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

Third meeting
Rome, 20–23 March 2007

**Report of the Chemical Review Committee on the work of its
third 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 that decision 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 and severely restricted, make recommendations for the inclusion of severely hazardous pesticide formulations, prepare, as appropriate, relevant draft decision guidance documents and make recommendations on the removal of chemicals from Annex III of the Rotterdam Convention.

I. Opening of the meeting

3. The third meeting of the Committee was held at the Headquarters of the Food and Agriculture Organization of the United Nations (FAO) in Rome from 20 to 23 March 2007. The meeting was opened at 10.05 a.m. on Tuesday, 20 March 2007, by Ms. Bettina Hitzfeld (Switzerland), Chair of the Committee.

4. Mr. Peter Kenmore, Joint Executive Secretary of the Rotterdam Convention from FAO, welcomed participants to Rome and said that the meeting presented him, as recently appointed Joint Executive Secretary of the Convention, with a welcome opportunity to learn more about the Convention. He said that, during his tenure, he would work with his colleagues at FAO and his counterparts at the United Nations Environment Programme (UNEP) and other convention secretariats to strengthen the secretariat's ability to build on the work of FAO in the field of pest and pesticides management and ensure that Parties could benefit fully from the Rotterdam Convention.

5. Underscoring the need for safe and sustainable agriculture, he noted with concern that many pesticides which had been banned or severely restricted in developed countries continued to be available in developing countries, where appropriate pesticide regulations were lacking or difficult to enforce. In that context, he emphasized the importance of the Committee's work to the continued operation of the Rotterdam Convention and to the sound management of chemicals. Recalling that the terms of office of half of the members of the Committee, who had been appointed for an initial term of two years, were due to end in September 2007, he thanked the outgoing members – and especially the Chair, Ms. Hitzfeld – for their valuable contribution to the work of the Committee.

II. Organizational matters

A. Confirmation of the appointment of a member of the Committee

6. The Chair recalled that, at its third meeting, held in Geneva from 9 to 13 October 2006, the Conference of the Parties had adopted decision RC-3/1, by which it confirmed the appointment of Mr. Alain Donatien Buluku of the Democratic Republic of the Congo to serve as a member of the Chemical Review Committee.

B. Officers

7. The following officers served on the bureau of the Committee:

Chair: Ms. Bettina Hitzfeld (Switzerland)

Vice-Chairs: Ms. Norma Ethel Nudelman (Argentina)
Ms. Oluronke Ajibike Soyombo (Nigeria)
Mr. Mohammed Jamal Hajjar (Syrian Arab Republic)
Mr. Yuriy Kundiev (Ukraine)

Ms. Soyombo also agreed to serve as rapporteur.

C. Attendance

8. The session was attended by the following 31 experts: Mr. Hamoud Darwish Salim Al-Hasani (Oman), Mr. Leonello Attias (Italy), Mr. Klaus Berend (Netherlands), Ms. Mercedes Bolaños (Ecuador), Mr. Alain Donatien Buluku (Democratic Republic of the Congo), Mr. William Cable (Samoa), Ms. Hyacinth Chin Sue (Jamaica), Ms. Kyunghee Choi (Republic of Korea), Ms. Ana Laura Chouhy Gonella (Uruguay), Mr. Isak Djumaev (Kyrgyzstan), Mr. Cesar Koppe Grisolia (Brazil), Mr. Mohammed Jamal Hajjar (Syrian Arab Republic), Mr. Sibbele Hietkamp (South Africa), Ms. Bettina Hitzfeld (Switzerland), Ms. Supranee Impithuksa (Thailand), Mr. Lars Juergensen (Canada), Mr. Aloys Kamatari (Rwanda), Mr. Mohammed Khashashneh (Jordan), Mr. Mohamed Ammar Khalifa (Libyan Arab Jamahiriya), Mr. Tamás Kömíves (Hungary), Ms. Karmen Krajnc (Slovenia), Mr. Yuriy Ilyich Kundiev (Ukraine), Mr. Ernest Mashimba (United Republic of Tanzania), Mr. Halimi Bin Mahmud (Malaysia), Mr. Mario Nichelatti (France), Ms. Norma Ethel Sbarbati Nudelman (Argentina), Mr. Magnus Nyström (Finland), Mr. John Pwamang (Ghana), Mr. Ousmane Sow (Senegal), Ms. Oluronke Ajibike Soyombo (Nigeria) and Mr. Angelo Anthony Valois (Australia).

9. Observers from the following countries and regional economic integration organizations were present: Argentina, Australia, Austria, Botswana, Brazil, Canada, China, Costa Rica, Czech Republic, Ecuador, European Commission, Germany, India, Italy, Libyan Arab Jamahiriya, Mexico, Netherlands, Poland, Romania, Russian Federation, Slovakia, Sweden, Switzerland, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland and United States of America.

10. The following non-governmental organizations were also represented: CropLife International and Pesticide Action Network.

11. A complete list of participants was circulated as document UNEP/FAO/RC/CRC.3/INF/8.

D. Adoption of the agenda

12. At its opening meeting, the Committee adopted the following agenda on the basis of the provisional agenda (UNEP/FAO/RC/CRC.3/1):

1. Opening of the session.
2. Organizational matters:
 - (a) Adoption of the agenda;
 - (b) Organization of work.
3. Review of the outcome of the third meeting of the Conference of the Parties.
4. Policy guidance and working procedures related to the work of the Chemical Review Committee:
 - (a) Working paper on the preparation of internal proposals and decision guidance documents for banned or severely restricted chemicals;
 - (b) Criteria for accepting information under subparagraphs (b) (i), (b) (ii) and (b) (iii) of Annex II of the Rotterdam Convention;
 - (c) Bridging information.
5. Listing of chemicals in Annex III of 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) Benzidine and its salts;
 - (ii) Endrin;
 - (iii) Endosulfan;
 - (iv) Methamidophos;
 - (v) Mirex;
 - (c) Consideration of the draft decision guidance documents for:
 - (i) Endosulfan;
 - (ii) Tributyltin compounds.
6. Other matters.
7. Adoption of the report.
8. Closure of the meeting.

13. The Committee agreed to consider, under agenda item 6 "Other matters", the experience gained in using guidance prepared by the secretariat for the intersessional work of the Committee; the advice of the UNEP legal office on intentional misuse; the issue of the nomination of new members of the bureau; and the dates of its fourth meeting.

E. Organization of work

14. 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.

15. 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.

16. The Chair introduced the scenario note for the Committee's third meeting (UNEP/FAO/RC/CRC.3/2), which set out its general objectives and possible outcomes. The main tasks before the Committee were to finalize the decision guidance documents on tributyltin compounds and endosulfan developed by the intersessional drafting groups and forward them to the Conference of the Parties; and to review the notifications of final regulatory action and relevant supporting documentation for five chemicals, namely benzidine and its salts, endrin, endosulfan, methamidophos and mirex, to determine whether they met the requirements of the Convention.

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

17. The representative of the secretariat introduced a note on issues arising out of the third meeting of the Conference of the Parties (UNEP/FAO/RC/CRC.3/3). The Committee took note of the document.

18. Noting that no consensus had been reached by the Conference of the Parties on whether to include chrysotile asbestos in Annex III of the Convention, one expert said that, in order to reflect the outcome of the meeting, the note should also have indicated that Parties had been encouraged by the Conference 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.

IV. Policy guidance and working procedures related to the work of the Committee

A. Preparation of internal proposals and decision guidance documents for banned or severely restricted chemicals

19. The Committee had before it a note by the secretariat on the further development of the working paper which had been adopted by the Committee at its first meeting on preparing internal proposals and decision guidance documents for banned or severely restricted chemicals (UNEP/FAO/RC/CRC.3/5). Mr. Berend, who had been involved in the development of the paper, introduced the comments that had been made on the earlier version of the paper, highlighting the amendments that had been made to reflect comments submitted by members and observers. He recalled that the document was a working paper and would be subject to regular review in the light of the experience gained by the Committee.

20. The Committee took note of the document and agreed that it would provide an adequate basis for the work of any drafting groups that might be established in the future.

B. Criteria for accepting information under subparagraphs b (i), b (ii) and b (iii) of Annex II of the Rotterdam Convention

21. The representative of the secretariat introduced a note on the further development of the working paper on the application of criteria (b) (i), (b) (ii) and (b) (iii) of Annex II which had been considered by the Committee at its second meeting (UNEP/FAO/RC/CRC.3/6), highlighting the amendments that had been made to the original paper following the consideration of the issue at the second meeting of the Committee and the third meeting of the Conference of the Parties.

22. During a discussion on the application of criteria b (i) and b (ii), the Committee recalled that, at its third meeting, the Conference of the Parties had indicated that the Committee should consider risk evaluations under the Stockholm Convention on Persistent Organic Pollutants and the Montreal Protocol on Substances that Deplete the Ozone Layer as adequate support for meeting criteria (b) (i) and (b) (ii).

23. On the application of criterion (b) (iii), one expert recalled that, at its second meeting, the Committee had agreed that further consideration would be given intersessionally to including a reference in the working paper to the issue of bioaccumulation. Noting that the term "bioaccumulation" covered both biomagnification and bioconcentration, he proposed some new text on the issue which could be inserted as a further scenario to guide the work of the Committee.

24. The Committee established a small task group, chaired by Mr. Nyström, to consider the issue of including in the working paper a reference to the issue of bioaccumulation, taking into account the comments made during the discussion.

25. Mr. Nyström presented the work of the task group, noting that the group had agreed on a text to be inserted in the working paper under the heading on indirect exposure via the environment.

26. The working paper, which had been amended to reflect the comments made at the meeting, was adopted by the Committee on the understanding that it was a work in progress and would be further amended in the light of the experience gained.

C. Bridging information

27. The representative of the secretariat introduced a note on the further development of the working paper on bridging information which had been adopted by the Committee at its first meeting to be used in judging the acceptability of a notification where the notifying country had used a risk evaluation from another country or an international evaluation (UNEP/FAO/RC/CRC.3/4). The Chair confirmed that the paper was a work in progress and would be reviewed periodically.

28. In an initial discussion of the working paper, some experts indicated that the text which had been added to the working paper since the first meeting of the Committee placed too much emphasis on the issue of the application of criterion b (iii). It was agreed that the paper should set out the information that the Committee considered necessary to judge the acceptability of a notification of final regulatory action with respect to the criteria in Annex II in cases where the notifying country had used a risk evaluation from another country, multilateral environmental agreement or international body. In particular, the paper should provide guidance on how to demonstrate the relevance of the exposure component to the conditions prevailing in the notifying country.

29. The Committee established a small task group, chaired by Mr. Berend, to review the paper in the light of the comments raised and on the basis of recent experiences, taking also into account the information set out in document UNEP/FAO/RC/CRC.3/6.

30. Mr. Berend presented the work of the task group, highlighting the amendments that had been made. Following a query on how the working paper would be brought to the attention of designated national authorities, the representative of the secretariat explained that it would be made available on the Convention website and in the Rotterdam Convention resource kit and could be discussed with designated national authorities during national consultations. It was noted that there was no need for bridging information to address the use of hazard data, as countries could simply describe how the hazard would pose a risk under prevailing conditions in the country.

31. The working paper, which had been amended to reflect the comments made at the meeting, was adopted by the Committee on the understanding that it was a work in progress and would be further amended in the light of the experience gained.

V. Listing of chemicals in Annex III of 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

32. 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 third meeting (UNEP/FAO/RC/CRC.3/7).

33. The Chair said that, following the priorities proposed by the bureau, as set out in document UNEP/FAO/RC/CRC.3/7, the five chemicals for consideration by the Committee had been clustered into the three proposed groups. Thus, endosulfan was placed in the first group, which included chemicals for which it was possible that notifications from at least two PIC regions would meet the criteria of the Convention. Benzidine and its salts and mirex 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, and endrin and methamidophos were in the third group of chemicals, for which there did not appear to be any notifications that met the criteria of Annex II.

34. The Committee agreed to consider the notifications before it in line with the priorities suggested in the note. The Committee also agreed that the current procedure for dealing with notifications of final regulatory action to ban or severely restrict a chemical, contained in document UNEP/FAO/RC/CRC.3/INF/3, did not require any amendment and could be used by the bureau in preparing for the Committee's fourth meeting.

35. Several experts said that, because mirex and endrin were already covered under the Stockholm Convention on Persistent Organic Pollutants and because ongoing trade could not be confirmed, the chemicals should be assigned low priority in future work of the Committee.

B. Review of notifications of final regulatory actions to ban or severely restrict a chemical: chemicals for which, following a preliminary review, at least two notifications appeared to meet the criteria of Annex II

Endosulfan

36. The Committee had before it a notification and supporting documentation on endosulfan submitted by the European Community, which were contained in documents UNEP/FAO/RC/CRC.3/10 and Add.1–2.

37. Mr. Juergensen presented the report of the intersessional task group which had undertaken a preliminary assessment of the notification and supporting documentation. The group had comprised himself and Mr. Nichelatti as coordinators and Mr. Attias, Mr. Berend, Ms. Bolaños, Mr. Buluku, Mr. Cable, Ms. Chin Sue, Ms. Choi, Mr. Gonella, Mr. Grisolia, Mr. Hietkamp, Ms. Hitzfeld, Mr. Khashashneh, Mr. Komives, Mr. Kundiev, Mr. Mashimba, Ms. Nudelman, Mr. Nyström, Mr. Pwamang, Mr. Sow, Ms. Soyombo and Mr. Valois as members. The group had found that the notification, relating to regulatory actions that banned the use of endosulfan as a pesticide, complied with the information requirements of Annex I.

38. Taking into consideration the work of the task group, the Committee reviewed the criteria for listing banned or severely restricted chemicals as set out in Annex II. It agreed that, on the basis of the information available, the notification from the European Community met all the criteria of Annex II.

39. The Committee agreed to prepare a rationale for endosulfan relating to the notification from the European Community. The rationale is set out in annex II to the present report.

C. 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

1. Benzidine and its salts

40. The Committee had before it a new notification and supporting documentation on benzidine and its salts submitted by Switzerland. It also had before it the notification from Canada which 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. The documentation was contained in documents UNEP/FAO/RC/CRC.3/8 and Add. 1–3.

41. Mr. Juergensen presented the work of the intersessional task group which had undertaken a preliminary assessment of the notification and its supporting documentation. The group had comprised himself and Ms. Hitzfeld as coordinators and Mr. Attias, Mr. Berend, Ms. Bolaños, Ms. Choi, Mr. Djumaev, Mr. Mashimba, Mr. Nyström, Mr. Pwamang and Mr. Sow as members. The group had found that the notification, relating to regulatory actions to ban industrial uses of benzidine and its salts, complied with the information requirements of Annex I to the Convention.

42. Taking into consideration the work of the task group, the Committee reviewed the criteria for listing banned or severely restricted chemicals as set out in Annex II. There was significant debate about whether the information supplied by Switzerland could be considered to meet criterion (b) (iii), given that Switzerland had based its final regulatory action on an evaluation performed by the European Community and the subsequent European Community directive and had simply referred to the fact that the exposure conditions in Switzerland were comparable to those in the European Community.

43. In the view of several experts, the notification met criterion (b) (i). Others, however, were of the view that the notification did not provide sufficient evidence that the prevailing conditions in Switzerland were comparable to those in the European Community. During a discussion on what sort of evidence would be deemed sufficient, several experts reiterated that the working paper on bridging information should be developed further to clarify the matter; such information, it was noted by some experts, would be of particular assistance to developing countries.

44. The expert from Switzerland said that it would prove difficult to find additional information regarding the prevailing conditions in Switzerland at the time of the European Community regulatory decision. The Committee agreed that it should avoid trying to interpret the thinking behind regulatory actions in an attempt to meet criterion (b) (iii).

45. The Committee agreed that, on the basis of the information currently available, the notification from Switzerland met all the criteria of Annex II with the exception of criterion (b) (iii).

46. Several members and observers highlighted that it was often difficult to find documentation specific to the notifying Parties on chemicals for which regulatory action had been taken many years before. An observer said that a significant amount of information had been gathered by the Indian authorities between 1986 and 1990 relating to benzidine and benzidine dyes and that India would be willing to submit a notification to the Committee relating to its final regulatory action on the chemical. The Chair recalled that all Parties should be providing notifications of final regulatory action as part of their commitment to the Convention.

47. Accordingly, as only one regulatory action from one PIC region met the criteria set out in Annex II, the Committee concluded that benzidine and its salts could not be proposed for inclusion in Annex III of the Rotterdam Convention at the current time. It agreed that the Canadian notification and rationale should be set aside pending the submission of another notification from another PIC region.

2. Mirex

48. The Committee had before it notifications and supporting documentation on mirex submitted by Switzerland and Thailand. It also had before it supplementary information which had been submitted by Japan further to a request by the Committee at its second meeting, when the Committee had reviewed a notification by Japan. It also had before it the notification from Canada which 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. The documentation was contained in documents UNEP/FAO/RC/CRC.3/12 and Add.1–4.

49. Ms. Impithuksa presented the work of the intersessional task group which had undertaken a preliminary assessment of the notifications and supporting documentation. The group had comprised herself, Mr. Nyström and Ms. Chin Sue as coordinators and Ms. Bolaños, Ms. Hitzfeld, Mr. Mashimba, Mr. Nichelatti, Mr. Pwamang and Mr. Sow as members. The group had confirmed that both the notifications, relating to regulatory actions that banned all uses of mirex, complied with the information requirements of Annex I.

50. Taking into consideration the work of the task group, the Committee reviewed the criteria for listing banned or severely restricted chemicals as set out in Annex II. It was noted that, in the case of the notifications from Switzerland and Thailand, the regulatory action had been taken in compliance with the Stockholm Convention on Persistent Organic Pollutants. No information had been provided on the risks under the prevailing conditions in those countries, as required to meet criterion (b) (iii). It was further noted that mirex had never been imported or used in Thailand.

51. The Committee, noting that the additional information submitted by Japan clarified that the notified final regulatory action had been taken before the monitoring data had been available, affirmed that the notification by Japan did not meet criterion (b) (iii).

52. The Committee agreed that, on the basis of the information available, the notifications from Switzerland and Thailand met all the criteria of Annex II with the exception of criterion (b) (iii) regarding the prevailing conditions in the notifying countries.

53. Accordingly, as only one regulatory action from one PIC region met the criteria set out in Annex II, the Committee concluded that mirex could not be proposed for inclusion in Annex III of the Rotterdam Convention at the current time. It agreed that the Canadian notification and rationale should be set aside pending the submission of another notification from another PIC region.

D. Review of notifications of final regulatory actions to ban or severely restrict a chemical: chemicals for which, following a preliminary review, no notifications appeared to meet the criteria of Annex II

1. Endrin

54. The Committee had before it notifications on endrin and supporting documentation submitted by Bulgaria and Canada. The documentation was contained in documents UNEP/FAO/RC/CRC.3/9 and Add.1–2.

55. Mr. Hajjar presented the work of the intersessional task group which had undertaken a preliminary assessment of the submitted notifications and supporting documentation on endrin. The group had comprised himself as coordinator and Mr. Al-Hasani, Mr. Attias, Ms. Choi, Mr. Halimi, Mr. Hussein, Mr. Juergensen and Mr. Khalifa as members. The group had confirmed that both the notifications, relating to regulatory actions that banned the use of endrin as a pesticide, complied with the information requirements of Annex I.

56. Taking into consideration the work of the task group, the Committee reviewed the criteria for listing banned or severely restricted chemicals as set out in Annex II. It was noted in the case of Canada that, given the time that had elapsed since the regulatory action had been taken in 1990, the supporting documentation that described the underlying risk evaluation was not available. In the case of Bulgaria, it was noted that the use of endrin had been stopped in 1969, even though the final regulatory action being notified had been taken in 2003. Similarly, there was no supporting documentation available which described the underlying risk evaluation.

57. For the notification from Canada, it was agreed that the criteria in Annex II had been met with the exception of criteria (b) (i) (ii) and (iii) which could not be verified as having been met, as there was no supporting documentation that described the underlying risk evaluation. It was also agreed that criteria (c) (iii) and (iv) could not be verified as having been met.

58. For the notification from Bulgaria, it was agreed that the criteria in Annex II had been met with the exception of criteria (b) (i) (ii) and (iii) which could not be verified as having been met as there was no supporting documentation that described the underlying risk evaluation. It was also agreed that criteria (c) (i), (ii) (iii) and (iv) could not be verified as having been met.

59. Accordingly, as there were not two notifications from two PIC regions verified to meet the criteria set out in Annex II, the Committee concluded that endrin could not be proposed for inclusion in Annex III of the Convention at the current time.

2. Methamidophos

60. The Committee had before it notifications and supporting documentation on methamidophos submitted by Bulgaria and Nigeria, contained in documents UNEP/FAO/RC/CRC.3/11 and Add.1–2.

61. Ms. Soyombo presented the report of the intersessional task group which had been established to undertake a preliminary assessment of the submitted notifications and supporting documentation on methamidophos and which had comprised herself and Mr. Grisolia as coordinators and Ms. Bolaños, Mr. Nichelatti and Mr. Nyström as members. The task group had confirmed that both the notifications, relating to regulatory actions that banned all uses of methamidophos as a pesticide, complied with the information requirements of Annex I to the Convention.

62. Taking into consideration the work of the task group, the Committee reviewed the criteria for listing banned or severely restricted chemicals as set out in Annex II. For the notification from Nigeria, it was agreed that based on the information currently available that all the criteria in Annex II had been met with the exception of criterion (b) (iii) as the information on prevailing local conditions or bridging information was deemed insufficient. The Committee agreed that the Secretariat would write to the Nigerian authorities to request additional information regarding the difficulties that Nigeria would face with regard to the safe use of the chemical in the country.

63. The information provided by Bulgaria stated that the final regulatory action had not been based on a risk or hazard evaluation. In the light of this information, it was agreed that all the criteria in Annex II had been met with the exception of criteria (b) (i) (ii) and (iii).

64. Accordingly, the Committee concluded that methamidophos could not be proposed for inclusion in annex III of the Rotterdam Convention at the current time.

E. Consideration of the draft decision guidance documents for endosulfan and tributyltin compounds

1. Endosulfan

65. At its second meeting, the Committee had reviewed two notifications of final regulatory action relating to endosulfan, submitted by the Netherlands and by Thailand. Both final regulatory actions had been based on environmental concerns. The notifications had been found to meet the requirements of the Convention and a rationale had been prepared and attached to the report of the meeting.¹ A draft decision guidance document for endosulfan, based on the two notifications, was contained in document UNEP/FAO/RC/CRC.3/13.

66. Mr. Nichelatti presented the work of the drafting group, comprising himself and Mr. Juergensen as joint coordinators and Mr. Al-Hasani, Mr. Grisolia, Ms. Krajnc, Mr. Mashimba and Mr. Valois 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 on the decision guidance document had been taken into account. He presented the draft decision guidance document, as contained in document UNEP/FAO/RC/CRC.3/13, and a table of comments received and a description of how those comments had been addressed, as contained in document UNEP/FAO/RC/CRC.3/INF/5, for consideration by the Committee.

67. The Committee adopted a recommendation in which it agreed on the text of the draft decision guidance document, as contained in UNEP/FAO/RC/CRC/3/13, and decided to forward it for consideration by the Conference of the Parties at its fourth meeting. The recommendation is contained in annex I to the present report.

68. 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/3/INF/5; the recommendation for inclusion in Annex III; and the rationale contained in annex A of the report of the second meeting of the Committee (UNEP/FAO/RC/CRC/2/20).

2. Tributyltin compounds

69. At its second meeting, the Committee had reviewed a notification of final regulatory action relating to tributyltin, submitted by the Canada. The notification had been found to meet the requirements of the Convention and a rationale had been prepared and attached to the report of the meeting.² The interim Chemical Review Committee had previously found that a notification from the European Community also met the requirements of the Convention. A draft decision guidance document for endosulfan, based on the two notifications, was contained in document UNEP/FAO/RC/CRC.3/14.

70. Mr. Berend presented the work of the drafting group, comprising himself and Mr. Juergensen as joint coordinators and Ms. Choi, Mr. Hajjar, Mr. Hietkamp, Ms. Krajnc and Ms. Nudelman 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 on the decision guidance document had been taken into account. He highlighted that the issues of alternatives and social and economic effects had been addressed in the document, given that both Canada and the European Community had provided comments on those issues. He presented the draft decision guidance document, as contained in document UNEP/FAO/RC/CRC.3/14, and a table of comments received and a description of how those comments had been addressed, as contained in document UNEP/FAO/RC/CRC.3/INF/6, for consideration by the Committee.

71. The Committee adopted a recommendation in which it agreed on the text of the draft decision guidance document, as contained in UNEP/FAO/RC/CRC/3/14, and decided to forward it for consideration by the Conference of the Parties at its fourth meeting. The recommendation is contained in annex I to the present report.

¹ Report of the Chemical Review Committee on the work of its second meeting (UNEP/FAO/RC/CRC.2/20), annex II.

² Ibid.

72. 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 UNEP/FAO/RC/CRC/3/INF/6; the recommendation for inclusion in Annex III; and the rationale contained in annex A of the report of the second meeting of the Committee (UNEP/FAO/RC/CRC/2/20).

F. General issues raised during the consideration of the chemicals

Notifications of regulatory action taken in the past

73. During the discussions under item 5, the Committee noted that Article 5 of the Convention required all Parties to notify their final regulatory actions to ban or severely restrict a chemical. It was noted that, where regulatory actions had been taken many years before, it was often difficult or impossible for a country to provide the relevant supporting documentation regarding the original risk evaluation with their notifications, especially at times when risk evaluations as such had not been used as a basis for the regulatory action. In the absence of such information, it would be difficult or impossible for the Committee to determine whether the criteria in Annex II had been met, in particular criterion (b) (iii). As a result, many hazardous chemicals that had been banned or severely restricted for a long time in developed countries were not eligible for inclusion in Annex III.

74. It was noted that hazard information on many such chemicals was widely available and that, coupled with current exposure data as outlined in the working paper on bridging information, it could be possible for new notifications on those chemicals to meet the criteria of Annex II. Such a development would be particularly useful for developing country Parties which had concerns regarding the continued use of those chemicals.

VI. Other matters

A. Experience gained in using the guidance for intersessional work

75. The representative of the secretariat introduced the item, recalling the objectives of the intersessional task groups in reviewing notifications of final regulatory action and the associated supporting documentation, drawing the attention of the Committee to the guidance available for their operation. In the ensuing discussion, the Chair pointed out that the summaries of the key elements of the notifications contained in the reports of the task groups were sometimes not sufficiently detailed and she stressed the importance of clearly documenting why criteria were considered to have been met or not. One expert said that it was the responsibility of the task groups to ensure that the necessary explanatory comments were included in the designated column in the template. It was agreed that, once the various task groups for specific substances had been established, Committee members should be informed by e-mail of their composition and of the designation of lead experts. The importance of communication among task group members during the intersessional period, in particular the circulation of the initial reports on candidate chemicals prior to a meeting of the Committee, was also emphasized.

76. The Committee agreed that the guidance would be amended to reflect the comments of the Committee and would be included in the compilation of working procedures and policy guidance on the work of the Committee.

B. Intentional misuse

77. At its third meeting, the Conference of the Parties agreed that the Committee would continue to consider notifications involving intentional misuse on a case-by-case basis but that a legal opinion from the UNEP legal office to clarify the meaning of intentional misuse should be obtained and made available to the Committee in order to inform future discussion. Accordingly, document UNEP/FAO/RC/CRC.3/INF/7 had been submitted to the Committee for information.

78. While the paper provided by the UNEP legal office was appreciated, some experts said that it did not provide sufficient guidance on how to determine incidences of intentional misuse. Some experts, however, said that the legal opinion had helped to distinguish between general and intentional misuse. Several experts noted the difficulty of differentiating between intentional misuse and misuse arising from approved off-label use, non-registered use and lack of understanding on how a given chemical could be used safely. Some experts indicated that such occurrences were not uncommon in developing countries. In addition, it was reiterated that criterion (d) of Annex II was complementary to the other criteria of Annex II, which would also have to be met for the notification to proceed and that chemicals

would be excluded if intentional misuse itself was the only reason for the regulatory action. There was general agreement that there was no need for a strict and rigid definition of intentional misuse and that guidance would evolve as the Committee gained experience.

79. One observer voiced his opinion that due process had not been followed at the second meeting of the Committee in determining the acceptability of the notification from Thailand on endosulfan and he suggested that what had been determined as a common and recognized pattern of use was in fact an intentional misuse. He further indicated that, in his opinion, criteria (a)–(d) of Annex II were interlinked and set out mandatory guidelines for the Committee to follow when reviewing notifications. Another observer expressed his disappointment with the lack of clarity in the paper and questioned its status.

80. The Committee agreed that, if notifications received in the future raised a query on possible intentional misuse, they would be examined on a case-by-case basis and that the paper from the UNEP legal office would be used to inform the discussions of the Committee, taking into account whether the other criteria under Annex II had been met.

C. Nomination of new bureau members

81. The representative of the secretariat noted that the Committee had to elect a new bureau, which would take office at the end of the meeting. One of the officers 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 fourth meeting of the Committee, however, the person nominated to chair the Committee would serve ad interim until officially elected by the Conference at its fourth meeting, to be held in October 2008. It was also noted that, according to rule 30, the officers other than the chair were to be elected by the Committee with due regard to the principle of equitable geographical representation and should not serve for more than two consecutive terms.

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

Mr. Ernest Mashimba (United Republic of Tanzania)
 Mr. Mohammed Khashashneh (Jordan)
 Ms. Hyacinth Chin Sue (Jamaica)
 Ms. Karmen Krajnc (Slovenia)
 Mr. Klaus Berend (Netherlands).

83. The Committee nominated Ms. Chin Sue to serve as chair and agreed that Mr. Berend would serve as rapporteur.

D. Dates of the Committee's fourth meeting

84. The Committee agreed to hold its next meeting in Geneva from 10 to 14 March 2008.

VII. Adoption of the report

85. The Committee adopted its report on the basis of the draft report which 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.

VIII. Closure of the meeting

86. Following the customary exchange of courtesies, the meeting was declared closed at 11.15 a.m. on Friday, 23 March 2007.

Annex I

Recommendations to the Conference of the Parties

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

The Chemical Review Committee,

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

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

Decides to agree on the draft text of the decision guidance document on endosulfan 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 tributyltin compounds

The Chemical Review Committee,

Recalling its decision by consensus, at its second meeting, in accordance with paragraph 6 of Article 5 of the Convention, to recommend to the Conference of the Parties that it should include all tributyltin compounds in Annex III of the Rotterdam Convention as a pesticide, including:

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),

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

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

Annex II

Rationale for the conclusion by the Committee that the notification for endosulfan (CAS No. 115-29-7) from the European Community meets the criteria of Annex II of the Rotterdam Convention

1. In reviewing the notification of final regulatory action by the European Community, together with the supporting documentation provided by the Party, 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 endosulfan as a pesticide. It was used in the European Community as an insecticide on arable crops and for greenhouse use in agriculture, horticulture, orchards, forestry and nurseries. Crops included citrus and pome fruits, grapes, root and tubular vegetables, tomatoes, cotton and glasshouse crops. It was also used on tsetse flies in Southern Europe.
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 the European Community.
4. Regarding human health, it was determined through exposure modelling that workers applying endosulfan in a number of scenarios would be exposed to levels above the acceptable operator exposure level (AOEL), even when using standard personal protective equipment. The level was based on the lowest relevant toxicity endpoint.
5. Regarding the environment, toxicity exposure ratios based on the no-observed-effect concentration (NOEC) for the most sensitive aquatic organism (bluegill sunfish, *Lepomis macrochirus*) and predicted concentrations resulting from spray drift and run-off entry indicated an unacceptable long-term risk, even with the application of buffer zones. There was also a potential high risk to terrestrial birds and mammals, honey bees and earthworms. In addition, the risk evaluation revealed the occurrence of an unknown metabolite in soil and water or sediment degradation that might cause concern.
6. The Committee concluded that the final regulatory action taken by the European Community on the basis of the available supporting documentation provided a sufficiently broad basis to merit including endosulfan in Annex III of 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. All uses of endosulfan had been banned, with noted exceptions allowed in a small number of Member States until the end of 2007 to allow for the development of alternatives. Therefore, continued exposure would be reduced to zero in the European Union as from 2008. Hence, the risk for human health and the environment in the European Community had been significantly reduced.
7. There was no indication that there were any industrial uses of endosulfan in the European Community. The Committee also took into account that the considerations underlying the final regulatory action were not of limited applicability since all uses had been banned. On the basis of information provided to the members at the third meeting of the Chemical Review Committee and other available information, the Committee concluded also that there was evidence of ongoing international trade in endosulfan.
8. The Committee noted that the final regulatory action was not based on concerns about intentional misuse of endosulfan.
9. At its third meeting, the Committee concluded that the notification of final regulatory action by the European Community met the information requirements of Annex I and the criteria set out in Annex II to the Convention.