

*Comments by Canadian Non-Governmental Organizations on
Sixth Intergovernmental Negotiating Committee Meeting
(INC-6)
Stockholm Convention on Persistent Organic Pollutants (POPs)
A Consultation Document*

*Report No. 423
1-894158-92-X*



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June 5, 2002

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Executive Summary of Recommendations

The purpose of this paper is to provide comments on the Government of Canada paper entitled: *Sixth Intergovernmental Negotiating Committee Meeting (INC-6) Stockholm Convention on Persistent Organic Pollutants (POPs): A Consultation Document*. These comments will be considered by the Government of Canada as they prepare Canada's position for the next intergovernmental negotiating committee (INC) session #6 scheduled between June 17-21, 2002, in Geneva, Switzerland.

The paper reflects comments of member groups of the Toxics Caucus of the Canadian Environmental Network (CEN). It has been drafted, in light of the input of these member groups, by the Canadian Environmental Law Association (CELA). CELA is chair of the Toxics Caucus and has a long history of involvement with issues pertaining to the domestic and international regulation of persistent organic pollutants. Given the extremely limited timeframe available for developing and drafting this response, it was possible to solicit and receive only limited feedback. However, the comments presented in this response reflect those communications.

Below is a summary of the recommendations regarding the Government of Canada consultation document.

Recommendation 1: Canada should make a concerted effort to take a leadership role in furthering the implementation of the Stockholm Convention.

Recommendation 2: Canada should, both within the domestic and international realm, recognize the value and role of non-governmental groups and seek to ensure their involvement at every stage of implementing the Convention.

Recommendation 3: Canada should immediately withdraw its Article 25, paragraph 4 declaration respecting amendments to the Annexes. The Article 25 declaration will delay domestic action on POPs in Canada, and sends the wrong message about Canada's commitment to POPs implementation.

Recommendation 4: Canada should commit immediately to the development of a national implementation plan and specify the timelines for its development. The plan must serve as the strategy for regulatory initiatives in Canada, and government actions must be consistent with the directions within the plan.

Recommendation 5: It is recommended that both inventories and guidance on inventories reflect, to the greatest extent possible, releases to all environmental media, of all the by-product POPs listed in the Stockholm Convention. Inventories must not be limited to releases to air, and must include all anthropogenic sources.

Recommendation 6: Canada should promote and encourage non-incineration technologies, given the fact that commitments in the Stockholm Convention are continued minimization with the aim of elimination.

Recommendation 7: Canada should commit to technologies, processes and products that do not lead to the formation or release of POPs. Canada should implement regulations under CEPA requiring that any new development, technology or product proposal must neither form nor release POPs.

Recommendation 8: It is recommended that Canada provide a summary or inventory of its efforts to date and on an ongoing basis to enhance financial capacity, in addition to the \$20 million contributed to the World Bank Trust Fund. This inventory would outline the role of the Canadian International Development Agency, and other actions by Canada, would increase transparency in the Canadian effort, and would facilitate public involvement in funding decisions.

Recommendation 9: Canada should take a leading role in encouraging GEF replenishment.

Recommendation 10: Canada should promote and launch POPs-related pilot projects, in order to provide Canada with a further opportunity to advance the POPs agenda in a progressive manner and to demonstrate leadership. Delaying such efforts is unjustified.

Recommendation 11: The NAICC "Strategic Implementation Framework for International Commitments on Hazardous Air Pollutants" should not be used as a model for national implementation plans at this time. A more detailed review, with the input and involvement of NGOs, should take place first, in order to assess its appropriateness and adequacy.

Recommendation 12: It is recommended that 2000, the year when the treaty negotiations were completed, be used as the base year for reporting. Basing reporting on 2000 will reflect a more realistic picture of reductions in POPs formation and releases since the conclusion of the Convention text.

Recommendation 13: It is recommended that the UNEP Standardized Toolkit as currently drafted not be relied upon as the sole source of guidance material at this stage, because of its limitations. In particular, it should better reflect developing country situations and include dioxin sources more suited to inputs, processes and other conditions in those countries. It should include a comprehensive strategy for identifying *actual* releases of dioxins and furans. The current approach identifies sources, and not necessarily releases.

Recommendation 14: Canada is encouraged to continue to support and promote an intersessional on BAT and BEP, including NGO representation. Canada should also strongly support, as a priority matter, the obligations and guidance in the text of the

Stockholm Convention for the implementation of BAT to include a preference for processes, products and techniques that do not lead to the formation of POPs.

Recommendation 15: Canada must support the development of appropriate legally binding requirements for the destruction of POPs wastes and stockpiles as required under the Stockholm Convention.

Recommendation 16: It is recommended that Canada support work toward adding further POPs to the list of substances subject to the Convention, instead of deferring the matter until POPs Review Committee process and other issues are settled.

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June 5, 2002

I. Introduction

- The purpose of this paper is to provide comments on the Government of Canada paper entitled: *Sixth Intergovernmental Negotiating Committee Meeting (INC-6) Stockholm Convention on Persistent Organic Pollutants (POPs): A Consultation Document*.
- The paper reflects comments of member groups of the Toxics Caucus of the Canadian Environmental Network (CEN). It has been drafted, in light of the input of these member groups, by the Canadian Environmental Law Association (CELA). CELA is chair of the Toxics Caucus and has a long history of involvement with issues pertaining to the domestic and international regulation of persistent organic pollutants. Given the extremely limited timeframe available for developing and drafting this response, it was possible to solicit and receive only limited feedback. However, the comments presented in this response reflect those communications.
- The issues and comments covered in this response also reflect the comments raised during two conference calls arranged by Environment Canada. The first, on 24 May, included environmental non-governmental organization (NGO) representatives. The second, held 31 May, was a multistakeholder consultation based on the Consultation Document.
- The comments in this paper should be read in the context of Canadian NGO positions on POPs, as reflected in various reports and by our ongoing participation in various consultations.¹

II. Overarching Issues for Canada

Canadian Commitment; Role of NGOs domestically and internationally

- During the negotiations for the Stockholm Convention, Canada's negotiating position was developed through intense consultation with Canadian stakeholders.

¹ See, for example, "Towards the Development of a Global Treaty on Persistent Organic Pollutants: Comments by the CEN Toxics Caucus towards the INC-5 Session in Johannesburg, South Africa". Canadian Environmental Law Association Report #394, ISBN #1-894158-62-8. November 10, 2000.

Canadian government concerns were driven (at least publicly) by exposure to POPs of Canadian Arctic and Inuit communities that leave many in Canada's North with exposure to POPs, such as hexachlorobenzene,² that is in excess of Canadian guidelines. Canada therefore invested heavily, both politically and financially, in ensuring that the POPs negotiations came to a speedy and satisfactory conclusion.

- Scientific evidence of the adverse health effects of exposure to POPs is limited but evidence suggest that they may include reproductive and immune disorders, developmental abnormalities and cancer.³ POPs that are subject to bans, reduction and control regimes under the Stockholm Convention and other international and domestic instruments are known to cause cancer, severe reproductive problems and learning deficits.
- However, in the past year, staff changes at Environment Canada, involving in some cases diminished institutional expertise and capacity, have left the important POPs file largely without leadership. As well as leaving a leadership vacuum at the government and policy level in Canada, these changes also impose an added burden on NGOs to ensure that momentum in meeting the common objectives agreed to by all stakeholders during the POPs negotiations is not lost.
- It can only be assumed that the now obvious disconnection between Canada's position internationally and Canada's performance domestically (see below) is partially a result of the changes in leadership at Environment Canada. In any case, it is clearly the responsibility of the Minister and Deputy Minister to ensure that adequate resources are brought to bear on this important file. After years of discussing these issues with Environment Canada, NGO frustration is justified.

Recommendation 1: Canada should make a concerted effort to take a leadership role in furthering the implementation of the Stockholm Convention.

- NGOs have played a significant role in the development of public policy about POPs for many years. Indeed, both during and following negotiations on the Stockholm Convention, the International POPs Elimination Network (IPEN)(in which many Canadian environmental NGOs participate), was credited with playing a significant role in the speedy and successful conclusion of negotiations.
- NGO participation in the Stockholm Convention has not diminished since the Diplomatic Conference. IPEN and other NGOs now participate in every UNEP POPs-related forum, as well as developing our own programs. IPEN is also heavily involved in developing capacity programs aimed primarily at NGOs working on chemical safety issues in many parts of the developing world.

² Indian and Northern Affairs Canada. *Canadian Arctic Contaminants Assessment Report*. p. 325.

³ Ibid. p. 17.

Recommendation 2: Canada should, both within the domestic and international realm, recognize the value and role of NGOs and seek to ensure their involvement at every stage of implementing the Convention.

Ratification, acceptance, approval or accession – Article 25

- Although Canada was the first to ratify the Stockholm Convention, Canada also remains the only country to opt in to Article 25, paragraph 4, which exempts a Party from being bound by the addition of future POPs to the Convention. Canada's position has been that Canada should not be bound by this provision of the Convention when there are domestic regulatory processes and consultation mechanisms that need to be adhered to.

Recommendation 3: Canada should immediately withdraw its Article 25, paragraph 4 declaration respecting amendments to the Annexes. The Article 25 declaration will delay domestic action on POPs in Canada, and sends the wrong message about Canada's commitment to POPs implementation.

No National Implementation Plan

- Because of Canada's special concerns about contamination of Canadians, Minister Anderson reiterated Canada's commitment to the Stockholm Convention at the conclusion of the Diplomatic Conference in Stockholm, and challenged the international community to ensure that the Convention enters into force by August 2002, the date of the World Summit on Sustainable Development (WSSD). It is critical to note Minister Anderson's commitment "that we take early action and not wait until the Convention enters into force."⁴ While this commitment was made in the context of developing country preparations for the Convention's entry into force, it is vital that Canada also take early action domestically, in order to advance implementation globally.
- In resolution I, passed at the Diplomatic Conference in Stockholm, Canada agreed to: "participate in and apply the full provisions of the Convention during the interim period on a voluntary basis."⁵
- However, Canada's reluctance to develop and publish a NIP consistent with the obligations of the Stockholm Convention does not reflect Minister Anderson's commitment to early action and the concerns that were expressed by the Canadian delegation during the Intergovernmental Negotiating Committee sessions.

⁴ Statement on Behalf of Canada by the Honourable David Anderson, Environment Minister, at the Signing of the Stockholm Convention on Persistent Organic Pollutants, Stockholm, Sweden, May 23, 2001.

⁵ Resolution on Interim Arrangements, paragraph 11.

- The lack of a NIP does not demonstrate the leadership that is expected of Canada. Canada should develop this plan as a “high water mark” for other countries. The NAICC “Strategic Implementation Framework for International Commitments on Hazardous Air Pollutants” is not an appropriate model. See “National Implementation Plans (NIP)” in Part III, below.
- Equally troubling is the fact that Canada continues to develop a domestic regulatory framework (involving, for example, export and import of hazardous wastes, PCBs, etc.) governing Convention POPs that ignores the provisions of the Convention. Canada must ensure that its domestic legislation, regulations and policies adequately reflect the spirit and letter of the Stockholm Convention. Recommended changes include:
 - Modify the TSMP criteria for persistence in water to match the values in the POPs convention; and
 - Ensure that policies at every level, e.g., B.C.’s AOX and provincial licensing policies for incinerators and metal processing, are consistent with the overall CEPA and POPs goals of virtual elimination.

Recommendation 4: Canada should commit immediately to the development of a NIP, and specify the timelines for its development. The plan must serve as the strategy for regulatory initiatives in Canada, and government actions must be consistent with the directions within the plan.

By-products of existing and new facilities

- Canadian dioxin inventories are more complete in terms of releases to air, and tend to be less complete in terms of "reservoir sites" and releases to water and soil.⁶ The European Union dioxin inventory, which estimates releases to air, soil and water, is superior in this respect. A comprehensive Canadian release inventory would require monitoring of releases to all media, rather than measuring (or merely estimating) releases to air only.
- Canada’s dioxin and furan inventory must be updated to ensure that it covers all anthropogenic sources. For example, there is no accounting in the existing inventory for landfill fires. The U.S. Environmental Protection Agency (EPA) estimates that landfill fires may contribute up to twenty percent of dioxin releases to air in the U.S.
- Canadian dioxin inventories do not include the co-planar PCBs in the reporting of dioxin releases from industrial facilities, as is recommended by the WHO and as required by the Stockholm Convention.

⁶ Telephone interview with Environment Canada official, 4 June 2002.

- The Stockholm Convention also requires that inventories be developed for the other by-product POPs listed in Annex C of the Convention text, namely polychlorinated biphenyls⁷ (PCBs) and hexachlorobenzene (HCB).

Recommendation 5: It is recommended that both inventories and guidance on inventories reflect, to the greatest extent possible, releases to all environmental media, of all the by-product POPs listed in the Stockholm Convention. Inventories must not be limited to releases to air, and must include all anthropogenic sources.

- Many existing facilities already release significant quantities of by-product POPs (e.g. Swan Hills, Magnola), and there is concern that a current proposal for a new incinerator (the Bennett Environmental project) may create a further unjustified POPs hazard.

Recommendation 6: Canada should promote and encourage non-incineration technologies, given the fact that commitments in the Stockholm Convention are continued minimization with the aim of elimination.

Recommendation 7: Canada should commit to technologies, processes and products that do not lead to the formation or release of POPs. Canada should implement regulations under CEPA requiring that any new development, technology or product proposal must neither form nor release POPs.

Summary - A wait and see attitude

- Overall, the position presented in the Consultation Document indicates that Canada will wait and see what other countries are going to propose. This approach is thoroughly at odds with the health imperative for Canadians, especially Canada's Inuit and Great Lakes populations, and with the leadership that was shown during the INC negotiations. Not only should Canada take a leadership role; it should also recognize the role that NGOs have played in the past and can play in the implementation of the Stockholm Convention.
- As an alternative to the "wait and see" approach, it is recommended that Canada reclaim an international leadership role on the POPs issue by taking domestic actions that go beyond the letter of the Convention, and that encourage other industrialized nations to do the same. Suggested actions include:

⁷ It is important to note that the issue of including the co-planar PCBs in the total TEQ calculation for dioxin releases is distinct from and different than the requirement for reporting PCB releases as required under Annex C. The PCB release inventory obligation requires reporting of all PCB congeners released from POPs-producing sources, whereas the inclusion of PCBs in the dioxin TEQ calculation involves only the co-planar PCBs.

- Require that pesticides containing any amount of POPs be reformulated to omit the contaminant, or that their registration be cancelled;
- Decommission all in-use utility poles containing pentachlorophenol, and dispose of them in an environmentally sound manner;
- Develop regulations and strengthen licensing procedures to require a phased-in process for materials and process substitution for those industries still emitting Annex C contaminants; and
- Prohibit the export or promotion by federal agencies of POPs-creating technologies.

III. Comments on Consultation Paper

1. General Issues

Overarching Canadian Objective

- A key discussion at INC6 will be the issue of ratification and Entry-Into-Force (EIF). Canadian NGOs would like to see the UN receive enough ratifications prior to WSSD for the Convention to enter into force at the beginning of 2003. Important implementation stages are triggered by the Convention's EIF.
- Canada's commitment to ensuring that the resolutions agreed to in Stockholm are achieved is laudable – but so far Canada has yet to develop a meaningful NIP.

Key Canadian Approaches for INC6

- Canada's support of a financial mechanism for aiding developing countries and countries in transition is positive, but more information is needed about the nature of the mechanism.
- Similarly, Canada's possible support of an increased allocation to the Global Environment Fund (GEF) is positive. In the general context of the hold out by the US from making its contribution and other realities, however, the issue of GEF replenishment is still not resolved.
- This presents a major problem for GEF client countries and for the program of work that will need to be developed, in order for the obligations negotiated in the Convention to be implemented.

2. Financial and Implementation Issues

Financial Resources and Mechanisms

- A number of issues arise under "Financial Resources and Mechanisms."
- First, Canada should continue to support the GEF as the principle interim entity entrusted with the operations of the financial mechanism referred to in Article 13.
- At this time, it is not necessary to attempt to resolve whether the GEF should remain as the "interim" financial entity. However, Canada should continue efforts to address capacity building in developing countries. Article 13 should not be interpreted as providing that the GEF be the *only* funding mechanism.
- There is some concern that Canada will want to wait until the GEF is confirmed as the financial mechanism, before establishing a process to develop guidance for COP-1 to evaluate the financial mechanism. Criteria development for such evaluation and other background work should begin now. Canada's overall objective must be the implementation of the Convention, and any delay should be studiously avoided.
- As work is furthered under the Convention, an important issue is whether commitments will be forthcoming to replenish GEF POP funds. Although Canada must be commended for past contributions, there must be discussion of how GEF funds will be enhanced and replenished.
- What other plans does Canada have if progress is not made with the GEF?

Recommendation 8: It is recommended that Canada provide a summary or inventory of its efforts to date and on an ongoing basis to enhance financial capacity, in addition to the \$20 million contributed to the World Bank Trust Fund. This inventory would outline the role of the Canadian International Development Agency, and other actions by Canada, would increase transparency in the Canadian effort, and would facilitate public involvement in funding decisions.

- It is our understanding that the UNEP document "UNEP/POPS/INC.6/INF/9" will refer to the valuable role that NGOs can play in delivering capacity assistance programs and in leveraging funding, but there appears to be limited acknowledgement of the need for institutional help for NGOs to deliver these programs. This is especially problematic in parts of the South where NGOs deliver these programs with extremely limited resources.

Recommendation 9: Canada should take a leading role in encouraging GEF replenishment.

Technical Assistance

- Canada should continue to support a process to develop further guidance pertaining to technical assistance.
- Canada's position that implementation plans being prepared under Article 7 should be used as a basis for evaluating specific technical assistance needs should also be supported.
- Another position of Canada, however, should be the subject of further discussion, namely:

“Canada views a request to the Secretariat to establish a pilot initiative for regional and sub regional centres as premature and will propose that an assessment of Party needs and current capacity, including related actions to date, based on existing arrangements is a more appropriate first step for work on paragraph 4 of Article 12.”

- A Canadian official further explained this position during the May 31 conference call, saying that caution is based on a lack of information about what the international community intends “pilot projects” to entail and comprise.
- A number of questions arise from this position, namely:
 - Why does Canada consider pilot projects premature when they are, by definition, a learning tool?
 - What is the process for the "assessment of Party needs and current capacity"? Will it be part of the Capacity Assistance Network (CAN) process, the NIP process, or something else?
 - Does Canada support pilot projects at some time in the future?

Recommendation 10: Canada should promote and launch POPs-related pilot projects, in order to provide Canada with a further opportunity to advance the POPs agenda in a progressive manner and to demonstrate leadership. Delaying such efforts is unjustified.

Capacity Building: Capacity Assistance Network

- Again, Canada should be commended for proposing the CAN and should be supported in continuing its work promoting and developing a CAN. Canada should continue to make technical assistance a key priority in INC-6.

- Reference to the role and contribution of NGOs is absent from the entire discussion on the provision of technical assistance. As asserted in Part II, above, the role of NGOs needs to be better recognized and encouraged.

National Implementation Plans

- The Article 7 requirement for the development of a National Implementation Plan (NIP) is one of the most important provisions of the Convention.
- Canada should support the development of a process to provide guidance to review NIPs.
- The process to develop the guidance is fundamentally important. NGOs should have a role in this process.
- The discussion document states that:

"Canada has experience developing a national implementation plan for POPs: the NAICC "Strategic Implementation Framework for International Commitments on Hazardous Air Pollutants" which outlines how Canada intends to implement each of its obligations under the UNECE POPs and Heavy Metals Protocols. Canada is willing to provide this framework as a potential model for a NIP, and to ensure that plans include all types of information relevant to assessing how countries will meet their obligations under this Convention."

- A preliminary review of the NAICC "Strategic Implementation Framework for International Commitments on Hazardous Air Pollutants" was undertaken, in order to assess its appropriateness and adequacy as a model for a NIP. The review suggests that the "Strategic Implementation Framework" document is *not* an appropriate model for the following reasons:
 - The framework was developed with a view to implementing the UNECE Protocol, which may not be appropriate in implementing the Stockholm Convention (for example, the obligations in the UNECE Protocol are not as stringent as those agreed to in the Stockholm Convention).
 - It was developed without the sustained input of many Canadian environmental NGOs.
 - The framework does not recognize the role of NGOs.
 - Canadian domestic law has evolved since the framework was developed, particularly with the passage and gradual implementation of the *Canadian Environmental Protection Act, 1999* and the various new tools that legislation offers.
 - The framework reads more like a general statement of intention and a survey of available legal and policy instruments than a plan. With some exceptions, it is not specific about how the particular provisions will be

implemented, and the timeframes for achieving the specific obligations of the UNECE Protocol, let alone the Stockholm Convention.

- The framework makes very little mention of institutional and technical capacity to achieve objectives, and how those capacities will be enhanced.
- There is little discussion as to how the various laws, programs and policies will be integrated and coordinated, in order to assess the adequacy and progress of domestic efforts to achieve international goals.
- There is no commitment requiring domestic regulatory efforts to be consistent with international obligations.
- It is not clear how this document could be used as an international model in the sense there is still need for discussion as to what is a NIP, what its components should be, how specific it should be in developing action steps, among other matters.

Recommendation 11: The NAICC "Strategic Implementation Framework for International Commitments on Hazardous Air Pollutants" should not be used as a model for NIPs at this time. A more detailed review, with the input and involvement of NGOs, should take place first, in order to assess its appropriateness and adequacy.

3. Control Related Provisions

DDT – Annex B

- We agree with the Government of Canada in supporting WHO involvement in work relating to DDT under the Stockholm Convention.

Guidance on Current and Projected Releases

- Article 5 commits the parties to develop action plans to identify, characterize and address the release of chemicals. Part of this plan includes an evaluation of current and projected releases, including the development and maintenance of source inventories and release estimates.

Base Year

- In this context, the Consultation paper notes: "Canada supports a reporting base year of 1990 that would acknowledge efforts that Canada has already undertaken in POPs reduction and would be consistent with the provisions of the UNECE Protocol on POPs."
- This position is not supportable. It is simply untenable to get credit for reductions that were made 15 years before coming in force of the Convention. A significant

proportion of past reductions is explained by facility closures rather than by action. A more appropriate baseline should be derived from Environment Canada's dioxin inventory that was developed in the late 1990s. This is perhaps the most credible inventory. It offers more reliable data, and has served as the basis for reductions and reduction commitments since its inception.

- During the May 31 conference call, federal officials indicated that there is increasing comfort with using a base year of 1995 or later, but that the decision has not been made.

Recommendation 12: It is recommended that 2000, the year when the POPs negotiations were completed, be used as the base year for reporting. Basing reporting on 2000 will reflect a more realistic picture of reductions in POPs formation and releases since the conclusion of the Convention text.

Canada's Support of a Standardized Toolkit document

- The UNEP Standardized Toolkit and other current approaches have significant shortcomings that need to be addressed before they can be relied upon globally. For example, the UNEP toolkit tends to assume that its approach is transferable, without sufficient regard to local circumstances, variability among processes and facilities, etc.
- That the emission factors used in the toolkit may not be universally transferable is of particular concern. Most of the data included in the toolkit are based on testing and estimates for facilities in Western Europe and North America. As one example, the emission factors in the toolkit for chlor-alkali facilities do not include an estimate for plants using carbon electrodes, which are known to generate significant quantities of dioxins and other POPs. In the case of China, more than ninety percent of the chlorine is produced using carbon-based electrode systems. An estimation using the toolkit for this industrial sector in China would therefore substantially underestimate the dioxin production from this source.
- It must be recognized that the variability between different individual facilities can be significant. One incinerator operating in the U.S. was estimated to be emitting a greater quantity of dioxins than all other incinerators in the country. The use of the UNEP toolkit would not enable the identification of such a significant source of dioxins and other by-product POPs. In fact, it is difficult to envisage how the use of standardized emission factors can support the goals of continual minimization and ultimate elimination of POPs from anthropogenic sources.
- Uncertainty is also inadequately addressed. Greater input, taking local circumstances into account, is needed from developing countries (including NGOs in those countries) about the development of national inventories and the

use of the toolkit. The toolkit is not comprehensive in terms of *actual* dioxin sources, and instead provides an incomplete list of *possible* sources. Worse, the toolkit may actually be misleading in terms of the formation and release of dioxins and other POPs in those countries.

Recommendation 13: It is recommended that the UNEP Standardized Toolkit as currently drafted not be relied upon as the sole source of guidance material at this stage, because of its limitations. In particular, it should better reflect developing country situations and include dioxin sources more suited to inputs, processes and other conditions in those countries. It should include a comprehensive strategy for identifying *actual* releases of dioxins and furans. The current approach identifies sources, and not necessarily releases.

Guidance on BAT and BEP for unintentional releases of dioxins, furans, HCB, PCBs (Annex C substances) – Article 5

- Priority is to be given under Article 5 to the *prevention* of the “formation and release of” Annex C chemicals. This goal takes priority over reduction.
- Measures suggested in section A of Part V, Annex C are intended expressly in the Convention to be minimum measures; possible measures are expressly not to be limited to those listed.
- Therefore, the BAT and BEP listed in Article 5 paragraph (b) that will lead to “ultimate elimination” are to be preferred over those that will merely result in reductions. This should be the overarching priority under this Article.
- Article 5 describes minimum measures; there is an opportunity for more economically-advantaged countries like Canada to show leadership in striving for higher standards in this and other areas.
- Further, the Action Plan in paragraph (a) of Article 5 is not limited to releases, because it incorporates paragraphs (b) to (e) by reference. Paragraph (b), for example, includes reference to “source elimination.”
- As to timing, as the Action Plan is to be developed within two years of entry into force of the Convention, there is no reason to delay the development of the Action Plan as part of the NIP.
- It is noteworthy that Article 5 uses the broad phrase “Best Available Techniques” rather than the more limited “Best Available Technology.”
- Input from both industry and NGO representatives on the May 31 conference call appeared to indicate strong stakeholder agreement with Canada’s support of the formation of an intersessional committee to consider BAT and BEP.

Recommendation 14: Canada is encouraged to continue to support and promote an intersessional committee on BAT and BEP, including NGO representation. Canada should also strongly support, as a priority matter, the obligations and guidance in the text of the Stockholm Convention for the implementation of BAT to include a preference for processes, products and techniques that do not lead to the formation of POPs.

Stockpiles and Wastes – Article 6

- We note that Canada has not amended the 1999 Basel Ban Amendment. This situation should be rectified immediately.
- We support the principle of tying Stockholm Convention measures to Basel Convention measures, as long as such measures are strong, effective and implement fully all of the obligations of both instruments.
- We are particularly concerned about reliance on work done within the Basel Convention. The development and implementation of POPs guidelines under Basel stem from a different set of obligations from those of the Stockholm Convention. Canada should assert that the Stockholm Convention not be overly dependent on other instruments or agreements, and should support the position that any guidance developed jointly with other instruments must be reviewed formally by the COP and by any appropriate subsidiary body that the COP may implement.
- While Basel addresses transboundary movement of wastes, it does not address appropriate treatment and destruction of hazardous wastes, including POPs. The Basel Convention Guidelines on waste treatment and disposal may diverge significantly from the obligations and guidance of the provisions of the Stockholm Convention. Obligations for the treatment of stockpiles and wastes under Stockholm will be legally binding, thus any guidelines developed will have significantly greater consequence than under Basel. There is an opportunity for Canada to take the lead in determining the most appropriate process for destruction of POPs stockpiles and wastes, taking into account the new obligations and guidance of the Stockholm Convention.

Recommendation 15: Canada must support the development of appropriate legally binding requirements for the destruction of POPs wastes and stockpiles as required under the Stockholm Convention.

Listing of Chemicals: POPs Review Committee – Article 8, Annex B, C, D

- The introductory paragraph under this heading in the Consultation Document (p. 13) claims that the approach for listing chemicals is “precautionary, risk-based,” etc. Canadian NGOs have said in other fora that precaution is a response to, not part of risk-based approaches, and will continue to make this assertion, consistent with growing global consensus respecting precaution. (Article 8 Annex D of the Stockholm Convention elaborates on the establishment of a “risk profile” and Article 8, paragraphs 7 (a) and 8, rely on a “risk management evaluation”, but the results of the profile and evaluation are not necessarily determinative of whether a new substance is ultimately listed. The ultimate determination is explicitly to be made in a “precautionary manner”: Article 8. paragraph 9.)
- Canada’s refusal to support work to add substances before the Convention is in force seems unjustified. While it is important that “essential elements for effective functioning of the POPs Review Committee” be in place, it is not necessary to insist that this take precedence over “initiatives to expand the Convention’s scope before it has entered into force.” See Part II, above, under the sub-headings “Ratification, acceptance ...” and “No National Implementation Plan,” respecting the interplay between Canada’s domestic POPs regulatory framework and the Stockholm Convention.

Recommendation 16: It is recommended that Canada support work toward adding further POPs to the list of substances subject to the Convention, instead of deferring the matter until POPs Review Committee process and other issues are settled.

Reporting – Article 15

- Agree generally with the Canadian approach.
- Article 16 is expressly linked to Article 15 (Art. 16, Paragraph 3: effectiveness evaluation “shall be conducted on the basis of available ... information, including ... (b) National Reports ...”). Accurate and complete national reporting pursuant to Article 15 will thus form the foundation for Effectiveness Evaluation and Monitoring under Article 16. By setting an example of thorough and accurate reporting, Canada can encourage other Parties to do the same. “Existing programs and organizations” for monitoring, and regional systems for monitoring and reporting are supportable to the extent that they will serve these purposes, but they should not be allowed to discourage the development of effective national reporting.

Effectiveness Evaluation: Monitoring – Article 16

- Canada is correct that “the obligation to provide and assess information is restricted to the POPs included in the annexes”, but this does not prevent Parties from compiling data on other persistent and toxic substances as suggested by the Secretariat. Extending the scope of reporting to other substances will enhance the ultimate effectiveness of the Stockholm Convention. Such extension should therefore be encouraged by Canada.

Information Exchange – Article 9

- We generally support the Canadian Approach articulated for this matter. Information exchange mechanisms are an important component of the Convention’s overall scheme.

Register of Exemptions

- The Canadian Approach articulated for this matter is generally supported, but subject to comments on page 2, above, respecting “Ratification, acceptance ...” (Article 25, para. 4) and new substances.