



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 13 June 2012

11212/12

**ENV 514
ENT 150
ONU 79**

INFORMATION NOTE

from: General Secretariat
to: Delegation
Subject: LRTAP Convention:
30th Session of the Executive Body (Geneva, 30 April to 4 May 2012)
- Final statements

Delegations will find attached, for information a compilation of agreed statements of the European Union and its Member States delivered at the 30th Session of the Executive Body (Geneva, 30 April to 4 May 2012) as transmitted by the Presidency and the Commission.

Statements on behalf of the EU and its Member States
at the 30th session of the CLRTAP Executive Body
(30 April to 4 May 2012)

I. Other issues on the EB agenda

Item 1: Adoption of the agenda

Documentation

- ECE/EB.AIR/110 (Annotated provisional agenda for the 30th session).

Position

The EU and its Member States agree to adopt the agenda as set out in document ECE/EB.AIR/110.

Item 2: Adoption of the report of the Executive Body on its 2011 (twenty-ninth) session

Documentation

- ECE/EB.AIR/109 (Report of the executive Body on its twenty-ninth session).

The US has proposed four additional paragraphs to the report of the EB twenty-ninth session. The first paragraph is **paragraph 18bis** addressing the Norwegian formal proposal to amend the Gothenburg Protocol.

The Presidency believes that the additions of these paragraphs can be accepted.

Position

The EU and its member States propose to add the following text to current paragraphs 53 and 54, in order to render clearer what was decided.

53. In the draft 2012-2013 Workplan for the Convention, the biennial questionnaire on strategies and policies was not listed. The delegation of Switzerland requested that the elaboration and distribution of the questionnaire on strategies and policies be reinstated in the 2012–2013 workplan. The delegations of the EU and its Member States objected to that proposal, questioning the usefulness of the questionnaire and the responses collected.

54. The Chair concluded that there would be no obligation for Parties to submit the questionnaire in the biennium 2012–2013 unless the Executive Body decided to amend the workplan for 2013 during one of its 2012 sessions.

The EU and its Member States agree to adopt the report as set out in document ECE/EB.AIR/109 including the proposed changes.

Item 4: Revision of the 1999 Gothenburg Protocol to Abate Acidification, Eutrophication and Ground-level Ozone

In relation to the work ahead of the session

The EU is willing to work closely with other Parties to address the issues of key concern for these negotiations. Key remaining questions would include the definition of new stationary sources, the flexibility suggested for measures to reduce ammonia from agriculture and the adjustment procedure for inventories or ceilings, all likely to require detailed discussions between Parties to find acceptable solutions. We agree with the Legal Group on most of their recommendations and we will provide our remarks when we have additional input or differing views as we go through the Protocol and annexes.

In relation to the preambles of the Gothenburg Protocol

The EU considers that the draft amendment of the preambles is balanced and largely acceptable. We suggest a final reading of the preambles will be required after negotiations on the articles and annexes have been completed to ensure harmonisation.

In relation to article 1 Definitions "new stationary sources"

The EU views that the issue of definition of the new stationary sources cannot be seen in isolation. In particular a new definition interlinks with the Articles 3.2 and 3.3 and the technical annexes with the ELVs and Annex VII with the timescales for the application of ELVs. We therefore see this as a cluster of inter-related issues and we wish to find agreement on a balanced "package".

The input provided by the Parties answering some key questions drafted by the *ad hoc* group of legal and technical experts during the 29th session has provided a good basis for improving the text on a definition for the new and existing stationary sources.

The EU considers that a change of the definition would be necessary to facilitate for current and new Parties to ratify this amendment but also to ensure that future amendments to the Protocol will be covered.

Specifically, the package should avoid costly retrofitting of recently built plants when we adopt new ELVs for new stationary sources and also avoid redefining recently built stationary sources to become "existing stationary sources" with less ambitious ELVs and considerably larger flexibility provisions. In addition we have to account for the fact that new source categories are defined in this amendment and a revision by inclusion of new source categories could also happen in the future.

We have worked with other Parties to find a solution to this complex issue and we believe that the best option is amend both article 1.16 on the definition of new stationary sources and the article 3.2 to deal with the specific effects of amending the Protocol with new ELVs and new categories. At the same time the EU believes that annex VII must create clear obligations for all Parties, and in particular we find it difficult to allow a gap in the application of ELVs for new stationary sources up to five years in countries with economies in transition as outlined in the negotiations document.

The EU has therefore tabled an informal document to the session and we wish to hear from others if this would also be addressing their concerns.

(After discussion/redrafting in the break out group which suggesting some additional flexibility for EECCA countries.) The EU can accept the redrafted definition as it solves the issue of avoiding costly retrofitting and further includes flexibility for potentially new Parties ratifying the instrument.

On article 1 Definitions - Economies in transition (CET)

The EU views that a Party defined as CET should be coherent with the definition in other contexts such as the IMF or other UN frameworks. Consequently, we do not consider the “unilateral” character of the current provision in Annex VII and Annex IX of the current Protocol as appropriate. The current negotiation document partly addresses this concern but it appears that is linked to an EB decision on financing participation from CET countries to the CLRTAP meeting [EB decision 2016/13] which does not seem to be the right way forward.

The report of the Legal Group identifies three options for further consideration. All three would be an acceptable starting point for the EU, but our preference is for a solution where the criteria for a CET would be clearly defined in the Protocol itself (Paragraph 4.18 option c in the report of the Ad Hoc Group (ECE.EB.AIR/2012/2)).

Since this is an important provision for the non-Parties to the Protocol the EU is eager to hear the views of the concerned CLRTAP Parties on this point.

(After discussions/drafting in the break-out group proposing a different solution with increased flexibility in a time window for non-Parties that ratify the instrument.) The EU is content with the proposed solution as it has the same effect as defining the CETs. The proposed text further avoids divergence with other CLRTAP instruments and UNEP agreements.

On article 2 Objectives

The EU agrees with the content of the proposed amendments and the suggestions made by the Legal Group.

On article 3 paragraph 1 on ceilings

We would like to underline that national emission reduction commitments is the core of the Gothenburg Protocol and a crucial element of the revision process, and that new 2020 commitments will help all Parties to effectively and efficiently manage air pollution to reduce negative impacts on health and environment. We also recall the preliminary EU emission reduction commitments for the EU -55% for SO₂, 40% for NO_x, 5% for NH₃, 25% for VOC, and 20% for PM 2.5. These numbers have now been revised to be slightly more ambitious, as follows: 59% for SO₂, 42% for NO_x, 6% for NH₃, 28% for VOC, and 22% for PM 2.5. We will provide more detailed information on individual Member States' targets later in the negotiations. We underline that the EU's reduction commitments will require considerable and consistent efforts from the EU Member States, with significant benefits for the UNECE region as a whole. We would again like to highlight the fact that the achievement of good air quality in the ECE region is a joint objective of all CLRTAP Parties and that it is therefore crucial that an amended Protocol will enjoy a much wider support and count many more Parties. We therefore express the hope that other Parties will match the EU pledge and that also EECCA countries will send a meaningful signal that emissions will be reduced in future.

We also invite EECCA countries to indicate what reduction levels they may ultimately see as realistic or alternatively explain the main reasons for not being in a position to express such an opinion at the present stage. We encourage a constructive debate and discussion on these commitments, recalling that this is also linked to the need to ensure that an adjustment mechanism as far as possible will accommodate both the needs of existing Parties as well as prospective Parties.

Upon adoption of Annex II as part of the amendment, the EU stated: "On the figures in annex II, we wish to reiterate again also for the record that these reflect meaningful and ambitious targets. These will indeed require substantial efforts from many if not all Member States and in some cases pose even outright challenges".

On article 3 – paragraph quinquies and art 13 /Enabling of an adjustment procedure

The EU views that an appropriate adjustment procedure is key to this revision. We are ready to participate in the break-out group on an adjustment procedure, as proposed by the Chair. As an introduction to this, we would like to make a presentation in plenary of the EU proposal for an adjustment procedure as soon as possible, so as to ensure that Parties fully understand our proposal. We welcome other Parties to do the same, if they so wish.

(After negotiations and drafting in the break-out group lead by Canada, presenting two separate EB decisions on the adjustment procedure.) The EU welcomes the outcome of the work in the breakout group and can on this basis accept the text as proposed by the US in art 13 on a ceilings adjustment procedure. As regards Art 3 quinquies, we understand that subpara b) and c) will be deleted, and that subpara a) will be revised as follows: "For the purposes of comparing national emission totals with emission reduction commitments as set out in paragraph 1, a Party may use the procedure specified in a decision of the Executive Body. Such a procedure shall include provisions on the submission of supporting documentation and on review of the use of the procedure.".

On article 3 – paragraph 8 Ammonia control measures in agriculture

The EU is willing to consider the proposal from Switzerland, outlined in informal document 2 to the session, *i.e.* to postpone a revision of the Annex IX and rather work with guidance to Parties. We are also willing to discuss some adjustment of the main text to pave the way for future amendments to annex IX.

The EU supports a "fast track" review for ammonia measures in agriculture, we believe that such a review could be initiated by an EB decision already now with the aim to have additional information on the cost-effectiveness of measures in 2015/16 for consideration by the Parties.

(After bilateral discussion with the CH delegation on their proposal to amending article 3.8 to include priority measures on the cattle sector/activities with high emissions.) The EU can accept the Swiss text proposal with some modifications, highlighting the need to control emissions from key source categories for ammonia emissions in agriculture.

On article 6 paragraph 2 monitoring requirement

The EU believes the current text in document 2012/1 Article 6 paragraph 2 is not in accordance with what we drafted at the EB in December 2011. Instead we wish to support another text making it clear what monitoring is required by Parties – it should essentially be the same obligations as the current Protocol with the addition of PM and with the link to climate.

On article 7 Reporting 1 paragraph b(iv)

The EU finds that it will not be necessary to give the specification on the content of the Emission Inventory Report in the Protocol as outlined in the negotiation text. The Guidelines will be adopted by the EB and dynamically update the information needs to explain the inventory. Any adjustment procedure would also require additional information provided by Parties, as specified by the criteria and procedures decided by the EB. The EU, therefore, suggests that the last part of the amendment to Article 7 paragraph b(iv) is discarded from the text.

On article 7 Reporting paragraph 1 c

The EU considers it crucial that the Parties/EB can monitor compliance with the obligations under the Protocol. In particular the emissions inventories should be compared with the ceilings or reduction targets in Annex II. We, therefore, believe that the reporting of the emissions inventories has to apply to all Parties (within and outside of EMEP) as a basic element of compliance checking. We consequently propose that the last part of the existing obligation in Article 7 paragraph 1 c be modified by deleting the final part of the first sentence of paragraph c. This will allow that all Parties regularly report to the Executive Secretary, and not only upon request.

On article 7 Reporting paragraph 1 d and 3 d

The EU finds that the proposed amendment with requirements under the Article 7 paragraph 1 d to be a demanding obligation and could be an obstacle for ratifying. We, therefore, suggest not including an amendment on this point. If there is a strong demand for development and reporting of such nitrogen budgets from other Parties then such provisions at this stage would have to be optional for Parties.

The EU sees merits in that the EMEP and other subsidiary bodies assist the Parties in assessing the nitrogen budgets within the EMEP area. Some of the information may be provided through the subsidiary bodies and centres (particularly the TFRN) with the assistance of the Parties in the EMEP and WGE bodies. We, therefore, wish to retain the provision in article 7.3d but in a modified form.

On article 7 reporting (paragraph 3)

The EU agrees with the remark made by the Legal Group on Article 7.3 - the intent of the amended text was to widen the scope of subsidiary bodies that contribute with information to the annual assessments. In addition, the EU proposes that the EB actually can modify the content and timing of reporting and, if need be, only request reports at different time intervals. We therefore propose that the original text is retained and amended to reflect also that aim.

On article 7 reporting (paragraph 6)

The EU has listened carefully to the needs of other Parties and the difficulties in developing full and accurate emission inventories. Nevertheless, the EU considers that all Parties in the geographical scope of EMEP should apply the EMEP reporting guidelines adopted by the CLRTAP Parties (ECE/EB.AIR97) and use the EMEP/EEA Guidebook, which now also is available in Russian.

A complete reporting of emissions is fundamental for the CLRTAP and for the functioning of the Gothenburg Protocol, in order to advance science and technology aspects on air pollution and also to verify the fulfilment of obligations, in particular the national emission reduction commitments.

The EU prefers to delete the derogation but can understand the concerns of other Parties and in particular for CETs, and is willing to consider some flexibility, provided that the objectives and the integrity of the Protocol are not compromised.

(After discussion/drafting in break out group and a proposal to allow some derogation from full reporting up to 2020 for incoming Parties). The EU finds the proposed text agreeable as it safeguards that by 2020 the Parties will provide full inventories allowing compliance checking.

On article 10 Reviews by the Parties at Sessions of the Executive Body, Paragraph 3

The EU believes that the mitigation measures for ammonia should be re-evaluated as soon as possible. This will allow Parties to consider whether there is scope to further abate these emissions in 4 to 5 years from now. The EU prefers to initiate such a review in a separate decision rather than an obligation in the amended Protocol. The EU could also accept the proposal from the USA to reduce the scope only to review and consider amending the guidance.

On article 12 Annexes

The EU wishes to emphasise the recommendatory nature of the ELVs in Annex X paragraph 16 on stationary installations below 50 MWth. We therefore think that this recommendatory nature of the paragraph should be emphasised in the article.

On article 13 Amendments and Adjustments

The EU believes that expedited procedures generally will make the instrument more effective in future. We view that the new discussions around the adjustment procedure important as it also relates to annex II, which we believe a core obligation and should be ratified in the "classical" manner.

On article 18bis Termination of Protocols

The EU views the revision of the Gothenburg Protocol as an opportunity to streamline the instruments under the CLRTAP. We view that almost all provisions of the earlier Protocols will be covered by the Gothenburg Protocol as amended. The benefits of fewer instruments and obligations largely outweigh any small potential losses since the main objective is to limit overall emissions and/or transboundary fluxes which is secured by ambitious emission reduction commitments in the amended Gothenburg Protocol.

We believe that a few adjustments could be made now or later to the amended Gothenburg Protocol to "recover" some essential obligations that otherwise would be lost. Some amendments would also have to go into the work plans of CLRTAP subsidiary bodies, such as the calculations of transboundary air pollution

Item 5: Revision of the annexes to 1999 Gothenburg Protocol to Abate Acidification, Eutrophication and Ground-level Ozone

On annex I

The EU agrees with the remarks and proposed changes made by the Legal Group in paragraph 1. We consider that the reference to external webpages should not occur in the Protocol and also that the reference to "the Convention" is deleted. Also edits for the referencing to PM and order of paragraphs 12 and 13 can be agreed by the EU.

The Legal Group also raised the issue whether the use of (semi-)natural ecosystems has a specific meaning and if not the brackets could be deleted to have a clearer language. The EU has consulted with the ICP Vegetation and understands it has a specific meaning and further defined in the Manual on Modelling and Mapping. We therefore prefer to keep the brackets in the text. We also wish to amend the draft text by adding "additional" before "adverse effect in Annex I paragraph 7.

On annex II

The EU wishes to replace the title of Annex II by "Emission Reduction Commitments", and replace the terms "obligations"/"ceilings"/"targets" by the word "reduction commitments".

In paragraph 2, we wish to include the reference to the four pollutants, so as to follow the same structure as in paragraph 3; also, we would like to replace the text "up to 2020" by "and beyond".

Regarding paragraph 4, we consider that the current wording is not clear in its current form, and we suggest considerable redrafting to capture the following key aspects: 2005 estimates given for information purposes only; these estimates will be regularly updated when new information is available; the CLRTAP Secretariat should regularly report such changes to the EB; and we should clarify better that the percentage reduction commitments in table 2-6 always relate to the most recent updates of 2005 data.

We suggest that paragraph 5 of the negotiating text is deleted. We see no need for a 3 year average for the base year, as relative targets already provide for sufficient flexibility. The circumstances and emission levels for 2005 are known, and a Party should take these facts into account when setting the emission reduction commitments, instead of confusing the concept of base year. We consider it very important that we agree on ONE base, which is the same for all Parties.

On paragraph 6, we have realized that the current text is not appropriate for the concept of relative ceilings. We therefore propose a redraft which is more correct, and also more simple and shorter. As an alternative, we could consider moving this to Article 3 as a 1bis, as it is directly linked to the basic obligations.

Regarding, individual targets for EU Member States, we will hand in the detailed information in the form of a table to the Secretariat during the next break, for inclusion in the next version of the negotiating documents.

For table one, we suggest to add the words "up to 2020" after "2010".

For table 3, we wish to include a footnote, explaining that the 2005 emissions and emission reduction commitments for the EU and its Member States exclude NOx emissions from soils. This information is important, as it has an influence on the reduction commitments. All other footnotes concerning the EU in tables 1-6 should be deleted.

On annex IV

The EU agrees with the Legal Group that the numbering in the annexes have to be coherent throughout the Protocol. The EU accepts to renumber the paragraph 5 and to make consequential changes, where needed. The EU also accepts the corrections of obvious typos.

On the issue raised by the Legal Group on the legal basis for derogations we believe that the text with an amendment replacing the wording "competent authority" by "Party" would be sufficient. But we wish to hear the views of other Parties as well.

On the issue raised by the Legal Group on paragraph 5.3 the basis for requirements set in "permits" the EU believes that the words "in the permits" can be deleted. It would then be for each Party to decide how to include such provisions (in the EU it will be through permits, but other Parties may go for other options such as detailed legislation).

On annex V

As for annex IV the EU agrees with the Legal Group that the numbering in the annexes have to be coherent throughout the Protocol and that the reference is made to "Party" instead of "competent authority" and to delete the reference to "made in the permits".

In footnote "b" to Table 4 the Legal Group proposes to replace the words "may be" with "applies". This amendment changes the character of the obligation since a Party has to apply transitional arrangement up to 10 years. Instead the EU suggests to insert the word "applied" after "may be" making the transitional period and the alternative ELVs optional if there are obstacles to fully comply with the provisions in Table 4. It further wishes to point out that a reference is made to "after the entry into force of the Protocol for that Party". It would otherwise not allow derogations after 2015.

Furthermore, on Table 4 the footnote currently labelled "e" should be relabelled to "d" and maintained in the final version. The last footnote (without label) should be deleted.

On annex VI

The EU agrees with the Legal Group that the rearrangement of subparagraphs in paragraph 3 is unintentional and that an amendment only for the sake of order is not needed. Also, the other changes of order are without any specific intention and we can hence accept the original order is maintained.

The EU views that the terms "process" and "activity" are used interchangeably in the Protocol. Although "activity" could be more general than "process" the EU agrees with the Legal Group that for paragraphs where there is no other change an amendment is not done in this round.

The EU agrees also that paragraph 14 be named "Coating activities (coil coating) to build logically on the paragraphs preceding number 14.

The EU agrees also to the same solution as for annexes IV and V in addressing the issue around "competent authorities" "permits". We could suggest some text to that purpose which could fit in paragraph 6 but also for the footnote "b" of Table 5, footnote "a" of Table 13 and footnote "a" of table 14. For paragraph 6:

The EU believes that the Appendix II to this annex should not be retained in the revised Protocol.

On annex VII

The EU views that Annex VII plays a key role for this amendment and in particular for attracting more Parties. The EU finds it difficult to accept that for CET no ELV for new stationary sources would apply for up to four years after a plant is built. We, therefore, strongly argue that the provisions from the existing Protocol are retained for the Timescales for new stationary sources with the same conditions applying for all Parties.

(After discussion/drafting in the break out group to include flexibility into the requested definition of "new stationary sources"). The EU can accept the proposal of the drafting group since it safeguards that no "gap" occurs when implementing obligations for new stationary sources.

On annex VIII

The EU believes that emission reductions from vehicles and non-road machinery are important to reduce air pollution within the UNECE area. New vehicle standards are adopted through the UNECE 1958 Agreement that applies in most CLRTAP countries. New standards have recently been approved for HDV and these will apply from 2013 and supersedes older EURO V. For passenger cars the EU is now moving to EURO 6. The emission standards for mobile sources are therefore a key component for both improving local air quality and reducing transboundary air pollution.

The current Protocol lays down time scales for the vehicles to be placed on the market and we should maintain that approach also in the revised Protocol. We therefore propose to adjust the dates of the tables in Annex VIII which currently are based on the dates for type approval and to add the same footnotes to those tables as in the current Protocol that explicitly would make that clear and also address issues of export of vehicles and engines to other countries outside the Protocol. We have prepared a room paper that shows those changes as compared to the negotiation document 2012/10.

The EU can accept also to include PM number standards for EURO 6.

After drafting/discussion in the break out group leading to option of increased flexible and staged implementation of obligations cover by annex VIII, allowing for later implementation of measures of specific source categories such as non-road mobile machinery and non-road transport.) The EU can accept the proposed text of the drafting group since it safeguards early measures on the major source categories of mobile sources and fuel quality.

Annex IX

The EU can agree to defer the revision of the annex IX at this stage and rather concentrate on the guidance at this stage. See further under article 3.8.

Annex X

The EU believes that the title should cover the needs of all Parties. The EU can accept to use the more general "Particulate Matter" since the ELVs in section A are set based on dust and/or total suspended particulate matter as outlined in paragraph 2. A slight amendment to the explanatory text in the introduction of the Annex X Section A relevant for the EMEP area could be done.

The EU has noted that some issues on the technical annexes discussed at the 29th session of the EB were left open for final discussion and agreement. The Annex X paragraph 16 includes open issues on provisions for "small scale" combustion installations with rated thermal input below 50 MWth. These installations are major sources of PM emissions and it would be important to include them in this revision. However, these installations are huge in numbers and also very diverse in size and fuels use.

The EU wishes to retain the provisions on these installations but as a recommendation or voluntary measures to Parties. We believe a separate section (Recommendatory) with subtitle "Combustion installations with a rated thermal input < 50 MWth:" be inserted before paragraph 16 and/or by adding text to paragraph 16 making it clear that the rest of annex X paragraph 16 is recommendations. Since the paragraph is recommendatory in character this should also be stated in Article 12 Annexes. We also think that the option 2 should be the aimed option under the recommendations made to Parties.

Since this new annex concerns many CLRTAP Parties we are open to further changes and wish to work constructively in order to find text that would suit all concerned Parties.

Item 6: Adoption of decisions

Upon adoption of the amendments

The EU wishes to thank all Parties to the Convention that have participated in these negotiations. Without mutual understanding and openness we would not have been as successful. The amendment of the Protocol is a major achievement and will provide CLRTAP Parties a new starting point for ratification and attract more Parties than the current one.

The EU wishes also to give special thanks to the chair of the EB. Without his role to facilitate discussions and also moving things ahead in small steps we would not have been as successful.

The EU wishes also to thank the Legal Group, and in particular the chair of the Legal Group, for its solid support to the legal scrutiny of the texts and in many cases suggesting options to help defining the purpose and aim of the revisions.

II. Note Verbale by FYROM on an adjustment to Annex II of the Gothenburg Protocol

Position

The EU and its Member States welcome the proposal from the Former Yugoslavian Republic of Macedonia and would like to study it more carefully before expressing a position in its regard. At this stage, the EU and its Member States would welcome some clarifications on the divergence between the ceilings proposed by the FYROM for 2010 and those calculated by IIASA for the year 2000.

Furthermore, in order to take an informed decision on adjusting Annex II by adding FYROM and its ceilings for 2010 thereto, we would suggest that the EB request the EMEP SB to review the rationale for the FYROM proposal on the 2010 ceilings in light of the projections provided by IIASA.
