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Working Group on Strategies and Review

Forty-fifth session

Geneva, 31 August–4 September 2009

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

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¹ 1999 Gothenburg Protocol to Abate Acidification, Eutrophication and Ground-level Ozone.

I. INTRODUCTION

1. The forty-fifth session of the Working Group on Strategies and Review was held in Geneva from 31 August to 4 September 2009.

A. Attendance

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

3. Representatives of the Bromine Science and Environmental Forum (BSEF), Crop International (CI), the Centre for Integrated Assessment Modelling (CIAM) of the Cooperative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP), Dow Agrosiences LLC, Edison Electric Institute (EEI), EURELECTRIC, EUROMETAUX (the European Aluminium Association), EUROMOT (European Association of Internal Combustion Engine Manufacturers), EUROPA/CONCAWE (Oil Companies' European Organization for Environment, Health and Safety), the European Environmental Bureau (EEB), French-German Institute for Environmental Research, HBCD² Industry, United Nations Environment Programme (UNEP) Chemicals and the World Chlorine Council (WCC) also attended.

B. Organizational matters

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

5. The Working Group adopted the agenda of the meeting as set out in ECE/EB.AIR/WG.5/97 and Corr.1.

6. The Working Group considered and adopted the report of its forty-third session as set out in document ECE/EB.AIR/WG.5/94 and the report of its forty-fourth session as set out in document ECE/EB.AIR/WG.5/96.

² Hexabromocyclododecane.

II. OPTIONS FOR REVISING THE PROTOCOL ON PERSISTENT ORGANIC POLLUTANTS

A. Options for revising annexes I to VIII to the Protocol

7. The secretariat introduced document ECE/EB.AIR/WG.5/2009/6 presenting the status on work on options for revising the 1998 Protocol on Persistent Organic Pollutants (POPs), which it had prepared with the Chairman and in consultation with the ad hoc group of technical experts. On the basis of the document, the Working Group discussed the outstanding issues regarding the amendment proposals in each of the annex and decided on options to be forwarded for adoption by Parties to the Protocol at the twenty-seventh session of the Executive Body in 2009.

8. The Working Group considered the question of whether the proposed amendment options for the Protocol, as contained in document ECE/EB.AIR/WG.5/2009/6 and as further negotiated by the Working Group during its forty-fifth session, required a formal amendment proposal to be submitted to the Executive Secretary of the United Nations Economic Commission for Europe (UNECE) in accordance with Article 14 of the Protocol. This would entail that it be considered at the Executive Body's twenty-seventh session. In this regard, the ad hoc group of legal experts noted that the proposed amendment options under discussion had already been formally proposed by Parties to the Protocol at the twenty-sixth session of the Executive Body, in 2008. At that time, the Executive Body had directed the unresolved issues on those amendment proposal options to the Working Group to be addressed (ECE/EB.AIR/96, para. 54 (b)). In addition, in March 2009 the Bureau of the Executive Body had mandated the Working Group to continue negotiations with a view to finalizing discussions on amendments submitted by the European Union and Norway, and other formally proposed amendments to the annexes for consideration by the Parties to the POPs Protocol at the Executive Body's twenty-seventh session in December 2009 (ECE/EB.AIR/2009/4, annex). The ad hoc group of legal experts had therefore advised that the negotiated text produced by the Working Group at the end of its forty-fifth session, following consideration at its forty-third and forty-fifth sessions, should relate to the amendments formally proposed to the Parties in 2008. Consequently, no new formal amendment proposal would be required for the negotiated text to be considered at the Executive Body's twenty-seventh session in 2009, with a view to the adoption of the amendments set out therein.

9. During the discussions on the proposed amendments to the Protocol's annexes, the delegations of Canada and United States of America made a number of statements and invited the secretariat to reflect them in the report of the meeting.

10. Regarding annex I to the Protocol, the delegation of Canada stated it had concerns about the proposed amendment to delete the production exemptions for dichloro-diphenyl-trichloroethane (DDT), since it believed that the capacity to produce DDT in the UNECE region may be needed in the event of a significant public health emergency outside the region.

11. As regards short-chain chlorinated paraffins (SCCP), the delegation of United States of America noted that it continued to have concerns about the process by which SCCP had been proposed for addition to the POPs Protocol, and remained unconvinced by the scientific evidence that its listing was appropriate at this time. It pointed out, however, that it did not wish to block the view of the Parties. In connection with the recommendation of the Working Group to list SCCP in the annexes to the Protocol on POPs, the United States delegation emphasized the importance of considering amendments that added substances to annexes individually, rather than bundling them together in one amendment. This approach would ensure that Parties would be able to ratify as many additional substances as possible even if they were unable to ratify all of them. This would further the collective goal of maximizing ratifications, and would also be consistent with the approach adopted by the Stockholm Convention on POPs.

12. The delegation of Canada stated that, due to ongoing domestic consultations for actions on chlorinated paraffins, it could not fully accept the proposed list of exemptions for this chemical in annex II. It indicated, furthermore, that it would be prepared to propose any additional required exemptions by the twenty-seventh session of the Executive Body.

13. Regarding the proposed amendments to annex IV to the Protocol, the United States delegation noted that it could not support the inclusion of emission limit values (ELVs) for dioxin and furan emissions from sinter plants, secondary steel production, electric arc furnaces and secondary production of copper. The United States was and would be reassessing the risks from air pollutants, including dioxins and furans, from these source categories.

14. Regarding annex IV, the delegation of Canada stated that it did not support the introduction of the source categories “Secondary production of aluminium and “Secondary production of copper”, as it was unknown if these categories represented a major source of dioxins and furans across the UNECE region.

15. As regards annex VIII, the delegations of Canada and of the United States noted that they could not support the proposed addition of a category 15 “Installations for recycling or shredding of municipal and industrial waste” in this annex. Canada was not clear how facilities that recycled or shredded waste could be sources of dioxin or furans, nor was it understood what best available techniques/best environmental practices (BAT/BEP) measures could be taken for this

source category. The United States was not convinced that this proposed category was a major stationary source of unintentional POPs.

16. The Working Group:

(a) Welcomed the contributions made by the Task Force on POPs, the ad hoc group of technical experts, the ad hoc group of legal experts and the ad hoc drafting group to the work on the revision of the annexes to the Protocol on POPs;

(b) Thanked the Swedish and the Czech Presidencies of the European Union (EU) for having organized informal and consultations with countries in Eastern Europe, Caucasus and Central Asia (EECCA) and South-Eastern Europe (SEE) back to back with the Working Group's forty-third, forty-fourth and forty-fifth sessions. This had been done with a view to examining options for facilitating the ratification and implementation of the three most recent protocols to the Convention;

(c) Took note of the working document on options for revising the Protocol on POPs (ECE/EB.AIR/WG.5/2009/6);

(d) Decided to invite the secretariat to forward the options for revising the annexes to the Protocol, as amended and as initially scrutinized by the ad hoc group of legal experts in parallel to the session, to the twenty-seventh session of the Executive Body in December 2009 for adoption by the Parties to the Protocol. The forwarded options covered the potential revisions to annexes I to VI and VIII as well as the proposals to turn chapters III to V of annex V into a guidance document and to delete annex VII;

(e) Recommended to the Executive Body that annex V (chapters III–V) be turned into a guidance document, and invited the secretariat, following consultations with the Co-Chairs of the Task Force on POPs, to forward the draft guidance document for adoption by the Parties to the Protocol at the Executive Body's twenty-seventh session;

(f) Noted that the negotiating text produced by the Working Group at its forty-fifth session related to the amendments that were formally proposed to the Executive Body's twenty-sixth session in December 2008. Therefore, no new formal amendment proposal would be required for the negotiating text to be considered at the twenty-seventh session of the Executive Body in December 2009, with a view to adopting the amendments set out therein;

(g) Decided on possible actions for increasing ratifications in EECCA and SEE, including flexibilities regarding ELVs as well as the application of BAT and timescales for

implementation, and invited the secretariat to include these actions into the EECCA Action Plan and to forward them to Executive Body at its twenty-seventh session in December 2009;

(h) Invited delegations to consider possibilities for providing bilateral support and capacity-building activities for countries in EECCA and SEE, to assist them in their efforts to ratify the three most recent protocols to the Convention.

B. Amendments to articles 14 and 16 to the Protocol

17. Regarding the amendments to the articles 14 and 16, which the Parties to the Protocol had already adopted at the Executive Body's twenty-sixth session in December 2008, the ad hoc group of legal experts noted that these two articles would need further amendments to reflect the discussions on options for revising the Protocol at the Working Group's forty-fifth session. This was because amendments needed to be introduced that were consequential to the amendments now proposed to the Protocol annexes.

18. If the amended articles 14 and 16 were opened for ratification by the Parties before the adoption of the other amendments, they would have to be further amended before their entry into force to take account of the additional consequential changes. This would create legal uncertainty for the Parties, for example if a Party chose to ratify the amendments that resulted from the Executive Body's twenty-seventh session this year, but did not choose to ratify the "current" amendments to articles 14 and 16 which resulted from the Executive Body's twenty-sixth session.

19. The ad hoc group of legal experts therefore strongly recommended that both sets of amendments be considered together, rather than being forwarded separately to the treaty depositary of the United Nations Office of Legal Affairs for them to be open for ratification by the Parties.

20. The legal experts noted further that if a decision were taken at the Executive Body's twenty-seventh session that all of the amendments should be bundled together into one, this could include the "old" amendment to articles 14 and 16 (as further amended)³. If it were decided that the substance amendments should be adopted separately, the amendments to articles 14 and 16 could be included in a single amendment with the other consequential amendments to the Protocol text and the non-substance-related amendments to the annexes.

³ More information from the ad hoc group of legal experts related to the bundling of amendments is contained in documents ECE/EB.AIR/WG.5/2006/11 and ECE/EB.AIR/WG.5/2007/5.

21. The Working Group noted that the negotiating text discussed at its forty-fifth session would require new amendments to articles 14 and 16 to the Protocol. Therefore, these new amendments should be considered together with articles 14 and 16 to the Protocol as amended by the Parties at the Executive Body's twenty-sixth session in 2008, rather than forwarding them separately to the treaty depositary of the United Nations Office of Legal Affairs to be open for ratification;

**C. Technical reviews of the five new substances proposed
for inclusion in the Protocol**

22. Mr. J. Sliggers, Co-Chair of the Task Force on POPs, presented progress in the work on track A and B reviews of the five new POPs candidates (endosulfan, trifluralin, pentachlorophenol, dicofol and HBCD) carried out by the Task Force, as requested by the Parties to the Protocol on POPs at the Executive Body's twenty-sixth session in 2008. The Working Group considered the conclusions of the Task Force for each of the proposed substances as contained in the report of the Task Force meeting held in Plovdiv, Bulgaria, from 1 to 5 June 2009 (ECE/EB.AIR/WG.5/2009/7).

23. The delegation of United States of America noted that there was insufficient information available to suggest whether or not concentrations of dicofol and HBCD found in the Arctic were likely to have significant adverse human health and/or environmental effects as a result of long-range atmospheric transport (LRAT). Furthermore, it also believed that there was insufficient information to suggest whether or not endosulfan and trifluralin were likely to have significant adverse human health and/or environmental effects as a result of LRAT.

24. The assessment of the delegation of Canada of the current information was that trifluralin was unlikely to have significant adverse human health and/or environmental effects as a result of its long-range transboundary atmospheric transport. It informed the meeting that as part of its pesticide re-evaluation programme, Health Canada's Pest Management Regulatory Agency (PMRA) had recently reviewed much more data than were available to the Task Force. Moreover, Health Canada had determined that continued use of the herbicide according to updated label directions would not cause unacceptable adverse effects on human health or the environment. As trifluralin was acceptable for continued use, and levels of trifluralin in the environment were potentially much higher near where it was used compared to in the Arctic, there was no reason to expect adverse effects in remote regions where levels were so very much lower. This agricultural herbicide was widely used in Canada and had been registered for over 45 years. Furthermore, there was no reason to believe that use would increase, or that levels of exposure in remote regions would increase. Although trifluralin met many of the numerical

hazard criteria of a POP, Canada considered the hazard criteria in an integrated weight of evidence approach that included review of actual field data in its assessment. A draft of the review and a list of references were available and could be obtained from the Canadian delegation. The full review should be published and available on the Internet shortly.

25. The Working Group:

(a) Welcomed the work of the Task Force on POPs in carrying out track A and B reviews of the proposed five new substances as requested by the Parties to the Protocol on POPs at the twenty-sixth session of the Executive Body in December 2008, i.e. endosulfan, trifluralin, pentachlorophenol, dicofol and HBCD, and thanked the peer-reviewers and their nominating countries for the work;

(b) Welcomed the additional information provided by Meteorological Synthesizing Centre-East to the Task Force, in relation to the potential of long-range transboundary atmospheric transport of the five substances reviewed;

(c) Took note of the report of the Task Force on POPs (ECE/EB.AIR/WG.5/2009/7), and agreed to submit it to the Executive Body for consideration at its twenty-seventh session in December 2009;

(d) Noted the conclusions of the Task Force regarding the technical content of the dossiers on endosulfan, dicofol and HBCD, together with the reservations of the United States as noted in the report, and recommended to the Executive Body that these substances be considered POPs as defined under the Protocol;

(e) Proposed to the Executive Body that the Task Force continue with the track B reviews of endosulfan, dicofol and HBCD and explore management strategies for them;

(f) Regarding pentachlorophenol (PCP), noted the conclusions of the Task Force that PCP itself was not considered a POP in the context of the Protocol as there was no agreement on whether or not there was sufficient information on the transformation products of PCP, such as pentachloroanisole (PCA), as well as impurities, to consider PCP as a POP. The Working Group recommended to the Executive Body that the Task Force continue with the track A review to assess PCA against the POPs criteria in the Executive Body decision 1998/2 and to strengthen the information pertaining to the linkages of PCP to dioxins, furans, and PCA found in the environment. The Working Group, noting the reservations of the United States, recommended that the Task Force pursue track B review in parallel;

(g) Noted that the Task Force, with the exception of Canada and the United States, had concluded, based on the technical contents of the dossier on trifluralin, that this substance should be considered a POP as defined under the Protocol;

(h) Noted that Canada has additional information available on the POPs characteristics of trifluralin, and recommended to the Executive Body that the Task Force continue with the track A and track B reviews of trifluralin in parallel, taking into consideration the new information from Canada.

D. Cooperation and possible process efficiencies between the Protocol and the Stockholm Convention

26. The Working Group discussed the informal paper prepared by a consultant to the World Chlorine Council on technical and process efficiencies for the review of substances submitted for inclusion into the Stockholm Convention and the Protocol on POPs. It focused on comments on the paper provided by the European Union (EU), Canada, the United States and the Netherlands, and compiled into an informal document by the delegation of the United States.

27. A representative of the UNEP secretariat to the Stockholm Convention provided views from that Convention's perspective, expressing its appreciation for the initiative taken and for looking positively into ways to improve the cooperation and process efficiencies between the two legal instruments. It noted that the Persistent Organic Pollutants Review Committee would be invited to discuss the topic of the paper at its fifth meeting in October 2009.

28. The Working Group:

(a) Took note of the possibilities for harmonization and coordination between the Protocol on POPs and the Stockholm Convention, in particular for improving process efficiencies in the review of the substances nominated for inclusion to both legal instruments, as had been proposed by the World Chlorine Council, and emphasized that efforts to this end should be undertaken by the two constituencies;

(b) Recognized that the delegations may ensure a better coordination of the national positions vis-à-vis the Protocol on POPs and the Stockholm Convention;

(c) Welcomed the report of the UNEP secretariat that the Persistent Organic Pollutants Review Committee of the Stockholm Convention would consider possible ways to

cooperate on issues concerning the review of substances submitted for inclusion in the Stockholm Convention and those submitted for the POPs Protocol;

(d) Suggested that the Executive Body, at its twenty-seventh session in December 2009, invite the secretariat to reinforce the exchange of information with the UNEP secretariat and to identify possible ways of cooperation between the technical bodies of the two Conventions.

III. OPTIONS FOR REVISING THE GOTHENBURG PROTOCOL

29. The representative of CIAM presented progress made in developing baseline scenarios for use in the revision. He noted that 13 Parties had submitted the requested energy and activity projection data. The assumptions on the gross domestic production, oil and coal prices varied. For non-EU countries, the model included the 2008 Energy Outlook of the International Energy Agency (IEA). For EU Member States, the 2009 update of the PRIMES energy baseline for the 27 EU Member States scenario, which was pending validation from those countries, included the effects of the recent economic crisis.

30. The Working Group noted that CIAM had provided three scenarios for use as baselines. In all the scenarios, the data for non-EU countries were based on the 2008 Energy Outlook of IEA; a new Energy Outlook, including the effects of the economic crisis, was being prepared this year. The Working Group took note that all scenarios except for the one based on 2009 PRIMES data included economic assumptions prior to the economic crisis. The scenarios were:

(a) National. Updates for 13 countries were used. For the rest of the EU Member States, the data from scenario on climate and energy were used;

(b) Climate and energy. The scenario was based on the economic assessment of the 2007 PRIMES scenario for EU Member States. It also included the EU climate and energy package, and EU targets for renewable energy;

(c) Coherent. The scenario was based on the recent 2009 PRIMES data for EU Member States. It also included the EU climate policy targets and the effects of the economic crisis, resulting in economic activity starting from a decreased level.

31. The Working Group noted that these three alternative projections could help in exploring the impacts of existing uncertainties in baseline assumptions. It also noted that one of the baseline scenarios could be used for further analysis with the full optimization mode of the GAINS (Greenhouse Gas and Air Pollution Interactions and Synergies) model, taking into

account available cost-effective energy conservation and fuel substitution measures to explore the co-benefits and trade-offs with climate change abatement.

32. The Chair of the Task Force on Integrated Assessment Modelling presented progress achieved in the work on the revision. He emphasized that no updates on energy projections had been received from EECCA countries, noting that the most cost-effective action in EECCA countries would be the implementation of EU legislation on large combustion plants and the introduction of the EURO-4 standard for vehicles. He noted that the current main environmental problem was deemed to be the excess nitrogen in the biosphere, which was not addressed by other major environmental policies. He also informed the session about preparations for the Task Force's thirty-sixth meeting, which would focus on agreeing on the details of the baseline scenarios and collaborative work on target-setting and ex-post analyses with the Working Group on Effects. He also presented progress achieved regarding the possibility of finding country-specific aspirational targets for 2050 from those identified at the continental level. He requested further guidance from the Working Group on Strategies and Review. The Working Group wished to be kept informed on the further development of policy-relevant target indicators, including the side effects for climate change, with respect to progress made with emission controls in shipping relating to the regulations of the International Maritime Organization.

33. The Chair of the Working Group on Effects informed the session on the recent progress in effects-oriented activities. He noted in particular the work on developing ozone flux impact pathway for crops, forest trees and semi-natural vegetation. He also drew attention to a new indicator relating critical loads with the loss of species richness. The Head of the Coordination Centre for Effects (CCE) of the International Cooperative Programme (ICP) on Modelling and Mapping presented plans for ex-post analyses. He noted in particular the feasibility of making use of target loads derived by using dynamic models in assessing aspirational targets for 2050. The Working Group on Strategies and Review welcomed the use of different scenarios and strategies in the ex-post analyses to address the robustness of resulting effects on the environment and health.

34. The Co-Chair of the Task Force on Reactive Nitrogen presented the work in updating the annex IX of the Gothenburg Protocol and strengthening the integrated nitrogen approach. He drew attention to the preparation of different ambition levels for controlling ammonia emissions from agriculture. The Working Group welcomed the progress made and encouraged the Task Force prepare information on abatement benefits and control costs.

35. The Co-Chair of the Expert Group on Techno-economic Issues, Mr. J.-G. Bartaire, presented the draft revised annexes IV, V and VI and the two draft new annexes on total suspended particulates (TSP) and on volatile organic compounds (VOCs) for products

(ECE/EB.AIR/WG.5/2009/17, ECE/EB.AIR/WG.5/2009/18 and Corr.1, ECE/EB.AIR/WG.5/2009/19, ECE/EB.AIR/WG.5/2009/20, ECE/EB.AIR/WG.5/2009/21 and ECE/EB.AIR/WG.5/2009/22). He also presented the revised guidance document, which had been made available as an informal document and then prepared and submitted as official documents as requested by the Working Group. He stressed that the Expert Group had formulated three options for ELVs in each annex, corresponding to three different ambition levels, as a basis for negotiations, without expressing any preference for any of them as this was beyond its mandate. The delegate of Finland presented the work of the Expert Group on Stationary Engines.

36. The co-Chairman drew the attention of the Working Group to a number of technical options for introducing flexibility in the revised Gothenburg Protocol, with a view to increasing ratifications. The Working Group might consider in particular making a distinction between new and existing plants, recognizing regional differences in applicable technologies, granting a longer period of time for existing plants to achieve compliance, considering different plant characteristics (e.g. plant size, operational regime, remaining lifetime), using the bubble concept for some complex activities and considering the techno-economic situation of the Parties. At the same time, it might set different ambition levels. The Expert Group on Techno-economic Issues had also provided a number of proposals for improvement of definitions to be used in the Protocol. In the discussion that followed, the co-Chairman and experts from the Expert Group answered questions from the floor regarding each annex.

37. The co-Chairman concluded that the Expert Group had completed the technical work necessary for the revision of the Gothenburg Protocol within the time limits set by the Working Group. He expressed the readiness of the Expert Group to remain at the disposal of the Working Group for further clarifications or questions to support the negotiations.

38. The delegation of Sweden, on behalf of the EU, welcomed the impressive work accomplished by the Expert Group and considered that this work constituted a basis for further discussions. It informed the Working Group that the EU would consider the flexibility measures proposed as well as the technical options.

39. The delegation of Switzerland stated that there was increasing evidence that small wood combustion installation sources were a significant source of dust in many countries, and proposed that such installations be included in the new technical annex on dust.

40. The delegation of the United Kingdom informed the session about the prospects of updating the guidance document on economic instruments by the Network of Experts of Benefits and Economic Instruments and the submission of a document later in the year. The delegation of

the Netherlands raised the issue of carrying out cost-benefit analyses for some of the scenarios to be developed in 2010. He noted that such a cost-benefit analysis was currently not on the workplan of the Network of Experts and that it did not have the resources to do this. The delegation of the European Community informed the Working Group that it was preparing a contract for cost-benefit analysis in relation to the National Emission Ceilings (NEC) Directive⁴ and the Gothenburg Protocol. The cost-benefit analysis would follow the same methodology as the one used for the Clean Air for Europe (CAFE) initiative, with minor amendments. The delegation of the United Kingdom agreed to contact the European Commission to see how this work could link up with the work of the Network of Experts.

41. The Working Group considered the working document on options for revising the Gothenburg Protocol (ECE/EB.AIR/WG.5/2009/4) and the additional proposals for revision collected by the secretariat (ECE/EB.AIR/WG.5/2009/16).

42. In the discussion that followed, delegations raised the issue of aligning the need for consistent definition of particulate matter (PM) and dust in the Protocol text and in the annexes, as well as the need for further work on the definition of VOCs. It was suggested that the definition in paragraph 12 (c) be revised from “TSP” to “dust”. One delegation suggested that this definition be moved to the new annex on PM, as the term “dust” was not used in the main Protocol text, but only in relation to ELVs in the technical annex. Another delegation raised the issue of including a reference to the list of countries in transition in the Protocol text.

43. With regard to article 3, paragraphs 2, 3 and 5, the delegation of United States recommended further consideration of potential approaches to decreasing the technical complexity of the annexes and increasing compliance flexibility, in order to encourage ratification by additional Parties. It further stressed that the choice of pursuing an amended or a new protocol would impact the scope of the provisions that must be negotiated. For example, if a new protocol were chosen, the United States would have to make new proposals regarding article 3, article 10 and others. The negotiating document did not currently reflect all such proposals.

44. With regard to the definition of pollutant emission management areas (PEMA) in annex III to the Protocol, the Working Group had been informed that no major changes in the geographical area or the profile of the regions included in the PEMAs of the Russian Federation had occurred, and therefore no reconsideration of annex III was required.

⁴ Directive 2001/81/EC of the European Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants.

45. In accordance with the request of the Working Group at its forty-fourth session in April 2009, the delegation of Sweden presented an informal document prepared by the ad hoc group of legal experts to illustrate particular issues to be taken into account regarding both an amended and a new protocol, focusing primarily on the situation in EECCA and SEE countries. The paper aimed to provide an independent legal basis for discussion and decision-making in accordance with the Working Group's request. It addressed two main points of consideration, namely (a) the ratification process, including time frames, and (b) the relationship between new and existing provisions. Although the focus was primarily on EECCA and SEE countries, the paper also considered the potential consequences of an amended and a new instrument in a broader sense that would also be applicable to other Parties, regarding, inter alia, the relationship between new and current provisions dealing with the same subject matter.

46. The Working Group:

(a) Welcomed the contributions made by the task forces, expert groups and centres in the work on the revision of the Gothenburg Protocol;

(b) Took note of proposed draft amended text of the Protocol as presented in document ECE/EB.AIR/WG.5/2009/4 and the additional proposals for amendments as presented in document ECE/EB.AIR/WG.5/2009/16, and invited the secretariat to present a consolidated text for discussion at its next session, reflecting the comments and suggestions made during the discussions;

(c) Expressed its appreciation for the work of the Expert Group on Techno-economic Issues in preparing draft revised versions of the technical annexes and guidance documents to the Gothenburg Protocol;

(d) Agreed that the revised draft technical annexes IV, V, VI and VIII as presented in documents ECE/EB.AIR/WG.5/2009/17, ECE/EB.AIR/WG.5/2009/18 and Corr.1, ECE/EB.AIR/WG.5/2009/19 and ECE/EB.AIR/WG.5/2009/20 and the new draft technical annexes on dust and on limit values for the solvent content of products as presented in documents ECE/EB.AIR/WG.5/2009/21 and ECE/EB.AIR/WG.5/2009/22 would constitute a basis for further negotiations;

(e) Invited the Expert Group on Techno-economic Issues to explore the possibility of establishing ELVs for PM for small combustion installations (< 50 MWth);

(f) Noted the need of exploring possibilities to develop critical levels for PM for inclusion in a revised Protocol;

(g) Invited Parties to examine the draft guidance document prepared by the Expert Group on Techno-economic Issues and to provide comments to the Expert Group as soon as possible, and not later than the end of 2009;

(h) Took note of the legal considerations of the ad hoc group of legal experts for an amended or new Protocol focusing on the Gothenburg Protocol and the EECCA and SEE countries;

(i) Invited CIAM to send the developed baseline data in the GAINS model format to Parties for validation; requested Parties within the geographical scope of EMEP to respond before the end of 2009; invited CIAM to present the consolidated baseline for discussion in the Task Force on Integrated Assessment Modelling in Jan/Feb 2010, and invited Parties outside the geographical scope of EMEP to submit similar data;

(j) Requested CIAM to explore the ambition levels proposed in the technical annexes developed by the Expert Group on Techno-economic Issues in relation to emission levels, costs, environmental endpoints and environmental effects; and noted that this technology-oriented analysis was in addition to the already proposed effects-oriented analysis of modelled, optimized scenarios covering the whole geographic scope of EMEP (ECE/EB.AIR/2008/13);

(k) Expressed its wish (i) to have annex I of the Gothenburg Protocol updated by the Working Group on Effects, in particular on environmental target-setting and the possible inclusion of PM, (ii) to report on progress made at the Executive Body's twenty-seventh session of the in December 2009, and (iii) to present the proposed amendments to annex I at the session of the Working Group in April 2010;

(l) Welcomed the plans to update empirical critical loads and dose-response functions and to have those results fed into the further development of indicators during 2010 on, for example, biodiversity;

(m) Requested the Task Force on Reactive Nitrogen to inform the Working Group on Strategies and Review and the Executive Body about progress made in updating annex IX, the guidance document and the framework code on agricultural practice, and to prepare a proposal for the forty-sixth session of the Working Group in April 2010.

IV. OPTIONS FOR REVISING THE PROTOCOL ON HEAVY METALS

47. The Chair of the Task Force on Heavy Metals reported on the outcomes of the track A and B reviews of the proposal of the EU to add mercury-containing products to annex VI to the

Protocol on Heavy Metals, as presented in the report of the Task Force on its sixth meeting held in Stockholm in June 2009 (ECE/EB.AIR/WG.5/2009/8). She also provided information on the provisional agenda for the workshop that the Task Force was organizing jointly with the Expert Group on Techno-economic Issues (St Petersburg, Russian Federation, 26–28 October 2009), to promote the ratification of the three most recent protocols by EECCA and SEE countries.

48. A representative of the UNEP secretariat, provided information on the intergovernmental process of negotiating a legally binding global agreement on mercury, which was expected to be completed by 2013. In the context of the negotiations, it welcomed the opportunity to make use of the information from the Task Force on Heavy Metals, EMEP and the Working Group on Effects regarding emissions on heavy metals, as well as their dispersion and on their effects on the environment and human health. The Chair of the Task Force on Hemispheric Transport of Air Pollutants reported on the availability of harmonized information on global emissions.

49. The Working Group:

(a) Thanked the representative of the UNEP secretariat for the information on the preparatory work for negotiating a legally binding global agreement on mercury, and expressed interest in receiving information also in the future;

(b) Suggested that the Executive Body, at its twenty-seventh session in December 2009, invite the secretariat to reinforce the exchange of information with the UNEP secretariat, including to make available the relevant work undertaken by the Task Force on Heavy Metals, EMEP and the Working Group on Effects;

(c) Thanked the Task Force on Heavy Metals for its work in carrying out track A review and in initiating the track B review of the proposal of the EU to add mercury-containing products to annex VI to the Protocol, as had been requested by the Parties to the Protocol on Heavy Metals at the Executive Body's twenty-sixth session in December 2008;

(d) Took note of the report of the Task Force on Heavy Metals (ECE/EB.AIR/WG.5/2009/8), and agreed to submit it to the Executive Body for consideration at its twenty-seventh session in December 2009;

(e) Noted the conclusions of the Task Force on the track A review of the proposal by the EU to add mercury-containing products to annex VI of the Protocol, that the following products intentionally containing mercury: batteries, measuring devices, vehicles, electrical and electronic equipment, fluorescent lamps and dental amalgam;

(f) Recommended to the Executive Body that the Task Force continue with the track B reviews of products and explore management strategies for them, taking into account the information provided by the United States, Canada and the EECCA countries expected by the end of 2009 as well as information related to the preparatory work for the global agreement on mercury;

(g) Noted the importance to EECCA and SEE countries of introducing flexibilities regarding timescales for implementation and the reference year for the obligations of the Protocol, as well as their interest in updating ELVs and BAT and the application of BAT;

(h) Invited delegations to consider possibilities for providing bilateral support and capacity-building activities for countries in EECCA and SEE to assist them in their efforts to prepare emission inventories for heavy metals.

V. EXCHANGE OF INFORMATION AND TECHNOLOGY

50. The secretariat introduced document ECE/EB.AIR/WG.5/2009/13, which presented progress in the implementation of the revised Action Plan for EECCA countries and had been adopted by the Executive Body at its twenty-fifth session. The secretariat further provided updated information about the start of the Czech-funded project to assist the Republic of Moldova in the implementation and ratification of the Gothenburg Protocol. A Memorandum of Understanding had been signed with the beneficiary organization designated by the Ministry of Environment of the Republic of Moldova, the Carbon Fund Office, which was preparing to start work on the project. It also provided updated information about progress in the implementation of the Dutch-funded project aimed at assisting SEE countries with implementing and ratifying the Convention's three most recent protocols, and in particular the results and the follow-up to the consultation meeting held in July 2009 in Skopje. The beneficiary countries had started work on the elaboration of action plans and had committed to finalizing them by the end of 2009.

51. The secretariat informed the Working Group that the United Nations Economic Commission for Europe (UNECE) would provide US\$ 40,000 to allow the start of the project for assisting EECCA countries with accession to the Convention's protocols. This had been presented by the delegation of the Russian Federation at the twenty-sixth session of the Executive Body and further elaborated at the forty-fourth session of the Working Group.

52. The delegation of Sweden provided information about the implementation of three bilateral projects, namely with the Russian Federation, Ukraine and Belarus. The first phase of the project with the Russian Federation had been completed and the second phase was under consideration. The initial aim of the project was to improve the GAINS database, but Sweden

could consider enlarging the project to other aspects of the Convention in order to facilitate ratification of the protocols.

53. The delegation of the European Community informed the Working Group about a major effort in six EECCA countries that was being funded through the framework of the EU European Neighbourhood Policy in the amount of €7 million over four years. The Air Quality Governance project aimed to improve the capacity of these countries to deal with air quality at the local, regional and global levels, but also to implement the provisions of the Gothenburg Protocol. The project was expected to start in 2010. The Working Group noted that this project should connect with other ongoing activities with similar aims, either bilateral projects or those initiated by the secretariat.

54. The delegation of the Czech Republic informed the session about the discussions held during the informal consultations between EECCA and SEE countries that had been organized by the Swedish EU Presidency before the Working Group session. She stressed the importance of having a coordinated contribution from these two subregions in the revision of protocols. She invited the delegations of these countries to provide their comments in writing on all outstanding issues concerning the amended Protocol on POPs, as well as any other comments and views concerning the revision of the two other protocols.

55. The Working Group:

(a) Welcomed the progress in the implementation of the revised Action Plan for EECCA presented in document ECE/EB.AIR/WG.5/2009/13, noting that some items of the Action Plan needed stronger efforts;

(b) Thanked the Swedish Presidency of the EU and the delegations of Bulgaria and the Czech Republic for having organized informal EECCA and SEE consultations back to back to the Working Group's forty-fifth session;

(c) Took note of the financial contribution by UNECE to the implementation of the design phase of the project proposed by the Russian Federation, and invited Parties to explore ways and means to contribute further to the funding of the full-scale project;

(d) Welcomed the steps taken by the secretariat and the progress achieved in the implementation of the project funded by the Netherlands for the strengthening in SEE of the ratification and implementation of the three most recent protocols;

(e) Welcomed the start of the project funded by the Czech Republic to support the Republic of Moldova with implementation and ratification of the Gothenburg Protocol;

(f) Welcomed the organization of a workshop to promote the ratification of the Protocol on POPs, the Protocol on Heavy Metals and the Gothenburg Protocol across the entire UNECE region, which was being planned jointly by the Task Force on Heavy Metals and the Expert Group on Techno-economic Issues (St. Petersburg, Russian Federation, 26–28 October 2009);

(g) Took note of the bilateral projects between Sweden and the Russian Federation, Ukraine and Belarus that aimed to improve data inputs for integrated assessment modelling;

(h) Took note of the planned project to be funded by the European Commission in the framework of its European Neighbourhood Policy, with the aim of improving the capacity of six countries in EECCA for air quality management and implementation of the provisions of the Gothenburg Protocol.

VI. DRAFT 2010 WORKPLAN

56. The Working Group discussed its draft workplan for 2010 (ECE/EB.AIR/WG.5/2009/14) and agreed on a number of amendments. It requested the secretariat to reflect these in a revised document, and to submit the revised workplan for consideration by the Executive Body.

VII. ELECTION OF OFFICERS

57. The Working Group on Strategies and Review re-elected Mr. J. Sliggers (Netherlands) as Vice-Chair. It thanked Ms. N. Karpova (Russian Federation), Mr. P. Jilek (Czech Republic) and Mr. D. Fantozzi (United States) for their contribution as Vice-Chairs, and elected Mr. I. Angelov (Bulgaria), Ms. K. Scavo (United States) and Ms A. Turlikyan (Armenia) as new Vice-Chairs.

VIII. OTHER BUSINESS

58. The secretariat presented an overview of the constantly increasing volume of documentation produced over the past few years under the Convention, stressing its huge costs and the difficulties it presented for the secretariat staff and the Document Management Section of the United Nations Office at Geneva in terms of processing the documents in a timely manner. Many of the documents could not be translated in time for the meeting, even though they were submitted within the deadlines, due to the limited human resources of the United Nations. The issue was further aggravated by the short deadlines for submission of documents due to the high

frequency of meetings under the Convention and its hierarchical structure. The secretariat noted that this amount of documentation could not be sustained, and that urgent steps were needed to reduce it to a manageable level.

59. The Working Group:

(a) Regretted that the Documents Management Section had not been able to provide translations of several working documents well in advance of the session, thus making it difficult for some delegations to prepare their positions for the negotiation process;

(b) Recognized that the expanding activities under the Convention were putting a strain on the resources of the secretariat, and recalled that the Executive Body at its twenty-sixth session had urged Parties that had not yet contributed to the voluntary trust funds to do so in order to ensure effective support of the secretariat at meetings.

IX. ADOPTION OF THE DECISIONS OF THE WORKING GROUP

60. 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.
