

Minamata COP2 Highlights: Wednesday, 21 November 2018

The second meeting of the Conference of the Parties (COP2) to the Minamata Convention on Mercury met on Wednesday, 21 November 2018. Delegates heard reports from contact groups in the morning, and then spent the day addressing, *inter alia*:

- financial rules;
- capacity building, technical assistance and technology transfer;
- review of annexes A and B of the Convention;
- harmonized customs codes;
- compliance; and
- cooperation with the World Health Organization (WHO) and the International Labour Organization (ILO).

Contact groups on technical and institutional issues, effectiveness evaluation and budget also met at various points throughout the day and into the evening.

Election of Officers

Noting that the officers cannot be decided until the next President is chosen, President Chardonnes proposed postponing this agenda item to Thursday.

COP Rules of Procedure

The Secretariat drew attention to bracketed provisions in Rule 45 on deciding matters when consensus cannot be reached. President Chardonnes proposed, supported by GRULAC, SWITZERLAND and NIGERIA, but opposed by IRAN, language allowing the President to decide on whether an issue is a matter of substance or procedure, subject to appeal, decided by a majority vote. IRAN stressed all decisions should be decided by consensus, and in the absence of this, all matters will be considered substantive. The EU, opposed by IRAN, proposed deciding on whether matters are substance or procedure by a two-third majority vote. President Chardonnes proposed, and parties agreed, to defer this matter to COP3.

The RUSSIAN FEDERATION then raised the issue of Rule 44.2 on voting by Regional Economic Integration Organizations (REIOs), pointing to his country's past request for a written clarification from the Legal Adviser on how this would function in practice. The Legal Adviser responded that the Convention would require a COP decision requesting this clarification in order to provide the advice.

Matters for Consideration or Action by the COP

Capacity Building, Technical Assistance and Technology Transfer: The Secretariat introduced the documents (UNEP/MC/COP2/10 and INF/5) on capacity building, technical assistance, and technology transfer.

Uruguay, for GRULAC, presented their proposal (UNEP/MC/COP2/CRP/11), which was supported by EL SALVADOR, JORDAN, the AFRICAN GROUP, GUINEA, ECUADOR and

the AFRICA INSTITUTE. The EU, JAPAN, NIGERIA, the US and GRULAC requested additional time to consider the proposal. LEBANON supported formalizing arrangements between the Minamata Convention and the Basel and Stockholm Convention Regional Centers.

GUINEA and the AFRICAN GROUP called for a focus on interim storage.

The EU proposed forwarding the issue to COP4, with GRULAC preferring it be considered at COP3.

The President called on delegates to consult informally and report back to plenary. After consultations, GRULAC requested more time to consider this issue. President Chardonnes requested a progress report on this on Thursday.

Cooperation with WHO and ILO: WHO outlined recent relevant work, including regional workshops and guidance on strategic planning and implementation of the Minamata Convention's health-related articles. The ILO outlined relevant work, including projects on reducing occupational exposure to mercury, and codes of practice on worker exposure risk in artisanal and small-scale gold mining (ASGM).

GRULAC requested the Secretariat to develop an action plan for intersessional work with WHO and ILO to be reviewed at every COP. The EU suggested extending cooperation to the other agencies in the Inter-Organization Programme for the Sound Management of Chemicals (IOMC).

The EU, with the US, suggested adopting a COP decision on a framework for further cooperation. The AFRICAN GROUP called for more WHO work on eliminating mercury in medical and dental products. NIGERIA and JORDAN requested WHO to be more active in providing technical assistance at the national level.

President Chardonnes noted that GRULAC's call for an action plan would be reflected in the meeting report.

Financial Rules: President Chardonnes proposed that the item be postponed until COP3 since there was no agreement on the establishment of a contact group on the issue. After adoption of this proposal, the RUSSIAN FEDERATION protested it was not able to intervene prior to adoption and questioned the conduct of the COP. The Legal Adviser clarified that, regarding the participation of non-parties during the decision-making process, the decision by the President to open the floor only after the decision had been taken is not a rules violation. The RUSSIAN FEDERATION, referring to the item on the Memorandum of Understanding with the GEF, underlined the importance of equitable decision making on all items.

Compliance

GRULAC, the AFRICAN GROUP, the EU, SWITZERLAND, the US, CANADA, COLOMBIA and MEXICO supported adoption of the rules of procedure for the Implementation and Compliance Committee at COP2. Supporting most of the rules of procedure, CHINA requested more time to consider them. COP2 President Chardonnes requested them to report back on Thursday.

Other Matters

COP2 President Chardonens highlighted three items for discussion:

- review of annexes A and B of the Convention;
- dental amalgam; and
- harmonized customs codes.

The Secretariat introduced the review of annexes A (mercury-added products) and B (manufacturing processes in which mercury or mercury compounds are used), noting that the review should be conducted no later than five years after the Convention enters into force.

On dental amalgam, the AFRICAN GROUP presented their proposal (UNEP/MC/COP.2/CRP/13) on a roadmap towards the amendment of Annex A to address health-related impacts due to dental amalgam. TOGO, CAMEROON, SENEGAL, JORDAN, SAY NO TO MERCURY, WORLD ALLIANCE FOR MERCURY-FREE DENTISTRY, and the ASIAN CENTER FOR ENVIRONMENTAL HEALTH supported the proposal. CANADA, MEXICO, CUBA, and the DOMINICAN REPUBLIC proposed deferring consideration of this issue to COP3. The EU, supported by many African countries, but opposed by India, supported addressing this issue in a contact group. President Chardonens proposed forwarding this issue to the contact group on technical matters.

The EU presented their proposal on the review of annexes A and B (UNEP/MC/COP.2/CRP/16). The proposal was supported by the AFRICAN GROUP, CAMEROON and the ZERO MERCURY WORKING GROUP. CANADA, ARGENTINA, INDIA, BRAZIL, the US, CHINA, COLOMBIA and AUSTRALIA proposed considering this issue at COP3 or later, noting that the review of annexes is “premature.” The EU requested moving the discussions to a contact group for further consideration. President Chardonens proposed, opposed by many, forwarding this issue to COP3.

Addressing both proposals, the US and INDIA opposed discussing the review of annexes at COP2. President Chardonens suggested sending both proposals to a contact group. The US, BRAZIL, INDIA, CANADA and MEXICO opposed. The EU urged at least starting discussions on review procedure, and asked for time for consultation. President Chardonens tasked the EU to report to plenary on Thursday with a proposal agreeable to all or the issue would be deferred to COP3.

On harmonized customs codes, GRULAC introduced its joint proposal with the African Group (UNEP/MC/COP.2/CRP.14), explaining it would task the Secretariat to work with the World Customs Organization (WCO) and the Global Mercury Partnership to get new harmonized codes to aid identifying mercury-containing products. JORDAN, SRI LANKA, ZAMBIA and LEBANON supported the proposal. The US preferred not to discuss it at COP2.

GRULAC, supported by the AFRICAN GROUP, noted overwhelming support for the proposal. President Chardonens stated that not every country had supported the proposal and suggested reflecting the discussion in the meeting report, with a note that parties should cooperate on harmonizing customs codes, including through the Global Mercury Partnership.

Dissenting, ARGENTINA, supported by GRULAC, GUINEA, ZAMBIA, SWITZERLAND, and NIGERIA, suggested discussing this issue in the contact group on technical matters. GUINEA underlined the need for the Convention to use all facilities possible for discussion, including contact group meetings.

Delegates agreed to forward this matter to the contact group on technical matters.

Contact and Other Groups

Technical Matters: During lunch break discussions, the group worked on finalizing decision language on waste thresholds that would:

- create a technical experts group to work intersessionally until COP3;

- invite the Basel Convention to consider complementing the technical guidelines on environmentally sound management of mercury wastes with additional guidance for certain mercury wastes; and
- invite parties to submit examples of: wastes to be added to a list of mercury waste types; current practices of managing overburden, waste rock and tailings from mining other than primary mercury mining; and sampling and analysis methods to determine mercury concentration by weight and release potentials.

Effectiveness Evaluation: The contact group continued its work on the proposal put forward by Japan throughout the day. The group finished work on the mandate for the expert group with regards to monitoring, which included items on:

- modeling capabilities;
- data sources; and
- technical inputs.

The contact group also discussed amended membership and spent the afternoon working on amended qualifications for evaluation and monitoring experts. Discussion focused on the type of competencies that would be required to join the *ad hoc* group of experts. At the close of the discussions, the Co-Chairs said that they would consult with the Bureau for further guidance and would prepare a non-paper to be made available online for discussions on Thursday.

Friends of the President: In his report back to the plenary on Wednesday morning, David Kapindula (Zambia), Chair, Friends of the President Group, reported: the group has not yet decided on a basis for selecting the COP President; most elements of a decision on time and venue for COP3 have been agreed; and Iran will propose text on the MoU with the GEF for group consideration.

In the Corridors

Wednesday marked the mid-point of COP2, with delegates working in several group configurations to try and make progress on the meeting’s agenda. In plenary, many African countries became frustrated when the COP postponed consideration of their concerns on dental amalgam. Those feelings came to a boil when, moments later, the President proposed postponing the widely supported proposal on harmonized custom codes to COP3. “For one, we are overloading the COP3 agenda,” lamented one delegate, “especially as this is something requiring urgent action for the health of our women and children.” Another asked, “Why are we not using the facility of the contact group more to resolve outstanding issues?” before the President ultimately deigned to allow contact group discussions.

In contact groups, delegates made clear progress on the monitoring aspect of effectiveness evaluation, and spent time hashing out important details on future work on waste thresholds. Some delegates attributed the momentum to a “boost of positive energy” injected by Tuesday evening’s Swiss Break. The contact group discussing Secretariat arrangements made “slow, but deliberate progress” on cooperation between the Minamata and BRS Secretariats. One seasoned COP delegate was “gratified” to see that some of those who were initially opposed to any mention of the Minamata Secretariat working with the BRS Secretariat “seemed more flexible to at least a small measure of cooperation.” Although Secretariat arrangements are not expected to be finalized at this meeting due to their complexity, one observer shared that she was, “hoping against hope for clearer guidance which will strengthen the functions of the Secretariat as countries scale up their implementation of the Convention.”

With two days to go, one delegate wondered whether delegates “still remember why all this is important,” hoping that the evening contact groups would continue to make progress in order to “arm parties with the tools needed to implement the Convention.”