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

Sixth session

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Item 5 of the provisional agenda*

PREPARATION FOR THE CONFERENCE OF THE PARTIES

Draft rules of procedure, composition and operational guidelines for the functioning of the Persistent Organic Pollutants Review Committee: Examples of technical subsidiary bodies established under the Intergovernmental Negotiating Committee and other intergovernmental bodies dealing with chemicals **

Note by the secretariat

1. As discussed in document UNEP/POPS/INC.6/11, under paragraph 5 of resolution 1 adopted by the Conference of Plenipotentiaries on the Stockholm Convention on Persistent Organic Pollutants, the Intergovernmental Negotiating Committee was invited to:

“recommend draft rules of procedure, composition and operational guidelines for the functioning of the subsidiary body to be established under paragraph 6 of article 19 of the Convention for consideration by the Conference of the Parties at its first session” (UNEP/POPS/CONF/4, Appendix 1, resolution 1, paragraph 5).

2. The present note provides information on the decisions by which the following subsidiary bodies were established and their terms of reference:

(a) Criteria Expert Group for Persistent Organic Pollutants, under the Intergovernmental Negotiating Committee for an International Legally Binding Instrument for Implementing International Action on Certain Persistent Organic Pollutants (see Appendix I);

* UNEP/POPS/INC.6/1.

** Stockholm Convention, Article 19, paragraph 6; Conference of Plenipotentiaries of the Stockholm Convention, resolution 1, paragraph 5.

(b) Interim Chemical Review Committee, under the 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 (see Appendix II); and

(c) Technical Working Group, under the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (see Appendix III).

3. The secretariat also reviewed the terms of reference for the Assessment Panels under the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer. These were not included in the present document because their relatively extensive scope of work and high level of detail may make them be less relevant than the examples above to the establishment of the Persistent Organic Pollutants Review Committee.

Appendix I

THE CRITERIA EXPERT GROUP FOR PERSISTENT ORGANIC POLLUTANTS UNDER THE INTERGOVERNMENTAL NEGOTIATING COMMITTEE FOR AN INTERNATIONAL LEGALLY BINDING INSTRUMENT FOR IMPLEMENTING INTERNATIONAL ACTION ON CERTAIN PERSISTENT ORGANIC POLLUTANTS (POPS)

The Criteria Expert Group for Persistent Organic Pollutants was established by the first session of the Intergovernmental Negotiating Committee for an International Legally Binding Instrument for Implementing International Action on Certain Persistent Organic Pollutants, held in Montreal, Canada, from 29 June to July 1998, which agreed to the Group's terms of reference, as contained in document UNEP/POPS/INC.1/7, Annex II. They are as follows.

TERMS OF REFERENCE FOR THE CRITERIA EXPERT GROUP FOR PERSISTENT ORGANIC POLLUTANTS

Mandate

1. The Criteria Expert Group for Persistent Organic Pollutants is an open-ended technical working group established by the Intergovernmental Negotiating Committee for an International Legally Binding Instrument for Implementing International Action on Certain Persistent Organic Pollutants (POPs), in accordance with UNEP Governing Council decision 19/13 C, paragraph 9, to prepare and present to the Intergovernmental Negotiating Committee proposals for science-based criteria and a procedure for identifying additional POPs as candidates for future international action.
2. The Criteria Expert Group shall work expeditiously, proceeding concurrently with the Intergovernmental Negotiating Committee process, to develop criteria for consideration by the Intergovernmental Negotiating Committee in the negotiation of a legally binding instrument. The process should incorporate criteria pertaining to persistence, bioaccumulation, toxicity and exposure in different regions and should take into account the potential for regional and global transport including dispersion mechanisms for the atmosphere and the hydrosphere, migratory species and the need to reflect possible influences of marine transport and tropical climates.

Objective

3. The Criteria Expert Group shall complete its work on the draft criteria and procedure referred to in paragraph 1 above to be submitted for consideration by the Intergovernmental Negotiating Committee at or before its fourth session.

Participation

4. Criteria Expert Group meetings shall be fully open to government-designated experts. Governments may designate more than one expert. Representation of all regions should be encouraged. The Criteria Expert Group shall allow for regional representation should the regions so propose.
5. Intergovernmental and non-governmental organizations may participate as observers.
6. Participants should have technical expertise in chemicals assessment and management, and knowledge of socio-economic factors. Regional networking should be encouraged to ensure the input of a broad representation of views and to offset differences in expertise available to countries at varying stages of development.

Meetings

7. The scheduling of meetings of the Criteria Expert Group shall be decided upon by the Intergovernmental Negotiating Committee. Subject to the availability of funds, it is expected that the Criteria Expert Group will meet prior to the second session of the Intergovernmental Negotiating Committee.

Officers

8. The Intergovernmental Negotiating Committee shall elect, from among the Government representatives, officers consisting of two Co-Chairs and a Rapporteur. The officers form the Bureau of the Criteria Expert Group.

Secretariat

9. The Executive Director of UNEP will provide the Secretariat for the Criteria Expert Group.

Proposals and recommendations to the Intergovernmental Negotiating Committee

10. In accordance with its mandate, the Criteria Expert Group shall make every effort to reach agreement by consensus among participating Governments on recommendations to be submitted to the Intergovernmental Negotiating Committee. If consensus cannot be reached, all proposals by participating Governments shall be reflected in a report to be submitted to the Intergovernmental Negotiating Committee.

Administrative and procedural matters

11. The Criteria Expert Group shall apply, mutatis mutandis, the rules of procedure of the Intergovernmental Negotiating Committee.

Agenda

12. The Secretariat, in consultation with the officers of the Criteria Expert Group, shall prepare a provisional agenda for each meeting of the Group. The provisional agenda shall be communicated to all participants of the International Negotiating Committee at least six weeks before the opening of the Criteria Expert Group meeting.

Reports

13. The Criteria Expert Group shall consider and adopt a report at each meeting to inform the International Negotiating Committee concerning the results of its discussions, including the proposals and recommendations according to paragraph 10 above. The reports will be circulated to all participants in the Criteria Expert Group and the Intergovernmental Negotiating Committee.

Languages

14. Arabic, Chinese, English, French, Russian and Spanish shall be the working languages of the Criteria Expert Group.

Appendix IITHE INTERIM CHEMICAL REVIEW COMMITTEE OF THE 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

The sixth session of the 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, held in Rome from 12 to 16 July 1999, established the Interim Chemical Review Committee in its decision INC-6/2, the text of which is provided below (see UNEP/FAO/PIC/INC.6/7, Annex I).

DECISION INC-6/2: INTERIM CHEMICAL REVIEW COMMITTEEThe Intergovernmental Negotiating Committee

1. Decides to establish an interim subsidiary body, to be called the Interim Chemical Review Committee, composed of twenty-nine government-designated experts appointed by the Intergovernmental Negotiating Committee on the basis of the interim PIC regions, as follows: six experts from Africa; five experts from Asia; six experts from Europe; five experts from Latin America and the Caribbean; three experts from the Near East; two experts from North America; and two experts from the Southwest Pacific;
2. Decides that the members of the Interim Chemical Review Committee shall be experts in chemicals management and that the experts shall serve for a period of three years from the date of this decision, or until the first session of the Conference of the Parties, whichever shall occur first, and that if, on the expiration of the three years, the Convention has not yet entered into force, the Intergovernmental Negotiating Committee will take any necessary decisions regarding the extension of the term of office of its members or the appointment of new members;
3. Decides that the twenty-nine Governments identified at the sixth session of the Intergovernmental Negotiating Committee shall formally designate those experts and, through the secretariat, provide their names and relevant qualifications to the parties to the Intergovernmental Negotiating Committee by 15 September 1999 and that such experts shall serve as members of the Interim Chemical Review Committee on an interim basis, pending formal confirmation of their appointment by the Intergovernmental Negotiating Committee at its seventh session;
4. Decides that any vacancy arising during an inter-sessional period shall be filled in accordance with such procedure as the region concerned may determine; and that the qualifications of the new member shall be circulated to the parties to the Intergovernmental Negotiating Committee through the secretariat;
5. Decides that the Interim Chemical Review Committee shall normally meet once a year, approximately six months before each session of the Intergovernmental Negotiating Committee, subject to the availability of funds and work requirements of the Interim Chemical Review Committee;
6. Decides that the meetings of the Interim Chemical Review Committee shall be held in English only and that any draft decision guidance documents to be considered by the Interim Chemical Review Committee or forwarded by it to the Intergovernmental Negotiating Committee shall be available in all six languages of the Intergovernmental Negotiating Committee;
7. Decides that the Interim Chemical Review Committee, consistent with the provisions of the Convention, in particular its articles 5, 6 and 7, shall have the following functions and responsibilities:

(a) Making recommendations on the inclusion of banned and severely restricted chemicals: reviewing the information provided in notifications of final regulatory actions and, in accordance with the criteria set out in Annex II of the Convention, recommending to the Intergovernmental Negotiating Committee whether the chemical in question should be made subject to the interim PIC procedure;

(b) Making recommendations on the inclusion of severely hazardous pesticide formulations: reviewing the information provided in proposals for the inclusion of a severely hazardous pesticide formulation in the interim PIC procedure and, in accordance with the criteria set out in part 3 of Annex IV of the Convention, recommending to the Intergovernmental Negotiating Committee whether the chemical in question should be made subject to the interim PIC procedure;

(c) Preparing draft decision guidance documents: specifically, for each chemical that the Interim Chemical Review Committee has decided to recommend to be made subject to the interim PIC procedure, preparing a draft decision guidance document, which should, at a minimum, be based on the information specified in Annex I of the Convention or, as the case may be, Annex IV, and include information on uses of the chemical in a category other than the category for which the final regulatory action applies;

8. Decides that the sessions of the Interim Chemical Review Committee shall be open to observers in accordance with the rules of procedure of the Intergovernmental Negotiating Committee.

Appendix III

THE TECHNICAL WORKING GROUP UNDER THE CONFERENCE OF THE PARTIES OF THE BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL

Paragraph 8 of Article 4 of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal states that:

“Each Party shall require that hazardous wastes or other wastes, to be exported, are managed in an environmentally sound manner in the states of import or elsewhere. Technical guidelines for the environmentally sound management of wastes subject to this Convention shall be decided by the Parties at their first meeting.”

The Conference of the Plenipotentiaries on the Basel Convention, held in Basel from 20 to 22 March 1989, established the Technical Working Group (TWG) of the Basel Convention by resolution 8 of that Conference (see below).

To begin taking steps to implement this resolution, the Interim Secretariat of the Basel Convention convened an informal expert consultation to review and take next steps in the preparation of draft technical guidelines for the environmentally sound management of hazardous wastes. Based on the above consultation, the Interim Secretariat of the Basel Convention convened the first session of the TWG prior to the first meeting of the Conference of the Parties.

There were no specific terms of reference for the TWG. The programme of the work of the TWG started on the basis of paragraph 4 of Article 8 of the Basel Convention and resolution 8 of the Conference of Plenipotentiaries.

The second and third sessions of the TWG were also held prior to the first meeting of the Conference of the Parties and focused its attention on the preparation of technical guidelines and a policy/guidance document on the environmentally sound management of hazardous wastes.

The main outcome of the preparatory work of the TWG prior to the first meeting of the Conference of the Parties comprised four technical guidelines and a policy/guidance document.

At the first Conference of the Parties, the Parties decided, in Decision I/19, to extend the mandate of the TWG to review the revised provisional technical guidelines and to prepare technical guidelines for other priority operations and waste streams and to prepare a policy/guidance document on the environmentally sound management of recovery operations and hazardous wastes destined to recovery operations. With reference to the composition and modus operandi of the TWG, the rules of procedure of the Conference of the Parties apply mutatis mutandis to all its subsidiary bodies, including the TWG.

Resolution 8 of the Conference of Plenipotentiaries

ESTABLISHMENT OF A TECHNICAL WORKING GROUP TO ELABORATE TECHNICAL GUIDELINES FOR THE ENVIRONMENTALLY SOUND MANAGEMENT OF WASTES SUBJECT TO THE BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL

The Conference,

Having adopted the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal,

Conscious of the need to minimize the risk of damage to human health and the environment which can result from transboundary movements of hazardous wastes and their disposal,

Convinced of the need to elaborate technical guidelines to assist in the implementation of the Convention, taking into account the work of the relevant international organizations,

Taking into account the importance of examining scientific, technical and financial implications in respect to the implementation of the guidelines, especially in developing countries,

Calls upon the Executive Director of the United Nations Environment Programme to establish a Technical Working Group to prepare draft technical guidelines (including costs of the various disposal operations), for the environmentally sound management of wastes subject to this Convention for consideration by the Parties at their first meeting, and eventual adoption.

Adopted on 22 March 1989
