

Stockholm Convention on Persistent Organic Pollutants (POPs)

Introduction

- 6.1 Persistent Organic Pollutants (POPs) are chemicals that are toxic, persist in the environment and animals, bioaccumulate through the food chain, and pose a risk of causing adverse effects to human health and the environment even at low concentrations.¹
- 6.2 According to the Regulation Impact Statement (RIS), the objective of the *Stockholm Convention on Persistent Organic Pollutants (POPs)*, done at Stockholm on 22 May 2001, is to protect human health and the environment from the effects of POPs. The Convention sets out a range of control measures to reduce and, where feasible, eliminate POPs releases. It focuses on three broad areas: intentionally produced and used POPs, unintentionally produced or by-product POPs, and POPs in stockpiles and wastes.²
- 6.3 The Treaty is one of three conventions developed under the auspices of the United Nations Environment Program, which together form an international framework to manage hazardous chemicals through

1 National Interest Analysis (NIA), para. 9.

2 NIA, para. 6; Regulation Impact Statement (RIS), p. 1.

their life cycles.³ The Committee was advised that these treaties are all related to each other.

- 6.4 The Committee was advised that the adoption of the Stockholm Convention was significant in developing an international approach to manage hazardous chemicals. The Committee understands that while this Convention was not the first to contain obligations aimed at eliminating or restricting certain chemicals or the release of chemicals as by-products, it was the first that did so for reasons associated with their conventional use as chemicals.⁴

Objectives of the Convention

- 6.5 The Stockholm Convention will cover control measures on 12 POPs, which were identified for international action because of their persistence, bioaccumulation, long-range dispersion and toxicity.
- 6.6 The Committee was advised that ratification of this treaty would ‘augment and complement existing domestic controls of POPs’.⁵ The Committee heard that ‘the development of a legally binding agreement was seen as the most effective way of reducing the impact of these chemicals on remote areas well away from their source of origin.’⁶
- 6.7 Further to paragraph 6.1 above, the Committee understands that POPs have been linked to adverse effects on human health such as cancer, damage to the nervous system, reproductive disorders and disruption of the immune system. Australia has ceased to produce, import or use nine of the ten *intentionally* produced POPs covered by the treaty. The Treaty will initially cover control measures on 12 POPs listed in Annexes A, B and C. Under Article 8, further chemicals may be added to the Treaty.

3 Mr Mark Hyman, *Transcript of Evidence*, 15 September 2003, p. 24. The other two conventions are the *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their disposal*, and the Convention discussed in the next chapter: the *Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade*.

4 Mr Mark Hyman, *Transcript of Evidence*, 15 September 2003, p. 24.

5 NIA, para. 12.

6 Mr Mark Hyman, *Transcript of Evidence*, 15 September 2003, p. 24.

Australian initiatives to reduce POPs

- 6.8 The NIA outlines several initiatives taken by Australia and other countries to reduce and eliminate POPs, including:
- banning the production, importation and use of POPs
 - cancelling registration approval of eight pesticide POPs listed in the Convention thereby preventing use and controlling imports of seven of the listed POPs
 - establishing national plans to remove and destroy POPs
 - implementing a national program to address dioxin and furan by-product POPs.

Chemicals covered under the treaty and the 'precautionary principle'

- 6.9 Scientific information and chemical names were provided in the written material presented to Parliament, and also at the public hearing on 15 September 2003. The Committee was advised that specific criteria (relating to persistence, bio-accumulation, potential for long-range environment transport) for selection of chemicals to be included in the Convention is at Annex D.
- 6.10 The Committee had continuing concerns which have arisen in relation to similar treaties; namely the use of the precautionary principle to govern behaviour, rather than, for example: 'best scientific practice'. Mr Mark Hyman, from the Department of the Environment and Heritage, advised that the decision whether to reference the precautionary principle, and if so, how, was one of the more controversial issues during the negotiation of the treaty. Although the Committee has some concerns that the continuing use of the 'precautionary principle' in treaties similar to this one potentially clouds the legal issues involved in scientific determination, Mr Hyman's assurances about the 'multiplicity of steps' before a chemical can be brought forward and included under the treaty's terms will be a sufficient safeguard in this case.⁷
- 6.11 The Committee accepts the chemicals identified to date and will be pleased to be advised of any amendments to the Convention under Article 8 in due course.

7 Mr Mark Hyman, *Transcript of Evidence*, 15 September 2003, p. 30.

Australia's registration of mirex as an exemption

- 6.12 The NIA and RIS state that the tenth intentionally produced POP covered by the convention is mirex, which is currently the only pesticide effective in controlling the giant termite, endemic to tropical areas in Northern Australia. The RIS states that the pesticide is used in small quantities as bait and that no waste is generated by its use. The Committee understands that on these grounds, Australia has registered an exemption for the continued use of mirex, while research is underway to find an alternative to this product. The Committee understands that it is envisaged that once a suitable substance has been identified, the exemption would be withdrawn.
- 6.13 The consultations annex also states that ratification was supported by the NT Government, subject to the registration for the continued use of mirex as a termiticide. The Committee understands that the NT Government noted the five-year expiration and advised that research into an alternative to mirex is underway, noting its confidence that a suitable outcome would be achieved in the timeframe.⁸

Costs

- 6.14 The Committee sought clarification on the level of costs associated with the proposed treaty action, as it was advised that while Australia has a strong commitment to implementing the scope of the treaty in a domestic sense already, additional costs are advised to be approximately \$540 000 in the first year and \$450 000 in following years. The RIS explains these costs at paragraph 3.2.2:
- Australian ratification of the Convention would involve additional domestic costs incurred through annual assessed contributions, preparation for meetings and Conference of the Parties, development of plans and information activities, administration, salaries and amendments to legislation.⁹
- 6.15 Mr Hyman explained that the Department of the Environment and Heritage has been conducting the National Dioxins Program, which will work on the development of a national plan on by-products.¹⁰ Mr Hyman also explained that while the costs could be misleading (given

8 NIA Annexure – Consultations.

9 RIS, paragraph 3.2.2.

10 Mr Mark Hyman, *Transcript of Evidence*, 15 September 2003, p. 26.

that Australia already has banned manufacture of some chemicals), it was also important to remember for POPs that ‘you may need to monitor their presence in the environment for an extended period’.¹¹

Consultation

- 6.16 The Committee understands that views were sought from interested and affected parties, including State and Territory governments, industry, non-government environmental organisations and the general public.

Implementation by states and territories

- 6.17 The Queensland Government in its submission raised concerns about the adequacy of existing regulatory measures and the possible cost impacts for its government. Queensland suggests that costs can be anticipated for States in relation to the development of the national action plan, risk assessment activity and potentially expensive dioxin emission measurement as well as any new regulatory measures.
- 6.18 The Committee suggests that in this instance the option of the establishment of a negotiating forum be explored, in order to clarify concerns of State and Territory bodies. Such a body may serve to enhance the existing Standing Committee on Treaties Arrangements as may be required in the particular case of this treaty.

Concluding observations and recommendations

- 6.19 The Committee commends the work of the Department of the Environment and Heritage for the thorough documentation it provided, especially on issues of consultation. The RIS and Consultations Annex provides a list of the parties consulted and also a summary of these comments. The Committee was pleased by the range of organisations contacted in the negotiation process for this treaty and the manner in which the information was presented. It hopes that other departments will follow the fine example set by the Department of the Environment and Heritage in this case.

11 Mr Mark Hyman, *Transcript of Evidence*, 15 September 2003, p. 27.

- 6.20 The Committee concurs with the view expressed in the NIA that the treaty will assist in protecting the health and environment of Australians from the adverse effects of POPs, as well as enhance Australia's capacity to influence international efforts and assist other countries to adopt and maintain sound chemicals management programs. The Committee also supports the view expressed in the NIA and in the submission from the Queensland Government that ratification of the treaty would help maintain Australia's reputation as a supplier of products which are 'clean and green'.¹²

Recommendation 6

The Committee recommends that the Government, in consultation with relevant parties, consider the formation of a negotiating forum, of a size and management as may be appropriate, to include State and Territory governments, in order to address concerns raised by the Queensland Government in its submission.

Recommendation 7

The Committee supports the *Stockholm Convention on Persistent Organic Pollutants, done at Stockholm on 22 May 2001*, and recommends that binding treaty action be taken.

¹² NIA, para. 13; Queensland Government, *Submission*, p. 4.