

No Breakthrough on Crucial Items

The Fourth Session¹ of the Intergovernmental Negotiating Committee (INC-4) for an Internationally Legally Binding Instrument for Implementing International Action on Certain Persistent Organic Pollutants (POPs), continued negotiations for implementing action on three categories of POPs: *Pesticides*: aldrin, chlordane, DDT, dieldrin, endrin, heptachlor, mirex and toxophene; *industrial chemicals*: hexachlorobenzene (HCB) and polychlorinated biphenyls (PCBs); and *unintended by-products*: dioxins and furans.

The Session concluded on 25 March 2000 in Bonn, with no agreement on some of the crucial items before the negotiators. Although the Meeting succeeded in drafting articles on technical assistance and financial resources and mechanisms, the text is heavily bracketed, and developed and developing country positions are deeply divided. Governments did reaffirm eventual elimination as the goal of the Convention including exemptions for use of DDT in controlling malaria mosquitoes and for existing uses of polychlorinated biphenyls (PCBs), subject to periodic review.

Intensive discussions also created a basis for deciding on technical and financial assistance at the final round of negotiations, scheduled from 4-9 December 2000, in Johannesburg, South Africa.

The G-77 countries and China said the nature of the

POPs issue and experience with existing mechanisms reflects the need for a dedicated financial mechanism, which should include an independent multilateral fund. New proposals for ensuring access to funding were considered, including several which, if adopted, would build on the Global Environment Facility (GEF), in recognition of its potential for addressing global environmental issues.

The Meeting accepted the offer by John Buccini, INC Chair, that a meeting of 20 countries be held inter-sessionally to seek common ground and help bring about resolution in December.

With regard to controls, the negotiators favoured retaining the goal of ultimate elimination of production and use of all 10 intentionally produced persistent organic pollutants in the mandate and the industrial chemicals. Such exemptions would be subject to periodic review to determine continued need.

Concerning DDT, delegates continued to favour proposals eliminating production and use, but including a public health exemption as countries adopt alternative chemical and non-chemical strategies and reduce reliance on DDT.

There was general agreement on basic provisions for continuing minimisation of the unwanted by-products – dioxins and furans. An annex was proposed as a basis for further negotiations, including not only dioxins and furans,

but also hexachlorobenzene and PCBs when unintentionally formed in certain processes.

With the exception of a few technical issues, agreement was reached on proposals to establish scientific criteria for identifying additional persistent organic pollutants for future international action and a procedure for deciding on their inclusion. The mandate calls for criteria and a procedure to give countries the means to respond to problems in the future.

According to the International POPs Elimination Network (IPEN), who ran a "scorecard" three times during the negotiating session, 82 countries now support elimination, while 15 others have said they oppose the concept. The positions of 23 countries could not be determined, the coalition said.

Among other provisions agreed upon, there was support for proposals to:

- eliminate existing uses of PCBs by certain dates, to be determined;
- ensure the environmentally sound management of POPs wastes;
- require national implementation plans;
- promote information exchange;
- facilitate technology transfer; and
- foster research and development.

"Negotiators made important progress on a number of key issues. They are now in a good position to reach agreement on the treaty by the end of 2000, the deadline in the mandate from the Governing Council of the United Nations Environment Programme,"² said Klaus Töpfer, UNEP Executive Director. "The Meeting recognised that technology and funding are critical to successful implementation of the Convention. They recognised also that developing countries and countries with economies in transition would need funds and environmentally sound technology to allow them to meet the obligations. In Bonn, delegates made gains in addressing the 'what' and 'how' of technology issues. In South Africa, they can take up proposals for accessing and making better use of technology assistance," he noted.

Negotiators also discussed the role of the precautionary principle in the convention. Generally speaking, European and developing countries supported inclusion of the concept in the obligations part of the treaty, while the United States and other countries said this type of "aspirational" language should be in the preamble only. They argue that the lack of a single definition for the precautionary principle makes it unacceptable for use in the operative text of what is expected to become a legally binding treaty.

The European Union offered a proposal that would apply the precautionary principle to the entire process for reviewing and adding new substances to the list of POPs covered by the treaty.

The Chair said that whether and in what part of the treaty the precautionary principle should be added needed to be discussed at length by all negotiators. However, the talks ended without this issue being presented for discussion by all.

A total of 317 delegates from 121 countries participated in the Intergovernmental Negotiating Committee (INC) together with observers from many intergovernmental and non-governmental agencies, amounting to more than 500 participants. Delegates will now consult with their governments on the proposals made and the issues identified in Bonn. To aid the final negotiating session, delegates

agreed to hold a three-day "consultation" by the end of June on funding options for implementation of the treaty. Representatives of 19 countries will be asked to draft a discussion paper for issuance by September. John Buccini said it was his duty as chairman of the INC to try to find where bridges can be built among the competing funding proposals. The Director of the UN Chemicals Programme, James Willis, said that the most important development was that none of the progress made at the previous three INC sessions was lost and "all of the substantive issues are on the table."

The governments of India and China proposed language for the preamble of the convention. The Chair is expected to prepare a "Chairman's draft" of the preamble by assembling various proposals. Separately, the Philippines, Venezuela and the Gambia offered proposals dealing with the objective of the treaty. The German government offered to host the future secretariat for the POPs treaty in Bonn.

The Meeting requested the Chair to "tidy up" the negotiating text and ensure consistency of terminology used to facilitate talks at INC-5.

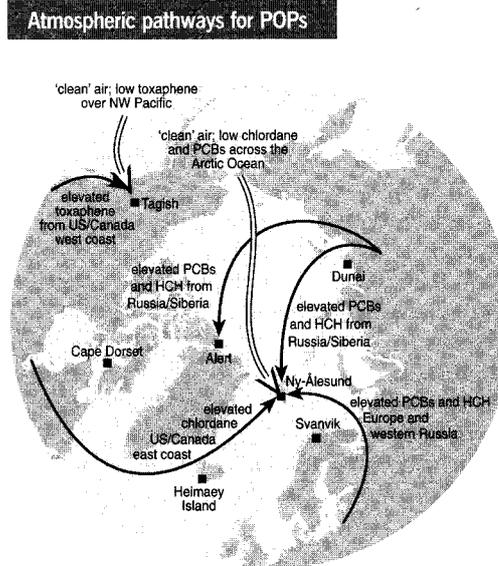
In his concluding remarks, the Chairman noted that he had underestimated the amount of time required for completion of negotiations and stated that he will be consulting with the Bureau and Secretariat on this issue.

Some delegates doubted whether all the remaining obstacles could be overcome at INC-5 or if the most difficult political issues will be left for the Diplomatic Conference to solve. (MJ)

Notes

¹ INC-1 was held in Montreal (June/July 1998), INC-2 in Nairobi (January 1999), and INC-3 in Geneva (September 1999).

² The February 1997 Governing Council Decision 19/13C called for negotiations toward a legally binding global POPs convention to be completed by the end of 2000.



Source: AMAP 1997

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