



UNEP



**United Nations
Environment Programme**

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

Distr.: General
26 December 2006

English only

**Rotterdam Convention on the Prior Informed
Consent Procedure for Certain Hazardous
Chemicals and Pesticides in International Trade
Chemical Review Committee**

Third meeting

Rome, 20–23 March 2007

Item 3 of the provisional agenda*

Review of the outcome of the third meeting of the Conference of the Parties

**Issues arising out of the third meeting of the Conference of the
Parties to the Rotterdam Convention on the Prior Informed
Consent Procedure for Certain Hazardous Chemicals and
Pesticides in International Trade**

Note by Secretariat

Introduction

1. The purpose of the present note is to provide the Chemical Review Committee with an overview of the guidance, action items and decisions relevant to its work that resulted from the deliberations of the Conference of the Parties to the Rotterdam Convention at its third meeting, held in Geneva from 9 to 13 October 2006. The report of the third meeting of the Conference of the Parties (UNEP/FAO/RC/COP.3/26) was circulated in December 2006 and posted on the Rotterdam Convention website (www.pic.int).

2. The present note is divided into two chapters. Chapter I reports on the outcome of the discussions at the third meeting of the Conference of the Parties on work undertaken by the Chemical Review Committee. Chapter II reports on other decisions taken by the Conference of the Parties of relevance to the work of the Chemical Review Committee.

* UNEP/FAO/RC/CRC.3/1.

I. Outcome of the discussions at the third meeting of the Conference of the Parties on work undertaken by the Chemical Review Committee at its second meeting.

A. Consideration of a chemical for inclusion in Annex III to the Convention: chrysotile asbestos

3. The Conference considered document UNEP/FAO/RC/COP.3/11 on the inclusion of the chemical chrysotile asbestos in Annex III to the Convention.

4. There was wide agreement that all the criteria for listing had been met and that the legal and procedural requirements had been satisfied. Some representatives pointed to the precautionary principle in support of listing, others noted the extensive use of the substance in their countries, both in industry and in roofing, and observed that the information exchange triggered by listing would be important for protecting health and the environment.

5. Many representatives pointed out that failure to list a substance which had satisfied all the criteria for listing could set an unwelcome precedent and undermine the effectiveness of the Convention. In addition, it was argued, listing the substance would encourage the search for safer substitutes.

6. Some representatives who opposed listing at the current stage suggested that it might be acceptable at a later date and insisted on the need for consensus in deciding to list a substance. It was also stressed that, although the Chemical Review Committee recommended inclusion, the final decision was the prerogative of the Conference of the Parties.

7. Summarizing the debate, the President noted that the issue raised both scientific and policy concerns and that it was important to find a way of resolving both. Recalling the goal of the Convention, namely, to protect human health and the environment, he reminded the Conference that the effect of listing was merely to trigger information exchange on the substance and not to ban it or even to restrict its use. Although the quality of the work of the Chemical Review Committee was praised, no consensus could be reached on whether to include chrysotile asbestos in Annex III.

8. In its decision RC-3/3 (UNEP/FAO/RC/CRC.3/26, annex I) on the inclusion of chrysotile asbestos in Annex III to the Convention, the Conference of the Parties decided that the issue should be considered further at its fourth meeting. It also decided that the requirements set out in article 5, including the criteria set out in Annex II to the Convention and referenced in paragraph 6 of article 5, and the requirements set out in paragraphs 1 and 2 of article 7, had been met.

B. Other issues

9. The Chair of the Chemical Review Committee reported on issues arising out of the Committee's second meeting, as discussed in a note by the Secretariat (UNEP/FAO/RC/COP.3/9). The outcomes of the Conference's consideration of the individual issues raised in the note by the Secretariat and subsequent actions taken to address those issues are described in paragraphs 10–21 below.

1. Procedures for the preliminary review of notifications and prioritization of the work of the Committee

10. The procedures for the preliminary review of notifications of final regulatory action and prioritizing the work of the Chemical Review Committee set out in document UNEP/FAO/RC/CRC.2/6 met with general approval and were noted by the Conference.

11. The procedures have been amended to reflect the subsequent guidance on priority setting for candidate chemicals provided by the Conference in its discussion of the trade restrictions under other multilateral environmental agreements (UNEP/FAO/RC/COP.3/26, paragraph 62).

12. The working paper, amended to reflect the discussion at the third session of the Conference of the Parties, may be found in document UNEP/FAO/CRC.3/INF.3, entitled "Compilation of working procedures and policy guidance for the Chemical Review Committee".

2. Working paper on the application of criterion (d) of Annex II to the Convention

13. The Conference considered the working paper on the application of criterion (d) of Annex II to the Convention, contained in annex IV of the report of the second meeting of the Committee (UNEP/FAO/RC/CRC.2/7). In the discussion on the issue, one representative suggested amending the wording used in the working paper, which indicated that in developed countries the term “common use” might be considered equivalent to legal use. He said that care should be taken not to imply that a use was legal just because it was common and suggested that suitable alternative language might be: “common use would usually be consistent with legal use.” It was noted that the document was a work in progress and that the change could be incorporated in the future.

14. The Conference agreed that the Chemical Review Committee would continue to consider notifications involving intentional misuse on a case-by-case basis but that a legal opinion from the UNEP legal office to clarify the meaning of “intentional misuse” should be obtained and made available to the Committee in order to inform future discussions (UNEP/FAO/RC/CRC.3/26, paragraph 50).

15. The working paper, amended to reflect the discussion at the third session of the Conference of the Parties, may be found in document UNEP/FAO/CRC.3/INF.3, entitled “Compilation of working procedures and policy guidance for the Chemical Review Committee”.

3. Trade restrictions under other multilateral environmental agreements

16. The Conference considered document UNEP/FAO/RC/COP.3/9, on trade restrictions under other multilateral environmental agreements and their relevance to chemicals eligible for listing in Annex III to the Rotterdam Convention. The document highlighted the controls on trade imposed under the Stockholm Convention on Persistent Organic Pollutants and the Montreal Protocol on Substances That Deplete the Ozone Layer and recommended that in the interest of facilitating the work of the Committee, lower priority should be given to chemicals already included in either of those agreements.

17. The Conference endorsed the approach recommended in document UNEP/FAO/RC/COP.3/9 that lower priority should be given to chemicals already included in other multilateral environmental agreements. On the other hand, chemicals under consideration for inclusion in such agreements or newly included but subject to lengthy phase-out periods would be treated in the usual way (UNEP/FAO/RC/COP.3/26, paragraph 62).

4. Risk evaluations under other multilateral environmental agreements and their relevance to candidate chemicals

18. The Conference considered document UNEP/FAO/RC/COP.3/10 on risk evaluations under the Stockholm Convention and the Montreal Protocol and their relevance to candidate chemicals under the Rotterdam Convention.

19. During the ensuing debate, all of those who spoke agreed that risk evaluations undertaken under the Stockholm Convention and the Montreal Protocol could be considered adequate support for meeting criteria (b) (i) and (b) (ii). The representative of a regional economic integration organization considered that although in principle such evaluations would be adequate for the purposes of meeting criterion (b) (iii) as well, she could accept that bridging information would be necessary; such information, however, would be minimal. Others said that bridging information would be required to meet criterion (b) (iii), but several also stressed that only minimal information might be necessary. One representative said that, although risk evaluations under other agreements should satisfy criteria (b) (i) and (b) (ii), there also had to be an independent analysis by the Chemical Review Committee of each individual submission. Several representatives pointed out that the current guidelines on bridging information would need to be developed further to provide for consideration specifically of global risk evaluations as experience was gained.

20. The Conference endorsed the approach recommended in the Secretariat’s note, namely, that the Chemical Review Committee should consider risk evaluations under the Stockholm Convention and the Montreal Protocol to be adequate support for meeting criteria (b) (i) and (b) (ii) and that, in order for criterion (b) (iii) to be met, bridging information providing evidence of the prevailing conditions in the notifying country would have to be submitted.

21. A proposal on the possible revision of the working paper on bridging information has been prepared for consideration of the Committee (UNEP/FAO/RC/CRC.3/4) and will be discussed under agenda item 4 (c).

II. Other decisions of relevance to the work of the Chemical Review Committee

A. Confirmation of the appointment of a government-designated expert to the Chemical Review Committee

22. The Conference considered a note by the Secretariat on the designation by the Democratic Republic of the Congo of an expert to serve on the Chemical Review Committee (UNEP/FAO/RC/COP.3/5) and an information document describing the qualifications of that expert (UNEP/FAO/RC/COP.3/INF/6).

23. In its decision RC-3/1 (UNEP/FAO/RC/COP.3/26, annex I) the Conference of the Parties decided to confirm the appointment of Mr. Alain Donatien Buluku of the Democratic Republic of the Congo to serve as a member of the Chemical Review Committee. A copy of decision RC-3/1 is contained in the annex to the present note.

B. Nomination of Governments to designate experts to the Chemical Review Committee

24. The Conference had before it document UNEP/FAO/RC/COP.3/6 concerning the need to nominate Governments to designate experts to the Chemical Review Committee. The Conference noted that in its decision RC-1/6 it had established a subsidiary body, the Chemical Review Committee. In that decision, some Parties were invited to nominate experts to serve for four years, while a number of Parties were invited to nominate experts to serve for two years. The terms of the latter experts expire in September 2007.

25. In view of the fact that the fourth meeting of the Conference of the Parties was scheduled for late 2008 it was necessary for the third meeting of the Conference of the Parties to nominate Governments to designate experts to the Chemical Review Committee to replace those whose terms would expire in September 2007.

26. Members of the Chemical Review Committee can serve for no more than two consecutive terms. As all experts are currently in their first term, however, regional groups were requested to confirm the current experts to serve an additional term or choose new Parties to be invited to designate experts.

27. In its decision RC-3/2 the Conference of the Parties nominated the Governments eligible to designate experts for the Chemical Review Committee. A copy of decision RC-3/2 is contained in the annex to the present note.

Annex

Decision RC-3/1: Confirmation of the appointment of the expert designated to the Chemical Review Committee by the Government of the Democratic Republic of the Congo

The Conference of the Parties,

Recalling its decision RC-2/1, in which, among other things, it requested the Government of the Democratic Republic of the Congo to designate an expert to serve on the Chemical Review Committee on an interim basis for the same term as would have been served by the expert who was to be designated by the Government of Gabon, pending formal confirmation of the appointment of the expert by the Conference of the Parties at its third meeting, and, for that purpose, to provide through the secretariat the name and relevant qualifications of the expert to the Parties by 1 December 2005,

Decides to confirm the appointment of the expert designated by the Government of the Democratic Republic of Congo, named below, to serve as a member of the Chemical Review Committee.

Designated expert

Africa

Democratic Republic of the Congo	Mr. Alain Donatien Buluku Professeur de Chimie Université Pédagogique de Kinshasa
----------------------------------	---

Decision RC-3/2: Nomination of Governments to designate experts for the Chemical Review Committee

The Conference of the Parties,

Recalling its decision RC-1/6 on the establishment of the Chemical Review Committee,

1. *Decides* that each of the following Parties shall designate an expert to serve on the Chemical Review Committee for a period of four years commencing on 1 October 2007, pending the formal confirmation of the experts by the Conference of the Parties at its fourth meeting:

African States:	Benin, Gabon, Nigeria, South Africa;
Asian and Pacific States:	China, India, Japan, Sri Lanka;
Central and Eastern European States:	Czech Republic;
Latin American and Caribbean States:	Chile, Mexico;
Western European and other States:	Austria, France, Norway;

2. *Requests* each Party named in paragraph 1 to provide through the secretariat the name and relevant qualifications of its designated experts to the Parties by June 2007.