

Scrutinizing the options to revise the 1999 Gothenburg Protocol (2011/7)

Introduction

The text of the 1999 Gothenburg Protocol has been the starting point for negotiating an amended version. After several sessions of negotiation the text as it stands now (2011/7) has many additions and deletions. In this underlying document the negotiated text as it stands now has been scrutinized to see if the text could be improved.

In the text below it is indicated where inconsistencies might be present, where streamlining could be useful and sometimes comments are given on present negotiated text. On practical all points explanation is given what the problem is and suggestions are given to possibly improve the text.

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Name of the protocol and preamble

Lawyers indicate that you cannot change the name and preamble when amending the protocol.

Art 2

*Para 1. At the end of para 1 before (a) the text reads: “[**levels which would exacerbate near term climate change**] [**and considering co-benefits on near term climate change**]”. The position of this text does not flow. If the text stays it could be (e) “[**levels which would exacerbate near term climate change**] [**and considering co-benefits on near term climate change**]”.

*Para 1 a. Guidance doc on health and environmental improvements needs to be referred to/specified “**guidance doc nradopted by the EB at its ... session (decision 20../..)** and **any amendments thereto**”. This holds for all Guidance docs in the different articles when the Guidance docs are linked to this protocol (art 2.1 a, 2.1 b, 2.3, art 3.1 bold text 3 times, art 5.1 e, art 7.3 c).

*Para 2 and 3 on black carbon are more basic obligation language and not objective language (text could be moved to art 3, see suggestions art 3)

Art 3

*Para 1. Para 1 as it was, is the most important obligation and should better be kept solo. You could place the bold text of para 1 after 1 ter. Suggestion to split the text into 2 separate para's. One on the environmental and health improvements and one on black carbon. Note 1 that the sentence on environmental and health improvements as given in art 2.3 is more basic obligation language than the text in art 3.1 which uses describes. Suggestion to move art 2.3 to this para and delete the text of 3.1 on environmental improvements. Note 2 that the text on using BAT for black carbon is misplaced and not necessary. We have an obligation to use BAT in art 3.5. May be it is best to introduce BAT for black carbon in

that guidance doc and refer to the guidance doc for the reduction measures. A combination of art 2.3 and the text of 3.1 is possible the best solution and delete the current 2.3).

If the above is taken on board after 1 ter we could have the following two paragraphs:

1 quarter. The emission ceilings for 2020 as listed in annex II should result in environmental and health improvements as presented in guidance document ... adopted by the EB at its session (decision 20../..) and any amendments thereto.

1 quinter. In implementing measures to achieve their national ceilings for particulate matter, each Party should from those source categories known to emit high amounts of black carbon, to the extent possible, give priority to emission reduction measures which also significantly reduce black carbon in order to help avoid the exacerbation of near-term climate change taking into account guidance document ... adopted by the EB at its session (decision 20../..) and any amendments thereto.

The Parties shall, no later than two years after the date of entry into force of the present Protocol, evaluate mitigation measures for black carbon with a view to amending annexes X and VIII, as well as the guidance document ... adopted by the EB at its session (decision 20../..) and any amendments thereto.

*Para 1 bis. The end of this para with the (c) is a typo. The text should run as follows:

“, under the provision that the Party also fulfils the obligations of paragraphs 2 to 7 with regard to the pollutant for which the ceiling is exceeded.”

*Para 1 ter. If this para is a separate para then it is unclear what “these provisions” are. One could specify 1 ter by **“the provisions in paragraph 1 bis shall”** or simply **add the text of 1 ter to 1 bis** and delete the numbering 1 ter.

*Para 5. This para is a should while para 4 and 7 are shall. Also, the protocols on HM and POP when referring to BAT are shall. Should para 5 not be a **shall**?

*Para 6. The text currently reads:

Each Party shall, insofar as it is technically and economically feasible, and taking into consideration the costs and benefits, apply the limit values for VOC contents of products as defined in annex XI.

a. For products where we have an international market it is questionable to have the “technical and economical feasibility plus costs and benefits” clause. Also, for compliance checking this is difficult. If the clause remains then art 7.1 a needs to be amended to report and justify for using the clause in this para.

b. The text of this para is different then the other para’s linking ELVs with annexes. There the words **“as indentified in”** are used.

c. Furthermore, the question is if there is specific timing connected to the entry into force of the ELVs. If there is a need for timescales then this can be done in annex XI or via annex VII which then needs to be amended. **In both cases the text of para 6 needs to be adjusted to reflect the choice.**

*Para 7. In the document there are 3 versions of para 7. The second version misses the obligation to use BAT and the guidance doc. The third version links BAT and the guidance doc to the alternative reduction strategies. So there is no obligation to use BAT.

*Para 12. The obligation (should) for Parties to develop inventories for black carbon does not have to be spelled out. The Protocol in art 3.12 and in art 7.1 b provides for the enabling clause for the Guidelines on emission inventories. The obligation to develop, maintain and deliver inventories for black carbon is already there if the guidelines takes this on board. There is thus no need to spell out black carbon in the para. The route to get emission inventories via the guidelines on emission inventories and projections is also faster for they can be adopted at every EB session. Having the text in the Protocol has the disadvantage that it will take many years before it becomes effective. Suggestion to **delete the sentence on the inventories of black carbon and ask EMEP to propose the inclusion in the guidelines on emission inventories. Also, the last sentence of art 7.1 b before 7.1 c can be deleted.**

*Para 12. A handful countries may use emissions based on fuel consumed/used for its compliance checking. All countries deliver emissions based on fuel sold and the emission ceilings are calculated in GAINS with fuel sold. Should we make for 2020 and beyond the playing field equal for all countries? This can be done in the Guidance doc on emission inventories and **EMEP could be asked to see to text proposals to adjust that guidance doc to level the playing field for 2020 and beyond with emissions according fuel sold and keep the obligations before 2020 as they are now.**

Art 5.

*Para 1 e. The improvement of the environment and health as presented in the guidance doc is only part of the picture and is too limited. The text is probably better without referring to the guidance doc. The text could read:

(e) The environmental and health improvements associated with attaining emission ceilings for 2020 as listed in annex II, as presented in guidance doc no V.

Art 6

*Para 2. The guidelines here are guidelines adopted by Parties to the Convention and not Parties to the Protocol. Delete "~~the Parties at a session of~~".

Art 7

*Para 1 b and 1 c. The guidelines here are guidelines adopted by Parties to the Convention and not Parties to the Protocol. Delete "~~the Parties at a session of~~".

*Para 1 b. As explained in art 3.12 that para and also art 7.1.b provide for the enabling clause for the guidelines on emission inventories. This means that the guidelines are mandatory for the parties to the protocol. Thus there is no need to spell out what data needs to be delivered for the guidelines can do that better, can be changed more flexibly and can be more specific.

The list of substances needs to be deleted or else the obligation only refers to the 5 substances mentioned. The 5 substances needs to be changed to emission data. The list (i) – (iv) can be deleted with a little adjustment to make it a self standing sentence. One could leave the text on the Informative Inventory Report as this is linked to art 3. 1. bis. The complete text of para 7.1.b would then read:

Each Party within the geographical scope of EMEP shall report emission data on the basis of guidelines as prepared by the Steering Body of EMEP and adopted by the Parties at a session of the Executive Body, to EMEP through the Executive Secretary of the Commission. The report includes an Informative Inventory Report containing detailed information on reported emission inventories and emission projections, including specification of the effect of new sources and new emission factors found after the adoption of the Protocol.

*Para 1 b. As explained in art 3.12 the **obligation on inventories and projections for particulate matter including black carbon can be deleted** (last sentence).

*Para 6.

-States should be **Parties** to also include the European Union.

-The para should also refer to the improvements in environment and health of the guidance doc and thus also to art.3.1 quarter to make it consistent with the proposed changes. The text could read:

The Parties shall, at sessions of the Executive Body, arrange for the preparation, at regular intervals, of revised information on calculated and internationally optimized allocations of emission reductions for the ~~States~~ **Parties** within the geographical scope of EMEP, using integrated assessment models, including atmospheric transport models, with a view to reducing further, for the purposes of article 3, paragraph 1 **and 1 quarter, a.o.** the difference between actual depositions of sulphur and nitrogen compounds and critical load values as well as the difference between actual ozone **and particulate matter** concentrations and the critical levels of ozone **and particulate matter** specified in annex I **and guidance document ... adopted by the EB at its session (decision 20../..) and any amendments thereto**, or such alternative assessment methods as approved by the Parties at a session of the Executive Body.

*Para 7. The paragraph is unclear with respect to the complete article 7. Does it refer to just the reporting of emissions? Is it just the timing of the large sources? Is this reporting in stead of all other obligations in art 7?

Art 13

*Art 13.7. Typo: annexes IV to X should be IV to **XI**.

Special position of North America

*Art 3. 10. This para came into the 1999 Protocol because the US and Can at that time could not indicate their ceilings. Is this also now the case?

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*Art 3. 11. This para gives Can the right to change/add to the annexes. This is unprecedented. Should this not better dealt with through the review of the annexes and the amendment and adjustment procedure of art 13? Would Can be willing to withdraw this para?

*Art. 7.1 d. The information Parties within the EMEP territory shall and should supply automatically is for the North American countries to be requested by the EB. Has this request taken place at any EB meeting? To equal the playing field for all countries and to give the implementation committee the necessary information and to do away with bureaucracy the text could be made in line with that for the other Parties in two ways. One could delete the text on the request by the EB (option 1) or reverse the obligation from an opt-in to an opt-out (option 2).

Option 1. (d) Parties in areas outside the geographical scope of EMEP shall make available information similar to that specified in subparagraph (b). ~~if requested to do so by the Executive Body.~~ **Parties in areas outside the geographical scope of EMEP should make available information similar to that specified in subparagraph (c), if requested to do so by the Executive Body.**

Option 2. (d) Parties in areas outside the geographical scope of EMEP shall make available information similar to that specified in subparagraph (b), unless the EB, upon request of a Party, decides otherwise. **Parties in areas outside the geographical scope of EMEP should make available information similar to that specified in subparagraph (c), unless the EB, upon request of a Party, decides otherwise.**

Numbering of Annexes and Guidance docs

Do not renumber these since the current 1999 Gothenburg Protocol will remain in force. To avoid misunderstanding with the numbering of the annexes and guidance docs of the 1999 Gothenburg Protocol and the amended Protocol the numbering should be kept the same for both versions of the Protocol. The annexes as numbered at the end of 2011/7 are in line with this. The Guidance docs should be numbered as follows:

Guidance doc I = BAT doc on all 5 substances

Guidance doc II to IV will not be used for the amended protocol

Guidance doc V = control techniques for NH₃

Guidance doc VI = economic instruments

Guidance doc VII = environment and health improvements

Guidance doc VIII = mobile sources

The text of the protocol should be made in line with the numbering of the guidance docs above

Annexes

Reference in annexes to articles/paragraphs in the protocol and to annexes needs to be checked and adjusted. Example: annex VII, timescales. Now that paragraphs and annexes

have been renumbered in the negotiated protocol text the references do not always match anymore.