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INTERIM CHEMICAL REVIEW COMMITTEE

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Item 3 of the provisional agenda*

REVIEW OF THE OUTCOME OF THE EIGHTH SESSION OF THE
INTERGOVERNMENTAL NEGOTIATING COMMITTEE

Note by the secretariat

1. The purpose of the present note is to provide the Interim Chemical Review Committee with an overview of the action items and decisions relevant to its work that resulted from the deliberations of the Intergovernmental Negotiating Committee at its eighth session in Rome, 8-12 October 2001.
2. Chapter I describes issues for which the Intergovernmental Negotiating Committee has requested follow-up by the Interim Chemical Review Committee, while chapter II reports on other decisions taken by the Intergovernmental Negotiating Committee of relevance to the Interim Chemical Review Committee's work. Finally, chapter III reports on the decisions taken by the Intergovernmental Negotiating Committee, based on the recommendations made by the Interim Chemical Review Committee at its second session.

I. FOLLOW-UP REQUESTED BY THE INTERIM CHEMICAL REVIEW COMMITTEE

A. Conflict of interest

3. At its seventh session the Intergovernmental Negotiating Committee noted the possible need for the Interim Chemical Review Committee to be protected through the use of conflict of interest procedures. It requested the secretariat to develop a draft disclosure or recusal form and procedure for consideration at its next session. At its eighth session the Intergovernmental Negotiating Committee reviewed the draft disclosure form and procedure prepared by the secretariat (UNEP/FAO/PIC/INC.8/10). A working group, chaired by a representative from Colombia, discussed the issue in greater detail and reported back to the plenary. In decision INC-8/1 the Intergovernmental Negotiating Committee adopted rules and procedures for preventing and dealing with conflicts of interest relating to activities of the Interim Chemical Review

* UNEP/FAO/PIC/ICRC.3/1.

Committee and decided that a declaration of interests form should be completed by current members of the Committee and submitted by the designating Government to the interim secretariat before the third session of the Committee.

4. In a letter dated 9 November 2001 the secretariat informed the members of the Interim Chemical Review Committee of decision INC-8/1 and requested that they submit the completed declaration of interest form to the secretariat by 15 January 2002.

5. A report on the status of the implementation of the conflict of interest procedure by the Committee and a copy of decision INC-8/1 is available to the Interim Chemical Review Committee in background document UNEP/FAO/PIC/ICRC.3/INF/1.

B. Maleic hydrazide

6. The Intergovernmental Negotiating Committee reviewed the recommendation of the Interim Chemical Review Committee on the inclusion of maleic hydrazide in the interim prior informed consent (PIC) procedure (annex IV to document UNEP/FAO/PIC/ICRC.2/11).

7. The Chair of the Intergovernmental Negotiating Committee drew the attention of the meeting to the proviso that, if the manufacturers of maleic hydrazide failed to provide confirmation that the level of free hydrazine was not more than 1 part per million, the matter should be referred back to the Interim Chemical Review Committee, which would then consider what action should be taken. She also reported that it had recently been ascertained that there were manufacturers of maleic hydrazide in one more country than had been originally thought and that therefore any consideration by the Interim Chemical Review Committee should be applicable not only the four already identified manufacturers but also to the three manufacturers in that country.

8. A number of representatives spoke in favour of the recommendation of the Interim Chemical Review Committee, stressing the importance which they attached to the proviso relating to the confirmation of the level of free hydrazine.

9. One representative stated that the Convention did not cover products which did not enter international trade, being used only domestically. If such products were not exported, in her view, then there was no obligation on that country's manufacturers to provide the confirmation as to the level of free hydrazine.

10. Another representative indicated that the provision of the information by producers of maleic hydrazide was voluntary and that the Convention did not give the Committee a mandate to compel the provision of the information.

11. The Chair of the Interim Chemical Review Committee clarified that all that was required was a simple statement that certain manufacturers in a given country were producing maleic hydrazide, to a certain specification, together with clarification of whether the maleic hydrazide was, or was not, in international trade. Such statements would then be considered by the Interim Chemical Review Committee.

12. The Intergovernmental Negotiating Committee, in decision INC-8/3, amended the Interim Chemical Review Committee's recommendation on maleic hydrazide and requested the Committee to review the confirmations from manufacturers for compliance with the limit set for free hydrazine, and to follow progress made with regard to the preparation of the specifications by the Food and Agriculture Organization of the United Nations (FAO).

13. A status report on the implementation of decision INC-8/3 and the text of the decision is available to the Interim Chemical Review Committee in document UNEP/FAO/PIC/ICRC.3/INF2.

C. Analysis of problems frequently encountered by Parties in their presentation of notifications

14. On the basis of the initial analysis of this topic considered by the Interim Chemical Review Committee at its second session (UNEP/FAO/PIC/ICRC.2/9), the secretariat prepared an updated paper for consideration by the Intergovernmental Negotiating Committee (UNEP/FAO/PIC/INC.8/8).
15. The Intergovernmental Negotiating Committee, in considering the issue, endorsed the preparation by the Interim Chemical Review Committee of an issue paper on the compatibility of current regulatory practices with the notification requirements of the interim PIC procedure, and requested a report on progress to the Intergovernmental Negotiating Committee at its ninth session.
16. A draft of this issue paper, prepared by one of the intersessional task groups established at the second session of the Interim Chemical Review Committee (task group 4) is available to the Committee in document FAO/UNEP/PIC/ICRC.3/9.

II. OTHER DECISIONS OF RELEVANCE TO THE WORK OF
THE INTERIM CHEMICAL REVIEW COMMITTEE

D. Confirmation of experts designated for the Interim Chemical Review Committee

17. The Intergovernmental Negotiating Committee considered a note (UNEP/FAO/PIC/INC.8/4) prepared by the secretariat, recording the resignation of an expert from the south-west Pacific region (Australia) and the subsequent process leading to the designation of a new expert from that region, indicating that consultations had been conducted with other members of the region.
18. In its decision INC-8/2, the Intergovernmental Negotiating Committee confirmed the appointment of Mr. André Clive Mayne and reaffirmed the provisions of decision INC-6/2 with regard to the duration of the terms of service of the experts.

E. Contaminants in industrial chemicals

19. At the seventh session, after a general policy regarding pesticides containing a contaminant had been adopted, the attention of the Intergovernmental Negotiating Committee was drawn to the fact that there had been no consideration of the issue of contaminants in industrial chemicals.
20. The Chair of the Interim Chemical Review Committee reported to the Intergovernmental Negotiating Committee at its eighth session that, to date, there had been no notification of an industrial chemical that was banned because of contaminants contained in it. He suggested that the Committee should not consider the issue until the first such notification was received. In the period between that notification and the next (a second notification being required under article 5 of the Convention), the Interim Chemical Review Committee could then consider how to proceed.
21. The Intergovernmental Negotiating Committee supported the view that waiting until the first such notification, while in no way negating the importance of the issue, was a prudent use of the Interim Chemical Review Committee's limited resources.

III. DECISIONS TAKEN BASED ON RECOMMENDATIONS FROM THE SECOND SESSION OF THE INTERIM CHEMICAL REVIEW COMMITTEE

F. Submission of notifications of final regulatory action for chemicals already subject to the interim prior informed consent procedure

22. At its seventh session, the Intergovernmental Negotiating Committee requested the secretariat to prepare a paper for presentation to it at its eighth session, analysing the issues associated with this topic and outlining options that would reconcile the need for information exchange with the need to avoid placing excessive reporting burdens on Parties or appraisal burdens on the secretariat.

23. The Committee reviewed the paper prepared by the secretariat and the options contained therein (UNEP/FAO/PIC/INC.8/9) and reaffirmed its previous decision (UNEP/FAO/PIC/INC.7/15, para. 55), that while Parties should continue to be required to submit full notifications (in line with article 5 and the information requirements of Annex I) for all regulatory actions on chemicals subject to the interim PIC procedure, both Parties and the secretariat would give priority to the submission and verification of notifications on chemicals not yet included in the interim PIC procedure. This approach would offer sufficient flexibility, while avoiding unnecessary extra work. It was suggested that this approach should be used as an interim measure until it became evident that a different approach was needed.

G. Issues associated with the operational procedures for the Interim Chemical Review Committee: coordinating the submission and notification of final regulatory action

24. At its second session, the Interim Chemical Review Committee reviewed issues concerning cooperation and coordination in the submission and notification of final regulatory actions. It recommended that the Intergovernmental Negotiating Committee consider the question of whether countries wishing to present supplementary data to support old notifications regarding industrial chemicals (which, unlike pesticides, have not been the subject of government reevaluation programmes) should be permitted to use scientific data, such as risk evaluations, that did not exist at the time the relevant final regulatory action was taken and therefore did not form the basis for such action.

25. Some representatives indicated that no new data should be used while others felt that old notifications could be supplemented even with data generated elsewhere. The Intergovernmental Negotiating Committee recommended that the issue should continue to be examined by the Interim Chemical Review Committee on the basis of specific cases.
