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**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
Eleventh session**

Geneva, 18 September 2004

Item 4 of the provisional agenda*

**Resolution on the process for inclusion of chemicals
in the interim prior informed consent procedure**

**Draft resolution on the process for inclusion of chemicals in the
interim prior informed consent procedure**

Note by the secretariat

Introduction

1. Both the Rotterdam Convention and the resolution on interim arrangements adopted by the Conference of Plenipotentiaries¹ contemplate the inclusion of additional chemicals in the prior informed consent (PIC) procedure during the interim period. The Convention does so by providing, in its article 8, a mechanism for adding such chemicals to Annex III to the Convention. The resolution on interim arrangements does so by providing, in its paragraphs 7 and 8, details on how to include chemicals in the interim PIC procedure during the interim period.

2. Article 8 of the Convention reads as follows: "For any chemical, other than a chemical listed in Annex III, that has been included in the voluntary Prior Informed Consent procedure before the date of the first meeting of the Conference of the Parties, the Conference of the Parties shall decide at that

* UNEP/FAO/PIC/INC.11/1.

¹ *Final Act of the Conference of Plenipotentiaries on the Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, Rotterdam, Netherlands, 10-11 September 1998* (UNEP/FAO/PIC/CONF/5), annex I, resolution 1.

meeting to list the chemical in Annex III, provided that it is satisfied that all the requirements for listing in that Annex have been fulfilled."

3. In paragraph 2 of the resolution on interim arrangements, the Conference of Plenipotentiaries decided that "the voluntary PIC procedure contained in the Amended London Guidelines for the Exchange of Information on Chemicals in International Trade and in the FAO International Code of Conduct on the Distribution and Use of Pesticides (hereinafter referred to as the "original PIC procedure") is hereby changed to bring it into line with the procedure established by the Convention with effect from the date on which the Convention is opened for signature."

4. The resolution contains the following provisions regarding inclusion of new chemicals in the interim PIC procedure:

(a) In paragraph 7, the Conference decided "that all chemicals that have been identified for inclusion in the PIC procedure under the original PIC procedure but for which decision guidance documents have not yet been circulated before the date on which the Convention is opened for signature will become subject to the interim PIC procedure as soon as the relevant decision guidance documents have been adopted by the" Intergovernmental Negotiating Committee. This procedure has been used to include four chemicals under the interim PIC procedure: binapacryl; ethylene oxide; ethylene dichloride; and toxaphene.

(b) In paragraph 8, the Conference decided that the Intergovernmental Negotiating Committee would "decide, between the date on which the Convention is opened for signature and the date of its entry into force, on the inclusion of any additional chemicals under the interim PIC procedure in accordance with the provisions of Articles 5, 6, 7 and 22 of the Convention". This procedure has been used to include seven chemicals under the interim PIC procedure: monocrotophos; DNOC and its salts; dustable powder formulations of benomyl; carbofuran and thiram; actinolite asbestos; anthophyllite asbestos; amosite asbestos; and tremolite asbestos.

5. The authority given to the Intergovernmental Negotiating Committee in paragraph 8 to include chemicals under the interim PIC procedure is limited in time to the period between the opening for signature of the Convention (11 September 1998) and the date of its entry into force (24 February 2004), while the Convention itself foresees that chemicals can be entered into the voluntary PIC procedure right up to the date of the first meeting of the Conference of the Parties.

Action taken by the Committee at its tenth session

6. At its tenth session, the Intergovernmental Negotiating Committee noted that at its eleventh session it would need to adopt a resolution vesting itself with the authority to add chemicals to the interim PIC procedure between the date of entry into force of the Convention and the date of the first meeting of the Conference of the Parties, and that it would be necessary for delegates attending the eleventh session of the Committee to have the appropriate credentials. The secretariat was requested to draft such a resolution in advance of the meeting for consideration by the Committee.

7. Decision INC-10/5, on holding a one-day eleventh session of the Intergovernmental Negotiating Committee immediately before the first meeting of the Conference of the Parties, is reproduced in annex I to the present note.

8. A draft resolution, as requested by the Committee, is set out in annex II to the present note.

Suggested action by the Committee

9. The Committee may wish to consider, and, as appropriate, to adopt, the annexed draft resolution.

Annex I

Decision 10/5: Holding a one-day session of the Intergovernmental Negotiating Committee immediately before the first meeting of the Conference of the Parties

The Intergovernmental Negotiating Committee,

Noting that article 8 of the Convention authorizes the Conference of the Parties, at its first meeting, to decide on the addition of chemicals in Annex III that have been included in the voluntary PIC procedure before that meeting, provided it is satisfied that all the requirements of listing in that Annex have been fulfilled,

1. *Decides* to convene the eleventh session of the Intergovernmental Negotiating Committee, in the form of a Conference of Plenipotentiaries, immediately before the first meeting of the Conference of the Parties for the purpose of deciding whether to include chrysotile, tetraethyl lead, tetramethyl lead and parathion in the voluntary PIC procedure;

2. *Requests* the secretariat to circulate the draft decision guidance documents and a proposal to include chrysotile, tetraethyl lead, tetramethyl lead and parathion at least six months in advance of the eleventh session of the Intergovernmental Negotiating Committee.

Annex II

Draft resolution on adding chemicals to the interim PIC procedure between the date of entry into force of the Rotterdam Convention and the date of the opening of the first meeting of the Conference of the Parties to the Convention

The Intergovernmental Negotiating Committee, at its eleventh session, convened in the form of a conference of plenipotentiaries,

Noting that article 8 of the Rotterdam Convention authorizes the Conference of the Parties at its first meeting to decide on the addition to Annex III to the Convention of chemicals that have been included in the voluntary prior informed consent procedure before that meeting, provided it is satisfied that all the requirements for listing in that annex have been fulfilled,

Noting also that the Conference of Plenipotentiaries on the Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, in paragraph 8 of its resolution on interim arrangements¹ decided that the Intergovernmental Negotiating Committee would “decide, between the date on which the Convention is opened for signature and the date of its entry into force, on the inclusion of any additional chemicals under the interim PIC procedure in accordance with the provisions of Articles 5, 6, 7 and 22 of the Convention”,²

1. *Decides* to extend the period for inclusion of any additional chemicals under the interim prior informed consent procedure until the date of the opening of the first meeting of the Conference of the Parties;

2. *Decides* that at the current session, the Intergovernmental Negotiating Committee, convened in the form of a Conference of Plenipotentiaries, shall decide on the inclusion of any additional chemicals to the interim prior informed consent procedure in accordance with the provisions of Articles 5, 6, 7 and 22 of the Convention.

¹ *Final Act of the Conference of Plenipotentiaries on the Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, Rotterdam, Netherlands, 10-11 September 1998* (UNEP/FAO/PIC/CONF/5), annex I, resolution 1.

² The Rotterdam Convention was opened for signature on 11 September 1998 and entered into force on 24 February 2004.