The following changes have been suggested by the United States to the text of the Draft Decision on Products Banned or Severely Restricted in the Domestic Market (L/6769).

The United States proposes the following changes to the Chairman's text of May 31, 1991:

1. Amend Article 1 to read as follows:

"Article 1

"Coverage

"1.1 For the purpose of this Agreement, a consumer product means any product customarily produced or distributed for sale to, or use or consumption by, or enjoyment of, a consumer, but not including food, drugs, alcohol, medical devices, cosmetics, tobacco or tobacco products, firearms or ammunition, motor vehicles or motor vehicle equipment, pesticides, aircraft or boats.

"1.2 For the purpose of Article 3.1,

"(i) A banned consumer product means any consumer product that has been:

"(a) prohibited from sale or use, including those cases in which prohibition results from expiration of the approved period of use;

"(b) refused approval for sale or use; or

"(c) withdrawn from sale or use.

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"(ii) A severely restricted consumer product means a consumer product for which virtually all sales or uses have been banned but for which certain specific sales or uses remain authorized.

"1.3 This Agreement applies to products, substances and wastes (hereinafter referred to as 'the products concerned') that are:

"(a) covered in the international instruments enumerated in Annex I; or

"(b) are consumer products

that have been the subject of final governmental regulatory action in the domestic market of the exporting party.

"1.4 The provisions of this Agreement shall not apply if the product concerned is covered by an international instrument enumerated in Annex I and the exporting party is a signatory to or participant in the instrument."

(2) Article 3.1 is amended to read as follows:

"3.1 Any party adopting measures to ban or severely restrict (as defined in accordance with the relevant instrument or, for consumer products, as defined in Article 1.2) in its domestic market, for reasons of serious and direct danger to human, animal or plant life or health or the environment in its territory, any of the products concerned should examine whether the reasons for such measures would also require the adoption of equivalent measures for exports of the same products. Such measures may be based on the principle of prior informed consent.".

(3) Delete Article 3.5.

(4) Amend Article 4 to read as follows:

"Article 4

"Co-operation at International Level

"4.1 Subject to the provisions of Article 2.1, contracting parties which are signatories or participants of the international instruments enumerated in Annex I, should sustain and make more effective such international co-operation, inter alia, by participating to the fullest extent possible in the activities undertaken in pursuance of these instruments. Other contracting parties should, where possible, become signatories or participants of such instruments."
4.2 Subject to the provisions of Article 2.1, any contracting party that is a signatory or participant of an international instrument enumerated in Annex I should apply the procedures therein to regulate its trade in the products concerned in the manner foreseen by that instrument. Towards this end, such a contracting party should, as appropriate:

(a) participate effectively in the systems for notification, exchange of information and registration in the relevant instruments;

(b) participate in the Prior Informed Consent Procedures (PIC procedure) in the relevant instruments;

(c) participate in the Certification Schemes incorporated in the relevant instruments; and

(d) co-operate in the work of international organizations for the further identification of products to which notification systems, prior informed consent procedures or certification schemes should apply.

5) Amend Article 8 to read as follows:

"Article 8

Consultations and Dispute Settlement

8.1 If any Party considers that any benefit accruing to it, directly or indirectly, under this Agreement is being nullified or impaired, or that the achievement of any objective of this Agreement is being impeded, as a result of the actions of another Party or of other Parties, it may, with a view to reaching a mutually satisfactory solution of the matter, request consultations with the Party or Parties in question. Each Party shall afford sympathetic consideration to any request from another Party for consultations and initiate requested consultations promptly.

8.2 If no mutually satisfactory solution has been reached between the Parties concerned in consultations under Article 8.1 above within 60 days of the request therefor, the Committee shall meet at the request of any party to the dispute, within 30 days of receipt of such a request, to establish a panel. When a panel is established, it shall be governed by the procedures set forth in Annex II to this Agreement. [Annex II to be negotiated.]
8.3 After the report of the panel is presented to the Committee, the Committee shall take appropriate action normally within 30 days of receipt of the report. Such action shall include:

(i) a statement concerning the facts of the matter; and

(ii) recommendation to one or more Parties or any other ruling which it deems appropriate.

8.4 If a Party to which recommendations are addressed considers itself unable to implement them, it should promptly furnish reasons in writing to the Committee. In that event, the Committee shall consider what further action may be appropriate.

8.5 If the Committee considers that the circumstances are serious enough to justify such action, it may authorize one or more Parties to suspend the application to any other Party or Parties of such obligations under this Agreement as it determines to be appropriate in the circumstances.

8.6 The Committee shall keep under surveillance any matter on which it has made recommendations or given rulings.

8.7 If a dispute arises between Parties relating to rights and obligations under this Agreement, Parties should complete the dispute settlement procedures under this Agreement before availing themselves of any rights which they may have under the General Agreement, including invoking Article XXIII thereof. This agreement does not give rise to any new rights under Article XXIII."

(6) In Annex I, delete the references to the documents named after the instrument listed as number 9.

(7) Other conforming changes to reflect that this will now be an agreement among particular contracting parties rather than a Contracting Parties Decision, including the addition of provisions on acceptance and accession, entry into force, amendments, withdrawals, etc.