



## Response to the EU Recast Regulation on Persistent Organic Pollutants (recast of Regulation (EC) No 850/2004)

To: Ministers of the Environment, Members of the European Parliament and European Commission

Copied to: National focal points of the Stockholm Convention

Brussels, 13 March 2019

Dear Madam/ Sir,

We are writing to you to express our concerns about the sum **limit that includes DecaBDE in the POPs Regulation recast**.

The proposed limit expressed as a sum of tetra-, penta-, hexa-, hepta-, and DecaBDE would open up for recycling of articles containing DecaBDE, which is not in line with the European Union's obligations under the Stockholm Convention. This sets the stage for a conflict at the upcoming Conference of the Parties of the Stockholm Convention by positioning the European Union (EU) as an advocate for toxic recycling.

Below are the facts detailing our concerns:

- 1. Annex I: The exemption on Tetra-, penta-, hexa-, hepta-, and decaBDE limits "1a: concentrations in their entirety up to 500 ppm when they are present in mixtures or articles" has to be withdrawn.**

DecaBDE is listed in Annex A of the Stockholm Convention for global elimination without any recycling exemption. However, the proposed 500 ppm limit contravenes the listing because it would allow the recycling of materials containing decaBDE into new products. The proposed 500-ppm limit paves the way for a massive inflow of decaBDE from discarded electronics into recycled plastic products, including children's products.

Recent research by Arnika, the Health and Environment Alliance (HEAL), and International POPs Elimination Network (IPEN), "[Toxic Loophole: Recycling Hazardous Waste into New Products](#)," clearly demonstrates that toxic recycling occurs broadly in the EU. In addition, the study demonstrates that decaBDE is the predominant PBDE in recycled plastic products (a ratio of 18 parts decaBDE to 1 part other PBDEs). In other words, for a recycled product containing 500 ppm PBDEs, this means that approximately 470 ppm of these are likely to be decaBDE.

This directly conflicts with the Stockholm Convention prohibition on the recycling of materials containing decaBDE. Subsequently, our research published in the report [Toxic Soup: Dioxins in Plastic Toys](#) has found additional contamination of analyzed products with brominated dioxins - highly toxic and completely unregulated byproducts of PBDEs formed unintentionally during the recycling process.

**To comply with the Stockholm Convention, the sum limit of 500 ppm for tetra-, penta-, hexa-, hepta, and decaBDE has to be lowered. In addition to violating the Stockholm Convention listing, the proposal hinders the achievement of a truly circular economy. Only the exclusive and originally proposed limit of 10 ppm for decaBDE in articles should be accepted.**

**2. Annex IV: The concentration limit of 1000 mg/kg for BDEs as substances subject to waste management provisions set out in Article 7 should be strengthened.**

The very weak concentration limit for PBDEs in waste results in masses of contaminated waste to be considered “clean” and allowed for further use including recycling and export. [Consultants for the EU](#) preferred low levels for this limit which should be 50 mg/kg as a sum of listed PBDEs (TetraBDE, PentaBDE, HexaBDE, and DecaBDE). Any limit weaker than 50 ppm leads to unrestricted recycling of e-waste materials containing toxic chemicals and continued exposure of new products made of recycled materials. That is why the Stockholm Convention POPs Review Committee [warned against this practice](#): *“The objective is to eliminate brominated diphenyl ethers from the recycling streams as swiftly as possible... Failure to do so will inevitably result in wider human and environmental contamination...”*

**Recycling should not justify the perpetuation of the use of hazardous substances. The currently proposed limit of 1000 ppm for PBDEs should be strengthened to 50 ppm.**

- **We call on you to adopt strict and protective limits for PBDEs in articles and waste into the POPs Regulation, so that the EU will comply with its obligations stemming out of Stockholm Convention and ensure that toxic materials will not circulate endlessly in our products.**

**Yours faithfully,**

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