

# REGULATION IMPACT STATEMENT FOR THE CONSIDERATION OF THE RATIFICATION OF

## THE STOCKHOLM CONVENTION ON PERSISTENT ORGANIC POLLUTANTS (POPs)

**Final**

**23 July 2003**

### Introduction

The objective of the Stockholm Convention is to protect human health and the environment from the effects of persistent organic pollutants (POPs). The Convention sets out a range of control measures to reduce and, where feasible, eliminate POPs releases, including emissions of by-product POPs. The Convention also aims to ensure the sound management of stockpiles and wastes that contain POPs.

The Stockholm Convention will cover control measures on the twelve POPs shown below. These were identified for international action because of their persistence, bioaccumulation, long-range dispersion and toxicity. The Convention focuses on three broad areas: intentionally produced and used POPs; unintentionally produced or by-product POPs; and POPs in stockpiles and wastes.

The initial twelve POPs	
aldrin <sup>1</sup>	toxaphene <sup>1</sup>
chlordane <sup>1</sup>	mirex <sup>1</sup>
DDT <sup>1</sup>	hexachlorobenzene (HCB) <sup>1,2,3</sup>
dieldrin <sup>1</sup>	polychlorinated biphenyls (PCBs) <sup>2,3</sup>
endrin <sup>1</sup>	polychlorinated dibenzo-p-dioxins (dioxins) <sup>3</sup>
heptachlor <sup>1</sup>	polychlorinated dibenzofurans (furans) <sup>3</sup>

<sup>1</sup> Pesticide chemical

<sup>2</sup> Industrial chemical

<sup>3</sup> By-product (unintentionally produced)

Australia, with other developed countries, has taken strong measures to reduce and eliminate releases of POPs. Australian initiatives include:

- banning the production, importation and use of PCBs;
- cancelling registration approval of eight pesticide POPs listed in the Convention thereby preventing use and controlling imports of seven of the listed pesticide POPs;
- establishing national plans to remove and destroy POPs; and
- implementing a national program to address dioxin and furan by-product POPs.

Many developing countries, however, still use and produce POPs, for instance in agriculture and vector management associated with disease control. In addition, stockpiles of unwanted POPs exist in many parts of the world including Australia. POPs move freely and widely throughout the environment *via* the atmosphere, water and migratory species. POPs may, therefore, enter Australia through the environment as well as through contaminated products. Only a multilateral approach can adequately address the problem posed by the trans-boundary movement of POPs. Governments agreed in 1997 that the most effective form of multilateral action was by way of a binding international agreement.

Negotiations on text for a multilateral convention on POPs began in mid-1998 and concluded in December 2000. Australia, together with 90 other countries, signed the Stockholm Convention on Persistent Organic Pollutants at a diplomatic conference held in Stockholm on 16 May 2001.

The Convention will enter into force after 50 countries have ratified it. To date, 151 countries have signed and 33 countries have ratified the Convention.

This Regulation Impact Statement should be read with the text of the Stockholm Convention.

## **1. Problem**

### 1.1 The problem being addressed

POPs are chemicals that are toxic, persist in the environment, accumulate in the food chain, and pose a risk of causing adverse effects to human health and the environment even at low concentrations.

As POPs move freely and widely throughout the environment, their release in other countries, as well as in Australia, has the potential to affect the health of Australians and the environment. POPs levels in the southern hemisphere are generally lower than in the northern hemisphere, but there is evidence of limited inter-hemispheric mixing. There are significant southern hemisphere sources of POPs from Asia, Africa and South America. Recent studies have identified relatively high concentrations of POPs even at significant distances from sources.

The principal source of human exposure to POPs (over 90%) occurs through diet, with foods of animal origin (including milk) identified as the predominant dietary source. Specific effects on humans include allergies and hypersensitivity, damage to the nervous systems, cancer, reproductive disorders, and disruption of the immune system.

While pesticide POPs have long been identified as a problem, over the last few years concern has grown regarding risks from industrial POPs and, in particular, those POPs produced as unwanted by-products. Human exposure to these compounds occurs throughout life, albeit at low levels. Although the long term consequences of this exposure are difficult to quantify, nevertheless there is international concern regarding the health hazard of POPs, particularly with respect to certain vulnerable groups in the population such as unborn infants and young children.

### **1.2 What actions have Australian governments already taken to address the problem?**

In recognition of the potential for the twelve listed POPs chemicals to have severe negative impacts on the environment and health, Australia has already taken strong domestic actions through legislation and policy to manage and control the POPs listed in the Convention.

## Industrial chemicals

Australia has already ceased to produce, import or use PCBs and HCB, the two industrial chemicals covered by the Convention under Annex A.

## Pesticides

Over the past few decades, Australia has ceased to produce or use eight of the nine pesticides in the intentionally produced POPs category covered by the Convention under Annexes A and B and has prohibited import of seven without authorisation. The ninth pesticide, mirex, is the only POP on the Convention still registered for pesticide use in Australia.

## By-products

The 'by-product' POPs (dioxins, furans, PCBs and HCB) are produced as unintended and unwanted releases from certain anthropogenic processes, typically combustion, and from natural processes (bushfires and volcanos). Annex C of the Convention identifies a range of industrial sources of by-products including: municipal, medical and hazardous waste incinerators; electricity production based on fossil fuels; steel plants; and cement kilns.

Total emissions of by-product POPs are thought to be relatively low in Australia compared with more industrialised countries. The report "Sources of Dioxins and Furans in Australia: Air Emissions 1998" by the Department of the Environment and Heritage (DEH) estimated, based on overseas emissions data, that the total emissions of dioxins and furans to air was 150 - 2,100 grams per year with about 75% estimated to come from wild fire and prescribed burn activity. The other major group of sources in Australia identified in the report included: residential wood combustion; coal combustion (utility and industrial); sinter production; and industrial wood combustion.

Emissions from industrial sources in Australia are believed to have declined over the last decade as a result of more stringent legislative controls by State and Territory governments through licensing requirements, which includes monitoring and reporting. The National Pollutant Inventory requires the annual reporting of emissions of several POPs to air, land and water including dioxins and furans, and HCB. Further improvements have been achieved through the implementation of improved technologies and phasing out of poor work practices.

Despite these improvements, mounting international and domestic concerns regarding dioxins led to the Commonwealth Government establishing the four year National Dioxins Program (NDP) in 2001. Administered by the DEH, the NDP was established to determine the levels of dioxins<sup>1</sup> in Australia, undertake a risk assessment and develop appropriate measures to reduce, or where feasible, eliminate dioxins emissions and their presence in Australia. The NDP does not consider the unintentional production and release of HCB and some PCBs.

---

<sup>1</sup> Under the NDP the term 'dioxins' includes dioxins, furans and co-planar PCBs that are considered to exhibit dioxin-like properties.

## Wastes

The *National Strategy for the Management of Scheduled Waste* provides for the safe management and disposal of scheduled wastes, which includes organochlorine pesticides (OCPs), PCBs and HCB, and is implemented through three national plans:

- Organochlorine Pesticides Management Plan - 1999;
- Polychlorinated Biphenyls Management Plan - 1996; and
- Hexachlorobenzene Waste Management Plan - 1996.

National coordination of these three plans is the responsibility of the DEH; implementation is the responsibility of the State and Territory governments.

As part of the management plan for OCPs, the ChemCollect program was a nationally coordinated, free collection scheme to ensure that unwanted and de-registered agricultural and veterinary chemicals, particularly OCPs, were safely collected from rural areas and destroyed in a socially and environmentally acceptable manner. The scheme is in its final stages with all collections completed in December 2002. Chemicals collected through this program are expected to be destroyed within the next five years.

The aims of the PCB Management Plan include the phasing out, disposal and destruction of PCBs. The plan requires that PCBs be removed from use within 13 years. The management plan also requires that a nationally coordinated and statistically valid PCB sampling and monitoring program be carried out to determine whether concentrations of PCBs in the environment are decreasing over time.

The HCB Waste Management Plan provides for the destruction of the stockpiled HCB waste at the Orica site, Matraville, Sydney. It does not cover HCB waste from other sources such as agriculture or industry. A process for destroying this waste is currently under consideration by the NSW Government. If approval were given, the stockpiled HCB waste would be destroyed within a four-year period.

## Import and export of chemicals

The import of certain chemicals is controlled under the *Customs (Prohibited Import) Regulations 1956*, which is enforced by the Australian Customs Service (ACS). The importation without permission of all goods containing polychlorinated biphenyls (PCBs) and other chlorinated biphenyls is prohibited under Regulation 4AB of the Customs (Prohibited Imports) Regulations. The Department of the Environment and Heritage is the policy agency for this control and liaises with National Industrial Chemicals Notification and Assessment Scheme (NICNAS) on receipt of queries regarding PCBs. At present, the importation of seven pesticide POPs is prohibited without permission under Regulation 5I/Schedule 9 of the Customs (Prohibited Imports) Regulations. The Department of Agriculture Fisheries and Forestry - Australia is the policy agency for this control.

Currently there are no export controls on the nine pesticide POPs included in the Convention.

## Import and export of hazardous wastes

Article 6 of the Stockholm Convention requires close cooperation with the Basel Convention<sup>2</sup>, a Convention set up to control the international movements of hazardous wastes and to determine appropriate methods for disposal of POPs.

Australia is a Party to the Basel Convention, and it is implemented domestically through the *Hazardous Waste (Regulation of Exports and Imports) Act 1989* by the DEH.

### **1.3 Why is Government action needed to correct the problem?**

The Commonwealth Government is committed to protecting people and the environment from potential hazards associated with POPs. While the use of nine of the POPs under the Convention are no longer permitted in Australia and imports of eight are prohibited without authorisation, government action is still required as unintended production of by-product POPs still occurs. There are also some stockpiles of POPs contaminated waste in Australia and it is still possible that, without further controls, some contaminated products may enter the country.

Due to their long range transport, persistence and toxicity, POPs released overseas have the potential to affect the health and environment of Australians. At the time of Australia's signature of the Convention, Senator Hill (then Minister for the Environment) stated in a Joint Media Release with Mr Downer, Minister for Foreign Affairs, that "global action to reduce releases of POPs was necessary as they could be found in regions where they had never been used or produced and therefore posed a threat to the environment of the whole globe".

Ratification of the Convention will demonstrate Australia's commitment to supporting an effective and balanced approach to an environmental problem of concern to all countries.

## 2. Objective

### **2.1 Objectives of government action**

The Government's objectives, in ratifying the Stockholm Convention are to:

1. protect the health and environment of Australians from the adverse effects of POPs;
2. enhance Australia's international standing and global prospects for a sustainable environment by participating in an inter-governmental regime that encourages and assists countries to adopt and maintain sound chemical management processes and, thereby, reduce the global production and spread of POPs; and
3. protect the interests of Australia by participating, at an early stage, in the Convention's expert body to ensure the sound application of scientific criteria in the making of recommendations to the Parties, particularly proposals for including additional POPs in the future.

---

<sup>2</sup> Basel Convention on the Control of the Transboundary Movements of Hazardous Wastes and their disposal

### 3. Impact analysis of ratification

#### **3.1 Who is affected by the problem and by its proposed solutions?**

Groups potentially affected include:

- the general population, particularly those potentially exposed to POPs, e.g. users of chemicals and workers in chemical and metals processing industries, breast-feeding babies whose mothers may have been exposed to high levels of POPs, others spending significant parts of their lives near sources of POPs or anyone consuming food contaminated with POPs.
- Farmers, whose exports and imports may be threatened by POPs contamination.
- Industries
  - emitting by-product POPs
  - collecting, storing and disposing of POPs
  - with POPs stockpiles
  - with POPs still in residual use
  - whose products may be threatened by POPs contamination e.g. food-processing industry
- Commonwealth Government departments, agencies and authorities including assessors and regulators
  - Department of the Environment and Heritage (DEH)
  - Department of Agriculture, Fisheries and Forestry – Australia (AFFA)
  - National Registration Authority for Agricultural and Veterinary Chemicals (NRA)<sup>3</sup>
  - Department of Health and Ageing (DoHA)
    - Office of Chemical Safety (OCS)
    - National Industrial Chemicals Notification and Assessment Scheme (NICNAS) within the OCS
  - Food Standards Australia New Zealand (FSANZ)
  - Australian Customs Service (ACS)
  - Department of Employment and Workplace Relations
    - National Occupational Health & Safety Commission (NOHSC)
- State and Territory government agencies that are responsible for chemical and waste management, regulation of industrial emissions, and food standards, these include: environmental protection; agriculture; and health portfolios.

#### **3.2 Affects of ratification on existing regulations and on roles of existing regulatory authorities**

The affects of ratification of the Stockholm Convention (with a declaration<sup>4</sup>) can be described with reference to the major elements of the Convention including:

---

<sup>3</sup> To be known as the Australian Pesticides and Veterinary Medicines Authority (APVMA).

- intentionally produced and used POPs;
- unintentionally produced or by-product POPs;
- POPs in stockpiles and wastes;
- public information, awareness and education;
- research, development and monitoring;
- technical assistance; and
- additional POPs.

### ***3.2.1 Intentionally produced and used POPs***

#### *Currently listed POPs*

Article 3 of the Convention requires Parties to restrict or eliminate production, use, and trade of the listed POPs subject to allowable exemptions and trade between Parties and non-Parties to the Convention. Australia has already ceased to produce, import or use nine of the ten intentionally produced POPs covered by the Convention under Annexes A and B.

The tenth intentionally produced POP covered by the Convention is mirex. Currently, there exists a stockpile in the Northern Territory of approximately 200kg. Mirex is currently the only pesticide that is effective in controlling the giant termite (*Mastotermes darwiniensis*), which is endemic to the tropical areas of Northern Australia. This pesticide is used in small quantities as a bait; no waste is generated by its use. The use is strictly controlled *via* permit and monitoring is undertaken to check for any occurrences in the environment and food. Research by the Northern Territory Government is currently under way to find suitable alternative controls for the giant termite in order to phase out the use of mirex as soon as possible.

Upon signature, Australia registered an exemption for the continued use of mirex under the Convention. The exemption would expire five years after entry into force of the Convention unless an extension was requested and granted. It is envisaged that once a suitable substitute for mirex has been registered in Australia, Australia would withdraw this exemption to the Convention.

Minor amendments to the *Agricultural and Veterinary Chemicals (Administration) Act 1992* would be necessary to formalise in legislation obligations under the Convention, namely prohibition from approving, registering, exempting or allowing use under permit of products containing the eight pesticides, or for extending the use of the ninth, mirex.

#### *Measures to ensure POPs characteristics are taken into account in future regulatory assessment*

Article 3 of the Convention, requires Parties to take into account POP characteristics (persistence, bioaccumulation, potential for long-range environmental transport, adverse effects on human health and the environment) when carrying out assessments of new and

---

<sup>4</sup> The declaration would be pursuant to paragraph 4 of Article 25 of the Convention, that any amendment to Annex A, B or C (such as the addition of further chemicals) shall enter into force with respect to Australia only upon the deposit of Australia's instrument of ratification, acceptance, approval or accession with respect to that amendment.



existing chemicals, so as to prevent the production, import and use of new chemicals that exhibit these characteristics and restrict or prohibit the use of existing chemicals.

Under existing Australian legislation, industrial chemicals are assessed through the NICNAS established under the *Industrial Chemicals (Notification and Assessment) Act 1989* (ICNA Act). NICNAS is located in the Office of Chemical Safety, within the Commonwealth Department of Health and Ageing. Around 40,000 chemicals that were in use in Australia before the inception of NICNAS are registered in the Australian Inventory of Chemical Substances (AICS). All industrial chemicals not on the Inventory are regarded as new to Australia and must be assessed by NICNAS before they can be manufactured in, or imported into Australia.

These assessments by NICNAS (toxicological evaluations, occupational and public exposures and risk characterisation), are undertaken in cooperation with the DEH (environmental hazard and risk), and take into account the overall toxicity and fate of the chemical in the environment. In addition, the biodegradation and bioaccumulation potential of the chemical is assessed.

Minor amendments to the ICNA Act, Schedule would be made to incorporate the additional information requirements, as stipulated in Annex D of the Convention, to ensure that assessments of new industrial chemicals would identify any POPs characteristics.

Chemical companies would have to provide additional data to NICNAS to enable screening of industrial chemicals new to Australia with POPs characteristics. The additional information requirements, as stipulated in Annex D of the Convention, would be consistent with that required by other developed countries such as the US, EU and Canada, and not specific to Australia. The additional information would mainly be physical-chemical data and not require further animal testing. Additional data relates to persistence in the environment i.e. half-life of the chemicals in water and half-life of the chemical in soil, or other evidence of its persistence. Given that a POP must satisfy all three of these criteria, it is envisaged that a tiered screening approach would be implemented, whereby only if a chemical meets one POPs criterion would information have to be provided to screen for other criteria.

Under existing Australian legislation, pesticides are assessed and registered under the National Registration Scheme for Agricultural and Veterinary Chemicals (NRS). The NRS is administered by the National Registration Authority for Agricultural and Veterinary Chemicals (NRA) established under the *Agricultural and Veterinary Chemicals (Administration) Act 1992*. The NRA is a statutory authority operating within the Commonwealth Agriculture, Fisheries and Forestry portfolio. Under the *Agricultural and Veterinary Chemicals Code Act 1994 (the Agvet Code)*, all pesticide active constituents must be approved and products registered by the NRA before they can be sold, supplied, distributed or used in Australia. The NRA also reviews registered chemicals and products in response to new information.

NRA evaluations of pesticides are already consistent with obligations under the Convention, as the NRA takes into account the characteristics of persistence, bioaccumulation, potential for long-range environmental transport, adverse effects on human health and the environment (POPs characteristics). In assessing new pesticides and reviewing existing pesticides, the NRA would continue to take into account the characteristics of POPs and prevent the production and use of new pesticides exhibiting these characteristics.

Furthermore, section 69c of the Agricultural and Veterinary Chemicals (Administration) Act allows regulations to the Act to prohibit the importation into, manufacture in, or exportation from Australia of the constituent or product, either absolutely or subject to such conditions or restrictions as are prescribed, where the active constituent for a proposed or existing chemical product is the subject of a prescribed international agreement or arrangement. The Convention would be so prescribed.

### Imports and exports

Article 3 of the Convention prohibits imports and exports of the POPs listed under Annex A and B unless for environmentally sound disposal or for a quantity to be used for either laboratory-scale research or as a reference standard or where a Party has registered a specific exemption.

Seven of the nine pesticides listed in Annexes A and B of the Convention (aldrin, chlordane, DDT, dieldrin, endrin, HCB and heptachlor) are already controlled under Regulation 5I to the Customs (Prohibited Imports) Regulations. This schedule would be amended to include mirex and toxaphene. Imports of quantities for research and standards would continue to require import permits.

The nine pesticide POPs included in the Convention would need to be listed in a new regulation to the Customs (Prohibited Export) Regulations to control their export as there are currently no export controls on these chemicals.

### ***3.2.2 Unintentionally produced or by-product POPs***

Article 5 of the Convention requires Parties to develop National Action Plans (NAP) in relation to by-product POPs within two years of the entry into force of Convention and to endeavour to implement such a plan. The action plan should include: evaluation of current and projected releases; evaluation of the efficacy of laws and policies to manage such releases; strategies to meet obligations; steps to promote education and training; schedule for implementation; future review of the success of plan; and report to the Conference of the Parties.

Article 5 also requires Parties to promote and require the use of Best Available Techniques (BAT) for new sources of by-product POPs within specified categories in Part II of Annex C, to be phased in within four years after the entry into force of the Convention for that Party. Parties are also required to promote the use of Best Environmental Practices (BEP).

By-product obligations, as noted under section 1.2, are already being met as part of licensing conditions imposed by State and Territory governments. Ratification of the Convention is, therefore, not expected to affect existing regulations other than minor amendments to ensure that obligations under the Convention are applied consistently across the State and Territory governments.

The approach to addressing dioxin emissions under the National Dioxins Program (NDP) is consistent with the steps outlined under the Convention's 'National Action Plan' for by-product POPs. However, the scope of the NDP does not cover all PCBs and by-product HCB, consequently, it does not cover all by-product POPs under in the Convention. The National Action Plan would consider how to address these gaps.

### ***3.2.3 POPs in stockpiles and wastes***

Article 6 of the Convention contains obligations aimed at ensuring the sound management of stockpiles and wastes that consist of, contain, or are contaminated by POPs.

As noted in section 1.2 Australia has already taken considerable steps to meeting these obligations through the development of three management plans under the National Strategy for the Management of Scheduled Waste. For example, the PCB Management Plan would satisfy obligations outlined in Part II of Annex A of the Convention. However, the national strategy would need to be reviewed as part of the National Implementation Plan, to be developed in accordance with Article 7 of the Convention. The scheduled waste management plans also do not cover wastes produced as by-products. Obligations in relation to wastes produced by way of a by-product, would be addressed in the development of the National Action Plan.

The Convention's obligations regarding the import and export of POPs wastes are adequately covered by the *Hazardous Waste (Regulation of Exports and Imports) Act 1989*. This Act, in referencing paragraph 1(a) of Article 1 of the Basel Convention, adequately covers POPs because they are contained in at least one of several categories of the Basel Convention. Paragraph 2 of Article 6 of the Stockholm Convention requires the Conference of the Parties to cooperate with the Basel Convention in relation to the trans-boundary movement and disposal of POPs.

If Australia ratified the Convention no amendments to the Hazardous Waste Act would be required.

### **3.2.4 Public information, awareness and education**

Article 10 of the Convention requires Parties to promote and facilitate awareness of POPs, among policy and decision makers, and provide up-to-date information to the public as well as develop education and training programs.

The National Implementation Plan would include development of a Public Information and Communications Strategy in accordance with Article 10. The primary target audiences for the strategy are identified in section 3.1.

With regard to information availability, NICNAS already publishes assessment reports on all industrial chemicals they assess. A range of workplace education and training activities relating to hazardous substances are undertaken (usually at the State and Territory government level) and occupational health and safety legislation requires information provision and training for hazardous substances used in workplaces.

### ***3.2.5 Research, development and monitoring***

Article 11 of the Convention requires Parties to encourage appropriate research, development, monitoring and cooperation pertaining to POPs and their alternatives at national and international levels.

The National Implementation Plan would identify research, development and monitoring activities. The plan would identify existing research into POPs in Australia such as that already being undertaken through the National Dioxins Program and the research into alternatives for mirex. The plan would also consider mechanisms for encouraging research into POPs that is consistent across Australia and that will contribute towards meeting the objectives of the Convention.

The National Pollutant Inventory would be a valuable monitoring tool, as it will provide annual data showing emissions of dioxins and furans, and HCB.

### ***3.2.6 Technical assistance***

Article 12 of the Convention requires developed countries to provide technical assistance and financial resources to assist developing countries and countries with economies in transition to implement and meet the full incremental costs of measures that fulfill their Convention obligations.

With regard to financial and technical assistance, options identified in the Convention for delivering this assistance include bilateral, regional or multilateral programs, regional and sub-regional centres for capacity building and technology transfer, a proposed capacity-assistance network, and a financial mechanism. The operation of the financial mechanism is entrusted to the Global Environment Facility (GEF).

Australia regards the GEF, an operating entity of the financial mechanism, as the principal channel for assistance to developing countries under the Convention. Australia contributes to the GEF through AusAID. No additional funds would be required from Australia for the GEF. In terms of bilateral project proposals outside the GEF, AusAID will assess such proposals on a case-by-case basis in the context of budgetary, program and partner country priorities at the time. No new and additional funding is available for such projects.

One project currently under way, funded by AusAID, is the clearing of Pacific countries' stockpiles of PCBs and organochlorine pesticides by transporting these to Australia for final safe disposal. This project satisfies not only the aims of the Stockholm Convention, but also those of the Basel and Waigani Conventions<sup>5</sup>.

### ***3.2.7 Additional POPs***

Article 8 of the Convention provides for the addition of new POPs through an open, transparent, science-based process. A POPs Review Committee of experts will be established to advise Parties on the application of the science-based criteria and procedures for assessing chemicals that have been nominated for inclusion in the Convention. The Conference of the Parties will decide whether or not to include nominated POPs in the Convention.

---

<sup>5</sup> The Basel Convention establishes a global control system for hazardous wastes being shipped from one country to another. States, which are Parties to the Convention, must not trade in hazardous wastes with non-Parties but an exception to this is provided for in Article 11 of the Convention, whereby Parties may enter into agreements or arrangements either with other Parties or with non-Parties. The Waigani Convention (Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region) is one such agreement, which entered into force in October 2001.

The Conference of the Parties will decide whether or not to include nominated POPs in the Convention.

If the Conference of the Parties decides that a chemical should be added to the Convention, a Party may individually choose whether or not to undertake the additional obligation, if in its instrument of ratification it declares that any amendment to Annexes A, B or C shall enter into force for it only upon the deposit of its instrument of acceptance with respect to that amendment.

Australia would make such a declaration in its instrument of ratification. Any decision to add new chemicals to the Convention list would then be subject to Australia's domestic treaty making procedures, including the preparation of a Regulation Impact Statement.

In addition, nominations made by other Parties for chemicals to be included as POPs under the Convention will require relevant Government departments to undertake an assessment of the chemical to enable Australia to respond to that nomination.

### **3.2.8 The EPBC Act**

The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) is administered by the Department of the Environment and Heritage. Under the assessment and approval provisions of the EPBC Act, actions that are likely to have a significant impact on a matter of national environmental significance are subject to a rigorous assessment and approval process. An action includes a project, development, undertaking, activity, or series of activities.

The Act currently identifies six matters of national environmental significance:

1. World Heritage properties;
2. Ramsar wetlands of international significance;
3. listed threatened species and ecological communities;
4. listed migratory species;
5. Commonwealth marine areas; and
6. nuclear actions (including uranium mining).

Actions taken on Commonwealth land that are likely to have a significant impact on the environment, actions taken outside Commonwealth land that are likely to have a significant impact on the environment on Commonwealth land, and actions taken by the Commonwealth or Commonwealth agencies that are likely to have a significant impact on the environment anywhere in the world, may also require assessment and approval under the EPBC Act.

Examples of actions of relevance to the Stockholm Convention that could potentially have a significant impact upon the matters protected by the EPBC Act include:

- transport, storage, handling and disposal of any of the 12 POPs under the Convention;
- use of mirex; and
- development of either a new or an existing industrial facility that may produce by-product POPs.

If Australia ratifies the Convention, no amendments to the EPBC Act will be required.

### **3.3 Benefits and costs of ratification**

#### **3.3.1 Benefits**

Ratification of the Convention would deliver the following benefits to Australia:

- greater certainty for POPs management in Australia, augmenting and complementing existing controls on hazardous chemicals, and provide access to valuable information for domestic stakeholders and government agencies on international techniques and approaches to POPs. This would reduce the risk of incidents involving contamination of agricultural products with POPs. For example, it is estimated that dioxins contamination of stock feed in Belgium in 1999 cost that country approximately \$3 billion in lost trade, on top of clean up costs;
- Australia's capacity to protect its national interests would be enhanced by giving it a stake in international cooperation in reducing the presence of POPs at the lowest administrative costs to industry and government;
- increased surety of access to overseas markets for Australian produce. Many countries are moving towards placing stricter limits on the levels of POPs in foods and stock-feed so the Australian agriculture industry would benefit through reduction of POPs in the environment, thus, lessening the risk of contaminants affecting their products;
- support Australian agriculture by maintaining Australia's reputation as a supplier of products which are "clean and green" and demonstrate Australia's commitment to ecologically sustainable development. For example, POPs residues in food is an emerging issue both nationally and internationally and may have implications for Australian food exports; and
- other countries would benefit from Australia's expertise and Australia would be much better placed to encourage and assist other countries to take action to address POPs where they might not have the capacity to do so themselves.

#### **3.3.2 Costs**

Australian ratification of the Convention would involve additional domestic costs incurred through annual assessed contributions, preparation for meetings and Conference of the Parties, development of plans and information activities, administration, salaries and amendments to legislation. These costs would be absorbed by agencies associated with domestic implementation of the Convention, including through existing cost recovery programs in the case of DoHA, an explanation of which follows below. There would also be some costs to industry.

##### Commonwealth Government

The Commonwealth Government's costs in the first year following ratification will total \$542,000 and then reduce to an average annual cost of around \$456,000 in subsequent years. These additional costs would be spread across the three portfolios responsible for implementing the Convention, namely:

- Department of the Environment and Heritage (DEH);

- Department of Agriculture, Fisheries and Forestry – Australia (AFFA); and
- Department of Health and Ageing (DoHA).

Each Party to the Convention will be obliged to pay an annual contribution to the costs of the Convention, assessed according to the UN scale (or a variation to be determined). The estimated annual contribution by the Commonwealth would be in the order of \$80,000, paid by the DEH. This contribution is expected to decrease in future years as more countries become Parties to the Convention.

A National Plan of Implementation would be developed in the first two years following ratification at a cost of \$90,000 to DEH.

A National Action Plan (NAP) for by-products would also be developed within the first two years at a cost of \$90,000 to DEH and would be subject to the development of a Regulation Impact Statement.

As already noted in section 1.2, the National Dioxins Program (NDP) would contribute in part to meeting Australia's obligations under the Convention but is not contingent on a decision to ratify. Outcomes from the NDP would contribute information towards the NAP and further costs may be accrued in the development of possible measures to manage by-product POPs.

#### *Industrial chemicals*

Australia has ceased to manufacture or use either of the two industrial chemicals currently included in the Convention. However, small quantities are imported for research purposes and are controlled under the Customs (Prohibited Import) Regulations 1956. Australia's ratification of the Convention would incur no additional costs by the government or industry for the industrial chemicals currently listed as POPs.

For industrial chemicals, there would be a single cost to the Commonwealth Government to change the Schedule to the ICNA Act detailing information requirements for new chemicals. This cost is estimated to be approximately \$60,000. In addition to the changes to the Schedule, a communications strategy for the dissemination of information to stakeholders about the changes would incur a cost of approximately \$6,000.

Based on information and experience to date it is estimated that a maximum of 1% of notifications received for industrial chemicals would be chemicals with POPs characteristics. Ongoing costs to NICNAS due to the additional time required to consider the POPs criteria during assessment of new chemicals is estimated as an additional \$2,000 per year, which would be covered under the current fee structure for new chemicals.

Listing of additional industrial POPs chemicals on Annexes A and B of the Convention would trigger a national assessment under the Priority Existing Chemicals (PEC) program of NICNAS, which is fully cost recovered. As such, there would be no additional costs beyond the PEC program for assessment. Assessment of chemicals will assist to determine national significance and issues within Australia in managing the risks associated with the use of the chemical.

## **Explanation of DoHA (OCS Canberra and NICNAS) funding sources for POPs-related activities**

NICNAS has operated on a full cost recovery basis since 1997. Cost recovery is achieved through company registration fees and charges and fees and administrative charges for new chemical assessments. Company registration monies fund the assessment of existing chemicals, client awareness and education activities, 50% of the costs of compliance activities and the administration of company registration itself. The remaining 50% of compliance activities is funded by an appropriation from the Commonwealth Government.

### **One-off costs**

- \$60,000      Costs for amending the Schedule to the legislation is not cost recovered under current NICNAS cost recovery arrangement and is a Departmental appropriation expense.
- \$ 6,000      a) Costs associated with POPs awareness raising regarding the associated new data requirements from industry will come from within the current NICNAS communication program funded from within company registration.
- b) Staff training and general administration overheads are a Departmental appropriation expense.
- c) Costs related to amendments to the Handbook will be absorbed under the cost recovery arrangements and no additional fees will be charged for this activity.

### **Ongoing costs**

- \$20,000      Costs associated with attendance at international POPs meetings.
- \$25,000      General administration associated with the staffing costs.
- \$70,000      Funding for ongoing staff costs for OCS Canberra. All of the above costs will be met from Government appropriation funds provided for technical policy support for international chemical negotiation matters.

### *Pesticides*

Only one pesticide currently included in the Convention continues to be used in Australia - mirex. Australia has already registered a specific exemption for mirex. Additional costs will arise in five years time if Australia needs to apply for an extension of the specific exemption for mirex, if a substitute is not available. The information requirements required to apply for an extension will not be determined until after the Convention enters into force, so it is not possible to provide an indication of the costs.

Imports of seven of the nine listed pesticides are already controlled under the Customs (Prohibited Imports) Regulations. The remaining two pesticides, mirex and toxaphene, would be added to Schedule 9. A new regulation would be added to the Customs (Prohibited Exports) Regulations to control export of all nine pesticides.



Section 69c of the Agricultural and Veterinary Chemicals (Administration) Act allows regulations to the Act to prohibit the importation into, manufacture in, or exportation from, Australia of the constituent or product, either absolutely or subject to such conditions or restrictions as are prescribed, where the active constituent for a proposed or existing chemical product is the subject of a prescribed international agreement or arrangement. The Convention would be so prescribed. Minor legislative amendments would also be necessary to ensure that the NRA takes account of Convention obligations.

Costs to government to make these amendments are approximately \$10,000 to AFFA, including informing relevant stakeholders of the changes. Costs incurred by the ACS will be absorbed. Few imports or exports of these chemicals occur, so costs to industry will be minimal.

The costs to the Commonwealth are summarised in Table 1.

**Table 1 - Costs to the Commonwealth**

<b>Item</b>	<b>DEH</b>	<b>AFFA</b>	<b>DoHA</b>	<b>Total</b>
<b>Administration</b>				
Staffing (ASL)	1.5	0.12	0.67	<b>2.29</b>
ASL costs (salary and associated admin)	\$162,000	\$9,000	\$70,000	<b>\$241,000</b>
Other administration costs <sup>a</sup>	\$20,000	\$20,000	\$45,000 <sup>b</sup>	<b>\$85,000</b>
<b>Program</b>				
One-off implementation costs (2003/04-2006/07)	\$180,000 <sup>c</sup>	\$10,000 <sup>d</sup>	\$6,000 <sup>e</sup>	<b>\$70,000</b>
Legal costs	N/A	\$6,000	\$60,000 <sup>f</sup>	<b>\$66,000</b>
<b>Annual Contributions</b>	\$80,000	N/A	N/A	<b>\$80,000</b>
<b>TOTAL (first year)</b>	<b>\$322,000</b>	<b>\$39,000<sup>g</sup></b>	<b>\$181,000</b>	<b>\$542,000</b>
Average annual ongoing costs of implementation (2004/05-2006/07)	<b>\$305,000</b>	<b>\$36,000<sup>h</sup></b>	<b>\$115,000</b>	<b>\$456,000</b>

<sup>a</sup> Includes travel costs for attendance at Conference of the Parties and POPs Review Committee meetings.

<sup>b</sup> Includes travel costs for attendance at POPs meetings (\$20,000), staff training and general administration overheads (\$25,000).

<sup>c</sup> Includes development of a National Implementation Plan and National Action Plan for by-products over 2003/04 (\$60,000) and 2004/05 (\$120,000).

<sup>d</sup> Includes communication strategy to inform relevant stakeholders of amended import provisions and introduction of prohibited export legislation in 2003/04 (\$4,000) and costs for database in 2004/05 (\$6,000).

<sup>e</sup> Includes consultation and communication costs and costs related to amendments to the Handbook.

<sup>f</sup> Includes NICNAS one-off cost for changes to the Schedule to the Act.

<sup>g</sup>First year: salary (\$9,000), other administrative costs (\$20,000), legal (\$6,000) and public awareness (\$4,000)

<sup>h</sup>Average annual costs based on: 2004/05: salary (\$14,000), other administrative costs (\$20,000) and database (\$6,000); 2005/06 and 2006/07: salary (\$14,000) and other administrative costs (\$20,000) (04/05). (Subsequent years include salary increases and additional 0.05% ASL.)

State and Territory governments

If an industrial chemical with POPs characteristics were identified, controls would be recommended to be put in place. This would be achieved through the occupational, public and environmental frameworks in place in the State and Territory governments.

The NAP would consider policy measures to reduce and where feasible eliminate POPs across all State and Territory jurisdictions in a consistent manner. The extent of costs to implement these measures are unknown at this stage, but would be covered in a separate Regulation Impact Statement.

Cost into research for an alternative to mirex is currently being borne by the Northern Territory Government. No additional costs for this work would be incurred if Australia ratified the Convention. This research would continue irrespective of Australia's decision to ratify or not and, thus, would pose no additional costs in the case of a decision to ratify.

### Industry

The costs to industry will include:

- fees for assessments of new chemicals that exhibit POPs characteristics;
- implementation of necessary Best Available Techniques and Best Environmental Practices to reduce POPs emissions; and
- destruction of stockpiles and wastes.

Currently under the ICNA Act, if industry decides to import or manufacture an industrial chemical new to Australia the chemical has to be assessed by NICNAS and industry is required to pay an application fee for the assessment. The cost to industry to compile information with additional data required under the Convention for new industrial chemical applications is expected to total approximately \$2,000 per annum. Most of the data provided for assessment of industrial chemicals are generated overseas and additional information would be consistent with that required in other countries such as the US, EU and Canada under various national schemes and not specific to Australia. If, in some cases, additional testing is required, though difficult to estimate, costs are likely to be approximately \$20,000 per test.

Once mirex is no longer approved for use in Australia, any remaining stock would need to be collected and destroyed. The cost to industry, and in this case small business, is expected to be minimal as any remaining stock of product would be less than 200kg. Based on current destruction costs the cost would be in the order of \$4,000.

There would be minimal, if any, costs for business associated with the addition of mirex and toxaphene to the Customs (Prohibited Import) Regulations and the introduction of the Customs (Prohibited Exports) Regulations. Small business will incur very little to no cost if Australia ratifies the Convention.

There would be minimal costs to industry in relation to implementation of Best Available Techniques (BAT) and Best Environmental Practices (BEP) to reduce by-product POPs because many industries have taken measures in order to meet State and Territory government licensing requirements.

There would also be minimal costs to industry for disposing of POPs as the *National Strategy for the Management of Scheduled Waste* (section 1.2) already places obligations on industries to remove and destroy or dispose of these wastes.

## Users of chemicals in agriculture

There will be no costs to users of chemicals in agricultural production if Australia ratifies the Convention.

## Community

The general population would benefit from improved health, food and environment as a result of reduced POPs contamination in Australia and globally. There would be no cost to the general population.

## 4. Consultation

### **4.1 Who are the main affected parties?**

The main affected parties have been identified under section 3.1. Views on Australia's ratification of the Convention were sought from affected and interested parties, including State and Territory governments, industry, government agencies and non-government environmental organisations and the general public. A list of these parties is at Appendix 1. Views were also sought throughout the negotiations of the Convention text and prior to signature.

A core group of government representatives met on a regular basis throughout the text negotiations and subsequently, to consider ramifications for Australia of the Convention and to ensure a whole-of-government approach to Australia's international negotiations. The group comprised representatives from: Environment and Heritage; Agriculture, Fisheries and Forestry; Health and Ageing; National Industrial Chemicals Notification and Assessment Scheme; Industry, Tourism and Resources; Attorney-General's; Prime Minister and Cabinet; AusAID; and Foreign Affairs and Trade.

These core agencies also cooperated to conduct extensive consultations with stakeholders.

Prior to consideration of ratification, a formal process for public consultation was held from July to October 2002 (concurrent with those for the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade) and included:

- a press release in July 2002 calling for submissions on possible Australian ratification of the Convention;
- provision of background papers for stakeholders, including State and Territory governments, in July 2002;
- access to information on the DFAT website linked with other agency websites (AFFA, EA, NICNAS);
- notices in the Commonwealth of Australia 'Chemicals Gazette' and the 'Agricultural and Veterinary Chemicals Gazette' of August 2002 seeking views on possible Australian ratification of the Convention; and
- teleconferences, interagency meetings and bilateral meetings with representatives from State and Territory governments, industry organisations and NGOs.

## 4.2 What are the views of those parties?

State and Territory governments, industry groups and environmental NGOs support Australian ratification of the Convention. None of the industry stakeholders have raised any concerns regarding adverse business effects, which confirms that industry is already compliant to a large extent with the obligations under the Convention. A summary of replies is provided below.

### State and Territory governments

- The ACT Government supported the objective of the Convention, in particular Article 5 that aims to reduce or eliminate release from unintentional production, such as from waste incinerators. It said that their current and proposed waste incineration programs and practices demonstrate results comparable to world's best practice.
- The NT Government supported ratification subject to Australia's registration for an exemption for the continued use of mirex as a termiticide. It noted the five year expiration and advised that research into an alternative to mirex is underway. NT said it was confident of achieving a suitable outcome within the timeframe.
- The NSW Government had no concerns with the Convention at this stage.
- The Victorian Government said that it recognised the requirement for international cooperation to deal with POPs, given their trans-boundary nature and that it was committed to protecting the environment from the impacts of hazardous chemicals and to working with other jurisdictions, including the Commonwealth, to achieve this end. It said that where implementation of Australia's obligations under the Convention required action by State and Territory governments, it was essential that national consultative processes be used to ensure their support and commitment and integration of existing management schemes for POPs.
- The Queensland Government said that it supported ratification of the Convention in principle, subject to the Commonwealth responding to its concerns.

In its original submission, Queensland said that many of the Convention obligations had already been achieved in Queensland because the use of many POPs had been totally phased out. However, it said that unintentionally produced POPs, especially by-products of existing industries present a challenge due to the high cost of monitoring and control, and a lack of information. Queensland said that the National Action Plan (NAP) dealing with unintentionally emitted POPs would significantly influence impacts on Queensland industry and the community. It proposed that a national forum, with representation agreed to by all State and Territory governments, be established to develop the NAP in a consistent and transparent way. It said that extending the number of chemicals of the Convention would have the potential to impact on Queensland industry and proposed the establishment of a consultative forum, agreed to by all State and Territory governments, which would consider chemical listing proposals.

The Commonwealth responded by confirming that Commonwealth agencies would ensure that appropriate consultative fora, agreed to by all State and Territory governments, were put in place to address all elements of implementation of the Convention that would affect State and Territory governments. Queensland did not respond with further concerns by the given deadline of 23 May 2003.

- The Tasmanian Government had no comments to make, other than that Australia had made significant progress towards its potential obligations under the Stockholm Convention.
- The SA Government had no issues to raise and noted that it remained interested in progress and would retain a watching brief.
- The WA Government said that State and Territory governments were well advanced in implementing the Convention and ratification would have no additional impact as far as the original 12 substances identified, but that action would be required in relation to any new proposals under the Convention. It said that it was imperative that Australia continued to participate and contribute to the international process and that appropriate consultation with State and Territory governments is facilitated by the Commonwealth. WA advised that ratification would involve minor amendments to its existing legislation, however, the benefits of ratification would far outweigh any inconvenience.

#### Industry and NGOs and others

- The Minerals Council of Australia (MCA) said that its main concern was the Convention's treatment of by-products. It reiterated that any mechanisms to reduce or eliminate by-products, particularly dioxins and furans must be based on: sound science; an identified risk to human and/or environmental health; a clear understanding of the potential emission sources; a rigorous examination of the costs and benefits of proposed control measures; and information relevant to the Australian context.

MCA noted with concern the requirement under Article 5 to implement best available techniques to reduce or prevent the release of 'new sources' of dioxins and furans within four years of the Convention entering into force. It said that it would expect that the flexibility and guidance as contained in Annex F and Annex C, Part IV in relation to possible control measures would be fully considered in the development of a National Action Plan. MCA said it would seek to ensure that any Government review of relevant legislation would be done in consultation with all relevant stakeholders. It said that industry considered that the effective management of all potential human and environmental health issues must take into account all relevant economic, social and environmental considerations.

- Avcare said that it supported ratification of the Convention, provided the Australian agricultural and veterinary medicine industry was fully consulted on any proposed addition to the POPs list, or any other issue that may impact on the agricultural and veterinary chemical industries in Australia arising from the treaty. Avcare advised that it was the peak body for the agricultural and veterinary chemical industry in Australia and its members sponsor 90% (based on dollar value) of all agricultural and veterinary chemicals sold in Australia and that all members had been consulted on this issue.
- The Plastics and Chemicals Industries Association (PACIA) said they commended the approach to consultation that had been shown and noted that it had undertaken a consultative process with its members. It said that the industry supported the principles of the Convention to protect human health and the environment. It said it strongly supported the commitment by the Commonwealth Government to keep domestic costs associated with domestic implementation as low as possible and that

any cost recovery would be undertaken in a manner consistent with the Cost Recover Guidelines.

PACIA said that changes to the NICNAS Act and all amendments to legislation, even if minor, should be made in a manner consistent with the COAG principles including significant stakeholder consultation. It said that it strongly supported the use of existing structures such as the National Dioxin Program as a means of meeting Australia's commitments under the Convention

- The National Farmers' Federation supported ratification of the Convention. It said that through Australia seeking a specific exemption for the continued use of mirex products in the immediate future, any detrimental effects of ratifying the Convention would be averted. It said it had concerns that the range of chemicals currently listed under the Convention may expand over time, and the ongoing nationally assessed risk-based registration of pesticides within Australia may be questioned under the Convention. It said that on this basis, it was supportive of the components of the Convention that provide for exemptions and generally permit trade between Parties and non-Parties to the convention. It said, therefore, that there did not appear to be any major issues preventing the NFF from supporting ratification. The NFF also encouraged the Government to acknowledge the work of both the chemical industry and farmers in removing this potentially hazardous material from farm storages.
- Medicines Australia said that, having consulted widely with its membership, it had no concerns with Australia's proposed ratification of the Convention. It said that members had not perceived that there would be any costs to the prescription medicines sector as the chemicals involved were not used in the industry.
- The Australian Paper Industry Council (APIC) said that, as a general principle, paper manufacturing companies had devoted considerable resources to ensuring that any impact their operations had on the environment, including the release of unintentionally produced chemical by-products, was minimised. It said that in that context, it supported the Convention's goal to "minimise, and ultimately eliminate where feasible" the release of unintentionally produced by-product POPs.
- Environment Business Australia (EBA) said that Australia had an enviable international reputation regarding the sound management of Scheduled Wastes, all of which formed a sub-set of the POPs listings. It said that since the management requirements of the Convention essentially mirrored the requirements in the existing Australian Scheduled Waste Management Plans, it seemed logical and rational that Australia ratify the Convention. EBA said that there would essentially be no additional economic burden placed on Australian industry by ratifying the POPs Convention since most of Australia's POPs had already been destroyed or scheduled for destruction.
- Greenpeace, the National Toxics Network, the World Wide Fund for Nature and the Australian Conservation Foundation all said (in identical submissions) that Australia would be well placed to ratify the Convention because of measures already taken by the Government to address the threat from POPs. They said a significant benefit of ratifying would be the reduction in the levels of highly toxic and persistent chemicals, which are currently entering Australia through imported food. They said that the trans-boundary movement of POPs through the atmosphere and ocean currents from neighbouring countries may prove to be a major source of exposure for Australia and should provide strong motivation for ratification and speedy implementation.

They said that ratification would enhance domestic measures for controlling and eliminating POPs by providing additional transparency, accountability and public information and had the potential to also lead to considerable commercial 'spin offs' for Australian waste technology including overseas. They also said that ratification would help to protect and reinforce Australia's enviable reputation as a 'clean and green' producer of agri-products and that, conversely, failure to ratify could jeopardise Australia's export markets when not able to substantiate the 'clean and green' claims, noting that exports of agricultural commodities totalled \$8.1 billion in 1999-2000. They said that there would be distinct advantage to being a Party in order to be involved in the decision making processes within the Convention by placing Australia in a more opportune and proactive position.

- Mr John Ardley said that he was strongly in favour of the ratification of the Convention. He said that, while to some extent he thought government regulation (of pesticide control) in Australia was good, appropriate pest control application had a long way to go. He said that the continuing world use of POPs had to be curtailed and ratification of the Convention would be a start in the right direction. He said that it had been demonstrated that no one country would escape the ramifications of these residual compounds in the environment.
- Professor Ian D. Rae said that most of the POPs substances were no longer used in Australia. In the case of by-products, he said that limits on dioxin emissions were now commonly included in facility licenses issued by the State and Territory governments, and industries were taking seriously their duty to reduce emissions. He said that for candidate substances that may be subject to the Convention in the future, all had been under scrutiny one way or another in Australia and so their nominations should come as no surprise. He said it would be helpful if Environment Australia were to make preliminary investigations of these cases, drawing on the widest possible advice in Australia and relying on the Convention criteria, so that realistic assessments of future actions could be developed locally.

## **5. Conclusion and recommendation**

It is recommended that Australia, through the introduction of minor legislative amendments and regulations to meet its obligations under the Convention, ratify the Convention and declare that any amendment to annexes A, B or C shall enter into force with respect to Australia only upon the deposit of Australia's instrument of ratification with respect to that amendment. Ratification will deliver the benefits of international cooperation in reducing the presence of POPs at the lowest administrative costs to industry and Government.

Other arguments to support this recommendation include:

- the Convention is consistent with existing Australian policy to promote sound chemicals management and ecologically sustainable development;
- it will augment existing Australian controls on hazardous chemicals;
- Australia is already well advanced in meeting the Convention's obligations in relation to intentionally produced chemicals, and wastes and would not need to spend a large amount of additional funds in relation to these. Australia would need to take further action in relation to unintentionally produced by-products, but already has a program under-way which will contribute to addressing these;

- The Convention provides the global action required to eliminate POPs, given their persistent and trans boundary nature;
- ratification by Australia would enhance Australia's influence in the context of continuing work carried out under the Convention; and
- a decision not to ratify could have a negative impact on Australia's trading relationships if there is a perception by other countries that Australia is not committed to the global effort to reduce and eliminate POPs.

## **6. Implementation and review**

### **6.1 How will Australia's ratification be implemented?**

Implementation of the Convention would be the responsibility of three Commonwealth portfolios:

- Department of the Environment and Heritage;
- Department of Agriculture, Fisheries and Forestry – Australia; and
- Department of Health and Ageing.

The Department of the Environment and Heritage would have responsibility for overall coordination of the Commonwealth's actions to meet the obligations under the Convention, including developing formal interagency arrangements (e.g. Memorandum of Understanding) between the Department of the Environment and Heritage and the other two Commonwealth agencies.

The Department of the Environment and Heritage would develop the National Implementation Plan and the National Action Plan on unintended production of POPs, in consultation with State and Territory governments and other stakeholders.

Where possible, existing administrative procedures that are familiar to stakeholders would be used. Where changes to existing administrative procedures or the development of new procedures are required, stakeholders would be consulted.

The Department of Agriculture, Fisheries and Forestry – Australia will initiate the required changes to the agricultural and veterinary chemicals legislation and liaise with the ACS on amendments to the Customs (Prohibited Imports) Regulations and introduction of a new regulation to the Customs (Prohibited Exports) Regulations.

National Industrial Chemicals Notification and Assessment Scheme within the Office of Chemical Safety in the Department of Health and Ageing will initiate minor amendments to the Schedule of the Industrial Chemicals (Notification and Assessment) Act, to incorporate the additional information requirements, as stipulated in Annex D of the Convention, to ensure that assessments of new industrial chemicals would identify any POPs characteristics.

### **6.2 Is the preferred option clear, consistent, comprehensible and accessible to users?**

Australia's decision to ratify the Convention will be communicated to stakeholders through existing government channels including:

- gazettal notifications;



- agency websites;
- agency publications;
- media releases;
- direct contact with stakeholders; and
- stakeholder meetings.

Changes to current regulations or new regulations will also be widely publicised through the same channels.

The appropriate mechanism for consultation would be discussed with stakeholders. This would include a framework for ongoing consultation to develop a clear and consistent understanding for all stakeholders on implementation of the Convention.

### **6.3 What is the impact on business, including small business, and how will compliance and paper burden costs be minimised?**

Costs to business will be minimal, as described in 3.3.2.

For industrial chemicals, the tiered screening approach used to identify new industrial chemicals with POPs characteristics (as previously described) would ensure the impact on business is minimal. The information requirements would be consistent with those required overseas and not specific to Australia.

For pesticides, the impact on business would also be minimal as Australia has already ceased to produce, import or use eight of the nine intentionally produced POPs covered by the Convention under Annexes A and B and would confirm the exemption for continued use of mirex.

For by-product POPs, most of the industries that potentially release by-product POPs tend to be large businesses and many have already begun to implement technologies that will meet the BAT and BEP requirements of Article 5. For this reason, and the fact that the development of new or existing industrial facilities are already subject to conditions under State and Territory government licensing requirements, impacts on business in relation to by-products would be minimal.

### **6.4 How will the effectiveness of Australia's ratification be assessed?**

Assessment of Australia's ratification would in part be automatic, as the Convention contains a number of in-built self-assessment provisions. The development of Australia's National Action Plan under Article 5 would include its own five-yearly review of its success (paragraph (a) (v), Article 5). Likewise, Australia's National Implementation Plan under Article 7 would include provisions for review of Australia's ratification of the Convention (Article 7 (1) (c)). This would include an evaluation of the effectiveness of existing and new regulations as well as reports on monitoring activities nationally and on regional and global activities that Australia has participated in. This information would include scientific, environmental and economic evaluations. The implementing agencies, in consultation with

stakeholders, would maintain an ongoing review of the relevance of ratification to Australia's national interests, through the consultation processes that would be established.

Further automatic evaluation would occur under Articles 15 and 16 of the Convention, which require the Conference of the Parties to report on measures that each Party has taken to implement the Convention and to evaluate the effectiveness of those measures and, consequently, the Convention.

**6.5 Is there a built-in provision to review or revoke the Convention after it has been in place for a certain length of time?**

Article 28 of the Convention includes the provision that a Party may withdraw from the Convention at any time after three years from the date on which the Convention has entered into force.

As noted under section 6.4, the NIP would provide for regular review of Australia's ratification. Should the Government determine at any time in the future that Australia's obligations under the Convention are no longer congruent with Australia's national interest, a proposal to withdraw would be subject to Australia's domestic treaty making procedures.