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INTERGOVERNMENTAL NEGOTIATING COMMITTEE FOR AN
INTERNATIONAL LEGALLY BINDING INSTRUMENT
FOR IMPLEMENTING INTERNATIONAL ACTION ON
CERTAIN PERSISTENT ORGANIC POLLUTANTS

Fourth session

Bonn, 20-25 March 2000

Item 2 (c) of the provisional agenda*

ORGANIZATIONAL MATTERS: REPORT ON INTER-SESSIONAL WORK
REQUESTED BY THE COMMITTEE

Information received from Governments regarding possible specific exemptions from the prohibition or elimination of the production or use of the 10 intentionally produced persistent organic pollutants: aldrin, chlordane, dieldrin, DDT, endrin, heptachlor, hexachlorobenzene, mirex, Polychlorinated biphenyls, and toxaphene

Government responses in table format as requested by the Committee

Note by the secretariat

Introduction

1. At its third session, the Intergovernmental Negotiating Committee developed the current draft text of an international legally binding instrument for implementing international action on certain persistent organic pollutants (POPs) (hereinafter referred to as the "draft text"), which is contained in annex II to the report of the third session, UNEP/POPS/INC.3/4.
2. Paragraphs 1 and 2 of article D and the related annexes A and B of the draft text cover the prohibition of and restrictions on the production and use of certain persistent organic chemicals. In its consideration of those paragraphs and related annexes, the Committee requested the secretariat to collect information from countries on their possible specific exemption

* UNEP/POPS/INC.4/1.

requests and to compile that information in table format, consistent with the information requirements of annexes A and B, for submission to the Committee for consideration at its fourth session.

3. In response to that request, the secretariat issued a note verbale dated October 1999, which was sent to UNEP official contact points, UNEP POPs focal points and government participants at the third session of the Committee, requesting information, by 10 December 1999, on their Governments' possible specific exemptions to paragraphs 1 and 2 of article D of the draft text.

4. As of 31 December 1999, the secretariat had received submissions from 25 Governments, namely : Armenia, Australia, Bahrain, Barbados, China, Comoros, Costa Rica, Ecuador, Gambia, Hungary, Iceland, Indonesia, Ireland, Japan, Lao People's Democratic Republic, Mauritius, New Zealand, Niger, Norway, Papua New Guinea, Philippines, Republic of Korea, St. Kitts and Nevis, Switzerland and the United States of America, as well as from Finland on behalf of the European Union. Those responses are included in their entirety in the annex to UNEP/POPS/INC.4/INF/3. Any responses received after 31 December 1999 and before 4 March 2000 will be included in an addendum to that document, which will be made available at the beginning of the fourth session of the Committee.

I. COUNTRY-SPECIFIC EXEMPTIONS

5. The submissions from Barbados, Gambia, Indonesia, Ireland, Norway, St. Kitts and Nevis and Switzerland indicated that those countries did not require any specific exemptions. Some other countries noted the regulatory status of the intentionally produced POPs in their respective countries but did not specifically state a need for specific exemptions.

6. Newly proposed exemptions are shown in bold type in the attachment to the present document. The text not in bold is the same as that which appeared previously in annexes A and B of the draft text. Where a submission did not clearly indicate a specific exemption, but provided related information only, a footnote indicates what was stated by the Government.

7. The response by Finland on behalf of the European Union did not contain proposals any for specific exemptions but did provide information on provisions concerning polychlorinated biphenyls as included in the Directive 96/59/EC of the Council of the European Union. It noted that this may be relevant when annexes A and B of the draft text are discussed.

II. GENERAL EXEMPTIONS

8. Although not specifically requested in the note verbale, a number of countries indicated that their decisions on country-specific exemptions would

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be linked to the outcome of the negotiations on general exemptions provision relating to paragraphs 1 and 2 of article D of the draft text.

9. The draft text, in its article Z bis on "General exemptions" – the location of which is to be determined – includes an exemption from paragraphs 1 and 2 of article D for quantities of a substance used for laboratory research or as a reference standard. Other exemptions proposed that were included, in square brackets, in the report of the chair of the contact group on article D, paragraphs 1 and 2, are for quantities of a substance: occurring as de minimis contaminants in products; occurring as constituents of articles manufactured or already in use as of the implementation date of the relevant obligation; to be used as a closed-system intermediate that is chemically transformed in the manufacture of other chemicals; and which are in the possession of the end-use consumer prior to the implementation date of the relevant obligations, for use only by that end-use consumer (see UNEP/POPS/INC.3/4, annex III, appendix, under the heading "General exemptions").

10. The submissions by Australia, Iceland, New Zealand, the Philippines, Switzerland and the United States of America noted support for one or more general exemptions to paragraphs 1 and 2 of article D of the draft text.

Table

ANNEX A: ELIMINATION

SUBSTANCES	ACTIVITY	MEASURE	COMPLIANCE DATE	SPECIFIC EXEMPTIONS <u>a/g/</u>		
				PRODUCTION/USE	COUNTRY (IES)	DATE OF EXPIRY/DATE OF REVIEW <u>b/</u>
aldrin	production	elimination	e.i.f. <u>c/</u>			
	use	elimination	e.i.f.	articles in use local ectoparasiticide, insecticide	Australia Comoros	t.b.d. t.b.d.
[chlordane	production	elimination	e.i.f	<u>d/</u>	<u>d/</u>	t.b.d. <u>e/</u>
	use	elimination	e.i.f	termiticide in buildings and dams termiticide articles in use <u>a/h/</u> articles in use	China China <u>i/</u> Republic of Korea Australia	t.b.d. t.b.d. t.b.d. t.b.d.

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SUBSTANCES	ACTIVITY	MEASURE	COMPLIANCE DATE	SPECIFIC EXEMPTIONS <u>a/g/</u>		
				articles in use/termiticide in structural component of houses	Japan	t.b.d
				local ecoparasiticide, insecticide	Comoros	t.b.d.]
[DDT	production	elimination, production limited to vector control	ongoing	storage/production for vector control	China	t.b.d.
	Use	elimination, use limited to vector control	ongoing	vector control	China <u>j/</u> , Papua New Guinea <u>l/</u> , Ecuador, Mauritius, Costa Rica <u>m/</u>	t.b.d. t.b.d
				disinfectant, used by malaria (health) service	Comoros	t.b.d.
				<u>de minimis</u> contaminant <u>k/</u>	Republic of Korea	t.b.d.]

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SUBSTANCES	ACTIVITY	MEASURE	COMPLIANCE DATE	SPECIFIC EXEMPTIONS <u>a/g/</u>		
dieldrin	production	elimination	e.i.f.	articles in use	Australia	t.b.d.
	use	elimination	e.i.f.	articles in use <u>a/</u> wood	Australia possible others	t.b.d.
endrin	production	elimination	e.i.f.			
	use	elimination	e.i.f.			
[heptachlor	production	elimination	e.i.f.	<u>d/</u>	<u>d/</u>	t.b.d.

SUBSTANCES	ACTIVITY	MEASURE	COMPLIANCE DATE	SPECIFIC EXEMPTIONS <u>a/g/</u>		
	use	elimination	e.i.f.	<p>articles in use <u>a/</u></p> <p>articles in use</p> <p>substance in use <u>a/</u> in underground cable boxes</p> <p>wood treatment</p> <p>articles in use/ termiticide and structural component of houses</p> <p>subterranean termiticide by pest control operators</p>	<p>Brazil, Republic of Korea <u>n/</u></p> <p>Australia</p> <p>United States of America</p> <p>Brazil</p> <p>Japan</p> <p>Papua New Guinea <u>o/</u></p>	<p>t.b.d.</p> <p>t.b.d.</p> <p>t.b.d.</p> <p>t.b.d.</p> <p>t.b.d.</p> <p>t.b.d.]</p>

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SUBSTANCES	ACTIVITY	MEASURE	COMPLIANCE DATE	SPECIFIC EXEMPTIONS <u>a/g/</u>		
hexachloro-benzene	production	elimination	e.i.f.	<u>d/</u>	<u>d/</u>	t.b.d.
	use	elimination	e.i.f.	solvent in pesticide	Nigeria	d.o.e. - 5 years <u>f/</u>
				processing hides	United Republic of Tanzania	d.o.e. - 5 years
				intermediate <u>a/</u>	United States of America	t.b.d.
<u>intermediate p/</u> <u>de minimis</u> contaminant <u>q/</u>	Ecuador Republic of Korea	t.b.d. t.b.d.				
mirex	production	elimination	e.i.f.	<u>d/</u>	<u>d/</u>	t.b.d.
	use	elimination	e.i.f.	termiticide	Australia, China <u>r/</u>	t.b.d.
articles in use <u>a/</u>				various countries	t.b.d.	

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SUBSTANCES	ACTIVITY	MEASURE	COMPLIANCE DATE	SPECIFIC EXEMPTIONS <u>a/g/</u>		
toxaphene	production	elimination	e.i.f.			
	use	elimination	e.i.f.			
[PCBs	production	elimination	e.i.f.			
	use	elimination	e.i.f.	see PCBs entry below (Box 1)	various countries <u>t/u/v/</u>	t.b.d.
				articles in use	Australia	t.b.d.
				articles in use <u>g/</u>	Republic of Korea	t.b.d.
				equipment built in buildings	Japan	t.b.d.
				PCB containing or contaminated equipment or articles destined for disposal/destruction	Ecuador, Papua New Guinea <u>w/</u>	t.b.d.]

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Box 1: PCBs: specific exemptions, uses and production:

PCBs in use as of the date of entry into force, provided that such Parties shall make determined efforts designed to lead to the elimination of the use of identifiable PCBs in equipment (i.e., transformers, capacitors or other receptacles containing residual liquid stocks) containing PCBs in volumes greater than 5 [litres] dm³ and having a concentration of 0.05% PCBs or greater, as soon as possible, but no later than X.

- ! Exemptions based on restricted uses
- ! Quantitative limits
- ! Conditions of restricted use (including e.g., export controls on used equipment)
- ! Reporting requirements (including e.g., inventories of PCB uses in a country)

ANNEX B: RESTRICTION

SUBSTANCE	ACTIVITY	NATURE OF RESTRICTION	COMPLIANCE DATE	SPECIFIC EXEMPTIONS <u>a/</u>		
				USE/PRODUCTION	COUNTRY (IES)	DATE OF EXPIRY/DATE OF REVIEW <u>b/</u>
[DDT	production	elimination, production limited to vector control	ongoing	storage/production for vector control	China	t.b.d.

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SUBSTANCE	ACTIVITY	NATURE OF RESTRICTION	COMPLIANCE DATE	SPECIFIC EXEMPTIONS <u>a/</u>		
	use	elimination, use limited to vector control	ongoing	vector control	China <u>j/</u> , Papua New Guinea <u>l/</u> , Ecuador, Mauritius, Costa Rica <u>m/</u>	t.b.d. <u>c/</u>
				disinfectant, used by malaria (health) service	Comoros	t.b.d.
				<u>de minimis</u> contaminant <u>k/</u>	Republic of Korea	t.b.d.]

SUBSTANCE	ACTIVITY	NATURE OF RESTRICTION	COMPLIANCE DATE	SPECIFIC EXEMPTIONS <u>a/</u>		
[PCBs	production	elimination	e.i.f. <u>d/</u>			
	use	restriction	e.i.f.	See PCBs entry below (Box 2) articles in use articles in use <u>g/</u> equipment built in buildings PCB containing or contaminated equipment/articles destined for disposal/distruction	various countries <u>t/u/v/</u> Australia Republic of Korea Japan Ecuador, Papua New Guinea <u>w/</u>	t.b.d. t.b.d. t.b.d. t.b.d.]

Box 2. PCBs: specific exemptions, uses and production:

PCBs in use as of the date of entry into force, provided that such Parties shall make determined efforts designed to lead to the elimination of the use of identifiable PCBs in equipment (i.e., transformers, capacitors or other receptacles containing residual liquid stocks) containing PCBs in volumes greater than 5 [litres] dm³ and having a concentration of 0.05% PCBs or greater, as soon as possible, but no later than X.

- ! Exemptions based on restricted uses
- ! Quantitative limits
- ! Conditions of restricted use (including e.g., export controls on used equipment)
- ! Reporting requirements (including e.g., inventories of PCB uses in a country)

Notes:

- a/ General exemptions have been proposed which would state that, unless otherwise specified in the Convention, paragraphs 1 and 2 of article D shall not apply to quantities of a substance as outlined in the appendix to the report of the chair of the Contact Group on article D, paragraphs 1 and 2, contained in annex III to the present report.
- b/ Date of review is required where no date of expiry exists.
- c/ e.i.f. - date of entry into force of the Convention for the Party in question.
- d/ No clear information was submitted.
- e/ t.b.d. - date of expiry/review is to be determined.
- f/ d.o.e. - date of expiry; in the legal drafting group, it was observed that there would be a need to clarify the date from which the period set for the date of expiry would be measured.
- g/ **As of Dec 31, 1999, responses addressing POPs exemptions had been received from: Armenia, Australia, Bahrain, Barbados, China, Comoros, Costa Rica, Ecuador, European Union (Finland on behalf of), Gambia, Hungary, Iceland, Indonesia, Ireland, Japan, Lao People's Democratic Republic, Mauritius, New Zealand, Niger, Norway, Papua New Guinea, Philippines, Republic of Korea, St. Kitts and Nevis, Switzerland and United States of America.**

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- h/ Used as an additive in plywood adhesives.
- i/ Chlordane is a termiticide in China and cannot be eliminated until an effective and affordable alternative is available.
- j/ DDT use in China cannot be eliminated until an effective and affordable alternative is available.
- k/ Found in Dicofol as a contaminant (maximum concentration 1 per cent)
- l/ Papua New Guinea intends to phase out the use of DDT in the near future, as soon as cheaper alternatives are identified.
- m/ In Costa Rica, DDT may be used by the Ministry of Health as an insecticide in defined areas and where no substitute is available, in cases of emergency, to stop the transmission of malaria.
- n/ In the Republic of Korea other specific uses are still under investigation
- o/ Papua New Guinea intends to phase out the use of heptachlor in the near future, as soon as cheaper alternatives are identified.
- p/ Generated as a by-product of certain undefined processes.
- q/ Found in chlorothalonil as a contaminant (by-product) (maximum concentration 0.05 per cent)
- r/ Mirex is a termiticide in China and cannot be eliminated until its effective and affordable alternative is available.
- s/ In the Republic of Korea, the investigation to identify PCBs in equipment and use categories is still under way.
- t/ China favors the elimination of production and restriction of PCB use. Articles/equipment containing PCBs already in use or produced before the convention enters into effect should be allowed to be used for their useful lifetime (until they are overdue).
- u/ [Proposed] exemptions for PCBs (see Boxes 1 or 2 above) are requested by Mauritius.
- v/ Ecuador indicates the need for international technical assistance for the elimination of PCBs, as they do not know or have proper disposal methods or facilities for waste transformers and associated PCBs.
- w/ Papua New Guinea states that the disposal or destruction of contaminated old PCB articles and contaminated oils is still an issue.

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