



Council of the
European Union

Brussels, 3 October 2017
(OR. en)

12721/17

ENV 790
COMER 101
MI 665
ONU 121
SAN 335
IND 229

INFORMATION NOTE

From: General Secretariat of the Council
To: Delegations

Subject: First meeting of the Conference of the Parties to the Minamata Convention on Mercury (COP 1) (Geneva, 24-29 September 2017)
- Compilation of statements from the European Union and its Member States

Delegations will find, for information, in the Annex a compilation of statements from the European Union and its Member States as delivered during COP 1.

Item 1: Opening

Mr President, Excellencies, Parties, Delegates, Ladies and Gentlemen,

It is my privilege to deliver this statement on behalf of the European Union and its Member States. Let me start by thanking the Government of Switzerland for hosting this important meeting in the beautiful city of Geneva. Congratulations to you Mr President, on your election as President of the first COP to the Minamata Convention.

This first Conference of the Parties is an important milestone in our mission to eliminate the hazardous effects of mercury by gradually phasing-out the substance. However, this is only the beginning – the first step of a long journey towards ensuring a safer environment and healthy lives for everyone. We have gathered here not only to celebrate, but above all, to work hard in order to lay a strong foundation for future efforts and set the Convention firmly on the best path for the benefit of our people and the environment. This means creating an enabling environment for Parties to implement concrete actions that will deliver the goals of this Convention.

The European Union and its Member States welcome the excellent work done by the International Negotiating Committee (INC) in bringing this Convention to life, and preparing the essential documents that we will be adopting during this COP. We warmly congratulate the INC Chair, Mr. Fernando Lugris for having so efficiently led the Committee's work during this formative period. We would also like to thank the UNEP team for their great support throughout this process.

The formal adoption of all documents provisionally adopted by the INC at the beginning of the meeting by the Conference of the Parties would signal the wish of the Parties to work in continuity with the INC spirit. The European Union and its Member States thus support the adoption of all those documents, before substantive work begins on other items on the agenda.

This Conference of the Parties is of critical importance as it will lay the groundwork, and determine the strategic focus of this Convention for years to come. The European Union and its Member States look forward to constructive, and fruitful discussions with all Delegates, and remain confident that the decisions taken here will enable us to make significant strides towards achieving the objectives of the Minamata Convention.

Item 2(a): Adoption of the rules of procedure

We welcome the adoption of the rules of procedure, including the clauses on regional economic integration organizations. We note the interpretation made by one Party and one non-Party on the REIO issue and we would like to emphasise our disagreement with these views. The text of the Convention is clear and not open to interpretation, and it is literally reflected in the rules of procedure, which should be therefore applied in full compliance with the Convention.

Item 5(a)(iv): Matters stipulated under the Convention - Measures to give effect to the arrangements for the financial mechanism referred to in Art. 13

Thank you Mr President,

We do not want to delay the proceedings and we will be ready to discuss these matters further.

However, we want to emphasise for the record and for the continuation of our discussions on this matter, in whatever format they will take place, that the INC was the competent body to develop the documents for adoption at COP 1.

Therefore, any further discussions need to be based on the documents prepared by INC 7 on the GEF MoU, the GEF guidance and the Specific International Programme. Thus not on the basis of texts that have not been agreed or even discussed at the INC.

In order to facilitate this discussion, the European Union and its Member States have submitted a conference room paper to adopt a decision on the Guidance to the GEF.

Item 5(a)(iv): Financial mechanism

The European Union and its Member States thank the Interim Secretariat and the GEF Secretariat for the various documents prepared in relation to the Financial Mechanism. These documents provide useful references, but we would like to recall the need for the COP to work on the basis of the documents prepared and, on most issues, already agreed by the INC.

We intervened yesterday on some of these matters and therefore will not repeat all elements.

Prior to getting into the detail of the decisions that need to be taken, we would like to recall the long standing financial support that the European Union and its Member States have provided over the years to the INC process and for relevant meetings and guidance that now allow us to be here.

Furthermore, we have already provided significant financial support for technical assistance and capacity building in a large number of countries to assist them in addressing mercury issues and implementing the Convention. We intend to continue to provide such support in the future at all levels.

The INC has already almost finalised all the relevant work on the Global Environment Facility. We expect that the Conference of the Parties will be able to formally agree now on the GEF guidance, as well as on the Memorandum of Understanding between the COP and the GEF Council, which has already been finalised. These documents only require two decisions, which should be finalised and adopted in plenary.

On the guidance to the GEF, once the only outstanding point is finalised, the COP should adopt without delay a brief, standalone decision adopting the guidance and requesting the Secretariat to transmit it to the GEF Council, which will fully replace the provisional guidance agreed at INC6. We have already provided a CRP on this issue.

The INC has also prepared a draft standalone decision on the Specific International Programme. There are some important outstanding issues which still need to be solved in order to be able to finalise the decision on this matter, in particular which will be the time-limited duration of the programme and what arrangements might be necessary in view of where it will be hosted.

The European Union and its Member States look forward to constructively engaging in further exchanges on these matters, possibly in the context of a contact group on the Specific International Programme.

Item 5(a)(vi): Reporting format and timing

The draft reporting format provided in document COP.1/11 is very advanced thanks to the work of the INC.

As Parties need to make arrangements ensuring that information to be reported is gathered at national level, the reporting format should be made available at an early stage of implementation of the Convention. Hence it is essential that we finalise and adopt the reporting format at COP 1, which we believe requires work in a contact group.

Reporting should be as simple as possible whilst providing sufficient information on the measures taken by the Parties and on the effectiveness of such measures, as required by the first paragraph of Article 21 of the Convention. Moreover, this information is essential for the evaluation of the effectiveness of the Convention in accordance with Article 22.

Allow me to also speak to present the CRP introduced by the EU and its Member States on the issue of reporting frequency. In our view, there are advantages to differentiating reporting frequency depending on the issues. If information on key aspects were to be reported at a high frequency, then reporting on other information could take place at a lower frequency. A single frequency set at an intermediate level would be overall more burdensome due to too frequent reporting of all information. It would also be inefficient as key data would not be made available sufficiently rapidly to understand whether the Convention is on the right tracks. We therefore propose combining a four year general reporting period with a yearly reporting on a selection of mercury supply and trade issues.

We have provided in Conference Room Paper no 2 our views on the limited set of questions that should be subject to yearly reporting – it holds on a single page.

We hope that the COP participants will find these suggestions helpful for conducting constructive discussions in a contact group.

Item 5(a)(vii): Effectiveness evaluation

The EU and its Member States consider that defining arrangements for effectiveness evaluation is one of the most important substantive tasks of this COP and we warmly thank the Interim Secretariat for preparing a very useful report on monitoring arrangements as well as a roadmap.

We agree on primarily using available information, complemented with additional information where needed. As monitoring can be costly, where information gaps are identified, the COP will have to define the minimum level of monitoring necessary for undertaking a sufficiently robust effectiveness evaluation. This should take into account the capacities of analytical laboratories in developing countries.

Monitoring should in our view focus as a priority on background mercury levels.

We think 2013 is a good year for the baseline as it saw the signature of the Minamata Convention and in that year many countries started implementing or amplifying measures promoting the aims of the Convention. To allow a good evaluation, the baseline should however contain information on pre-existing trends at global, regional and national levels.

There will be a time lag between reduced pressures and any observed reduction in mercury levels in the environment, biota and populations. Therefore, initial effectiveness evaluations will largely be based on the observed trends of pressures and an understanding of the expected impacts of such trends on future mercury levels in the environment, biota and populations. This will draw strongly on the information reported by the Parties under Article 21 of the Convention.

We see merit in the proposal by Canada to discuss the development of a framework for undertaking the effectiveness evaluation. Article 22 makes clear that the effectiveness of the convention is to be evaluated for the first time no later than 6 years after its entry into force. We therefore consider that the process to be decided by COP 1 regarding effectiveness evaluation has to be designed for meeting this deadline.

We are ready to work with other COP participants to define the next steps regarding both monitoring arrangements and developing an effectiveness evaluation framework and to do this on the basis of the Canadian CRP.

Item 5(a)(viii) Financial rules

The European Union and its Member States would like to thank the Interim Secretariat for the documents on this matter. The draft financial rules have been largely agreed at INC meetings. However, the Conference of the Parties still needs to ensure that the financial rules adequately reflect the policy decisions that will be taken with regard to the Secretariat, in particular on a host country contribution and do not leave room to possible interpretations or subsequent unilateral changes on this matter. The financial rules will also have to reflect the policy decisions taken with regard to the Specific International Programme and the provision of resources to support technical assistance and capacity building in accordance with Article 13 of the Convention. We look forward to finalising these matters in a contact group, on the basis of the outcome agreed on the Secretariat and on technical assistance matters.

Item 5(b)(i): Provisions of functions of the permanent Secretariat

and

Item 5(c)(iii): Location of the Secretariat

The European Union and its Member States would like to thank the Secretariat for the documents on this matter. As expressed at INC7, and based on our long standing views, the European Union and the Member States support the full merger of the Minamata Secretariat with the joint Secretariat of the Basel Rotterdam and Stockholm Conventions in order to ensure policy coherence and maximisation of the use of resources within the chemical and waste cluster.

This does not mean that we necessarily support the merger of the meetings of the Conference of the Parties with other COPs such as Basel, Stockholm and Rotterdam which is a separate issue and which should not to be confused with the decision on the structure and location of the Secretariat.

We are conscious that different views still exist on this matter and we look forward to constructive engagement among all, possibly in the context of a separate group, which should consider how to enhance cooperation and coordination within the cluster and provide a clear policy direction to the Executive Director of UNEP, including on the preparation of the steps to be taken, in coordination with the Executive Secretary of the Basel, Rotterdam and Stockholm Conventions. Such policy direction should be reflected in a dedicated COP decision on this matter.

Last but not least, we would like to recall that, as we emphasised at INC7, the functions of the permanent Secretariat will also have to be adjusted once a decision on the Specific International Programme has been agreed.

Regarding the location of the Secretariat, the European Union and its Member States thank once again the Secretariat for the documents on this matter.

We fully support the location of the Secretariat in Geneva as the best way to ensure enhanced cooperation and coordination and policy coherence within the chemicals and waste cluster and with other relevant organisations necessary to address mercury-related issues, such as WHO.

We would also like to thank the Government of Switzerland for the clarification of its offer to host the Secretariat of the Minamata Convention, which we hope will facilitate reaching agreement on this matter.

We look forward to open and constructive exchanges which we hope will result in a specific decision of the Conference of the Parties to confirm the location of the Secretariat in Geneva and, accordingly, the generous annual host country contribution offered by the Government of Switzerland. The decision on the location of the Secretariat should also contain all the main elements of a possible host country contribution, and address any other related matter.

Item 5(b)(ii): Matters stipulated by the Conference of Plenipotentiaries - GEF Memorandum of Understanding

The European Union and its Member States thank the Interim Secretariat for their work on the Memorandum of Understanding between the COP and the GEF Council. This matter has already been agreed at INC. Therefore, we should now simply adopt the draft decision prepared by the Interim Secretariat approving this memorandum, as contained in doc. 1/15.

Item 5(c)(v): Report on open burning

The EU and its Member States thank the Secretariat for preparing the report on open burning of waste.

We believe that ending open burning of waste containing mercury or mercury compounds is an important objective. We support requesting the Secretariat to continue compiling information on mercury emissions from open burning as part of consideration of the emission inventories submitted by Parties but also from other relevant sources of information, and to make that information available as background to the Conference of the Parties.

Item 5(d): Programme of work and budget

The European Union and its Member States attach high importance to agreeing a Budget and Programme of Work, allowing the Secretariat to be established quickly and to provide efficient and effective services in accordance with Article 24 of the Convention.

At the same time, the budget needs to be affordable for all and we need to ensure timely contributions by all Parties.

We thank the Interim Secretariat for the documents provided and recognise that the budget depends on what will be agreed under several agenda points, such as the location and functioning of the Secretariat, the role of the Specific International Programme and the need for intersessional work. We look forward to discussing the related budgetary aspects in the Budget Group once agreement is achieved on those topics.

However, the limited detail provided and, in particular, the absence of activity sheets, has highly complicated preparations for the budget discussions. More detail on the Programme of Work is essential for the Budget Group to be able to start working.

Turning to the budget itself, we find the numbers attached to some budget lines much higher than we expected. This is particularly true for the cost of the main meetings. We will compare the figures with those of other UNEP-linked MEAs of similar size keeping in mind that we are preparing a budget for the first biennium and not for a more mature structure.

There are other budget lines where we need to understand whether the resources envisaged allow us to do the work that is necessary. For this we will take in consideration the experience from other Conventions, for example work on the Stockholm Convention's Global Monitoring Plan and Effectiveness Evaluation Framework. Even if we design different models for Minamata we may need similar expertise, including specialist help.

Item 6 (a): Trade of compounds – Art 3(13)

Recent work undertaken by the EU regarding trade of mercury compounds confirmed that such compounds could be traded with the aim of recovering mercury and circumventing controls applying to trade of mercury. This work has been conducted in the framework of developing the legislation regarding mercury imports and exports. Therefore the EU supports initiating work on the evaluation referred to in paragraph 13 of Article 3.

Item 6 (f): Guidance concerning releases – Art 9(7)(a) and (b)

The COP will be in a position to launch work on the guidance referred to in Article 9 once the scope of the guidance to be developed will have been clarified.

The EU therefore supports requesting the Secretariat to compile and analyse submissions from Parties and others on relevant point source categories falling under the scope of Article 9 and to report on this to COP 2.

Item 6 (g): Interim storage guidelines

The EU thanks the Secretariat for preparing draft guidelines, which is already very advanced. It provides in particular extensive guidance regarding large interim storage activities and installations.

However, whilst the guidelines are intended to cover all interim storage activities, they do not yet include guidance that can help Parties address interim storage of limited quantities of mercury.

We support that the guidelines should include, as supplementary information, references to useful documents on transport. However, we do not believe that the interim storage concept can be legally interpreted as covering also transport.

Thus, we agree that further technical work is needed on these guidelines before a future COP, hopefully COP 2, can adopt them.

Subject to the views of others, we would also agree on a COP Decision encouraging Parties and others to use the draft guidelines until the COP will have adopted its final version. However, point 1 of the draft decision proposed in Annex I of document COP.1/25 would require clarification to avoid confusion on the status of the guidance, which remains a draft until final adoption by the COP.

Item 6 (h): Mercury waste thresholds – Art 11(2)

The submissions by Parties and Signatories show that there is very limited experience regarding setting mercury thresholds for mercury waste. This is indeed a complex issue that will require lengthy expert work.

The EU and its Member States thank Japan for organising informal consultations on this topic and providing the outcome of this work in document COP.1/INF/10 and for making available a CRP, which we believe is a very useful basis for further discussions.

We agree that further work could be undertaken by experts, preferably initially through electronic communication. This should initially address key issues, including:

- a. Clarification of the legal consequences of wastes falling above or below the thresholds;
- b. The environmental rationale for developing the thresholds;
- c. Whether thresholds are needed and useful for all three categories of mercury wastes listed in art 11(2);
- d. Whether all mercury-added products or only listed mercury-added products should be deemed to be mercury wastes;
- e. Whether thresholds should be content thresholds or leaching thresholds;
- f. The need for it to be possible to verify compliance with the thresholds through simple means accessible to all Parties.

It is also important that COP 1 adopts a decision regarding the technical guidelines adopted by the Basel Convention. The INC has forwarded to the COP a draft decision with bracketed text, which is provided in COP.1/26/Add.1. We suggest keeping only the last of the three bracketed paragraphs.

Mr Chair, to conclude, let me confirm that we are ready to engage in discussions in a contact group on what type of intersessional work should be undertaken by a small group of expert.

Item 6 (i): Guidance on management of contaminated sites – Art 12(3)

The EU and its Member States support the outline proposed for the guidance, which we believe includes the most important aspects that the guidance should cover. The guidance would be most useful if it shows how to best address the challenges of contaminated sites with limited resources.

We also generally agree on the roadmap although we believe that more time may be needed to produce guidance with the necessary depth and quality.

The EU and its Member States are willing to nominate experts who will help the Secretariat in drafting the guidance, through electronic exchanges.
