

**Provisions of the Convention and its Protocols and Executive Body decisions
relevant to the Questionnaire on Strategies and Policies**

Note by the secretariat

Background

1. At its 31 session in December 2012, the Executive Body decided to establish an ad-hoc group of experts to review the structure of the questionnaire on strategies and policies for air pollution abatement, and to present a draft questionnaire to be issued in 2014 to the Executive Body at its thirty- second session for approval (ECE/EB.AIR/113, para. 46 (c)). Only three responses were received to the secretariat's call for nominations for participation in such an ad hoc group, even after a reminder. Given this low response, the secretariat referred the matter to the Bureau of the Executive Body at its meeting on 3 May 2013.
2. At its 51st session, the Working Group on Strategies and Review exchanged information, experiences and good practices on air pollution related policies, legislation, strategies and measures and decided that it should continue to provide a platform for policy discussions related to the design and implementation of different regulatory, voluntary, economic or other measures in line with the Convention's Article 8 through which Parties agree to "[...] exchange information on national, sub-regional and regional policies and strategies for [...] the control of major air pollutants [...]".
3. Given the low response to the call for nominations and also taking into account the exchange of information and good practices in relation to strategies and policies for implementation of the various protocols, held at during the 51st session of the Working Group on Strategies and Review, the Bureau decided not to proceed any further with developing a draft questionnaire in 2013.
4. The Bureau further agreed that a systematic exchange of information as part of the Working Group's meetings could substitute the questionnaire on strategies and policies. However, it was noted that the provisions of the convention and the protocols should be scrutinized to ensure that this would be possible. Consideration of previous EB decisions related to this matter would also be necessary to determine whether any would need to be repealed.
5. The Bureau requested the secretariat to scrutinize the necessary protocol provisions and EB decisions and prepare a draft decision and supporting documentation for submission to the EB in December 2013.
6. This note provides a scrutiny of the provisions of the conventions and the protocols in force, as well as of previous EB decisions related to this matter. It was presented to the Bureau at its meeting on 12 September 2013. The Bureau decided that the note should be presented to the thirty-second session of the Executive Body as an

informal document. The Bureau further discussed if a draft decision by the EB was necessary and concluded that it would be sufficient to include language in the report of the EB.

The Convention text

7. Article 8 of the Convention on “Exchange of information” provides that: “the Contracting Parties, within the framework of the Executive Body referred to in article 10 and bilaterally, shall, in their common interests, exchange available information on: ... (b) Major changes in national policies and in general industrial development, and their potential impact, which would be likely to cause significant changes in long-range transboundary air pollution; [...] (g) National, sub-regional and regional policies and strategies for the control of sulphur compounds and other major air pollutants.

8. The Convention text contains no reference to a questionnaire on strategies and policies.

1985 Sulphur Protocol:

9. Article 6 of the 1985 Sulphur Protocol stipulates that “Parties shall, within the framework of the Convention, to develop without undue delay national programmes, policies and strategies which shall serve as a means of reducing sulphur emissions or their transboundary fluxes, by at least 30 per cent as soon as possible and at the latest by 1993, and shall report thereon as well as on progress towards achieving the goal to the Executive Body.

10. The Protocol contains no reference to a questionnaire on strategies and policies.

11. *To the extent that sulphur emissions have been reduced by at least 30 percent by 1993 by all Parties to the Protocol, and in view of the further subsequent reductions, the Executive Body may wish to decide that there is no need for further reporting on the programmes, policies and strategies they have developed in accordance with article 6 under this Protocol.*

1988 NO_x Protocol

12. Article 7 of the 1988 Protocol on NO_x stipulates that “Parties shall develop without undue delay national programmes, policies and strategies to implement the obligations under the present Protocol that shall serve as a means of controlling and reducing emissions of nitrogen oxides or their transboundary fluxes.” Article 8 requires that “Parties shall exchange information by notifying the Executive Body of the national programmes, policies and strategies that they develop in accordance with article 7 and by reporting to it annually on progress achieved under, and any changes to, those programmes, policies and strategies, [...]”

13. Paragraph 2 of article 8 stipulates that “such information shall, **as far as possible**, be submitted in accordance with a uniform reporting framework.” The Protocol makes no reference to a questionnaire on strategies and policies.

14. In 2005, 2007 and 2009, the Executive Body decided that the 2006, 2008 and 2010 Questionnaire on Strategies and Policies respectively would represent the uniform reporting framework, referred to in art. 8, para.2 of the 1988 Protocol on NO_x ((ECE/EB.AIR/87, para. 70(b); ECE/EB.AIR/91, para. 82(b); and ECE/EB.AIR/99, para.85 (b)).

15. The target date for achieving the emissions reduction levels stipulated in the basic obligations under article 2 of the Protocol was 31 December 1994 for the emission levels and two years after entry into force for the other obligations (i.e. 14 February 1993). Currently, all Parties to this protocol have achieved their emission reduction targets under the Protocol - with the exception of Cyprus and Luxembourg¹ whose cases have been referred to the Committee several years ago. These Parties are required to report on the measures they are taking to achieve compliance through the Implementation Committee.

16. *In view of the above, the Executive Body may wish to decide that there is no need for Parties to continue to exchange information or report annually on progress achieved under the programmes, policies and strategies they have developed in accordance with article 7 of this protocol.*

1991 VOC Protocol

17. Article 7 of the 1991 Protocol on VOC stipulates that “ Parties shall develop without undue delay national programmes, policies and strategies to implement the obligations under the present Protocol that shall serve as a means of controlling and reducing emissions of VOCs or their transboundary fluxes.

18. Article 8 on “Information exchange and annual reporting” provides that “Parties shall exchange information by notifying the Executive Body of the national programmes, policies and strategies that they develop in accordance with article 7, and by reporting to it progress achieved under, and any changes to, those programmes, policies and strategies [...]”

19. Paragraph 4 of article 8 stipulates that “such information shall, **as far as possible**, be submitted in accordance with a uniform reporting framework”. The Protocol makes no reference to a questionnaire on strategies and policies.

20. In 2005, 2007 and 2009, the Executive Body decided that the 2006, 2008 and 2010 Questionnaire on Strategies and Policies respectively would represent the uniform reporting framework, referred to in art. 8, para.4 of the 1991 Protocol on VOC ((ECE/EB.AIR/87, para. 70(b); ECE/EB.AIR/91, para. 82(b); and ECE/EB.AIR/99, para.85 (b)).

¹ Luxembourg is expected to be in compliance with its obligations under the Protocol on NO_x, once the base year data had been officially reported based on “fuel used” in the Nomenclature For Reporting (NFR) together with the corresponding documentation on the methodology used in its Informative Inventory Report (IIR) in 2014.

21. The target date for achieving the emissions reduction levels stipulated in the article 2 of the Protocol was 31 December 1999 for the emission levels and two years after entry into force for the other obligations (i.e. 27 September 1999). Currently, all Parties to this protocol have achieved their emission reduction targets under the Protocol.

22. *In view of the above, the Executive Body may wish to decide that there is no need for Parties to continue to exchange information or report annually on progress achieved under the programmes, policies and strategies they have developed in accordance with article 7 of this protocol.*

1994 Sulphur Protocol

23. Article 4 of the 1994 Sulphur Protocol requires that “[each] Party shall, in order to implement its obligations under article 2: (a) adopt national strategies, policies and programmes, no later than six months after the present Protocol enters into force for it; and (b) take and apply national measures to control and reduce its sulphur emissions.

24. Article 5 of the 1994 Sulphur Protocol on “Reporting” stipulates that “each Party shall report, through the Executive Secretary of the Commission, to the Executive Body, on a periodic basis as determined by the Executive Body, information on: (a) the implementation of national strategies, policies, programmes and measures referred to in article 4, paragraph 1; [...] (c) the implementation of other obligations that it has entered into under the present Protocol, **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 and/or content of the information that are to be included in the reports.

25. The 1994 Protocol sets emission ceilings for 2005 and 2010 for some Parties. With the exception of Austria, Canada, Greece, Ireland, Italy, Liechtenstein and Monaco, all Parties to the Protocol have also ratified the 1999 Gothenburg Protocol which sets ceilings for 2010. Currently, there are no Parties whose possible non-compliance with the 1994 Protocol is being reviewed by the Implementation Committee.

26. There is no reference to a questionnaire on strategies and policies in the Protocol. In 2005, 2007 and 2009, the Executive Body decided that the 2006, 2008 and 2010 Questionnaire on Strategies and Policies respectively would represent “the uniform reporting framework”, referred to in art. 5, para.1 of the 1994 Protocol on Further Reduction of Sulphur Emissions” ((ECE/EB.AIR/87, para. 70(b); ECE/EB.AIR/91, para. 82(b); and ECE/EB.AIR/99, para.85 (b)).

27. *In view of the above, the Executive Body may wish to decide that, there is no need for Parties to continue to exchange information or report annually on progress achieved under the programmes, policies and strategies they have developed in accordance with article 7 of this protocol.*

1998 Protocol on POPs

28. Article 7 of the Protocol on POPs requires that 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.

29. Article 9, paragraph 1 of the Protocol on POPs on “Reporting” stipulates that “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”. Furthermore, paragraph 2 of article 9 stipulates that “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.”

30. The Protocol makes no reference to a Questionnaire on Strategies and Policies. In 2005, 2007 and 2009, the Executive Body decided that the 2006, 2008 and 2010 Questionnaire on Strategies and Policies respectively would represent “**the uniform reporting framework**”, referred to in art. 9, para.2 of the Protocol on POPs ((ECE/EB.AIR/87, para. 70(b); ECE/EB.AIR/91, para. 82(b); and ECE/EB.AIR/99, para.85 (b)).

31. Currently, several Parties have been referred to the Implementation Committee for being in possible non-compliance with their emission reduction targets under the Protocol. It has become clear that in most instances this possible non-compliance is a result of inaccuracies in calculation of emission data rather than due to a lack of strategies, policies and measures. In 2011, the EB adopted decision 2011/13 requiring the Task Force on POPs to address this problem of non-compliance.

32. In 2009, amendments to the Protocol and its annexes were adopted by decisions 2009/1, 2009/2, 2009/3 and 2009/4.

33. *In view of the above, the Executive Body may wish to decide that Parties should report on the measures being taken to implement the present protocol, by reporting, in the framework of the sessions of WGSR, on the measures taken and the progress achieved toward implementation and ratification of the amendments to the Protocol adopted in 2009.*

1998 Protocol on Heavy Metals

34. Article 5 of the Protocol on Heavy Metals stipulates that “each Party shall develop, without undue delay, strategies, policies and programmes to discharge its obligations under the present Protocol.”

35. Paragraph 1 of Article 7 on “Reporting” requires that “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. Paragraph 2 stipulates that “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.”

36. The Protocol makes no reference to a Questionnaire on Strategies and Policies. In 2005, 2007 and 2009, the Executive Body decided that the 2006, 2008 and 2010 Questionnaire on Strategies and Policies respectively would represent “**the uniform reporting framework**”, referred to in art. 7, para.2 of the Protocol on Heavy Metals ((ECE/EB.AIR/87, para. 70(b); ECE/EB.AIR/91, para. 82(b); and ECE/EB.AIR/99, para.85 (b)).

37. Currently, several Parties have been referred to the Implementation Committee for being in possible non-compliance with their emission reduction targets under the Protocol. They are requested by the EB to regularly report to the Implementation Committee on the measures they are taking to achieve compliance.

38. In 2012, amendments to the Protocol and its annexes were adopted by decisions 2012/5 and 2012/6.

39. *In view of the above, the Executive Body may wish to decide that Parties should report on the measures being taken to implement the present protocol, by reporting, in the framework of the sessions of WGSR, on the measures taken and the progress achieved toward implementation and ratification of the amendments to the Protocol adopted in 2012.*

Gothenburg Protocol

40. Article 6 of stipulates that “each Party shall, **as necessary** and on the basis of sound scientific and economic criteria, in order to facilitate the implementation of its obligations under article 3: (a) adopt supporting strategies, policies and programmes without undue delay after the present Protocol enters into force for it;[...]

41. Paragraph 1 of Article 7 on “Reporting” stipulates that “subject to its laws and regulations and in accordance with its obligations under the present Protocol: (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 at a session of the Executive Body, information on the measures that it has taken to implement the present Protocol. Paragraph 2 stipulates that “the information to be reported in accordance with paragraph 1 (a) 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.”

42. The Protocol makes no reference to a Questionnaire on Strategies and Policies. In 2005, 2007 and 2009, the Executive Body decided that the 2006, 2008 and 2010 Questionnaire on Strategies and Policies respectively would represent “**the uniform**

reporting framework”, referred to in art. 7, para.2 of the Gothenburg Protocol ((ECE/EB.AIR/87, para. 70(b); ECE/EB.AIR/91, para. 82(b); and ECE/EB.AIR/99, para.85 (b)).

43. Currently, several Parties have been referred to the Implementation Committee for being in possible non-compliance with their 2010 emission ceilings under the Protocol. Several of them have indicated that they intend to make use of the adjustment procedure provisionally applied under the protocol, once the modalities for the review of applications have been finalized. The Implementation Committee has decided to stop considering these cases.

44. In 2012, amendments to the Protocol and its annexes were adopted by decisions 2012/1, 2012/2 and 2012/3. In addition, Parties adopted decision 2012/4 on the Provisional application of the amendments to the Protocol, which enables Parties to make use of the adjustment procedure under decision 2012/3 immediately.

45. *In view of the above, the Executive Body may wish to decide that Parties should report on the measures being taken to implement the present protocol, by reporting, in the framework of the sessions of WGSR, on the measures taken and the progress achieved toward implementation and ratification of the amendments to the Protocol adopted in 2012.*

Draft text for EB-32 report

46. In view of the above, the Executive Body, at its thirty-second session may wish to:

(a) Welcome the decision of the Working Group on Strategies and Review at its fifty-second session to continue to provide a platform for policy discussions related to the design and implementation of different regulatory, voluntary, economic or other measures in line with the Convention’s article 8 through which Parties agreed to “exchange information on... national, subregional and regional policies and strategies for... the control of major air pollutants”;

(b) Decide that the sessions of the Working Group on Strategies and Review shall provide the framework for reporting on a periodic basis referred to in Article 9, para 1, of the Protocol on POPs, Article 7, para 1 of the Protocol on Heavy Metals and Article 7, para 1 of the Gothenburg Protocol;

(c) Invite Parties, when reporting at sessions of the Working Group on Strategies and Review, to address the measures taken and the progress achieved toward implementation and ratification of the amendments to the Protocol on POPs adopted in 2009 and amendments to the Protocol on Heavy Metals and the Gothenburg Protocol adopted in 2012;

(d) Decide that there is no need for Parties to continue to exchange information or report annually on progress achieved under the programmes, policies and strategies they have developed in accordance with the 1985 and 1994 Protocols on Sulphur, the Protocol on NOx and the Protocol on VOC, in view of the achievement of the targets and measures agreed under these protocols.