



To the EU delegates of the Basel and Stockholm Conventions: Keep the Promise, Eliminate POPs
 March 14, 2017

Dear Sir, Madam,
 Dear Representatives of the European Commission and EU Member States,

We are writing to urge you to support decisions at the upcoming Triple COP that uphold Convention principles and EU commitments to protection of human health and the environment. Two key decisions at the Basel and Stockholm Conventions are 1) determination of low POPs content level; and 2) listing of new substances in the Stockholm Convention.

For a circular economy, it is critical that hazardous substances be eliminated from the circle. Unfortunately, at the international level the EU has a poor track record on this issue by repeatedly promoting toxic recycling policies under the Stockholm Convention. **We urge the EU to take a clear position against recycling materials containing polybrominated diphenyl ethers – the PentaBDE, OctaBDE or DecaBDE – at the 8th meeting of Conference of the parties to the Stockholm Convention (COP8) (please see Annex 1).**

The Stockholm Convention requires treatment of POPs waste above the low POPs content level so that it no longer exhibits POPs characteristics. The proposed and provisional levels for polybrominated diphenyl ethers (PBDEs), hexabromocyclododecane (HBCDD), and dioxins and furans (PCCD/F) create a loophole that allows for disposal options that may be less costly initially, but that leave behind substantial POPs residues that result in significant costs and harms to human health and the environment. **We request the EU to support low POPs content levels of 50 ppm for PBDEs, 100 ppm for HBCDD, and 1 ng WHO-TEQ/g (1 ppb) for PCCD/F (please see Annex 2).**

COP8 will decide on listing Decabromodiphenyl ether (DecaBDE), Short-chain chlorinated paraffins (SCCPs), and Hexachlorobutadiene (HCBd) in the Convention. HCBd should be listed in Annex C to trigger the work of the BAT/BEP expert group. SCCPs should be listed in Annex A with no exemptions along with an additional requirement to limit of SCCPs in other chlorinated paraffin mixtures. As

noted in previous letters, the proposed DecaBDE exemption for auto spare parts is not justified as the industry can retrofit new parts that do not contain DecaBDE. A major airplane manufacturer has signaled that no aviation exemption is needed and numerous technically and economically feasible alternatives are available. **We urge the EU to support the listing of these substances without specific exemptions (please see Annex 3).**

We expect the EU to be a leading proponent for protecting human health and the environment globally. Thank you for consideration of our views.

Sincerely Yours,



Jindřich Petrlík, Arnika Executive Director and IPEN Central and Eastern Europe region coordinator

Co-signatories:

International POPs Elimination Network (IPEN)
European Environmental Bureau (EEB)
Health and Environment Alliance (HEAL)
Women in Europe for a Common Future (WECF)
Health Care Without Harm Europe (HCWH)
Hej Support – Health Environment Justice
ClientEarth
Center for International Environmental Law (CIEL)
ChemTrust, United Kingdom
BUND, Friends of the Earth Germany
Fédération Inter-Environnement Wallonie (IEW), Belgium
ZERO - Associação Sistema Terrestre Sustentável, Portugal
Fundacion Alborada, Spain
Ecocity, Greece
Za Zemiata – Friends of the Earth Bulgaria
ALHem – Safer Chemicals Alternative, Serbia

Annex 1: Toxic recycling and the circular economy

For a circular economy, it is critical that hazardous substances be eliminated from the circle. This is especially important when considering the recycling of products containing toxic chemicals. The Stockholm Convention does not permit the recycling of POPs and a recycling exemption would lead to prolonged and uncontrolled exposure to very persistent, toxic and harmful substances to human health and the environment.

Currently, flame retardant chemicals found in electronic waste are being recycled into children's products in the EU. A recent study by IPEN¹ tested Rubik's Cube-like toys from 16 countries including Czech Republic, Germany, Hungary, Poland, and Slovakia and found that 85% of the samples contained OctaBDE (1 - 108 ppm) and 89% of the samples contained DecaBDE (1 - 293 ppm). These chemicals are persistent and known to disrupt human hormone systems, adversely impacting the development of the nervous system and children's intelligence. Now is the time for the EU to signal globally that a clean, effective, and sustainable circular economy does not include materials containing hazardous chemicals.

Annex 2: Low POP content level

The Stockholm Convention requires that after treatment of POPs waste, it should no longer exhibit POPs characteristics. This has resulted in an effort by the Conference of the Parties to define low POPs content thresholds above which treatment is required. The proposed and provisional levels for PBDEs, HBCDD, and PCCD/F raise serious concerns, because they can create a loophole that allows for disposal options that may be less costly initially, but that leave behind substantial POPs residues that result in significant costs and harms to human health and the environment.

We urge the EU to support low POP content levels of 100 mg/kg for HBCDD and 50 mg/kg for PBDEs. These recommendations are consistent with the conclusions of the extensive report by the EU's consultants (ESWI and BiPRO 2011). They recommended 10 ppm levels for each of the PBDEs and 100 ppm for HBCDD. A proposed low POP content limit such as 1000 ppm for a mixture of PBDEs or HBCDD opens the door to permitting the production and sale of products that contain unacceptably high levels of POPs as contaminants. It could also trigger strong opposition from developing countries as it further facilitates the export of hazardous, POPs-contaminated wastes from developed to developing countries. Finally, if weak low POPs content limits are allowed, then superior POPs waste disposal technologies that are able to destroy the POPs content of wastes and leave behind virtually no POPs residues may remain economically non-viable. Substances such as PBDEs that resemble PCBs should have similar low POPs content limits. The low POPs content limit for POP PBDEs should be 50 ppm or less as currently established for PCBs. In this case, the EU should follow the preferred levels recommended by their own consultants which are health-based and achievable with current analytical capabilities.

For dioxins and furans, (PCDD/F) we urge the EU to support a low POP content level of 1 ng WHO-TEQ/g (1 ppb). We reviewed 96 studies, articles and reports related to air pollution control (APC) residues and other waste incineration residues to assess the available information concerning the potential for POPs releases from these wastes to the environment (see the attached submission for SIWG).² We found that the originally suggested level of 1,000 ng TEQ/kg³ for Low POPs Content of

¹ DiGangi J, Strakova J (2016) *The recycling of plastics containing brominated flame retardants leads to contamination of plastic children's toys*, Organohalogen Compounds; in press
<http://www.dioxin20xx.org/pdfs/2016/8.10018.pdf>

² Petrlík J, Bell L (2017) IPEN submission on Low POPs content levels for the meeting of the Small Intersessional Working Group (SIWG) on POPs TG, Bonn, Germany, 20 – 22 February 2017

³ Level was suggested in BiPRO (2005) Study to facilitate the implementation of certain waste related provisions of the Regulation on Persistent Organic Pollutants (POPs). Brussels, European Commission: 469.

PCDD/Fs is the highest level which can be considered as protective of human health and the environment. We note that wastes with far lower PCDD/F contamination levels (as low as 50 ng TEQ/kg) can still be sources of harm. Even if such ash is “diluted” on soils the PCDD/F can re-accumulate over time with repeated applications. It is therefore alarming that the current provisional ‘low POP’ content limit established by the Basel Convention on behalf of the Stockholm Convention for dioxin contaminated waste is 15,000 ng TEQ/kg. This is far too high and needs to be urgently re-evaluated and dramatically reduced.

Annex 3: Listing of substances in the Stockholm Convention

The Stockholm Convention POPs Review Committee (POPRC) has recommended listing DecaBDE, SCCPs, and HCBd in the Convention. We urge the EU to support the listing of these substances, but the details of how these substances are listed are important.

Hexachlorobutadiene (HCBd)

Listing of HCBd was partially blocked at COP7 and the EU should support its listing in Annex C at COP8. As noted by the POPRC, HCBd is largely produced unintentionally. Annex C addresses POPs that are produced unintentionally. The Convention goal for unintentionally produced POPs is their continuing minimization and, where feasible, ultimate elimination. The POPRC decision alludes to some concerns with the cost-benefit implications of addressing the unintentional releases of HCBd. However, the Committee agreed in the HCBd Risk Management Evaluation that, *“Additional costs for eliminating the intentional production and use of HCBd are not expected.”* Precise recommendations to minimize and eliminate HCBd emissions would be developed by the BAT/BEP expert group and HCBd should be listed in Annex C to trigger their work.

Short-chain chlorinated paraffins (SCCPs)

After 10 years of discussion, the POPRC has finally recommended listing SCCPs in Annex A for global elimination. For substances listed in Annex A, Parties are required to prohibit production, use, import, and export other than for purposes of environmentally sound disposal in accordance with Convention provisions. The Committee did not recommend exemptions and its analysis of alternatives indicates that none are needed.⁴ High levels of SCCPs can be found in other chlorinated paraffin mixtures at concentrations ranging up to 24.9%. It is therefore prudent to specify the restriction of SCCPs in other chlorinated paraffin mixtures in accordance with the provisions of Article 3 of the Convention. We urge the EU to support the listing of SCCPs in Annex A with no specific exemptions along with an additional remark in note “i” of Annex A requiring limitation of SCCPs in other chlorinated paraffin mixtures.

Decabromodiphenyl ether (DecaBDE)

The POPRC recommended listing DecaBDE in Annex A for global elimination. However, the Committee also indicated the possibility of exemptions that are not justified by the POPRC evaluation. One possibility is an exemption for uses in aviation. However, Boeing has signaled to the POPRC that DecaBDE will be completely phased out by 2018, indicating that the aviation industry is capable of substitution and that no exemption is needed. Another proposal is for exempting DecaBDE use in auto spare parts which is vaguely worded and which the EU auto industry admitted at POPRC12 could total more than 800 parts. These vague auto parts exemptions also have a potential impact on developing countries that receive older vehicles. POPRC Decision POPRC-12/4

⁴ The use of SCCPs in metal cutting can be substituted with vegetable oil-based formulations. These are widely available and provide better heat dissipation and produce less smoke during machining. There are also gas-based systems using supercritical carbon dioxide. For flame retardancy, alternative techniques are available such as using inherently flame-resistant materials, flammability barriers and product re-design. There are alternative chemical plasticizers and alternative sealants that can provide the same function without using SCCPs.

states, *“that the increasing waste burden in developing countries from older vehicles that continue to be serviced with spare parts that contain DecaBDE is a concern.”* Developing countries should not have to deal with an increased DecaBDE waste burden simply because the EU auto industry does not want to substitute spare parts for ones that do not contain DecaBDE.

As noted in our letter to the EU of 30 May 2016, the proposed DecaBDE exemption for auto spare parts is not justified as the industry can retrofit new parts that do not contain DecaBDE and have already undergone testing and validation. The global health and environmental impacts of this exemption have not been assessed, and so far, the only reason for a legacy spare parts exemption is to save the auto industry the cost of re-developing and re-validating these parts while transferring the environmental and health impacts and costs of this use to society. The objectives of REACH and the Stockholm Convention are not to grant exemptions for continued use of a POP simply because an industry sector does not wish to absorb certain costs. We urge the EU to support the listing of DecaBDE with no specific exemptions. If exemptions are granted, they should only be for a very limited number of specific parts, they should be properly justified and the listing should require labeling new products that contain DecaBDE so that Parties can fulfill requirements under Article 6. This would be similar to what was previously agreed upon when listing HBCDD (SC-6/13), another substance in use at the time of listing.