

**TOWARDS THE DEVELOPMENT OF A
GLOBAL TREATY
ON PERSISTENT ORGANIC POLLUTANTS**

EXECUTIVE SUMMARY

*Comments by the
Canadian Environmental Network Toxics Caucus
towards the
Intergovernmental Negotiating Committee 5 Session
in Johannesburg, South Africa*



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Part 1 of this paper sets the scene in an introduction. Part 2 discusses the overarching guiding principles identified by the Toxics Caucus as critical to the success of the global POPs treaty. The treatment of the principles in the treaty will be key for members of the Toxics Caucus in their evaluation of the achievements and potential effectiveness of this treaty. Part 3 provides suggested text for specific articles of the treaty. This text would, in the opinion of the Toxics Caucus, incorporate the guiding principles discussed in Part 2 into the POPs treaty. We offer this proposed text for the consideration of the Canadian delegation, and request that Canada's representatives incorporate our perspective into their presentations at INC5.

All Canadians, in particular susceptible populations such as Aboriginal communities, fish-eaters, women and children, workers, and the Canadian environment continue to be threatened by persistent organic pollutants (POPs). The fifth and final session of the Intergovernmental Negotiating Committee (INC) scheduled for Johannesburg, South Africa in December is expected to determine the fate of the global treaty on POPs. A number of issues pertaining to the current draft treaty must be resolved at INC5; otherwise these negotiations will fall short of delivering an effective agreement for global action on POPs.

- The overall goal of elimination remains in question.
- The role of the precautionary principle in the treaty is limited to the point of being ineffective.
- The concrete commitment of adequate funds for treaty implementation by donor countries, and agreement on treaty language underlying such commitments is under considerable question. In addition, the shape of the treaty's financial assistance mechanism remains under debate.
- The effectiveness of the treaty may be significantly threatened by other international trade obligations.
- The process of adding substances (Article F) may not capture the worse POPs for future action.

The Toxics Caucus recognizes that resolution to the above issues is necessary to ensure the future of the treaty. The following submission provides a detailed analysis of the global treaty, and, where possible provides Caucus' perspective on the issues raised in the Consultation Document prepared by Environment Canada.

The Toxics Caucus supports a global POPs treaty that promotes the use of clean safe technology to prevent the use, production, release and disposal of any POPs.

The general findings and recommendations of the Caucus are as follows

- **The goal of elimination must be maintained.** Even for PCBs, DDT and unintentionally produced by-products like dioxins and furans, hexachlorobenzene, and PCBs, the goal must be elimination, *even if it is a long-term goal*. The Toxics Caucus supports Canada's position to include PCBs and DDT in Annex A (Target for Elimination), while recognizing that exemptions will be required by specific countries until safe alternatives to these POPs are developed or found. However, the Toxics Caucus is disappointed that Canada is taking a weaker position on the unintentionally produced by-products.
- **The precautionary principle is the key concept in the global treaty.** To ensure that it is effectively implemented, the precautionary principle must be incorporated in key Articles of the treaty such as Article F (Listing of chemicals). The Toxics Caucus strongly disagrees with the current Canadian position that the treaty as currently drafted embraces the precautionary approach. The global text should operationalize the precautionary principle in Article B (Objectives) and Article F with specific language. Several countries, including the European Union (EU), support language that would include the precautionary principle in other key articles of the treaty such as Article F. This is one of the issues identified as a deal-breaker for treaty negotiations.
- **The destruction and disposal of POPs stockpiles and waste needs to be based on non-incineration technologies.** Current treaty text shows a predisposition towards Best Available Techniques (BAT). The Toxics Caucus has a number of concerns, beginning with the lack of clarity on what is considered BAT. For the initial 12 POPs identified, the Toxics Caucus has always maintained the need to promote the use safe alternatives and clean technologies. However, in situations where destruction of POPs is required, the preferred path is to utilize non-incineration technologies that result in complete destruction of POPs and do not release other POPs into the environment.
- **We urge Canada to support strong language in the treaty that obliges donor countries to provide adequate resources for its implementation.** The Toxics Caucus congratulates Canada for its announced early financial contribution to the process, but efforts must be made to secure additional new funds to the treaty. We also urge Canada to show maximum flexibility regarding the shape of the future financial mechanism in order to ensure that this matter does not result in the failure of the negotiations. The recent meeting at Vevey, Switzerland to discuss this matter indicated potential movement on the mechanism issue.
- **The process of adding substances to the treaty is critical to effective protection of the global population and the environment.** There are a number of important concepts that remain contentious, including the criteria proposed for bioaccumulation and persistence factors, the use and consideration of other evidence for nominating additional POPs, the absence of the precautionary principle in the selection process, and the limited role of the public for

participation in the selection process. There are some opportunities for public involvement, but terms such as ‘observer’ in Article F must be clearly defined before these opportunities are realized.

- **The treaty should not be subject to a supremacy clause as is stated in Article Nbis.** The effectiveness of the treaty may be severely threatened if obligations of other international trade agreements such those under the WTO have precedence over the terms of the POPs treaty. The Toxics Caucus recommends that Article Nbis should be deleted, a position that is in opposition to the current Canadian stance.

The treaty should grant specific country exemptions on the manufacture and use of POPs on the basis that elimination is the ultimate goal. These country specific exemptions should have a defined expiration or review date to ensure that the transition phase can fully integrate the use of safe alternatives. We consider it critical that exemptions granted for specific POPs should not cause or promote the release of other POPs into the environment.

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