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COMMUNICATION FROM THE SECRETARIAT OF UNEP CHEMICALS (IRPTC)

The attached background paper[1] has been received from the Secretariat of UNEP Chemicals (IRPTC). It is being circulated to Members of the CTE in preparation for the Information Session with Secretariats of Multilateral Environmental Agreements on 23 July 1998.

Comité du commerce et de l'environnement

COMMUNICATION DU SECRÉTARIAT DU PNUE, SUBSTANCES CHIMIQUES (RISCPT)

La note d'information ci-jointe[1] a été reçue du Secrétariat du PNUE, substances chimiques (RISCPT). Elle est distribuée aux membres du Comité du commerce et de l'environnement en vue de la séance d'information avec les Secrétariats des Accords environnementaux multilatéraux qui aura lieu le 23 juillet 1998.

Comité de Comercio y Medio Ambiente

COMUNICACIÓN DE LA SECRETARÍA DEL REGISTRO INTERNACIONAL DE PRODUCTOS QUÍMICOS POTENCIALMENTE TÓXICOS (RIPQPT)

La Secretaría del Registro Internacional de Productos Químicos Potencialmente Tóxicos (RIPQPT) del PNUMA ha enviado el documento de base adjunto[1], que se distribuye a los miembros del CCMA como parte de los preparativos para la reunión de información con las Secretarías de Acuerdos Multilaterales sobre el Medio Ambiente, que se celebrará el 23 de julio de 1998.

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[1] English only/En anglais seulement/En inglés solamente.

BACKGROUND PAPER ON THE DRAFT PIC CONVENTION AND THE ONGOING NEGOTIATIONS FOR A GLOBAL POPS TREATY

Note by the Secretariat of UNEP Chemicals
(IRPTC)

I. THE DRAFT CONVENTION ON THE PRIOR INFORMED CONSENT (PIC) PROCEDURE FOR CERTAIN HAZARDOUS CHEMICALS AND PESTICIDES IN INTERNATIONAL TRADE.

A. INTRODUCTION

In March 1998, after two years of negotiations, 95 governments finalized the text of the Convention on the Prior Informed Consent (PIC) Procedure for Certain Hazardous Chemicals and Pesticides in International Trade. The text of the Convention will be adopted and opened for signature at a Conference of Plenipotentiaries in Rotterdam in September 1998.

The Convention represents an important step towards ensuring the protection of citizens and the environment in all countries from the possible dangers resulting from trade in highly dangerous pesticides and chemicals. It will save lives and protect the environment from the adverse effects of toxic pesticides and other chemicals. It will establish a first line of defence against future tragedies by preventing unwanted imports of dangerous chemicals, particularly in developing countries. By extending to all countries the ability to protect themselves against the risks of toxic substances, it will have "levelled the playing field" and raised global standards for protection of human health and the environment.

In short, the Convention will enable the world to monitor and control the trade in very dangerous substances. It will give importing countries the power to decide which chemicals they want to receive and to exclude those they cannot manage safely. If trade does take place, requirements for labelling and provision of information on potential health and environmental effects will promote the safe use of these chemicals.

In clear testimony to the urgency attributed to addressing international trade in hazardous chemicals, Governments completed the negotiations of the Convention in only two years and two years before the deadline set by the Rio Earth Summit (Agenda 21 Chapter 19). The Secretariat of the negotiations was provided by UNEP and FAO.

B. WHY DO WE NEED THIS CONVENTION?

Each year thousands of people die or are seriously poisoned by toxic pesticides and other chemicals. Many of these substances also cause devastating problems when released into the environment, where they may poison water resources, animal and plant life and people. Unwanted and obsolete stockpiles of such pesticides and toxic chemicals have accumulated in virtually every developing country. Many of these chemicals are persistent organic pollutants (POPs), highly toxic chemicals that persist in the environment for long periods of time, accumulate in wildlife and people and are mobile in the environment, possibly travelling thousands of kilometres from where they were released.

The Convention will help solve these pressing human health and environmental problems by reducing the use of these chemicals to where they are absolutely necessary and can be used safely. In this manner, the Convention will help to prevent new chemical safety problems.

C. HOW WILL IT WORK?

According to the Convention, export of a chemical can only take place with the prior informed consent of the importing Party.

The Prior Informed Consent (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 a certain chemical and for ensuring compliance to these decisions by exporting countries. 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 such chemicals.

The Convention contains provisions for the exchange of information among Parties about potentially hazardous chemicals that may be exported and imported and provides for a national decision-making process regarding import and compliance by exporters with these decisions.

The provisions regarding information exchange include:

- the requirement for a Party to inform other Parties of each ban or severe restriction on a chemical it implements nationally;
- the possibility for a developing country Party or a Party with an economy in transition to inform other Parties that it is experiencing problems caused by a severely hazardous pesticide formulation under conditions of use in its territory;
- the requirement for a Party that plans to export a chemical that is banned or severely restricted for use within its territory, to inform the importing Party that such export will take place, before the first shipment and annually thereafter;
- the requirement that an exporting Party, when exporting chemicals that are to be used for occupational purposes, shall ensure that a safety data sheet that follows an internationally recognised format, setting out the most up-to-date information available, is sent to the importer;
- the requirement that exports of chemicals included in the PIC procedure and other chemicals that are banned or severely restricted domestically, when exported, are subject to labelling requirements that ensure adequate availability of information with regard to risks and/or hazards to human health or the environment.

Decisions taken by the importing Party must be trade neutral; that is, if the Party decides it does not consent to accepting imports of a specific chemical, it must also stop domestic production of the chemical for domestic use or imports from any non-party.

The Convention provides for technical assistance between Parties. Parties shall, taking into account in particular the needs of developing countries and countries with economies in transition, cooperate in promoting technical assistance for the development of the infrastructure and the capacity necessary to manage chemicals to enable implementation of this Convention. Parties with more advanced programmes for regulating chemicals should provide technical assistance, including training to other Parties in developing their infrastructure and capacity to manage chemicals throughout their life-cycle.

Each Party must designate one or more national authorities authorised to act on its behalf in the performance of the administrative functions required by the Convention.

The implementation of the Convention will be overseen by a Conference of the Parties. A Chemicals Review Committee will be established to review notifications and nominations from Parties, and make recommendations to the Conference of the Parties on which chemicals should be included in PIC procedure. The Convention requires that the entire process be conducted in an open and transparent manner.

D. WHICH CHEMICALS WILL BE INCLUDED?

The Convention covers pesticides and industrial chemicals that have been banned or severely restricted for health or environmental reasons by the participating Parties and which have been subject to notification by Parties for inclusion in the PIC procedure. Severely hazardous pesticide formulations, that present a hazard under the conditions of use in developing county Parties or Parties with economies in transition may also be nominated. The inclusion of chemicals in the PIC procedure is decided by the Conference of the Parties. The Convention will initially include at least 27 chemicals[2] carried forward from the present voluntary PIC procedure and hundreds more are likely to be added as the provisions of the Convention are implemented.

Certain specific groups of chemicals such as narcotic drugs and psychotropic substances, radioactive materials, wastes, chemical weapons, pharmaceuticals, food and food additives are excluded from the scope of the Convention. Also excluded are chemicals in quantities not likely to affect human health or the environment, provided they are imported for research or analysis purposes or by an individual for personal use in quantities reasonable for such use.

E. HOW WILL IT OPERATE?

The current voluntary PIC procedure has been operated by UNEP and FAO since 1989, based on the amended London Guidelines for the Exchange of Information on Chemicals in International Trade and the International Code of Conduct on the Distribution and Use of Pesticides. The new PIC procedure contained in the Convention is an improvement of the original procedure and based largely on the experience gained during the implementation of the original.

The Convention will enter into force once fifty countries have ratified it. As a first among the multilateral environmental agreements, Governments have agreed to continue to implement the voluntary PIC procedure using the new procedures of the Convention until the Convention formally enters into force. This will avoid a break in the implementation of the PIC procedure and is a clear indication of the importance Governments attach to this Convention.

UNEP and FAO will serve as Secretariat for the interim period, to prepare for the entry into force of the Convention. UNEP and FAO have also been assigned the responsibility of Secretariat of the Convention.

[2]Pesticides: 2,4,5-T, aldrin, captafol, chlorobenzilate, chlordane, chlordimeform, DDT, dieldrin, dinoseb, 1,2-dibromoethane (EDB), fluoroacetamide, HCH, heptachlor, hexachlorobenzene, lindane, mercury compounds, pentachlorophenol and certain formulations of methamidophos, methyl-parathion, monocrotophos, parathion and phosphamidon. Industrial chemicals: crocidolite, polybrominated biphenyls (PBB), polychlorinated biphenyls (PCB), polychlorinated terphenyls (PCT), tris(2,3 dibromopropyl)phosphate

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

A. INTRODUCTION

In February 1997, the UNEP Governing Council decided that immediate international action should be initiated to reduce and/or eliminate the emissions and discharges of a first list of twelve POPs, and, where appropriate, eliminate production and subsequently the remaining uses of those POPs that are intentionally produced. An Intergovernmental Negotiating Committee (INC), mandated to prepare an international legally binding instrument for implementing such international action, was convened for the first time in Montreal, Canada, 29 June to 3 July 1998. It is expected that the negotiation of this global POPs treaty will be completed in the year 2000. A total of 94 government were present together with a large number of UN bodies, intergovernmental organisations and NGOs representing industry, academia, and public interest groups.

The first list of POPs includes nine pesticides (aldrin, chlordane, dieldrin, DDT, endrin, heptachlor, hexachlorobenzene, mirex, and toxaphene), two industrial chemicals (polychlorinated biphenyls (PCBs) and hexachlorobenzene, which is also used a pesticide) and two unintentionally produced by-products (dioxins and furans). As was also requested by the Governing Council, the INC established at its first meeting an expert group for the development of science-based criteria and a procedure for identifying additional POPs as candidates for future international action.

B. WHY DO WE NEED A GLOBAL POPS TREATY?

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.

Several toxic and persistent pesticides eventually recognized as POPs were banned by industrialised countries in the 1960s and 70s after some of their adverse effects had been observed in humans and/or certain animal species. It was thought at the time that such national measures would effectively limit or abolish the problems associated with these chemicals. However, environmental monitoring programmes gradually made it clear that, after an initial decline, concentrations in the environment and in biota were not declining further. It also became clear that some populations, such as the Inuit Eskimos, are at particular risk because there are high concentrations of some POPs in their traditional staple foods.

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 at several occasions called for urgent global actions to reduce and eliminate releases of these chemicals.

The Global Programme of Action for the Protection of the Marine Environment from Land-Based Activities, adopted in November 1995 in Washington DC, includes specific provisions to address POPs. A regional legally binding Protocol to the Convention on Long-Range Transboundary Air Pollution (LRTAP) has been completed under the auspices of the United Nations Economic Commission for Europe (UN/ECE). It covers 16 POPs (the twelve POPs included in UNEP's first list as well as chlordecone, hexachlorocyclohexane (HCH), hexabromobiphenyl, and polyaromatic hydrocarbons), and was officially adopted on 24 June 1998 in Aarhus, Denmark.

C. HOW ARE WE EXPOSED TO POPS?

POPs are chemicals or by-products that resist degradation in the environment. They accumulate in the body fat of animals. Concentrations increase for each upward step in the food chain and can reach very high levels in, for example, seals and polar bears. Fatty fishes, such as salmon, herring and eel, have higher concentrations than do fish such as cod or haddock. The effects of consuming POPs can be serious, including harmful effects on fertility and embryo development, damage to the nervous system (including intellectual and learning impairment), and cancer.

In principle, a POP chemical released anywhere on earth may in time reach any other place of the globe. However, there is a particularly large-scale redistribution of persistent organic pollutants from warmer to colder areas. POPS can spread from tropical countries by evaporating into the atmosphere and then condensing over colder areas, similar to the way water vapour in air condenses as dew on a summer evening.

Most POPs are banned, severely restricted or otherwise managed in industrial countries. Many have been used as pesticides in agriculture and for the control of parasites. Some of them are still manufactured and used in developing countries and countries with economies in transition. In particular, thousands of tonnes of DDT per annum are manufactured in some developing countries, and PCBs is still in use in electrical equipment in many countries and even appears to still be produced in at least one.

There is a genuine lack of knowledge about POPs sources and releases in many developing countries. However, existing data from wildlife in Africa and other regions show concentrations of POPs equal to or higher than those in temperate or cold regions. There are also occupational health problems related to the use of POPs in developing countries. Border controls are sometimes ineffective, which can lead to illegal trade in banned POPs. The infrastructure for chemical management and enforcement is often weak and compliance with regulations limited. Pesticide POPs often become a cheap and quick alternative for subsistence farmers with low levels of education and no modern equipment.

As long as they continue to be used, POPs will find their way into the environment and stay there for a long time. Even if all production were to stop immediately, the problems with POPs would persist for years or even decades. Thus no single country can solve their national POPs problems alone. Because POPs are migrants without passports, global agreements and global measures are essential.

D. POSSIBLE SUBJECTS OF PROVISIONS IN A GLOBAL TREATY ON POPS

To achieve its main objective to eliminate releases of POPs into the environment, the global POPs treaty is likely to include provisions, similar to some of those included in the regional UN/ECE LRTAP protocol on POPs, which ban the production and use of some POPs; phase-out or severely restrict the use of others; and require reductions of emissions of unwanted by-products. Provisions covering other subjects may very well also be included, and import and export restrictions could come up for discussions in this regard. Furthermore, the special needs of developing countries and countries with economies in transition will have to be considered in the negotiations of the global treaty, and possible mechanisms for providing financial and technical assistance for implementing future obligations will be discussed during future sessions of the INC.

Between June 1997 and June 1998 eight POPs awareness-raising workshops were organized by UNEP and the Intergovernmental Forum on Chemical Safety (IFCS) in regions of developing countries and countries with economies in transition. 138 countries participated in the workshops, at which they emphasized the need for creating or strengthening national coordinating mechanisms,

including intersectoral and/or interministerial committees on POPs, and, as appropriate, non-governmental stakeholders. Countries stressed the need to nominate UNEP national focal points for POPs, as well as focal points for IFCS, and to make sure that there is sufficient co-ordination between them and other focal points, such as those for the Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade. Existing structures for regional co-operation should be used as much as possible. Although they might differ in mandate and scope from region to region, in all regions there were structures that could be used for discussing POPs issues.

The awareness-raising workshops sensitized countries to the POPs issue and encouraged new actions at both the national and regional levels. Many countries are now aware of the global POPs issue, which facilitates their participation in the global negotiations. Some countries have recently taken legal action on POPs. New regional activities started as result of the workshops. Regional networks have been established or strengthened. A clear list of needs and priorities for countries and regions emerged.