ECONOMIC COMMISSION FOR EUROPE

EXECUTIVE BODY FOR THE CONVENTION ON LONG-RANGE TRANSBOUNDARY AIR POLLUTION

Working Group on Strategies and Review

Forty-third session
Geneva, 9–13 March 2009

REPORT OF THE WORKING GROUP ON STRATEGIES AND REVIEW ON ITS FORTY-THIRD SESSION

CONTENTS

<table>
<thead>
<tr>
<th>Paragraphs</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction</td>
<td>1–4</td>
</tr>
<tr>
<td>I. Adoption of the agenda</td>
<td>5</td>
</tr>
<tr>
<td>II. Adoption of the report of the forty-second session</td>
<td>6</td>
</tr>
<tr>
<td>III. Options for revising the Protocol on Persistent Organic Pollutants</td>
<td>7–22</td>
</tr>
</tbody>
</table>

Sections I to VII of this document correspond to items 1–7 of the provisional agenda (ECE/EB.AIR/WG.5/93).
**CONTENTS (continued)**

<table>
<thead>
<tr>
<th>Paragraph</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Outcomes of the informal meeting on South-Eastern Europe and Eastern Europe, Caucasus and Central Asia</td>
<td>7-9</td>
</tr>
<tr>
<td>B. Options for revising the Protocol on Persistent Organic Pollutants</td>
<td>10-17</td>
</tr>
<tr>
<td>C. Possibilities to enhance coordination between the Protocol and the Stockholm Convention</td>
<td>18-22</td>
</tr>
<tr>
<td>IV. Options for revising the Gothenburg Protocol</td>
<td>23–27</td>
</tr>
<tr>
<td>V. Options for adding mercury-containing products to annex VI to the Protocol on Heavy Metals</td>
<td>28–33</td>
</tr>
<tr>
<td>VI. Other business</td>
<td>34–35</td>
</tr>
<tr>
<td>VII. Adoption of the decisions of the Working Group</td>
<td>36</td>
</tr>
</tbody>
</table>
INTRODUCTION

1. The forty-third session of the Working Group on Strategies and Review was held from 9 to 13 March 2009 in Geneva.

2. The session was attended by representatives of the following Parties to the Convention: Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Finland, France, Georgia, Germany, Greece, Hungary, Italy, Kyrgyzstan, Netherlands, Norway, Romania, Russian Federation, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, and United States of America. The European Community was also represented.

3. The World Chlorine Council and the Union of the Electricity Industry (EURELECTRIC) were represented.

4. The meeting was chaired by Mr. R. Ballaman (Switzerland).

I. ADOPTION OF THE AGENDA

5. The Working Group of Strategies and Review adopted the agenda of the meeting as set out in document ECE/EB.AIR/WG.5/93 and adjusted it to reflect the 2009 mandate on persistent organic pollutants (POPs) and heavy metals adopted by the Bureau of the Executive Body in March 2009.

II. ADOPTION OF THE REPORT OF THE FORTY-SECOND SESSION


III. OPTIONS FOR REVISNING THE PROTOCOL ON PERSISTENT ORGANIC POLLUTANTS

A. Outcomes of the informal meeting on South-Eastern Europe and Eastern Europe, Caucasus and Central Asia

7. The Chair informed the Working Group about the informal meeting on barriers and solutions to increase ratifications of the Protocols on POPs and Heavy Metals and the
Gothenburg Protocol\textsuperscript{2}, by countries in Eastern Europe, Caucasus and Central Asia (EECCA) and South-Eastern Europe (SEE) that had been held before the session at the initiative of the Czech Presidency of the European Union (EU). On the basis of a questionnaire sent to them in advance, the EECCA and SEE countries had reflected on obstacles and possible solutions for them to accede to and to effectively implement the three most recent Protocols to the Convention. The questionnaire and the informal meeting aimed to facilitate the feedback and clarify the positions of EECCA and SEE countries with respect to the ongoing negotiations for the review and revision of the Protocols by the Working Group.

8. The representative of the Czech Presidency of the EU, together with representative of Bulgaria, summarized the main outcomes of the discussions as they related to the Protocol on POPs. They stressed that although most EECCA and SEE countries had ratified the Stockholm Convention on POPs and had prepared action plans for the implementation of its obligations, a number did not have appropriate domestic legislation in place for regulating the production and use of POPs. Many countries had also underlined the absence of a cost-benefit analysis of regulating POPs and of inventories of POPs as being major barriers to their efforts to ban or limit these substances. Some countries had reported that they still imported and used leaded fuel. Regarding waste from POPs, in many cases installations to destroy or to dispose of the waste had been set up, but did not function properly due to lack of financial means to maintain and upgrade the technology.

9. During a tour-de-table, representatives of the EECCA and SEE countries agreed that application of best available technologies (BAT) and emission limit values (ELVs) set out in the Protocol on POPs would be feasible for them with respect to new installations. In most countries, the national legislation in place was already in line with the relevant obligations of the Protocol. As regards the existing stationary sources, however, the countries estimated that it would take them approximately 15 years to reach full compliance with the Protocol’s obligations.

B. Options for revising the Protocol on Persistent Organic Pollutants

10. The secretariat introduced a working document on options for revising the Protocol on POPs (ECE/EB.AIR/WG.5/2009/1), which it had prepared in consultation with the Chair following a request made by the Executive Body at its twenty-sixth session in December 2008\textsuperscript{3}.

11. On the basis of the document, the Working Group considered the status of work on the proposed amendments to the annexes to the Protocol that the European Community and Norway had submitted to the Executive Body at its twenty-sixth session and focused on those proposals

\textsuperscript{2} 1999 Gothenburg Protocol to Abate Acidification, Eutrophication and Ground-level Ozone.

\textsuperscript{3} See ECE/EB.AIR/96, para 54 (b).
on annexes I, II and III, which the breakout group that had met during the Executive Body session had not found consensus on. In addition, in parallel to the session, an ad hoc group of technical experts had continued its discussions on amendment proposals to annexes IV, V, VII and VIII.

12. The Chair proposed amending annex V on BAT in such a way that it would only contain the current BAT definition as well as the list of categories of major stationary sources from annex VIII. (Consequently, annex VIII would no longer exist.) The detailed BAT descriptions and lists of control techniques of an informative and recommendatory character would be taken out and moved to a guidance document, with a view to shortening the text of the Protocol and decreasing its technical complexity.

13. In the ensuing discussions, a number of delegations supported the Chair’s proposal for the annex V in principle, but wished to reserve their final positions until they could see a draft of the amended text of the annex and discuss it internally. EECCA and SEE delegations indicated that if the Protocol’s provisions were to be moved to a non-binding guidance document, it was important to include a reference to the guidance document in the body of the Protocol, so as to confer it an official character. Mr. J. Sliggers, Co-Chair of the Task Force on POPs, offered to draft a revised text of the relevant basic obligations set out in article 3 of the Protocol, to reflect the outcome of the discussion. The Working Group agreed to come back to the issue at its forty-fifth session in September 2009.

14. On behalf of the ad hoc group of legal experts, Ms. C. Hamilton, Chair of the ad hoc group, indicated that it could be beneficial if the amendment proposals of the Protocol and its annexes were to undertake a process of legal scrutiny. The ad hoc group of legal experts offered to consider relevant proposals in the context of the current text of the Protocol to ensure that these proposals worked from a legal point of view and identified any necessary consequential amendments.

15. The Chair reminded the delegations that in line with the current procedures for amending the Protocol set out in article 14 of the Protocol, Parties meeting at the next Executive Body session could base their decisions only on official amendment proposals that would have been submitted by one or several Parties and circulated to all the Parties at least 90 days in advance to that session.

16. The Working Group held a preliminary discussion about allowing 12 to 15 years for countries with economies in transition to apply ELVs and BAT to existing facilities. At time of the ratification, if such a country requested more than 8 and up to 15 years, such a request might be granted with provision of an action plan. The Working Group decided to consider this idea
further at its forty-fifth session in September 2009. If possible, it recommended that prior to this, EECCA and SEE countries conduct further informal discussions on the issue.

17. Regarding amendments to annex IV, Ms. Hamilton clarified that once the amendment was adopted by the Executive Body, the current ELVs would continue to apply for all Parties. It was only when the amendment would have been ratified by a sufficient number of Parties to enter into force that the new and updated ELVs would apply to those Parties that had ratified it. The current ELVs would continue to apply with respect to those Parties to the Protocol that had not ratified the amendment.

C. Possibilities to enhance coordination between the Protocol and the Stockholm Convention

18. Mr. D. Stone (formerly with Environment Canada) presented an informal document (no. 1) that he had prepared for the World Chlorine Council on “Possible technical and process efficiencies in the review of substances nominated to both the Protocol on POPs and the Stockholm Convention” in response to the interest expressed by a number of delegations at the twenty-sixth session of the Executive Body in 2008. The document assessed, inter alia, the respective review processes of new substances proposed for inclusion to the two legal instruments and considered ways to adjust the review process in use under the Protocol with that of the Stockholm Convention.

19. The Chair welcomed the paper but also reminded the delegations of the pioneering role of the Protocol on POPs, which had served as a model for regulating POPs at the global and European levels. He also noted the Protocol’s boarder scope in terms of the number of substances it covered when compared with the Stockholm Convention. He also stressed the important amount of information on POPs that was being generated under the Convention in terms of emission data, modelling and the effects-related work.

20. In the discussion that followed, the delegation of the Czech Republic, speaking on behalf of the EU, thanked the World Chlorine Council for the paper, acknowledged the need for harmonization and coordination between the two legal instruments on POPs, and emphasized that efforts to this end should be undertaken by the two constituencies. It noted that the EU Member States required more time to coordinate their positions with respect to the document and further urged that Parties to the Stockholm Convention be requested to provide their views on the discussion paper. The World Chlorine Council clarified that it had already transmitted the document to the Stockholm Convention secretariat, with a view to it being made available to the Parties to that Convention.
21. The delegations agreed that an ad hoc group of interested countries should further consider the informal document as well as its proposals for follow-up action prior to the Working Group’s forty-fifth session in September 2009. The United States expressed its interest in improving process efficiencies in the review of the dossiers and volunteered to lead the work of the ad hoc group on the basis of the informal paper. Parties were invited to forward their comments to the delegation of the United States to allow it to prepare a summary document in time for the Working Group’s September session.

22. The Working Group:

   (a) Took note of the mandate for it to work on POPs in 2009 as agreed by the Bureau of the Executive Body in March 2009;

   (b) Thanked the ad hoc group of technical experts and noted that the group had completed its work on annexes IV and V to the Protocol on POPs;

   (c) Took note of the working document on options for revising the Protocol (ECE/EB.AIR/WG.5/2009/1) and of the other considerations for increasing the flexibility for the EECCA and SEE countries, as well as of the discussions by the ad hoc group of technical experts on possible amendments to annex IV related to the ELVs and on possible amendments related to BAT to control emissions from major stationary sources in annex V;

   (d) Requested the secretariat to prepare a revised document reflecting the outcomes of the discussions at its forty-third session with respect to the options for revising the Protocol and its annexes for submission to its forty-fifth session in September 2009. The options discussed included the proposed amendments by the EU and by Norway, as well as the informal proposals put forward;

   (e) Invited the ad hoc group of legal experts to conduct legal scrutiny of relevant amendment proposals, in order to ensure that these proposals worked from a legal point of view and identified any necessary consequential amendments, for consideration by the forty-fifth session of the Working Group;

   (f) Noted the intersessional work that would be continued on the proposed amendments and thanked Canada for coordinating the discussions with a view to reporting on them for consideration by the Working Group at its forty-fifth session;
(g) Thanked the Czech Presidency of the EU and the delegation of Bulgaria for having organized the informal EECCA and SEE consultations back to back with the Working Group’s forty-third session, for examining options for facilitating the ratification and implementation of the three most recent Protocols to the Convention, and for having prepared a questionnaire to assist these discussions. It welcomed the information on the difficulties and needs related to the current Protocols on POPs and Heavy Metals provided by EECCA and SEE countries. It invited them to submit this information to the representative of the Czech Presidency of the EU, also in writing, by 30 March 2009, with a view to preparing an official document for consideration by the Working Group at its forty-fifth session;

(h) Noted with interest the informal document on “Possible technical and process efficiencies in the review of substances nominated to both the Protocol on POPs and the Stockholm Convention” prepared by Mr. Stone for the World Chlorine Council, and noted that the Council had also transmitted the document to the Stockholm Convention secretariat. The Working Group requested interested countries to provide their views on the informal document, with a view to presenting them for discussion to the Working Group at its forty-fifth session, and thanked the United States for volunteering to take the lead in this work.

IV. OPTIONS FOR REVISING THE GOTHENBURG PROTOCOL

23. Mr. R. Maas, Chair of the Task Force on Integrated Assessment Modelling, briefed the Working Group on the preliminary conclusions of the workshop on non-binding aspirational targets for air pollution for the year 2050 (Utrecht, the Netherlands, 5–6 March 2009). The workshop had concluded that with regard to the Gothenburg Protocol an inspiring long-term vision was needed, and that this should also be translated into environmental objectives and emission reduction requirements. Emissions reduction requirements for exposure were estimated to range from 40 to 90 per cent to meet levels of no effects. The workshop had considered that in general terms air pollution abatement would benefit from an ambitious climate policy, but that additional efforts would still be required to reduce nitrogen and local exposure. In turn, air pollution policies reducing levels of black carbon and ozone could offer short-term benefits for climate change policy. However, reducing sulphates and precursor gases for secondary particulate matter would temporarily increase the radiative forcing.

24. The Working Group discussed the role of methane and nitrogen as important linkages between air pollution and climate change, and requested to be further informed about these in the future, including about the effects and roles of the two pollutants. The Chair of the Working Group requested that possibilities for national aspirational targets be explored.
25. The Chair highlighted the importance of ensuring the exchange of information between the climate change and air pollution communities as well as of further reinforcing the contacts with the Task Force on Integrated Assessment Modelling and the Working Group on Effects.

26. The delegation of Sweden informed the session about the international workshop organized by the Swedish Environmental Protection Agency (Gothenburg, Sweden, 19–21 October 2009) to discuss air pollution policies and their contribution to tackling climate change. The workshop’s objective is to provide an input into international policy processes with respect to both air pollution and climate change.

27. The Working Group:

   (a) Welcomed and took note of the information provided by the Chair of the Task Force on Integrated Assessment Modelling, and invited the Task Force to pursue its work on the linkages between air pollution and climate change and to inform the main subsidiary bodies of the Convention on the outcomes of this work;

   (b) Encouraged the EECCA and SEE countries, in coordination with the Czech Presidency to the EU, to undertake further informal consultations focusing on the Gothenburg Protocol in connection with the Working Group’s forty-fourth session in April 2009;

   (c) Invited the Task Force on Reactive Nitrogen and encouraged the Working Group on Effects and its task forces to continue discussing the target-setting and recovery of the ecosystems in a long-term perspective in collaboration with the Task Force on Integrated Assessment Modelling, and requested that all main subsidiary bodies be kept informed regarding progress;

   (d) Welcomed the initiative of Sweden to organize a workshop on “Intermediate climate policies – the contribution of air pollution policies in relation to climate stabilization and co-control” from 19 to 21 October 2009 in Gothenburg.

V. OPTIONS FOR ADDING MERCURY-CONTAINING PRODUCTS TO ANNEX VI TO THE PROTOCOL ON HEAVY METALS

28. The Chair of the Task Force on Heavy Metals, Ms. K. Kraus (Germany), informed the Working Group about the procedure chosen for reviewing the proposal submitted by the EU to add mercury-containing products to annex VI to the Protocol on Heavy Metals. This proposal would be reviewed by the Task Force at its sixth meeting (Stockholm, 27–29 May 2009).
29. The United States and Canada felt strongly that a peer review process, as outlined in the generic guidelines for technical review, (EB.AIR/WG.5/2005/2, annex IV) and agreed by the Executive Body at its twenty-third session in 2005, would add considerable value. Such a process was necessary to ensure a robust review of proposals to amend the Protocol on Heavy Metals, and would ultimately result in a more credible outcome, to the benefit of the Protocol.

30. The Chair of the Task Force on Heavy Metals clarified that in line with the relevant provisions of the Protocol, the Executive Body decisions and the generic guidelines, a peer review process was optional. Following consultations, the vast majority of the Task Force members had not considered a peer review to be necessary given the substantive amount of work that the Task Force had already accomplished on the topic during the sufficiency and effectiveness review in 2006 and 2007. Instead, it had opted for the preparation of a draft document by an ad hoc drafting group of volunteered experts, including from North America, for consideration by the Task Force at its meeting in May.

31. Mr. Sliggers, reminded the session that the peer review process had originally been created for use under the Protocol on POPs, so as to be able to harness the required knowledge on toxicology from external experts for the review of the dossiers, as this knowledge was commonly not available among the Task Force members. This provision was then copied to the Heavy Metals Protocol process, as the two Protocols were considered to be very similar in many other respects. Mr. Sliggers expressed a view that, in hindsight, this may not have been necessary.

32. The Working Group considered the recent decision by the United Nations Environment Programme (UNEP) Governing Council to start elaborating a legally binding global instrument on mercury and suggested that the relevant work carried out under the Task Force on Heavy Metals be made available for this process. The Chair of the Task Force on Heavy Metals confirmed that that Task Force had prepared a comprehensive background document on options for updating the BAT and that this information could be used within the negotiation process under UNEP. The Working Group decided to invite a representative from UNEP to its forty-fifth session in September to provide information on the preparatory work for the global instrument on mercury and to be informed on the work undertaken by the Task Force.

33. The Working Group:

   (a) Took note of the mandate for it to work on heavy metals in 2009 as agreed by the Bureau of the Executive Body on 5 March 2009;
(b) Took note of the information provided by the Chair of the Task Force on Heavy Metals on the procedure to review the proposal submitted by the EU to add mercury-containing products to annex VI to the Protocol on Heavy Metals;

(c) Acknowledged that the Task Force on Heavy Metals would not conduct the peer review process that “may be undertaken” as outlined in the generic guidelines for technical review;

(d) Invited the secretariat to reflect in the report of the meeting the discussions held on the possibilities for increasing ratifications of the Protocol;

(e) Acknowledged the difficulties faced by the EECCA and SEE countries in establishing emission inventories of heavy metals, and urged the Executive Body to invite the EMEP Centre on Emission Inventories and Projections to support them;

(f) Drew attention to the information made available by the Task Force on Heavy Metals on more up-to-date ELVs and BAT for stationary sources;

(g) Expressed its interest in receiving information at the Working Group’s forty-fifth session from the UNEP Governing Council on the decision to begin a process of negotiating a legally binding global agreement on mercury, and acknowledged the importance of sharing information on relevant work on BAT and ELVs from mercury sources undertaken by the Task Force on Heavy Metals.

VI. OTHER BUSINESS

34. The Chairman reminded the Working Group about the standing mandate adopted by the Executive Body in 1999 (ECE/EB.AIR/68, annex III) and that this mandate is regularly complemented by an annual workplan. A draft of this workplan is adopted by the Working Group at its autumn session, with a view to its endorsement by the Executive Body in December.

35. The Chair stressed the importance of the timely adoption of its annual workplan by the Executive Body, thereby allowing the Working Group to operate and accomplish its work in the most optimal and effective way, and invited the Parties to submit relevant information and proposals to the secretariat for making them available to the delegations as early as possible in advance to the Working Group’s September session.

---

4 Cooperative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe.
VII. ADOPTION OF THE DECISIONS OF THE WORKING GROUP ON STRATEGIES AND REVIEW

36. In accordance with the revised practice continued by the Executive Body at its twenty-sixth session, the Working Group on Strategies and Review adopted the decisions taken during the session.