

DECISIONS

COUNCIL DECISION (EU) 2017/758

of 25 April 2017

on the position to be adopted, on behalf of the European Union, at the eighth meeting of the Conference of the Parties to the Stockholm Convention on Persistent Organic Pollutants, as regards the proposals for amendments to Annexes A, B and C

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 14 October 2004, the Stockholm Convention on Persistent Organic Pollutants ('the Convention') was approved, on behalf of the European Community, by way of Council Decision 2006/507/EC ⁽¹⁾.
- (2) The Union has implemented the obligations set out in the Convention in Union law by way of Regulation (EC) No 850/2004 of the European Parliament and of the Council ⁽²⁾.
- (3) The Union places strong emphasis on the need for the gradual expansion of Annexes A, B and/or C to the Convention with new substances which fulfil the criteria for persistent organic pollutants (POPs), taking into account the precautionary principle, with a view to meeting the objective of the Convention and the commitment of governments made at the World Summit on Sustainable Development held in Johannesburg in 2002 to minimise the adverse effects of chemicals by 2020.
- (4) Pursuant to Article 22 of the Convention, the Conference of the Parties (COP) may adopt decisions amending Annexes A, B and/or C to the Convention. Those decisions enter into force one year from the date of communication by the depositary of an amendment, with the exception of those parties to the Convention ('the Parties') that have opted out.
- (5) Following a nomination of commercial decabromodiphenyl ether (c-decaBDE) received from Norway in 2013, the Persistent Organic Pollutants Review Committee (POPRC) established under the Convention has concluded its work on c-decaBDE. POPRC has found that c-decaBDE meets the criteria of the Convention for a listing in Annex A thereto. At its eighth meeting, the COP is expected to decide on the inclusion of c-decaBDE in Annex A to the Convention.
- (6) The manufacture, placing on the market or use of decabromodiphenyl ether as a substance, as a constituent in other substances, in mixtures and in articles is restricted pursuant to Commission Regulation (EU) 2017/227 ⁽³⁾ establishing entry 67 of Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council ⁽⁴⁾ (REACH) ('entry 67'). Pursuant to entry 67, the manufacture, placing on the market or use of decabromodiphenyl ether shall only be allowed for a limited time for new aircraft and for spare parts for aircraft, motor vehicles, agricultural and forestry vehicles and certain machinery.

⁽¹⁾ Council Decision 2006/507/EC of 14 October 2004 concerning the conclusion, on behalf of the European Community, of the Stockholm Convention on Persistent Organic Pollutants (OJ L 209, 31.7.2006, p. 1).

⁽²⁾ Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organic pollutants and amending Directive 79/117/EEC (OJ L 158, 30.4.2004, p. 7).

⁽³⁾ Commission Regulation (EU) 2017/227 of 9 February 2017 amending Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards bis(pentabromophenyl)ether (OJ L 35, 10.2.2017, p. 6).

⁽⁴⁾ Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

- (7) Following a nomination of short-chain chlorinated paraffins (SCCPs) received from the Union in 2006, POPRC has found that SCCPs meet the criteria of the Convention for a listing in Annex A thereto. At its eighth meeting, the COP is expected to decide on the inclusion of SCCPs in Annex A to the Convention.
- (8) The production, placing on the market and use of SCCPs is prohibited, with certain exemptions, pursuant to Regulation (EC) No 850/2004, as amended by Commission Regulation (EU) 2015/2030 ⁽¹⁾. That amended Regulation also specifies limit values for the presence of SCCPs in other chlorinated paraffin mixtures resulting from the manufacturing process. Since SCCPs are capable of long-range environmental transport, a global phase-out of the use of this substance would be more beneficial to Union citizens than a prohibition under Regulation (EC) No 850/2004 in the Union alone.
- (9) Following a nomination of hexachlorobutadiene (HCBD) received from the Union in 2011, POPRC has found that HCBD meets the criteria of the Convention for a listing in Annexes A and C thereto. At its seventh meeting, the COP decided to list HCBD in Annex A to the Convention. However, the COP adopted decision SC-7/11, by which the POPRC was requested to further evaluate HCBD on the basis of newly available information in relation to its listing in Annex C to the Convention and to make a recommendation to the COP on listing HCBD in Annex C for further consideration at its eighth meeting.
- (10) The production, placing on the market and use of HCBD is prohibited in the Union pursuant to Regulation (EC) No 850/2004, as amended by Commission Regulation (EU) No 519/2012 ⁽²⁾, but it may be produced unintentionally in some industrial activities. Such activities are covered under Directive 2010/75/EU of the European Parliament and of the Council ⁽³⁾ and require the application of certain emission management measures. Since HCBD is capable of long-range environmental transport, global action on unintentional releases of this substance would be more beneficial to Union citizens than the measures set out in Regulation (EC) No 850/2004 being taken in the Union alone.
- (11) Perfluorooctane sulfonic acid (PFOS) and its derivatives are listed in Annex B to the Convention with a number of 'acceptable purposes'. The COP will be requested to review the continued need of those acceptable purposes. Regulation (EC) No 850/2004 prohibits the production, placing on the market and use of PFOS but exempts certain uses that are still needed in the Union. Consequently, the Union should support the deletion of the acceptable purposes for PFOS and its derivatives that are no longer needed by the Parties, except those for photoresist and anti-reflective coatings for semi-conductors, as etching agent for compound semi-conductors and ceramic filters and in hard metal plating only in closed-loop systems,

HAS ADOPTED THIS DECISION:

Article 1

1. The position to be adopted on behalf of the Union at the eighth meeting of the Conference of the Parties (COP) to the Stockholm Convention shall be, in line with the relevant recommendations of the Persistent Organic Pollutants Review Committee, to support the:

- listing of decabromodiphenyl ether (BDE-209) present in commercial decabromodiphenyl ether (c-decaBDE) in Annex A to the Convention with 'specific exemptions' for the production and use of decaBDE in spare parts for the automotive industry. The Union shall support that listing with additional specific exemptions for aircraft and for spare parts for aircraft in line with Regulation (EU) 2017/227, as well as for spare parts for agricultural and forestry vehicles and certain machinery, if other Parties or directly involved stakeholders can demonstrate their need;
- listing of short-chain chlorinated paraffins (SCCPs) in Annex A to the Convention;
- listing of hexachlorobutadiene (HCBD) in Annex C to the Convention;

⁽¹⁾ Commission Regulation (EU) 2015/2030 of 13 November 2015 amending Regulation (EC) No 850/2004 of the European Parliament and of the Council on persistent organic pollutants as regards Annex I (OJ L 298, 14.11.2015, p. 1).

⁽²⁾ Commission Regulation (EU) No 519/2012 of 19 June 2012 amending Regulation (EC) No 850/2004 of the European Parliament and of the Council on persistent organic pollutants as regards Annex I (OJ L 159, 20.6.2012, p. 1).

⁽³⁾ Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17).

- deletion of the following ‘acceptable purposes’ from the entry on perfluorooctane sulfonic acid (PFOS) and its derivatives in Annex B to the Convention: photo imaging, aviation hydraulic fluids, certain medical devices (such as ethylene tetrafluoroethylene copolymer (ETFE) layers and radio-opaque ETFE production, in vitro diagnostic medical devices, and CCD colour filters), fire-fighting foam, insect baits for control of leaf-cutting ants from *Atta* spp. and *Acromyrmex* spp.
2. Refinement of this position, in light of developments at the eighth meeting of the COP, may be agreed through coordination on the spot.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Luxembourg, 25 April 2017.

For the Council
The President
I. BORG
