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INTERGOVERNMENTAL NEGOTIATING COMMITTEE FOR AN
INTERNATIONAL LEGALLY BINDING INSTRUMENT
FOR IMPLEMENTING INTERNATIONAL ACTION ON
CERTAIN PERSISTENT ORGANIC POLLUTANTS

Seventh session

Geneva, 14-18 July 2003

Item 5 of the provisional agenda*

Preparations for the Conference of the Parties

REGISTER OF SPECIFIC EXEMPTIONS**

Note by the secretariat

1. Article 4 of the Stockholm Convention on Persistent Organic Pollutants establishes a register for the purpose of identifying Parties that have specific exemptions listed in annex A or annex B of the Convention (paragraph 1). On becoming a Party a State may, by means of notification in writing to the secretariat, register one or more types of specific exemptions listed in annex A or annex B (paragraph 3). A registered specific exemption will expire five years after the date of entry into force of the Convention with respect to a particular chemical, unless an earlier date is indicated by a Party or an extension is granted by the Conference of the Parties upon a request from a Party holding an entry in the register of specific exemptions (paragraph 4). The process for reviewing entries in the register is to be decided by the Conference of the Parties at its first meeting (paragraph 5). Prior to a review, the Party concerned shall submit a report to the secretariat justifying its continuing need for the exemption and the report shall be circulated to all Parties (paragraph 6). A review shall be carried out on the basis of all available information and, thereupon, the Conference of the Parties may make such recommendations to the Party as it deems appropriate (paragraph 6). The Conference of the Parties may decide to extend the expiry date of a specific exemption for a period of up to five years taking due account of the special circumstances in developing country Parties and Parties with economies in transition (paragraph 7).

* UNEP/POPS/INC.7/1.

** Stockholm Convention, article 4 and annexes A and B; report of the Intergovernmental Negotiating Committee on its sixth session (UNEP/POPS/INC-6/22), annex I, decision INC-6/3.

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2. At its sixth session, the Intergovernmental Negotiating Committee, in its decision INC-6/3, requested the secretariat to prepare a report on:

(a) A possible format for country reporting of requests for specific exemptions;

(b) A possible process, including alternative approaches, that might be considered by the Conference of the Parties in deciding upon the review for the entries in the register called for in paragraph 5 of article 4 of the Convention;

(c) A possible format for a register of specific exemptions.

3. The report was to be based on views on the above submitted to the secretariat by Governments by 31 October 2002. The report was also to be based on documents UNEP/POPS/INC.6/4 and UNEP/POPS/INC.6/INF/6.

4. In response to the above invitation, submissions were received from 13 Governments and the European Union and its member States. The transcriptions of the actual submissions are available in background document UNEP/POPS/INC.7/INF/16.

5. Regarding the possible format for country reporting of requests for specific exemptions, several proposals were received on the information items that might be included. Based on these proposals the secretariat has prepared the draft format contained in annex I to the present note.

6. Regarding the review process for entries in the register, Government responses included the following views:

(a) An expert group to assist the Conference of the Parties in the review process may be needed, possibly making use of the Persistent Organic Pollutant Review Committee and any additional experts to assist it in the process;

(b) The review should apply to requests for both extensions and for new specific exemptions that may be requested for additional persistent organic pollutants;

(c) In the view of some Governments, the criteria and the process applied under the Montreal Protocol for the evaluation of essential use (included in the appendix to UNEP/POPS/INC.6/4) should be used as the basis for or taken into consideration in developing the review process, while other Governments felt that they should not be used as such;

(d) Decisions of the Conference of the Parties on whether or not to grant an extension should be taken, whenever possible, by consensus; if all efforts to reach consensus on a decision fail, however, the decision as a last resort should be adopted by a three-fourths majority vote; and

(e) Parties should report yearly to the secretariat on actual instances of use of the exemption.

7. Based on the input received and the documents referred to in paragraph 4 above, the secretariat has prepared an outline of a possible process for the review of entries in the register, contained in annex II to the present note.

8. Regarding a possible format for a register of specific exemptions, Governments generally supported the draft format contained in background document UNEP/POPS/INC.6/INF/6. A few proposals were made with regard to the information to be included. It was suggested that an explanatory footnote or checklist be added to describe which type of information should be included in the "remarks" column of the register. Based on the input received and the documents cited in paragraph 4 above, the secretariat has prepared the revised draft format of the register of specific exemptions that is contained in annex III to the present note.

Possible action by the Committee

9. The Committee may wish to consider:

(a) Approving, with any amendments, the format for country reporting of requests for specific exemptions contained in annex I to the present note for consideration and possible adoption by the Conference of the Parties;

(b) Requesting States that become Parties to follow the above format on an interim basis until the Conference of the Parties decides on the format for country reporting of requests for specific exemptions;

(c) Establishing a process to develop a possible review process for entries in the register of specific exemptions for consideration and possible adoption by the Conference of the Parties at its first session, using the information provided in annex II of the present note as a starting point;

(d) Approving, with any amendments, the format for a register of specific exemptions contained in annex III to the present note for consideration and possible adoption by the Conference of the Parties;

(e) Requesting the secretariat to establish a provisional register following the format which it has agreed upon until such time as a decision is taken by the Conference of the Parties.

Annex I

POSSIBLE FORMAT FOR COUNTRY REPORTING OF REQUESTS FOR SPECIFIC EXEMPTIONS

General information:

- 1) Contact information for nominating Party:
Name of contact person: _____
Ministry: _____
Address: _____
Telephone: _____
Fax: _____
E-mail: _____

- 2) Date of request for exemption: _____ (day/month/year)

- 3) Date of expiration of exemption: _____ (day/month/year)

- 4) Identity of substance:
Common name: _____
Chemical name: _____
CAS number: _____

- 5) Type of chemical product: _____

- 6) Utilization / uses: _____

- 7) Justification for the exemption: _____

- 8) Existing national regulatory controls:

- 9) Information on existing stockpiles:
Quality: _____ Quantity (in kg, as active ingredient for pesticides): _____
Quality: _____ Quantity (in kg, as active ingredient for pesticides): _____

- 10) Monitoring and inspection activities:

Information for requests concerning production:

- 11) Name of company(ies) / institution(s) authorized to produce:
 a) _____
 b) _____
 c) _____

Company / Facility	Production site(s)	Type of production (incl. formulation)	Commercial name(s) of product(s)	Envisaged annual production volume (in kg, active ingredient for pesticides)	Quality of the technical product (purity degree; impurities)	Expected duration of production	Estimated releases of the substance and other POPs into:			Category of persons exposed to the product
							Air	Water	Waste	
a)										
b)										
c)										

- 12) Export information:
 Country of destination: _____ Volume / Quantity: _____ Product/Formulation information: _____
 Country of destination: _____ Volume / Quantity: _____ Product/Formulation information: _____

- 13) Applied and planned administrative and other control measures to prevent illegal production (e.g. specific permit system, recording of production):

- 14) Applied and planned administrative and other control measures to eliminate or reduce releases of the substances and other POPs (e.g. specific permit system):

- 15) Other measures that will be taken during the exemption period to limit the risks to health and the environment:

Information for requests concerning use (information to be provided for all intended uses):

16) Use for which exemption is requested: _____

17) Name if company(ies) / institution(s) authorized to use the substance: _____

18) Envisaged quantity (kg/year):

19) Country of origin: _____

20) Source and quality of substance or formulated product (e.g. percentage of POP, formulation type):

21) Importance of specific use to society, including consequences of not making use of the requested exemption:

22) Information on use: _____

(a) For pesticides:

Target organism: _____

Routine applications: YES: _____ NO: _____

Emergency applications: YES: _____ NO: _____

Application technique: _____

Anticipated frequency: _____

Application amount (e.g. kg a.i. per hectare): _____

(b) For intermediates:

Site of processing plant: _____

23) Category of persons exposed to the product:

24) Control measures to prevent or minimize environmental release, including measures to prevent illegal use and efficacy and efficiency information of release prevention controls:

25) Intended steps to minimize use, including activities for development and introduction of non-POPs alternatives:

26) Information on alternatives and substitutes:

Alternative (incl. alternative methods)	Efficacy	Accessibility	Technical and economical feasibility	Regulatory status of the alternative

27) Waste and disposal implications:

Management of contaminated material: _____

Costs: _____

28) Other measures that will be taken during the exemption period to limit the risks to health and the environment:

Date of approval of request: _____

Annex II

POSSIBLE REVIEW PROCESS FOR ENTRIES IN THE REGISTER OF SPECIFIC EXEMPTIONS

Pursuant to paragraph 6 of article 4 of the Stockholm Convention on Persistent Organic Pollutants the review process for entries in the Register of Specific Exemptions will be as follows:

(a) A Party may submit a request for an extension of an entry in the Register by submitting a report to the secretariat justifying its continuing need for registration of the exemption. The extension request report shall be submitted at least [10] months before the meeting of the Conference of Parties that takes place before the expiry date.¹

(b) The secretariat shall circulate the extension request report to all Parties [and observers] at least [9] months before the meeting of the Conference of Parties and request that they submit other available information relevant to the report, [as far as possible in the English language] at least [6] months before the meeting of the Conference of Parties.

(c) The secretariat shall collect, translate as necessary, and submit all available information together with the extension request report to a [group of experts which is to be established by the Conference of Parties²] [and] [to all Parties], at least [5] months before the meeting of the Conference of the Parties.

[(d) The group of experts should meet at least [4] months before the meeting of the Conference of Parties to review the extension request report and any other available information relevant to it and develop recommendations to the Conference of Parties, taking into consideration technological and economic aspects including availability of alternatives and emissions control options. Wherever possible, consensus should be reached within the group on the final recommendation. If all endeavours for consensus fail, the different views shall be outlined in detail in a report to accompany the recommendations made to the Conference of the Parties.

[(e) The secretariat shall circulate the recommendation and any report of the group to all Parties [and observers] not later than [3] months before the meeting of the Conference of Parties.]

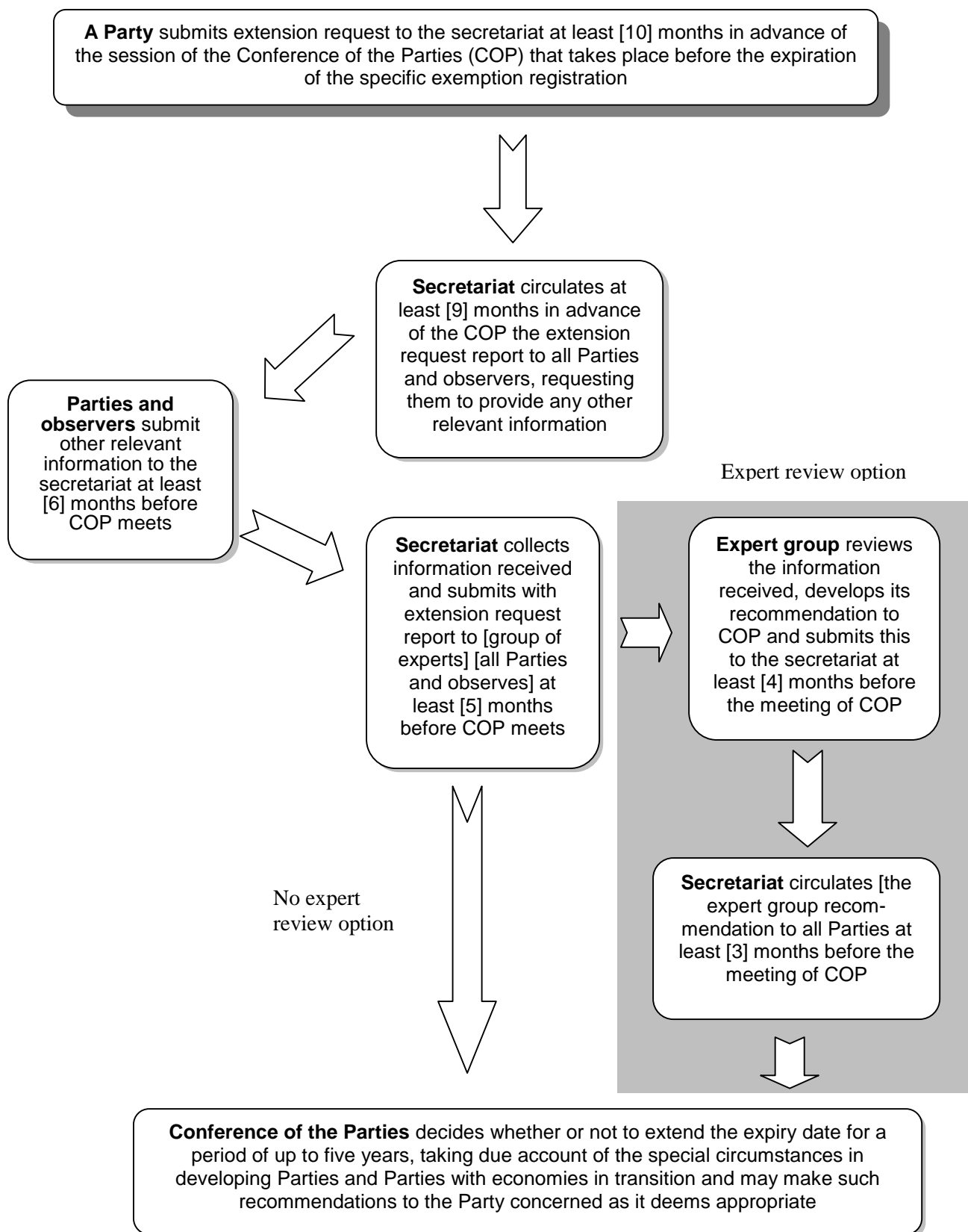
(f) The Conference of Parties shall decide at its meeting on the request for an extension of an entry in the Register, prior to the expiry date of the entry. Decisions should, whenever possible, be taken by consensus. If all efforts to reach consensus on a decision fail, [approval] [denial] of the extension requested shall require adoption by a [three-fourth] majority vote.³

¹ Proposals for information items required in a Party's report justifying the continuing need for an exemption included: first, the type of exemption; second, the time period needed for the exemption; third, maximum quantities of the substance to be produced and used; fourth, the reason behind the application for the extension; fifth, an evaluation of possibilities to limit the existing exemption; sixth, an evaluation of alternatives (costs, environmental risk, technical feasibility and accessibility); seventh, a plan for phasing out the exemption; and, eighth, the suggestion that Annex F to the Convention, on information on socio-economic considerations, provided a good model for the types of information that should be provided in the country reports justifying the need for a specific exemption

² It was suggested that the Persistent Organic Pollutants Review Committee with any additional experts could also perform the function of a group of experts to review an extension request report and other available relevant information. This option could affect the timing of the process.

³ Different views were expressed regarding criteria for justifying extensions: first, criteria should be developed based on the experience and deliberations of the Conference of the Parties; second, criteria applied under the Montreal Protocol for the evaluation of essential use (included in UNEP/POPS/INC.6/4) should be used as the basis; third, proposals for specific criteria that would be required included: (a) use is necessary for health and safety [and essential for the functioning of society (including cultural and intellectual aspects)]; (b) there are no technically and economically feasible alternatives available that are acceptable from the standpoint of human health and environment; (c) all economically viable measures are taken to reduce the essential use to the minimum and any production or use are carried out in a manner that prevents or minimizes human exposure and release into the environment; (d) production exemptions would be justified only if the substance cannot be obtained in sufficient quantity and quality from the reserves of existing or recycled stocks; and (e) Parties that have their exemptions extended should ensure that adequate legislative and administrative procedures are set so that the Government can control the production and use operations and should have to keep a record of the operations.

Figure 1: Possible review process for entries in the Register of Specific Exemptions



Annex III**REVISED DRAFT FORMAT OF THE REGISTER OF SPECIFIC EXEMPTIONS**

Chemical	Activity	Specific exemption	Party	Expiry date	Remarks ⁴
Aldrin CAS No: 309-00-2	Use	Local ectoparasiticide	<i>(Country name)</i>	<i>(Date)</i>	
		Insecticide	<i>(Country name)</i>	<i>(Date)</i>	
Chlordane CAS No: 57-74-9	Production	As allowed for Parties listed in the Register	<i>(Country name)</i>	<i>(Date)</i>	
	Use	Local ectoparasiticide	<i>(Country name)</i>	<i>(Date)</i>	
		Insecticide	<i>(Country name)</i>	<i>(Date)</i>	
		Termiticide	<i>(Country name)</i>	<i>(Date)</i>	
		Termiticide in buildings and dams	<i>(Country name)</i>	<i>(Date)</i>	
		Termiticide in roads	<i>(Country name)</i>	<i>(Date)</i>	
Additive in plywood adhesives	<i>(Country name)</i>	<i>(Date)</i>			
DDT ⁵ CAS No: 50-29-3	Production	Intermediate in production of dicofol	<i>(Country name)</i>	<i>(Date)</i>	
		Intermediate	<i>(Country name)</i>	<i>(Date)</i>	
	Use	Production of dicofol	<i>(Country name)</i>	<i>(Date)</i>	
			<i>(Country name)</i>	<i>(Date)</i>	
		Intermediate	<i>(Country name)</i>	<i>(Date)</i>	
Dieldrin CAS No: 60-57-1	Use	In agricultural operations	<i>(Country name)</i>	<i>(Date)</i>	

⁴ The remarks column may be used to specify the reason for exemptions; further limitations in the scope of the specific exemption to be applied by the Party (e.g. area, timing and techniques of applications as well as target organisms in the case of pesticides); expected emissions from production; whether intermediates are to be further processed on or off-site; degree of purity of the chemical with type of impurities; and estimated quantity required per year.

⁵ Production and use of DDT for the acceptable purpose of disease vector control in accordance with part II of Annex B are registered in a separate DDT register.

Chemical	Activity	Specific exemption	Party	Expiry date	Remarks ⁴
Heptachlor CAS No: 76-44-8	Use	Termiticide	(Country name)	(Date)	
			(Country name)	(Date)	
		Termiticide in structures of houses	(Country name)	(Date)	
		Wood treatment	(Country name)	(Date)	
		In use in underground cable boxes			
Hexachloro-benzene CAS No: 118-74-1	Production	As allowed for the Parties listed in the Register	(Country name)	(Date)	As an intermediate
	Use	Intermediate	(Country name)	(Date)	
		Solvent in pesticide	(Country name)	(Date)	
		Closed system site limited intermediate ⁶	(Country name)	(Date)	
Mirex CAS No: 2385-85-5	Production	As allowed for the Parties listed in the Register			
	Use	Termiticide	(Country name)	(Date)	

⁶ This request may be covered by note (iii) to Annex A.