobenzene

115. The Committee had before it new notifications and supporting documentation on hexachlorobenzene submitted by Canada, Japan and Panama, contained in documents UNEP/FAO/RC/CRC.5/10, UNEP/FAO/RC/CRC.5/10/Add.1, Add.2 and Add.3.

116. Ms. Choi presented the work of the intersessional task group that had undertaken a preliminary assessment of the new notifications and their supporting documentation. The group had comprised herself as coordinator and Mr. Ikeda, Ms. Tang, Ms. Liptakova and Mr. Khashashneh as members.

117. She said that the task group had found that the notification from Canada relating to regulatory action to severely restrict pesticidal and industrial uses of hexachlorobenzene had met the information requirements of Annex I.

118. With regard to Annex II, the notification explained that the regulatory action had been taken to protect human health and the environment: thus the criterion in Annex II (a) had been met. The notification was based on a risk evaluation taking into account prevailing conditions in Canada: thus the criteria in Annex II (b) (i), (b) (ii) and (b) (iii) had been met. Turning to criteria (c) of Annex II, as a ban the final regulatory action would be considered to have significantly reduced exposure. As the basis for the regulatory action included human health concerns, it would be broadly applicable to other countries. Accordingly, the task group had concluded that the criteria in Annex II (c) (i), (c) (ii) and (c) (iii) had been met. As regards criterion (c) (iv), there was no conclusive evidence of ongoing international trade. There was no evidence that intentional misuse had been the basis for the final regulatory action: thus the criterion in Annex II (d) had been met. The task group had therefore concluded that the notification from Canada had met the criteria in Annex II. The Committee agreed that the notification from Canada had met the criteria of Annex II to the Convention.

119. She said that the notification from Panama appeared to be on industrial use, while the supporting documentation was found to relate to pesticide use. Information on likely relevance to other States and regions, social and economic effects, alternatives and relative risks was not available. The task group had concluded that the information requirements in Annex I had been met, but that there had been no evident scientific basis for a decision on industrial use. The Committee agreed that the notification from Panama had not met the criteria of Annex II to the Convention.

120. She said that the notification from Japan related to regulatory action to ban pesticidal and industrial uses of hexachlorobenzene. Information on likely relevance to other States and regions, social and economic effects, alternatives and relative risks was not available. The task group had concluded that the notification from Japan met the information requirements in Annex I.

121. With regard to Annex II, the notification explained that the regulatory action had been taken to protect human health: thus the criterion in Annex II (a) had been met. Hazard information in the notification was based on Japanese studies and peer-reviewed international publications. The task group had considered that the criteria in Annex II (b) (i) and (b) (ii) had been met for hazard data only. The final regulatory action had not been based on a risk evaluation involving prevailing conditions in Japan: thus the criterion in Annex II (b) (iii) had not been met. Accordingly, the task group concluded that the criterion in Annex II (b) (iii) had not been met and those in Annex II (b) (i) and (b) (ii) had been met only for hazard data. Turning to the criteria in Annex II (c), she said that as a ban the final regulatory action would eliminate the use of hexachlorobenzene and thus significantly reduce exposure. As the basis for the regulatory action included human health concerns it would be broadly applicable to other countries. Accordingly, the task group had concluded that the criteria in Annex II (c) (i), (c) (ii) and (c) (iii) had been met. As regards criterion (c) (iv), there was no conclusive evidence of ongoing international trade. There was no evidence that intentional misuse had been the basis for the regulatory action: thus the criterion in Annex II (d) had been met. The task group had therefore concluded that the notification from Japan had not met the criterion in Annex II (b) (iii) and that the criteria in Annex II (b) (i) and (b) (ii) had been met only for available hazard data.

122. The member from Japan explained that hexachlorobenzene had been banned for use in industry in Japan since 1979, pursuant to the adoption of the country's chemical substances control legislation, which had been based on hazard identification only, rather than risk evaluation, as required by the Convention. In the ensuing discussion, attention was drawn to the problem posed by notifications based on regulatory action that had been taken a long time previously. The Committee agreed that the notification from Japan had not met all the criteria of Annex II to the Convention.

123. Accordingly, as only one notification of final regulatory action from one PIC region met the criteria of Annex II, it was agreed that hexachorobenzene could not be proposed for inclusion in Annex III to the Rotterdam Convention as an industrial chemical at the current time.

124. A drafting group was established to draft a rationale as to how the notification for hexachlorobenzene submitted by Canada had met the information requirements of Annex I and the criteria of Annex II to the Convention and to report to the Committee on its work. The Committee subsequently adopted the rationale on hexachlorobenzene, which is set out in part C of annex III to the present report.

(g) Hexachlorobutadiene

125. The Committee had before it new notifications and supporting documentation on hexachlorobutadiene submitted by Canada and Japan, contained in documents UNEP/FAO/RC/CRC.5/11, UNEP/FAO/RC/CRC.5/11/Add.1 and Add.2.

126. Mr. Nyström presented the work of the intersessional task group that had undertaken a preliminary assessment of the new notifications and their supporting documentation. The group had comprised himself as coordinator and Ms. Bartels, Mr. Binga, Ms. Gwayi, Mr. Jamal Hajjar, Mr. Ikeda, Mr. Khalifa, Mr. Manuweera, Ms. Sbarbati-Nudelman, Mr. Mashimba, Mr. Pandey and Mr. Ramsay as members.

127. He said that the notification from Canada related to industrial use and a ban on all manufacture, import and use of hexachlorobutadiene but did not extend to contamination in products. Information on alternatives was not available. The task group had concluded that the notification from Canade met the information requirements of Annex I.

128. With regard to Annex II, the notification explained that the final regulatory action in Canada had been taken to protect human health: thus the criterion in Annex II (a) had been met. He said that the notification was based on a risk evaluation that had taken into account local exposure scenarios and monitoring; accordingly the criteria in Annex II (b) (i), (b) (ii) and (b) (iii) had been met. Turning to the criteria in Annex II (c), he said that a ban would eliminate the use of hexachlorobutadiene and that would be considered to have significantly reduced exposure. As the basis for the regulatory action included human health concerns, the regulatory action would be broadly applicable to other countries. Accordingly, the task group had concluded that the criteria in Annex II (c) (i), (c) (ii) and (c) (iii) had been met. As regards criterion (c) (iv), there was no conclusive evidence of ongoing international trade. There was no evidence that intentional misuse had been the basis for the regulatory action: thus the criterion in Annex II (d) had been met. The task group had therefore concluded that the notification

from Canada had met all the criteria of Annex II. The Committee agreed that the notification from Canada had met the criteria of Annex II to the Convention.

129. He said that the notification from Japan related to industrial use and a ban on all manufacture, import and use of hexachlorobutadiene. Information on relevance to other States, estimation of quantities, social and economic factors or alternatives was not available. The task group had concluded that the notification from Japan met the information requirements in Annex I.

130. With regard to Annex II, the notification explained that the final regulatory action in Japan had been taken to protect human health: thus the criterion in Annex II (a) had been met. After some discussion it was confirmed that no risk evaluation taking into account prevailing conditions in Japan had been undertaken. Accordingly the task group had concluded that the criterion in Annex II (b) (iii) had not been met and that the criteria in Annex II (b) (i) and (b) (ii) had been met for the available hazard data. Turning to the criteria in Annex II (c), he said that a ban would eliminate the use of hexachlorobutadiene and would be considered to have significantly reduced exposure. As the basis for the regulatory action included human health concerns, the regulatory action would be broadly applicable to other countries. Accordingly, the task group had concluded that the criteria in Annex II (c) (i), (c) (ii) and (c) (iii) had been met. As regards criterion (c) (iv), there was no conclusive evidence of ongoing international trade. There was no evidence that intentional misuse had been the basis for the regulatory action: thus the criterion in Annex II (d) had been met.

131. The member from Japan explained that hexachlorobutadiene had been banned for use in industry in Japan since 2005, pursuant to the adoption of the country's chemical substances control legislation, which had been based on hazard identification only, rather than risk evaluation, as required by the Convention. In the ensuing discussion, attention was drawn to the problem posed by notifications based on regulatory action that had been taken a long time previously. The Committee agreed that the notification from Japan had not met all the criteria of Annex II to the Convention.

132. Accordingly, as only one notification of final regulatory action from one PIC region had met the criteria of Annex II, it was agreed that hexachorobutadiene could not be proposed for inclusion in Annex III to the Rotterdam Convention at the current time.

133. A drafting group was established to draft a rationale as to how the notification for hexachlorobutadiene submitted by Canada had met the information requirements of Annex I and the criteria of Annex II to the Convention and was requested to report to the Committee on its work. The Committee subsequently adopted the rationale on hexachlorobutadiene, as set out in part D of annex III to the present report.

C. Consideration of draft decision guidance documents for alachlor and aldicarb

1. Alachlor

134. At its second and fourth meetings, the Committee had reviewed the notifications of final regulatory actions for alachlor from Canada and the European Community, respectively, including the supporting documentation referenced therein, and, taking into account each of the specific requirements set out in Annex II to the Convention, had concluded that the requirements of that Annex had been met. A draft decision guidance document for alachlor, based on the two notifications, had been produced and was before the Committee as document UNEP/FAO/RC/CRC.5/12.

135. The Committee agreed to conduct the discussion on alachlor in two segments: first, to consider the work of the intersessional drafting group and the draft decision guidance document and, second, to review the comments from observers that had been made on the notifications. Those comments could be further subdivided into two categories: those which related specifically to alachlor; and those which raised questions of a more general policy nature. Accordingly, the discussion of the policy issues is reflected in section E below, on general issues raised during consideration of the chemicals.

(a) Consideration of the work of the drafting group and of the draft decision guidance document

136. Mr. Berend presented the work of the drafting group, comprising himself and Ms. Tang as joint coordinators and Ms. Choi, Mr. Yarto, Mr. Manuweera, Mr. Sow, Mr. Jamal Hajjar, Ms. Krajnc, Mr. Khashashneh, Ms. Bartels, Ms. Liptakova, Ms. Randall, Mr. Khalifa, Mr. Goji and Mr. Mashimba as members. He confirmed that the drafting group had followed the procedure for the preparation of draft decision guidance documents, as contained in document UNEP/FAO/RC/CRC.5/INF/3. Comments received on the decision guidance document from members of the Committee and observers had been taken into account. He presented the draft decision guidance document

(UNEP/FAO/RC/CRC.5/12), together with a table of comments received and a description of how those comments had been taken into account (UNEP/FAO/RC/CRC.5/INF/5), for consideration by the Committee. He also referred to the supporting documentation provided by Canada (UNEP/FAO/RC/CRC.5/14).

137. The Committee having endorsed the process that had been followed by the drafting group, the Chair proceeded to seek comments on the draft decision guidance document.

138. During the ensuing discussion, there was an exchange of views in which an observer, Mr. Berend and the member from Canada participated. The observer proposed that the draft decision guidance document should be amended in section 2.1 to include a statement to the effect that, in the view of the Canadian alachlor review board, the assumptions used to estimate human exposure had not been reasonable. Mr. Berend noted that the rationale prepared by the Committee at its second meeting in support of its decision and the draft decision guidance document contained a factual description of the course of events – namely, the recommendation by the review board that alachlor registrations should be restored and the decision by the Canadian Minister of Agriculture to uphold the ban. He also pointed out that the report of the alachlor review board contained many more statements and recommendations, which could not all be reproduced in the draft decision guidance document. Accordingly, he believed that the text of the draft decision guidance document should remain as it was. The Committee agreed that the text should not be amended.

139. In response to a concern raised by the observer regarding the quality of a biomonitoring study referenced in section 3.4 of annex I to the draft decision guidance document in relation to the notification by the European Community, the Committee agreed that the reference should be deleted, given that the study had not been decisive for the outcome of the risk evaluation conducted by the Community and was not mentioned in the rationale produced at the fourth meeting of the Committee.

140. Another observer proposed additional text to the document, clarifying that the Committee had not had available to it the full text of the risk evaluation conducted by Canada, but rather excerpts therefrom that had been included in the report by the independent review board. In response, Mr. Berend suggested that the amendment could be accepted, subject to the addition of a further statement that the Committee had found that sufficient for the purpose of establishing that all the criteria of Annex II had been met. His suggested clarification of the observer's proposed text was supported by another member. The Committee agreed to the proposed amendments.

141. The Committee adopted a recommendation in which it agreed upon the text of the draft decision guidance document contained in UNEP/FAO/RC/CRC.5/12, as amended, and decided to forward it for consideration by the Conference of the Parties at its fifth meeting. The recommendation is contained in part A of annex I to the present report.

142. In line with decision RC-2/2, the Committee also agreed to forward to the Conference of the Parties for its consideration the tabular summary of comments received and a description of how those comments had been addressed, as contained in document UNEP/FAO/RC/CRC.5/INF/5; the recommendation for inclusion in Annex III; and the rationale contained in annex A to the report of the second meeting of the Committee (UNEP/FAO/RC/CRC.2/20) and annex I to the report of the fourth meeting of the Committee (UNEP/FAO/RC/CRC.4/11).

(b) Consideration of comments on the notifications

143. Following that discussion of the draft decision guidance document, the Chair turned to the comments on the notification on alachlor submitted to the Secretariat by one observer, which had been reproduced in documents UNEP/FAO/RC/CRC.5/INF/7, INF/9 and INF/11.

144. First, she pointed out that the technical questions from the observer relating to the Canadian notification on alachlor had first been raised during the Committee's second meeting and had been given due consideration by the Committee at that meeting, as reflected in the report of the meeting (UNEP/FAO/RC/CRC.2/20), and in the rationale on alachlor, contained in annex III to that report. Accordingly, the Committee concluded that the points raised by the observer had been taken into account by the Committee in taking the decision at its second meeting that the Canadian notification had met the criteria of Annex II.

145. Second, the Chair noted that the technical questions raised by the observer relating to the notification by the European Community on alachlor had been forwarded to the European Commission which had provided its response; that response had also been reproduced in document UNEP/FAO/RC/CRC.5/INF/7. Accordingly, the Committee concluded that the clarification sought by the observer had been duly provided.

146. Third, the Chair drew attention to a concern expressed by the same observer that the information made available to the Committee relating to the Canadian notification on alachlor had not included the full risk evaluation on the basis of which the final regulatory decision had been taken, which, in the observer's view, rendered questionable the Committee's conclusion that the criteria in Annex II – in particular, those set out in paragraph (b) – had been met. That concern had originally been raised at the Committee's second meeting when the Canadian notification had been considered and several times since then, as contained in the correspondence reproduced for the Committee's fifth meeting (documents UNEP/FAO/RC/CRC.5/INF/7, INF/9 and INF/11).

147. In the ensuing discussion, the observer reiterated his organization's belief that the role of the Committee in determining whether the criteria for inclusion had been met, as spelled out in Annex II, necessitated that it had access to all underlying data: accordingly, at least the core elements, if not the full text, of the risk evaluations should be made available to its members. In the observer's view, the focused summaries were not an acceptable substitute for those core elements.

148. In response to that concern, Mr. Berend, supported by several Committee members, said that the Convention was entirely clear on the matter: while it might be helpful to have access to the full text of the original evaluations, there was no explicit requirement in either Article 5 or in Annex I that the full risk evaluation should be submitted by the notifying country. On the contrary, Annex I specifically referred to a summary of the hazards and risks in paragraph 2 (a) (vi). Furthermore, according to paragraph 6 of Article 5, the Committee was to base its review on the information provided in the notifications.

149. The Chair noted that the Committee at its second meeting had considered the notification and supporting documentation submitted by Canada regarding alachlor. That included excerpts from the report by the independent review board that undertook to examine the evidence that had led to the original decision by the Canadian authorities. The entire report of the review board had been made available to the Committee in document UNEP/FAO/RC/CRC.5/14. The Committee reaffirmed the conclusion that it had reached at its second meeting that the Canadian notification had met the criteria of Annex II as set out in the rationale adopted at the second meeting and contained in the report thereof (UNEP/FAO/RC/CRC.2/20).

150. The Chair noted that that question also raised an issue of a more general policy nature. The discussion of that issue is reflected in section E below.

151. Lastly, the Chair drew attention to concerns raised by the same observer relating to a statement by the European Commission, regarding the application of the criteria contained in paragraph (b) of Annex II. Those concerns had been conveyed in letters to the Secretariat reproduced in documents UNEP/FAO/RC/CRC.5/INF/9 and INF/11. She underscored that the statement made by the European Commission was entirely under the Commission's responsibility and that the observer might wish to contact the Commission directly for follow-up. She briefly outlined the approach followed by the Committee and drew the Committee's attention to the policy guidance on the application of those criteria, contained in document UNEP/FAO/RC/CRC.3/INF/3, which was designed to ensure consistency and transparency in the Committee's work in that regard.

2. Aldicarb

152. At its fourth meeting, the Committee had reviewed the notifications of final regulatory actions for aldicarb from the European Community and Jamaica, including the supporting documentation referenced therein, and, taking into account each of the specific requirements set out in Annex II to the Rotterdam Convention, concluded that the requirements of that Annex had been met. A draft decision guidance document for aldicarb based on the two notifications was before the Committee as document UNEP/FAO/RC/CRC.5/13.

153. The discussion on aldicarb proceeded in two segments: first, a consideration of the work of the drafting group and the draft decision guidance document and, second, a review of the comments that had been made on the notifications.

(a) Consideration of the work of the drafting group and of the draft decision guidance document

154. Mr. Berend presented the work of the drafting group, comprising himself and Ms. Sbarbati-Nudelman as joint coordinators and Mr. Kamatari, Ms. Choi, Mr. Binga, Ms. Randall, Ms. Bartels, Ms. Liptakova, Ms. Krajnc, Mr. Shan, Mr. Singh, Mr. Goji, Mr. Mashimba and Mr. Khalifa as members. He confirmed that the drafting group had followed the procedure for the preparation of draft decision guidance documents adopted at the first meeting of the Committee and endorsed by the Conference of the Parties at its second meeting. Comments received from members of the Committee

and observers on the decision guidance document had been taken into account. He presented the draft decision guidance document (UNEP/FAO/RC/CRC.5/13), together with a table of comments received and a description of how those comments had been taken into account (UNEP/FAO/RC/CRC.5/INF/6), for consideration by the Committee. He also referred to the additional information provided by Jamaica (UNEP/FAO/RC/CRC.5/15).

155. The Chair noted that in many instances comments received by the intersessional drafting group on the draft decision guidance document had been included. Where that had not been the case it was because the request for modification had been in conflict with the information in the notification or the supporting documentation available to the Committee.

156. The Committee having endorsed the process that had been followed by the drafting group, the Chair proceeded to seek comments on the draft decision guidance document.

157. One observer raised three issues of concern relating to requirements: that notifications based on risk evaluations conducted in other jurisdictions should be supported by bridging information; that notifications should be supported by scientific data; and that notifications should be supported by adequate documentation.

158. Mr. Berend confirmed that many individual comments linked to those three issues of concern had been raised by the observer during the consultation of members of the Committee and observers on the draft decision guidance document on aldicarb and document UNEP/FAO/RC/CRC.5/INF/6 set out how they had been addressed in that draft decision guidance document.

159. The same observer suggested that there was insufficient information on use patterns in the notification provided by Jamaica, since aldicarb was in his view not available to small-scale farmers cultivating tomatoes and other crops, as a stewardship programme was in place and sales were controlled. Mr. Berend confirmed that the comment received relating to the stewardship programme had been included in the draft decision guidance document and drew attention to the statements by the Government of Jamaica in its notification that aldicarb had been broadly available to all farmers and had been applied to soil by hand, which the Committee had considered to be a description of use. In addition, information had been available on the type and availability of protective gear and clothing from a study conducted in Jamaica that further described use patterns.

160. As for the criterion of adequate scientific data, the same observer suggested that the information on risk to workers cited no data about use patterns or worker health but relied upon assertions that there were unacceptable risks and that poisoning incidents had been reported. He said that the additional information from Jamaica did not indicate that there had been any cases of poisoning in Jamaica and that that should be reflected in the decision guidance document. Mr. Berend said that the draft decision guidance document reflected the content of the notification and consequent deliberations and decisions by the Committee and did not contain any reference to poisoning incidents. There was, therefore, no reason to change it.

161. The same observer questioned the validity of using the term “has been reported”, suggesting that it did not fulfil the criterion in Annex II (b) for the provision of adequate scientific data. Mr. Berend confirmed that, at its fourth meeting, the Committee had concluded that the notification did indeed fulfil that criterion. That observer further suggested that, with regard to the criterion on adequate documentation, there remained no clarification on the exact date on which final regulatory action had been taken and when the risk evaluation had been undertaken. He proposed that the draft decision guidance document should reflect the flow of events in the years 1994–1995. Mr. Berend said that the dates included in the document had been verified and corrected following receipt of the comment by the observer during the consultation on the draft decision guidance document as set out in document UNEP/FAO/RC/CRC.5/INF/6. The member from Jamaica also provided clarification on the flow of events leading to final regulatory action to confirm the information provided in the draft decision guidance document, which was that the registration had expired in 1994 and, on the basis of the evaluation, had not been renewed.

162. Another observer suggested that the additional oral explanation provided by Jamaica at the Committee’s fourth meeting on the way in which the bridging information had been used to meet the criteria of Annex II should be reflected in writing – whether in the draft decision guidance document, a separate document or the report of the meeting. Mr. Berend pointed out that there had been written statements in the documentation available to the Committee, as reflected both in the rationale for preparing the decision guidance document and the report of the meeting. The observer further suggested that future notifications should present more robust bridging information.

163. The Committee adopted a recommendation in which it agreed upon the text of the draft decision guidance document, as contained in UNEP/FAO/RC/CRC.5/13, and decided to forward it for

consideration by the Conference of the Parties at its fifth meeting. The recommendation is contained in part B of annex I to the present report.

164. In line with decision RC-2/2, the Committee also agreed to forward to the Conference of the Parties for its consideration the tabular summary of comments received and a description of how those comments had been addressed, as contained in document UNEP/FAO/RC/CRC.5/INF/6; the recommendation for inclusion in Annex III; and the rationale contained in annexes I and II to the report of the fourth meeting of the Committee (UNEP/FAO/RC/CRC.4/11).

(b) Consideration of comments on the notifications

165. Following that discussion of the draft decision guidance document, the Chair turned to comments relating to the notification on aldicarb received by the Secretariat from an observer, and the Secretariat's replies thereto, as reproduced in documents UNEP/FAO/RC/CRC.5/INF/7 and INF/9. The documents contained, among other things, comments submitted by an observer questioning the validity of the original notification by Jamaica. The first letter claimed that insufficient documentation had been submitted that could have allowed the Committee to confirm that the final regulatory action had met the criteria in Annex II. The Chair noted that the Committee had, however, justified its conclusion in the rationale that it had produced for aldicarb. In the second letter, the observer had claimed that final regulatory action had been taken years before the cited risk evaluation had been conducted and that the said evaluation had failed to provide bridging information on exposure and use patterns essential to extrapolating the risk evaluation from another country. The Secretariat had pointed out that the final regulatory action had in fact been taken in 1994 rather than 1975 and that bridging information had been provided in the notification and supporting documentation.

166. In the ensuing discussion, in response to an observer's question as to how it was possible to establish excessive environmental exposure without having a use pattern upon which to draw, Mr. Berend pointed out that there were several statements in the documentation submitted by the Pesticides Control Authority of Jamaica regarding the comparability of the conditions in Jamaica and the United States that had sufficed for the Committee to reach its conclusion.

167. The Chair pointed out that the guidance and working papers used by the Committee did not require risk evaluations to be quantitative, but that bridging information could be used to support qualitative estimates that were acceptable to the Committee, particularly in support of precautionary or preventative bans.

168. The same observer questioned how a simple written statement that aldicarb was in the hands of smallholders could suffice for the Committee and be deemed to fulfil the Convention's scientific data requirements. In his view more quantifiable information would be required. Mr. Berend stressed that the documentation had been produced by the Office of the Pesticide Registrar and submitted by the Government of Jamaica and had not been called into question when the notification had been discussed originally. There had been no reason to disbelieve the statements made by the Jamaican authorities.

169. Accordingly, the Committee concluded that the comments raised by the observer had been properly considered and discussed and would be taken into account in the future.

170. One observer reiterated his view that there remained some open questions on the notification from Jamaica on aldicarb that should be clarified when the draft decision guidance document was submitted to the Conference of the Parties for consideration. First, bridging information should include quantitative figures such as the use rate to enable the bridging to be made and as such qualitative statements should not be deemed sufficient. Second, given the requirement that notifications should be supported by scientific data, the information supplied in the notification on worker health, in the form of the term "it has been reported", should not satisfy the requirement of Annex II (b) (i) that the risk evaluation should be based on data generated by scientifically recognized methods.

D. General issues raised during the consideration of the chemicals

171. In response to the concern expressed by an observer during the discussion on alachlor, the Chair noted that it raised a more general policy issue as to whether the full risk evaluation underlying a national regulatory action was required by the Committee to determine whether the criteria in Annex II had been met. In responding to that question, the Chair reviewed the requirements as set out in the Convention and pointed out that the information requirement in Annex I contained no explicit provision requiring the submission by the notifying country of the full risk evaluation. She noted that, at its second meeting, the Committee had determined that, in situations where the original evaluation was not available in English, focused summaries of such evaluations could be provided instead. Guidance on the development of such summaries had been made available to the Committee in document UNEP/FAO/RC/CRC.5/INF/3.

172. For those notifications where a country had used a risk evaluation from another country as the basis for a national decision, there was debate as to what would constitute acceptable or adequate bridging information by the Committee in determining the extent to which the original risk evaluation reflected the prevailing conditions in the notifying country. Of specific concern was the acceptability of quantitative versus qualitative information, in particular the extent to which simple descriptions or statements by the notifying country regarding prevailing conditions relevant to human health and the environment might be acceptable. Specific examples included the notifications for endosulfan and aldicarb where statements had been made by the notifying countries concerning the non-availability and practicality of personal protective equipment under the prevailing conditions in those countries relative to the requirement for such protection as key elements of the risk evaluation in countries such as Australia and the United States of America.

173. She concluded that, while it was essential that adequate documentation should be available to the Committee in support of notifications of final regulatory actions, it was ultimately the Committee's responsibility to determine whether, on the basis of the information available to it, the criteria in Annex II had been met. The Committee agreed with that conclusion.

174. During the discussion of endosulfan, one observer, supported by the member of the Committee from India, drew the Committee's attention to paragraph 1 of Article 5 of the Convention, which required Parties to notify the Secretariat of their final regulatory actions "as soon as possible, and in any event no later than ninety days after the date on which the final regulatory action has taken effect".

175. In their view, the notifications from the European Community, considered by the Committee at its second meeting, and those from Burkina Faso, Cape Verde, the Gambia, Mali, Mauritania, the Niger and Senegal, considered at the current meeting, should not be considered eligible for consideration by the Committee as they had been submitted to the Secretariat more than 90 days after the date on which the final regulatory action had taken effect.

176. The Chair noted that concern but pointed out that, as it involved a legal interpretation of the Convention, it lay outside the mandate of the Committee, which was a technical body. She recalled the discussion on that issue and the opinion provided by the Senior Legal Adviser, which had stated that the Convention contained no provision to invalidate a notification of a final regulatory action notified by a Party on the grounds of its late submission. Thus, a notification, even if submitted after the timeline set out in paragraph 1 of Article 5 , once verified by the Secretariat and submitted to the Committee, remained valid. She gave assurances, however, that the concern would be brought to the attention of the Conference of the Parties.

177. During the discussion on endosulfan, the same observer, supported by the member of the Committee from India, had also expressed concern that the report prepared by the task group appeared to show two different dates as the date of entry into force for a single final regulatory action. In their view, the reference to more than one date was inconsistent with the provisions of paragraph 1 of Article 5 of the Convention. The Committee agreed to refer the matter to the Conference of the Parties for its consideration.

V. Other matters

A. Letters from CropLife International

178. The Committee had before it recommendations relating to the PIC listing process that had been submitted to the Secretariat by CropLife International and reproduced in document UNEP/FAO/RC/CRC.5/INF/7, together with a follow-up letter from the same observer, reproduced in document UNEP/FAO/RC/CRC.5/INF/9. The first of those documents also contained responses by the Secretariat to the recommendations.

179. Following an introduction of the recommendations by the observer, the Committee engaged in a brief discussion of their merits.

180. With regard, in particular, to the recommendation on the transparency of the listing process, there was broad agreement that the listing process was fully transparent and that the participation of observers in intersessional task groups set up to consider notifications was valuable. In that context, it was suggested that continued efforts should be made to involve observers in the process.

181. With regard to the recommendation on the independence and objectivity of members, there was general agreement on the paramount importance of ensuring that members acted as independent experts and were not serving the interests of their Governments or employer organizations: they were designated by their Governments but did not represent them. It was pointed out that procedures had been set in place under the Convention to avoid such conflicts of interest. It was suggested by one

observer that it might be good practice for the coordinator of the task group on a given chemical not to be from the notifying Party. The Committee noted that concern and also agreed that the presence of members from a notifying Party in the task group was of great value in the process of considering the chemical.

182. On the same issue, one observer expressed concern at potential conflicts of interest in that a member representing or advising a Government that was a major manufacturer of a particular chemical would be in a position to block consensus from being reached by the Committee on that chemical. She said that the rules of procedure of the Committee should be examined with a view to remedying the situation.

183. The member from India said that he found such statements highly objectionable and uncalled for, registering his strong disagreement with them and pointing out that he was representing only the Ministry of Environment and Forests and had no affiliations with any other ministry in the Indian Government related to chemicals. He also stressed that too much transparency could be a bad thing.

184. The Committee agreed that the statements would be recorded for the attention of the Conference of the Parties.

B. Request for training

185. Several members called for the development and implementation of regional training courses, taking the form of workshops, for designated national authorities and members of the Committee so as to enhance the effectiveness of the work of the Committee, particularly with regard to undertaking risk evaluations and using bridging information to meet the criterion in Annex II (b) (iii).

186. The Co-Executive Secretary of the Rotterdam Convention said that the Secretariat would undertake consultations with a view to launching a training programme and reporting back to the Committee on progress and success in that regard at its sixth meeting.

C. Nomination of new Bureau members and chair

187. The representative of the Secretariat noted that the Committee had to elect new members to the bureau as the current meeting was the last for the members from the African; Central and Eastern European; Western European and others and the Asian and Pacific regions. Those new members would take office at the end of the meeting. One of the members should be nominated as chair. As, under rule 30 of the rules of procedure of the Conference of the Parties, the chair of the Committee was to be elected by the Conference of the Parties and given that there was no meeting of the Conference prior to the sixth meeting of the Committee, the person nominated to chair the Committee would serve ad interim until officially elected by the Conference at its fifth meeting, to be held in June 2011.

188. The following new officers were elected to serve on the bureau of the Committee, with terms of office to commence at the end of the fifth meeting:

Chair: Ms. Marit E. Randall (Norway – Western Europe and others region)

Vice-Chairs: Mr. Idris Adamu Goji (Nigeria – African region)
Mr. Gamini K. Manuweera (Sri Lanka – Asian and Pacific region)
Ms. Darina Liptakova (Czech Republic – Central and Eastern European region)

Mr. Mario Yarto (Mexico) would continue to represent the Latin American and Caribbean region.

D. Dates of the Committee's sixth meeting

189. The Committee agreed to hold its next meeting in Geneva from 15 to 19 March 2010.

VI. Adoption of the report

190. The Committee adopted its report on the basis of the draft report that had been circulated during the meeting, as amended, and on the understanding that finalization of the report would be entrusted to the Rapporteur, working in consultation with the Secretariat.

VII. Closure of the meeting

191. Following the customary exchange of courtesies, the meeting was declared closed at 12.30 p.m.

Annex I

Recommendations to the Conference of the Parties

A. Recommendation to the Conference of the Parties on the decision guidance document for alachlor

The Chemical Review Committee,

Recalling its decision by consensus, at its fourth meeting, in accordance with paragraph 6 of Article 5 of the Convention, to recommend to the Conference of the Parties that it should include alachlor in Annex III to the Rotterdam Convention,

Recalling also paragraphs 1 and 2 of Article 7 of the Convention,

Decides to agree upon the draft text of the decision guidance document on alachlor and to forward it to the Conference of the Parties for its consideration.

B. Recommendation to the Conference of the Parties on the decision guidance document for aldicarb

The Chemical Review Committee,

Recalling its decision by consensus, at its fourth meeting, in accordance with paragraph 6 of Article 5 of the Convention, to recommend to the Conference of the Parties that it should include aldicarb in Annex III to the Rotterdam Convention,

Recalling also paragraphs 1 and 2 of Article 7 of the Convention,

Decides to agree upon the draft text of the decision guidance document on aldicarb and to forward it to the Conference of the Parties for its consideration

Annex II

Rationale, decision, background information and workplan for drafting a decision guidance document on endosulfan

1. Rationale as to how the notifications of final regulatory action on endosulfan (CAS No. 115-29-7) from Burkina Faso, Cape Verde, the Gambia, Mali, Mauritania, the Niger and Senegal meet the information requirements of Annex I and the criteria of Annex II to the Convention

1. In reviewing the notification of final regulatory action by the Sahelian countries Burkina Faso, Capo Verde, Gambia, Mali, Mauritania, Niger and Senegal, together with the supporting documentation, the Committee concluded at its fifth session that the actions had been taken in order to protect human health and the environment.

2. Endosulfan was used in Burkina Faso, Capo Verde, Gambia, Mali, Mauritania, Niger and Senegal, which are members of the Sahelian Pesticides Committee (CSP), as insecticide/acaricide in cotton.

3. The regulatory actions of Burkina Faso, Capo Verde, Gambia, Mali, Mauritania, Niger and Senegal were to ban all uses of endosulfan by the end of 2008. The final regulatory action was taken in order to protect human health and environment. The actions were based on hazard and risk evaluations taking into account local exposure conditions for pesticide operators and of the aquatic environment. It was found that the substance posed an unacceptable risk to operators, to families who had their habitations in or near cotton fields and to aquatic ecosystems. The notifications and supporting documentation describe the specific risks.

4. The risk evaluations performed by the Sahelian countries include an assessment of the hazards to human health (high acute toxicity) and human exposure (occupational exposure), that were performed by the USA and Australia under comparable use pattern, and taking into account the prevailing conditions in the Sahel (lack of training, hot climate, no PPE available). Therefore the evaluations meet the criteria for the risk evaluation.

5. The risk evaluations also contain an assessment of the hazards to aquatic organisms (high toxicity to fish and invertebrates) and exposure in surface waters. Two argumentation lines were presented. Firstly, a pesticide risk evaluation for surface waters carried out in Burkina Faso was reported and documented. This evaluation used an Australian computer model (PIRI) and land use data including application rates of the Sahelian countries that was applied to 14 pesticides which were used in cotton in the Sahel. Five exposure scenarios of surface water were evaluated, including buffer zones and rain events. The result of the evaluation was that endosulfan was the only substance which posed a high or very high risk to aquatic ecosystems under all 5 scenarios and even taking into account buffer zones up to 1000 m.

6. In the second approach, assessments performed by the USA and Australia under comparable use pattern and which were based on recognized scientific methods and principles, were taken into account. These authorities had concluded that the risk to aquatic organisms was only acceptable provided that mitigation measures such as large vegetated and general buffer zones were respected. In Australia no endosulfan applications may take place if heavy rains or storms are forecast within two days or under hot weather conditions. In the USA endosulfan is not authorized for the use in cotton in the states where surface water bodies are abundant.

7. Taking into account the results of these two approaches and given the prevailing conditions in the Sahel, where surface waters are abundant and treatments take place in the rainy season, which is characterised by heavy and hard to predict rainstorms, it was virtually impossible to guarantee that risk reduction measures such as required in Australia or the US were followed.

8. In conclusion, the Sahelian Pesticide Committee considered the risk to aquatic ecosystems of using endosulfan in their countries as unacceptable.

9. The Committee established that the final regulatory actions had been taken on the basis of risk evaluations and that the evaluations had been based on a review of scientific data. The available documentation demonstrated that the data had been generated in accordance with scientifically recognized methods and that the data reviews had been performed and documented in accordance with generally recognized scientific principles and procedures. Data were generated from internationally recognized sources as the US EPA and the Australian Review for endosulfan. The review process took into account existing use patterns in the Sahelian countries. Overall, the available documents showed

that the final regulatory action had been based on a chemical-specific risk evaluation, involving prevailing conditions of exposure within the submitting countries.

10. The Committee noted that, as the regulatory actions in the Sahelian countries was to ban the use of endosulfan, there would be a reduced risk of human and environmental exposure to the toxic effects of endosulfan for all uses.

11. There was no indication that there were any industrial uses of endosulfan in the notifying countries. The Committee also noted that the considerations underlying the final regulatory action were not of limited applicability since similar concerns as identified in the notifying countries could occur in other countries, in particular also developing countries. On the basis of information provided to the Committee there was evidence of ongoing international trade in endosulfan.

12. The Committee noted that the final regulatory action in the Sahelian countries was not based on concerns about intentional misuse of endosulfan, but on concerns from registered label uses.

13. The Committee concluded that the notifications of final regulatory action by the Sahelian countries met the information requirements of Annex I and the criteria set out in Annex II of the Convention.

2. Decision to establish an intersessional drafting group on endosulfan

The Chemical Review Committee,

Recalling Article 5 of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade,

Recalling also the recommendation at its second meeting to the Conference of the Parties that endosulfan should be included in Annex III to the Rotterdam Convention,[2]

Recalling further the conclusion at its third meeting that the notification of final regulatory action relating to endosulfan by the European Community had met the criteria set forth in Annex II to the Rotterdam Convention,[3]

Noting the outcome of the discussion on the notifications of final regulatory action from Burkina Faso, Cape Verde, the Gambia, Mali, Mauritania, the Niger and Senegal,

Decides, in the light of past practice in drafting decision guidance documents, to establish a drafting group to develop a decision guidance document for endosulfan for consideration at its next meeting on the understanding that responses to the outstanding questions regarding the notifications from the above-mentioned Sahelian countries will be made available at its next meeting to inform further discussion on whether all the criteria of Annex II have been met.

3. Workplan for the intersessional drafting group on endosulfan

The drafting group comprises the following members:

Co-Chairs: Ms. Anja Bartels
Ms. Noluzuko Gwayi

Members: Mr. Ousmane Sow
Ms. Marit Randall
Mr. Michael Ramsay
Ms. Amala Jayasekara
Mr. Mario Nichelatti
Mr. Gamini Manuweera
Mr. Mansourou Moudachirou
Ms. Hang Tang
Mr. Gopal Krishna Pandey

2 UNEP/FAO/RC/CRC.2/20, Annex II A.

3 UNEP/FAO/RC/CRC.3/15, Annex II.

Workplan for the intersessional drafting group on endosulfan

Task	*Persons responsible*	*Deadline*
Draft an internal proposal on endosulfan based on the information available to the Committee.	Co-chairs	8 May 2009
Send draft internal proposal to drafting group members for comments via e-mail.	Co-chairs	8 May 2009
Replies	All DG members	2 June 2009
Update internal proposal based on the comments from drafting group members.	Co-chairs	10 July 2009
Send updated internal proposal to the Committee and its observers for comments via e-mail.	Co-chairs	10 July 2009
Replies	All CRC members and observers	25 August 2009
Draft a decision guidance document (DGD) based on the comments from the Committee and its observers.	Co-chairs	25 September 2009
Send draft DGD to drafting group members for comments via e-mail.	Co-chairs	25 September 2009
Replies	All DG members	16 October 2009
Finalize draft DGD based on the comments of the group.	Co-chairs	12 November 2009
Send the draft DGD to Secretariat.	Co-chairs	12 November 2009
Sixth meeting of the Chemical Review Committee		March 2010

4. Submission by the member from India

Conference Room Paper on Report of Task Group on Endosulfan (UNEP/FAO/RC/CRC.5/CRP.6) and subsequent discussions.

The report of task group on Endosulfan notifications and subsequent discussions have left out several key issues raised and debated at the pre session meeting held on last Sunday, 22nd, March 09. The key issues raised/debated include the following:

I. Belated submission of notifications from Sahelian countries:

Article 5 of the Convention describes the obligations of Parties in notifying final regulatory actions and also the role of Convention's Secretariat.

Article 5, paragraph 1 of the Convention states:

"Each party that has adopted a final regulatory action shall notify the secretariat in writing of such notifications. Such notifiucations shall be made as soon as possible, and in any event no later than inenhty days after the date on which the final regulatory action has taken effect, and shall contain the information required by annex I, where available".

Article 5, paragraph 3 of the Convention states:

"The secretariat shall, as soon as possible, and in any event no later than six months after receipt of a notification under paragraph 1 and 2 shall verify whether the notification contains the information…"

Repeated use of the term "shall" in these two important provisions of the Convention make it compulsory for Parties to submit the notifications within ninety days after the date which the final regulatory action has taken effect. Also, it is expected that the Secretariat to begin the process of verifying the notifications only if notification received is within the specified time period in conformity with paragraph 1 of Article 5(which stipulates 90 days time limit).

In case of Sahelian notifications, the final regulatory action entered into force on 13th Nov 2007 (Ref: PIC Circular XXVIII- Dec 2008), but the notifications were sent to the secretariat only in July 2008 i.e. after a lapse of about eight months and as such the notifications from Sahelian countries do not qualify for considerations under Rotterdam Convention as they were not notified to the Convention within ninety days and are in contravention of Article 5

II. About the term final regulatory action:

The Convention defines final regulatory action as *"an action taken by a party that does not require subsequent regulatory action by that Party, the purpose of which is to ban or severely restrict a chemical"*.

Final regulatory action cannot have a subsequent or secondary regulatory action.

This, when read with Article5 (1) of the Convention do not allow multiple dates of entry into force for a single final regulatory action. In the report prepared by the task group, two different dates are shown as date of entry for a single final regulatory action. This is not maintainable under the Convention. It must be mentioned here that in all earlier notifications considered by CRC, only one date would be shown as date of entry into force of final regulatory action.

As such, it is evident that Sahelian notifications do not meet Annex I(2)(a)iii of the Convention**.**

III. Inadequate adoption of bridging information and noncompliance of Annex II(b)(iii) of the Convention:

Sahelian notifications did not conform to guidelines given in policy guidelines (UNEP/FAO/RC/CRC.3/INF/3) for bridging information.

Paragraph 4 of this document expressly states "It is important to note that when a Party submits a notification of final regulatory action, the risk evaluation and bridging information must be sufficient to fulfil the criteria in Annex II (b) (iii) for the notification to be a trigger for further consideration under the Convention".

Under no circumstances, there shall be failure to meet Annex IIb(iii) which states "The final regulatory action was based on a risk evaluation involving prevailing conditions within the Party taking the action".

Supporting documents submitted by Sahel seek to selectively use information from risk evaluation carried out in alien environment in other countries where application methods, frequency of applications, formulations used, soil and whether conditions, size of land holdings etc are significantly different from Sahelian conditions.

Risk evaluations should be based on actual exposure in prevailing conditions of the notifying party. Computer simulated model submitted by Sahel (not subjected to peer review and validation) cannot be a substitute for real & actual field measurements. The computer simulated model can only give approximate estimates as there are several variables used in the model. Unless the method and model used are validated, they would not reflect the realistic estimates. In supporting documents submitted by Burkina Faso, there is no mention of actual measurements of Endosulfan in surface waters that could cause potential adverse effects in aquatic environment.

In view of above facts, I am of the firm opinion that CRC cannot conclude that Sahelian notifications merit consideration under the Rotterdam Convention.

5. Report from a drafting group on concerns raised by the member from India about the notification from the Sahelian countries and the proposed means to deal with these concerns (UNEP/FAO/RC/CRC.5/CRP.6

(a) Concerns raised about the bridging information to the risk evaluations in the notifications from the Sahelian countries

1. Selective use of information from risk evaluations carried out in circumstances with different application methods, frequency of applications, formulations used, soil and weather conditions and size of land holdings

2 (a) The model used was not peer-reviewed.

2 (b) The model used was not validated for Sahelian countries.

3 (a) There are no actual field measurements.

3 (b) Modelling is not considered as a relevant substitute for field measurements

Proposed means and measures to deal with the concerns presented above

Risk evaluations including bridging are described in paragraphs 4 and 5 of the draft rationale.

1. Selective use of information from risk evaluations carried out in circumstances with different application methods, frequency of applications, formulations used, soil and weather conditions and size of land holdings.

Reference is selectively made to those parts of the risk evaluations that are relevant to the notifying country are used in the bridging information.

2 (a) The model used was not peer-reviewed.

We will document that the model was peer-reviewed.

2 (b) The model used was not validated for Sahelian countries.

We will document whether the model has been validated for any of the Sahelian countries. We know, however, that the model has been validated under tropical conditions. We will further document the validation of the model and we will describe the input data for the model. We will seek references where models have been previously used in notifications with and without validation in the notifying country.

3 (a) There are no actual field measurements

Document UNEP/FAO/RC/CRC.5/INF/3 on guidance on the application of criteria II b (iii) (from page 98 onwards), indicates that expected or anticipated exposure established with modelling is adapted to the anticipated exposure and prevailing conditions in the notifying country. We will present excerpts from the above-mentioned guidance document.

We will list examples of cases where notifications have been accepted with and without field measurements.

3 (b) Modelling is not considered to be a relevant substitute for field measurements

The use of modelling as a substitute for field measurements is always based on a case-by-case review by the Chemical Review Committee as a body for experts on risk evaluation taking into account the wide use of modelling in other forums, vis-à-vis field evaluations and estimates.

Annex III

Rationales for those chemicals for which only one notification met the criteria of Annex II

A. Azinphos-methyl: rationale for the conclusion that the notification for azinphos-methyl (CAS No. 86-50-0) from Canada meets the information requirements of Annex I and the criteria of Annex II to the Rotterdam Convention

1. In reviewing the notification of final regulatory action by Canada to severely restrict the use of azinphos-methyl as a pesticide, together with the supporting documentation, the Chemical Review Committee concluded at its fifth session that the regulatory action had been taken to protect human health.

2. Azinphos-methyl was used in Canada as a broad spectrum organophosphate insecticide on a wide variety of feed, food and ornamental crops. It was used on the feed crops alfalfa, clover and rye. Registered food crop use included fruit such as apples, crab apples, pears, quinces, cherries, peaches, apricots and berries, and vegetables such as Brussels sprouts, cabbages, cauliflowers, tomatoes and potatoes. Use on ornamental crops included nursery plants, forest trees and shade trees.

3. The regulatory action of Canada was to phase out by the end of 2005 all uses of azinphos-methyl for which alternatives exist: alfalfa, clover, rye, quince, potatoes, tomatoes, rutabagas, turnips, cabbage, broccoli, Brussels sprouts, cauliflowers, cucumbers, strawberries, boysenberries, longan berries, walnuts, melons, pumpkins, blueberries, outdoor ornamentals, nursery plants, forest trees and shade trees. Other uses that are part of an established integrated pest management programme or for which there are no alternatives continue to be registered until the end of 2012: apples, crab apples, apricots, blackberries, cherries, cranberries, grapes, pears, peaches, plums, prunes and raspberries.

4. The risks of azinphos-methyl were assessed considering two key factors: dose levels with no effect on human health and the dose to which people may be exposed. Only uses where exposure is well below levels that cause no effects in animal testing were considered acceptable for continued registration. Azinphos-methyl was found to be extremely acutely toxic via the oral and dermal routes and moderately toxic by inhalation and a dermal sensitizer. Symptoms are consistent with that of a cholinesterase inhibitor. Occupational risk estimates associated with application, mixing and loading for registered label uses exceeded the level of concern for most exposure scenarios, even after consideration of maximum feasible engineering controls and personal protective equipment and clothing. The personal protective equipment, engineering controls and use pattern changes required to mitigate worker exposure during the phase-out period were described. These included among others: coveralls, chemical-resistant gloves, chemical-resistant footwear, and protective eyewear and headgear and, for exposure in enclosed areas, a respirator. In addition, mixers and loaders must have a fully closed mixing and loading system.

5. The risk evaluation performed by Canada included an assessment of the hazards to human health (high acute toxicity and dermal sensitization) and human exposure (primarily occupational exposure associated with mixing, loading and application), and therefore meets the criteria for a risk evaluation.

6. The Committee established that the final regulatory action had been taken on the basis of a risk evaluation and that the evaluation had been based on a review of scientific data. The available documentation demonstrated that the data had been generated in accordance with scientifically recognized methods and that the data reviews had been performed and documented in accordance with generally recognized scientific principles and procedures. Data were either generated from internationally recognized sources – such as the Pesticide Manual – or from the United States Environmental Protection Agency review for azinphos-methyl. The review process took into account existing use patterns in Canada and the United States of America and was documented in a series of reevaluation notes, which were available to the Committee. Overall, the available documents showed that the final regulatory action had been based on a chemical-specific risk evaluation, involving prevailing conditions of exposure within Canada.

7. The Committee noted that, as the regulatory action in Canada was a severe restriction of the use of azinphos-methyl, there would be a reduced risk of occupational exposure to the toxic effects of azinphos-methyl for uses that are no longer authorized. There would be further elimination of other uses by the end of 2012, with additional risk mitigation measures being introduced in the interim period.

8. There was no indication of industrial uses of azinphos-methyl in Canada. The Committee also noted that the considerations underlying the final regulatory action (namely occupational risks) were not of limited applicability since concerns similar to those identified in Canada could occur in other countries, in particular developing countries. Based on information provided to the Committee, there was evidence of ongoing trade in azinphos-methyl.

9. The Committee noted that the final regulatory action in Canada was not based on concerns over intentional misuse of azinphos-methyl, but on concerns from registered label uses.

10. The Committee concluded that the notification of final regulatory action by Canada had met the information requirements of Annex I and the criteria set out in Annex II to the Convention.

B. Phorate: rationale for the conclusion by the Committee that the notification for phorate (CAS No. 298-02-2) from Canada meets all the criteria of Annex II to the Rotterdam Convention

1. In reviewing the notification of final regulatory action by Canada, together with the supporting documentation provided by the Party, the Committee was able to confirm that the action had been taken to protect the environment.

2. The notification and supporting documentation identified phorate as a pesticide. It was used in Canada as an insecticide on corn, lettuces, beans, rutabagas and potatoes.

3. The Committee established that the final regulatory action had been taken on the basis of a risk evaluation and that the evaluation had been based on a review of scientific data. The available documentation demonstrated that the data had been generated in accordance with scientifically recognized methods and that the data reviews had been performed and documented in accordance with generally recognized scientific principles and procedures. It also showed that the final regulatory action had been based on chemical-specific risk evaluations taking into account the conditions of exposure within Canada.

4. Phorate is highly toxic to all terrestrial and aquatic species tested. Incident reports of bird and mammal fatalities in Canada, the United States of America and the United Kingdom of Great Britain and Northern Ireland support the conclusion that phorate presents a significant risk to birds and wildlife. Surface broadcast application presents the greatest risk owing to the large number of exposed granules. Although soil incorporation is expected to lower the risk of terrestrial and aquatic exposure, it nevertheless presents a very high risk owing to unincorporated granules remaining exposed on the surface. The risk to small and moderate-sized birds and small or moderate-sized mammals remains high to very high with either method of application. Owing to its extreme toxicity to all organisms tested, the very high risk to moderate and smaller sized birds and mammals, the incident reports of bird and mammal mortalities (including large raptors in Canada), in addition to the persistence and mobility of the toxic sulfoxide and sulfone transformation products, Canada has concluded that the use of phorate in the country presents a high risk to the environment. Additional information on toxicity for aquatic organisms was also given in the supporting documentation provided by Canada. (UNEP/FAO/RC/CRC.5/9/Add.1.)

5. The Committee concluded that the final regulatory action taken by Canada on the basis of the available supporting documentation provided a sufficiently broad basis to merit including phorate in Annex III to the Rotterdam Convention in the pesticide category. It noted that the action had led to a decrease in the quantities of the chemicals used in the notifying Party. Use of phorate on four of five crops had been banned. The only remaining allowed use was to control wireworm on potato.

6. There was no indication that there were any industrial uses of phorate in Canada.

7. The Committee also took into account that the considerations underlying the final regulatory action were not of limited applicability since the uses on four of five crops had been banned. On the basis of information provided to the members at the fifth meeting of the Committee and other available information, the Committee concluded that there was evidence of ongoing international trade in phorate.

8. The Committee noted that the final regulatory action was not based on concerns about intentional misuse of phorate.

9. At its fifth meeting, the Committee concluded that the notification of final regulatory action on phorate by Canada had met the information requirements of Annex I and all the criteria set out in Annex II to the Convention.

C. Hexachlorobenzene: rationale for the conclusion that the notification for hexachlorobenzene (CAS No. 118-74-1) from Canada meets the information requirements of Annex I and the criteria of Annex II to the Rotterdam Convention

1. In reviewing the notification of final regulatory action for the severe restriction of hexachlorobenzene by Canada, together with the supporting documentation, the Committee was able to confirm that the action had been taken in order to protect human health and the environment.

2. The notification and supporting documentation identified hexachlorobenzene as an industrial chemical. It was used directly in the manufacture of pyrotechnics and tracer bullets and as a fluxing agent in the manufacture of aluminum. It was also used as a wood-preservative agent, a porosity-control agent in the manufacture of granite anodes and a peptizing agent in the production of nitroso compounds and rubber tyres.

3. The Committee established that the final regulatory action had been taken on the basis of a risk evaluation and that the evaluation had been based on a review of scientific data. The available documentation demonstrated that the data had been generated in accordance with scientifically recognized methods and that the data reviews had been performed and documented in accordance with generally recognized scientific principles and procedures. It also showed that the final regulatory action had been based on chemical-specific risk evaluations taking into account the conditions of exposure within Canada.

4. Regarding human health, exposure to hexachlorobenzene causes a wide range of effects in several species of mammals. For example, the carcinogenicity of hexachlorobenzene has been assessed in several bioassays in rats, mice and hamsters. Results from a number of studies have indicated that hexachlorobenzene is a co-carcinogen or promoter of cancer. In studies conducted by Canada, relatively low doses of hexachlorobenzene affected the reproductive tissues in female monkeys. Based on the most representative concentrations of hexachlorobenzene in air, water, food and soil, and standard values for body weights and intakes of these environmental media, the daily intakes of hexachlorobenzene were estimated for various age classes of the general population. In addition, estimates were made for more highly exposed subgroups of the population, including recreational fishermen who consumed salmon from Lake Ontario and Inuits from the high Arctic who consumed large quantities of marine mammals. Exposure of population in the vicinity of industrial sources may also have been greater than general population. The data presented indicated that hexachlorobenzene, at the concentration found in Canada had the potential to cause adverse effects on human health.

5. Regarding the environment, the highest concentrations of hexachlorobenzene were observed near point sources on the Great Lakes and connecting channels. Levels in air, water and forage fish from this area at the time when the assessment was conducted have the potential to cause harmful effects to fish-eating mammals, such as mink. The available data on these levels further indicated that hexachlorobenzene has the potential to cause reproductive impairment to predatory bird species across Canada, including endangered peregrine falcon.

6. The Committee concluded that the final regulatory action taken by Canada on the basis of the available supporting documentation provided a sufficiently broad basis to merit including hexachlorobenzene in Annex III to the Rotterdam Convention as an industrial chemical. It noted that the action had led to a decrease in the quantities of the chemical used in the notifying Party, because all commercial use of hexachlorobenzene had been banned. Hence, the risk for human health and the environment in the notifying Party had been significantly reduced.

7. The Committee took into account that the considerations underlying the final regulatory action were not of limited applicability since hexachlorobenzene was subject to long-range transport and persistent and could therefore be found in areas where it has never been used.

8. The Committee noted that the final regulatory action was not based on concerns about intentional misuse of hexachlorobenzene.

9. At its fifth session, the Committee concluded that the notification of final regulatory action by Canada met the information requirements of Annex I and the criteria set out in Annex II to the Convention. When a second notification for the same chemical from a Party in a region other than North America is found by the Committee as meeting the criteria of Annex II, the Committee will recommend

to the Conference of the Parties that hexachlorobenzene be included in Annex III to the Rotterdam Convention.

D. Hexachlorobutadiene: rationale for the conclusion by the Chemicals Review Committee that the notification for hexachlorobutadiene (CAS No. 87-68-3) from Canada meets all the criteria of Annex II of the Rotterdam Convention

1. In reviewing the notification of final regulatory action by Canada, together with the supporting documentation provided by the Party, the Chemical Review Committee was able to confirm that the action had been taken in order to protect the environment.

2. The notification and supporting documentation identified hexachlorobutadiene as an industrial chemical used mainly as a solvent, while it had also previously been used as hydraulic fluid, heat transfer liquid and an intermediate in production.

3. The Committee established that the final regulatory action had been taken on the basis of a risk evaluation and that the evaluation had been based on a review of scientific data. The available documentation demonstrated that the data had been generated in accordance with scientifically recognized methods and that the data reviews had been performed and documented in accordance with generally recognized scientific principles and procedures. It also showed that the final regulatory action had been based on chemical-specific risk evaluations taking into account the conditions of exposure within Canada.

4. Half-lives of hexachlorobutadiene in different compartments and bioaccumulation are described in the notification and the report. The maximum bioconcentration factor is 19,000 but hexachlorobutadiene does not biomagnify through food chains. Hexachlorobutadiene preferentially accumulates in the livers of fish and can be biotransformed into polar metabolites that are toxic to kidneys in fish. Chronic effects occur at concentrations of an order of magnitude below those causing acute effects. The lowest observed effect concentration (LOEC) for 28 days is 13 micrograms per litre for fish (fathead minnow – Pimephales promelas). The lowest lethal concentration (LC50) (over 96 hours) is 32 micrograms per litre for shrimp (marine mysid shrimp – Mysidopsis bahia). For benthic organisms no studies were available and the water-sediment equilibrium partitioning approach was therefore used to estimate a critical toxicity value (CTV) of 20.8 micrograms per gram dry weight. The notification and supporting documentation from Canada also provided some data on toxicity (mainly effects on kidneys in experimental animals), although the regulatory action was not based on human health concerns.

5. The Chemical Review Committee concluded that the final regulatory action taken by Canada on the basis of the available supporting documentation provided a sufficiently broad basis to merit including hexachlorobutadiene in Annex III to the Rotterdam Convention as an industrial chemical. It noted that the action had led to a decrease in the quantities of the chemicals used in the notifying Party. The manufacture, use, sale, offer for sale and import of hexachlorobutadiene were banned, an exception being made only for the unintended incidental presence of the chemical in products.

6. There was no indication that there were any uses of hexachlorobutadiene as a pesticide in Canada.

7. The Committee also took into account that the considerations underlying the final regulatory action were not of limited applicability.

8. On the basis of information provided to the members at its fifth meeting, the Chemical Review Committee could not confirm ongoing international trade in hexachlorobutadiene.

9. The Committee noted that the final regulatory action was not based on concerns about the intentional misuse of hexachlorobutadiene.

10. At its fifth meeting, the Chemical Review Committee concluded that the notification of final regulatory action on hexachlorobutadiene by Canada met the information requirements of Annex I and all the criteria set out in Annex II to the Convention.