

## CHEMICALS EXCOPS HIGHLIGHTS: TUESDAY 23 FEBRUARY

Delegates convened in an open-ended joint working group (OEWG), which met in the morning and afternoon. Contact groups on review mechanism, decision-making and joint managerial functions convened throughout the day.

### OPEN-ENDED JOINT WORKING GROUP

#### MATTERS FOR CONSIDERATION OR ACTION

**BY THE COPS: Synchronization of budget cycles:** The Secretariat introduced the item (UNEP/FAO/CHW/RC/POPS/EXCOPS.1/5), and the EU introduced section IV of CRP.2/Rev.1 (synchronization of the budget cycles). She highlighted the matter as an important part of implementing the synergies decisions and, supported by SWITZERLAND and ECUADOR, suggested that synchronization should be continued. The OEWG requested the Secretariats to prepare a draft decision proposing the continuation of the budget synchronization. During the afternoon, Co-Chair Ouegraogo introduced the section of the omnibus draft decision on this matter (UNEP/FAO/CHW/RC/POPS/EXCOPS.1/CRP.5/Add.3) and the OEWG forwarded the document to the ExCOPs for consideration.

**Joint audits:** The Secretariat introduced the item (UNEP/FAO/CHW/RC/POPS/EXCOPS.1/6) and the EU introduced section V of CRP.2/Rev.1 (joint audits) requesting the UNEP Executive Director to report to the COPS on the audit by the Office of Internal Oversight Services in order to address further questions. In response to a question by PAKISTAN, UNEP's Legal Advisor clarified that the trust funds of each Convention will be included in the overall UNEP audit. The OEWG requested the Secretariat to draft a decision based on CRP.2/Rev.1. During the afternoon Co-Chair Ouegraogo introduced the section of the omnibus draft decision on joint audits (UNEP/FAO/CHW/RC/POPS/EXCOPS.1/CRP.5/Add.4) and the OEWG forwarded the document to the ExCOPs for consideration.

**Reports/information received:** The UNEP Secretariat introduced this item (UNEP/FAO/AdComm.1.1 and AdComm.2.1) on the reports of the two meetings of the advisory committee on the simultaneous ExCOPs.

**Joint activities:** In the afternoon, Co-Chair Gilian Guthrie provided an update on discussions on joint activities and highlighted that parties had agreed to move a proposed reference to the principle of common but differentiated responsibilities from an operative paragraph of the draft decision (UNEP/FAO/CHW/RC/POPS/EXCOPS.1/CRP.5/Add.2) to the preambular section of the omnibus decision. Delegates then approved the decision and forwarded it to the ExCOPs for consideration.

**Joint services:** During the afternoon, Co-Chair Alvarez introduced the section of the omnibus draft decision on joint services (UNEP/FAO/CHW/RC/POPS/EXCOPS.1/CRP.5/Add.1) and it was approved by the OEWG and forwarded for consideration of the ExCOPs. In the evening plenary, JAPAN proposed reopening the agreed text on the issue. Co-Chair Alvarez explained the text of the omnibus draft decision had been already been approved, and JAPAN agreed to raise the matter in the ExCOP.

**Joint managerial functions:** During the evening, Co-Chair Alvarez requested delegates to consider this section of the omnibus draft decision on this item (UNEP/FAO/CHW/RC/POPS/EXCOPS.1/CRP.5/Add.6). It was approved by the OEWG, and forwarded for consideration of the ExCOPs.

**Review mechanism:** Contact group Co-Chair Kwisthout presented the proposal for the section of the draft omnibus decision (UNEP/FAO/CHW/RC/POPS/EXCOPS.1/CRP.5/Add.5).

SUDAN and IRAN questioned a request to UNEP and FAO to prepare an evaluation report taking into account input from the three Secretariats and "others." Delegates agreed to clarify this by adding "other stakeholders." The draft decision was approved and sent for consideration by the ExCOPs.

**CLOSURE OF THE OEWG:** INDONESIA read out a statement on behalf of the majority of members of the Asian region proposing to include in the preamble of the omnibus decision, *inter alia*: the principle of common but differentiated responsibilities; the need to approach the synergies process in a gradual and step-wise manner; and the need not to prejudice the development of legal instruments under the Conventions, especially the compliance mechanism. Co-Chair Stendahl

responded that the essence of these points was covered in various sections of the omnibus draft decision, noting that the statement would be recorded in the meeting report. BRAZIL proposed including additional preambular paragraphs drawn from previously agreed language included in the synergies decisions, and delegates agreed. Several delegates expressed appreciation to the OEWG Co-Chairs for their dedication and leadership in the synergies process.

### CONTACT GROUPS

**JOINT MANAGERIAL FUNCTIONS:** The contact group, co-chaired by Barry Reville and Mohammed Koba, met throughout the day to discuss a compromise draft decision on a joint head of the Convention Secretariats, which had been prepared following the group's evening session on Monday. A delegate insisted that the decision refer to the existence of different views on whether to establish a joint head or a coordinating group, and proposed adding text on the purpose of establishing such a position. Several parties highlighted the need to clarify the review process for the joint-head position, and pointed out that the review related to the position rather than the individual holding the position. Several interventions emphasized the issue of cost, and a discussion ensued on the implications of the term "cost-neutral in real terms." In response to amendments on making use of freed resources, one party clarified that this only implied staff being moved to programme support. Questions were raised on the details of the organizational modification of the Secretariats and its timing with the recruitment of a joint head. Numerous additions were proposed by parties. Several parties suggested language emphasising the temporary character of the joint-head position established by the decision. Others argued that this was provided for by subjecting the position to a review by the COPs. Delegates also debated the recruitment process for the joint head, with several requesting parties to be involved in the process. Others cautioned against politicizing the post, and pointed out that the UN regulations regarding the recruitment process for D-2 positions limited parties' involvement.

After intense negotiations the range of unresolved issues narrowed to, *inter alia*, references to: mobilizing "new and additional financial resources" as one of the functions of the joint head; the "joint head model;" and inclusion of the overarching goals of protecting health and environment for sustainable development. In the late evening, several delegates withdrew their amendments, and, after a breakout discussion between several parties, language on the financial resources was resolved, reference is now made to the joint head mobilizing substantially increased funding from all sources for national implementation.

**REVIEW MECHANISM:** The contact group co-chaired by Jan-Karel Kwisthout and Pauline Davies met in the late morning and afternoon. One party proposed preambular language stating that the review of the implementation of the synergies decisions should be under the authority of the parties and a reference to the principle of common but differentiated responsibilities. Opposing this, several parties noted that such

references were not appropriate in this context, and should not be included. Some parties also objected to referencing SAICM and the envisaged global legally binding instrument on mercury, and these references were subsequently deleted. Delegates agreed to a proposal requesting the Executive Director of UNEP in consultation with the Director General of FAO to prepare detailed terms of reference, including indicators, for the review.

Delegates eventually agreed to language requesting the Secretariats of the three Conventions to jointly compile their report, including recommendations on the review containing information collected from parties through a questionnaire. The contact group also discussed the timetable for the review. They agreed that the report of the review should be completed 90 days before the first COP in 2013 and decisions on the review should be adopted by each of the three COPs in 2013. The contact group reached consensus on the draft text on review arrangements and forwarded the draft decision (UNEP/FAO/CHW/RC/POPS/EXCOPS.1/CRP.5/Add.5) to the OEWG for consideration.

**DECISION MAKING:** Jan-Karel Kwisthout chaired the contact group. Several delegates objected to the draft text on decision-making (UNEP/FAO/CHW/RC/POPS/EXCOPS.1/CRP.2) recommending the ordinary meetings of the COPs of the three Conventions taking place in 2011 decide to convene ExCOPs to these Conventions, and suggested submitting the report of the current ExCOPs to each ordinary COP. Several delegates supported the original draft. No consensus was reached and the group decided to bracket the draft text and submit it to the OEWG for further consideration.

### IN THE CORRIDORS

As participants wearily waded through the final day of the ExCOPs, many spoke of their impression that the short meeting resembled a marathon. Some said the protracted nature of the contact group discussions were partly due to a misunderstanding of the origins and essence of the synergies process and debate. As the ramifications of the synergies process were explained and re-explained, several delegates said they felt discouraged by colleagues "who seemed to have forgotten to do their homework." Others noted the excessive number of politically motivated amendments, which had no chance of general approval in largely procedural texts. Yet others referred to suspicions (clearly misplaced, they said) that the synergies process was somehow driven by the three Convention Secretariats. On the contrary, they pointed out, this process was launched and driven by the Convention parties themselves.

In another development, NGOs that were excluded, with other observers, from the deliberations of the *Ad Hoc* Joint Working Group on Cooperation and Coordination continued to feel threatened by some delegates' preference to exclude all but bona fide parties from future participation in the review process.