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

Fifth session

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Item 4 of the provisional agenda *

PREPARATION OF AN INTERNATIONAL LEGALLY BINDING INSTRUMENT
FOR IMPLEMENTING INTERNATIONAL ACTION ON
CERTAIN PERSISTENT ORGANIC POLLUTANTS

Inter-sessional meeting on financial resources and mechanisms
held in Vevey, Switzerland from 19 to 21 June 2000:
Report by the Chair

Note from the secretariat

1. At its fourth session, the Intergovernmental Negotiating Committee agreed that the Chair of the Committee, Mr. John Buccini (Canada), should convene a small group to further the discussions on financial resources and mechanisms. The composition of the group would be one person each from Cameroon, Canada, China, Colombia, Czech Republic, Denmark, Dominican Republic, France, India, Iran (Islamic Republic of), Japan, Micronesia (Federated States of), Nigeria, Norway, Poland, South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay. The Chair suggested that the group meet in June 2000 and that it produce a document that would facilitate discussions on articles J bis (untitled article that includes the capacity assistance network concept) and K (Financial resources and mechanisms) for representatives attending the fifth session of the Committee (paragraph 94 and annex II to UNEP/POPS/INC.4/5).

2. The small group referred to above met in Vevey, Switzerland, from 19 to 21 June 2000. The Chair's report of that meeting is set out in annex I to the present note, while the list of participants appears in annex II. This information is circulated as received from the Chair and has not been formally edited.

* UNEP/POPS/INC.5/4.

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Annex I

CHAIR'S REPORT OF VEVEY MEETING (JUNE 19-21, 2000)

1. BACKGROUND:

At its fourth session, the POPs Intergovernmental Negotiating Committee (INC) identified the need for some intersessional work in order to further the discussions on financial resources and mechanisms.

As Chair, I was asked to convene a small group, the composition of which would be one person from each of Cameroon, Canada, China, Colombia, Czech Republic, Denmark, Dominican Republic, France, India, Iran (Islamic Republic of), Japan, Micronesia (Federated States of), Nigeria, Norway, Poland, South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay. I suggested that the group meet before the end of June in order to produce a document for representatives attending INC5 that would facilitate discussions on Articles *J bis* and K. I expressed my hope that the group would analyze the views that had been put forward, identify common ground, and develop proposals for a path forward that would help satisfy the needs and interests of the Committee and thus facilitate conclusion of the negotiations at INC5.

The meeting took place at Vevey, Switzerland (June 19-21) and was attended by participants from 18 countries: the person from Cameroon was, unfortunately, not able to attend at the last minute due to illness. The group that participated at the Vevey meeting was not a negotiating group: rather, individuals attended as country participants and sought to clarify the issues and to explore ways to build bridges among the various positions. The group did not attempt to redraft Articles *J bis* or K, but looked for common ground on which countries could subsequently prepare proposals dealing with financial resources and mechanisms.

The meeting began with a roundtable discussion of the many aspects and issues related to financial assistance and then proceeded to discuss the topics that are reported below. Following a brainstorming session which elaborated the attributes of a sound, well-functioning financial mechanism, the group looked critically and objectively at the proposals in Article K of the draft convention text from INC4, to ensure that everyone understood what they meant, to evaluate how well each proposal would meet the anticipated demands arising from the obligations under the Convention, and to identify how each proposal compared with the identified attributes.

Finally, the group explored the manner in which INC5 should take up Articles *J bis* and K, including issues of timing, how the subject might be introduced and how to optimize organization of discussions to facilitate reaching consensus.

The group did not produce a formal meeting report. Rather, I agreed to produce this document, based on the discussions, as a Chair's report for distribution as a meeting document for INC5 representatives.

2. GENERAL POINTS RAISED IN DISCUSSION

2.1 Adequate and Timely Financial Assistance:

It was acknowledged that adequate and timely financial assistance for developing countries and countries with economies in transition was essential for the successful implementation of the Convention.

2.2 Eligibility for technical and financial assistance:

A question was raised with regard to which Parties would be eligible to receive technical and financial assistance under the POPs Convention. The meeting participants were of the view that the language in the

current negotiating text was adequate to define eligibility (“developing country Parties and Parties with economies in transition”). No further discussion was pursued on the issue.

2.3 Capacity Assistance:

Based on a discussion of the very similar proposals for a “capacity assistance” function that was included in Articles *J bis* and K in the INC4 report, it was generally accepted that the concept was a desirable complementary measure for both the technical assistance provisions of Article J and for the financial mechanism that will ultimately be agreed to under Article K. However, participants agreed that the ultimate resolution of the CAN issues (range of functions, location, etc.) must await decisions on the major elements of the mechanism. As *J bis* referred to Article J, which was not a subject for the Vevey meeting, discussion on the capacity assistance function centered on its impact on Article K.

With regard to a financial mechanism, it was generally accepted that any capacity assistance provision should:

- be more than just a directory or data base of possible sources of funding;
- include national, bilateral, regional and multilateral sources of funds;
- address access to both new and existing funding sources;
- include assistance in the actual development and preparation of proposals; and
- have a body responsible for implementing the function which would assume the role of “advocate” for a proposal, assisting the requesting Party by following each case until a decision is made on funding.

The group considered that a capacity assistance provision, as conceptually outlined above, should be considered by INC5 to determine:

- if it should be included in the POPs Convention;
- in which institution it should be placed;
- where it should be placed in the POPs Convention;
- whether the COP or a subsidiary body should provide guidance, management oversight, etc.; and
- what role (if any) that the Convention Secretariat would play in implementation.

2.4 Synergy:

The group acknowledged that there were programmes and projects which were specific to POPs (*e.g.*, elimination of production and use of a specific POP, disposal of an obsolete POP product or waste, etc.) as well as programmes and projects wherein POPs issues could be addressed within a broader context (*e.g.*, urban waste management, air pollution reduction programs to address climate change or smog issues, etc.). The concept of “synergy” was proposed as an important factor for INC5 consideration to reflect the potential to access financial resources from a wide range of sources and to achieve benefits by a diversified approach to addressing POPs issues in a range of programmes and projects, by:

- including POPs considerations in more general health and environmental issues (*e.g.* consideration of prevention and/or minimization of POPs generation in waste management and disposal projects and programmes);
- drawing on a range of international programs and financial mechanisms and, thereby, increasing the likelihood of implementing suitable programmes and/or securing the resources needed to implement the POPs Convention; and
- minimizing overlap and duplication among relevant programmes and projects.

Cautions were raised with regard to placing too much emphasis on synergy as:

- a loss of focus could result from pursuing the POPs agenda in too many fora, or as part of too many issues; and

- there may prove to be fewer opportunities for synergy in other financial mechanisms than initially thought.

2.5 Attributes of a Financial Mechanism:

To simplify the following report, the term “mechanism” is used to refer to a model that can include either a single mechanism or multiple mechanisms.

Based on a detailed discussion of both necessary and desirable features of a financial mechanism under the POPs Convention, the group identified the following attributes for such a mechanism. It was noted that some of the attributes as described do not translate easily into legal language. Although there were a few attributes that did not enjoy consensus, many of the attributes could be viewed as “common ground”.

(a) Financial resources:

- there should be clear legal obligations for funding;
- new and additional financial resources should be made available;
- funds should be:
 - specifically targeted for POPs activities;
 - adequate to meet identified needs;
 - available in a predictable manner; and
 - of such a nature as to attract additional funds.

(b) Time frame for operation of the mechanism:

- should be specified; and
- of sufficient length to enable long term planning.

(c) Interactions with other programs, agencies and mechanisms:

- synergy, by achieving benefits that may be derived from a diversified approach to addressing POPs issues by including POPs considerations in more general health and environmental issues, and/or drawing on a range of international programs and financial mechanisms and, thereby, increasing the likelihood of implementing suitable programs or securing the resources needed to implement the POPs Convention;

- leveraging funds from a range of sources; and

- coordination with other organizations that are engaged in POPs issues.

(d) Mode of operation:

- the governance of the mechanism should be specified;
- it should be demand driven; and
- there should be monitoring of the “system” and periodic reviews of the mechanism.

- (e) Accountability:
 - to the COP on policy matters; and
 - must be specified for other matters (e.g., financial).
- (f) Efficiency:
 - with respect to utilization of finances;
 - timely decision-making and administration; and
 - simple procedures, with low overhead.
- (g) Effectiveness.
- (h) Clarity:
 - clear eligibility criteria;
 - training for Parties in use of the “system”;
 - unequivocal terms and practices; and
 - unconditional awards (“no strings attached,” e.g., award should not be linked to other issues).
- (i) Transparency.
- (j) “Safety Net” provision needed, to ensure that all eligible proposals are considered.
- (k) Accessibility, *i.e.* Parties should have ready access to the mechanism.
- (l) Flexibility: the mechanism should be able to accommodate a range of needs at start-up, and adapt to changes in needs with the passage of time.
- (m) Stability, achieved through a combination of other attributes, including predictable and adequate financing, transparent decision making, and sound governance practices.

2.6 Options for a Financial Mechanism in Article K:

The draft convention text in the INC 4 report includes four proposals relating to paragraph 4 of Article K. However, the group recognized that submission A of proposal 1 was for a capacity assistance network (CAN) function (which was very similar to that in Article J *bis*). It was acknowledged that this was not a proposal for a financial mechanism, but for a provision which could complement the mechanism. The group’s views on this CAN function were reported separately and this portion of the report will address only the discussion of the three remaining submissions

Submission B of proposal 1 for paragraph 4 was put forward by the European Union at INC4, and this option would establish the Global Environment Facility (GEF) as the financial mechanism to support implementation of the Convention. Some felt that the GEF could meet many of the attributes identified by the group, and that it was particularly strong in leveraging funds, coordination and creating synergy. It was also observed that the GEF Council had expressed its willingness for the GEF to fulfil the role of the financial mechanism to the Convention and that the GEF Secretariat was currently in the process of drawing up a costed operational programme for POPs. Modifications to the GEF may be needed in the areas of timeliness, simple procedures and flexibility. In addition, a “safety net” may need to be developed to fund small implementation projects or other meritorious projects that might otherwise not succeed in receiving funding.

Questions were raised about: the responsiveness of the GEF to the Conferences of Parties (COPs) for various multilateral environmental agreements; its effectiveness in attracting bilateral assistance; the percentage of resources devoted to administrative overhead costs; the requirement of having to go through one of the implementing agencies to request funds for projects; and the transparency of the GEF project approval process. The GEF requirements of limiting financing to incremental costs, of requiring co-financing, and linking projects to at least one of the four GEF windows were seen by some as potential restrictions on its ability to fund POPs projects efficiently and effectively.

Submission C of proposal 1 for paragraph 4 was put forward by the United States of America at INC4. This option would establish a financial mechanism consisting of a coordinated framework for financial assistance comprising one or more existing international entities, including the GEF, with guidance on priorities provided by the COP. It is proposed that this framework could meet many of the attributes along with a “safety net” provided by the CAN function, at the individual project identification level and by the COP by focusing on categories of assistance that are not being funded.

Questions were raised concerning its ability to ensure sustained support, how it would operate in practice, how new and additional funding would be provided through it, and how to ensure that performance specifications (timely, efficient, etc.) would be met.

Proposal 2 for paragraph 4 was put forward by the G-77 and China at INC4. This option would establish a financial mechanism comprising an independent multilateral fund consisting of regular and obligatory contributions by developed countries. It was proposed that this approach would not limit funding from other donors, as it would provide a primary source of financial assistance designed specifically for the Convention. It was also proposed that a multilateral fund would be the most effective way to channel resources for this purpose and that a subsidiary body under the COP may be necessary to set priorities and provide management to the fund.

Questions were raised concerning costs and political difficulties in establishing new institutions and impacts on funding levels of other environmental issue areas. Also, the view that an independent multilateral fund would not limit funding from other sources was challenged by a number of participants.

During the discussions of the three proposals, two other concepts arose that were not included in the draft convention text from INC4. One concept was the idea of establishing a multilateral fund similar to the one proposed by G-77 and China but funded on a voluntary basis. The other concept was to utilize the GEF, but to complement it with a voluntary trust fund to provide a safety net for meritorious projects that would not be easily funded by the GEF, and thus fill gaps. Either of these options could be utilized in conjunction with the CAN. These options were not discussed to the same degree as the other three but they were considered to be useful concepts to be considered with the others in the future.

2.7 Paragraphs 2 and 8 of Article K:

In discussions of paragraph 2 of Article K, it was clarified that the two sentences in separate pairs of square brackets are alternative options for the paragraph and the Chair was encouraged to draw this out in his draft convention text.

In discussions of paragraph 8 of Article K, it was noted that there were three options that differ little in substance from one another. These were not merged into one paragraph at INC4 due to time constraints and the group agreed that it would be useful for the Chair to merge the three into one paragraph in the Chair’s draft convention text to be distributed in advance of INC5.

2.8 Raising the financial resources and mechanism issues at INC5:

The group recommended to the Chair that these issues be raised early in the week (*e.g.*, some time on Monday) and that agreement in principle be sought in the plenary before considering sending out small drafting groups to address specific issues and prepare draft Convention text proposals for plenary. It was

also suggested that plenary initiate discussion and then be prepared to suspend its discussion, as needed, to allow informal and group consultations prior to returning to the issues later in the meeting to help in achieving consensus.

It was also observed that on the related issues of Articles J, *J bis* and K, that it would be most productive if the delegations were able to express views through the three major groups (WEOG, CEE and G-77 and China), rather than introducing numerous divergent positions. This would require regional consultations on Sunday, December 3 to prepare delegations and the Vevey participants were supportive of this approach.

The group also indicated that discussions on Article K should precede those on Article J to avoid the past experience where so much discussion occurred on Article J that insufficient time remained to cover Article K.

3. Chairman's Overview Observations:

There was no expectation that the Vevey meeting would resolve the outstanding negotiation issues on the financial mechanisms. The intent was to provide an informal atmosphere for the group of country participants to meet and discuss at length all aspects of the issues associated with this key provision of the future POPs Convention, and to do this without negotiating. The group did an admirable job in respecting the boundaries for the meeting and, in my view, engaged each other in a candid and respectful manner, resulting in a much better appreciation by all in attendance of the various points of view on the issues. The Vevey participants agreed to communicate with their national and regional colleagues prior to INC5 and to inform them of what transpired during the meeting.

There appeared to me to be consensus that a properly designed CAN function would be a useful additional component to whichever model of financial mechanism is agreed to at INC5. I would encourage negotiators to come prepared to consider how this idea could relate to Article K and, by extension, to Articles J and *J bis*.

The attributes for the financial mechanism identified by the Vevey group (listed in 2.5 above) should be of interest to INC5 representatives and I would expect that the mechanism which is eventually agreed upon, will be designed to meet these attributes to the extent possible.

With regard to the financial mechanism itself, there were many points on which I sensed broad agreement, including "what needs to be done" (new and additional resources, oversight by the COP, etc.) and I sensed that the INC may be well positioned to narrow the remaining differences over "how to get things done". There were some indications that regional groups were willing to pursue consultations intra- and inter-regionally to develop or refine proposals on financial mechanisms to set the stage for productive negotiations at INC5. I am particularly heartened by this.

As for INC5, I plan to follow the advice of the Vevey participants concerning the manner of introducing the subject into the meeting. I intend to open the discussions on Monday, December 4 to ensure that there will be adequate time to resolve the remaining issues related to technical and financial assistance and to conclude the negotiations on all aspects of the Convention by December 9. It is important that delegations be prepared to begin meaningful negotiations on the first day of the meeting and, to this end, I encourage all delegations to participate in the regional meetings on Sunday, December 3.

John Buccini
July 31, 2000

Annex II

**Intersessional Meeting of the POPs INC on Financial Resources and Mechanisms
19-21 June 2000, Vevey (Mont Pelèrin), Switzerland**

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