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EXECUTIVE BODY FOR THE CONVENTION ON
LONG-RANGE TRANSBOUNDARY AIR POLLUTION
Working Group on Strategies

REPORT OF THE TWENTY-FIFTH SESSION

Introduction

1. The twenty-fifth session of the Working Group on Strategies was held in Geneva from 19 to 23 January 1998.
2. The session was attended by representatives of the following Parties to the Convention: Austria; Belgium; Bulgaria; Canada; Czech Republic; Denmark; Finland; France; Germany; Greece; Hungary; Iceland; Ireland; Italy; Malta; Netherlands; Norway; Poland; Romania; Russian Federation; Slovakia; Slovenia; Spain; Sweden; Switzerland; Ukraine; United Kingdom; United States of America; and the European Community (EC).
3. A representative of Azerbaijan also attended, as did representatives of Australia and Panama.
4. A representative of the United Nations Environment Programme (UNEP) was also present.
5. The following non-governmental organizations were represented: the Edison Electric Institute; the European Chemical Industry Council (CEFIC); the International Chamber of Commerce (ICC); and the International Council on Metals and the Environment.
6. The meeting was chaired by Mr. L. BJÖRKBOM (Sweden).

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I. ADOPTION OF THE AGENDA

7. In accordance with the decision taken at its twenty-fourth session (EB.AIR/WG.5/50, para. 24 (b)), the Working Group decided to insert another agenda item "Preparation of a draft protocol on heavy metals" before item 2. With that amendment, it adopted the provisional agenda contained in document EB.AIR/WG.5/51.

II. PREPARATION OF A DRAFT PROTOCOL ON HEAVY METALS

8. The secretariat provided an overview of the documents prepared since the twenty-fourth session of the Working Group. The results of the negotiations on the heavy metals protocol at that session were appended to its report (EB.AIR/WG.5/50, appendix I), and showed changes to the draft composite negotiating text in document EB.AIR/WG.5/R.81/Rev.1 and to the protocol's annexes in document EB.AIR/WG.5/R.73/Rev.1. The complete text of the preliminary draft protocol, including the changes made by the legal experts as requested, was presented in document EB.AIR/WG.5/R.98.

9. Ms. K. HILLMAN (Canada), legal expert, presented the revisions to the preliminary draft protocol that she had introduced together with Mr. V. KEIZER (Netherlands), at the request of the Working Group at its twenty-fourth session (EB.AIR/WG.5/50, para. 9).

10. The Working Group:

(a) Decided to use the revised preliminary draft heavy metals protocol contained in EB.AIR/WG.5/R.98 as the basis for further negotiations;

(b) Expressed its great appreciation to the relevant services of the United Nations Office at Geneva for the speedy processing of the documents between its twenty-fourth and its twenty-fifth sessions.

11. The delegation of Denmark stated that it reserved its position on paragraph 3 of draft annex VI. To allow for a discussion at the time of the adoption of the protocol, it proposed to replace the text of that paragraph by: "Where a State determines that limiting the lead content of marketed petrol in accordance with paragraph 1 above would result in severe socio-economic or technical problems for it or would not lead to overall environmental or health benefits because of, inter alia, its climate situation, it may extend the time period given in that paragraph [up until 1 January 2005] [to a period of up to [5] [10] years], during which it may market leaded petrol with a lead content not exceeding 0.15 g/l. [During such a period the market share of unleaded petrol shall be at least 80%.] In such a case, the State shall specify, in a declaration to be deposited together with its instrument of ratification, acceptance, approval or accession, that it intends to extend the time period and present to the Executive Body in writing information on the reasons for this."

12. The delegation of Denmark explained that experts from a majority of UN/ECE member States had participated in the Task Force to Phase Out Leaded Petrol. Based on thorough investigations, the Task Force had concluded that it was both technically and economically feasible to accelerate the process of phasing out leaded petrol. The Task Force had recommended that by

1 January 2005 leaded petrol should not be marketed in Europe, noting that the expert from the Russian Federation had called for a delay until 1 January 2008.

13. Several delegations expressed their sympathy with the position of the delegation of Denmark. They included the delegations of Austria, Czech Republic, Germany, Netherlands, Norway, Poland, and Switzerland.

14. Other delegations, however, opposed some of the aspects of its proposal. In particular, the delegation of Italy pointed out that it could not accept the requirement for the market share of unleaded petrol to be at least 80%. The delegation of the Russian Federation stated that the decision by the Working Group on Strategies on the draft text for annex VI was based on governmental instructions concerning future legal obligations by Parties. It pointed out that the report of the Task Force that the delegation of Denmark referred to, had not yet been endorsed by an intergovernmental body and that it could provide the basis for a political declaration, similar to the declaration signed by some Parties on the occasion of the adoption of the 1988 Sofia Protocol on the Control of Emissions of Nitrogen Oxides or Their Transboundary Fluxes.

15. With respect to article 17 (entry into force), the Working Group agreed to keep the number of ratifications required for the entry into force at 16. It noted that the number of potential parties to the protocol, i.e. the number of Parties to the Convention, had increased to 43 and that therefore the share of ratifying Parties required for the entry into force was decreasing, but it decided to stick to the number of 16 Parties used previously to allow the protocol to enter into force fairly rapidly.

16. After thorough discussion of the protocol, the Working Group:

- (a) Adopted the text of the draft protocol on heavy metals, as amended;
- (b) Agreed on the revised draft Executive Body decision on the criteria and procedure for adding heavy metals and products to the heavy metals protocol, set out in annex I below;
- (c) Decided to recommend the Executive Body to adopt the draft decision at its special session on 19 March 1998; and
- (d) Also decided to recommend the Executive Body to adopt the draft protocol to the 1979 Convention on Long-range Transboundary Air Pollution on heavy metals at its special session in conjunction with the Ministerial Conference "Environment for Europe" to be held in Århus, Denmark on 23-25 June 1998.

III. PREPARATION OF A DRAFT PROTOCOL ON PERSISTENT ORGANIC POLLUTANTS

17. The Chairman introduced the preliminary draft protocol on persistent organic pollutants (POPs) appended to the report of the twenty-third session of the Working Group (EB.AIR/WG.5/48, appendix I) as well as the changes made to it at a meeting of heads of delegations on 14-15 December 1997 and set out in EB.AIR/WG.5/R.94. On the basis of that version the legal experts had revised the protocol text (EB.AIR/WG.5/R.95), as requested by the Working Group at its twenty-third session (EB.AIR/WG.5/48, para. 38 (b)). The

Chairman drew the Working Group's attention to the Executive Body's request to finalize the draft POPs protocol in time for its adoption at a special session of the Executive Body on the occasion of the Ministerial Conference "Environment for Europe".

18. Mr. L. LINDAU (Sweden), Chairman of a group of designated experts, presented the results of the work on the technical annexes to the protocol, including those of a meeting held in Geneva on 23 January 1998 and reflected in document EB.AIR/WG.5/R.99.

19. The Working Group decided to use the revised preliminary draft POPs protocol contained in EB.AIR/WG.5/R.95 and the annexes contained in EB.AIR/WG.5/R.99 as the basis for further negotiations.

20. After thorough discussion of the protocol, the Working Group:

(a) Adopted the text of the draft POPs protocol, as amended;

(b) Agreed to revise, as shown in annex II below, the draft Executive Body decision on information to be submitted and the procedure for adding substances to the protocol contained in EB.AIR/WG.5/R.94, chapter VIII;

(c) Agreed on the draft Executive Body decision on the procedure for amending decisions pertaining to the Implementation Committee set out in annex III;

(d) Decided to recommend the Executive Body to adopt the two draft decisions at its special session on 19 March 1998; and

(e) Also decided to recommend the Executive Body to adopt the draft protocol to the 1979 Convention on Long-range Transboundary Air Pollution on persistent organic pollutants at its special session in conjunction with the Ministerial Conference "Environment for Europe" to be held in Århus, Denmark, on 23-25 June 1998.

21. The Working Group expressed its great appreciation to its Chairman for having led it through the difficult negotiation processes in a way that had made it possible to arrive at the two agreements.

22. The representative of the European Community appealed to all Parties to the Convention to pursue these agreements by signing and subsequently ratifying the two protocols.

IV. ADOPTION OF THE REPORT

23. The Working Group adopted the report of its twenty-fifth session on 13 February 1998.

Annex I

**DRAFT EXECUTIVE BODY DECISION 1998/1 ON THE CRITERIA AND PROCEDURES FOR
ADDING HEAVY METALS AND PRODUCTS TO THE HEAVY METALS PROTOCOL**

The Executive Body,

Resolved to act as early as possible to develop criteria and procedures for adding heavy metals and products to the forthcoming protocol on heavy metals,

Adopts with reference to article 13, paragraphs 6 and 7 of the protocol, the criteria and procedures for adding heavy metals and products to annexes I, VI, or VII set out below.

**CRITERIA AND PROCEDURES FOR ADDING HEAVY METALS AND PRODUCTS
TO ANNEXES I, VI OR VII TO THE HEAVY METALS PROTOCOL**

1. A Party submitting a proposal to amend:

- (a) Annex I to add a heavy metal; or
- (b) Annex VI to add a product control measure; or
- (c) Annex VII to add a product or product group

to the protocol in accordance with article 13, paragraph 6, shall provide the Executive Body with information in accordance with paragraphs 2, 3 or 4 below, as appropriate.

2. Proposals to amend annex I to add a heavy metal shall include:

- (a) A risk profile and the following information:
 - (i) Environmental measurement and source apportionment data in areas remote from anthropogenic sources or data on long-range transboundary atmospheric transport modelling, including methodology, for the species that has known adverse effects which demonstrate the potential for long-range transboundary atmospheric transport;
 - (ii) Partitioning in environmental compartments, bioavailability, transformation processes, biomagnification, and accumulation which demonstrate environmental fate at locations remote from anthropogenic sources; and
 - (iii) Toxicity data which demonstrate the potential to cause adverse effects on human health or the environment.
- (b) Information, as available, on:
 - (i) Production/use/emissions;
 - (ii) Proposed control measures (e.g. technological equipment, process modification, and alternatives);

- (iii) The efficacy, applicability, risks and the quantifiable and non-monetary costs and benefits of the proposed control measures and alternatives; and
- (iv) The handling and disposal of the heavy metal resulting from the control measures.

3. Proposals to amend annex VI to add a product control measure shall include:

(a) A description of:

- (i) The product or product group, including its Harmonized Tariff Code, if applicable, to be subject to the control measure; and
- (ii) The proposed product control measure.

(b) Information, as available, on:

- (i) The manufacture, use and disposal of the product or product group to be subject to the control measure;
- (ii) The contribution of the product or product group to the total emissions of a heavy metal listed in annex I within the territory of the Party to the Convention and the UN/ECE region as a whole prior to any product management measure to reduce such contribution and the methodology used; and
- (iii) The efficacy, applicability, risks and quantifiable and non-monetary costs and benefits of taking the proposed measure.

4. Proposals to amend annex VII to add a product or product group shall include:

(a) A description of:

- (i) The action taken by any Party to the Convention to reduce emissions to the atmosphere from the product or product group; and
- (ii) The product or product group, including its Harmonized Tariff Code, if applicable, which is subject to the action taken;

(b) Information, as available, on:

- (i) The contribution of the product or product group to the total emissions of a heavy metal listed in annex I within the territory of the Party to the Convention and the UN/ECE region as a whole prior to any product management measure to reduce such contribution and the methodology used; and

- (ii) The rationale for the action taken, including the perceived risk and the cost or benefit of such a measure and the emission reduction achieved.

5. Upon receipt of a proposal prepared in accordance with paragraph 2, 3, or 4 above, and if the risk profile is deemed acceptable, the Parties shall, at a meeting of the Executive Body and by consensus, ensure that one or more technical reviews of the proposal are conducted if, on the basis of the proposal and any other relevant information submitted to the Executive Body, further consideration of the heavy metal, product, product group or product control measure is determined to be warranted. Any such technical reviews shall be in writing and evaluate:

(a) For addition of a heavy metal to annex I:

- (i) The monitoring or equivalent scientific evidence documenting long-range transboundary atmospheric transport from anthropogenic sources;
- (ii) Whether emissions to the atmosphere of the heavy metal have the potential to lead to a bioavailable form which can accumulate or biomagnify to harmful levels;
- (iii) Whether sufficient information exists that the levels resulting from the long-range transboundary atmospheric transport of the heavy metal have the potential to cause significant adverse effects on human health or the environment;
- (iv) Information concerning the sources of the heavy metal in the atmosphere, including the use of products, estimates of the total emissions from these sources and the methodologies used; and
- (v) Whether measures exist to reduce the risk of adverse effects on human health and/or the environment as a result of its long-range transboundary atmospheric transport, and whether they are technically feasible, as well as their associated effects and costs;

(b) For addition of a product control measure to annex VI:

- (i) Whether the product or product group intentionally contains one or more of the heavy metals specified in annex I;
- (ii) Whether atmospheric emissions occurring during manufacture, processing, distribution in commerce, use, and disposal of the product or product group, have the potential to lead to a bioavailable form and, taking into account controls in place at each point of this process, account for a significant contribution to total transboundary atmospheric emissions of a heavy metal specified in annex I within the UN/ECE region that cause adverse effects on human health or the environment; and

- (iii) The extent to which the proposed measure reduces emissions, and an assessment of its costs, benefits, and, as appropriate, its efficacy and risks or the extent to which suitable alternative measures exist;
- (c) For addition of a product or product group to annex VII:
- (i) Whether it intentionally contains one or more of the heavy metals specified in annex I;
 - (ii) The action taken by any Party to the Convention and its estimated efficiency in reducing emissions to the atmosphere of the heavy metal;
 - (iii) The rationale, emissions reduction, costs and benefits of this action; and
 - (iv) Whether its atmospheric emissions have the potential to lead to a bioavailable form, occurring during its manufacture, processing, distribution in commerce, use, and disposal, and taking into account controls in place at each point of this process, account for a significant contribution to total atmospheric emissions of a heavy metal specified in annex I within the territory of the Party to the Convention that cause adverse effects on human health or the environment.

6. The term risk profile mentioned in paragraphs 2 and 5 above refers to a comprehensive review of the scientific information related to the determination of general human health and environmental risks associated with the uses and releases of a substance. Such a review need not explicitly address risks associated with long-range transboundary air pollution, but must provide suitable information for the assessment of such risk.

7. On the basis of the submission specified in paragraph 2, 3, or 4 above and any technical reviews that may have been prepared in accordance with paragraph 5 above, the Parties shall, at a meeting of the Executive Body, complete their evaluation of the proposal taking into account the objective of the protocol set out in article 2.

Annex II

**DRAFT EXECUTIVE BODY DECISION 1998/2 ON INFORMATION TO BE SUBMITTED
AND THE PROCEDURE FOR ADDING SUBSTANCES TO ANNEXES I, II OR III
TO THE POPS PROTOCOL**

The Executive Body,

Resolved to act as early as possible to develop criteria and procedures for adding substances to the forthcoming protocol on persistent organic pollutants,

Adopts, with reference to article 14, paragraph 6, of the protocol, the requirements for information to be submitted and the procedure for adding substances to annexes I, II or III to the POPS protocol set out below.

**INFORMATION TO BE SUBMITTED AND THE PROCEDURE FOR ADDING SUBSTANCES
TO ANNEXES I, II OR III TO THE POPS PROTOCOL**

1. A Party submitting a proposal to amend annexes I, II or III in accordance with article 14, paragraph 6, shall provide the Executive Body with a risk profile on the substance and information on the characteristics below, following the guidance and indicative numerical values, which demonstrate:

(a) Potential for long-range transboundary atmospheric transport: evidence that the substance has a vapour pressure below 1,000 Pa and an atmospheric half-life greater than two days. Alternatively, monitoring data showing that the substance is found in remote regions; and

(b) Toxicity: potential to adversely affect human health and/or the environment; and

(c) Persistence: evidence that the substance's half-life in water is greater than two months, or that its half-life in soils is greater than six months, or that its half-life in sediments is greater than six months. Alternatively, evidence that the substance is otherwise sufficiently persistent to be of concern within the scope of the protocol; and

(d) Bio-accumulation:

(i) Evidence that the BCF or BAF for the substance is greater than 5,000 or the log Kow is greater than 5; or

(ii) Alternatively, if the bio-accumulative potential is significantly lower than (i) above, other factors, such as the high toxicity of the substance, that make it of concern within the scope of the protocol.

The proposal shall also contain a summary report and include, as available, information on:

- (i) Production/uses/emissions, measured environmental levels in areas distant from sources, abiotic and biotic degradation processes and rates, degradation products, bio-availability; and
- (ii) Socio-economic factors related to the alternatives and/or the techniques available to reduce the emissions of the proposed substance including:
 - Alternatives to the existing uses and their efficacy;
 - Any known adverse environmental or human health effects associated with the alternatives;
 - Process changes, control technologies, operating practices and other pollution prevention techniques which can be used to reduce the emissions of the substance, and their applicability and effectiveness; and
 - The non-monetary costs and benefits as well as the quantifiable costs and benefits associated with the use of these alternatives and/or techniques.

2. Upon receipt of a submission prepared in accordance with paragraph 1 above and if the risk profile is deemed acceptable, the Parties shall, at a meeting of the Executive Body and by consensus, ensure that one or more technical reviews of the proposal are conducted if, on the basis of the submission and any other relevant information submitted to the Executive Body, further consideration of the substance is determined to be warranted. Any such technical reviews shall be in writing and evaluate, inter alia:

(a) The monitoring or equivalent scientific information suggesting long-range transboundary atmospheric transport; and

(b) Whether sufficient information exists to suggest that the substance is likely to have significant adverse human health and/or environmental effects as a result of its long-range transboundary atmospheric transport; and

(c) A list of the sources of the substance in the atmosphere, including the use of products, estimates of the total emissions from these sources and the methodologies used; and

(d) Whether measures exist to reduce the risk of adverse effects on human health and/or the environment as a result of its long-range transboundary atmospheric transport, and whether they are technically feasible, as well as their associated effects and costs.

3. The term risk profile mentioned in paragraphs 1 and 2 above refers to a comprehensive review of the scientific information related to the determination of general human health and environmental risks associated with the uses and releases of a substance. Such a review need not explicitly address risks associated with long-range transboundary air pollution, but must provide suitable information for the assessment of such risk.

4. On the basis of the submission specified in paragraph 1 above and any technical review(s) that may have been prepared in accordance with paragraph 2 above, the Parties shall, at a meeting of the Executive Body, complete their evaluation of the proposal taking into account the objective of the protocol set out in article 2.

Annex III

**DRAFT EXECUTIVE BODY DECISION ON THE PROCEDURE FOR AMENDING DECISIONS
PERTAINING TO THE IMPLEMENTATION COMMITTEE**

The Executive Body,

Recalling its decision to apply the Rules of Procedure of the Economic Commission for Europe (ECE/EB.AIR/1, para. 14), and

Recalling also decision 1997/2 concerning the Implementation Committee, its structure and functions and procedures for review of compliance;

Decides that, notwithstanding Rule 35 of the Rules of Procedure of the Economic Commission for Europe, any amendment to decision 1997/2, and any other decision of the Executive Body pertaining to the Implementation Committee or its procedures, shall be made by consensus of the Parties to the Convention meeting within the Executive Body.
