



The Executive Body (EB) of the UNECE LRTAP Convention in their meeting of December 2007 mandated the Working Group of Strategies and Review to develop draft amendments to the POPs Protocol and to propose management options for the seven additional POP candidates.

The proposed amendments raise several serious concerns to our industry, in particular the suggestion that current 'Large volume production of chlorinated hydrocarbons' should be considered as a major source of POPs and the lack of consistency with other regulations on chemicals, in particular the Stockholm Convention on POPs and the Basel Convention.

WCC continues to have serious concerns with the rigour of the UNECE process for evaluating new POP candidate substances, as the introduction of several new management options as proposed amendments were not discussed or reported during the 'Track B phase'.

Our main concerns are listed below:

1. WCC strongly opposes the proposed listing in Annex VIII of 'large volume production of chlorinated hydrocarbons' as a major source of POPs (Amendment 12-iii). This is not in line with the Stockholm Convention BAT Guidelines (Annex C) where this industry sector is not at all identified as a source category.
2. WCC urges that amendments are made fully consistent with the Stockholm and Basel Conventions. They should not be duplicative nor conflicting, as is the case with several of the current proposals.
3. WCC is not in agreement with proposed amendments related to incineration plants claiming that 'biomass fuels with a high chlorine content can lead to increased PCDD/F formation'. Reducing halogenated feedstock of incinerators has repeatedly been shown not to reduce PCDD/F formation and therefore such amendments should be removed. The key requirement is that any incinerator facility should be properly equipped and operated in line with the BAT/BEP requirements of the Stockholm Convention.

A more detailed explanation of our concerns, some general comments, as well as more specific comments on the proposed amendments are given below.

We hope that Parties will take into account these observations and concerns in their preparation of the forthcoming WGSR meeting. If you have any questions or would like any additional information regarding the issues raised in this mail and attachments, please contact Dr. Allan Jones at allan.g.jones@sympatico.ca or Dr. Dolf van Wijk at dvw@cefic.be or the undersigned,

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World Chlorine Council detailed comments on the Draft Proposal for Amendments to the Protocol on Persistent Organic Pollutants

Many of the proposed amendments to the POPs Protocol would seem to be duplicative and in some cases conflicting with the significant work on POPs under both the Stockholm POPs Convention and the Basel Convention. This is not consistent with the intent outlined in the Strategic Approach to International Chemicals Management (SAICM) and the repeated calls within the UN system and international community to enhance synergies. We feel that governments should carefully assess any proposed amendments taking into account the broader goals and mechanisms for international chemicals management. Failure to do this may divert the international community's limited resources from other and more pressing environmental risks and necessary work under other international agreements. This is particularly true since many of the sources and challenges related to management of persistent organic pollutants are outside the UNECE region.

Of particular concern are the range of technical changes proposed relating to exemptions, best available techniques and emission limit values. In several cases the proposed amendments are not in line with the Track B reports which should form the basis for proposals for amendments. Therefore several proposals will not fulfill the requirements of EB Decision 1998/2, for example it will be unknown *whether the proposed management option is cost-effective and is likely to result in measurable reduction in releases of the chemical.*

Additionally, under the Stockholm Convention there have been extensive expert consultations on these matters under the Expert Group on Best Available Technologies and Best Environmental Practices (EGBATBEP). Yet these do not seem to have been considered in the development of the proposed POPs Protocol amendments to CLRTAP. The opportunity to achieve greater coherence between regional and global actions by parties to both conventions is being lost. This is of concern to industry.

We are particularly concerned with proposals in the draft relating to materials policy and restrictions on feed content for incineration. This approach has repeatedly been shown not to be an effective policy for reducing releases of unintentional POPs, as recognized in existing Canadian law and practice, the EU BREFs, the Stockholm POPs Convention BAT/BEP Guidelines and even the existing LRTAP Annexes.

In addition, with only a passing reference to residential wood stoves (page 10, para 9p) the proposed changes in this area focus entirely on industrial emissions. In particular we are concerned with identifying in ANNEX VIII 'large volume production of chlorinated hydrocarbons' as a major stationary source of POPs. This is inconsistent with the facts and ignores current practices as well the major achievement in emission reductions by this industry. There is little reference to the relative (and significant) contributions of rural waste burning and residential combustion where current experience on the reduction of dioxins and furans shows that these are the largest sources left to address.

I. Proposed Amendments to Annex I

General Policy for Listing Chemicals - As it relates to the general policy of listing additional chemicals, the determination of whether a chemical should be listed in Annex I and Annex II should be based on the factors outlined in EB Decision 1998/2 page 2, (i) and (ii). In particular consideration should be given to the following:

- *Whether measures already in place are sufficient to protect human health and the environment.* This evaluation should take into account existing programs (both voluntary and regulatory) in place at the national, regional and international levels.

- *Any risk management options for a chemical should be proportional to the potential severity of the risk being addressed.* As noted in the LRTAP POPs Track B Review, the review of a chemical is required to take note of paragraph 3 of Executive Body Decision 1998/2 regarding the environmental risks associated with the uses and releases of a substance. In other words, the evaluation of risk management options should consider the actual risks posed by a substance and any recommended risk management actions should be commensurate with those risks. Consideration of risk is critical in evaluating what potential risk management options might be appropriate if governments and stakeholders are to focus their limited resources on priority issues and the most effective options. If levels in the environment are declining or below levels likely to cause significant adverse effects, then a decision not to list chemicals or an Annex II listing may be most appropriate.
- *Whether there are uses that necessitate a likely ongoing exemption.* If so, an Annex II listing would likely be most appropriate.
- *Whether there are existing alternatives and whether these alternatives have been adequately assessed.* If there are no readily available or effective substitutes or if such substitutes have not been adequately tested for safety and efficacy, than a chemical should be listed in Annex II. As stated in Executive Body Decision 1998/2 the evaluation of alternatives must consider both the efficacy and the potential adverse effects of the potential alternatives.
- *Whether a chemical or use provides critical socio-economic benefits that warrant an ongoing exemption.* If so, an Annex II listing would likely be most appropriate.
- *Whether the proposed management option is cost-effective and is likely to result in measurable reduction in releases of the chemical.*
- *The selected risk management options for a chemical should consider the relevance of each use as a source or releases and the likely exposure resulting from a particular use.* If a particular use is a relatively minor source and/or there is limited exposure or release from that use than an Annex II listing may be most appropriate.

Pentachlorobenzene (PeCB) - WCC has expressed previously our opposition to the proposal to add pentachlorobenzene to the POPs Protocol. We continue to believe that the substance does not meet the criteria for addition. Nevertheless, in view of the recommendations from the 40th meeting of the WGSR, we would suggest that the proposed language of addition (ECE/EB.AIR/WG.5/2008/4 page 3) should refer only to the text of paragraph 5e. The alternative option (given in the footnote 13) is unnecessary and should not be considered.

Current control measures and application of BAT/BEP to address other byproducts are likely to reduce also any byproduct emissions of PeCB from industrial sources and waste incineration. Therefore, additional measures focused on byproduct emissions are unlikely to provide any detectable environmental benefit and as a result would not be cost-effective. Furthermore, existing measures have already resulted in a dramatic decline in environmental levels of PeCB such that levels in the environment are already significantly below levels likely to cause significant adverse effects such that global action is warranted. So again, additional measures focused on by-product emissions are unlikely to provide any detectable environmental benefit and as a result would not be cost-effective.

Hexachlorobutadiene (HCBD) – Similar to PeCB, with reference to HCBD the text in paragraph 5f is appropriate. The alternative option (given in the footnote 14) is unnecessary and should not be considered.

Given the experience and history with this substance under other regulations, addition to Annex III is unnecessary, since Parties to the Protocol have not been able to identify specific source categories that warrant BAT/BEP improvements requiring inclusion of the substance in Annex VIII. If addition to Annex III or VIII is deemed necessary by the Parties, the

language should preferably not require additional reporting or action by Parties as this substance has been dealt with exhaustively in the past. WCC also notes that:

- Levels in remote places (without local sources of HCBD) are either below the detection level or, when measurable, are detected at very low levels. The very limited current releases of HCBD are minimal due to process and product changes and various control measures. This is demonstrated by the fact that HCBD is rarely measured anymore in the environment, that trends - if measured - are strongly decreasing (over 90% reduction) and that several assessments suggest that it is very unlikely that HCBD poses environmental and/or human health risks through long-range (atmospheric) transport.
- Current control measures and application of BAT/BEP to address other byproducts are likely to also reduce byproduct emissions of HCBD. Therefore, additional measures focused on byproduct emissions are unlikely to provide any detectable environmental benefit and as a result would not be cost-effective.

II. Proposed Amendments to Annex III

As noted above, there is no need to list PCN, PeCB and HCBD in Annex III and therefore no need to establish reference years for these substances. For these substances existing regulatory and voluntary efforts have already resulted in significant reductions (over 90%). Furthermore, since these substances are no longer produced and existing control measures are already in place, there is minimal value in establishing reference years. If there is a decision to include a reference year for these substances then any date should take into account and allow recognition of the substantial reductions that have already been achieved.

III. Proposed Amendments to Annex V

There is significant duplication and potential conflict with other international agreements in the proposed LRTAP POPs Protocol's requirements for unintentional POPs – specifically Annex III – VIII. Rather than mandating specific requirements into the Protocol text which may become outdated or irrelevant, the Parties may wish to consider a more flexible approach and simply reference the BAT/BEP guidelines as established under the Stockholm POPs and Basel Conventions. If Parties are intent on mandating specific emission limit values, they could still do so without stipulating specific BAT/BEP requirements that are likely to change over time or that are unique to specific countries and specific sources. Referencing the Stockholm and Basel guidelines would have the added benefit of enhancing synergies on international chemicals management as supported by Canada and other Parties in SAICM and the UNEP Governing Council.

In particular, it is worth noting that Stockholm Convention BAT/BEP Guidelines for the Management of unintentional POPs and Guidelines for Management of POPs wastes and processes are also in place for regular review/update of BAT/BEP. If countries or regions would like to establish different approaches they are free to do so within their domestic legal frameworks but we suggest that the UNECE LRTAP POPs Protocol should not adopt separate or conflicting requirements contrary to the global international convention on POPs and the hard work that has gone into the development of the BAT/BEP guidelines.

With regards to the proposed amendments for Annex V, WCC notes the following:

- Proposed amendment 9 (a) is not appropriate. Materials policy and restricting feed content has repeatedly been shown not to be an effective policy for reducing releases

of unintentional POPs. This is well documented and is recognized in existing national laws and practice, the EU BREFs, the Stockholm POPs Convention BAT/BEP Guidelines and even the existing LRTAP Annexes. Furthermore, replacement of materials could result in *de facto* restrictions on a material/substance and as a result would be the equivalent of adding a chemical/substance or source to the Protocol without following the required procedures outlined in EB Decision 1998/2. This proposal should be deleted.

- Proposal 9 (b) is not necessary as a result of the factors already outlined in Annex V, 2. While well intentioned this narrow focus could undermine the broader intent of Annex 5. It is important to consider all environmental impacts and not just pollutants. The focus here should be as in the Stockholm POPs Convention. As noted during the Stockholm BAT/BEP negotiations, in many cases focusing too narrowly on specific pollutants could have unintended consequences. For example, efforts to minimize POPs using certain techniques could result in dramatic increases in other environmental impacts such as overall solid waste. Several examples of this were outlined in the UNEP BAT/BEP Expert Group discussions.
- Proposal 9 (d) (i) and (ii) regarding halogenated substances are not appropriate and should be removed. Materials policy and restricting feed content of incineration plants has repeatedly been shown not to be an effective policy for reducing releases of unintentional POPs. This is well documented and recognized in existing law, the EU BREFs, the Stockholm POPs Convention BAT/BEP Guidelines and even the existing LRTAP Annexes.
- We also note that the significant number of technical changes proposed relating to exemptions, best available techniques and emission limit values make only a passing reference to residential wood stoves (page 10, para 9q) as non-industrial sources and focus entirely on industrial emissions. There is no reference to the relative (and significant) contributions of rural waste burning, when experience on the reduction of dioxins and furans shows that the largest source left to address are the emissions from residential combustion, ‘barrel burning’, etc..
- We note the proposed requirement in para 9(b) ii) to take account of cost efficiencies in the reduction of other pollutants than the target substances. However, nowhere in the text is there the corresponding recognition that existing management options for substances already in the protocol will also address some of the proposed substances and that no new management options may be needed. This is relevant, for example, with combustion source emissions for dioxins and furans – addressing these sources will automatically reduce emissions of other chlorinated organics formed in the combustion process, e.g. pentachlorobenzene.
- The proposal to add a Section VII under Annex V needs to be specific to the chemicals being added to the treaty. It is inappropriate to refer to the broad class of chemicals in the title and throughout the text. Specific chemical names should be referenced only.

IV. Proposed Amendments to Annex VIII

- Proposal 12 (a) (iii) to add ‘large volume production of chlorinated hydrocarbons’ as a major source of POPs is incorrect and should be removed. As explained in our general comments this is completely against the facts of current practices in our industry. Major emission reductions and application of BAT/BEP procedures have been achieved since long and therefore these industries are broadly accepted not to be a major source of POPs. Based on extensive work this was also recognised in the

BAT/BEP guidelines under the UNEP Stockholm Convention and thus the proposed amendment would be both incorrect and inconsistent.