



**United Nations
Environment Programme**



**Food and Agriculture Organization
of the United Nations**

Distr.: General
2 December 2008

English only

**Rotterdam Convention on the Prior Informed
Consent Procedure for Certain Hazardous
Chemicals and Pesticides in International Trade
Chemical Review Committee**

Fifth meeting

Rome, 23–27 March 2009

Item 3 of the provisional agenda*

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

Issues arising out of the fourth meeting of the Conference of the Parties to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade

Note by the Secretariat

Introduction

1. The purpose of the present note is to provide the Chemical Review Committee with an overview of the outcome of the deliberations of the Conference of the Parties to the Rotterdam Convention at its fourth meeting, held in Rome from 27 to 31 October 2008. The report of the fourth meeting (UNEP/FAO/RC/COP.4/24) was circulated in December 2008 and posted on the Rotterdam Convention website (www.pic.int).

2. The present note is divided into two chapters. Chapter I reports on the outcome of the discussions at the fourth meeting of the Conference of the Parties on work undertaken by the Chemical Review Committee. Chapter II reports on other decisions taken by the Conference of the Parties of relevance to the work of the Chemical Review Committee.

* UNEP/FAO/RC/CRC.4/1.

I. Outcome of the discussions at the fourth meeting of the Conference of the Parties on work undertaken by the Chemical Review Committee

A. Consideration of chemicals for inclusion in Annex III to the Convention

1. Tributyltin compounds

1. The Conference considered document UNEP/FAO/RC/COP.4/10 on the inclusion of tributyltin compounds in Annex III to the Convention.
2. The Conference agreed that tributyltin compounds met the requirements set out in Articles 5 and 7 of the Convention, including the criteria in Annex II to the Convention, and accordingly agreed to adopt the draft decision guidance document and to list them in Annex III to the Convention.
3. The decision guidance document for tributyltin compounds was sent to all Parties with a request that from 1 February 2009 they submit import responses within nine months. A copy of decision RC.4/5 is set out in the annex to the present note.

2. Endosulfan

4. The Conference considered document UNEP/FAO/RC/COP.4/9 on the inclusion of endosulfan in Annex III to the Convention.
5. During the discussion of the proposed listing of endosulfan in Annex III, a small number of representatives opposed the possible inclusion 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. Some discussion followed of the phrase "intentional misuse", as referred to in paragraph (d) of Annex II to the Convention, with opinions differing as to whether clarification or definition of the term was needed before proceeding with discussion of endosulfan and whether it was acceptable, within the terms of the Convention, to examine instances of intentional misuse on a case-by-case basis.
6. Many representatives who spoke supported the listing of endosulfan in Annex III to the Convention, with a number of representatives describing the adverse effects of the chemical on human health and the environment in their countries or regions. A number of representatives said that the chemical clearly met the criteria for inclusion in Annex III, with some remarking that failure to list a chemical recommended by the Chemical Review Committee would undermine the work and status of that committee.
7. Several representatives recalled that listing a substance in Annex III did not mean that the substance was banned; production, use and trade could still take place within the framework of the prior informed consent procedure, which would allow countries to exercise their sovereign rights to determine what course of action to take regarding the chemical.
8. The Conference was unable to reach consensus on a decision to include endosulfan in Annex III. Many representatives expressed disappointment at the failure of the Conference to list endosulfan in Annex III to the Convention notwithstanding that the Chemical Review Committee had determined that this substances met the applicable criteria and had recommended that it be listed. The objections of a small number of Parties, they said, had prevented the listing of endosulfan in Annex III.
9. The Conference adopted decision RC.4/6 on endosulfan, which, among other things, recounted the discussions to date on whether to list the substance in Annex III and provided that the Conference would take up the question again at its next ordinary meeting following efforts by the Secretariat to obtain further legal guidance on the application of the "intentional misuse" criterion in paragraph (d) of Annex II to the Convention. It also called for Parties to make use of all available information on endosulfan in deciding whether to allow imports of the substance and to communicate with others in accordance with Article 14 of the Convention.
10. A copy of decision RC.4/6 on the inclusion of endosulfan in Annex III to the Rotterdam Convention is set out in the annex to the present note.

3. Chrysotile asbestos

11. The Conference considered document UNEP/FAO/RC/COP.4/8 on inclusion of chrysotile asbestos in Annex III to the Convention. The report of a World Health Organization workshop on

mechanisms of fibre carcinogenesis and assessment of chrysotile asbestos substitutes was also available to the Conference in document UNEP/FAO/RC/COP.4/INF/14.

12. The Conference of the Parties, in decision RC.3/3, agreed that the agenda for the fourth meeting of the Conference of the Parties would include further consideration of a draft decision to amend Annex III to include chrysotile asbestos.

13. A number of representatives at the Conference objected to the inclusion of chrysotile asbestos in Annex III. One cited a national study that had found that strictly controlled use of the substance was not necessarily harmful to health and another asserted that his country currently imported and used the substance and consequently could not support its inclusion in Annex III. Several representatives called for the decision to be postponed until the next meeting of the Conference of the Parties, to allow time for further research into possible alternatives, and another argued that several issues with regard to the risks of chrysotile asbestos remained unresolved.

14. The Conference was unable to reach a consensus on a decision to include chrysotile asbestos in Annex III. Many representatives expressed support for the substance's inclusion in Annex III, given that it had met all the criteria of Annex II and the Chemical Review Committee had recommended its inclusion.

15. It was argued by many representatives that listing chrysotile asbestos in Annex III would not constitute a recommendation to national Governments to ban or to severely restrict the substance and that Parties were fully entitled to continue using and producing it if they so wished. Chemicals listed were simply subject to the prior informed consent procedure, under which countries were given advice and invited to decide whether to allow imports. Several representatives pointed out that listing would help developing countries to manage the trade in and use of chrysotile asbestos.

16. The Conference adopted decision RC.4/4 on chrysotile asbestos, which in recalling its previous decision (RC.3/3) confirmed that the requirements set out in Article 5, including the criteria set out in Annex II to the Convention and referenced in paragraph 6 of Article 5, and the requirements set out in paragraphs 1 and 2 of Article 7, had been met. It also encouraged Parties to make use of all available information on chrysotile asbestos in deciding whether to allow imports of the substance and to communicate with others in accordance with Article 14 of the Convention.

17. A copy of decision RC.4/4 on the inclusion of chrysotile asbestos in Annex III to the Rotterdam Convention is set out in the annex to the present note.

II. Other decisions of relevance to the work of the Chemical Review Committee

A. Confirmation of the appointments of government-designated experts to the Chemical Review Committee

18. The Conference considered a note by the Secretariat setting out a list of experts designated to serve on the Chemical Review Committee (UNEP/FAO/RC/COP.4/5) and an information document describing the qualifications of those experts (UNEP/FAO/RC/COP.4/INF/6). The designated experts from 14 Parties identified in follow-up to decision RC.3/2 had participated on an interim basis at the fourth meeting of the Committee pending formal confirmation by the Conference of the Parties at its fourth meeting. In addition the designated experts from Canada and Jamaica had been replaced.

19. In decision RC-4/2 the Conference of the Parties, recalling the duration and terms of service of the members of the Committee as provided for in decision RC-1/6, confirmed the appointment of the 17 new members of the Chemical Review Committee; decided to elect Ms. Hyacinth Chin Sue as chair of the fourth session of the Committee and Ms. Karmen Kranjc as chair of the fifth session of the Committee. A copy of decision RC.4/2 is set out in the annex to the present note.

B. Nomination of Governments to designate experts to the Chemical Review Committee

20. The Conference considered a note by the Secretariat concerning the need to nominate Governments to designate experts to the Chemical Review Committee (UNEP/FAO/RC/COP.4/6). The Conference noted that in its decision RC-1/6 it had established a subsidiary body, the Chemical Review Committee. In that decision, some Parties were invited to nominate experts to serve for four years, while a number of Parties were invited to nominate experts to serve for two years. The terms of the former experts expire in September 2009.

21. In view of the fact that the next ordinary meeting of the Conference of the Parties was scheduled for 2011, it was necessary for the Conference of the Parties at its fourth meeting to nominate Governments to designate experts to the Chemical Review Committee to replace those whose terms would expire in September 2009.

22. Members of the Chemical Review Committee can serve for no more than two consecutive terms. As all experts were currently in their first term, however, regional groups were requested to confirm the current experts to serve an additional term or choose new Parties to be invited to designate experts.

23. In its decision RC-4/3 the Conference of the Parties nominated the Governments eligible to designate experts for the Chemical Review Committee. A copy of decision RC-4/3 is set out in the annex to the present note.

Annex I

Excerpt from the Report of the fourth meeting of the Conference of the Parties UNEP/FAO/RC/COP.4/24

RC-4/2: Confirmation of the appointments of government-designated experts as members of the Chemical Review Committee

The Conference of the Parties,

Recalling its decision RC-1/6, in which it identified 31 Parties to designate formally experts to serve as members of the Chemical Review Committee to serve for periods of two or four years from 1 October 2005 and whose designated experts were confirmed by the Conference of the Parties through decision RC-2/1,

Recalling its decision RC-3/2, in which it identified 14 Parties to designate new experts to serve on the Chemical Review Committee for a period of four years commencing on 1 October 2007, requested those Parties to provide, through the Secretariat, the names and relevant qualifications of those experts by June 2007 and decided that such experts should serve as members of the Chemical Review Committee on an interim basis, pending formal confirmation of their appointment by the Conference of the Parties at its fourth session,

Acknowledging with thanks the contributions to the efficient functioning of the Chemical Review Committee of the outgoing experts, especially Ms. Bettina Hitzfeld (Switzerland), who served as chair of the Committee for the second and third meetings of the Committee, and Ms. Hyacinth Chin Sue (Jamaica), who served as chair for the Committee's fourth meeting,

1. *Decides* to appoint the following 15 experts formally designated by the Parties identified in decision RC-3/2 to serve as members of the Chemical Review Committee for a period of four years commencing on 1 October 2007:

African States

Benin	Mr. Mansourou Moudachirou
Gabon	Mr. Hubert Binga
Nigeria	Mr. Idris Adamu Goji
South Africa	Ms. Noluzuko Gwayi

Asian and Pacific States

China	Mr. Shan Zhengjun
India	Mr. Shri Jasbir Singh (served as a designated expert from 1 October 2007 to 1 May 2008) Mr. G. K. Pandey (will serve as a designated expert for the remainder of the term commenced by Mr. Singh)
Japan	Mr. Masayuki Ikeda
Sri Lanka	Mr. Gamini K. Manuweera

Central and Eastern European States

Czech Republic	Ms. Darina Liptakova
----------------	----------------------

Latin American and Caribbean States

Chile	Mr. Ignacio Figueroa Cornejo
Mexico	Mr. Mario Yarto

Western European and other States

Austria	Ms. Anja Bartels
France	Mr. Mario Nichelatti
Norway	Ms. Marit E. Randall

2. *Decides* to appoint the following two experts formally designated by the Governments identified in decision RC-1/6 to serve for the remainder of the four-year period commencing on 1 October 2005:

Latin American and Caribbean States

Jamaica	Mr. Michael Frank Ramsay
---------	--------------------------

Western European and other States

Canada	Ms. Hang Tang
--------	---------------

3. *Reaffirms* the provisions of decision RC-1/6 with regard to the duration and terms of service of the experts;

4. *Decides* to elect retroactively elect Ms. Hyacinth Chin-Sue as the chair of the Chemical Review Committee for its fourth meeting in accordance with the wishes expressed by the Chemical Review Committee during its third meeting and to elect Ms. Karmen Krajnc (Slovenia) as the chair of the Committee for its fifth meeting, in accordance with the wishes expressed by the Chemical Review Committee during its fourth meeting.

RC-4/3: Nomination of Governments to designate experts for the Chemical Review Committee

The Conference of the Parties,

Recalling its decision RC-1/6 on the establishment of the Chemical Review Committee,

1. *Decides* that each of the following Parties shall designate an expert to serve on the Chemical Review Committee for a period of four years commencing on 1 October 2009 pending the formal confirmation of the experts by the Conference of the Parties at its next ordinary meeting:

African States:	Cote d'Ivoire, Kenya, Mauritania, Sudan
Asian and Pacific States:	Iran, Pakistan, Qatar, Yemen
Central and Eastern European States:	Armenia, Poland
Latin American and Caribbean States:	Ecuador, Jamaica, Peru
Western European and other States:	Canada, Netherlands, New Zealand, Spain

2. *Requests* each Party named in paragraph 1 to provide through the Secretariat the name and relevant qualifications of its designated expert to the Parties by May 2009.

RC-4/4: Inclusion of chrysotile asbestos in Annex III of the Convention

The Conference of the Parties,

Recalling decision RC-3/3 on chrysotile asbestos,

Taking into account that the Conference of the Parties is not yet able to reach consensus on whether to list chrysotile asbestos in Annex III of the Convention,

Aware that failure to reach consensus so far has created concerns in many Parties,

1. *Decides* that the agenda for the next ordinary meeting of the Conference of the Parties shall include further consideration of the draft decision to amend Annex III to the Rotterdam Convention to include the following chemical:

Chemical	Relevant CAS number(s)	Category
Chrysotile asbestos	12001-29-5	Industrial

2. *Encourages* Parties to make use of all available information on chrysotile asbestos to assist others, in particular developing countries and countries with economies in transition, to make informed decisions regarding the import and management of chrysotile asbestos and to inform other Parties of those decisions using the information exchange provisions laid down in Article 14 of the Convention.

RC-4/5: Inclusion of tributyltin compounds in Annex III of the Convention

The Conference of the Parties,

Noting with appreciation the work of the Chemical Review Committee,

Having considered the recommendation of the Chemical Review Committee to make tributyltin compounds subject to the prior informed consent procedure and accordingly to list them in Annex III of the Rotterdam Convention,

Satisfied that all the requirements for listing in Annex III of the Rotterdam Convention have been met with respect to tributyltin compounds,

1. *Decides* to amend Annex III of the Rotterdam Convention to list the following chemicals in the three columns after the entry for "Toxaphene":

Chemical	Relevant CAS number(s)	Category
All tributyltin compounds including:		Pesticide
Tributyltin oxide	CAS 56-35-9	
Tributyltin fluoride	CAS 1983-10-4	
Tributyltin methacrylate	CAS 2155-70-6	
Tributyltin benzoate	CAS 4342-36-3	
Tributyltin chloride	CAS 1461-22-9	
Tributyltin linoleate	CAS 24124-25-2	
Tributyltin naphthenate	CAS 85409-17-2	

2. *Decides* that this amendment shall enter into force for all Parties on 1 February 2009.

RC-4/6: Inclusion of endosulfan in Annex III of the Convention

The Conference of the Parties,

Acknowledging the importance of not undermining human health and the environment in different regions of the world,

Noting with appreciation the work of the Chemical Review Committee in its consideration of endosulfan, in particular the technical quality and comprehensiveness of the draft decision guidance document,

Considering that the draft decision guidance document should be used for information exchange purposes,

Having considered the recommendation of the Chemical Review Committee to make endosulfan subject to the prior informed consent procedure and accordingly to list it in Annex III to the Rotterdam Convention,

Taking into account that the Conference of the Parties is not yet able to reach consensus on whether to list endosulfan in Annex III to the Convention,

Aware that the failure to reach consensus so far has created concerns in all Parties,

Taking into account that a small number of Parties consider that criterion d in Annex II of the Convention has not been applied correctly,

Acknowledging that the Chemical Review Committee sought and acted upon guidance from the Conference of the Parties at its third meeting which said that Committee was to continue to consider notifications involving intentional misuse on a case-by-case basis, but that a legal opinion from the UNEP legal office should be obtained to clarify the meaning of “intentional misuse” and be made available to the Committee to inform future discussion,

1. *Requests* that Parties and interested observers provide to the Secretariat within six months of the date of the present decision their considered views on the application of criterion (d) in Annex II of the Convention;
2. *Requests* that the Secretariat provide the views submitted in accordance with the preceding paragraph to the United Nations Environment Programme legal office for it to review its previous advice to the Chemical Review Committee contained in the information document on the subject provided to the Committee for its third meeting regarding clarification of the meaning of “intentional misuse” and the application of criterion (d) in Annex II of the Convention;¹
3. *Requests* that the Secretariat provide the opinion referred to in the previous paragraph when completed to the Chemical Review Committee and to all Parties and interested observers;
4. *Requests* that the Chemical Review Committee take the legal opinion into account when considering the application of criterion (d) of Annex II of the Convention;
5. *Decides* that the agenda for its next ordinary meeting shall include further consideration of a draft decision to amend Annex III to the Rotterdam Convention to include the following chemical:

Chemical	Relevant CAS number(s)	Category
Endosulfan	115-29-7	Pesticides

6. *Encourages* Parties to make use of all available information on endosulfan, including the draft decision guidance document, to assist others, in particular developing countries and countries with economies in transition, to make informed decisions regarding the import and management of endosulfan and to inform other Parties of those decisions using the information exchange provisions laid down in Article 14.

¹ (UNEP/FAO/RC/CRC.3/INF/7).