

## The Signing of the Stockholm Convention

by Michael A. Buenker\*

As reported in the last editorial, the Intergovernmental Negotiation Process for an International Legally-Binding Instrument for Implementing International Action on Certain Persistent Organic Pollutants came to a successful conclusion at its fifth session at Johannesburg, 4-9 December 2000. Delegates were finally able to agree on a first consolidated draft text for a Convention on Persistent Organic Pollutants and instructed the Secretariat to prepare and submit a finalised text for adoption by the Diplomatic Conference of Plenipotentiaries.<sup>1</sup> The Governing Council of the United Nations Environment Programme (UNEP) which met from 5-9 February, 2001 at Nairobi, Kenya, welcomed in its Decision 21/4 the completion of the negotiations and called on governments and regional economic integration organisations to adopt and sign the

Convention and encourage its ratification by “preferably” 2004.<sup>2</sup>

On 22-23 May, the Conference of Plenipotentiaries was convened at the Folkets Hus in Stockholm, Sweden. Ninety-one State Parties and the European Community (EC) gave their signature to the so-called *Stockholm Convention on Persistent Organic Pollutants*, and 115 Countries and the EC signed the Final Act. The Convention remains open for signature at the United Nations Headquarters in New York until 22 May 2002 and is to enter into force 90 days after receipt of the fiftieth instrument of ratification. However, it is expected that it will take many years before full implementation of this treaty is underway.

Persistent Organic Pollutants (POPs) are among the most dangerous chemical substances released into the environment due to human activity. These highly stable

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compounds can last for years before breaking down and through the "grasshopper effect" (the repeated process of evaporation and deposit through wind, rainfall and migratory species) often spread far from their country of origin, even as far as the Antarctic. The adverse effect of POPs on health and the environment is compounded by bioaccumulation through the food chain, whereby each living organism, including humans, absorbs a higher concentration of POPs depending on its food source.

The *Stockholm Convention* sets out control measures covering the production, import, export, disposal and use of an initial list of twelve POPs; eight pesticides (aldrin, chlordane, dieldrin, DDT, endrin, heptachlor, mirex and toxaphene), two industrial chemicals (hexachlorobenzene and PCBs), and the dangerous side-effects of industrial processes (dioxins and furans). The control provisions call for measures to reduce and eliminate releases of POPs from either intentional production and use or unintentional production, as well as releases from stockpiles or wastes. In doing so, the Convention provides for (1) information exchange; (2) public information, awareness and education; (3) research, development and monitoring; (4) technical assistance; and (5) financial resources and mechanisms.

The treaty calls for an immediate ban on most of the above-listed substances and the introduction of safer and more environmentally sound alternatives. The problem is that many countries, especially in the developing world, cannot afford to switch due to the associated costs, lack of appropriate infrastructure, technology and know-how. In addition, certain countries have been granted exemptions for the continued use of DDT for vector control against the spread of malaria. These exemptions will remain in effect until they are able to afford and apply chemical and non-chemical alternatives that are more environment friendly.

Stockpiles and wastes containing POPs must also be managed and disposed of in a safe, efficient and environmentally sound manner, taking into account the guidelines set forth in the Convention. For example, PCBs have been widely used in the production of electrical transformers and other equipment. The treaty stipulates that governments may maintain existing equipment until they find PCB-free replacements as long as they ensure prevention of leakages, appropriate labelling and that the de-commissioned units are disposed in an environmentally sound manner.

UNEP is currently administering projects with a budget totalling nearly US\$10 million to assist countries in developing their National Implementation Plans (NPIs) for the Convention. These must be tailored to specific needs and the climatic and socio-economic situation of each country, taking into account the chemical properties and uses of each individual POP. The Chemicals Division of UNEP is in charge of the capacity-building programme created for this purpose and works together with national governments in identifying their capabilities and needs. It is hoped that the first NPIs will be ready as soon as the countries in question have ratified the Convention, within the next few years.

To ensure that the treaty remains dynamic and responsive to new scientific findings, a chemical review committee is to be instituted in order to study additional POPs candidates and prepare the necessary background information for consideration by the Parties to the Convention. Further, UNEP is working to develop structures which seek to integrate and co-ordinate the aims and work plans of the *Stockholm Convention*, the *Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade* and the *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal*.



Plenary Hall at Folkets Hus, Stockholm

Courtesy: UNEP

Before the official start of the Conference of Plenipotentiaries, a Preparatory Meeting was held, on 21 May, in order to clear up a few issues left over from the fifth session of the Intergovernmental Negotiation Committee (INC-5).

### Preparatory Meeting

Jim Willis, Director of UNEP Chemicals, opened the meeting and thanked the Swedish Government as facilitator. After adopting the rules of procedure, the meeting elected John Buccini (Canada) as Chair. The following draft resolutions were tabled for discussion: (1) on interim arrangements; (2) on capacity building and a capacity assistance network; and (3) on liability and redress concerning the use and intentional introduction into the environment of persistent organic pollutants.

#### Interim Arrangements

The draft *resolution on interim arrangements* deals with arrangements for the expeditious implementation of international action to protect human health and the environment from certain POPs, pending the entry into force of the Convention, and to prepare for its effective operation once it enters into force. In addition, it calls for States and regional economic integration organisations (REIOs) to sign and ratify the Convention in order to bring it into force as soon as possible. States and REIOs with more advanced programmes were called upon "to provide financial and technical assistance, including training, to other States and REIOs in developing their infrastructure and capacity to reduce, with the aim of eliminating, where feasible, the uses and releases of persistent organic pollutants, as specified in the Convention, throughout their life cycle, particularly in view of the urgent need for such other States and REIOs to participate in the effective operation of the Convention once it enters into force." ➤

The most controversial item of this resolution was what role the subsidiary body was to play during the interim period. Consensus arose that further sessions of the Intergovernmental Negotiating Committee will be convened as often as necessary in order to oversee the implementation, until the end of the fiscal year in which the first meeting of the Conference of the Parties (COP) takes place. The Committee is to "recommend draft rules of procedure, composition and operational guidelines for the functioning of the subsidiary body to be established under paragraph 6 of article 19 of the Convention for consideration by the Conference of the Parties at its first session."

It was further agreed that the Committee shall also "develop provisional guidance on the evaluation of current and projected releases of chemicals in Annex C, including the development and maintenance of source inventories, in order to facilitate interim work ... for consideration by the Conference of the Parties upon the entry into force of the Convention." State Parties are encouraged to assist in the preparatory work.

Among the list of activities, the Committee is to focus its efforts during the interim period on those activities required or encouraged by the Convention that will facilitate the rapid entry into force and effective implementation of the Convention upon its entry into force. That is, "steps to enable a prompt start on the capacity building and assistance networks; guidance on the preparation of implementation plans and action plans; guidance for the financial mechanism and technical assistance; periodicity and format of reports by Parties; arrangements to provide comparable monitoring data; rules of procedure and financial rules; financial provisions governing the functioning of the secretariat; modalities and procedures relating to non-compliance;..."

There was also disagreement over whether the subsidiary body should be able to add new chemicals in addition to those listed in the annexes. Although the Group of 77 and China was against listing chemicals during the interim period since only the Conference of Parties may decide to add to the list, the representative of Norway, however, reminded delegates that the identification processes are lengthy and argued that the INC should be allowed to form preparatory groups in order to study the proposed addition of further chemical substances for consideration by the COP.

An appeal was also made to states to make voluntary contributions to the trust fund established by UNEP in order to support the above-mentioned interim activities.

### Capacity Assistance Network

The *resolution on capacity-building and capacity assistance* network concerns facilitating and co-ordinating access to technical and financial assistance in order to assist signatory parties in the implementation of the Convention. In it, the INC is asked to focus its efforts in the interim period on arrangements for capacity building for the implementation of the Convention in developing signatory countries and signatory countries with economies in transition (EITs).

Further, acting in co-operation with the Chief Execu-

tive Officer (CEO) of the Global Environment Facility (GEF), the UNEP Executive Director, acting as the interim secretariat for the Convention, is "to develop the modalities for a Capacity Assistance Network that will perform the following functions, and report thereon to the Committee at its sixth session:

- (a) identifying and maintaining an inventory of sources of assistance outside those to be provided by the principal entity of the financial mechanism of the Convention that are available for the implementation of the Convention;
- (b) assisting signatories, upon request, to identify and access the sources referred to in ... (a);
- (c) providing signatories with information on, categories, sources and requirements for accessing the assistance referred to in ... (a); and
- (d) encouraging the involvement of the private sector and non-governmental organisations in providing assistance."

Other entities providing bilateral, multilateral and regional financial and technical assistance for the implementation of the Convention are also urged to contribute actively to this effort. The GEF, as the principal entity entrusted with the operations of the financial mechanism, on an interim basis, is to take into account the capacity building needs by developing countries and EITs.

### Liability and Redress

The *resolution on liability and redress concerning the use and intentional introduction into the environment of persistent organic pollutants* deals with the question of POPs that are transported across international boundaries through air, water and migratory species. It recognises the need for further elaboration of international rules in the field of liability and redress resulting from the production, use and intentional release into the environment of POPs.

Governments and relevant international organisations are invited "to provide the secretariat with information on national, regional and international measures and agreements on liability and redress, especially on POPs." Further, the secretariat in co-operation with one or more States is requested to organise a workshop on liability and redress in the context of the Convention and related matters. This workshop, which Austria has graciously offered to host, should take place no later than 2002. The report of the workshop shall then be considered at the first COP with a view to deciding what further action should be taken.

The representative of the Islamic Republic of Iran made a statement on behalf of the G-77 and China, in which he emphasised the significance and relevance of the principle of common, but differentiated responsibilities in addressing liability and redress within the context of the Stockholm Convention. He also noted that the workshop referred to in the resolution should be open-ended so that all countries including developing countries could participate in it. The representative of the Russian Federation drew attention to the need for further development of adequate scientific criteria without which policy decisions on liability and redress could not be formulated.

Many informal consultations took place in order to clear up the remaining items under dispute. However, as the day's session drew to a close, Chair John Buccini reminded delegates that if they did not reach an agreement soon, the unresolved paragraphs would be deleted in their entirety. The atmosphere thus turned frantic. Many delegates did not dare to leave the room even for a short moment for fear of wasting valuable negotiating time. In a last-minute effort, delegates were able to reach the necessary compromises and pass all three resolutions.

The Meeting adopted as a final resolution a tribute to the Government of the Kingdom of Sweden in which it expressed "its sincere gratitude to the Government ..., to the authorities of the city of Stockholm and, through them, to the people of Sweden, for the cordial welcome which they accorded to the Conference and to those associated with its work and for their contribution to the success of the Conference." The draft report of the Preparatory Meeting<sup>3</sup> was adopted and the Chair declared the meeting closed, thus paving the way for the Conference of Plenipotentiaries the following day.

### Conference of Plenipotentiaries

On 22 May, UNEP Executive Director Klaus Töpfer officially convened the Conference of Plenipotentiaries. He read a statement on behalf of United Nations Secretary General Kofi Annan announcing that this Convention would not only help to protect human health and maintain biodiversity, but would moreover contribute to strengthening the international legal machinery of environmental protection. The hope was expressed that the Convention will "generate momentum toward next year's World Summit on Sustainable Development [WSSD] ..." and states were called on "to join in signing and then ratifying the treaty so it can enter into force at the earliest possible date."

In his own welcoming statement, Töpfer stressed that "the Convention itself deals comprehensively with POPs [but] it should not be seen in isolation. It is part of a larger framework of legal instruments and organisations. These are all acting together to try to solve the growing toxic chemical and hazardous waste dangers that face our wonderful planet. Clearly, the *Stockholm Convention* must work closely with the *Rotterdam* and *Basel Conventions*. And, just as important, there is a need for collaboration with regional instruments such as the regional seas conventions and the UN Economic Commission for Europe's (UN/ECE) Long Range Transboundary Air Pollution Convention and its POPs Protocol. Collaboration must be there at all levels – among the COPs, the governments and the Secretariats."

After statements on behalf of the host government and the city of Stockholm, the CEO of the Global Environment Facility, Mohamed El-Ashry, took the podium. He reminded the audience that the signing of the Convention is but a first step in addressing the threat of POPs. As the

designated interim financial mechanism of the Stockholm Convention, he announced that the GEF is prepared to assist in its implementation in an effective, timely and cost-effective manner. He further added that land degradation and the designation of POPs could be recommended as GEF focal areas to the second GEF Assembly to be held at Beijing in October 2002.

The Conference then turned to organisational matters and elected Kjéll Larsson, the Swedish Minister of the Environment, as its President. Jim Willis, Director of UNEP Chemicals, introduced the text of the Convention (UNEP/POPS/CONF/2), noting that the Secretariat had made only a few minor editorial changes. INC Chair John Buccini then outlined the history of the negotiations leading up to the Convention which had been sparked by the 1995 UNEP Governing Council Decision 18/32 and found its successful conclusion at INC-5 in Johannesburg. He thanked the INC Bureau, the governments who had hosted previous sessions of INC, contributors to the POPs Club and all stakeholders involved.

Following statements by the International POPs Elimination Network (IPEN), the Inuit Circumpolar Conference and the International Council of Chemical Associations, the World Chlorine Council and the Global Crop Protection Federation (GCPF), John Buccini proceeded to summarise the main policy points of the Convention. He emphasised that the objective of the Convention under Article 1 acknowledges the precautionary approach, as enshrined in Principle 15 of the Rio Declaration. The procedure for identifying and listing new POPs, he further added, provides for checks and balances in order to ensure that every proposed chemical substance will be given an opportunity for evaluation.

The Conference thus formally adopted the Stockholm Convention. President Larsson stated at this occasion that as the first global environmental convention of the new century, it represents a turning point in the global endeavour toward implementing sustainable development. He remarked on the role of science that it gives a voice to nature and called for the creation of an international scientific research programme in support of environmental conventions. He further thanked representatives of the private sector, non-governmental organisations (NGOs) and international intergovernmental organisations (IGOs), especially the Intergovernmental Forum for Chemical Safety (IFCS), the World Health Organisation (WHO), the Food and Agriculture Organisation (FAO) and the GEF, who helped to make this Convention a reality.

The Conference then turned to its next agenda item: the adoption of resolutions. In addition to the four resolutions that were finalised the day before, three further draft resolutions were up for adoption. These had already been prepared at the fourth and fifth sessions of the INC and relate to interim financial arrangements, the Basel Convention and the secretariat (UNEP/POPS/CONF/3). John Buccini in his function as Chair of the Preparatory Meeting explained that the main objective of these resolutions is to translate the Convention into immediate action, and therefore recommended that delegates adopt all seven resolutions as a package deal. ■

### Interim Financial Arrangements

This resolution refers to Article 14 of the *Stockholm Convention* which designates the GEF as the principal entity entrusted with the operations of the financial mechanism during the interim period. It requests the GEF Assembly to consider establishing a new focal area through amendment of the Instrument for the Establishment of the Restructured GEF in order to support the implementation of the Convention. The GEF Council is requested to establish as soon as possible and implement an operational programme for POPs, taking into account future decisions of INC.

The resolution further stipulates that the GEF shall report to the first session of the COP on the measures it has taken to ensure the transparency of the GEF project approval process and that the procedures for accessing the funds are simple, flexible and expeditious. Donors to the GEF Trust Fund are encouraged to provide adequate additional financial resources through the third replenishment of the Trust Fund so that the GEF will be able to effectively perform its mandate in terms of the Convention. The interim Secretariat is also to invite relevant funding institutions to provide information on ways in which they can support the Convention. Finally, the first COP is requested to review the availability of financial resources in addition to those provided through the GEF and the ways and means for mobilising and channelling these resources in support of the objectives of the Convention.

### Issues related to the Basel Convention

This resolution welcomes the work undertaken by the bodies of the *Basel Convention* on issues related to the management of POPs, including the initiation of work to prepare technical guidelines for environmentally sound management, and encourages these bodies to continue to make this work a priority. Co-operation on measures to reduce or eliminate releases from stockpiles and wastes, referred to under Article 6, is also encouraged.

The INC and the interim secretariat, in turn, are requested to co-operate with the Secretariat and the bodies of the Basel Convention, and the Secretariat of the Basel Convention is invited to report to the INC on issues related to the environmentally sound management of POPs wastes.

### Concerning the Secretariat

The resolution concerning the secretariat welcomes with appreciation the offers to host the Secretariat of the *Stockholm Convention* received from Germany and Switzerland and invites the said countries to provide full and

detailed information on their proposals. It further calls upon the UNEP Executive Director, who is to perform the secretariat functions during the interim period, to provide a comparative analysis of those offers regarding the physical location of the Secretariat for consideration by the first session of the COP.

All seven resolutions were adopted and added to the Final Act of the Conference (UNEP/POPS/CONF/L.1). The Final Act was subsequently adopted and thus ready for signature by the plenipotentiaries of the national governments, the President of the Conference and the UNEP Executive Director the following day.

### The Signing Ceremony

On 23 May, the Convention was finally opened for signature. David Anderson, the Canadian Minister of the Environment and acting President of the UNEP Governing Council, on behalf of the government of Canada was the first to submit a national instrument of ratification to the secretariat. Representatives were then invited to present statements. The majority of delegates thanked John Buccini as Chair of the Intergovernmental Negotiation Committee and the Preparatory Meeting for his personal dedication and commitment to helping the Convention come about. Thanks were also extended to the secretariat and the Swedish government as hosts of the Conference. Of the many statements on behalf of national governments, only a few are highlighted in the following.

*Kjell Larsson* took off his hat as President of the Conference of Plenipotentiaries and addressed the Assembly in his capacity as the Minister of the Environment of Sweden thereby speaking on behalf of the European Union and associated States. He urged states to act forcefully in order to counteract past negligence, and said that the future use of chemicals must be guided by the principles of precaution, prevention and substitution. He called for increased efforts for further involvement and support by the industry, the scientific community and NGOs.

*Jürgen Trittin* (Germany), Minister for the Environment, Nature Conservation and Nuclear Safety, highlighted the role played by NGOs during negotiations and commended in particular the active efforts of Greenpeace and the World Wildlife Fund (WWF). He appealed to producers to avoid introducing new forms of POPs and, likewise, to the chemicals industry to assist in developing alternatives to DDT and disposing of obsolete POPs stocks. He repeated Germany's offer to host the secretariat for the *Stockholm Convention* and pledged that Germany shall ratify the Convention before the WSSD in 2002.

*Christine Todd Whitman*, Administrator of the US Environmental Protection Agency, on behalf of US President George W. Bush, stated that the US fully endorses the Convention and has already taken first steps toward implementation. In addition, the US government has made over US\$22 million available over the last five years in terms of technical and



Kjell Larsson,  
Environment Minister of Sweden

Courtesy: UNEP

financial assistance to developing countries for POPs-related activities. A further US\$3.5 million has been allocated for the year 2001. She stated that the US intends to assist the GEF in its plans for implementing the Convention.

*Phil Clapp*, President of the US National Environmental Trust, was later to comment in a separate press statement that while he welcomed his country's agreement to ratify the treaty, he felt that it was comparatively easy for the US to sign up as the category of chemicals involved were either officially banned there or had not been produced in the country for several years.

Ambassador *Beat Nobs*, Head of the International Affairs Division of the Swiss Agency for the Environment, Forests and Landscape, put the successful conclusion of the *Stockholm Convention* into perspective as strengthening the international environmental regime. He further pushed the idea of introducing trade measures to Multilateral Environmental Agreements (MEAs). He also noted the increasing acceptance and implementation of the precautionary approach at the international level. In reference to the ongoing process concerning international environmental governance, Nobs stated that the *Stockholm Convention* promotes synergies with other institutions and the thematic clustering of MEAs.

Ambassador *Christopher Butler* of New Zealand stated that his government is ready to contribute to the exchange of scientific information, especially vis-à-vis methodologies and research on the impacts POPs have on health and the environment. Having also already started to implement the Convention by introducing new policies on dioxins and organochlorides, he affirmed that New Zealand would meet its obligations as soon as practicable.

The Austrian Ambassador, *Nikolaus Scherk*, restated his country's offer to host a workshop on liability and redress, and offered examples of how POPs affect mountain ecosystems in Austria.

Ambassador *Walter Woon* from the Singapore Embassy in Germany recapitulated which policy areas one needs to concentrate on in order to drive forward the implementation of the *Stockholm Convention* in developing countries. He noted general policy guidelines; strategies and priority programmes for facilitating technical and financial assistance; development and distribution of best available technologies and practices; and harmonisation of approaches toward data acquisition and evaluation.

*Rustem Mamim*, Director, Department of the International Co-operation of the Ministry of Natural Resources, spoke on behalf of the Russian Federation and noted problems with PCBs in his country and the high costs involved in remedying the situation. Although national procedures had prevented signature of the Convention, he assured that efforts will be undertaken so that the Federation will sign on in the near future.

*Robert Donkers*, Deputy Head of the Environment Directorate-General's Chemicals Department, delivered a statement on behalf of the European Commission calling for more mutually supportive trade and environment agreements, with a view toward promoting the concept of sustainable development. He also pledged his department's

willingness to assist in the preparatory work leading up to identifying possible POPs candidates for addition to the Convention's annexes.

On behalf of the IGOs, who assisted in the negotiation process leading up to the *Stockholm Convention*, *Sachiko Kuwabara-Yamamoto*, Executive Secretary of the *Basel Convention*, stressed that the treaty which has been signed today opens a new era of co-operation between chemicals and hazardous waste conventions. She pledged that her Secretariat would offer its support and pass on its experience gained with Parties to the *Basel Convention*. Such a partnership aimed at achieving the goals of both of these conventions would also set an example in responding constructively to the call for strengthening international environmental governance.

*Alemayehu Wodageneh*, Co-ordinator and Chief Technical Advisor of the FAO's Department of Prevention and Disposal of Obsolete Stocks, reported on the role FAO plays in eliminating POPs. To this end, there has been ongoing co-operation with UNEP and other relevant agencies in preventing the accumulation of obsolete pesticide stocks. Since the FAO increasingly acts as an implementing agency of the GEF, Wodageneh stated that the FAO shall also assist the GEF in implementing this Convention.

WHO Co-ordinator, *Douglas W. Bettcher*, stated that since INC-5 his organisation has already taken steps in line with the objectives of the *Stockholm Convention*. Among other activities, he announced plans to develop a common policy to promote the gradual reduction of DDT.

Principal Technical Advisor *Andrew Hudson* cited examples of UNDP-GEF joint projects on capacity building and technical assistance. Recognising the linkages on questions of health, socio-economic development and the environment between UNDP and the mandates of the *Stockholm Convention*, he asserted that UNDP shall support its client countries in helping them to fulfil their obligations under the Convention.

*Peter Stenlund*, Chair of the Senior Arctic Officials of the Arctic Council, explained that the Member States of the Arctic Council are already contributing to the implementation of the Convention. He cited an action plan on eliminating pollution in the Arctic, as well as multilateral projects on POPs in the Russian Federation. Stenlund also suggested that the experiences gained from the Arctic Monitoring and Assessment Programme could help to build a global network to monitor POPs.

Conference Vice-President, *Adriana Hoffmann* (Chile), who had taken over the ceremonial role of President of the Signing Ceremony during the afternoon session, thanked delegates for their statements and closed the Conference of the Plenipotentiaries at 7:00 p.m. In the words of INC Chair John Buccini, the "declaration of war on POPs" is now official!

## Notes

<sup>1</sup> See Talita Strydom, Robyn Stein and Amanda Anastassiades, "Convention Finally Agreed", *Environmental Policy and Law*, Vol. 31 (1) 2001, p. 15-21.

<sup>2</sup> See *Environmental Policy and Law*, Vol. 31 (2) 2001, p. 116.

<sup>3</sup> Available under UNEP/POPS/CONF/PM/3/Rev.1.

