



Council of the
European Union

Brussels, 4 April 2016
(OR. en)

7306/16

ENV 180
COMER 30
MI 173
ONU 29

INFORMATION NOTE

From: General Secretariat of the Council
To: Delegations

Subject: Seventh session fo the Intergovernmental Negotiating Committee to
prepare a global legally binding instrument on mercury (INC 7)
(Dead Sea, Jordan, 10-15 March 2016)
- Compilation of statements from the European Union and its
Member States

Delegations will find attached, for information, in the Annex a compilation of statements from the European Union and its Member States as delivered during INC 7.

OPENING STATEMENT

It is a real pleasure for the European Union and its Member States to participate in this crucial 7th meeting of the INC.

We would like to thank the Jordan government for hosting this meeting in such a magnificent location.

Mr Chairman, we would also like to congratulate you with your appointment as the Ambassador of Uruguay in the People's Republic of China and to thank you as well for successfully chairing all INC meetings so far and we are delighted to meet now again under your skilful chairmanship.

INC7 is a crucial meeting because it will be the last opportunity to ensure that all documents required by the Diplomatic Conference are finalised and, where required, provisionally adopted.

The challenge for the Committee over the forthcoming six days will be to complete preparations for the entry into force of the Convention and to make significant progress towards the first meeting of the Conference of the Parties. The Committee still needs to reach agreement on a number of issues on which COP1 will be required to adopt decisions.

We are fully committed to work in the spirit of the Final Act of the 2013 Kumamoto Diplomatic Conference. We seek adoption of all documents the DipCon has asked the INC to adopt on a provisional basis.

The European Union and its Member States attach great importance to the entry into force of the Convention. We are pleased to announce that we have opened the necessary legislative procedure, which is an important step towards enabling ratifications of the Convention. We hope it will encourage others in their efforts towards early ratification.

Mr. Chairman, all meetings of the Committee and the connected expert meetings took place in a constructive atmosphere. We are confident that we can continue our work in the same spirit and that, again under your excellent chairmanship, the Committee will be able to address the remaining outstanding issues.

GUIDANCE ON TRADE FORMS (Doc. INC.7/3)

We welcome the guidance document (contained in INC.7/3) prepared by the Secretariat on how to fill the forms required under Article 3. We think this guidance covers all of the elements for which guidance on trade procedures will be useful for Parties at this stage.

We consider that this is an advanced draft that needs only limited additional work to be ready for provisional adoption at INC.7. Our comments and suggestions are:

1. The guidance contains forms numbered A to E. Forms A to D are for use in practical cases of movements of mercury between Parties and enable exchanging information between Parties or between Parties and non-Parties. However, Form E is of a completely different nature and is only used by Parties to communicate information on implementation of Article 3 to the Secretariat. Therefore, including all forms in a single document could create confusion and we suggest separating the document into two; one document concerning only Forms A to D and the other concerning only Form E.
2. Mercury trade is a key issue and we consider that a copy of forms A to D should be sent to the Secretariat even if this is not explicitly required by the Convention. The language in paragraph 15 should contain a stronger encouragement for sending a copy of those forms to the Secretariat.
3. The guidance should take into account that, whilst the contact point for import consent would normally be the national focal point designated under article 17 on information exchange, it may be more practical for Parties to designate a specific contact point for import consent.

We have included in a CRP these suggestions as well as some further minor clarifications and editorial comments, which we have provided to the Secretariat.

GUIDANCE ON INVENTORY OF STOCKS AND SOURCES (INC.7/4)

The European Union and its Member States thank the Secretariat for preparing the draft guidance document. It is nicely concise and we think it covers the elements where guidance is needed by the Parties.

We have however identified a limited number of issues where the document could be clarified. This concerns for example how to calculate whether the 10 and 50 tonnes thresholds are exceeded, what should be considered as a stock or a big source, and how metal ores and related mining and processing activities are addressed.

We have included in a CRP our suggestions on these issues as well as some further editorial proposals, which we have provided to the Secretariat.

GUIDANCE ON BAT/BEP FOR AIR EMISSIONS (Doc. INC.7/6)

We congratulate the expert group for its excellent work and the finalisation of all four draft guidance documents. These are important tools for the effective implementation of the Convention on the issue of atmospheric emissions.

We consider the documents clear, comprehensive and fit for purpose.

We therefore are happy to support their provisional adoption by the INC and submission to the CoP for final adoption at its first session.

If required in the light of any preceding discussion on releases: With regard to releases to water and soil, we would like to point out that the UNEP inventory toolkit referred to in document INC.7/6/add.4 can also be used to make inventories of such releases. We also recall that the invitation to countries to make submissions on releases between the Diplomatic Conference and INC6 did not generate sufficient information for starting work on BAT/BEP guidance for releases.

FINANCIAL ISSUES (Doc. INC.7/7)

The European Union and its Member States would like to thank the Secretariat for all the work undertaken since INC6 on financial issues and for the documents on these.

We welcome the **draft text for a memorandum of understanding** prepared by the interim Secretariat and the GEF secretariat and expect that we will be able to agree on a draft Memorandum of Understanding in plenary, on a provisional basis, during this meeting, with a view to forwarding it to the GEF Council for its consideration prior to COP1, which should also consider and finally adopt the memorandum.

FINANCIAL ISSUES (Doc. INC.7/8)

The European Union and its Member States would like to thank the Secretariat for the text on **new draft guidance to the GEF**. We look forward to discussing with others the text, possibly in a smaller group, bearing in mind the need to clearly distinguish between the provisional guidance adopted at INC6 for the interim period and the preparation of draft final guidance to be eventually adopted at COP1, building on the already agreed provisional guidance.

FINANCIAL ISSUES (INC.7/9)

It is the view of the EU and its Member States that we will need to devote sufficient time to addressing the arrangements on the hosting institution and the draft guidance to the **specific international programme** to be forwarded to COP1. We welcome the excellent work of the ad-hoc group of experts on financing, which met in São Paulo in October 2015 and the reporting on that work in plenary today. This work, as reflected in the co-chairs report, should serve as a concrete basis for the decision to be prepared.

Finally, Mr. Chairman we want to express our sincere gratitude to the co-chairs of this group as well as to the Government of Brazil and the regional centre in São Paulo for their effective work and pleasant welcoming during that meeting.

REPORTING (INC.7/10 and INC.7/11)

The reporting format progressed significantly at INC6 but still requires further work. The European Union and its Member States consider that this document should be made available at an early stage of implementation as Parties need to make arrangements ensuring that information to be reported is made available at national level. We are happy to contribute to the finalisation of this work at INC7, and suggest establishing an appropriate group of experts to this end.

In this context, allow me to share our views on some elements of content.

Key indicators of the successful implementation of the Convention by Parties, both individually and collectively, include yearly trends on amounts of mercury supplied, traded and used. Such trends will also be useful for informing the Article 22 effectiveness evaluation.

We have thus reflected on the basis of Document 7/10 on how to cover those data needs in the simplest way possible, whilst focussing efforts on the most important supply, trade and use flows. We will be happy to share our ideas in the course of INC7.

We also thank the Secretariat for preparing the very useful document 7/11 on frequency of reporting. We think we should follow the example of a number of other Conventions that require key data to be reported on an annual basis, whereas general reporting is required on a multi-annual basis. Our preference for the general reporting is to have a report every four years.

EFFECTIVENESS EVALUATION (INC.7/12)

The nature of effectiveness evaluation of the Convention will evolve over time. In the shorter term, this will have to be assessed on the basis of monitoring key sources of anthropogenic mercury pollution, such as supply, trade, use and emissions of mercury. In the longer term, reduced mercury pollution would translate in reduced levels in the environmental and living organisms, which will allow a full evaluation assessment.

Therefore, at least the first effectiveness evaluation will draw strongly on the information reported by the Parties under Article 21. It is essential that the reporting format is designed in a way that facilitates this effectiveness evaluation. We are willing to discuss in more detail CRP 4 as presented by Switzerland. It will need however further consultation in our group.

Besides this, we need reliable monitoring data and expect that the Global Mercury Observation System (GMOS) and other regional information sources available, such as the Arctic Monitoring and Assessment Programme (AMAP), will substantially contribute to making such data available.

The European Union and its Member States would also like to emphasise the importance of developing a baseline. The 2013 Global Mercury Assessment and its 2018 update provide a good basis, but further exchange of information is needed to develop the baseline.

That having been said, we think that Document INC.7/10 including the suggestion that the Secretariat would prepare a report to COP1 for further consideration of the way forward provides a reasonable approach. We would be happy to provide further input to the Secretariat on some aspects, possibly as part of responding to a call for submissions to provide further information relevant for preparing the report to COP1.

DRAFT RULES OF PROCEDURE (INC.7/13)

The European Union and its Member States once again thank the Secretariat for the relevant documents on this matter. INC7 should try to reach agreement on all outstanding issues concerning the rules of procedure. The question of voting for matters of substance could be solved by reflecting the INC rules of procedure that we have already agreed in the text of draft rules of procedure. Regarding possible questions on whether an issue is of substance or of procedure, a balanced and reasonable approach would be to leave these questions mainly to the President, in consultation with the Secretariat.

FINANCIAL RULES (INC.7/14)

The European Union and its Member States welcome this opportunity to further consider the Financial Rules of the Convention. We are confident that we can complete work on this important institutional matter at this meeting so that COP 1 can adopt and apply them. Indeed, agreeing the Rules is fundamental once the Convention enters into force. There can be no permanent Secretariat without the adoption of a Budget by COP 1, which in turn requires adoption of the Rules. Therefore the Secretariat needs certainty about the Rules by the end of INC7, so that it can prepare an appropriate Budget.

The approach of the European Union and its Member States to the Financial Rules for the Convention is that they should ensure the sustainability of the operation of the Convention Secretariat in line with the obligation of the Parties to keep a viable Secretariat in place.

We also believe that the Rules should be compatible with the Financial Rules of the Basel Rotterdam and Stockholm Conventions that are virtually identical to each other. We seek consistency in the financial rules among the Conventions to promote simplicity and clarity in budget discussions and in the financial administrations of the Conventions. Differences in Rules should not complicate our decision on the organisation of the Secretariat. In that sense our approach to the Rules is precautionary: we do not want them to hinder the consideration of all options concerning the Secretariat.

That having been said, the European Union and its Member States are not advocating a blanket adoption of the BRS Rules for the Minamata Convention. Since the BRS Rules were adopted there have been financial reforms in the UN and these should be reflected in the Minamata Convention Rules. Thus our Rules should be fully compliant with the sound financial procedures set out in the new International Public Sector Accounting Standards as well as the overall UN Financial Regulations and UNEP's own Financial Rules. They should be coherent with our evolving position on the relationship between UNEP and Multilateral Environmental Agreements.

FUNCTIONS OF THE PERMANENT SECRETARIAT (INC.7/15)

The European Union and its Member States look forward to hearing the views of all INC7 participants on the functions and structure of the future permanent Secretariat and will be happy to engage in a constructive and candid discussion to find common understandings on these matters.

To this end, it is important to base the deliberations on objective criteria, in particular the need to foster effectiveness and cost-benefits as well as enhanced cooperation and coordination within the chemicals and waste cluster.

For these reasons, we consider that a merger with the joint BRS Secretariat, utilising its current structure, would serve to maximise enhanced cooperation and coordination to ensure policy and programmatic consistency and institutional coherence.

Whilst it is probably too early to take any definitive decision, the European Union and its Member States look forward to a constructive and objective exchange which will allow all Parties to take the best decision in a consensual manner at COP1.

Let me also take the opportunity to raise a separate issue regarding the list of functions of the Secretariat. We generally agree with the content of the report on the functions as contained in Article 24 of the Convention. However, regarding “assistance to the Parties”, there is a distinction to be made between:

- (i) general assistance to Parties, and
- (ii) technical assistance and capacity building, which is a more concrete and resource intensive concept.

In this regard it will be important to keep in mind that a possible role of the Secretariat on technical assistance and capacity building has to be directly linked to, and will depend on, the decision to be taken on the Specific International Programme, which has been addressed separately.

GUIDANCE ON ASGM (Doc. INC.7/17)

The European Union and its Member States thank the Secretariat for preparing the draft guidance on ASGM. Subject to minor editorial modifications, we support its adoption at INC.7. Such editorial modifications would include adding references in the guidance to work done by GOMIAM (Gold mining in the Amazon region) and to the role of the certification bodies such as “fairmined” and replacing the use of the word 'countries' by the word 'Parties', where this is more appropriate.

GUIDANCE ON ENVIRONMENTALLY SOUND STORAGE (INC.7/18)

The European Union and its Member States agree that the guidelines on interim storage should be based on relevant sections of the Basel guidelines on mercury. This would however become a separate document, as the Basel guidelines only address waste.

We agree with the timing proposed in the roadmap annexed to doc. INC.7/18. This roadmap should however be slightly revised in order to:

1. Make explicit that INC.7 invites INC Parties to nominate experts for participation in the drafting process;
2. Allow the participation of experts from stakeholders, as observers;
3. Invite experts from the Basel Convention to participate, rather than the OEWG itself that is competent to address waste related issues only.

WASTE THRESHOLDS (INC.7/19)

A significant amount of interesting information on waste thresholds has already been provided to the Secretariat in the currently available ten submissions. This shows the complexity of the issue and also suggests that directly applicable waste thresholds have not yet been established.

The EU and its Member States believe that it would be useful to continue gathering further information as some countries may have additional valuable information to share. We therefore suggest that after this meeting INC parties and observers should be invited to provide to the Secretariat any additional information they have.

On this basis COP1 could consider how and when to take this issue forward.

CONTAMINATED SITES (Doc. INC.7/20)

The European Union and its Member States, mindful of the significant workload relating to the work to be taken forward as outlined in paragraphs 5 to 7 of Resolution number 1 adopted by the Diplomatic Conference, are not convinced that INC7 is the right moment in time to launch work on guidance on managing contaminated sites.

We therefore suggest that this issue should be deferred to consideration at COP1.

OFFERS TO HOST THE PERMANENT SECRETARIAT (INC.7.16/INF/5)

The European Union and its Member States thank the Government of Switzerland for their offer to host the Permanent Secretariat. Due to our long standing views in favour of enhanced cooperation and coordination within the chemicals and waste cluster, the European Union and its Member States would look favourably at having the permanent secretariat in Geneva.

We thank the Government of Switzerland for already providing this Committee some clarifications.

However, the offer submitted would still need to be further discussed: it contains a conditionality that depends on a future decision by the Conference of the Parties, which is at present unknown and it would also be important to have a clear understanding of the precise annual amounts that Switzerland would contribute to the Convention's General Trust Fund.

We very much look forward to discussing these open matters, to refine the details of the offer, in order to facilitate a decision by the Parties in favour of the location of the Secretariat in Geneva.

EU statement on CRP6

The EU and its Member States would like to thank the African countries and Switzerland for providing this CRP and their constructive contributions on the subject of the environmentally sound management of mercury waste wastes consisting of, containing or contaminated with mercury and look forward to developing the text with others.
