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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**

Second meeting

Rome, 27–30 September 2005

Item 5 (c) of the provisional agenda*

**Implementation of the Convention:
report of the Chemical Review Committee
on the work of its first meeting**

Issues arising out of the first meeting of the Chemical Review Committee

Note by the secretariat

Annexed to the present note is a paper prepared by the secretariat providing relevant background information and a summary of the deliberations of the Chemical Review Committee at its first meeting on selected issues that it wanted to be brought forward to the second meeting of the Conference of the Parties. The full report of the first meeting of the Chemical Review Committee is available in document UNEP/FAO/RC/COP.2/8.

The paper is divided into two chapters: chapter I concerns three of the working procedures and policy guidance forwarded by the Conference of the Parties at its first meeting to the Chemical Review Committee. Chapter II contains a number of issues that were raised and which the Chemical Review Committee agreed should be brought to the attention of the Conference of the Parties.

The paper provides relevant background information and a summary of the deliberations and recommendations of the Chemical Review Committee on each issue. Also included, where appropriate, are suggestions by the secretariat for possible action by the Conference of the Parties.

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

Annex

I. Operational procedures for the Chemical Review Committee: working procedures and policy guidance

A. Working procedures

1. Process for drafting decision-guidance documents

(a) Background

1. At its first session, the Interim Chemical Review Committee developed a flow chart of the process and explanatory notes for drafting decision-guidance documents for banned and severely restricted chemicals and severely hazardous pesticide formulations (UNEP/FAO/PIC/ICRC.1/6, annex IV). The process was adopted by the Intergovernmental Negotiating Committee for an International Legally Binding Instrument for the Application of the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade at its seventh session by decision INC-7/6 and formed the basis for the work of the Committee in developing decision-guidance documents for chemicals included in the interim prior informed consent (PIC) procedure at its four subsequent sessions (UNEP/FAO/PIC/INC.7/15, annex I).

2. The Chemical Review Committee considered the process (see the note by the secretariat on working procedures: process for drafting decision guidance documents, UNEP/FAO/RC/CRC.1/5) and noted that it was a good one, owing its success largely to the willingness of members of the Interim Chemical Review Committee to work intersessionally. There was some debate as to the correctness of using the current titles of the explanatory notes to the process since they might erroneously give the impression that the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade was endorsing the banning or severe restriction of the chemicals for which decision-guidance documents were being prepared. Language was agreed that reflected more closely the exact wording of the Convention for those titles. The Committee adopted the paper, as amended, and agreed to forward it to the Conference of the Parties.

(b) Possible action by the Conference of the Parties

3. The Conference of the Parties may wish to adopt a decision accepting the process for drafting decision-guidance documents as contained in the flow chart attached to the report of the first meeting of the Chemical Review Committee (UNEP/FAO/RC/COP.2/8, annex II).

4. The text of a possible decision may be found in the appendix to the present paper.

2. Determination of existing trade in chemicals

(a) Background

5. At its third session, the Interim Chemical Review Committee agreed that when forwarding notifications for review the secretariat should initiate collection of information on international trade in the chemical concerned and adopted guidelines for the determination of ongoing trade in chemicals (UNEP/FAO/PIC/ICRC.3/19, para. 48). These guidelines were posted on the Rotterdam Convention website and used for candidate chemicals considered by the Interim Chemical Review Committee at its fourth and fifth sessions.

6. The Chemical Review Committee considered the working procedures for the determination of ongoing trade in chemicals (UNEP/FAO/RC/CRC.1/8) and noted that the procedure had worked well for the Interim Chemical Review Committee.

7. The Committee agreed to adopt the process and to forward it to the Conference of the Parties with the request that it encourage industry bodies, non-governmental organizations and Parties to provide the information requested.

(b) Possible action by the Conference of the Parties

8. The Conference of the Parties may wish to encourage industry bodies, non-governmental organizations and Parties to provide the information requested for the determination of the ongoing trade in chemicals as contained in the annex to the report of the first meeting of the Chemical Review Committee (UNEP/FAO/RC/COP.2/8, annex III)

B. Policy guidance**1. Preparation and use of focused summaries****(a) Background**

9. The Interim Chemical Review Committee considered the issue of the preparation and use of focused summaries at its second, third and fourth sessions. At its fourth session, the Committee agreed that focused summaries were complementary to the process of regulatory action and would facilitate its work and approved the working paper on the preparation and use of focused summaries (UNEP/FAO/PIC/ICRC.4/18, para. 47).

10. At its tenth session the Negotiating Committee took note of the working paper on the preparation and use of focused summaries prepared by the Interim Chemical Review Committee (UNEP/FAO/PIC/INC.10/15) and invited designated national authorities to prepare focused summaries on a voluntary basis using the information at their disposal (see the report of the Intergovernmental Negotiating Committee on the work of its tenth session, UNEP/FAO/PIC/INC.10/24, para. 85). The working paper was posted on the Rotterdam Convention website.

11. The Chemical Review Committee, in considering the preparation and use of focused summaries (see the note by the secretariat on policy guidance: preparation and use of focused summaries, contained in document UNEP/FAO/RC/CRC.1/10), noted that such summaries might be prepared by notifying countries where the supporting documentation was voluminous or submitted in a language other than English and that the preparation of focused summaries was voluntary. The Committee recommended that the guidance for the preparation of focused summaries should point out that the summaries were intended to supplement and not to supplant the supporting documentation. The Committee was encouraged to identify good examples of focused summaries for future reference.

12. The Committee agreed to adopt the working paper on the preparation and use of focused summaries, as amended in the discussion, and to forward it to the Conference of the Parties with the request that it encourage Parties to prepare focused summaries in accordance with that guidance.

(b) Possible action by the Conference of the Parties

13. The Conference of the Parties may wish to encourage Parties to prepare focused summaries in accordance with the guidance contained in the annex to the report of the first meeting of the Chemical Review Committee (UNEP/FAO/RC/COP.2/8, annex IV).

II. Issues that the Chemical Review Committee at its first meeting agreed should be brought to the attention of the Conference of the Parties**A. Difference between risk evaluation requirements conducted under different international bodies****1. Background**

14. The Committee observed that, at its first meeting, it had considered notifications concerning regulatory actions on methyl bromide and on carbon tetrachloride, some of which were based on decisions or assessments under the Montreal Protocol on Substances that Deplete the Ozone Layer. The Committee had also considered notifications regarding actions in respect of endrin, a substance subject to the Stockholm Convention on Persistent Organic Pollutants. The Committee decided to seek guidance from the Conference of the Parties on whether, in the context of criterion (b) (iii) of Annex II to the Rotterdam Convention, hazard or risk evaluations made under global multilateral environmental

agreements such as the Montreal Protocol and the Stockholm Convention could be used by notifying Parties without the need to carry out additional national evaluations reflecting prevailing conditions in the notifying Party.

2. Possible action by the Conference of the Parties

15. The Conference of the Parties may wish to have an initial discussion on whether, in the context of criterion (b) (iii) of Annex II to the Rotterdam Convention, hazard or risk evaluations made under global multilateral environmental agreements such as the Montreal Protocol and the Stockholm Convention could be used by notifying Parties without the need to carry out additional national evaluations reflecting prevailing conditions in the notifying Party. That discussion would be the basis for defining the terms of reference for a paper to be prepared by the secretariat for consideration at the second meeting of the Chemical Review Committee in preparation for a detailed discussion of this issue at the third meeting of the Conference of the Parties.

B. Possible confusion between trade names and brand names

1. Background

16. While noting that the processes adopted by the Committee were practical and appropriate, one observer noted the need to clarify the distinction between trade names and brand names (or trademarks) when preparing decision-guidance documents. He was encouraged to raise the issue at the next meeting of the Conference of the Parties.

2. Possible action by the Conference of the Parties

17. The Conference of the Parties may wish to invite the observer to raise this issue and to clarify his concerns.

C. Guidance on the term “severely restricted”

1. Background

18. For some of the notifications of final regulatory actions, the task groups voiced doubts as to whether the definition of “severely restricted chemical” had been met as insufficient information had been provided to assess clearly the real or expected reduction in use of the chemicals as a consequence of the regulatory action. One expert noted that the Committee’s terms of reference, as contained in document UNEP/FAO/RC/CRC.1/3, did not contain a mandate to examine whether this definition was fulfilled, as it was not one of the criteria specified in Annex II of the Convention. The Committee recommended that the Conference of the Parties might wish to consider encouraging Parties, when submitting notifications, to describe clearly the effects, real or expected, of the regulatory action with regard to the use of the chemical in order to facilitate the task of the Committee in assessing whether criterion (c) (i) of Annex II of the Convention had been met.

2. Possible action by the Conference of the Parties

19. The Conference of the Parties may wish to consider encouraging Parties, when submitting notifications, to describe clearly the effects, real or expected, of the regulatory action with regard to the use of the chemical in order to facilitate the task of the Committee in assessing whether criterion (c) (i) of Annex II of the Convention had been met.

D. Additional information

1. Background

20. In reviewing individual chemicals, there was interest in including information from a broad range of sources, including on the continued safe use of a banned or severely restricted chemical. The Chair stated that the mandate of the Committee constrained it to examining the information that had been submitted by the notifying Parties in accordance with article 5. It was also recalled that the Committee was confined to considering information that had been available at the time the final regulatory action was taken and which informed that action; information gathered subsequent to that action could not be considered by the Committee for the purposes of meeting the Annex I and Annex II requirements. Some experts felt that the scope of the decision-guidance document should not be limited

to the information provided by the notifying Parties, but should be expanded to include other relevant information. In addition, one expert expressed his concern that there should be a process to update and refine decision-guidance documents, particularly in the light of new notifications for a chemical already in Annex III.

2. Possible action by the Conference of the Parties

21. The Conference of the Parties may wish to invite the secretariat to prepare a paper on the scope of decision-guidance documents and the feasibility of a process for the updating and refinement of decision-guidance documents for the next meeting of the Chemical Review Committee in preparation for a discussion of this issue at its third meeting.

Appendix

Draft text of a possible decision adopting the process for drafting decision-guidance documents

The Conference of the Parties

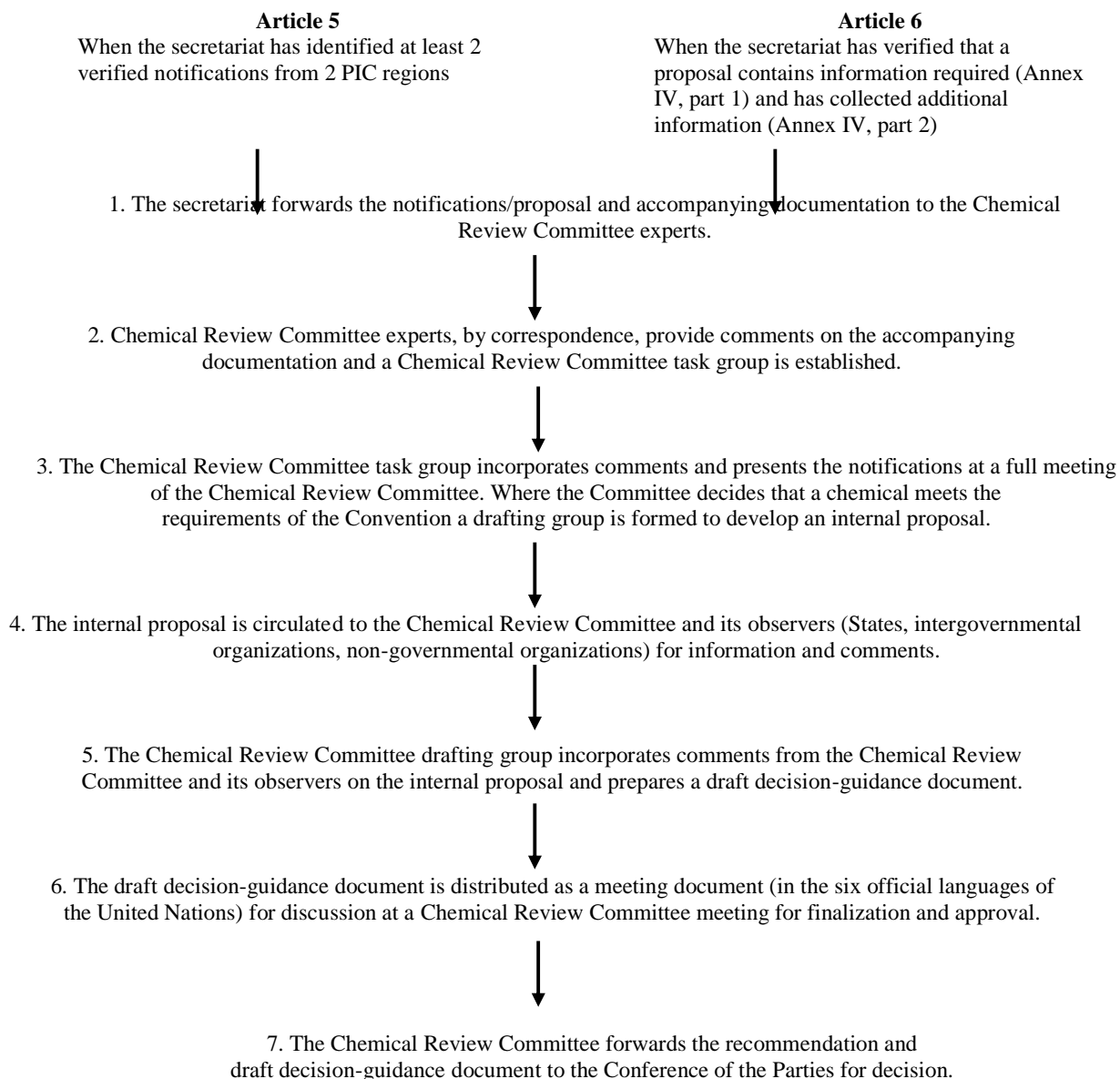
Adopts the process for drafting decision-guidance documents set out in the flow chart and explanatory notes appended to the present decision.

**Annex II of the report of the first meeting of the Chemical Review Committee
(FAO/UNEP/RC/COP.2/8)**

Process for drafting decision-guidance documents and accompanying explanatory notes

A. Process for drafting decision-guidance documents

Flow chart



B. Explanatory notes to the process for drafting decision-guidance documents

1. Decision-guidance documents for chemicals notified as banned or severely restricted in accordance with Article 5

The secretariat forwards to members of the Chemical Review Committee the notifications determined to meet the information requirements of Annex I, and relevant supporting documentation provided by the notifying Parties (as per Annex I and Annex II).

The Chemical Review Committee must deem a notification and relevant supporting documentation to meet the requirements of the Convention prior to developing a decision-guidance document.

(1)* Where the information in the notification was deemed sufficient, the secretariat would forward the notifications and accompanying documentation to the experts of the Chemical Review Committee (2) for an initial round of comment. A Chemical Review Committee task group would be established.

(3) The task group would incorporate comments provided by experts, as appropriate, indicating those comments taken up and those which were not and why.

The task group would present the notifications and the accompanying documentation to the Chemical Review Committee along with the tabular summary of comments. The Chemical Review Committee will decide whether to make a recommendation to include the chemical in Annex III of the Convention. Where the decision is to recommend inclusion of a chemical a drafting group will be established. The drafting group prepares an internal proposal and circulates it within the drafting group for comments. A revised internal proposal is prepared.

(4) The internal proposal is then circulated to the Chemical Review Committee and its observers for information and comments. Any comments would be directed to the secretariat, which would prepare a tabular summary for the review by the drafting group.

(5) The drafting group would incorporate comments from the Chemical Review Committee and its observers on the internal proposal and prepare a draft decision-guidance document.

(6) This draft decision-guidance document (and the tabular summary of comments) is distributed as a meeting document for discussion at a Chemical Review Committee meeting (in six languages) for finalization and approval.

(7) The Chemical Review Committee forwards the recommendation and draft decision-guidance document to the Conference of the Parties for decision. The final documentation forwarded by the secretariat to all Parties and observers in advance of the Conference of the Parties session would include the draft decision-guidance document, the Chemical Review Committee recommendation for inclusion in Annex III, a summary of the Chemical Review Committee deliberations including a rationale based on the criteria listed in Annex II as well as the tabular summary of comments received under step 4 and how they were addressed.

Regional coordination by members of the Chemical Review Committee in preparing and providing comments is encouraged.

2. Decision-guidance documents for severely hazardous pesticide formulations proposed in accordance with Article 6

The secretariat will forward to members of the Chemical Review Committee the proposal and accompanying documentation, based on the information contained in the proposal and the additional information collected by the secretariat in accordance with Annex IV, part 2.

* Numbers refer to steps in the flow chart.

The Chemical Review Committee must deem the proposal to meet the requirements of the Convention prior to developing a decision-guidance document.

(1)* Where the information in the proposal was deemed sufficient, the secretariat would collect the information in part 2 of Annex IV from designated national authorities and non-governmental organizations and forward the proposal and accompanying documentation to the experts of the Chemical Review Committee (2) for an initial round of comment. A Chemical Review Committee task group would be established.

(3) The task group would incorporate comments, as appropriate, indicating those comments taken up and those which were not and why.

The task group would present the proposal and the accompanying documentation to the Chemical Review Committee along with the tabular summary of comments. The Chemical Review Committee will decide whether to make a recommendation to include the pesticide formulation in Annex III of the Convention. Where the decision is to recommend inclusion of the formulation a drafting group will be established. The drafting group prepares an internal proposal and circulates it within the group for comment. A revised internal proposal is prepared.

(4) The internal proposal is then circulated to the Chemical Review Committee and its observers for information and comments. Any comments would be directed to the secretariat, which would prepare a tabular summary for the review by the drafting group.

(5) The drafting group would incorporate comments from the Chemical Review Committee and its observers on the internal proposal and prepare a draft decision-guidance document.

(6) This draft decision-guidance document (and the tabular summary of comments) is distributed as a meeting document for discussion at a Chemical Review Committee meeting (in six languages) for finalization and approval.

(7) The Chemical Review Committee forwards the recommendation and draft decision-guidance document to the Conference of the Parties for decision. The final documentation forwarded by the secretariat to all Parties and observers in advance of the Conference of the Parties session would include the draft decision-guidance document, the Chemical Review Committee recommendation for inclusion in Annex III, a summary of the Chemical Review Committee deliberations including a rationale based on the criteria listed in Annex IV, as well as the tabular summary of comments received under step 4 and how they were addressed.

Regional coordination by members of the Chemical Review Committee in preparing and providing comments is encouraged.

* Numbers refer to steps in the flow chart.