

IPEN PRELIMINARY VIEWS

Triple COP Overview

February 2019

Stockholm Convention

Listing of chemicals

- Dicofol should be listed in Annex A with no specific exemptions as recommended by the POPRC.
- PFOA should be listed in Annex A with no specific exemptions. If exemptions are granted, they should be for specific uses or products and the listing should require labeling new products that contain PFOA so that Parties can fulfill requirements under Article 6 as done previously for HBCD (SC-6/13). In addition, due to the costly, highly polluting nature of PFAS-containing firefighting foams and the availability of effective fluorine-free foams, no exemption should be granted. If a specific exemption is allowed for this use, the POPRC recommendations on firefighting foams should be adopted.¹ The POPRC included the possibility of 10 specific exemptions for the PFOA listing. None of these can be justified based on the existence of technically feasible, available alternatives. If exemptions are granted, they should not exceed the Convention allowance of five years. In addition, new products containing PFOA should be labeled (please see the annex for more information on these proposed exemptions).

¹ These recommendations include: 1) no production; 2) Use for 5 years only for liquid fuel vapor suppression and liquid fuel fires (Class B fires) already in installed systems; 3) No import or export, except for environmentally-sound disposal; 4) No use for training or testing purposes; 5) By 2022, restrict use to sites where all releases can be contained; 6) Ensure that all firewater, wastewater, run-off, foam and other wastes are managed in accordance with the treaty.

Compliance

- Article 17 requires the COP to develop a compliance system “*as soon as practicable.*” COP8 should finalize the agreement and comply now with the requirements of Article 17 by approving procedures and mechanisms for determining and treating non-compliance.
- Non-compliance mechanisms will help identify the priority needs for technical and financial support and should consider all Convention obligations. A compliance mechanism is a tool to assess the effectiveness of the implementation of the convention as well as reveal problems and assist countries in a timely and efficient manner.
- The Basel Convention has a compliance mechanism that provides a useful model for the Stockholm Convention, including a variety of triggers.²
- Non-compliance with Convention obligations, including non-compliance with reporting requirements, is undermining the ability of the Convention to achieve its objectives.

² <http://www.basel.int/TheConvention/ImplementationComplianceCommittee/Mandate/tabid/2296/Default.aspx>

PCBs

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- Parties should include open applications such as cable sheaths, cured caulk and painted objects in their inventories slated for destruction.
- Due to the large volume of PCBs that are still remaining and noting the upcoming 2025 deadline, a review of progress toward PCBs elimination should be undertaken at COP10 (not COP11 as proposed).
- Non-combustion techniques and technologies for destruction and irreversible transformation of PCBs are now widely available and commercially competitive. Similar methods are available to decontaminate transformer equipment in-situ and retain their functionality. Non-combustion methods should be widely implemented to avoid the generation of unintentionally produced POPs such as dioxins and furans created by combustion methods such as incineration and cement kilns. Note that these techniques can be used for destruction of a wide variety of POPs, not just PCBs
- GEF funding is available for non-combustion destruction projects for PCBs. An excellent example is the newly commissioned PCB destruction facility in the Philippines driven by NGO participation, with support from UNIDO, GEF and the Philippines government.

PFOS review

- When PFOS was listed in Annex B of the treaty in 2009, a very large number of loopholes accompanied its listing that permitted continued production and use. At COP9 in April/May 2019, Parties will determine if these loopholes are still needed or if some can be ended. The decision will focus on 6 time-limited ones (specific exemptions) and 8 time-unlimited ones (known as acceptable purposes).
- Specific exemptions or acceptable purposes for the following 12 uses of PFOS should be ended: photo-imaging, photo-resist and anti-reflective coatings for semiconductors; etching agent for compound semiconductors and ceramic filters; aviation hydraulic fluid; certain medical devices; firefighting foams, photo masks in semiconductor and LCD industries; hard metal plating; decorative metal plating; electric and electronic parts for some color printers and color copy machines; insecticides for control of red imported fire ants and termites; and chemically-driven oil production. If a specific exemption is allowed for use in firefighting foams, the POPRC recommendations should be adopted.
- The following 2 acceptable purposes should be converted into specific exemptions: metal plating (hard metal plating only in closed loop systems); and insect bait for control of leaf-cutting ants from *Atta* spp. and *Acromyrmex* spp. Sulfluramid should be named in the PFOS listing and its use sharply limited to cultivation of specific crops.

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Implementation plans

Here are percentages of Parties that have **not** turned in NIP updates:

- 57% for the 9 POPs listed in 2009
- 62% for the POPs listed in 2011
- 82 % for the POPs listed in 2013
- 92% for the POPs listed 2015
- 99% for the POPs listed in 2017

This needs to be completed as urgently as possible.

- Parties should strengthen multi-stakeholder consultation in the design and implementation of NIPs to enable an effective, inclusive, and regular public participation process and to comply with commitments in Articles 7 and 10.
- The guidance on the updating of NIPs should be amended to include instructions on developing inventories and assessments of PCBs.
- The Secretariat should identify practical problems that might be faced by Parties in developing or updating their NIPs including collecting data for evaluation and review of POPs and organizing multi-stakeholder consultations.

Reporting

- Parties need to comply with national reporting as required by Article 15; according to the Convention website³ only 66 parties (36%) of parties turned in required reports by 31 August 2018.
- Parties should be able to receive financial assistance to prepare national reports and technical assistance from the secretariat and regional centres. Montreal Protocol, CBD, and UNFCCC provide financial assistance with reporting and this is strongly associated with higher reporting rates.⁴
- Information that Parties have generated on pollutant releases, stockpiles, PCBs and other POPs should be compiled and made available on the Convention website.

³ <http://chm.pops.int/Countries/Reporting/NationalReports/tabid/3668/Default.aspx>

⁴ UNEP/POPS/COP.6/INF/28

Effectiveness evaluation including global monitoring program

- The revised framework for effectiveness evaluation is in UNEP/POPS/COP.9/20/Add.1 which was not available at the time of this writing.
- Newly listed POPs should be incorporated into the monitoring plan as soon as possible going forward with an accompanying improvement in laboratory measurement capacity.
- Global monitoring should include countries that have produced POPs and those requesting exemptions and/or acceptable purposes.
- The monitoring plan should include a subset of hotspot sites since these contribute to wider contamination from long-range transport, including potential accelerated releases and transport due to climate warming.

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The monitoring plan should also be updated to include POPs in traditional and market food sources, particularly traditional foods of Arctic Indigenous Peoples including fish, marine mammals, rendered oils, blubber, liver and other organ tissues.

- Free-range poultry eggs should be monitored as they have been shown to be a good indicator of overall contamination of the environment by certain POPs including PCDD/Fs, PCBs, DDT, PBDEs and HBCD.
- Indigenous Peoples can contribute to global monitoring by sharing data and research findings from community-based research. Traditional Ecological Knowledge of Indigenous Peoples, which is scientific knowledge passed on for many generations, can complement and strengthen global monitoring programs conducted under the treaty.

Ending the PBDE recycling exemption

- When Penta BDE (TetraBDE and PentaBDE) and OctaBDE (HexaBDE and HeptaBDE) were added to the Convention a small number of countries successfully pushed for an exemption that permits materials containing them (like plastic or foam) to be recycled. This toxic recycling carries these toxic chemicals into new products – including children’s toys. Please see the annex for a more detailed explanation about this item.

Countries registered for the PBDE recycling exemptions are:

- o PentaBDE (TetraBDE and PentaBDE): Brazil, Canada, EU, Japan, Turkey
- o OctaBDE (HexaBDE and HeptaBDE): Brazil, Cambodia, Canada, EU, Japan, Turkey

Basel Convention

This will be the 30th Anniversary of the Basel Convention. At the outset of the Convention the goal of most countries was to institute a full ban on the export of hazardous wastes from developed to developing countries. It is telling that due to the efforts of the JUSSCANNZ group of countries (Japan, United States, South Korea, Canada, Australia, New Zealand) to forestall the adoption and then the entry into force of the Ban Amendment, at the 30 year point this goal is still not realized. Nevertheless, we are now very close (see below).

The other sad legacy of the 30-year history of Basel is that when certain powerful industries are threatened by Basel Convention application on their wastes, they have been effective at undermining the Convention and attempt to limit its application to them. This happened with the shipping industry when they attempted to undermine the Basel Convention's application to ship recycling, and it happened when the electronics manufacturers infected the Technical Guideline on the Transboundary Movement of e-Waste.

Ban Amendment

- The Ban Amendment prohibits all forms of hazardous waste exports from OECD countries to non-OECD countries, including for recycling. This was seen as essential by a consensus of Basel Parties due to the fact that massive amounts of hazardous wastes are moved to sham or dirty recycling operations and are every bit as harmful to the environment and peoples in developing countries as exports for final disposal.

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- 95 countries have ratified the Ban Amendment, but for the Amendment to go into force it must be ratified by 3/4 (66) of the 87 Parties that were present and voting in 1995. There are currently 64 and thus just two more are needed. You can see a complete list of countries that have ratified the Ban Amendment here.

Most important are the countries that were present in 1995 that have yet to ratify the Ban Amendment. Please encourage the countries in your regions to ratify the Ban Amendment. The 23 1995-eligible countries by region are:

- Africa: Comoros, DR Congo, Senegal
- Asia-Pacific: Bangladesh, India, Japan, Philippines, Pakistan, Republic of Korea, United Arab Emirates, Vietnam
- CEE: Croatia, Russia,
- GRULAC: Bahamas, Brazil, Costa Rica, Cuba, Mexico, St. Kitts and Nevis
- WEOG: Australia, Canada, Israel, New Zealand

An announcement by two of these countries that ratification is in process or completed will be cause for celebration at COP14.

E-waste guidelines

- The "technical guidelines on transboundary movements of electrical and electronic waste and used electrical and electronic equipment, in particular regarding the distinction between waste and non-waste under the Basel Convention," have already been adopted on an interim basis at COP12 over the objections of many developing countries.
- The loophole appears as paragraph 31(b), as it would allow export of waste for "repair" to be considered a non-waste and thus outside of the scope of the Convention.
- Yet anything can be claimed to be "repairable," and thus anyone can use this Guideline as an excuse to export all manner of hazardous electronic equipment and ignore all of the requirements of the Basel Convention including assuring environmentally sound management, notification and consent to all exports, etc.
- Further, the repair process of electronics, even when not a sham excuse for export, almost invariably involves the replacement of hazardous parts -- meaning there will clearly be a transboundary movement of hazardous wastes with respect to the discarded hazardous parts.
- Finally, redefining the Basel waste definition via Guideline is not legally correct. For all of these reasons, this Guideline must be rejected.
- The Basel Action Network (BAN) will therefore introduce at COP14 an alternative Guideline that is consistent with the legal requirements of the Convention. We urge support of the "The Responsible Guideline for Trans-boundary Movement of Electronic Waste." This Guideline will be available soon and it would be good to provide countries with an opportunity to sponsor its consideration at COP14.

Technical guidelines on incineration, engineered landfill, hazardous waste physico-chemical treatment and biological treatment

- Since Basel OEWG11 there has been a Basel Small Intersessional Working Group called the "D5 and D10 SIWG" who are updating the guidelines. IPEN participates in this group. One of the limitations of the D10 guidance revision is that it only refers to "incinerators" under the proposed new scope and does **not** address pyrolysis and gasification (the other types

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of incinerators) which are being pushed globally and fall under EU and US definitions of incineration. There are some other issues as well.

- The mandate of the small intersessional working group should be extended to further update the technical guidelines on incineration on land (D10) and the technical guidelines on specially engineered landfill (D5).
- The scope of the D10 review should be extended to include detail on gasification and pyrolysis forms of incineration, climate change impacts of all forms of incineration and costs relative to other waste management systems and disadvantages associated with incineration of waste.

Technical guidelines on waste lead-acid batteries

- The technical guidelines on waste lead-acid batteries should be updated.
- A small intersessional working group should be established to update the guidelines.

Technical guidelines on mercury wastes

- The technical guidelines on mercury wastes should be updated.
- A small intersessional working group should be established to update the guidelines.
- The Basel guideline revision should recognize and be consistent with guidance being developed on mercury waste by the expert group under the Minamata Convention on Mercury and include harmonization of mercury waste definition thresholds between the conventions.

Technical guidelines on POPs

- Low POPs content levels are threshold levels that define what level of POPs contamination in any form of waste make that substance ‘POPs waste’ which must be managed according to the requirements of the Stockholm Convention in Article 6 (see below).
- If the low POPs content levels are weak, then waste containing harmful levels of POPs are defined as “clean.”
- A weak limit for low POPs content level results in the harmful dispersion of POPs including: 1) export of wastes containing POPs to developing and transition countries; and 2) recycling of materials containing POPs into new uses – for example construction or even consumer products. These wastes could include contaminated soils, plastics, and incinerator residues.

The Stockholm Convention obligations for POPs waste are:

- *(ii) Disposed of in such a way that the persistent organic pollutant content is **destroyed or irreversibly transformed***
- *(iii) **Not permitted to be subjected to disposal operations that may lead to recovery, recycling, reclamation, direct reuse or alternative uses of persistent organic pollutants; and***
- *(iv) **Not transported across international boundaries without taking into account relevant international rules, standards and guidelines;***

Low POPs content levels are established through Basel Convention processes of review and update of the technical guidelines on POPs waste. IPEN is proposing the following LPCL for

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individual POPs to prevent toxic waste exports, reduce human exposure and protect the food chain. Please see the annex for an explanation of the proposals.

Substance	IPEN proposal	Current limit
Dioxins and furans (PCDD/F)	1 ppb (1 μ g TEQ/kg)	15 ppb
Hexabromocyclododecane (HBCD)	100 mg/kg	1000 mg/kg Promoted and used by EU and other developed countries
Polybrominated diphenylethers (PBDEs)	50 mg/kg as a sum of listed PBDEs. Includes: TetraBDE, PentaBDE, HexaBDE HeptaBDE DecaBDE	1000 mg/kg Promoted and used by EU and other developed countries
Short-chain chlorinated paraffins (SCCP)	100 mg/kg	10,000 mg/kg Proposed by the EU

Note that for the POPs above, the current low POPs content limits and proposals for weak limits (high values) allow the recycling of POPs in wastes. For example, currently approximately 10 kg TEQ of dioxins can be generated in waste incineration residues globally and used without proper control as a construction material. Weak limits also allow for the recirculation of vast amounts of other POPs, e.g. PBDEs used in recycled plastics for production of toys, kitchen utensils, hair accessories and many other consumer products. The same would apply to SCCPs if we allow LPCL of 10,000 mg/kg to be established. Note that 10,000 mg/kg is the weakest hazardous waste limit proposal in the history of the Basel and Stockholm Conventions.

Several technical guidelines on POPs wastes will be considered. Some of them are new (e.g. for waste containing or contaminated with short chained chlorinated paraffins – SCCPs) while most of them are updated versions of already existing guidelines which include newly listed substances.

Technical guidelines for adoption include the following:

(a) Updated general technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with persistent organic pollutants;

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(b) Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with short-chain chlorinated paraffins;

(c) Updated technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with hexabromodiphenyl ether and heptabromodiphenyl ether, and tetrabromodiphenyl ether and pentabromodiphenyl ether or decabromodiphenyl ether;

(d) Updated technical guidelines on the environmentally sound management of wastes containing or contaminated with unintentionally produced polychlorinated dibenzo-p-dioxins, polychlorinated dibenzofurans, hexachlorobenzene, polychlorinated biphenyls, pentachlorobenzene, polychlorinated naphthalenes or hexachlorobutadiene;⁸

(e) Updated technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with hexachlorobutadiene;

- The most important are the General Technical Guidelines on POPs Waste. They include: 1) listing and description of technologies considered to be environmentally sound for destruction or irreversible transformation of POPs waste; 2) definitions of Low POPs Content Levels which are cross-cutting issue between Basel and Stockholm Convention and are discussed above (at the Triple COP they will be discussed within the Technical matters contact group established by the Basel Convention); and 3) levels of destruction and irreversible transformation of POPs (another cross-cutting issue between the Basel and Stockholm Conventions.)
- General technical guidelines are guidance documents that give indications about which techniques are most suitable for destruction of POPs wastes. This means it is important for them to show the full picture of how different techniques perform, including factual data about the generation of dioxins and other POPs by waste incineration and co-incineration as these technologies are listed as methods for the environmentally sound management of wastes together with non-combustion technologies. It is also important to delete dangerous options for POPs destruction such as e.g. “mobile hazardous waste incinerators” promoted by some developed countries. Such waste incinerators cannot provide appropriate flue gas cleaning for dioxins, among other problems.

Plastics as hazardous waste – Norway’s proposal

- Norway has proposed to ensure that many plastic wastes and scrap which hitherto would not be under the control system of the Basel Convention will be now listed on Annex II (Wastes Requiring Special Consideration) and controlled. The proposal also provides amendment text to provide greater clarity on Annex IX on when a plastic waste can be considered a non-hazardous waste. Finally, the proposal amends Annex VIII to reiterate what appears elsewhere in the Convention as to when a plastic waste is to be considered a hazardous waste.
- The Norway proposal should be welcomed and adopted at COP14. While some adjustments to text would make things even more clear as to when plastic scrap should be listed in the three annexes (II, VIII, IX), such clarity if not concluded at COP14 can be provided in guidance created following adoption.
- Potential imperfections or adjustment to the current text should not be used as an excuse to fail to adopt the proposed amendments at COP14. To do so would be to make perfection the enemy of the good and delay for at least 2 years an urgent reform that can greatly assist in providing more responsible management of plastic waste globally to remedy the plastic waste crisis.
- There is a great need for potential importing countries, such as those in Southeast Asia, and the exporting countries, to have the knowledge of exports of plastic waste and to

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Have the ability to refuse such trade, for example if they are not going to an environmentally sound destination. Such transparency and the ability for control is currently lacking, greatly exacerbating the plastic waste crisis.

- • Comments on chapeau (additions in yellow): The plastic materials listed below, provided they are not contaminated or mixed with non-target plastics or contaminants to a level of more than 0.5% of the listed target recyclable plastic material. Consignments of such plastic material should be prepared to ensure that no more preparatory treatment or handling is required prior to being processed by smelting/melting or otherwise amalgamating into new plastic feedstocks or products which can be considered non-waste commodities. (note the related entries on list A AXXXX and Annex II, Y48):
- • Comment on Annex VII (additions in yellow): Plastic waste containing or contaminated with Annex I constituents to an extent that they exhibit an Annex III characteristic (note the related entries on list B B3010 and Annex II, Y48)

Plastics Partnership

- • At the last Open-Ended Working Group meeting of the Basel Convention, during the debate on plastics, including the Norwegian amendment proposals, many Parties voiced support for a plastics partnership.
- • The new partnership's utility has yet to be determined, however, it should never be used as an excuse not to take substantive steps to stem the irresponsible generation and management of plastic waste -- which the Norwegian Amendments proposal tries to correct.

Rotterdam Convention

Amendment on compliance

- • Canada, Colombia, Costa Rica, the European Union and its member States, Ghana, Jordan, Mali, Nigeria, Peru, Switzerland, Thailand, the United Republic of Tanzania and Zambia have proposed a new Annex VII to the treaty on compliance. This effort comes after many attempts to establish a compliance mechanism have failed.
- • A compliance mechanism helps concretize the treaty and assist governments that need help in fully implementing it.
- • The amendment should be adopted, as all other attempts at achieving compliance have failed. If Parties cannot agree on this amendment by consensus, a vote should be taken.

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Amendment on technical and financial assistance (Article 16)

- Botswana, Cameroon, Ghana, Kenya, Lesotho, Malawi, Mozambique, Namibia, Nigeria, South Africa, Swaziland, the United Republic of Tanzania, Zambia and Zimbabwe have proposed amending Article 16 on Technical Assistance.
- The amendment adds “financial” to the title of the Article and includes specific mentions of opening up the GEF as funding source. The proposed text also clearly states that, “Developed country Parties and other Parties with more advanced programmes for regulating chemicals should provide technical and financial assistance, including training, to other Parties developing country Parties and Parties with economies in transition to develop in developing their infrastructure and projects geared at strengthening their capacity to manage chemicals throughout their life-cycle, and taking informed decisions to list chemicals in Annex III of the Convention.”
 - This amendment addresses financial assistance as an important gap in Convention implementation and should be endorsed.

Amendment on adoption and amendment of annexes (Article 22)

- Botswana, Cameroon, Ghana, Kenya, Lesotho, Malawi, Mozambique, Namibia, Nigeria, Swaziland, the United Republic of Tanzania and Zambia have proposed amending the Article 22 on adoption and amendment of annexes.
- The amendment proposal deletes the requirement for consensus on Annex III listings, which makes the treaty more consistent with the Stockholm Convention.
- The amendment should be adopted – not to encourage voting – but to provide pressure for reaching consensus when substances meet all treaty requirements but are still rejected for political reasons that have plunged the Convention into a governance crisis.

Annex III listings

- The inability to list a substance that meets all Convention criteria has pushed the treaty into a governance crisis. It must have been said one million times that the treaty does not ban substances but provides information (and power of refusal) to governments in trade. Despite this, governments rejected listing by claiming that alternatives were not available (not relevant); that the substance was important economically (not relevant to listing criteria); or even that it would be a ban (not true).
- All six substances proposed for listing in Annex III meet all Convention requirements and they all should be added to the Convention.
- New substances: acetochlor, HBCD, phorate
- Previously rejected substances/formulations: chrysotile asbestos, fenthion, paraquat