

## **Australia's withdrawal of the exemption for the use of mirex under the Stockholm Convention**

### **Introduction**

- 6.1 The proposed treaty action is the withdrawal of Australia's current exemption for the use of mirex under Article 4 of the Stockholm Convention on Persistent Organic Pollutants (the Convention). The Convention was done at Stockholm on 22 May 2001 and ratified by Australia on 20 May 2004.

### **Background**

- 6.2 The Convention requires Parties to eliminate the use of Persistent Organic Pollutants (POPs), which are toxic and persistent chemicals. Mirex is one of the 12 POPs currently listed for action under the Convention. Mirex is listed under Annex A as a POP to be eliminated.<sup>1</sup>

Mirex, like any chemical listed under the Stockholm convention, meets the criteria for a persistent organic pollutant, which means that it is toxic, that it bioaccumulates and that it travels long distances in the environment ...

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1 National Interest Analysis (NIA), para. 1.

It has been well designed as a pesticide chemical. Unfortunately, it does more than it should in that it goes further than its target audience and will create further damage within the environment and to human health.<sup>2</sup>

- 6.3 When ratifying the Convention, Parties may register a specific exemption to allow continued production and/or use of POPs listed under Annex A. While an exemption is valid, the Party must restrict production and/or use rather than eliminate use.<sup>3</sup>
- 6.4 When ratifying the Convention, Australia registered an exemption for the continued use of mirex. Australia and China were the only countries to lodge an exemption for mirex. The Committee was informed that mirex came into use in Australia sometime in the early 1980s prior to the creation of the National Registration Scheme in 1993 administered by the Australian Pesticides and Veterinary Medicines Authority (APVMA).<sup>4</sup>
- 6.5 Mirex is the active ingredient in two pesticide products:
- Mirex Termite Bait, previously used by licensed pest controllers and tree crop growers in the northern tropical area to control termites<sup>5</sup>; and
  - Mirant, to control the giant termite in horticultural crops.<sup>6</sup>
- 6.6 Registration of both products has been ceased by the APVMA due to research by the NT Government that found alternative chemical products to replace mirex. This elimination of mirex from use in Australia allows Australia to now withdraw its exemption for mirex under the Convention.<sup>7</sup>
- 6.7 Australia's exemption is currently due to expire on 17 May 2009, five years from the date of entry into force of the Convention for Australia. However, the proposed treaty action is that Australia submit its notification of withdrawal to the Stockholm Secretariat as soon as practicable.<sup>8</sup>

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2 Mr Lee Eeles, *Transcript of Evidence*, 17 September 2007, p. 24.

3 NIA, para. 2.

4 Department of the Environment, Water, Heritage and the Arts, *Submission No. 2*.

5 Ms Mary Harwood, *Transcript of Evidence*, 17 September 2007, p. 24.

6 NIA, paras 6 & 8.

7 NIA, para. 8.

8 NIA, para 5.

## Reasons for Australia to take the treaty action

- 6.8 By withdrawing its registered exemption to mirex, Australia will demonstrate its commitment to:
- protecting human health and the environment from the adverse effects of POPs; and
  - supporting effective approaches to eliminating the production and use of POPs.<sup>9</sup>
- 6.9 According to the then Department of the Environment and Water Resources<sup>10</sup>:
- ...the withdrawal of Australia's exemption from the register of specific exemptions would enhance our capacity to influence international efforts to address chemical issues and to demonstrate Australia's commitment to implementing effective approaches to eliminating the production and use of persistent organic pollutant chemicals listed under the convention.<sup>11</sup>

## Obligations

- 6.10 Following the proposed withdrawal of Australia's registered exemption for mirex, Australia will be obliged to:
- prohibit the production, use and import of mirex (Article 3);
  - prohibit the export of mirex, except for the purpose of environmentally sound disposal (Article 3(2)(a));
  - destroy any stockpiles of mirex in an environmentally sound manner (Article 6).
- 6.11 In February 2007, a stockpile of approximately 165kg of Mirant remained in the NT. The NT Government collected these stocks, which were transported by road from the Northern Territory to Brisbane to be destroyed at the BCD Technologies plant in

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9 NIA, para. 7.

10 The name of the Department changed to the Department of the Environment, Water, Heritage and the Arts following the Administrative Arrangements Order dated 25 January 2008.

11 Ms Mary Harwood, *Transcript of Evidence*, 17 September 2007, p. 24.

Queensland, in accordance with Article 6 of the Convention.<sup>12</sup> BCD Technologies will destroy the stockpile utilising plasma arc technology in accordance with relevant Queensland licensing arrangements.<sup>13</sup>

## Implementation and costs

- 6.12 The Department of the Environment, Water, Heritage and the Arts will continue to ensure Australia meets its obligations under the Convention in cooperation with other Australian Government and State and Territory agencies.<sup>14</sup>
- 6.13 The Department of Agriculture, Fisheries and Forestry (DAFF) administers the *Agricultural and Veterinary Chemicals Code Act 1994* (Agvet Codes). No amendments to the Agvet Codes are necessary.<sup>15</sup>
- 6.14 The APVMA issues permits that allow a person to possess, supply or use a chemical product, which would otherwise be an offence under the Agvet Code. The APVMA will not issue any future permits of products containing the chemical mirex.<sup>16</sup>
- 6.15 There are no foreseeable costs for either the Australian Commonwealth or State/Territory Governments in taking the proposed treaty action.<sup>17</sup>

## Consultation

### Australia's National Implementation Plan (NIP)

- 6.16 Under Article 7 of the Convention, each Party is required to develop a National Implementation Plan (NIP) setting out how it will address its obligations under the Convention.<sup>18</sup>

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12 NIA, para. 17.

13 Department of the Environment, Water, Heritage and the Arts, *Submission No. 2*.

14 NIA, para. 18.

15 NIA, para. 18.

16 NIA, para. 18.

17 NIA, para. 19.

18 NIA, 'Consultation', para. 1.

6.17 The then Department of Environment and Water Resources led the development of the NIP in consultation with other Australian Government agencies.<sup>19</sup> State and Territory governments and non-government organisations were consulted through the establishment of the Stockholm Reference Group in December 2004.

We have a close consultative process. Australia is a party to the convention. When we participate in meetings of either the chemicals review committee or the conference of parties, our delegation always includes representatives from concerned agencies such as DAFF. And, while we are essentially the lead agency for engagement in the convention, the processes for working on the listing of chemicals and so on involve state government agencies, the Department of Agriculture, Fisheries and Forestry, the Department of Health and Ageing and others, as well as industry and NGOs.<sup>20</sup>

6.18 A draft NIP was released in October 2005 for public comment. Several submissions were received, raising concerns of a minor nature which were taken into account in preparing the final NIP. The final NIP outlines the actions that Australia:

- has undertaken to date in reducing the presence of POPs; and
- will undertake in the future to meet its obligations under the Convention.<sup>21</sup>

## Elimination of mirex from Australia

6.19 Both the Australian Government and the NT Government undertook extensive consultation with government agencies, industry groups and registrants<sup>22</sup> in the lead up to the voluntary cancellation and non-renewal of the registrations for mirex, as set out in Section 2.2 of the NIP.<sup>23</sup>

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19 Including the Department of Agriculture, Fisheries and Forestry, the Department of Health and Ageing, the Department of Foreign Affairs and Trade, and the Department of Industry, Tourism and Resources.

20 Ms Mary Harwood, *Transcript of Evidence*, 17 September 2007, p. 26.

21 NIA, 'Consultation', para. 3.

22 Including the Northern Territory Horticulture Association, the Northern Territory Mango Association, growers, chemical companies, the APVMA, and other non-government organisations through the Stockholm Reference Group.

23 NIA, 'Consultation', para. 7.

- 6.20 As stated in the NIP, the implementation of the proposed actions for the elimination of mirex was a two phase process. In the first phase support was received from the Northern Territory horticulture industry, growers and chemical companies for research into an alternative chemical product, and APVMA issued permits for its use to control the giant termite. The second phase involved the APVMA, Mirant Pty Ltd and the Agriculture Protection Board of WA in the cancellation and non-renewal of registration of mirex in Australia.<sup>24</sup>

## Entry into force and withdrawal

- 6.21 Under Article 4 of the Convention, when there are no longer any Parties registered for a particular type of specific exemption, no new registrations may be made with respect to it.
- 6.22 Under Article 28 of the Convention, a Party may withdraw from the Convention any time after three years from the date the Convention enters into force for that Party. Withdrawal takes effect after one year from the date notification of withdrawal is received by the depositary.

## Conclusion and Recommendation

- 6.23 The Committee supports measures which protect human health and the environment by reducing or eliminating the use of persistent organic pollutants wherever possible.

### Recommendation 5

**The Committee supports the *Withdrawal of Australia's exemption for the use of mirex under Article 4 of the Stockholm Convention on Persistent Organic Pollutants* and recommends that binding treaty action be taken.**

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<sup>24</sup> NIA, 'Consultation', para. 8.

**Kelvin Thomson MP**

**Committee Chair**

