

## **Persistent Organic Pollutants**

### **Introduction**

The second session of the International Negotiating Committee (INC) for an International Legally Binding Instrument for Implementing International Action on Certain Persistent Organic Pollutants (POPs), met from 25–29 January in Nairobi, Kenya.

Delegates continued to consider possible elements for an international legally binding instrument on an initial list of twelve POPs grouped into three categories: 1) pesticides: aldrin, chlordane, DDT, dieldrin, endrin, heptachlor, mirex and toxaphene; 2) industrial chemicals: hexachlorobenzene and polychlorinated biphenyls



*Negotiating "POPs", David Miller, ICEL Permanent Representative at Nairobi*

(PCBs); and 3) unintended by-products: dioxins and furans.

The first session of the INC was held in Montreal, from 29 June–3 July 1998 (see *Environmental Policy & Law*, Vol. 28, No. 5 at page 227). An expert intersessional group, the Criteria Expert Group (CEG), had been established for identifying additional POPs for future international action and held a first meeting in Bangkok from 26–30 October 1998.

This second session was well attended by some 350 delegates from 103 countries, in addition to many IGOs and NGOs, including the International Council of Environmental Law (ICEL).

### Opening

Shafqat Kakakhel, Deputy Executive Director of UNEP, opened the meeting by underlining the dangers to public health and the environment of POPs. He noted that the first meeting had reached consensus on global action to reduce and perhaps eliminate releases of POPs. Moreover, the CEG had advanced criteria and procedures for identifying additional POPs for any future instrument.

Mr. Kakakhel appreciated the financial and personnel contributions of several developed countries towards the negotiations and to UNEP action on POPs. Those countries and some helpful NGOs were to be given certificates to the 'POPs Club'. But further financial assistance was still needed.

### Organisation

The Bureau elected for the first meeting was continued. That is, Mr. John Buceini [Canada], Chairman; Ms. Maria Cristina Cardenas Fischer [Colombia], Vice-Chairman, who then chaired a committee rather like a the whole to examine implementation aspects and financial

and technical assistance; with two further Vice-Chairmen drawn from Iran and South Africa; and Ms. Darka Hamel [Croatia] as Rapporteur.

The Secretariat had prepared numerous background documents for the meeting, but the accepted starting point for the discussions was a document [UNEP/POPs/INC. 2/2] that contained an expanded outline of the proposed instrument. The heart of which, and core of the future convention, was in Article D – "measures to reduce or eliminate releases of POPs into the environment".

Delegates began with a general discussion of this and other articles in this secretariat draft, fleshing out language where possible and re-considering each sub-

stantive article later in the session.

The Secretariat, the Intergovernmental Forum on Chemical Safety [IFCS] and the Global Environmental Facility [GEF] all made presentations, together with the Co-Chairs of the CEG – Gambia and Germany – which will hold a second session before July 1999.

### Discussion

The Secretariat explained that its draft outline had taken into account in particular: the Vienna Convention on the Protection of the Ozone Layer; the Montreal Protocol on Substances that Deplete the Ozone Layer; the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal; the Convention on Biological Diversity; the United Nations Framework Convention on Climate Change; the United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa; the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade; and the Protocol to the Convention on Long-range Transboundary Air Pollution on Persistent Organic Pollutants. [Thus providing a graphic description of just how complicated and interrelated are present international efforts in this highly technical field!]

In its consideration of Article D, the heart of the matter, it was decided: to replace the Secretariat's sub-heading by numbers; to add to the prohibition on production and use a reference to the import and export of annexed chemicals; to aim for the reduction in releases of POPs [with developing countries calling for their eventual elimination entirely]; to develop and maintain release inventories of related by-products and to reduce these releases [though developed countries thought this

**Persistence of the 12 POPs**

Taken from International Council of Chemical Associations (ICCA) paper 7/97 – revised 29 April 1998, Procedure for identifying further POP candidate substances for international action.

Substance	Half-life air <sup>1</sup>	Half-life Water (temperate climate)	Half-life soil (temperate climate)	Half-life sediment (temperate climate)
DDT	2 days	> 1 yr	> 15 yrs	no data
Aldrin	< 9.1 hrs	< 590 days	App 5 yrs	no data
Dieldrin	< 40.5 hrs	> 2 yrs	> 2 yrs	no data
Endrin	1.45 hrs	112 days	Up to 12 yrs	
Chlordane	< 51.7 hrs	> 4 yrs	App 1 yrs	no data
Heptachlor	No data	< 1 day	120–240 days	no data
HCB	< 4.3 yrs	> 100 yrs	> 2.7 yrs	
Mirex	No data	> 10 hours	> 600 yrs	> 600 yrs
Toxaphene	< 5 days	20 yrs	10 yrs	
PCBs	3–21 days	> 4.9 days	40 days	
Dioxins (2,3,7,8- And 1,2,3,4-TCDD)	around 9 days	> 5 yrs	10 yrs	> 1 yr
Furans (2,3,7,8-)	7 days	> 15.5 days	No data	no data

latter point too strong given present technology];and, bearing in mind existing conventions, to destroy or dispose of associated products and wastes in an environmentally sound manner.

There was wide support for the development of national plans for implementing any future convention, but developing countries made it clear they would need additional technical and financial assistance to do this. They further argued that the convention should not be too prescriptive but should take into account differing levels of preparedness and capacity. Others, principally developed countries, thought this timing in implementation should be left to the Conference of Parties to the convention to determine. Emphasis was placed by all on regional co-operation.

The process for adding chemicals to the convention was left to the CEG to develop.

All the delegates supported information exchange, though some added that this could only be done in a manner consistent with their national laws, regulations and practices. This exchange would be designed to effect the reduction or elimination of the production, use or release of POPs and to develop cost-effective alternatives.

Concerning public information, awareness and education, delegates supported providing technical and financial assistance to developing countries. UNEP was encouraged to hold regional or sub-regional meetings on POPs.

There was general support for having an article on research, development and monitoring, though some wanted the monitoring part to be made mandatory and placed in a separate article. Others worried about the different capacities countries had to perform these tasks. The harmonisation of procedures was stressed to ensure comparability of data. The Montreal Protocol was often quoted as a model.

Technical assistance and financial resources and mechanisms were debated by Ms. Fisher's committee of the whole, largely based on papers provided by the Secretariat. It discussed, *inter alia*, areas requiring technical assistance, the development of a POPs inventory action plan. Further the establishment of POPs focal units; and

development, implementation and enforcement of regulatory controls, technology transfers, outreach dissemination programmes and potential costs.

There was general support for an article on reporting and on non-compliance, where existing environmental conventions might be followed. Also, for articles on the settlement of disputes, Conference of the Parties and the Secretariat, though generally it was thought the details might await finalisation of the substantive articles of the convention.

Similarly, for articles on amendments to the convention, adoption and amendment of annexes, the right to vote, signature, ratification and other housekeeping matters.

In his closing remarks, the Executive Director of UNEP, Klaus Töpfer, stressed the importance of protecting public health from the identified “dirty dozen” POPs that travel up the food chain and are already impacting even indigenous peoples. This was a global problem calling for a global solution. Nairobi was becoming revitalised as a negotiating centre for environmental issues. The meeting had succeeded in making a productive step forward in drafting a convention on POPs and UNEP was pleased to have provided a starting text. The issues were many and complex but he congratulated the Committee for a “magnificent stride forward”.

**Conclusions**

The results of this second meeting of INC are to be found mainly in the CRP conference documents submitted by the secretariat or by the Chairman [with a healthy number of square brackets]. The complete final report of this second meeting was not available by the time the meeting ended, but will be circulated later together with an annex of the draft convention at it emerged from this Nairobi meeting.

**Comment**

This author was much impressed with the positive, business-like atmosphere of the five-day meeting. The on-going Chairman was excellent, polite and very much on the ball. The discussions were thoughtful if a bit gen-

eral and leisurely given the short timeframe. But then the Committee is planning at least two more meetings, the next probably in Geneva in Autumn.

There is no doubt about the seriousness of harmful POPs and the need for their control, reduction and eventual elimination. In accomplishing this important goal satisfactorily, great care will have to be taken to ensure

harmonisation with existing conventions, or else there is a danger of creating confusion and hence 'bad law'.

In short, this was a good meeting mainly in narrowing ideas on the desirable content for the future convention. Subsequent meetings will have to undertake the more difficult process of drafting its detailed language.

(David Miller) □