

Informal paper from the Netherlands for the 41st session of the WGSR

Intended for discussion under agenda item 4, Negotiation of amendments to the 1998 Protocol on POP.

Other amendments to the 1998 Protocol on POPs

There could be more (possible) amendments to the Protocol text besides the expedited procedure to amend annexes. One of them would be to further tighten the obligations on emission inventories and reporting of emission data. Experience with the Protocol shows that some of the text, can be simplified, is outdated, is not clear, is sometimes redundant or is not even correct. Going through the Protocol one can find quite a number of possible and sometimes necessary amendments. In the current revision period for amending the POP Protocol it seems appropriate to deal with all possible amendments at the same time for there is procedurally in countries hardly any difference in ratifying one or several amendments. It certainly is not the intention to basically change the content of the protocol obligations, only to update and polish the text.

The EU favors cleaning up the text of the POP Protocol itself. At the 41st WGSR the idea of updating and cleaning up of the Protocol text will be brought forward. It is not the intention to go into the possible amendments at the WGSR in April. EU countries have agreed to send in comments in April. Non-EU countries are invited to react to the suggested amendments in the attached text of the POP Protocol. Of course, if we want to discuss these kinds of amendments, they would need to be officially proposed in time for the next WGSR.

In the POP Protocol text, attached to this note, comments are placed where an amendment would seem appropriate. *These comments are highlighted in yellow and given in italics.* **Suggested changes are highlighted in green and given in bold.**

Please have a look at the possible amendments/suggestions with their comments. If you have questions, suggestions or otherwise to this document please mail them to Johan.Sliggers@minvrom.nl before May 10, 2008.

**PROTOCOL TO THE 1979 CONVENTION ON LONG-RANGE TRANSBOUNDARY AIR
POLLUTION ON PERSISTENT ORGANIC POLLUTANTS**

Normally, when a protocol is amended the preamble stays as it is. The amendments and the comments given in this preamble section are thus only for illustration but can be used in case there is a decision to draft a new POP Protocol. In that case, of course, the current POP Protocol should be used as a basis and the preamble has to be rewritten to introduce the new POP Protocol.

The Parties,

Determined to implement the Convention on Long-range Transboundary Air Pollution,

Recognizing that emissions of many persistent organic pollutants are transported across international boundaries and are deposited in Europe, North America and the Arctic, far from their site of origin, and that the atmosphere is the dominant medium of transport,

Aware that persistent organic pollutants resist degradation under natural conditions and have been associated with adverse effects on human health and the environment,

Concerned that persistent organic pollutants can biomagnify in upper trophic levels to concentrations which might affect the health of exposed wildlife and humans,

Acknowledging that the Arctic ecosystems and especially its indigenous people, who subsist on Arctic fish and mammals, are particularly at risk because of the biomagnification of persistent organic pollutants,

Mindful that measures to control emissions of persistent organic pollutants would also contribute to the protection of the environment and human health in areas outside the United Nations Economic Commission for Europe's region, including the Arctic and international waters,

Resolved to take measures to anticipate, prevent or minimize emissions of persistent organic pollutants, taking into account the application of the precautionary approach, as set forth in principle 15 of the Rio Declaration on Environment and Development,

Reaffirming that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and development policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction,

Noting the need for global action on persistent organic pollutants and recalling the role envisaged in chapter 9 of Agenda 21 for regional agreements to reduce global transboundary air pollution and, in particular, for the United Nations Economic Commission for Europe to share its regional experience with other regions of the world,

Aware of the commitments to chemicals management expressed in the Rio Declaration on Environment and Development¹, Agenda 21², the Bahia Declaration on Chemical Safety³, the Johannesburg Plan of Implementation, in particular paragraph 23 thereof⁴, the 2005 World Summit Outcome and the Strategic Approach to International Chemicals Management adopted on 6 February 2006 in Dubai,

Recognizing that there are subregional, regional and global regimes in place, including international instruments governing the management of hazardous wastes, their transboundary movement and disposal, in particular the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, **the Stockholm Convention on Persistent Organic Pollutants and the Rotterdam Convention on the Prior Informed Consent procedure for certain hazardous chemicals and pesticides in international trade,**

The need for global action has been addressed. The UNEP Stockholm Convention entered into force in 2004 just as the Rotterdam PIC Convention. The PIC Convention should be added to the previous paragraph because it would seem logical to add this Convention to art 3, (b) (iii).

Considering that the predominant sources of air pollution contributing to the accumulation of persistent organic pollutants are the use of certain pesticides, the manufacture and use of certain chemicals, **and** the unintentional formation of certain substances in waste incineration, combustion, metal production and mobile sources, **and the release of certain substances from products,**

In the list above we should update the list of predominant sources. We will have new source categories, especially evaporation from products and there is a proposal to delete the mobile source annex VII. (The basic obligation on mobile sources will probably be deleted in the text of the protocol, art 3 para 5 (b) (v)).

Aware that techniques and management practices are available to reduce emissions of persistent organic pollutants into the air,

Conscious of the need for a cost-effective regional approach to combating air pollution,

Noting the important contribution of the private and non-governmental sectors to knowledge of the effects associated with persistent organic pollutants, available alternatives and abatement techniques, and their role in assisting in the reduction of emissions of persistent organic pollutants,

¹ Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992, vol. I, Resolutions Adopted by the Conference (United Nations publication, Sales No. E.93.I.8 and corrigendum), resolution 1, annex I.

² Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992 (United Nations publication, Sales No. E.93.I.8 and corrigenda), vol. I: Resolutions adopted by the Conference, resolution 1, annex II.

³ Intergovernmental Forum on Chemical Safety, third session, Forum III final report (IFCS/Forum III/23w), annex 6.

⁴ Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002 (United Nations publication, Sales No. E.03.II.A1 and corrigendum), chap. I, resolution 2, annex.

Bearing in mind that measures taken to reduce persistent organic pollutant emissions should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international competition and trade,

Taking into consideration existing scientific and technical data on emissions, atmospheric processes and effects on human health and the environment of persistent organic pollutants, as well as on abatement costs, and acknowledging the need to continue scientific and technical cooperation to further the understanding of these issues,

Recognizing the measures on persistent organic pollutants already taken by some of the Parties on a national level and/or under other international conventions,

Have agreed as follows:

Article 1

DEFINITIONS

For the purposes of the present Protocol,

1. "Convention" means the Convention on Long-range Transboundary Air Pollution, adopted in Geneva on 13 November 1979;
2. "EMEP" means the Cooperative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe;
3. "Executive Body" means the Executive Body for the Convention constituted under article 10, paragraph 1, of the Convention;
4. "Commission" means the United Nations Economic Commission for Europe;
5. "Parties" means, unless the context otherwise requires, the Parties to the present Protocol;
6. "Geographical scope of EMEP" means the area defined in article 1, paragraph 4, of the Protocol to the 1979 Convention on Long-range Transboundary Air Pollution on Long-term Financing of the Cooperative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP), adopted in Geneva on 28 September 1984;
7. "Persistent organic pollutants" (POPs) are organic substances that: (i) possess toxic characteristics; (ii) are persistent; (iii) bioaccumulate; (iv) are prone to long-range transboundary atmospheric transport and deposition; and (v) are likely to cause significant adverse human health or environmental effects near to and distant from their sources;
8. "Substance" means a single chemical species, or a number of chemical species which form a specific group by virtue of (a) having similar properties and being emitted together into the environment; or (b) forming a mixture normally marketed as a single article;
9. "Emission" means the release of a substance from a point or diffuse source into the atmosphere;

10. "Stationary source" means any fixed building, structure, facility, installation, or equipment that emits or may emit any persistent organic pollutant directly or indirectly into the atmosphere;
11. "Major stationary source category" means any stationary source category listed in annex VIII;
12. "New stationary source" means any stationary source of which the construction or substantial modification is commenced after the expiry of two years from the date of entry into force of: (i) this Protocol; or (ii) an amendment to annex III or VIII, where the stationary source becomes subject to the provisions of this Protocol only by virtue of that amendment. It shall be a matter for the competent national authorities to decide whether a modification is substantial or not, taking into account such factors as the environmental benefits of the modification.

13. "Waste, disposal, and environmentally sound" mean waste, disposal and environmentally sound as interpreted in a manner consistent with the use of those terms under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal. *This definition is added in relation with the deletion of art 3 para 4.*

Article 2

OBJECTIVE

The objective of the present Protocol is to control, reduce or eliminate discharges, emissions and losses of persistent organic pollutants.

Article 3

BASIC OBLIGATIONS

1. Except where specifically exempted in accordance with article 4, each Party shall take effective measures:
- (a) To eliminate the production and use of the substances listed in annex I in accordance with the implementation requirements specified therein;
 - (b)
 - (i) To ensure that, when the substances listed in annex I, **and II** are destroyed or disposed of, such destruction or disposal is undertaken in an environmentally sound manner, taking into account relevant subregional, regional and global regimes governing the management of hazardous wastes and their disposal, in particular the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;
 - (ii) To endeavour to ensure that the disposal of substances listed in annex I, **and II** is carried out domestically, taking into account pertinent environmental considerations;
 - (iii) To ensure that the transboundary movement of the substances listed in annex I, **II and III** is conducted in an environmentally sound manner, taking into consideration applicable subregional, regional, and global regimes governing the transboundary movement of hazardous wastes, in particular the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal **and the Rotterdam Convention on the Prior Informed Consent procedure for certain hazardous**

chemicals and pesticides in international trade; *The PIC Convention deals with the transboundary movement of substances and should be added here.*

In all three subpara's in (b) one should add annex II. There is no reason to restrict (b) to annex I. Annex III should only be added to (iii), as this annex refers to substances unintentionally produced in certain combustion or chemical processes and contained in wastes like ashes etc.,. Destruction or disposal of such wastes is dealt with in art.3, para 3.

(c) To restrict the substances listed in annex II to the uses described, in accordance with the implementation requirements specified therein.

2. — The requirements specified in paragraph 1 (b) above shall become effective for each substance upon the date that production or use of that substance is eliminated, whichever is later.

Para 2 above can be deleted. Para 1 (b) has no obligation to destroy or dispose Annex I (or Annex II) substances.

3. For substances listed in annex I, II, or III, each Party should develop appropriate strategies for identifying articles still in use and wastes containing such substances, and shall take appropriate measures to ensure that such wastes and such articles, upon becoming wastes, are destroyed or disposed of in an environmentally sound manner.

4. — For the purposes of paragraphs 1 to 3 above, the terms waste, disposal, and environmentally sound shall be interpreted in a manner consistent with the use of those terms under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

Para 4 is not really a basic obligation and is better placed under article 1 Definitions. By doing this the definition of waste etc holds not only for the article 3 para 1 to 3 but for the complete protocol . Since these terms are not mentioned anymore in obligations there are no consequences if one does this .

5. **Each Party shall:**

(a) Reduce its total annual emissions of each of the substances listed in annex III from the level of the emission in a reference year set in accordance with that annex by taking effective measures, appropriate in its particular circumstances;

(b) No later than the timescales specified in annex VI, apply:

Para 5 (a) is concentrating the objective of the Protocol (expressed in Art. 2) on an obligation for annex III substances. In para 5 (b) Parties are obliged to apply BAT and ELV's. If emissions do not decrease para 7 automatically exempts Parties from the obligation in para 5 (a). So, the reduction obligation of para 5 (a) is actually subordinate to the obligation of para 5 (b) and does not add anything. Especially, now new substances are proposed for annex III the reduction obligation is not so straightforward anymore. To simplify the Protocol and also not confuse Parties with the reduction obligation and justification for increased emissions, while maintaining BAT and ELV's (see EB Decision 2006/9 in the Iceland case), it is proposed to delete para 5 (a) and para 7.

To control and reduce its total annual emissions of each of the substances listed in annex III each Party shall, no later than the timescales specified in annex VI, apply:

(i) The best available techniques, taking into consideration annex V, to each new stationary source within a major stationary source category for which annex V identifies best available techniques;

(ii) Limit values at least as stringent as those specified in annex IV to each new stationary source within a category mentioned in that annex, taking into consideration annex V. A Party may, as an alternative, apply different emission reduction strategies that achieve equivalent overall emission levels;

(iii) The best available techniques, taking into consideration annex V, to each existing stationary source within a major stationary source category for which annex V identifies best available techniques, insofar as this is technically and economically feasible. **A Party may, as an alternative, apply different emission reduction strategies that achieve equivalent overall emission reductions;** *The last sentence seems quite strange. It adds flexibility to something that is already quite flexible. How would one deal with its reporting and compliance? Proposal is to delete the sentence.*

(iv) Limit values at least as stringent as those specified in annex IV to each existing stationary source within a category mentioned in that annex, insofar as this is technically and economically feasible, taking into consideration annex V. A Party may, as an alternative, apply different emission reduction strategies that achieve equivalent overall emission reductions;

(v) Effective measures to control emissions from mobile sources, taking into consideration annex VII. *Proposal coming from the TFPOP and on the table in the WGSR41 is to delete Annex VII. So, this para 5 (v) can be deleted.*

6. — In the case of residential combustion sources, the obligations set out in paragraph 5 (b) (i) and (iii) above shall refer to all stationary sources in that category taken together.

Para 6 tries to deal with the impossibility to implement and control BAT for each and every residential combustion source. If one would look at Annex V there are general measures as public information etc and CEN standards. In effect Annex V deals with the residential combustion source together. If a country implements the standards for new stoves (as is in the annex) and uses the general measures it complies with the obligation in 5 (b) (i) and (ii). This para 6 is not needed.

7. — Where a Party, after the application of paragraph 5 (b) above, cannot achieve the requirements of paragraph 5 (a) above for a substance specified in annex III, it shall be exempted from its obligations in paragraph 5 (a) above for that substance. *See proposal after para 5 (b).*

8. — Each Party shall develop and maintain emission inventories for the substances listed in annex III, and shall collect available information relating to the production and sales of the substances listed in annexes I and II, for those Parties within the geographical scope of EMEP, using, as a minimum, the methodologies and the spatial and temporal resolution specified by the Steering Body of EMEP, and, for those Parties outside the geographical scope of EMEP, using as

guidance the methodologies developed through the work plan of the Executive Body. It shall report this information in accordance with the reporting requirements set out in article 9 below.

Para 8 above needs improvement. Issues: 1. emissions from allowed use and productions of annex I and II substances are not asked for, 2. for most of annex I substances production and use is banned. So, use and production is automatically 0 for a Party to the Protocol and one can only report historical data (which onle few countries do, most report 0 or forbidden), 3. to derive and control emission data of annex I and II substances which still are allowed to use one needs production and use data, 4. to make the use of the Guidelines on Emission Inventories (including IIR, QA/QC, etc) mandatory for POP inventories.

Each Party within the geographical scope of EMEP, shall develop and maintain emission inventories for the substances listed in annex III and the substances listed in Annex I and II for which production and use are allowed. For POP inventories, such Party shall use the “Format for reporting emission data under the Convention on Long-range Transboundary Air Pollution”, including the methodologies and the spatial and temporal resolution, as approved by the Steering Body of EMEP and endorsed by the Parties meeting within the Executive Body.

Parties outside the geographical scope of EMEP shall use as a guidance the methodologies developed through the work plan of the Executive Body.

All Parties shall report this information in accordance with the reporting requirements set out in article 9 below.

This new text deals with the issues described. Since the word Guidelines is not appropriate for something mandatory a new name Format etc is introdu. One would have a situation with Guidelines for the old protocols and Format for the new/amended protocols.

9. Each Party should participate in the effect programmes of the Convention and report in accordance with the Guidelines for reporting on the monitoring and modelling of effects of air pollution to human health and the environment under the Convention as approved by the Working Group on Effects and endorsed by the Executive Body.

This is a new para to increase the level of participation to the effectswork under the Convention. The WGE is currently working to draft these Guidelines. Note that para 9 is a voluntary obligation One could also place this para under article 8.

10. The Parties shall, subject to the outcome of the next review provided for under article 10 paragraphs 2 and 3, and no later than one year after completion of that review, commence negotiations on further obligations to reduce emissions.

All protocols under the Convention apart from POP and HM have a para in the basic obligations on further steps.

Article 4

EXEMPTIONS

1. Article 3, paragraph 1, shall not apply to quantities of a substance to be used for laboratory-scale research or as a reference standard.

2. A Party may grant an exemption from article 3, paragraphs 1 (a) and (c), in respect of a particular substance, provided that the exemption is not granted or used in a manner that would undermine the objectives of the present Protocol, and only for the following purposes and under the following conditions:

(a) For research other than that referred to in paragraph 1 above, if:

- (i) No significant quantity of the substance is expected to reach the environment during the proposed use and subsequent disposal;
- (ii) The objectives and parameters of such research are subject to assessment and authorization by the Party; and
- (iii) In the event of a significant release of a substance into the environment, the exemption will terminate immediately, measures will be taken to mitigate the release as appropriate, and an assessment of the containment measures will be conducted before research may resume;

(b) To manage as necessary a public health emergency, if:

- (i) No suitable alternative measures are available to the Party to address the situation;
- (ii) The measures taken are proportional to the magnitude and severity of the emergency;
- (iii) Appropriate precautions are taken to protect human health and the environment and to ensure that the substance is not used outside the geographical area subject to the emergency;
- (iv) The exemption is granted for a period of time that does not exceed the duration of the emergency; and
- (v) Upon termination of the emergency, any remaining stocks of the substance are subject to the provisions of article 3, paragraph 1 (b);

(c) For a minor application judged to be essential by the Party, if:

- (i) The exemption is granted for a maximum of five years;
- (ii) The exemption has not previously been granted by it under this article;
- (iii) No suitable alternatives exist for the proposed use;
- (iv) The Party has estimated the emissions of the substance resulting from the exemption and their contribution to the total emissions of the substance from the Parties;
- (v) Adequate precautions are taken to ensure that the emissions to the environment are minimized; and

(vi) Upon termination of the exemption, any remaining stocks of the substance are subject to the provisions of article 3, paragraph 1 (b).

3. Each Party shall, no later than ninety days after granting an exemption under paragraph 2 above, provide the secretariat with, as a minimum, the following information:
- (a) The chemical name of the substance subject to the exemption;
 - (b) The purpose for which the exemption has been granted;
 - (c) The conditions under which the exemption has been granted;
 - (d) The length of time for which the exemption has been granted;
 - (e) Those to whom, or the organization to which, the exemption applies; and
 - (f) For an exemption granted under paragraphs 2 (a) and (c) above, the estimated emissions of the substance as a result of the exemption and an assessment of their contribution to the total emissions of the substance from the Parties.
4. The secretariat shall make available to all Parties the information received under paragraph 3 above.

Article 5

EXCHANGE OF INFORMATION AND TECHNOLOGY

The Parties shall, in a manner consistent with their laws, regulations and practices, create favourable conditions to facilitate the exchange of information and technology designed to reduce the generation and emission of persistent organic pollutants and to develop cost-effective alternatives, by promoting, inter alia:

- (a) Contacts and cooperation among appropriate organizations and individuals in the private and public sectors that are capable of providing technology, design and engineering services, equipment or finance;
- (b) The exchange of and access to information on the development and use of alternatives to persistent organic pollutants as well as on the evaluation of the risks that such alternatives pose to human health and the environment, and information on the economic and social costs of such alternatives;
- (c) The compilation and regular updating of lists of their designated authorities engaged in similar activities in other international forums;
- (d) The exchange of information on activities conducted in other international forums.

Article 6

PUBLIC AWARENESS

The Parties shall, consistent with their laws, regulations and practices, promote the provision of information to the general public, including individuals who are direct users of persistent organic pollutants. This information may include, inter alia:

- (a) Information, including labelling, on risk assessment and hazard;
- (b) Information on risk reduction;
- (c) Information to encourage the elimination of persistent organic pollutants or a reduction in their use, including, where appropriate, information on integrated pest management, integrated crop management and the economic and social impacts of this elimination or reduction; and
- (d) Information on alternatives to persistent organic pollutants, as well as an evaluation of the risks that such alternatives pose to human health and the environment, and information on the economic and social impacts of such alternatives.

Article 7

STRATEGIES, POLICIES, PROGRAMMES, MEASURES AND INFORMATION

1. Each Party shall, no later than six months after the date on which this Protocol enters into force for it, develop strategies, policies and programmes in order to discharge its obligations under the present Protocol.
2. Each Party shall:
 - (a) Encourage the use of economically feasible, environmentally sound management techniques, including best environmental practices, with respect to all aspects of the use, production, release, processing, distribution, handling, transport and reprocessing of substances subject to the present Protocol and manufactured articles, mixtures or solutions containing such substances;
 - (b) Encourage the implementation of other management programmes to reduce emissions of persistent organic pollutants, including voluntary programmes and the use of economic instruments;
 - (c) Consider the adoption of additional policies and measures as appropriate in its particular circumstances, which may include non-regulatory approaches;
 - (d) Make determined efforts that are economically feasible to reduce levels of substances subject to the present Protocol that are contained as contaminants in other substances, chemical products or manufactured articles, as soon as the relevance of the source has been established;
 - (e) Take into consideration in its programmes for evaluating substances, the characteristics specified in paragraph 1 of Executive Body decision 1998/2 on information to be submitted and procedures for adding substances to annex I, II or III, including any amendments thereto.

3. The Parties may take more stringent measures than those required by the present Protocol.

Article 8

RESEARCH, DEVELOPMENT AND MONITORING

The Parties shall encourage research, development, monitoring and cooperation related, but not limited, to:

- (a) Emissions, long-range transport and deposition levels and their modelling, existing levels in the biotic and abiotic environment, the elaboration of procedures for harmonizing relevant methodologies;
- (b) Pollutant pathways and inventories in representative ecosystems;
- (c) Relevant effects on human health and the environment, including quantification of those effects;
- (d) Best available techniques and practices, including agricultural practices, and emission control techniques and practices currently employed by the Parties or under development;
- (e) Methodologies permitting consideration of socio-economic factors in the evaluation of alternative control strategies;
- (f) An effects-based approach which integrates appropriate information, including information obtained under subparagraphs (a) to (e) above, on measured or modelled environmental levels, pathways, and effects on human health and the environment, for the purpose of formulating future control strategies which also take into account economic and technological factors;
- (g) Methods for estimating national emissions and projecting future emissions of individual persistent organic pollutants and for evaluating how such estimates and projections can be used to structure future obligations;
- (h) Levels of substances subject to the present Protocol that are contained as contaminants in other substances, chemical products or manufactured articles and the significance of these levels for long-range transport, as well as techniques to reduce levels of these contaminants, **and, in addition, levels of persistent organic pollutants generated during the life cycle of timber treated with pentachlorophenol.** One could think of deleting the end of this sentence.

Priority should be given to research on substances considered to be the most likely to be submitted under the procedures specified in article 14, paragraph 6.

Article 9

REPORTING

1. Subject to its laws governing the confidentiality of commercial information:

- (a) Each Party shall report, through the Executive Secretary of the Commission, to the Executive Body, on a periodic basis as determined by the Parties meeting within the Executive Body, information on the measures that it has taken to implement the present Protocol. **Where a Party applies different emission reduction strategies under article 3 paragraphs 5 (ii) and (iv), it shall document the strategies applied and its compliance with the requirements of those paragraphs;**

The Gothenburg Protocol in art 7 para 1 (a) (i) asks for the documentation of the used alternative strategies. It is an omission that it did not enter the Protocol and it would be logical to enter the reporting obligation here for art 3 para 5 (ii) and (iv).

- (b) Each Party within the geographical scope of EMEP shall report, through the Executive Secretary of the Commission, to EMEP, on a periodic basis to be determined by the Steering Body of EMEP and approved by the Parties at a session of the Executive Body, information on the levels of emissions of persistent organic pollutants using, as a minimum, the **“Format for reporting emission data under the Convention on Long-range Transboundary Air Pollution”**. Parties in areas outside the geographical scope of EMEP shall make available similar information to the Executive Body if requested to do so. Each Party shall also provide information on the levels of emissions of the substances listed in annex III for the reference year specified in that annex.

Amendment of the text of (b) above to render the use of the Format for reporting emission data under the Convention on Long-range Transboundary Air Pollution mandatory.

2. The information to be reported in accordance with paragraph 1 (a) above shall be in conformity with a decision regarding format and content to be adopted by the Parties at a session of the Executive Body. The terms of this decision shall be reviewed as necessary to identify any additional elements regarding the format or the content of the information that is to be included in the reports.
3. In good time before each annual session of the Executive Body, EMEP shall provide information on the long-range transport and deposition of persistent organic pollutants.

Article 10

REVIEWS BY THE PARTIES AT SESSIONS OF THE EXECUTIVE BODY

1. The Parties shall, at sessions of the Executive Body, pursuant to article 10, paragraph 2 (a), of the Convention, review the information supplied by the Parties, EMEP and other subsidiary bodies, and the reports of the Implementation Committee referred to in article 11 of the present Protocol.
2. The Parties shall, at sessions of the Executive Body, keep under review the progress made towards achieving the obligations set out in the present Protocol.
3. The Parties shall, at sessions of the Executive Body, review the sufficiency and effectiveness of the obligations set out in the present Protocol. Such reviews will take into account the best available scientific information on the effects of the deposition of persistent organic pollutants, assessments of technological developments, changing economic conditions and the fulfilment of the obligations on emission levels. The procedures, methods and timing for such reviews shall be specified by the Parties at a session of the Executive Body. The first such review shall be completed no later than three years after

the present Protocol enters into force. **In any case a review shall be completed no later than three years after the entry into force of an amendment to the Protocol adopted in accordance with article 14 paragraph 3 or 5bis.** *For an amended protocol it is unclear what the present protocol stands for in the last sentence of para 3. Also, the review of an amended Protocol is not accounted for. One could amend this para or draft an EB decision to deal with future reviews.*

Article 11

COMPLIANCE

Compliance by each Party with its obligations under the present Protocol shall be reviewed regularly. The Implementation Committee established by decision 1997/2 of the Executive Body at its fifteenth session shall carry out such reviews and report to the Parties meeting within the Executive Body in accordance with the terms of the annex to that decision, including any amendments thereto.

Article 12

SETTLEMENT OF DISPUTES

1. In the event of a dispute between any two or more Parties concerning the interpretation or application of the present Protocol, the Parties concerned shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice. The parties to the dispute shall inform the Executive Body of their dispute.
 2. When ratifying, accepting, approving or acceding to the present Protocol, or at anytime thereafter, a Party which is not a regional economic integration organization may declare in a written instrument submitted to the Depositary that, in respect of any dispute concerning the interpretation or application of the Protocol, it recognizes one or both of the following means of dispute settlement as compulsory ipso facto and without special agreement, in relation to any Party accepting the same obligation:
 - (a) Submission of the dispute to the International Court of Justice;
 - (b) Arbitration in accordance with procedures to be adopted by the Parties at a session of the Executive Body, as soon as practicable, in an annex on arbitration.
- A Party which is a regional economic integration organization may make a declaration with like effect in relation to arbitration in accordance with the procedures referred to in subparagraph (b) above.
3. A declaration made under paragraph 2 above shall remain in force until it expires in accordance with its terms or until three months after written notice of its revocation has been deposited with the Depositary.
 4. A new declaration, a notice of revocation or the expiry of a declaration shall not in any way affect proceedings pending before the International Court of Justice or the arbitral tribunal, unless the parties to the dispute agree otherwise.
 5. Except in a case where the parties to a dispute have accepted the same means of dispute settlement under paragraph 2, if after twelve months following notification by one Party to another that a dispute exists between them, the Parties concerned have not been able to settle their dispute through the

means mentioned in paragraph 1 above, the dispute shall be submitted, at the request of any of the parties to the dispute, to conciliation.

6. For the purpose of paragraph 5, a conciliation commission shall be created. The commission shall be composed of equal numbers of members appointed by each Party concerned or, where the Parties in conciliation share the same interest, by the group sharing that interest, and a chairperson chosen jointly by the members so appointed. The commission shall render a recommendatory award, which the Parties shall consider in good faith.

Article 13

ANNEXES

The annexes to the present Protocol shall form an integral part of the Protocol. Annexes V ~~and VII are~~ ~~is~~ recommendatory in character. *Proposal is to delete Annex VII. Annex VIII will become Annex VII, complete Protocol.*

Article 14

AMENDMENTS

1. Any Party may propose amendments to the present Protocol.
2. Proposed amendments shall be submitted in writing to the Executive Secretary of the Commission, who shall communicate them to all Parties. The Parties meeting within the Executive Body shall discuss the proposed amendments at its next session, provided that the proposals have been circulated by the Executive Secretary to the Parties at least ninety days in advance.
3. Amendments to the present Protocol and to annexes I to IV, VI and VIII shall be adopted by consensus of the Parties present at a session of the Executive Body, and shall enter into force for the Parties which have accepted them on the ninetieth day after the date on which two thirds of the Parties have deposited with the Depositary their instruments of acceptance thereof. Amendments shall enter into force for any other Party on the ninetieth day after the date on which that Party has deposited its instrument of acceptance thereof.
4. Amendments to annexes V and VII shall be adopted by consensus of the Parties present at a session of the Executive Body. On the expiry of ninety days from the date of its communication to all Parties by the Executive Secretary of the Commission, an amendment to any such annex shall become effective for those Parties which have not submitted to the Depositary a notification in accordance with the provisions of paragraph 5 below, provided that at least sixteen Parties have not submitted such a notification.
5. Any Party that is unable to approve an amendment to annex V or VII shall so notify the Depositary in writing within ninety days from the date of the communication of its adoption. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for its previous notification and, upon deposit of an instrument of acceptance with the Depositary, the amendment to such an annex shall become effective for that Party.

New para 5 bis (expedited amendment procedure annexes).

5.bis. The proposal, adoption and entry into force of amendments to annexes I-IV, VI and VIII shall be subject to the same procedures as for the proposal, adoption and entry into force of amendments to annexes V and VII, except that the time frame referred to in paragraphs 4 and 5 shall be one year.

A Party not accepting the amendment of the expedited procedure should ratify all amendments beside this one. The entry into force of 5 bis needs 2/3 of the Parties. That means that 20 Parties should ratify this amendment before it enters into force. If 10 Parties do not ratify this paragraph it will not enter into force. Suppose 20 Parties do ratify this 5 bis, an EB decision is needed to see to the entry into force of future amendments for those parties that use the ratification procedure for the amendment of annexes.

6. In the case of a proposal to amend annex I, II, or III by adding a substance to the present Protocol:
 - (a) The proposer shall provide the Executive Body with the information specified in Executive Body decision 1998/2, including any amendments thereto; and
 - (b) The Parties shall evaluate the proposal in accordance with the procedures set forth in Executive Body decision 1998/2, including any amendments thereto.
7. Any decision to amend Executive Body decision 1998/2 shall be taken by consensus of the Parties meeting within the Executive Body and shall take effect sixty days after the date of adoption.

Article 15

SIGNATURE

1. The present Protocol shall be open for signature at Aarhus (Denmark) from 24 to 25 June 1998, then at United Nations Headquarters in New York until 21 December 1998, by States members of the Commission as well as States having consultative status with the Commission pursuant to paragraph 8 of Economic and Social Council resolution 36 (IV) of 28 March 1947, and by regional economic integration organizations, constituted by sovereign States members of the Commission, which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by the Protocol, provided that the States and organizations concerned are Parties to the Convention.
2. In matters within their competence, such regional economic integration organizations shall, on their own behalf, exercise the rights and fulfil the responsibilities which the present Protocol attributes to their member States. In such cases, the member States of these organizations shall not be entitled to exercise such rights individually.

Article 16

RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

1. The present Protocol shall be subject to ratification, acceptance or approval by Signatories.
2. The present Protocol shall be open for accession as from 21 December 1998 by the States and organizations that meet the requirements of article 15, paragraph 1.

Article 17

DEPOSITARY

The instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations, who will perform the functions of Depositary.

Article 18

ENTRY INTO FORCE

1. The present Protocol shall enter into force on the ninetieth day following the date on which the sixteenth instrument of ratification, acceptance, approval or accession has been deposited with the Depositary.
2. For each State and organization referred to in article 15, paragraph 1, which ratifies, accepts or approves the present Protocol or accedes thereto after the deposit of the sixteenth instrument of ratification, acceptance, approval or accession, the Protocol shall enter into force on the ninetieth day following the date of deposit by such Party of its instrument of ratification, acceptance, approval or accession.

Article 19

WITHDRAWAL

At any time after five years from the date on which the present Protocol has come into force with respect to a Party, that Party may withdraw from it by giving written notification to the Depositary. Any such withdrawal shall take effect on the ninetieth day following the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal.

Article 20

AUTHENTIC TEXTS

The original of the present Protocol, of which the English, French and Russian texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed the present Protocol.

Done at Aarhus (Denmark), this twenty-fourth day of June, one thousand nine hundred and ninety-eight.

Note: Throughout the Protocol annex VII will be deleted and annex VIII will be come annex VII.