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

First meeting

Geneva, 11–18 February 2005

Item 4 of the provisional agenda*

Review of the role and mandate of the Chemical Review Committee

**Review of the role and mandate of the Chemical Review
Committee**

Note by the secretariat

1. In accordance with article 18 of the Convention, the Conference of the Parties, at its first meeting, established a subsidiary body, the Chemical Review Committee.
2. Article 18, paragraph 6, of the Convention states that the Conference of the Parties shall, at its first meeting, establish a subsidiary body, to be called the Chemical Review Committee, for the purposes of performing the functions assigned to that Committee by this Convention. In this regard:
 - “(a) The members of the Chemical Review Committee shall be appointed by the Conference of the Parties. Membership of the Committee shall consist of a limited number of government-designated experts in chemicals management. The members of the Committee shall be appointed on the basis of equitable geographical distribution, including ensuring a balance between developed and developing Parties;
 - “(b) The Conference of the Parties shall decide on the terms of reference, organization and operation of the Committee;
 - “(c) The Committee shall make every effort to make its recommendations by consensus. If all attempts at consensus have been exhausted, and no consensus reached, such recommendations shall as a last resort be adopted by a two-thirds majority vote of the members present and voting.”

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

3. Annexed to the present note is a brief review of the role and mandate of the Chemical Review Committee. Chapter I provides a brief description of the functions entrusted by the Convention to the Chemical Review Committee. Chapter II provides a more detailed description on the establishment, composition, organization and operation of the Chemical Review Committee, as agreed by the Conference of the Parties in decisions RC-1/6 and RC-1/7.

Annex

Chemical Review Committee

I. Functions entrusted by the Convention to the Chemical Review Committee

1. Article 18, paragraph 6, of the Convention provides that the Conference of the Parties shall, at its first meeting, establish a subsidiary body, to be called the Chemical Review Committee, for the purposes of performing the functions assigned to that Committee by the Convention.

2. These functions are:

(a) To make recommendations on the inclusion of banned or severely restricted chemicals following the receipt of one notification from at least two Prior Informed Consent regions. Article 5, paragraph 6, states: "The Chemical Review Committee shall review the information provided in such notifications and, in accordance with the criteria set out in Annex II, recommend to the Conference of the Parties whether the chemical in question should be made subject to the Prior Informed Consent procedure and, accordingly, be listed in Annex III";

(b) To make recommendations on the inclusion of severely hazardous pesticide formulations, following the submission of a proposal for inclusion from a Party that is a developing country or a country with an economy in transition, and the collection of additional information by the secretariat. Article 6, paragraph 5, states: "The Chemical Review Committee shall review the information provided in the proposal and the additional information collected and, in accordance with the criteria set out in part 3 of Annex IV, recommend to the Conference of the Parties whether the severely hazardous pesticide formulation in question should be made subject to the Prior Informed Consent procedure and, accordingly, be listed in Annex III";

(c) To prepare draft decision guidance documents for chemicals recommended for inclusion in Annex III. Article 7, paragraph 1, states: "For each chemical that the Chemical Review Committee has decided to recommend for listing in Annex III, it shall prepare a draft decision guidance document. The decision guidance document should, at a minimum, be based on the information specified in Annex I, or, as the case may be, Annex IV, and include information on the uses of the chemical in a category other than the category for which the final regulatory action applies";

(d) To make recommendations on the removal of chemicals from Annex III and the revision of decision guidance documents. Article 9, paragraph 2, states: "The Chemical Review Committee shall review the information it receives under paragraph 1. For each chemical that the Chemical Review Committee decides, in accordance with the relevant criteria in Annex II or, as the case may be, Annex IV, to recommend for removal from Annex III, it shall prepare a revised draft decision guidance document."

II. Establishment, composition, organization and operation of the Chemical Review Committee

3. At its first meeting, in decision RC-1/6, the Conference of the Parties decided to establish the Chemical Review Committee and specified its membership, organization, operation and terms of reference. The Chemical Review Committee comprises 31 government-designated experts in chemicals management, appointed on the basis of equitable geographical distribution, ensuring a balance between developed and developing countries, to serve on an interim basis until the formal confirmation of their appointment by the Conference of the Parties at its second meeting. Decision RC-1/6 is appended to the present document for ease of reference.

4. At its first meeting, the Conference of the Parties also decided, in decision RC-1/7, to adopt the procedures for addressing conflict of interest which had been used during the interim procedure. Accordingly, the experts were requested to complete and submit a conflict of interest form prior to the meeting. Decision RC-1/7 is appended to the present document for ease of reference.

Appendix I

Decision RC-1/6: Establishment of the Chemical Review Committee

The Conference of the Parties,

Recalling that paragraph 6 of article 18 of the Convention provides that the Conference of the Parties shall, at its first meeting, establish a subsidiary body to be called the Chemical Review Committee, for the purposes of performing the functions assigned to that Committee by the Convention,

Recalling further that, in paragraph 6 (b) of article 18, the Convention provides that the Conference of the Parties shall decide on the terms of reference, organization and operation of the Chemical Review Committee,

Noting its decision INC-6/2, by which it established the interim Chemical Review Committee and set forth its basic terms of reference, organization and operation,

Considering that the approach set forth in decision INC-6/2 served as an excellent basis for the operation of the interim Chemical Review Committee,

Desiring to build upon this approach in establishing the Chemical Review Committee in the present decision, taking into consideration experience and lessons learned during the operation of the interim Chemical Review Committee,

Establishment of the Chemical Review Committee

1. *Decides* to establish a subsidiary body, to be called the Chemical Review Committee, composed of 31 members nominated by Governments and appointed by the Conference of the Parties on the basis of equitable geographical distribution, including ensuring a balance between developed and developing Parties¹, drawn from regions identified in annex I to the present decision, as follows:

African States:	8
Asian and Pacific States:	8
Central and Eastern European States:	3
Latin American and Caribbean States:	5
Western European and other States:	7

Membership

2. *Confirms* that the members of the Chemical Review Committee shall be experts in chemicals management;

3. *Decides* that the Governments listed in annex II to the present decision shall each formally designate one expert and, through the Secretariat, provide their names and relevant qualifications to the Parties by 1 December 2004, and that such experts shall 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 second meeting;

4. *Decides* that, for the purposes of these initial appointments and in order to promote an orderly rotation of membership, one half of the members of each region shall be nominated for an initial term of two years, and the remaining members of each region shall be nominated for an initial term of four years, commencing from the date of the second meeting of the Conference of the Parties;²

¹ The reference to "developing countries" is intended also to include countries with economies in transition.

² For those regions for which the number of members is an odd number, the phrase "one half of the members of such region" shall be interpreted to mean the nearest whole number less than one half of the number of members in that region. Accordingly, if a region has five members, one half of that number will be taken to mean two.

5. *Decides*, subject to the provisions of paragraphs 3 and 4 above, that each member shall serve for a term of four years from the date of appointment, and for no more than two consecutive terms;

6. *Decides* that a new list of Governments to replace the list in annex II to the present decision shall be adopted, consistent with the provisions indicated in paragraph 1, at subsequent meetings of the Conference of the Parties so that vacancies created by outgoing members may be filled.

Organization and operation

7. *Decides* that each member of the Chemical Review Committee shall sign a declaration of interest as set out in decision RC-1/7 prior to participating in the work of the Chemical Review Committee;

8. *Decides* that any vacancy in the Chemical Review Committee arising during the intersessional period shall be filled on an interim basis in accordance with such procedure as the region concerned may determine, that the name and relevant qualifications of the new member shall be circulated to the Parties through the secretariat, and that the Conference of the Parties shall consider confirmation of such appointment at its next meeting;

9. *Decides* that the Chemical Review Committee shall meet for the first time in February 2005 and normally every year thereafter, subject to the availability of funds and work requirements of the Chemical Review Committee;

10. *Decides* that the operational arrangements relating to language used for the interim Chemical Review Committee, having worked well, shall continue for the Chemical Review Committee, and that any draft decision guidance documents to be considered by the Chemical Review Committee or forwarded to the Conference of the Parties shall be available in all six languages of the Conference of the Parties;

11. *Confirms* that, in accordance with paragraph 6 (c) of article 18 of the Convention, the Chemical Review Committee shall make every effort to make its recommendations by consensus; if all efforts at consensus have been exhausted, and no consensus reached, such recommendation shall as a last resort be adopted by a two-thirds majority vote of the members present and voting;

12. *Confirms* that the meetings of the Chemical Review Committee shall be open to observers in accordance with the rules of procedure of the Conference of the Parties;

Terms of reference

13. *Decides* that the Chemical Review Committee, in accordance with the provisions of the Convention, in particular articles 5, 6, 7 and 9, shall have the following functions and responsibilities:

(a) To make recommendations on the inclusion of banned and severely restricted chemicals: review the information provided in notifications of final regulatory actions and, in accordance with the criteria set out in Annex II to the Convention, recommend to the Conference of the Parties whether the chemical in question should be listed in Annex III;

(b) To make recommendations on the inclusion of severely hazardous pesticide formulations: review the information provided in proposals for the inclusion of a severely hazardous pesticide formulation in Annex III and, in accordance with the criteria set out in part 3 of Annex IV to the Convention, recommend to the Conference of the Parties whether the chemical in question should be listed in Annex III;

(c) To prepare draft decision guidance documents: for each chemical that it has decided to recommend for listing in Annex III, prepare a draft decision guidance document. The decision guidance document should, at a minimum, be based on the information specified in Annex I to the Convention or, as the case may be, Annex IV, and include information on uses of the chemical in a category other than the category for which the final regulatory action applies;

(d) To make recommendations on the procedure for the removal of chemicals from Annex III: review information that was not available at the time of the decision to list the chemical in Annex III which indicates that its listing may no longer be justified in accordance with the relevant criteria in Annex II to the Convention or, as the case may be, Annex IV, and recommend to the Conference of the Parties whether the chemical in question should be removed from Annex III. For each chemical that the Chemical Review Committee recommends for removal from Annex III, it shall prepare a revised draft decision guidance document.

Annex I (Decision RC-1/6)

Distribution of countries

Regional groups for the purpose of membership in the Chemical Review Committee

African States			
Algeria Angola Benin * Botswana Burkina Faso * Burundi Cameroon * Cape Verde Central African Republic Chad * Comoros Congo Côte d'Ivoire * Democratic Republic of the Congo	Djibouti Egypt Equatorial Guinea * Eritrea Ethiopia * Gabon * Gambia * Ghana * Guinea * Guinea-Bissau Kenya Lesotho Liberia Libyan Arab Jamahiriya * Madagascar	Malawi Mali * Mauritania Mauritius Morocco Mozambique Namibia Niger Nigeria * Rwanda * Sao Tome and Principe Senegal * Seychelles Sierra Leone Somalia	South Africa * Sudan Swaziland Togo * Tunisia Uganda United Republic of Tanzania * Zambia Zimbabwe
Asian and Pacific States			
Afghanistan Bahrain Bangladesh Bhutan Brunei Darussalam Cambodia China Cyprus Democratic People's Republic of Korea * Fiji India Indonesia Iran (Islamic Republic of)	Iraq Japan * Jordan * Kazakhstan Kuwait Kyrgyzstan * Lao People's Democratic Republic Lebanon Malaysia * Maldives Marshall Islands * Micronesia (Federated States of)	Mongolia * Myanmar Nauru Nepal Oman * Pakistan Papua New Guinea Philippines Qatar Republic of Korea * Samoa * Saudi Arabia * Singapore Solomon Islands	Sri Lanka Syrian Arab Republic * Tajikistan Thailand * Tonga Turkmenistan United Arab Emirates * Uzbekistan Vanuatu Viet Nam Yemen
Central and Eastern European States			
Albania Armenia * Azerbaijan Belarus Bosnia and Herzegovina Bulgaria *	Croatia Czech Republic * Estonia Georgia Hungary * Latvia *	Lithuania * Poland Republic of Moldova Romania * Russian Federation Serbia and Montenegro	Slovakia Slovenia * The former Yugoslav Republic of Macedonia Ukraine *
Latin American and Caribbean States			
Antigua and Barbuda Argentina * Bahamas Barbados Belize Bolivia * Brazil * Chile Colombia	Costa Rica Cuba Dominica Dominican Republic Ecuador * El Salvador * Grenada Guatemala Guyana	Haiti Honduras Jamaica * Mexico Nicaragua Panama * Paraguay * Peru Saint Kitts and Nevis	Saint Lucia Saint Vincent and the Grenadines Suriname * Trinidad and Tobago Uruguay * Venezuela

Western European and other States			
Andorra	Greece *	Monaco	Switzerland *
Australia *	Iceland	Netherlands *	Turkey
Austria *	Ireland	New Zealand *	United Kingdom *
Belgium *	Israel	Norway *	United States of America
Canada *	Italy *	Portugal	
Denmark *	Liechtenstein *	San Marino	
Finland *	Luxembourg *	Spain *	
France *	Malta	Sweden *	
Germany *			
Not members of any regional group			
Kiribati	Palau	Tuvalu	Timor-Leste

* Parties to the Rotterdam Convention as of 21 September 2004.

Annex II (Decision RC-1/6)

List of Governments identified by the Conference of the Parties at its first meeting to nominate a member to the Chemical Review Committee

African States

2 years:	Gabon	4 years:	Libyan Arab Jamahiriya
	Ghana		Rwanda
	Nigeria		Senegal
	South Africa		United Republic of Tanzania

Asian and Pacific States

2 years:	Kyrgyzstan	4 years:	Jordan
	Malaysia		Oman
	Thailand		Republic of Korea
	Samoa		Syrian Arab Republic

Eastern European States

2 years:	Hungary	4 years:	Slovenia
			Ukraine

Latin American and Caribbean States

2 years:	Brazil	4 years:	Argentina
	Ecuador		Jamaica
			Uruguay

Western European and other States

2 years:	France	4 years:	Australia
	Italy		Canada
	Switzerland		Finland
			Netherlands

Appendix II

RC-1/7: Rules and procedures for preventing and dealing with conflicts of interest relating to the activities of the Chemical Review Committee

The Conference of the Parties

1. *Decides* that it is essential to safeguard confidence in the integrity of the process of work of the Chemical Review Committee while encouraging experienced and competent persons to accept membership in the Committee by:

- (a) Establishing an appropriate code of conduct;
- (b) Establishing clear rules with respect to conflict of interest during and after service as a member;
- (c) Minimizing the possibility of conflicts arising between the private interests and public duties of members;
- (d) Establishing appropriate procedures for preventing and dealing with conflicts of interest relating to the activities of the Chemical Review Committee;

2. *Decides*, without prejudice to the obligations incumbent upon the individual members of the Chemical Review Committee as set out in paragraphs 3 and 4 below, that Governments have primary responsibility in ensuring compliance with the present decision and that, to this effect, when considering designating experts in chemicals management for appointment by the Conference of the Parties, Governments shall exercise due diligence in order to prevent potential or actual situations of conflict of interest;

3. *Decides* that, in carrying out their duties, the members of the Chemical Review Committee shall:

- (a) Perform their official duties and arrange their private affairs in such a manner that public confidence and trust in the integrity, objectivity and impartiality of the Chemical Review Committee are preserved and enhanced;
- (b) Act in a manner that will bear the closest public scrutiny, an obligation that is not fully discharged by simply acting within the law of any country;
- (c) Act in good faith for the best interest of the process;
- (d) Exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances;
- (e) Not give any preferential treatment to anyone or any interest in any official manner related to the Chemical Review Committee;
- (f) Not solicit or accept gifts, hospitality, or other benefits from persons, groups or organizations having or likely to have dealings with the Chemical Review Committee;
- (g) Not accept transfers of economic benefit, other than customary hospitality, or other benefits of nominal value, unless the transfer is pursuant to an enforceable contract or property right of the member;
- (h) Not depart from their role as members to assist other entities or persons in their dealings with the Chemical Review Committee where such actions would result in preferential treatment to any person or group;
- (i) Not knowingly take advantage of, or benefit from, information that is obtained in the course of their duties and responsibilities as members of the Chemical Review Committee and that is not generally available to the public;
- (j) Not act, after expiry of their term of office as members of the Chemical Review Committee, in such a manner as to take improper advantage of their previous office;

4. *Decides* that, to avoid the possibility or appearance that members of the Chemical Review Committee might receive preferential treatment, members shall not seek preferential treatment for themselves or third parties or act as paid intermediaries for third parties in dealings with the Chemical Review Committee;

5. *Decides* that members of the Chemical Review Committee shall disclose activities, including business or financial interest, which might call into question their ability to discharge their duties and responsibilities objectively. The members of the Chemical Review Committee must annually disclose their activities. In addition, they must disclose any financing from a company engaged in commercial or industrial activities for their participation in the Committee. To this effect, the Conference of the Parties adopts the declaration of interests as set out in the annex to the present decision for consideration in connection with the designation, appointment and review of the status of experts to the Chemical Review Committee;

6. *Decides* that, in assessing potential or actual situations of conflict of interest, the criteria set out in paragraph 1 of the declaration of interests should be applied by all concerned in a consistent manner, on a case-by-case basis, with regard to all relevant circumstances involved in each particular case;

7. *Decides* to adopt the following procedure for the implementation of the declaration of interests³:

Review process prior to appointment

a) When considering designating an expert to the Chemical Review Committee, the Government concerned shall inform the expert that he or she shall be requested by the secretariat to fill in a declaration of interests;

(b) Prior to the designation of an expert by a Government, or concurrently with the process for that designation, the secretariat shall request the expert, through the Government, to fill in a declaration of interests. The declaration of interests shall be submitted by the designating Government to the secretariat;

(c) Should the secretariat require further clarification as to the suitability of an expert, the secretariat shall discuss the matter with the designating Government and the prospective expert, through the Government, as appropriate. Depending on the outcome of these discussions, the secretariat may refer the matter to the Bureau of the Conference of the Parties. The Bureau shall review the matter and make a recommendation to the concerned Government;

(d) Should a Government be in disagreement with a recommendation by the Bureau of the Conference of the Parties, that Government may request that the matter be considered by the Conference of the Parties;

Review process after appointment

(e) All appointed experts shall be required to inform the secretariat, through the Government that designated them, of any change in the information provided in a declaration of interests previously submitted;

(f) In the course of the mandate of an expert, should the secretariat be of the opinion that a situation of conflict of interest could arise or has arisen, the secretariat shall discuss the matter with that expert and, where deemed appropriate, with the designating Government. The Bureau of the Conference of the Parties may recommend to the Conference of the Parties the temporary suspension of the participation of the expert in some or in all the activities of the Chemical Review Committee. A decision on the matter shall be taken by the Conference of the Parties at its next session;

General provisions

(g) Subject to the provisions of the present decision, the secretariat shall take all necessary measures to safeguard the restricted character of the information provided in the declaration of interests. To the extent necessary for the implementation of the present decision, this information may be provided to the Conference of the Parties and its Bureau and subsidiary bodies, as deemed appropriate;

(h) Where the objectivity of a particular meeting has been called into question, the Conference of the Parties shall define the conditions for the disclosure of all relevant information in addition to that which is provided for in paragraph 7 (g) above;

³ As contained in the annex to the present decision.

- (i) The Conference of the Parties shall consider any issue that is not covered by the present decision;
- (j) The Conference of the Parties shall keep under review the implementation of the present decision and, not later than five years after its adoption, carry out a comprehensive assessment of its implementation with a view to making such amendments thereto as may be required;
8. *Decides* that any designation of experts to serve in the Chemical Review Committee shall be subject to the relevant provisions of paragraph 7 of the present decision.

Annex (Decision RC-1/7)

Declaration of interests

Measures need to be taken to ensure that the best possible assessment of scientific evidence is achieved in an independent atmosphere free of either direct or indirect pressures. Thus, to ensure the technical integrity and impartiality of the work of the Chemical Review Committee, it is necessary to avoid situations in which financial or other interests might affect the outcome of that work.

Each expert is therefore asked to declare any interests that could constitute a real, potential or apparent conflict of interest with respect to his or her involvement in the meeting or work, between on the one hand, commercial entities and the participant personally, and, on the other hand, commercial entities and the administrative unit with which the participant has an employment relationship. In this context “commercial entity” refers to any company, association (e.g., trade association), organization or any other entity whatsoever, with commercial interests.

1. What is a conflict of interest?

“Conflict of interest” means that the expert or his or her partner, or the administrative unit with which the expert has an employment relationship, has a financial or other interest that could unduly influence the expert’s position with respect to the subject matter being considered. An apparent conflict of interest exists when an interest would not necessarily influence the expert but could result in the expert’s objectivity being questioned by others. A potential conflict of interest exists with an interest which any reasonable person could be uncertain whether or not should be reported.

Different types of financial or other interests, whether personal or with the administrative unit with which the expert has an employment relationship, can be envisaged and the following list, which is not exhaustive, is provided for your guidance. For example, the following types of situations should be declared:

- (a) A current proprietary interest in a substance, technology or process (e.g., ownership of a patent), to be considered in – or otherwise related to the subject matter of – the meeting or work;
- (b) A current financial interest, e.g., shares or bonds, in a commercial entity with an interest in the subject matter of the meeting or work (except shareholdings through general mutual funds or similar arrangements where the expert has no control over the selection of shares);
- (c) An employment, consultancy, directorship, or other position held during the past four years, whether or not paid, in any commercial entity which has an interest in the subject matter of the meeting or work, or an ongoing negotiation concerning prospective employment or other association with such commercial entity;
- (d) Performance of any paid work or research during the past four years commissioned by a commercial entity with interests in the subject matter of the meetings or work;
- (e) Payment or other support covering a period within the past four years, or an expectation of support for the future, from a commercial entity with an interest in the subject matter of the meetings or work, even if it does not convey any benefit to the expert personally but which benefits his or her position or administrative unit, e.g., a grant or fellowship or other payment, e.g., for such purposes as the financing of a post or consultancy.

With respect to the above, a commercial interest in a competing substance, technology or process, or an interest in or association with, work for or support by a commercial entity having a direct competitive interest must similarly be disclosed.

I hereby declare that I shall regulate my conduct in accordance with the provisions of paragraphs 3 and 4 of decision RC-1/7.

Signature

Name
