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Testimony of
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Subcommittee on Environment and Hazardous Materials
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I. Introduction

Mr. Chairman and Members of the Committee, thank you for the invitation to appear before you today to discuss the legislation necessary to implement three very important international environmental agreements: the Stockholm Convention on Persistent Organic Pollutants (POPs), the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (PIC), and the Protocol on Persistent Organic Pollutants, negotiated under the United Nations Economic Commission for Europe's Convention on Long Range Transboundary Air Pollution (LRTAP POPs Protocol).

The United States has been an active player in each of these three treaties. We have been part of their inspiration, direction, and negotiation. The Administration now seeks implementing legislation that would allow the United States to take the final step and join these three important environmental agreements this year. Towards that end, I would like to thank Chairman Gillmor and his staff for developing a draft bill that would allow the United States to join these international agreements which seek to promote the global reduction, if not virtual elimination, of some of the world's most persistent and toxic substances. Recently, at your request, my staff has been providing technical assistance during the development of this

proposal. I want to thank you for that courtesy and commend your staff for their professionalism in this process. While the current legislative draft reflects the elements that this Administration believes are needed to move forward domestically, and to reaffirm our commitment internationally to promote environmental health and safety, we look forward to further refining this draft as it is considered by the Committee.

The Administration is committed to working closely with all the members of this Committee to facilitate swift enactment of implementing legislation that provides appropriate legal authority to implement the obligations in the three treaties. As President Bush has stated, the risks from these pollutants are great, and the need for swift action is clear. Becoming Party to these treaties will help ensure that the United States retains its current position as an international leader in the industrial chemical and pesticide arena. Our leadership in these treaties is essential.

I appreciate this opportunity to discuss this important effort. The Administration supports a targeted approach to the legislation and believes that it is imperative that this legislative process moves forward as quickly as possible. As we have provided technical assistance to your staff, we have attempted to remain focused on the fundamental issue: would the draft legislation provide the legal authority necessary for the United States to implement fully all of the Toxic Substances Control Act-related obligations of the three agreements, thereby helping to ensure that the United States remains in the forefront of world-wide efforts to reduce or eliminate production and use of persistent organic pollutants? We believe that this proposal would accomplish this objective, and look forward to working with members of this subcommittee as the process continues.

II. Background

I would like to take a minute to identify what the Administration sees as the value of these three treaties, and thus the importance of acting to pass implementing legislation. Each of these treaties contributes, in its own way, to a healthier global environment and to a healthier

America. The Stockholm Convention, called the POPs Convention, prohibits or restricts the production, use, or release of twelve chemicals that are toxic, persist in the environment for long periods of time, and bioaccumulate as they move up through the food chain. These substances are also capable of traveling thousands of miles by wind and water, far from the sources where they are released, and can cause an array of adverse effects in humans and on the ecosystem. The reduction or elimination of these POPs sources will have significant benefit to the United States by reducing exposures that affect human health and the environment.

The POPs Protocol to the Long Range Transboundary Air Pollution Convention (the LRTAP POPs Protocol) is similar to the POPs treaty, except that it covers four additional substances and is regional in nature. The agreement covers the 55 Member States of the United Nations Economic Commission for Europe, which includes, among others, the United States, Canada, Russia, parts of the former Soviet Union, and Eastern Europe. The Rotterdam PIC Convention was developed to promote information exchange and informed risk-based decision-making in the global movement of hazardous chemicals and pesticides. The Convention requires the exchange of certain health and safety information related to the covered chemicals and pesticides, which empowers governments and citizens to make their own domestic science- and risk-based decisions in an informed manner. The Convention also ensures that the parties monitor not only which substances come into their borders, but also provides a notification mechanism to monitor what goes out of their borders. This notification mechanism facilitates informed trade in the PIC listed substances as well as provides an additional opportunity for the exporting party to comply with the importing decisions of another party, which is particularly helpful and important to developing countries that may lack the capacity to enforce their own regulatory decisions.

III. The U.S. Role as an International Leader

I am pleased to have the opportunity to address our domestic and international activities to effectively manage the currently listed pesticides and chemicals and to explain the kinds of legislative provisions that will be necessary to effectively implement these agreements.

Here in the United States, we have already taken extensive steps to address risks posed by the substances covered by the global POPs Convention and the LRTAP POPs Protocol. We take the threats posed by these pesticides and chemicals to our environment and public health very seriously. The United States was the first country to begin a thorough scientific reassessment program for pesticides and, I believe, is still the only nation that is looking at the cumulative risks posed by similar groups of pesticides. We started cancelling pesticide registrations or prohibiting production and use of some of these substances in the 1960's. Because of these types of actions, the levels of most of these substances in the United States have stabilized or declined. Other countries look to the United States to provide strong leadership to address hazardous substances, including those that are persistent and may bioaccumulate. EPA is internationally recognized for its science-based risk assessments and regulatory decision-making. Our actions are respected and frequently adopted in other countries across the globe.

But stand-alone action by any one country is not enough. We think it is vitally important, from the outset, that we continue to share our expertise with the rest of the world and continue our role as a world leader in decision-making related to controlling the production, use, and release of these types of chemicals. These chemicals continue to pose real health risks to U.S. citizens and to people around the world due to the inherent nature of the substances themselves: their persistence, their toxicity, their bioaccumulation, and their potential for long range environmental transport. In the United States, these agreements are of special importance for selected populations and environments which are particularly impacted by POPs transported by air and water from outside sources. This is particularly true for those populations whose diets traditionally rely heavily on fish and wildlife, such as in Alaska and around the Great Lakes. By joining with the rest of the world to phase out or reduce these toxic pollutants, we protect the health and the environment, not only of our fellow Americans, but of all those who share our planet.

EPA continues to take measures that promote the objectives of all three of these treaties, including providing technical and financial assistance to developing countries and countries with

economies in transition to help them comply with their international obligations. The United States is committed to working globally to provide such assistance, and has already taken some steps to do so. For example, we are helping Russia and China identify and develop strategies to eliminate stockpiles of POPs pesticides and PCBs. We are supporting an international effort to destroy stockpiles of POPs pesticides in Africa in an environmentally sound manner. The United States has also provided its technical expertise to develop tools and guidance to help countries meet their obligations under the Stockholm Convention.

IV. Legislative Changes Necessary to Implement POPs, PIC, and LRTAP

While the United States already has authority to meet most of the Toxic Substances Control Act (or TSCA)-related obligations of the three treaties, the proposed legislation would allow us to meet all the TSCA-related obligations of the treaties. For the POPs and LRTAP substances, implementing legislation needs to contain language to prohibit any manufacturing, use, processing, distribution in commerce for export, and disposal consistent with the obligations of the treaties. We believe that this draft bill would enable the United States to comply with the obligations in the POPs treaties to prohibit or restrict the production, use, import, export, or release of the substances covered by TSCA.

To effectively implement the PIC Convention, the Administration agreed that any legislative language should also track obligations in the Convention relating to notice of control action, export notification, export controls and labeling. Again, we believe that this draft legislation does that by, for example, providing EPA with the authority to issue notices that would communicate to our own domestic producers and exporters the importing decisions of other countries with respect to the PIC-listed chemicals and pesticides.

The Administration is fully committed to participate in the procedures set up for the listing of additional chemicals to the POPs agreements and to ensure that the robust scientific process to do so works as intended during the negotiations. The information collection provisions in this legislation provide the opportunity to help ensure that the United States is

appropriately informed as to the risks, benefits, production, uses, and other pertinent factors concerning candidate chemicals when it is participating in negotiations concerning the possible addition of chemicals. The proposed draft legislation would enable the United States to join future convention amendments that are consistent with U.S. law and policy. This is a very important element of the legislation for the Administration, and we appreciate the effort that went into its development. Early last year, the Administration identified six “guiding principles” for taking domestic action on the listing of new chemicals, which we will continue to take into consideration as your legislative process moves forward. These principles are:

- 1) The United States should be able to take domestic regulatory action on additional chemicals when the U.S. Government is in agreement with an international decision to list the chemical under the POPs Treaty;
- 2) The goal of taking regulatory action is to achieve a high degree of public health and environmental protection;
- 3) In determining whether domestic action with respect to a chemical that has been listed in the Convention is appropriate, the United States should make an explicit determination as to: (a) whether the best available scientific information (e.g., data on persistence, bioaccumulation, toxicity, long range environmental transport, and the risk profile) supports the listing, and (b) whether the specific domestic regulatory measures (prohibitions or restrictions) included in the international listing are necessary and adequate for the chemical in its various uses;
- 4) In determining whether the best available scientific information supports the international listing, the United States should consider the information considered in the international listing process, with emphasis on information that is peer-reviewed, valid in its research design and methods, and replicable by qualified scientists;
- 5) In determining whether the domestic regulatory measures are necessary and adequate, the

United States should compare the international decision to measures that are more and less stringent, thereby facilitating a risk-management decision as to which measure(s) provide(s) the most reasonable balance of benefits, risks and costs for specific uses; and

- 6) In weighing benefits, risks and costs, the United States should consider domestic production, export and use of the chemical, and any national and international consequences that are likely to arise as a result of domestic regulatory action, including consequences that cannot be quantified and including consideration of the possible consequences of using likely substitute chemicals.

The processes set forth in Article 8 of the POPs Convention and the LRTAP Executive Body Decision 1998/2 for listing future chemicals are rigorous and science-based, and we fully support those processes. We are confident that they can identify strongest candidates for listing based on a scientific risk assessment and can efficiently eliminate those that fail to meet the POPs criteria or for which global action is not warranted. The Administration is firmly committed to maintaining the high degree of analytical and scientific rigor in the POPs process that has led to international recognition of the United States for its strong scientific risk assessments and regulatory decision-making.

V. A Call for Swift Ratification

The Administration is seeking swift enactment of implementing legislation for these Agreements. All three of these treaties entered into force over the course of the last nine months. As noted earlier, it is important that the United States be a party to these Agreements at the outset or as early as possible to enable the U.S. to play a strong role from the start in the implementation of these three treaties. Furthermore, the United States would like to demonstrate its ongoing commitment to the goals of these important treaties, and, by our example, encourage other countries to ratify these Conventions.

VI. Ratification is in the U.S. Interest

The Administration is very proud of the leadership role of the United States on these very important environmental treaties, which provide excellent examples of how industry and environmental interests can work together to address serious environmental issues. These three agreements illustrate how effectively global action can be accomplished when nations are driven by common environmental goals. After ratification, EPA will continue to work with Congress, along with the industry, environmental organizations, and others as we implement these agreements. We are committed to work together with our domestic stakeholders and the international community to address these chemicals globally. In order to do so, it is necessary for the United States to be a party. Important decisions will be made early in the process, and the United States should be there to help shape those decisions, based on both domestic and international priorities.

VII. Conclusion

Thank you for the opportunity to discuss these important international environmental agreements today. Enacting legislation this year is an important priority for the Administration, as it is firmly committed to becoming a party to the global POPs Convention, the PIC Convention, and the regional LRTAP POPs Protocol. As we continue to review this draft, and the committee continues its deliberations, we appreciate the opportunity to continue to work with Chairman Gillmor and other members on legislative refinements that would be consistent with the President's agenda and budget. Again, I want to thank you for your support and leadership and assure you that this Administration is looking forward to working with the Committee to advance these important agreements by finalizing the implementing legislation necessary for the United States to meet our obligations under the agreements.

I will be pleased to answer any questions.