

Oaxaca, October 13, 1995

COUNCIL RESOLUTION # 95-5

Sound Management of Chemicals

THE COUNCIL:

RECOGNIZING that the territories of the Parties comprise shared regional ecosystems in which the land, air, water, flora and fauna are linked and interdependent;

RECOGNIZING that transport of toxic substances across national boundaries is a major and shared concern;

NOTING WITH CONCERN that certain persistent toxic substances bioaccumulate in living organisms and have been associated with immune system dysfunction, reproductive deficits, developmental abnormalities, neurobehaviorial impairment and cancer, as well as acutely toxic and other harmful effects on human, plant, and animal health and the environment;

NOTING FURTHER that some of these harmful effects are irreversible and that remedial measures to improve degraded environments and treat pollution-associated diseases even when feasible can often place considerable strain on local, regional and national economies;

RECOGNIZING the need to assess and develop strategies for addressing new and existing chemicals in North America, throughout their life cycles, to reduce and prevent adverse effects to human health and the environment;

RECOGNIZING the important contributions that producers and/or users can make to the sound management of chemicals;

REAFFIRMING the Parties' commitment to the sound management of chemicals, as stated in *Agenda 21* and adopted at the *1992 United Nations Conference on Environment and Development*;

REAFFIRMING the Principles of the *1992 Rio Declaration*, noting in particular those Principles that have special importance for the promotion of chemical safety, including:

Principle 14, *States should effectively cooperate to discourage or prevent the relocation and transfer to other States of any activities and substances that cause severe degradation or are found to be harmful to human health*; and

Principle 15, *In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific evidence shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation*;

RECOGNIZING that the Intergovernmental Forum on Chemical Safety has recommended that regional cooperation and information exchange networks should be established in all regions as soon as possible;

FURTHER RECOGNIZING that this resolution should build upon existing bilateral and multilateral commitments related to the sound management of chemicals, to which at least two of the *North American Agreement on Environmental Cooperation* (NAAEC) countries are Party, including, for example, the commitments made in Article II (a) of the *Great Lakes Water Quality Agreement of 1978* (Canada-United States of America) that, *“The discharge of toxic substances in toxic amounts be prohibited and the discharge of any or all persistent toxic substances be virtually eliminated”*;

ACKNOWLEDGING the responsibility of the Council, under Article 10(5)(b) of the NAAEC to promote and, as appropriate, develop recommendations regarding appropriate limits for specific pollutants, taking into account differences in ecosystems and other responsibilities for the sound management of chemicals included under other relevant provisions of the NAAEC;

FURTHER ACKNOWLEDGING Article 10(3) of the NAAEC, which calls upon the Council to strengthen cooperation on the development and continuing improvement of environmental laws and regulations, including by: *“(a) promoting the exchange of information on criteria and methodologies used in establishing domestic environmental standards; and (b) without reducing levels of environmental protection, establishing a process for developing recommendations on greater compatibility of environmental technical regulations, standards and conformity assessment procedures in a manner consistent with the NAFTA”*;

COGNIZANT of the need to consider the unique circumstances of NAFTA Partner economies and ecosystems and to develop regional approaches for the sound management of chemicals, particularly to reduce the risks posed by persistent, toxic substances of mutual concern;

CONCLUDING that prevention of pollution and reduction of risk through cooperative actions for the sound management of chemicals, particularly of persistent, toxic substances, is both desirable and imperative in order to protect and improve the environment of North America;

COMMITTS to regional cooperation for the sound management, throughout their life cycles, of the full range of chemical substances of mutual concern including by pollution prevention, source reduction and pollution control;

DECIDES to give priority to the management and control of substances of mutual concern that are persistent and toxic beginning with the development of a regional action plan for the management and control of polychlorinated biphenyls (PCBs). Regional action plans will also be developed for a short list of three additional substances selected from among a group of substances, including the 12 persistent bioaccumulative organic chemicals identified in the recent United Nations Environment Programme Governing Council Decision 18/32 of May 1995 (see Annex I to this resolution) and certain heavy metals;

FURTHER DECIDES that regional action plans for such substances of mutual concern be developed as specified below, taking into consideration different national approaches and timetables for the sound management of chemicals in a manner that respects the different economic, political and regulatory circumstances of the Parties.

HEREBY ESTABLISHES a working group comprised of two senior officials selected by each Party whose duties pertain to the regulation or management of toxic substances, and who shall work with the Commission for Environmental Cooperation (CEC) to implement the decisions and commitments set out in this Resolution, including development of:

1. a regional action plan for the management and control of PCBs;
2. criteria for identifying additional persistent and toxic substances for regional action by November 15, 1995;
3. a regional seminar to be held in December 1995 in Mexico for discussion of ongoing actions and experiences on the matter;
4. a short list of three priority persistent and toxic substances in addition to PCBs to be developed by January 15, 1996, for which regional action plans will be prepared;
5. regional action plans covering each of the persistent and toxic substances on this short list to be submitted to the Council for approval by December 15, 1996; and
6. refined criteria for identifying persistent and toxic substances for regional action, an updated short list, and recommendations on other persistent and toxic substances to be the subject of action plans on an annual basis, beginning in 1996.

DIRECTS the working group, in addressing the above-mentioned decisions and commitments, to:

- a) develop recommendations for improving the capacity for monitoring, research and information sharing with respect to the sound management of chemicals;

- b) identify and recommend measures for improving capacity and capabilities for the sound management of chemicals, including measures relating to technical cooperation, information sharing and joint approaches;
- c) consider ways and, if practicable, develop recommendations for promoting the exchange of information on criteria and methodologies used in establishing domestic standards for the sound management of chemicals;
- d) incorporate, as appropriate, pollution prevention principles and precautionary approaches in making recommendations to reduce risk associated with toxic substances;
- e) recommend, as set out in Chapter 19 of *Agenda 21*:
 - 1) *concerted activities to reduce risks presented by toxic chemicals, taking into account the entire life cycle of the chemicals. These activities could encompass both regulatory and non-regulatory measures, such as promotion of the use of cleaner products and technologies; emission inventories; product labeling; use limitations; economic incentives; and phasing out or banning of toxic chemicals that pose an unreasonable and otherwise unmanageable risk to the environment or human health and those that are toxic, persistent and bio-accumulative and whose use cannot be adequately controlled; and*
 - 2) *policies and regulatory and non-regulatory measures to identify, and minimize exposure to, toxic chemicals by replacing them with less toxic substitutes and ultimately phasing out the chemicals that pose unreasonable and otherwise unmanageable risks to human health and the environment and those that are toxic, persistent and bio-accumulative and whose use cannot be adequately controlled;*
- f) coordinate activities with, avoid duplicating the efforts of, and where possible utilize the expertise of existing workgroups and other organizations whose efforts are pertinent , e. g., the *Technical Working Group on Pesticides* established under the *U.S.-Canada Free Trade Agreement*, the *Ad Hoc Working Group on Persistent Organic Pollutants (POPs)* of the *Inter Organizational Program for the Sound Management of Chemicals (IOMC)*, the *Intergovernmental Forum on Chemical Safety*, the *United Nations Economic Commission for Europe/Long Range Transport of Air Pollutants (UNECE/LRTAP) Ad Hoc Workgroups on POPs and Heavy Metals* and the *Organization for Economic Cooperation and Development (OECD) Chemicals Programme*;
- g) build upon existing bilateral and multilateral commitments related to the sound management of chemicals;
- h) encourage and provide for meaningful participation of the public, including non-governmental organizations; business and industry; provincial, state, and municipal governments; academia; and technical and policy experts in developing its recommendations;

- i) recommend measures for assessing progress with respect to action programs undertaken through this resolution;
- j) encourage complementary national approaches and timetables for the sound management of chemicals in a manner that respects the different economic, political and regulatory circumstances of the Parties.

APPROVED BY THE COUNCIL:

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Annex 1 to the Council Resolution #95-5 on Sound Management of Chemicals

List of 12 persistent organic pollutants identified in the United Nations Environment Programme Governing Council Decision 18/32 of May 1995:

1. PCBs
2. dioxins
3. furans
4. aldrin
5. dieldrin
6. DDT
7. endrin
8. chlordane
9. hexachlorobenzene
10. mirex
11. toxaphene
12. heptachlor