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**United Nations
Environment
Programme**

Stockholm Convention on Persistent Organic Pollutants
Persistent Organic Pollutants Review Committee
First meeting
Geneva, 7–11 November 2005
Item 4 of the provisional agenda*
Operational procedures

Confidentiality arrangements**

Note by the Secretariat

I. Mandate

1. Paragraph 19 of the terms of reference of the Persistent Organic Pollutants Review Committee (UNEP/POPS/COP.1/31, annex I, decision SC-1/7) requires the Committee to “establish confidentiality arrangements as a matter of priority. In handling confidential information and in establishing such arrangements, the Committee shall ensure that paragraph 5 of Article 9 of the Convention is respected”.
2. Paragraph 5 of Article 9 of the Stockholm Convention on Persistent Organic Pollutants states that, for the purposes of the Convention, “information on health and safety of humans and the environment shall not be regarded as confidential”. Parties that exchange other information pursuant to the Convention “shall protect any confidential information as mutually agreed”.
3. In addition to the present note, the Secretariat has prepared an information document on confidentiality procedures and arrangements under selected international agreements and forums (UNEP/POPS/POPRC.1/INF/13). The Committee may wish to take the information contained therein into account while considering the issues listed below.

II. Issues for possible consideration by the Committee

4. On the basis of the examples and precedents described in document UNEP/POPS/POPRC.1/INF/13, the Committee may wish to consider the following issues related to the handling of confidential information and the establishment of relevant arrangements:

* UNEP/POPS/POPRC.1/1.

** Paragraphs 5 of Article 9 of the Convention; Report of the Conference of the Parties of the Stockholm Convention on Persistent Organic Pollutants on the work of its first meeting (UNEP/POPS/COP.1/31); Decision SC-1/7.

(a) *Possible formats of confidentiality arrangements* These arrangements could take the form of a code of ethics of an advisory nature or of a decision of the Committee that would be binding upon its members. Any of the selected formats could be submitted by the Committee to the Conference of the Parties under paragraph 35 of the terms of reference of the Committee;

(b) *Types of information covered by the confidentiality arrangements* According to paragraph 5 of Article 9 of the Convention, information on health and safety of humans and the environment shall not be regarded as confidential. Information and data that are already in the public domain may not be designated as confidential by the submitter of that information. Any other information, unless otherwise decided by the Committee, may be classified as confidential;

(c) *Procedures for designating information as confidential* When submitting information, Parties could identify and clearly label the specific items of information which they consider to be protected by domestic laws on confidentiality. The Committee may wish to give similar treatment to information that has been submitted by observers and designated by them as confidential;

(d) *Procedures for dealing with confidential sources of information* When a Party or an observer requests that a source of information be kept confidential, the Committee may consider respecting such a request. Consideration and assessment of information submitted by a source requesting confidentiality should not constitute a validation of the reliability of the source;

(e) *Procedures for handling confidential information* These might include procedures for physical protection of confidential information and identifying restrictions on access to and distribution of such information. Provisions for closed meetings in the rules of procedure of the Conference of the Parties could be used. Internal procedures for the Secretariat's handling of confidential information while assisting the Committee could be developed;

(f) *Sensitization of members of the Committee and invited experts to the issue of protection of confidential information* The Committee may wish to consider whether its members should be required to sign a formal declaration regarding the confidentiality of information similar to the declaration of interests required by paragraph 15 of the terms of reference and set out in decision SC-1/8 of the Conference of the Parties (UNEP/POPS/COP.1/31, annex I). A less formal approach might also be considered;

(g) *Procedures for dealing with cases of non-observance by members of the Committee of the agreed confidentiality requirements* These procedures could be similar to those set for individual cases of conflict of interest concerning the members of the Committee.

III. Possible action by the Committee

5. The Committee may wish to examine the above-mentioned issues and consider establishing an ad hoc working group under paragraph 29 of its terms of reference to work on arrangements for identification and handling of confidential information and data.

6. Upon conclusion of its work on the issue, the Committee may wish to submit the arrangements it has agreed to the Conference of the Parties with a request to proceed with legal screening and possible endorsement of the arrangements.
