

THE PROPOSED PRIOR INFORMED CONSENT (PIC) AND PERSISTENT
ORGANIC POLLUTANTS (POPS) CONVENTIONS

Communication from UNEP Chemicals (IRPTC)

I. DEVELOPMENT OF AN INTERNATIONAL LEGALLY-BINDING INSTRUMENT ON
PRIOR INFORMED CONSENT (PIC) FOR CERTAIN HAZARDOUS CHEMICALS IN
INTERNATIONAL TRADE

A. Background

1. The growth in world trade in chemicals during the 1960's and 1970's has led to increasing concerns about the risks of using hazardous chemicals, one example being pesticides in developing countries, which did not have the necessary expertise or infrastructures to ensure their safe use. These concerns led to the development of the *International Code of Conduct on the Distribution and Use of Pesticides* by the UN Food and Agriculture Organization (FAO), and the *London Guidelines for the Exchange of Information on Chemicals in International Trade* by UNEP.

2. Both the Code of Conduct and the London Guidelines include provisions aimed at making information about hazardous chemicals more freely available, thus permitting competent authorities in countries to assess the risks associated with use of chemicals in their own country. The first procedure is information exchange on hazardous chemicals, which is explained in a corresponding leaflet to this one. The second procedure, known as Prior Informed Consent (PIC) was added in 1989 to help control imports of unwanted chemicals that have been banned or severely restricted.

3. The voluntary PIC procedure has been unanimously accepted by member countries of FAO and UNEP and is supported by the leading chemical industry associations and a variety of non-governmental organizations. There are currently 151 countries which participate in the voluntary procedure.

B. What Is Prior Informed Consent (PIC)?

4. PIC is a procedure that:

- (a) helps participating countries learn more about the characteristics of potentially hazardous chemicals that may be shipped to them;
- (b) initiates a decision making process on the future import of these chemicals by the countries themselves; and
- (c) facilitates the dissemination of this decision to other countries.

5. The PIC procedure is a means for formally obtaining and disseminating the decisions of importing countries as to whether they wish to receive future shipments of such chemicals. The aim is to promote

a shared responsibility between exporting and importing countries in protecting human health and the environment from the harmful effects of certain hazardous chemicals being traded internationally. PIC is not a recommendation to ban or severely restrict the use of chemicals.

C. Mandates for the Intergovernmental Negotiating Committee

6. In November 1994, the FAO Council, at its 107th Session, agreed that the FAO Secretariat should proceed with the preparation of a draft PIC convention as part of the current FAO/UNEP Programme on PIC and in cooperation with other international and non-governmental organisations concerned. In 1996, the FAO Council at its 111th session, expressed its satisfaction with the progress on the PIC negotiations and the cooperation between UNEP and FAO.

7. In May 1995, the UNEP Governing Council, at its 18th Session, authorised UNEP to prepare for and convene, together with FAO and in consultation with Governments and other relevant international organisations, an Intergovernmental Negotiating Committee (INC), with a mandate to prepare an international legally-binding instrument for the application of the PIC procedure for certain hazardous chemicals in international trade. Ultimately, a diplomatic conference for the purpose of adopting and signing such an instrument should be convened, preferably not later than early 1997. In 1997, the UNEP Governing Council, at its 19th Session, confirmed the mandate of the INC and invited it to continue its work with an aim to conclude negotiations in 1997.

D. Preparations for the PIC Convention

8. The 1st INC Session was held 11-15 March 1996 in Brussels, and attended by 194 Delegates from 80 Governments, the European Commission and a number of UN Organs, Specialised Agencies, IGOs and NGOs.

9. The 1st session made rapid progress, agreed quickly on the rules of procedure for the INC, and completed a preliminary review of a draft outline of the future agreement. Also a working group was established to further clarify which groups of chemicals may be considered for inclusion under the future agreement.

10. The 2nd INC Session was held 16-20 September 1996 at the UNEP Headquarters in Nairobi, Kenya, and attended by 220 Delegates from 86 Governments, the European Commission and a number of UN Organs, Specialised Agencies, IGOs and NGOs.

11. A majority of delegations supported a legally-binding instrument which follows closely the existing, voluntary PIC procedure, but some delegations were also of the opinion that the scope of the instrument to be developed should allow some flexibility, in order to include the possibility of considering measures beyond the existing PIC procedure. There was wide agreement that, while the INC has made substantial progress, many facets of the instrument needed further detailed consideration, and a need was seen for at least one further negotiating session before the final session.

12. The 3rd INC Session was held 26-30 May 1997 in Geneva, and attended by 261 Delegates from 101 Governments, the European Commission and a number of UN Organs, Specialised Agencies, IGOs and NGOs.

13. The Committee decided to continue its work as at the 2nd session, making use of a Technical Working Group to consider the views and address policy issues expressed during the discussion of the articles in Plenary and report back to Plenary. The revised text would then be transmitted to the Legal Drafting Group. Both Plenary and the Technical Working Group frequently convened informal

contact groups to discuss/resolve difficult issues and report back with revised text for further consideration.

14. At this session, the Committee focused on the respective obligations of importing and exporting countries, and how to identify the types of chemicals to include in the agreement. Other issues were the criteria for selecting the specific chemicals; the rules for notifying exporters of banned or severely restricted chemicals and pesticides and hazardous pesticide formulations; the designation of competent national authorities; the use of risk assessments; classification, packaging and labelling requirements; technical assistance; and financial mechanisms. A revised draft convention text was developed for further consideration at the next session.

15. The 4th INC Session will be held 20-24 October 1997 at the FAO Headquarters in Rome.

16. The 5th INC Session is expected to be held in January 1998 in Brussels.

17. The Diplomatic Conference with a short preparatory INC session is envisaged to be held early in 1998 in Rotterdam, hosted by the Government of the Netherlands.

II. DEVELOPMENT OF AN INTERNATIONAL LEGALLY-BINDING INSTRUMENT ON PERSISTENT ORGANIC POLLUTANTS (POPS)

A. Background

18. Recently, a number of international activities have been initiated to reduce and eliminate emissions and releases of Persistent Organic Pollutants (POPs). POPs are chemical substances which are persistent, bioaccumulate and pose a risk of causing adverse effects to human health and the environment. It is widely accepted that the use of such persistent, bioaccumulating and toxic substances cannot be considered a sustainable practice. However, for different social and economic reasons such substances are still in use and/or released to the environment. With the evidence of long-range transport of these substances to regions where they have never been used or produced and the consequent threats they pose to the environment of the whole globe, the international community has now, at several occasions called for urgent global actions to reduce and eliminate releases of these chemicals.

B. Mandates for the Intergovernmental Negotiating Committee

19. The UNEP Governing Council, at its nineteenth session in January 1997, endorsed the conclusions and recommendations of Intergovernmental Forum on Chemical Safety (IFCS) and concluded that international action, including a global legally-binding instrument, is required to reduce the risks to human health and the environment arising from the release of twelve specified POPs. The Governing Council decided that immediate international action should be initiated through measures which will reduce and/or eliminate the emissions and discharges of the twelve POPs, and, where appropriate, eliminate production and subsequently the remaining uses of those POPs that are intentionally produced. It requested that UNEP, together with relevant international organizations, prepare for and convene by early 1998 an intergovernmental negotiating committee (INC), with a mandate to prepare an international, legally-binding instrument for implementing international action, initially beginning with the 12 specified POPs, taking into account the conclusions and recommendations of IFCS. It also requested that an expert group be established under the INC to develop science-based criteria and a procedure for identifying additional POPs as candidates for future international action. The Governing Council further requested UNEP to initiate immediate action involving development and sharing of information; evaluation and monitoring of the success of implemented strategies; alternatives to POPs;

identification and inventories of PCBs; available destruction capacity; identification of sources of dioxins and furans and aspects of their management.

More information is available on the INTERNET:

- Information on the preparations for the PIC instrument and the existing, voluntary PIC procedure, including meeting reports and the text of the draft convention, is available at **<http://irptc.unep.ch/pic/>**
- Information on activities regarding POPs is also available at **<http://irptc.unep.ch/pops/>**