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LONG-RANGE TRANSBOUNDARY AIR POLLUTION
Working Group on Strategies and Review
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Item 2 of the provisional agenda

**DRAFT DECISIONS ON METHODS AND PROCEDURES FOR REVIEWING THE
PROTOCOL ON HEAVY METALS, EVALUATING CERTAIN LIMIT VALUES, AND
CONSIDERING PROPOSALS FOR ADDITIONAL HEAVY METALS^{1/}**

Prepared by the Chairman of the Expert Group on Heavy Metals
in collaboration with the secretariat

Introduction

1. The Executive Body at its twenty-first session, recognizing that the 1998 Protocol on Heavy Metals was soon to enter into force, invited the Expert Group on Heavy Metals to continue its preparatory work, reporting to the Working Group on Strategies and Review, until the first meeting of the Parties took place. It requested the Chairman of the Expert Group, in collaboration with the secretariat, to develop methods and procedures for reviewing the Protocol, possibly along the lines of those developed for the Protocol on Persistent Organic Pollutants (ECE/EB.AIR/79, para. 41).

Documents prepared under the auspices or at the request of the Executive Body for the Convention on Long-range Transboundary Air Pollution for GENERAL circulation should be considered provisional unless APPROVED by the Executive Body.

^{1/} The Protocol entered into force on 29 December 2003. Twenty-one Parties to the Convention have ratified the Protocol, as of 18 February 2004: Austria, Bulgaria, Canada, the Czech Republic, Denmark, Finland, France, Germany, Liechtenstein, Luxembourg, Monaco, the Netherlands, Norway, the Republic of Moldova, Romania, Slovakia, Slovenia, Sweden, Switzerland, the United States and the European Community. The first meeting of the Parties will take place during the twenty-second session of the Executive Body (29 November – 3 December 2004, Geneva).

2. The Chairman of the Expert Group, in discussion with a number of other experts and in collaboration with the secretariat, has drawn up proposals for procedures, methods and timing for future consideration by the Executive Body and by the Parties to the Protocol.

3. This document, which outlines these proposals, identifies action needed at the first session of the Executive Body following the entry into force of the Protocol and at its subsequent sessions, as well as action by the Executive Body's subsidiary bodies. It addresses three specific requirements for procedures as identified in the chapter below.

I. ELEMENTS FOR A REVIEW OF THE PROTOCOL

4. *The sufficiency and effectiveness reviews.* Article 10, paragraph 3, of the Protocol on Heavy Metals states that: "The Parties shall, at sessions of the Executive Body, review the sufficiency and effectiveness of the obligations set out in the present Protocol." "The procedures, methods and timing for such reviews shall be specified by the Parties at a session of the Executive Body." The Protocol does not specify a time limit for starting a first review or indicate when such a review must be completed.

5. *The scheduled evaluations.* There are requirements to evaluate certain limit values as specified in annex V to the Protocol:

(a) Limit values for existing chlor-alkali plants shall be evaluated by the Parties meeting within the Executive Body no later than two years after the date of entry into force of the Protocol (annex V, para. 19);

(b) Limit values for mercury-containing emission from medical waste incineration shall be evaluated by the Parties meeting within the Executive Body no later than two years after entry into force of the Protocol (annex V, para. 23 (c)).

6. *Additional heavy metals, product control measures or products/product groups.* Heavy metals not currently covered by the Protocol may be proposed by a Party to the Protocol as specified under article 13, paragraph 6, taking account of Executive Body decision 1998/1 on the criteria and procedures for adding heavy metals and products to the Protocol. The decision foresees one or more technical reviews to be initiated by the Parties to the Protocol at a session of the Executive Body.

7. The procedures described below do not cover the more general reviewing of information, including the reports by the Implementation Committee, as specified under article 10, paragraph 1, of the Protocol, nor the specific review of progress towards achieving the obligations, as specified in article 10, paragraph 2, except information required for the review of sufficiency and effectiveness.

II. TIMING AND POSSIBLE ACTIONS BY PARTIES TO THE PROTOCOL

8. The Parties to the Protocol may wish to decide upon action for all three areas of work at the first session of the Executive Body after the date of entry into force, i.e. at the twenty-second session of the Executive Body (29 November – 3 December 2004). The Parties to the Protocol may agree to:

(a) Initiate the sufficiency and effectiveness review, determining the procedures, methods and timing for such review;

(b) Initiate the scheduled evaluations of limit values for existing chlor-alkali plants and for mercury-containing emissions from medical waste incineration to ensure completion within two years of entry into force, i.e. by 29 December 2005. Information prepared by the Expert Group on Heavy Metals may be used as a basis for this purpose in order to meet the deadlines;

(c) Take action to initiate the technical reviews of any additional heavy metals, product control measures or products/product groups proposed as amendments to annexes I, VI or VII. There is no prescribed time frame for processing proposals. The Parties to the Protocol shall discuss amendment proposals at any session of the Executive Body if the proposal has been circulated ninety days in advance (art. 13, para. 2).

9. Each of the three processes may lead the Parties to the Protocol, meeting at a subsequent session of the Executive Body, to conclude that the Protocol should be amended. Negotiation of such amendments may follow the review or evaluation work. After negotiations, the Parties may wish to join several amendment issues (possible stemming from all three review/evaluation processes) into an amendment package to be adopted jointly. This could be scheduled at any session of the Executive Body after 2005.

III. METHODS

10. To coordinate and perform the necessary technical work, it is proposed that the Executive Body should establish a new task force to take over from the existing Expert Group on Heavy Metals. It is further proposed that its mandate should be targeted at the technical work required by the Parties for the review and evaluation processes under the Protocol and that participation should be open to experts from all Parties to the Convention as well as from recognized intergovernmental and non-governmental organizations. A draft decision for establishing a task force, together with a proposed mandate, is annexed below.

11. It is recommended that no new formal subsidiary bodies should be created specifically for the Parties to the Protocol. Instead it is proposed that:

(a) The Executive Body's existing scientific subsidiary bodies (i.e. the EMEP Steering Body, the Working Group on Effects and their subsidiary bodies, as well as the expert groups under the Working Group on Strategies and Review) should be fully used to provide the necessary expertise for the collation and preparation of reports contributing to the reviews and evaluations;

(b) The Working Group on Strategies and Review should be responsible for the submission of documents related to the three processes, but, when preparing a specific recommendation to the Parties to the Protocol and in any negotiating process, Parties to the Convention that are not Party to the Protocol assume observer status.

The Implementation Committee, in line with article 9 of the Protocol, reviews the compliance by Parties with their obligations under the Protocol and reports thereon directly to the Executive Body and thereby to Parties to the Protocol.

IV. PROCEDURES AND WORK-PLAN ELEMENTS

12. To make effective use of the methods outlined above, the Executive Body and the Parties to the Protocol will need to agree on procedures and work elements to meet agreed time frames. The steps below are proposed.

13. *The Parties to the Protocol, at the first session of the Executive Body following the entry into force of the Protocol, will:*

(a) Adopt procedures, methods and timing as required for the sufficiency and effectiveness reviews;

(b) Agree to the necessary evaluation and review activities to be carried out;

(c) Decide, as appropriate, and in accordance with article 13 of the Protocol and Executive Body decision 1998/1, related to any submission of a proposal to add a heavy metal to annexes I, VI and VII to the Protocol, to use the Working Group on Strategies and Review, assisted by a task force, for the technical review of the proposal.

14. *Consequently, the Executive Body, at its first session after the entry into force of the Protocol, will:*

(a) Establish a task force on heavy metals, as proposed in the annex, to address the three areas of work, and request it to start its work;

(b) Request the Working Group on Effects and the EMEP Steering Body to:

(i) Support the work of the task force through the participation of, and contributions from, relevant experts from their subsidiary bodies and international centres; and

(ii) Provide any relevant information to the Working Group on Strategies and Review to support it in preparing the progress and final summary reports on the reviews and evaluations;

(c) Request the Working Group on Strategies and Review to report to it at its next session on progress in the sufficiency and effectiveness review, provide recommendations regarding the scheduled evaluations, and report on progress in the preparation of technical reviews for proposed additional heavy metals, product control measures or products/product groups;

(d) Request the Implementation Committee to prepare, as part of its functions (Executive Body decision 1997/2, annex, para. 3 (d)), an in-depth review of the compliance by Parties with their obligations under the Protocol on emission levels (as foreseen in art. 10, para. 3, of the Protocol).

15. *The new task force on heavy metals*, in line with its mandate, will:

(a) Prepare a draft review of sufficiency and effectiveness, drawing upon information from experts, Parties and the subsidiary bodies and programme centres, for presentation to the Working Group on Strategies and Review;

(b) Discuss and prepare elements of technical reviews regarding the scheduled evaluations, taking into account the results of work conducted by the former Expert Group on Heavy Metals, for submission to the Working Group on Strategies and Review;

(c) Prepare, as requested by the Executive Body, technical reviews of additional heavy metals, product control measures or products/product groups proposed for annexes I, VI and VII.

16. *The EMEP Steering Body and the Working Group on Effects* will:

(a) Participate in the work of the task force on heavy metals through their programmes and centers and national experts;

(b) Inform the Working Group on Strategies and Review (and the Executive Body) on their progress in this area of work.

17. *The Working Group on Strategies and Review* will:

(a) Receive draft reports and recommendations from the task force on heavy metals and, possibly, supplementary technical information from the Working Group on Effects and the EMEP Steering Body;

(b) Agree on any further action or work required by the task force and/or other subsidiary bodies under the Convention, as necessary;

(c) Negotiate on draft decisions or amendments, when requested to do so by the Parties to the Protocol at a session of the Executive Body;

(d) Submit reports to the Executive Body indicating progress, further work or action required for review, evaluation or adding heavy metals, product control measures or products/product groups, including recommendations for decisions and proposed amendments to the Protocol.

18. *The Implementation Committee* will include the Protocol on Heavy Metals in its annual report to the Executive Body and address, as requested by the Executive Body, the in-depth review on the fulfilment of obligations on emission levels under the Protocol as required under article 10, paragraph 3, of the Protocol.

19. *The Parties to the Protocol, at the subsequent session(s) of the Executive Body following entry into force, will:*

(a) Review the progress report on the sufficiency and effectiveness review, consider any recommendations made and propose, as appropriate, items for inclusion into the Convention's annual work-plan;

(b) Review the reports on the scheduled evaluations, consider the recommendations and draft decisions proposed and recommend, as appropriate, items for inclusion into the Convention's annual work-plan;

(c) Review the progress report(s) on the technical review of proposals for new heavy metals, product control measures or products/product groups, consider the recommendations and draft decisions proposed and recommend, as appropriate, items for inclusion into the Convention's annual work-plan.

20. Each of the three processes may lead the Parties to the Protocol, meeting at a session of the Executive Body, to decide to amend the Protocol. Negotiation of such amendments may follow the review or evaluation work. The Parties should make specific requests to the Working Group on Strategies and Review on the content and time frame of negotiations.

21. The Parties may wish to join several amendment issues (possibly stemming from all three review/evaluation processes) into one amendment package to be adopted jointly. This would facilitate the adoption, possibly at a special session of the Executive Body, and subsequent ratification process.

Annex

DRAFT DECISION 2004/1 ON ESTABLISHING A TASK FORCE ON HEAVY METALS

The Executive Body,

Noting that the Protocol on Heavy Metals entered into force on 29 December 2003,

Recalling the requirements of the Parties to the Protocol on Heavy Metals to meet their obligations under articles 10 and 13, and annexes I, IV, V and VI,

1. Establishes a task force, under the leadership of a Party or Parties to the Protocol on Heavy Metals, as identified in the annual work-plan, to address the technical needs of the reviews and evaluations required by the Protocol. The lead country or countries will assume the principal responsibility for coordinating the work of the Task Force, for organizing its meetings, for designating its chair(s), for communications with participating experts and observers, and for other organizational arrangements in accordance with the work-plan;
2. Decides that the Task Force will carry out the tasks specified for it in the work-plan adopted annually by the Executive Body and will report thereon to the Working Group on Strategies and Review;
3. Also decides that the Task Force will be composed of experts from the Parties to the Convention. Each Party will nominate a national focal point and notify his/her name to the secretariat. The meetings of the Task Force will be open to individuals designated as authorized representatives of intergovernmental or accredited non-governmental organizations, who may participate as observers. The chair(s) may also invite individuals with expertise relevant to the work of the Task Force to attend a meeting as observers. If invited by the chair(s), observers may participate in the discussions of the Task Force;
4. Furthermore decides that the functions of the Task Force will be to:
 - (a) Plan and conduct the technical work necessary for the review of sufficiency and effectiveness of the obligations set out in the Protocol on Heavy Metals as foreseen in its article 10, paragraph 3, and prepare a technical review for submission to the Working Group on Strategies and Review;
 - (b) Plan and conduct the technical work necessary for the evaluations of limit values foreseen under the Protocol, in annex V, paragraphs 19 and 23 (c), and prepare technical reviews thereon for submission to the Working Group on Strategies and Review;
 - (c) Prepare technical reviews on dossiers of additional heavy metals, product control measures or products/product groups proposed by Parties for inclusion into annexes I, VI or

VII, in accordance with the relevant provisions of the Protocol and paragraphs 1, 2, 3 and 4 of Executive Body decision 1998/1, and present relevant documentation on the proposals to the Working Group on Strategies and Review; and

(d) Carry out such other tasks related to the Protocol as the Executive Body may assign to it in the annual work-plan;

5. Decides that technical documents related to dossiers of additional heavy metals, product control measures or products/product groups to be considered at a meeting of the Task Force shall be distributed by the secretariat to the focal point nominated by each Party to the Convention at least 60 days in advance of the meeting. Where this has not occurred, the report of the meeting will indicate that the relevant documents were not provided in sufficient time for consideration, unless the Task Force decides otherwise by consensus;

6. Also decides that, at the end of each meeting, the Task Force will approve those parts of its report that constitute the key elements of its deliberations relating to the tasks assigned to it by the Executive Body. The report will be distributed by the secretariat to the focal points nominated by the Parties to the Convention and to the observers and experts who were present at the meeting;

7. Furthermore decides that technical reports prepared by the Task Force for the Working Group on Strategies and Review will reflect the full range of views expressed during its meetings.