



Council of the
European Union

Brussels, 13 April 2015
(OR. en)

7695/15

Interinstitutional File:
2015/0069 (NLE)

ENV 202
ENT 56
ONU 42
CHIMIE 17

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the position to be taken, on behalf of the European Union, at the seventh meeting of the Conference of the Parties to the Stockholm Convention on Persistent Organic Pollutants as regards the proposals for amendments to Annexes A, B and C

COUNCIL DECISION (EU) 2015/...

of

**on the position to be taken, on behalf of the European Union,
at the seventh meeting of the Conference of the Parties to the Stockholm Convention
on Persistent Organic Pollutants as regards the proposals for amendments
to Annexes A, B and C**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular
Article 192(1), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 14 October 2004, the Stockholm Convention on Persistent Organic Pollutants ('the Convention') was approved, on behalf of the European Community, by Council Decision 2006/507/EC¹.
- (2) The Union has implemented the obligations of the Convention in Union law by way of Regulation (EC) No 850/2004 of the European Parliament and of the Council².
- (3) The Union places a strong emphasis on the need for the gradual expansion of Annexes A, B and/or C to the Convention with new chemicals which fulfil the criteria for persistent organic pollutants, taking into account the precautionary principle, with a view to meeting the objective of the Convention and the commitment of governments made at the World Summit on Sustainable Development held in Johannesburg in 2002 to minimise the adverse effects of chemicals by 2020.
- (4) Pursuant to Article 22 of the Convention, the Conference of the Parties (COP) may adopt decisions amending Annexes A, B and/or C to the Convention. Such decisions enter into force one year from the date of communication by the depositary of an amendment, with the exception of those Parties to the Convention ('the Parties') that have opted out.

¹ Council Decision 2006/507/EC of 14 October 2004 concerning the conclusion, on behalf of the European Community, of the Stockholm Convention on Persistent Organic Pollutants (OJ L 209, 31.7.2006, p. 1).

² Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organics pollutants and amending Directive 79/117/EEC (OJ L 158, 30.4.2004, p. 7).

- (5) Following the receipt in 2011 of a nomination by the Union of pentachlorophenol (PCP), the Persistent Organic Pollutants Review Committee (POP RC) established under the Convention has concluded its work on PCP. POP RC found that PCP meets the criteria of the Convention for listing in Annex A thereto. At its seventh meeting, the COP is expected to decide on the inclusion of PCP in Annex A to the Convention.
- (6) The placing on the market or use of PCP is prohibited pursuant to Regulation (EC) No 1907/2006 of the European Parliament and of the Council¹. The placing on the market and the use of PCP as a plant protection product or as a biocidal product are prohibited pursuant to Regulations (EC) No 1107/2009² and (EU) No 528/2012³ of the European Parliament and of the Council, respectively. Since PCP is capable of long-range environmental transport, a global phase-out of the use of that chemical would be more beneficial to the Union's citizens than a prohibition in the Union alone.
- (7) POP RC recommends the listing of PCP in Annex A to the Convention with a specific exemption for the production and use of PCP for utility poles and cross-arms. The Union does not need the specific exemption, but should accept the exemption during the seventh meeting of COP, if that is required to ensure the listing of PCP.

¹ Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p.1).

² Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p.1).

³ Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ L 167, 27.6.2012, p. 1).

- (8) Following the receipt in 2011 of a nomination by the Union of chlorinated naphthalenes, POP RC found that polychlorinated naphthalenes (PCN) meet the criteria of the Convention for listing in Annexes A and C thereto. At its seventh meeting, the COP is expected to decide on the inclusion of PCN in Annexes A and C to the Convention.
- (9) There is no production of PCN in the Union, but it may be produced unintentionally, most significantly via combustion (primarily waste incineration). Such activities are covered by Directive 2010/75/EU of the European Parliament and of the Council¹, and require the application of certain emission management measures.
- (10) The placing on the market and use of PCN are prohibited in the Union pursuant to Regulation (EC) No 850/2004. Since PCN is capable of long-range environmental transport, a global phase-out of the use of that chemical would be more beneficial to the Union's citizens than the prohibition in the Union alone.
- (11) Following the receipt in 2011 of a nomination by the Union of hexachlorobutadiene (HCBD), PO PRC found that HCBD meets the criteria of the Convention for listing in Annexes A and C thereto. At its seventh meeting, the COP is expected to decide on the inclusion of HCBD in Annexes A and C to the Convention.
- (12) The production of HCBD has ceased in the Union, but HCBD may be produced unintentionally in some industrial activities. Such activities are covered by Directive 2010/75/EU and require the application of certain emission management measures.

¹ Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17).

- (13) The placing on the market and use of HCBd are prohibited in the Union pursuant to Regulation (EC) No 850/2004. Since HCBd is capable of long-range environmental transport, a global phase-out of the use of that chemical would be more beneficial to the Union's citizens than the prohibition in the Union alone.
- (14) Perfluorooctane sulfonic acid (PFOS) and its derivatives are already listed in Annex B to the Convention with a number of specific exemptions. Following a review of those exemptions, POP RC encourages Parties to stop using PFOS in carpets, leather and apparel, textiles and upholstery, coatings and coating additives and insecticides for the control of red imported fire ants and termites. POP RC also encourages Parties to restrict the use of PFOS in hard metal plating, which is allowed as a 'specific exemption', by only keeping the use in hard metal plating only in closed-loop systems, which is allowed as an 'acceptable purpose' under the Convention. Moreover, POP RC encourages Parties to stop using PFOS in insect baits for the control of leaf cutting ants from *Atta* spp. and *Acromyrmex* spp., which is currently allowed as an 'acceptable purpose' under the Convention.
- (15) The Union should support the deletion of the 'specific exemptions' and 'acceptable purposes' for PFOS and its derivatives in line with the proposal made by POP RC, including the exemption for use as wetting agents in controlled electroplating systems, which has been implemented in the Union by Regulation (EC) No 850/2004 with the expiry date of 26 August 2015,

HAS ADOPTED THIS DECISION:

Article 1

1. The position to be taken on behalf of the Union at the seventh meeting of the COP to the Stockholm Convention on Persistent Organic Pollutants shall be, in line with the recommendations of the POP RC, to support:
 - the listing of pentachlorophenol¹ (PCP) in Annex A to the Convention. If required, the Union may accept a 'specific exemption' for the production and use of PCP for utility poles and cross-arms;
 - the listing of polychlorinated naphthalenes² (PCN) in Annexes A and C to the Convention without exemption;
 - the listing of hexachlorobutadiene (HCBD) in Annexes A and C to the Convention without exemption;
 - the deletion of the following specific exemptions and acceptable purposes from the entry on perfluorooctane sulfonic acid (PFOS) and its derivatives in Annex B to the Convention: carpets, leather and apparel, textiles and upholstery, paper and packaging, coatings and coating additives, rubber and plastics, insecticides for the control of red imported fire ants and termites, and insect baits for the control of leaf cutting ants from *Atta* spp. and *Acromyrmex* spp.;

¹ Pentachlorophenol, its salts and esters.

² Dichlorinated naphthalenes, trichlorinated naphthalenes, tetrachlorinated naphthalenes, pentachlorinated naphthalenes, hexachlorinated naphthalenes, heptachlorinated naphthalenes and octachlorinated naphthalene, individually or as components of chlorinated naphthalenes.

- the deletion of the specific exemptions for PFOS in metal plating (hard metal plating and decorative metal plating), with the exception of hard metal plating only in closed-loop systems, listed as an 'acceptable purpose' in the Convention.
2. Refinement of this position, in light of developments at the seventh meeting of the COP, may be agreed during coordination on the spot.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at ...,

For the Council

The President
