



**United Nations
Environment Programme**

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

Distr.: General
9 June 2004

Original: English

**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**

Rules and procedures for preventing and dealing with conflicts of interest relating to the activities of the Chemical Review Committee

Note by the secretariat

Introduction

1. In accordance with Article 18, paragraph 6, of the Convention, the Conference of the Parties is required to establish the Chemical Review Committee. This is scheduled to be considered under agenda item 6 (d) of the provisional agenda* (UNEP/FAO/RC/COP.1/17).
2. At its eighth session, by decision INC-8/1, the Intergovernmental Negotiating Committee, established rules and procedures for preventing and dealing with conflicts of interest relating to the activities of the Interim Chemical Review Committee (see annex I to document UNEP/FAO/PIC/INC.8/19). These rules and procedures have been applied during the interim prior informed consent (PIC) procedure to all members of the Interim Chemical Review Committee.

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

Suggested action by the Conference of the Parties

3. In establishing the Chemical Review Committee, the Conference of the Parties, building on the work accomplished during the interim PIC procedure, may wish to consider the draft decision on rules and procedures for preventing and dealing with conflicts of interest relating to the activities of the Chemical Review Committee set out in annex I to the present note. The text of the proposed decision is based on that of decision INC-8/1, amended to reflect the Convention PIC procedure.

Annex

Draft decision for consideration by the Conference of the Parties on the adoption of 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 interests:

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 this 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;

(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

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 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;

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);

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;

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;

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.

2. How to complete this declaration

Please complete this declaration and submit it to the designated national authority for transmission to the secretariat. Any financial or other interests that could constitute a real, potential or apparent conflict of interest should be declared: first, with respect to yourself or partner; and, second, with respect to any administrative unit with which you have an employment relationship. Only the name of the commercial entity and the nature of the interest is required to be disclosed and no amounts need to be specified (although they may be, if you consider this information to be relevant to assessing the interest). With respect to points (a) and (b) in the list above, the interest should only be declared if it is current. With respect to points (c), (d) and (e), any interest during the past four years should be declared. If the interest

is no longer current, please state the year when it ceased. With respect to point (e), the interest ceases when a financed post or fellowship is no longer occupied, or when support for an activity ceases.

3. Assessment and outcome

The information submitted by you will be used to assess whether the declared interests constitute an appreciable real, potential or apparent conflict of interest in accordance with the provisions of decision COP-1/[...]

Information disclosed on this declaration shall reside within the secretariat and shall be made available to the Conference of the Parties, its Bureau and subsidiary bodies, as deemed appropriate.

4. Declaration

Have you or your partner any financial or other interest in the subject matter of the meeting or work in which you will be involved, which may be considered as constituting a real, potential or apparent conflict of interest?

Yes: No: If yes, please give details in the box below.

Do you have, or have you had during the past four years, an employment or other professional relationship with any entity directly involved in the production, manufacture, distribution or sale of chemicals or pesticides or directly representing the interests of any such entity?

Yes: No: If yes, please give details in the box below.

1. Type of interest, e.g. patent, shares, employment, association, payment (including details on any compound, work, etc.)	2. Name of commercial entity	3. Belongs to you, partner or unit?	4. Current interest? (or year ceased)

Is there anything else that could affect your objectivity or independence in the meeting or work, or the perception by others of your objectivity and independence?

I hereby declare that the disclosed information is correct and that no other situation of real, potential or apparent conflict of interest is known to me. I undertake to inform you of any change in these circumstances, including if an issue arises during the meeting or work itself.

Signature

Date

Name

Government

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

Signature

Name
