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**Rotterdam Convention on the Prior  
Informed Consent Procedure for Certain  
Hazardous Chemicals and Pesticides in  
International Trade  
Conference of the Parties  
First meeting  
Geneva, 20–24 September 2004  
Item 6 (d) of the provisional agenda\***

**Matters stipulated by the Convention for action  
by the Conference of the Parties at its first meeting:  
establishment of the Chemical Review Committee**

## **Establishment of the Chemical Review Committee**

### **Note by the secretariat**

#### **Introduction**

1. Article 18, paragraph 6, of the Rotterdam Convention states that: “The Conference of the Parties shall, at its first meeting, establish a subsidiary body called the Chemical Review Committee for the purposes of performing the functions assigned to the Committee by this Convention.”

### **I. Background**

2. The Working Group established at the eighth session of the Negotiating Committee to consider issues associated with the discontinuation of the interim prior informed consent (PIC) procedure proposed that, once it had established the Chemical Review Committee in pursuance of article 18, paragraph 6, of the Convention, the Conference of the Parties should endorse the decision of the Intergovernmental Negotiating Committee at its seventh session that the Interim Chemical Review Committee would no longer meet after the first meeting of the

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\* UNEP/FAO/RC/COP.1/1.

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Conference of the Parties (see documents UNEP/FAO/PIC/INC.7/15, para. 85, and UNEP/FAO/PIC/INC9/18, annex I, para. 6 (a)). It also proposed that the PIC regions adopted by the Conference of the Parties at its first meeting could be the basis for identifying the membership of the Chemical Review Committee (see document UNEP/FAO/PIC/INC.9/18, annex I, para. 13).

3. The present note briefly examines the main issues arising with respect to the establishment of the Chemical Review Committee and includes an annotated outline for a decision for consideration by the Conference of the Parties. Chapter II, "Functions of the Chemical Review Committee", sets out the functions of the subsidiary body as contained in the individual articles of the Convention; chapter III, "Establishing the Chemical Review Committee", sets out the provisions of article 18, paragraph 6, and the draft rules of procedure relevant to creating the subsidiary body; chapter IV, "Experience in the operation of the interim Chemical Review Committee", highlights what has worked well in the five meetings of that Committee and what might be improved; and chapter V, "Suggested action by the Conference of the Parties", sets out the basis for a proposed annotated decision based on that taken in establishing the interim Chemical Review Committee. An annotated outline for a decision to establish the Chemical Review Committee is provided in the annex to the present note.

## II. Functions of the Chemical Review Committee

4. The functions entrusted to the subsidiary body to be established under article 18, paragraph 6, of the Convention are:

(a) To review information provided in notifications under article 5, and to make recommendations on the inclusion of banned or severely restricted chemicals under that article (as stated in article 5, paragraph 6: "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 review information provided in proposals under article 6, and to make recommendations on the inclusion of severely hazardous pesticide formulations under that article (as stated in article 6, paragraph 5: "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 (as stated in article 7, paragraph 1: "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 uses of the chemical in a category other than the category for which the final regulatory action applies");

(d) To review information received under article 9, and to make recommendations on the removal of chemicals from Annex III and the revision of decision guidance documents under that article (as stated in article 9, paragraph 2: "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").

### III. Establishing the Chemical Review Committee

5. Article 18, paragraph 6, of the Convention contains the following provisions with respect to the establishment of the Chemical Review Committee:

“The Conference of the Parties shall at its first meeting establish a subsidiary body, to be called the Chemical Review Committee, for the purpose 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 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.”

6. The draft rules of procedure for the Conference of the Parties, as contained in document UNEP/FAO/RC/COP1/2, include specific reference to subsidiary bodies in their chapter VII. Rule 26 states that, save as provided in rules 28 to 33, the present rules shall apply *mutatis mutandis* to the proceedings of any subsidiary bodies, subject to any modifications decided by the Conference of the Parties. Rule 22.5 provides that the Chair of the Chemical Review Committee shall be a member *ex officio* of the Bureau. Rule 30 provides that the Chair of the Chemical Review Committee shall be elected by the Conference of the Parties.

### IV. Experience with the operation of the interim Chemical Review Committee

7. At its sixth session, by its decision INC-6/2, the Negotiating Committee established an interim subsidiary body, the Interim Chemical Review Committee, composed of 29 government-designated experts in chemical management appointed by the Negotiating Committee, as follows: six experts from Africa; five experts from Asia; six experts from Europe; five experts from Latin America and the Caribbean; three experts from the Near East; two experts from North America; and two experts from the Southwest Pacific (see annex I to document UNEP/FAO/PIC/INC.6/7).

8. The 29-person membership of the Committee helped to ensure both a broad geographic distribution and a representative range of developed and developing countries. At the same time the limited size facilitated the working of the Committee, in particular the inter-sessional work on the preparation of working papers and preliminary drafts of decision guidance documents. The working language of the Committee was English, a factor which did not appear to hamper the operation of the Committee as its meetings were well attended by observers from a range of developed and developing countries. All draft decision guidance documents considered by the Committee or forwarded to the Negotiating Committee were available in all six languages (Arabic, Chinese, English, French, Russian and Spanish). The circulation of draft decision guidance documents in six languages provided an opportunity for comment by Governments and non-governmental organizations, with the comments received made available to the Committee in English.

9. In a move to safeguard confidence in the integrity of the process of work of the Interim Chemical Review Committee, the eighth session of the Negotiating Committee, in Decision INC-8/1, adopted rules and procedures for preventing and dealing with conflicts of interest relating to the activities of the Committee (Annex 1, UNEP/FAO/PIC/INC.8/19).

10. Where there was a need to change membership of the Committee members were obliged to resign before a replacement could be nominated. The importance of continuity in the membership of the Committee was recognised in order not to lose the practical experience gained in reviewing chemicals.

11. In order to avoid a wholesale change in the membership of the Committee it was proposed that consideration be given to a process through which only one half of the membership of the Committee might change at a given time. For example if the committee members are to have a term of office of four years that the membership renewal be staggered on a two year cycle. One option in the initial round might be for half the Committee to be replaced at the end of two years, with new members appointed for four years, while the other half would remain for a further two years at which time they would be replaced by new members for a further four years.

## **V. Suggested action by the Conference of the Parties**

12. The working group established by the Negotiating Committee identified the following proposal for the consideration of the Conference of the Parties in establishing the chemical review committee: that the PIC regions adopted at the first meeting of the Conference of the Parties could be the basis for identifying the membership of the Chemical Review Committee (see document UNEP/FAO/PIC/INC.9/18, annex I, paragraph 13).

13. The Conference of the Parties is invited to consider the following annotated outline for a decision to establish the Chemical Review Committee, and on its terms of reference, organization and operation, in accordance with article 18, paragraph 6, of the Convention. The attached annotated outline for a decision is modelled on the approach used for the interim Chemical Review Committee, as set forth in decision INC-6/2, except that it:

- (a) Introduces subheadings defining the organization and operation of the Committee and its terms of reference;
- (b) Leaves open the total number and geographical distribution of members (para. 1);
- (c) Leaves open the length of the term of office and timeline by which nominations are to be submitted to the secretariat (para. 3);
- (d) Includes a reference to the orderly rotation of members of the Committee (para 5);
- (e) Includes a reference to the conflict of interest procedure (para 7);
- (f) Includes reference to article 9 of the Convention (para. 13);
- (g) Removes elements of decision INC-6/2 that were relevant only to the interim period.

14. The Conference of the Parties may wish to consider other approaches as well, as it considers appropriate.

## Annex

### Draft decision for consideration by the Conference of the Parties on the 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 [insert number] members appointed by the Conference of the Parties on the basis of equitable geographical distribution, including ensuring a balance between developed and developing Parties, as follows: [insert];

#### **Membership**

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

3. *Decides*, subject to the provisions of paragraphs 4 and 5 below, that each member shall serve for a term of [insert number] years from the date of appointment, and for no more than 2<sup>1</sup> consecutive terms;

4. *Decides* that the Governments identified in paragraph 1 above 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 session;

5. *Decides* that, for the purposes of these initial appointments, and in order to promote an orderly rotation of membership, [insert number equal to half of total members] members from [insert countries] shall be designated for a period of one term from the date of the second session of the Conference of the Parties, and [insert number equal to half of total] members from [insert countries] shall be designated for a period of two terms from that date;

<sup>1</sup> *Note:* Rule 30 of the draft rules of procedure of the Conference of the Parties provides that officers of subsidiary bodies shall not serve for more than two consecutive terms.

6. *Decides* to identify, at a subsequent session, a revised list of Governments that may designate experts to serve as members of the Chemical Review Committee, consistent with the provision of equitable geographic distribution indicated in paragraph 1 of the present decision, and further decides that such experts will serve as members of the Chemical Review Committee upon the completion of the terms of the Committee's initial members;

### **Organization and operation**

7. *Decides* that each member of the Chemical Review Committee shall sign a declaration of interest as set out in decision [insert reference], prior to participating in the work of the Chemical Review Committee;

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

9. *Decides* that the Chemical Review Committee shall meet for the first time on [insert date] and normally every [insert frequency] thereafter, approximately seven months before each session of the Conference of the Parties, subject to the availability of funds and work requirements of the Chemical Review Committee;

10. *Decides* that the meetings of the Chemical Review Committee shall be held in English<sup>2</sup> and that any draft decision guidance documents to be considered by the CRC 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 sessions 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, consistent 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 of the Convention, recommend to the Conference of the Parties whether the chemical in question should be included 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 of the Convention, recommend to the Conference of the Parties whether the chemical in question should be included in Annex III;

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<sup>2</sup>

Reflects the approach taken in the operation of the interim Chemical Review Committee.

(c) To prepare draft decision guidance documents: for each chemical that the Conference of the Parties has decided to recommend to be included in Annex III, prepare a draft decision guidance document. The decision guidance document should, as a minimum, be based on the information specified in Annex I of 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 removal of chemicals from Annex III procedure: review information that was not available at the time of the decision to include the chemical in Annex III which indicates that its inclusion 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.

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