



Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade

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Chemical Review Committee
Sixteenth meeting
Rome (online), 8–11 September 2020

Report of the Chemical Review Committee on the work of its sixteenth meeting

Introduction

1. In the light of the ongoing coronavirus disease (COVID-19) pandemic, it was not possible to hold the sixteenth meeting of the Chemical Review Committee under the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade face to face at the headquarters of the Food and Agriculture Organization of the United Nations (FAO) in Rome, as had originally been planned. Instead, the Bureau decided that, as an exceptional measure owing to the pandemic, the meeting would be held online from 8 to 11 September 2020.

I. Opening of the meeting

2. The meeting was opened at 1.15 p.m. (UTC+2) on Tuesday, 8 September 2020, by the Chair of the Committee, Ms. Noluzuko Gwayi (South Africa).

3. Opening remarks were delivered by Mr. Rémi Nono Womdim, Executive Secretary of the Rotterdam Convention, and Mr. Rolph Payet, Executive Secretary of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, the Rotterdam Convention and the Stockholm Convention on Persistent Organic Pollutants.

4. Welcoming participants and expressing confidence that the Committee would achieve the goals set for the meeting, Mr. Womdim noted that, owing to the challenge of meeting virtually across different time zones, the Committee would not be reviewing the numerous new notifications of final regulatory action submitted by the Parties until its next meeting. The increased number of notifications was partly the fruit of increased efforts by the Secretariat to support Parties that requested assistance in submitting notifications of final regulatory action, and thereby to increase the effectiveness of the Convention. The environmentally sound management of chemicals, to which the Committee contributed through its work, in particular through its review of notifications of final regulatory action, was a prerequisite for achieving the Sustainable Development Goals and specific targets aimed at substantially reducing the number of deaths and illnesses caused by hazardous chemicals.

5. The FAO part of the Secretariat was focused on reducing the risks from pesticides and other agrochemicals, to which millions of agricultural workers around the world, many of them children, were exposed, including by developing awareness-raising materials and implementing various campaigns and activities in collaboration with other FAO divisions. During the lockdown prompted by the pandemic, the Secretariat had translated into the six official languages of the United Nations the general guidance on bridging of pesticide risk assessments, contained in the FAO Pesticide Registration Toolkit and the Pocket Guide for Effective Participation in the Chemical Review Committee under the Rotterdam Convention; held ten major online training sessions on various topics; and organized three webinars for Committee members in lieu of the usual orientation workshop.

6. Welcoming participants, Mr. Payet emphasized the importance of the work of the Committee in enabling the adoption of informed policy decisions by the Conference of the Parties to the Rotterdam Convention, and providing robust scientific foundations for policymakers to build back

better after the COVID-19 pandemic, which had demonstrated that the warnings of scientists could, and did, come true. At the current meeting, the Committee had two important tasks, namely, finalizing the draft decision guidance document for decabromodiphenyl ether for consideration by the Conference of the Parties at its tenth meeting, and determining whether the criteria set out in Annex II to the Convention had been met by the new notification of final regulatory action for perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds submitted by Norway.

7. Noting the continuous and significant contributions of the Committee to the operation of the Convention, Mr. Payet drew attention to the challenge of reviewing the best available technical and scientific information and solutions, as well as socioeconomic considerations which were critical in ensuring that the Rotterdam Convention remained relevant and implementable in the context of countries' efforts to meet the Sustainable Development Goals, including the environmentally sound management of chemicals and wastes throughout their life cycles. Such focus would significantly reduce releases to air, water and soil in order to minimize their adverse impacts on human health and the environment, as evidenced by many of the chemicals that had been listed for prior informed consent under the Rotterdam Convention.

II. Organizational matters

A. Attendance

8. The following members of the Committee attended the meeting: Mr. Jonah Ormond (Antigua and Barbuda), Ms. Eliana Rosa Munarriz (Argentina), Ms. Anahit Aleksandryan (Armenia), Mr. Juergen Helbig (Austria), Ms. Mara Curaba (Belgium), Mr. Martin Lacroix (Canada), Ms. Jinye Sun (China), Ms. Lady Jhoana Dominguez Majin (Colombia), Ms. Gloria Judith Venegas Calderón (Ecuador), Mr. Timo Seppälä (Finland), Mr. Joseph Cantamanto Edmund (Ghana), Mr. Suresh Lochan Amichand (Guyana), Mr. Dinesh Runiwal (India), Ms. Yenny Meliana (Indonesia), Ms. Kristina Kazerovska (Latvia), Mr. Hassan Azhar (Maldives), Mr. Peter Korytár (Malta), Mr. Shankar Prasad Paudel (Nepal), Mr. Peter Dawson (New Zealand), Mr. Zaigham Abbas (Pakistan), Ms. Agnieszka Jankowska (Poland), Mr. Christian Sekomo Birame (Rwanda), Ms. Aïta Sarr Seck (Senegal), Ms. Nolozi Gwayi (South Africa), Mr. Sumith Jayakody Arachchige (Sri Lanka), Ms. Sarah Maillefer (Switzerland), Ms. Nuansri Tayaputch (Thailand), Mr. Youssef Zidi (Tunisia), Mr. Daniel William Ndiyo (United Republic of Tanzania), Mr. Clarence Matewe (Zimbabwe).

9. The member of the Committee from the Congo was unable to attend.

10. The following States were represented as observers: Argentina, Australia, Burkina Faso, Canada, Chile, China, Colombia, Costa Rica, Estonia, Eswatini, Germany, Ghana, Guatemala, Indonesia, Japan, Kenya, Kuwait, Mexico, Netherlands, Norway, Paraguay, Qatar, Romania, Russian Federation, Serbia, Slovenia, South Africa, State of Palestine, Suriname, United Kingdom of Great Britain and Northern Ireland, United States of America.

11. The Central Africa Interstate Pesticides Committee was represented as an observer. Non-governmental organizations were also represented as observers. The names of those organizations are included in the list of participants (UNEP/FAO/RC/CRC.16/INF/12).

B. Adoption of the agenda

12. In considering the sub-item, the Committee had before it the provisional agenda (UNEP/FAO/RC/CRC.16/1) and the annotations to the provisional agenda (UNEP/FAO/RC/CRC.16/1/Add.1).

13. The Committee adopted the following agenda on the basis of the provisional agenda:

1. Opening of the meeting.
2. Organizational matters:
 - (a) Adoption of the agenda;
 - (b) Organization of work.
3. Rotation of the membership.
4. Technical work:
 - (a) Consideration of the draft decision guidance document for decabromodiphenyl ether;

- (b) Report of the Bureau on the preliminary review of a notification of final regulatory action;
 - (c) Review of a notification of final regulatory action for perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds.
- 5. Venue and date of the seventeenth meeting of the Committee.
- 6. Other matters.
- 7. Adoption of the report.
- 8. Closure of the meeting.
- 14. Responding to a query from a member regarding agenda item 4 (c) (Technical work: review of a notification of final regulatory action for perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds), the Committee agreed that it would review the information contained in the notification to determine whether it met the criteria of Annex II to the Convention. Further to its review, the Committee at its current meeting would then consider its recommendation in relation to the chemical, which would be forwarded to the Conference of the Parties for consideration at its tenth meeting together with the draft decision guidance document and any revisions that might be required thereto.
- 15. The Committee decided that, under agenda item 6 (Other matters), the Secretariat would present a report on updates to the Handbook of Working Procedures and Policy Guidance for the Chemical Review Committee; a report on activities to facilitate effective participation in the work of the Committee; and a time schedule for the work to be carried out in the intersessional period between the sixteenth and seventeenth meetings of the Committee.

C. Organization of work

- 16. The Committee decided to conduct the meeting in accordance with the scenario note prepared by the Chair (UNEP/FAO/RC/CRC.16/INF/1) and the tentative schedule for the meeting (UNEP/FAO/RC/CRC.16/INF/2), subject to adjustment as necessary. It also decided that contact groups and drafting groups would be established as needed throughout the meeting. The documents pertaining to each agenda item were identified in the annotations to the provisional agenda (UNEP/FAO/RC/CRC.16/1/Add.1) and in the list of pre-session documents by agenda item (UNEP/FAO/RC/CRC.16/INF/10).

III. Rotation of the membership

- 17. Introducing the item, the representative of the Secretariat drew attention to the information provided in document UNEP/FAO/RC/CRC.16/INF/3, on the rotation of the membership of the Chemical Review Committee.
- 18. She informed the Committee that since its fifteenth meeting, no replacement of members had taken place, but the terms of office of 17 current members would expire on 30 April 2022 and new members would therefore need to be appointed by the Conference of the Parties at its tenth meeting, scheduled to take place in July 2021, with terms of office from 1 May 2022 to 30 April 2026. The Secretariat would, on behalf of the Bureau of the Conference of the Parties, facilitate the nominations of new members by circulating information on all the elections scheduled to take place at the tenth meeting, including the qualifications and documentation required, together with information on arrears in assessed contributions to the general trust fund of the Rotterdam Convention. A deadline of 19 April 2021 would be proposed for the submission of nominations to enable all the regional groups to consult among themselves in advance of, and during, the regional preparatory meetings.
- 19. The term of office of the current Chair, unless extended, would expire on 30 April 2022. At its tenth meeting, the Conference of the Parties would therefore need to either elect a new Chair to serve from 1 May 2022 onwards or, in line with the approach taken by the Conference of the Parties at its sixth and eighth meetings, request the Committee to identify an interim Chair for the eighteenth meeting of the Committee and elect a new Chair at its eleventh meeting.
- 20. The Committee took note of the information provided.

IV. Technical work

A. Consideration of the draft decision guidance document for decabromodiphenyl ether

21. Introducing the sub-item, the representative of the Secretariat recalled that, at its fifteenth meeting, the Committee had reviewed notifications of final regulatory action for decabromodiphenyl ether submitted by Canada, Japan and Norway, along with the supporting documentation referenced therein, and, taking into account each of the specific criteria set out in Annex II to the Convention, had concluded that the three notifications met the criteria set out in Annex II to the Convention. Accordingly, the Committee, by its decision CRC-15/2, had recommended to the Conference of the Parties that it list decabromodiphenyl ether (CAS No. 1163-19-5) in Annex III to the Convention as an industrial chemical. In addition, the Committee had adopted a rationale for its conclusion and established an intersessional drafting group to prepare a draft decision guidance document for decabromodiphenyl ether.

22. At the current meeting, the Committee had before it the draft decision guidance document prepared by the intersessional drafting group (UNEP/FAO/RC/CRC.16/3) and a compilation of comments and responses relating thereto (UNEP/FAO/RC/CRC.16/INF/6).

23. Mr. Peter Dawson, drafter of the intersessional drafting group, presented the draft decision guidance document on his own behalf and that of the group's chair, Mr. Suresh Amichand.

24. Following the presentation, several members proposed changes to the draft decision guidance document. A number of members drew attention to the terminology used in the document to identify decabromodiphenyl ether, which was different from that used under the Stockholm Convention, namely "decabromodiphenyl ether (BDE-209) present in commercial decabromodiphenyl ether (CAS No. 1163-19-5)", suggesting that the document should be revised to use that description. Another member expressed support for retaining the terminology used in the draft decision guidance document, which was consistent with the recommendation of the Committee in decision CRC-15/2. He added that CAS No. 1163-19-5, which was also used in the Stockholm Convention listing, could also be included when first mentioning the chemical's name in section 2 of the draft decision guidance document to clarify that the chemical referred to in the draft decision guidance document was the same chemical as that listed under the Stockholm Convention.

25. A number of members proposed changes to specific sections of the draft decision guidance document in order to update or correct the information provided. One member suggested that draft decision guidance documents should, as a general rule, include only the information provided in the notification of final regulatory action and supporting documentation provided by the notifying Parties, and additional information from relevant international sources such as the Persistent Organic Pollutants Review Committee of the Stockholm Convention, and identify the information as such. Another member said that decision guidance documents were not meant to be updated on a regular basis, but it was appropriate for members to provide additional information if clarification on specific elements was needed.

26. Responding to comments, Mr. Dawson said that he had taken note of the proposed changes and would consult with the Secretariat regarding whether the changes proposed to the introductory sections of the draft decision guidance document, which were based on the template set out in section 1.2 of the updated Handbook of Working Procedures and Policy Guidance for the Chemical Review Committee, could be made. With regard to the information provided in the draft decision guidance document, he said that it was based on the notifications and supporting documentation provided by Canada, Japan and Norway, and documents produced by the Persistent Organic Pollutants Review Committee, which could be highlighted in the document. As for the terminology used, the document referred to decabromodiphenyl ether because both decision CRC-15/2 and the notifications of final regulatory action referred to the chemical itself and not to its commercial mixture.

27. One member suggested that the response in document UNEP/FAO/RC/CRC.16/INF/6 to a question on the chemical identity should be modified in the light of the clarification provided and to avoid confusion.

28. Following the discussion, the Committee requested Mr. Amichand and Mr. Dawson to prepare a revised draft decision guidance document taking into account the comments made during the discussion and to add those comments to the compilation of comments in document UNEP/FAO/RC/CRC.16/INF/6. The Committee also requested the Secretariat to prepare a draft decision, by which the Committee would adopt the draft decision guidance document and forward it,

together with the related tabular summary of comments, to the Conference of the Parties for consideration at its tenth meeting.

29. The Committee subsequently adopted decision CRC-16/1, by which it adopted the draft decision guidance document for decabromodiphenyl ether (UNEP/FAO/RC/CRC.16/3/Rev.1) and decided to forward it, together with the related tabular summary of comments (UNEP/FAO/RC/CRC.16/INF/6/Rev.1), to the Conference of the Parties for its consideration. The decision is set out in the annex to the present report.

B. Report of the Bureau on the preliminary review of a notification of final regulatory action

30. In considering the sub-item, the Committee had before it the report of the Bureau on the preliminary review of a notification of final regulatory action (UNEP/FAO/RC/CRC.16/2), information on trade in chemicals under consideration by the Committee (UNEP/FAO/RC/CRC.16/INF/4), and a summary record of notifications of final regulatory action for chemicals reviewed by the Interim Committee or the Committee and of notifications scheduled for review by the Committee (UNEP/FAO/RC/CRC.16/INF/5).

31. Presenting the outcome of the preliminary review, Mr. Martin Lacroix, a member of the Bureau, said that, in accordance with the relevant procedure, the Bureau had undertaken a preliminary review of a new notification of final regulatory action for PFOA, its salts and PFOA-related compounds submitted by Norway, together with the relevant supporting documentation. As described in its preliminary review (UNEP/FAO/RC/CRC.16/2), the Bureau had recommended that a task group on PFOA, its salts and PFOA-related compounds be established to undertake an initial review of the new notification and supporting documentation and prepare an analysis as to whether and how the notification met the criteria set out in Annex II to the Convention.

32. The task group had been established and, because it was the only such group established in the intersessional period, all the Committee members had taken part in the group. The group had been chaired by Ms. Agnieszka Jankowska, while Mr. Timo Seppälä had served as drafter. The report of the task group had been posted on the Convention website on 7 August 2020, and the task group had held an online meeting on Monday, 7 September 2020, with the participation of observers, in order to finalize its report. The Committee had before it a conference room paper containing the report of the task group.

33. The Committee took note of the information provided.

C. Review of a notification of final regulatory action for perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds

34. Introducing the sub-item, the representative of the Secretariat recalled that, at its fourteenth meeting, the Committee had reviewed notifications of final regulatory action for PFOA, its salts and PFOA-related compounds submitted by Canada and Norway and had concluded that both notifications had met the criteria of Annex II to the Convention. Accordingly, by its decision CRC-14/5, the Committee had recommended to the Conference of the Parties that it list PFOA, its salts and PFOA-related compounds in Annex III to the Convention as industrial chemicals and agreed that an intersessional drafting group would prepare a draft decision guidance document. At its fifteenth meeting, by decision CRC-15/4, the Committee had adopted the draft decision guidance document for PFOA, its salts and PFOA-related compounds (CAS Nos. 335-67-1, 3825-26-1, 335-95-5, 2395-00-8, 335-93-3, 335-66-0, 376-27-2, 3108-24-5) and decided to forward it, together with the related tabular summary of comments, to the Conference of the Parties for its consideration.

35. The Secretariat had subsequently received a new notification from Norway, which was intended to replace its previous notification. The Committee had before it the new notification (UNEP/FAO/RC/CRC.16/4) and the associated supporting documentation provided by Norway (UNEP/FAO/RC/CRC.16/INF/9), together with the original notifications by Canada and Norway (UNEP/FAO/RC/CRC.16/INF/7) and decision CRC-14/5, decision CRC-15/4 and the draft decision guidance document adopted at its fifteenth meeting (UNEP/FAO/RC/CRC.16/INF/8). The Committee also had before it a conference room paper containing the report of the intersessional task group that had been established to undertake a preliminary assessment of the notification and supporting documentation to determine whether it met the criteria of Annex II to the Convention.

36. The task of the Committee was to review the information on PFOA, its salts and PFOA-related compounds provided in the new notification from Norway, together with the supporting documentation, in accordance with the criteria set out in Annex II. If it concluded that the notification

met those criteria, the Committee could then consider amending its recommendation in decision CRC-14/5 and the draft decision guidance document adopted in decision CRC-15/4.

37. Ms. Jankowska, chair of the intersessional task group, presented the task group's report, which laid out the reasons for the conclusion that the notification and supporting documentation met the criteria set out in Annex II to the Rotterdam Convention.

1. Notification from Norway

38. The new notification was substantially identical to the previous notification from Norway, the main difference being that the more recent final regulatory action applied to a wider range of chemicals. The final regulatory action taken by Norway had been taken to protect human health and the environment so the task group had concluded that the criterion in paragraph (a) of Annex II had been met.

39. With respect to the criteria in paragraph (b) of Annex II, like the previous notification, the new notification indicated that the final regulatory action was based on three documents describing hazards and risks, and that reviews had been performed and documented according to internationally recognized scientific principles and procedures, thus satisfying the criteria in paragraphs (b) (i) and (ii). The criterion in paragraph (b) (iii) was also considered to have been met, as the final regulatory action had been based on a review of relevant scientific data that took into account the conditions prevailing in Norway. The notification thus met paragraph (b) of Annex II as a whole.

40. In terms of the criteria in paragraph (c) of Annex II, although the notification did not contain information on actual amounts used, the task group had agreed that the information provided on PFOA applications in Norway was sufficient to conclude that the final regulatory action would lead to a significant decrease in the quantity of PFOA, its salts and PFOA-related compounds used. Given that, according to the Norwegian evaluation, it was impossible to establish an acceptable level for the chemicals, and emissions of and exposure to those chemicals should therefore be limited to the greatest extent possible, the task group had also concluded that reduced exposure would result in a significant reduction of the risk to human health and the environment. Thus, the criteria in paragraphs (c) (i) and (ii) of Annex II had been met. The task group had also concluded that the concerns identified in Norway were likely to be encountered in other countries where the chemical was used, and that the criterion in paragraph (c) (iii) had therefore been met. Finally, while there was no information on trade in PFOA in Norway and PFOA was not produced in Norway, it was still used or imported as a chemical or impurity or in articles. Furthermore, information from ongoing discussions under the Stockholm Convention indicated that international trade in PFOA was ongoing. On that basis, the task group had concluded that the criterion in paragraph (c) (iv) had also been met and that the criteria in paragraph (c) of Annex II as a whole had thus been satisfied.

41. Finally, as the notification gave no indication that the regulatory action had been prompted by concerns regarding the intentional misuse of PFOA, the task group had concluded that the criterion in paragraph (d) of Annex II had been met.

42. Accordingly, the task group recommended that the Committee consider the new notification from Norway to have satisfied the criteria set out in Annex II to the Convention. It also recommended that the Committee update the rationale set out in the annex to decision CRC-14/5.

2. Discussion

43. During the ensuing discussion, all those who spoke concurred with the task group's conclusion that the new notification from Norway had met all the criteria set out in Annex II of the Convention.

44. Based on the views expressed during the discussion, the Committee concluded that the new notification met all the criteria in Annex II to the Convention and requested Ms. Jankowska, together with Mr. Seppälä, the drafter of the intersessional task group, to prepare a draft rationale for that conclusion on the basis of the draft revised rationale contained in the task group's report. The Committee also requested the Secretariat to prepare a draft decision by which the Committee would adopt the rationale for the conclusion, recommend the listing of PFOA, its salts and PFOA-related compounds in Annex III to the Convention and adopt the draft decision guidance document, should it decide to do so.

3. Proposed amendments to the draft decision guidance document

45. The representative of the Secretariat drew attention to a proposed revised draft decision guidance document submitted by the chair and the drafter of the intersessional task group, which was set out in a conference room paper.

46. Mr. Seppälä presented the proposed changes to the previous draft decision guidance document, most of which arose from the fact that the new notification from Norway covered a broader range of chemicals than the previous notification and the description of the new regulatory measures adopted in Norway.

47. Much of the ensuing discussion focused on the question of whether the draft decision guidance document should contain an exhaustive list of the chemicals in question, as well as how to clearly designate those chemicals, as some had not yet been assigned a CAS number. Members proposed several possible approaches, including referring to the list of PFOA-related compounds already drawn up by the Persistent Organic Pollutants Review Committee of the Stockholm Convention; providing a description of the chemicals with reference to examples that had CAS numbers, similar to the approach used for perfluorooctane sulfonic acid (PFOS), which was already listed in Annex III to the Rotterdam Convention; and providing an indicative list while requesting the Secretariat to publish a more extensive list on the Convention website, similar to what had been done for mercury compounds. Several members stressed that any ambiguity regarding the chemicals covered would make it difficult for Parties to manage the import and export of PFOA, its salts and PFOA-related compounds in the future if the chemicals were listed in Annex III. Several members also pointed out that PFOS should be excluded from the definition of the chemical in the draft decision guidance document, as it was excluded from the regulatory measures of Norway and thus did not overlap with the scope of the notification from Canada.

4. Next steps

48. The Committee agreed to establish a contact group on PFOA, its salts and PFOA-related compounds to prepare a revised draft decision guidance document on the basis of the proposed text set out in the conference room paper, taking into account the comments made during the discussion and submitted during the meeting and to add those comments to the compilation of comments (UNEP/FAO/RC/CRC.15/INF/6). Ms. Jankowska would serve as the chair of the contact group and Mr. Seppälä as the drafter. The chair of the contact group could, if necessary, convert the group to a drafting group limited to members of the Committee.

49. The representative of the Secretariat subsequently drew attention to a draft decision on PFOA, its salts and PFOA-related compounds, submitted by the Secretariat, which was set out in a conference room paper.

50. A brief discussion ensued on whether the operative paragraphs of the decision should include the new definition of the PFOA-related compounds.

51. The Committee agreed to request the contact group on PFOA, its salts and PFOA-related compounds to also prepare a revised draft decision on PFOA, its salts and PFOA-related compounds, on the basis of the draft submitted by the Secretariat and taking into account the comments in plenary.

52. Subsequently, the chair of the contact group reported back on the group's work. The Committee then considered the revised draft decision guidance document, the related table of comments and responses and the draft decision, prepared by the group; along with the revised draft rationale for concluding that the new notification from Norway met the criteria set out in Annex II to the Convention, prepared by Ms. Jankowska and Mr. Seppälä.

53. The Committee then adopted decision CRC-16/2, by which it adopted the rationale; recommended that perfluorooctanoic acid (CAS No. 335-67-1), its salts and PFOA-related compounds be listed in Annex III to the Convention as industrial chemicals; and adopted the revised draft decision guidance document for PFOA, its salts and PFOA-related compounds (UNEP/FAO/RC/CRC.16/5) and decided to forward it, together with the related tabular summary of comments (UNEP/FAO/RC/CRC.16/INF/11), to the Conference of the Parties for its consideration. The decision, to which the rationale is annexed, is set out in the annex to the present report.

V. Venue and date of the seventeenth meeting of the Committee

54. The Committee agreed to hold its seventeenth meeting at the headquarters of FAO in Rome from 20 to 24 September 2021, back to back with the seventeenth meeting of the Persistent Organic Pollutants Review Committee of the Stockholm Convention. The Committee also agreed that the arrangements might be adjusted, in consultation with the Bureau, including with respect to the length of the meeting, depending on the situation with regard to the COVID-19 pandemic and the number of notifications or proposals to be considered by the Committee.

VI. Other matters

A. Updates to the Handbook of Working Procedures and Policy Guidance for the Chemical Review Committee

55. Introducing the sub-item, the representative of the Secretariat recalled that, at its fifteenth meeting, the Committee had requested the Secretariat to revise the section of the Handbook of Working Procedures and Policy Guidance for the Chemical Review Committee in which one Party whose notification had been found not to meet all the criteria of Annex II was identified, and to describe that notification in generic terms, without naming the Party concerned, and to publish the revised Handbook on the website of the Rotterdam Convention. The Handbook had been updated accordingly and had been posted on the website of the Rotterdam Convention in October 2019.

56. Several members thanked the Secretariat for its efforts in updating the Handbook, which was an important reference document for the Committee members.

57. The Committee took note of the information provided.

B. Report on activities to facilitate effective participation in the work of the Committee

58. Introducing the sub-item, the representative of the Secretariat recalled that, by decision RC-9/2 on the operation of the Chemical Review Committee, the Conference of the Parties had welcomed the orientation workshop conducted by the Secretariat for new Committee members in 2018 and requested the Secretariat to establish and implement training activities within the framework of the technical assistance plan, subject to the availability of resources, for new and existing members and to report on the results to the Conference of the Parties at its tenth meeting. She then reported on the training activities undertaken since the Committee's fifteenth meeting.

59. An orientation workshop planned for April 2020 thanks to generous financial support provided by FAO had been cancelled due to the COVID-19 pandemic. The Secretariat had instead held a series of webinars, including one in May 2020 providing a general introduction to the work of the Committee; another in June 2020 to introduce the intersessional task group work and the criteria for reviewing notifications of final regulatory action; a third in July 2020 on draft decision guidance documents; and, finally, briefing webinars for all Committee members and observers on 20 and 26 August 2020. The Secretariat also planned to hold two de-briefing webinars on the outcomes of the current meeting in conjunction with the briefing webinars for the sixteenth meeting of the Persistent Organic Pollutants Review Committee.

60. A face-to-face subregional training course for the Western African subregion, on enhancing the skills of negotiators for meetings of the Basel, Rotterdam and Stockholm conventions and enhancing the effectiveness of the Rotterdam Convention by clarifying the process for the listing of new chemicals under the Convention, including the work by the Chemical Review Committee, had been held in Dakar in February 2020 thanks to the generous financial support provided by the Governments of Australia and Germany, and the European Union. Three current Committee members had participated in the training course, along with the Chair as a resource person.

61. Recalling that, in its decision RC-9/2, the Conference of the Parties had also requested the Secretariat to translate the Pocket Guide for Effective Participation in the Chemical Review Committee under the Rotterdam Convention, the representative of the Secretariat said that the guide had been translated and made available in the six official languages of the United Nations.

62. A video on the work of the Committee had been prepared during the fifteenth meeting with the aim of increasing the understanding and awareness of Rotterdam Convention Parties, observers and stakeholders of the work of the Committee, and had been made available in the multimedia gallery section of the Rotterdam Convention website.¹

63. The representative of the Secretariat also reported on the follow-up to a member's suggestion at the fifteenth meeting of the Committee that the Secretariat seek feedback from the participants of orientation workshops for new Committee members immediately following the workshop, as well as following their first participation in a meeting of the Committee, and that it use such feedback to improve similar workshops in the future. Given that the Secretariat had been unable to hold the

¹ <http://www.pic.int/Implementation/PublicAwareness/MultimediaGallery/tabid/2251/language/en-US/Default.aspx>.

face-to-face orientation workshop to date, the suggested feedback would be collected for the first time by means of an email survey for members following the current meeting.

64. One member encouraged all members to respond to the survey, emphasizing the importance of communicating their views so that the Secretariat could improve its guidance, webinars and in-person training sessions.

65. The Committee took note of the information provided.

C. Time schedule for intersessional task group work between the sixteenth and seventeenth meetings of the Committee

66. The Chair recalled that, in May 2020, the Secretariat had informed the Bureau and the Committee members that notifications of final regulatory action meeting the requirements of Annex I to the Convention had been received from at least two prior informed consent regions for nine chemicals. The notifications had also been forwarded through the PIC Circular published in June 2020. As the consideration of all nine candidate chemicals in addition to the draft decision guidance document for decabromodiphenyl ether would have been very challenging in an online format, the Bureau had decided that the Committee, at the current meeting, should focus on substantive matters for consideration and relevant to the discussion at the tenth meeting of the Conference of the Parties, namely PFOA, its salts and PFOA-related compounds and decabromodiphenyl ether, and to further consider how to handle the work on the notifications of final regulatory action received for the other eight chemicals. Given the possibility of additional notifications being received prior to the seventeenth meeting of the Committee and the schedule of the tenth meeting of the Conference of the Parties, planned for July 2021, the Bureau had subsequently decided to advise the Committee to bring forward its intersessional work on notifications for the other eight chemicals.

67. The representative of the Secretariat outlined the schedule proposed for their review. The Secretariat would make the advance version of the relevant documents for the seventeenth meeting of the Committee available to the Bureau by mid-November 2020, along with an initial draft of the preliminary review for the Bureau, to enable the Bureau to undertake its preliminary review from mid-November to mid-December 2020, including the establishment of intersessional task groups. The Secretariat would then make the relevant documents available to the Committee by mid-January 2021 to enable the intersessional task groups to carry out their work, in line with the guidance for intersessional task groups set out in section 1.7 of the Handbook, by the end of April 2021, including the steps of commenting by observers and finalization of the intersessional task group reports. Any additional notifications of chemicals eligible for review at the seventeenth meeting of the Committee would be reviewed intersessionally, in accordance with the usual time frame, during the months of May to September 2021.

68. Several members expressed support for the proposed schedule, although a number of new members raised concerns regarding the heavy workload involved in reviewing the notifications. Several other members noted, however, that the work of considering the chemicals would be divided among multiple intersessional task groups and that the Bureau could prioritize the work to ensure that it was manageable for the members.

69. The Committee took note of the information provided.

VII. Adoption of the report

70. The Committee adopted the report on the basis of the draft that had been circulated during the meeting, as orally amended and on the understanding that the finalization of the report would be entrusted to the Rapporteur, working in consultation with the Secretariat.

VIII. Closure of the meeting

71. Following the customary exchange of courtesies, the Chair declared the meeting closed at 2.20 p.m. (UTC+2) on Friday, 11 September 2020.

Annex

CRC-16/1: Decabromodiphenyl ether

The Chemical Review Committee,

Recalling paragraphs 1 and 2 of Article 7 of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade,

Recalling also its decision CRC-15/2, adopted at its fifteenth meeting, in which it recommended, in accordance with paragraph 6 of Article 5 of the Convention, that the Conference of the Parties list decabromodiphenyl ether (CAS No. 1163-19-5) in Annex III to the Convention as an industrial chemical,

Adopts the draft decision guidance document for decabromodiphenyl ether¹ and decides to forward it, together with the related tabular summary of comments,² to the Conference of the Parties for its consideration.

CRC-16/2: Perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds

The Chemical Review Committee,

Recalling Article 5 of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade,

Recalling also paragraphs 1 and 2 of Article 7 of the Convention,

Recalling further its decision CRC-14/5, adopted at its fourteenth meeting, in which it concluded that the notifications of final regulatory action for perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds submitted by Norway and Canada³ met the criteria set out in Annex II to the Convention, adopted the rationale for the Committee's conclusion set out in the annex to that decision and recommended, in accordance with paragraph 6 of Article 5 of the Convention, that the Conference of the Parties list perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds in Annex III to the Convention as industrial chemicals,

Recalling its decision CRC-15/4, adopted at its fifteenth meeting, by which it adopted the draft decision guidance document for perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds⁴ (CAS Nos. 335-67-1, 3825-26-1, 335-95-5, 2395-00-8, 335-93-3, 335-66-0, 376-27-2, 3108-24-5) and decided to forward it, together with the related tabular summary of comments,⁵ to the Conference of the Parties for its consideration,

Having considered the notification of final regulatory action for perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds submitted by Norway,⁶ replacing the previously submitted notification on the chemicals from Norway,

1. *Concludes* that the notification of final regulatory action for perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds submitted by Norway⁷ meets the criteria set out in Annex II to the Convention;
2. *Adopts* the rationale for the Committee's conclusion set out in the annex to the present decision;
3. *Recommends*, in accordance with paragraph 6 of Article 5 of the Convention, that the Conference of the Parties list perfluorooctanoic acid (PFOA) (CAS No. 335-67-1), its salts and PFOA-related compounds in Annex III to the Convention as industrial chemicals;

¹ UNEP/FAO/RC/CRC.16/3/Rev.1.

² UNEP/FAO/RC/CRC.16/INF/6/Rev.1.

³ See UNEP/FAO/RC/CRC.14/8.

⁴ UNEP/FAO/RC/CRC.15/3/Rev.1.

⁵ UNEP/FAO/RC/CRC.15/INF/6/Rev.1.

⁶ See UNEP/FAO/RC/CRC.16/4.

⁷ Ibid.

4. *Notes* that the definition of PFOA, its salts and PFOA-related compounds is provided in section 1 of the draft decision guidance document for PFOA, its salts and PFOA-related compounds;⁸

5. *Also notes* that the definition covers a large number of chemicals and that an exhaustive list of CAS numbers is not available;

6. *Recommends* that the Conference of the Parties, if it decides to list those chemicals in Annex III to the Convention, consider requesting the Secretariat to prepare, in consultation with the Chemical Review Committee, an indicative list of perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds, make it available on the website of the Convention and update it periodically;

7. *Adopts* the revised draft decision guidance document for perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds⁹ and decides to forward it, together with the related tabular summary of comments,¹⁰ to the Conference of the Parties for its consideration.

Annex to decision CRC-16/2

Rationale for the conclusion by the Chemical Review Committee that the notification of final regulatory action submitted by Norway in respect of perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds in the industrial category meets the criteria of Annex II to the Rotterdam Convention

1. The notification on perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds from Norway has been verified by the Secretariat as containing the information required by Annex I to the Rotterdam Convention. The notification underwent a preliminary review by the Secretariat and the Bureau, which evaluated whether or not the notification appeared to meet the requirements of the Convention.

2. The notification, the supporting documentation and the results of the preliminary review were made available to the Chemical Review Committee for its consideration (UNEP/FAO/RC/CRC.16/4, UNEP/FAO/RC/CRC.16/INF/9).

(a) Scope of the regulatory action notified by Norway

3. The regulatory action notified by Norway relates to perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds (collectively referred to hereinafter as PFOA) as an industrial chemical. It states that from July 2020, PFOA:

- (1) Shall not be manufactured, or placed on the market as substances on their own from 4 July 2020.
- (2) Shall not, from 4 July 2020, be used in the production of, or placed on the market in:
 - (a) Another substance, as a constituent;
 - (b) A mixture;
 - (c) An article, in a concentration equal to or above 25 ppb of PFOA including its salts or 1,000 ppb of one or a combination of PFOA-related substances.
- (3) Points 1 and 2 shall apply from:
 - (a) 4 July 2022 to:
 - (i) Equipment used to manufacture semi-conductors;
 - (ii) Latex printing inks.
 - (b) 4 July 2023 to:
 - (i) Textiles for the protection of workers from risks to their health and safety;

⁸ UNEP/FAO/RC/CRC.16/5.

⁹ UNEP/FAO/RC/CRC.16/5.

¹⁰ UNEP/FAO/RC/CRC.16/INF/11.

- (ii) Membranes intended for use in medical textiles, filtration in water treatment, production processes and effluent treatment;
 - (iii) Plasma nano-coatings.
- (c) 4 July 2032 to: medical devices other than implantable medical devices within the scope of Directive 93/42/EEC.
- (4) Points 1 and 2 shall not apply to any of the following:
 - (a) Perfluorooctane sulfonic acid and its derivatives which are listed in Part A of Annex I to Regulation (EC) No 850/2004;¹¹
 - (b) The manufacture of a substance where this occurs as an unavoidable by-product of the manufacture of fluorochemicals with a carbon chain equal to or shorter than 6 atoms;
 - (c) A substance that is to be used, or is used, as a transported isolated intermediate, provided that the conditions in points (a) to (f) of Article 18(4) of Regulation (EC) No 1907/2006 on the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) are met;
 - (d) A substance, constituent of another substance or mixture that is to be used, or is used:
 - (i) In the production of implantable medical devices within the scope of Directive 93/42/EEC;
 - (ii) In photographic coatings applied to films, papers or printing plates;
 - (iii) In photo-lithography processes for semiconductors or in etching processes for compound semiconductors;
 - (e) Concentrated fire-fighting foam mixtures that were placed on the market before 4 July 2020 and are to be used, or are used, in the production of other fire-fighting foam mixtures.
- (5) Point 2 (b) shall not apply to fire-fighting foam mixtures which were:
 - (a) Placed on the market before 4 July 2020; or
 - (b) Produced in accordance with point 4 (e), provided that, where they are used for training purposes, emissions to the environment are minimized and effluents collected are safely disposed of.
- (6) Point 2 (c) shall not apply to:
 - (a) Articles placed on the market before 4 July 2020;
 - (b) Implantable medical devices produced in accordance with point 4 (d) (i);
 - (c) Articles coated with the photographic coatings referred to in point 4 (d) (ii);
 - (d) Semiconductors or compound semiconductors referred to in point 4 (d) (iii).

PFOA, its salts and PFOA-related compounds in the scope of the regulation are defined as follows:

- (1) Perfluorooctanoic acid (PFOA) CAS No. 335-67-1 EC No. 206-397-9 and its salts;
- (2) Any related substance (including its salts and polymers) having a linear or branched perfluoroheptyl group with the formula C₇F₁₅- directly attached to another carbon atom as one of the structural elements;
- (3) Any related substance (including its salts and polymers) having a linear or branched perfluorooctyl group with the formula C₈F₁₇- as one of the structural elements.

¹¹ Regulation (EC) No 850/2004 was replaced with Regulation (EU) No 2019/1021 in 2019.

The following substances are excluded from this designation:

- (1) $C_8F_{17}-X$, where $X = F, Cl, Br$;
- (2) $C_8F_{17}-C(=O)OH$, $C_8F_{17}-C(=O)O-X'$ or $C_8F_{17}-CF_2-X'$ (where $X' =$ any group, including salts).

(b) Annex II paragraph (a) criterion

(a) *Confirm that the final regulatory action has been taken in order to protect human health or the environment;*

4. The Committee confirms that the regulatory action was taken to protect human health and the environment. The notification states that PFOA is a substance of very high concern with respect to its health and environmental properties. PFOA is harmful to the reproductive system, is carcinogenic, toxic and harmful to human health through repeated exposure, and is also an irritant. PFOA does not degrade in the environment. The notification describes the specific risks and concludes that it is impossible to establish an acceptable level for substances with such properties in the environment, and that emissions and exposure should be limited to the greatest extent possible.

5. In Norway, PFOA has been used in coating agents for carpets, textiles, furniture, shoes, paper, food wraps, printing plates, paint, floor wax, glue and photographic film. It is also present in products as a chemical impurity or as trace amounts of remaining starting materials from the production of other perfluorinated compounds. PFOA has been found in imported products such as textiles treated with perfluorinated compounds as well as in food contact materials with non-stick properties. PFOA was previously often present in small amounts in ski wax as a chemical impurity of the perfluorinated constituents in the wax.

6. The notification refers to a wide range of regulatory agency reviews: the impact assessment of regulating perfluorooctanoic acid (PFOA) and individual PFOA salts and esters in consumer products (UNEP/FAO/RC/CRC.16/INF/9, annex); European Food and Safety Agency (EFSA) document “Perfluorooctane sulfonate (PFOS), perfluorooctanoic acid (PFOA) and their salts: scientific opinion of the Panel on Contaminants in the Food Chain” (*EFSA Journal* 2008, 653, 1–131; UNEP/FAO/RC/CRC.16/INF/9, annex); European Chemicals Agency document “Member State Committee Support Document for Identification of Pentadecafluorooctanoic acid (PFOA) as a substance of very high concern because of its CMR and PBT properties” (UNEP/FAO/RC/CRC.16/INF/9, annex).

7. The Committee therefore confirms that the criterion in paragraph (a) of Annex II is met.

(c) Annex II paragraph (b) criteria

(b) *Establish that the final regulatory action has been taken as a consequence of a risk evaluation. This evaluation shall be based on a review of scientific data in the context of the conditions prevailing in the Party in question. For this purpose, the documentation provided shall demonstrate that:*

- (i) *Data have been generated according to scientifically recognized methods;*
- (ii) *Data reviews have been performed and documented according to generally recognized scientific principles and procedures;*

8. The government and agency reviews (UNEP/FAO/RC/CRC.16/INF/9, annex) provided are considered to be scientifically sound, generated according to scientifically recognized methods and reported according to generally recognized scientific principles and procedures.

9. The notification refers to a number of articles published in scientific peer-reviewed journals or government agency reports.

10. The Committee confirms that the criteria in paragraph (b) (i) and (ii) of Annex II are met.

- (iii) *The final regulatory action was based on a risk evaluation involving prevailing conditions within the Party taking the action;*

11. The notification from Norway and the supporting material provide a large amount of data relating to human exposure, as well as information from European Food and Safety Agency document “Perfluorooctane sulfonate (PFOS), perfluorooctanoic acid (PFOA) and their salts: scientific opinion of the Panel on Contaminants in the Food Chain” and European Chemicals Agency document “Member State Committee Support Document for Identification of Pentadecafluorooctanoic acid (PFOA) as a substance of very high concern because of its CMR and PBT properties”. The Norwegian

studies show that PFOA is transferred from the mother to the foetus, and that relatively high plasma concentrations are detected in blood samples from small children. Information on occupational exposure of professional Norwegian ski-waxers, leading to higher PFOA concentrations in blood serum, is also provided. Information in the risk evaluation points to widespread occurrence and concentrations of PFOA in the Norwegian environment (air, water and sediment). Persistence, bioaccumulation, temporal trends in some Arctic species (e.g., the polar bear) and evidence of long-range transport warrant concern.

12. The notification indicates that PFOA is a substance of very high concern with respect to its health and environmental properties. PFOA is harmful to the reproductive system, is carcinogenic, toxic and harmful to human health through repeated exposure, and is also an irritant. PFOA does not degrade in the environment. PFOA is a persistent, bioaccumulating and toxic (PBT) substance.

13. The notification concludes that it is impossible to establish an acceptable level for substances with such properties in the environment, and that emissions and exposure should be limited to the greatest extent possible.

14. The Committee therefore confirms that the criterion in paragraph (b) (iii) of Annex II is met.

15. The Committee confirms that the criteria of paragraph (b) of Annex II are met.

(d) Annex II paragraph (c) criteria

(c) *Consider whether the final regulatory action provides a sufficiently broad basis to merit listing of the chemical in Annex III, by taking into account:*

(i) *Whether the final regulatory action led, or would be expected to lead, to a significant decrease in the quantity of the chemical used or the number of its uses;*

16. The notification does not provide information on the amount used, but identifies different applications of PFOA in Norway. According to the regulatory action by Norway, PFOA shall not be manufactured or placed on the market as substances on their own, or be used in the production of or placed on the market in another substance, as a constituent, a mixture or an article, in a concentration equal to or above 25 ppb of PFOA including its salts or 1,000 ppb of one or a combination of PFOA-related substances. The restriction identifies several exemptions, some of which are time-limited and some open-ended.

17. Although the restriction contains several exemptions, the main use for PFOA, i.e., in the manufacture of polytetrafluoroethylene (PTFE), is prohibited. It can therefore be concluded that the restrictions have led to a significant decrease in the quantity of the chemical used in Norway.

18. The Committee therefore confirms that the criterion in paragraph (c) (i) is met.

(ii) *Whether the final regulatory action led to an actual reduction of risk or would be expected to result in a significant reduction of risk for human health or the environment of the Party that submitted the notification;*

19. The notification notes that it is impossible to establish an acceptable level for substances with such properties in the environment, and that emissions and exposure should be limited to the greatest extent possible. Therefore, the reduction of exposure of humans and the environment is expected to result in a significant risk reduction, especially considering the carcinogenic, mutagenic or reprotoxic (CMR) as well as PBT properties of PFOA.

20. The Committee confirms that the criterion in paragraph (c) (ii) is met.

(iii) *Whether the considerations that led to the final regulatory action being taken are applicable only in a limited geographical area or in other limited circumstances;*

21. The notification notes that concerns similar to those identified in Norway are likely to be encountered in other countries where the substance is used. PFOA is present in various globally distributed products. Adaptation of manufacturing methods to meet the Norwegian requirements may lead to reduced levels of PFOA in products in other countries as well. Several textile brands have phased out the use of perfluorinated compounds for water repellence treatment because of the negative attention directed at such compounds by various stakeholders.

22. The notification also cites Norway's "Evaluation of consequences of regulating PFOA and selected salts and esters of PFOA in consumer products", according to which PFOA is transported long distances via air and sea currents, and its presence has been detected in the Arctic in a variety of species, including sea birds, seals and polar bears. The substance has also been identified as CMR and PBT, which are relevant concerns for any State or region in which PFOA may be released.

23. The Committee therefore confirms that the criterion in paragraph (c) (iii) is met.
- (iv) *Whether there is evidence of ongoing international trade in the chemical;*
24. There is no information on trade of PFOA in Norway. However, the notification notes that, while PFOA is not produced in Norway, it is still used or imported either as a chemical impurity or in articles.
25. Information from the Persistent Organic Pollutants Review Committee of the Stockholm Convention on Persistent Organic Pollutants indicates ongoing international trade (UNEP/POPS/POPRC.12/11/Add.2 and UNEP/POPS/POPRC.13/7/Add.2).
26. The Committee therefore confirms that the criterion in paragraph (c) (iv) is met.
27. The Committee confirms that the criteria of paragraph (c) of Annex II are met.

(e) Annex II paragraph (d) criterion

- (d) *Take into account that intentional misuse is not in itself an adequate reason to list a chemical in Annex III.*
28. There is no indication in the notification that concerns about intentional misuse prompted the regulatory action.
29. On the basis of the above point, the Committee confirms that the criterion in paragraph (d) of Annex II is met.

(f) Conclusion

30. The Committee concludes that the notification of final regulatory action by Norway meets the criteria set out in Annex II to the Convention.
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