VIRTUAL WORKING GROUP ON FINANCIAL CONSIDERATIONS

TOPICS: DISCUSSION ON PRIVATE SECTOR INVOLVEMENT; FINANCING THE SECRETARIAT AND NEXT STEPS

Summary Report of the 4th Virtual Meeting of the Virtual Working Group 4 on Financial Considerations
10 February 2021 from 13:00 – 16:00 CET

1) Welcome remarks

The two Co-facilitators of the VWG on financial considerations, Mr. Jonah Davis Ormond from Antigua and Barbuda and Mr. Reggie Hernaus from the Netherlands welcomed all participants to the fourth and final virtual meeting of this working group and introduced the agenda for the meeting.

2) Discussion on the text SAICM/IP.4/2 and written submissions on sections: Private-sector involvement; dedicated external financing; and financing the Secretariat

I. Private sector involvement (page 15)

Mr. Hernaus introduced this agenda item reminding the group of the previous discussions that took place so far in this VWG on 18 November 2020 and 20 January 2021 as well as the establishment of the small VWG to focus on private sector involvement which met on 17 December 2020 and its draft report available here. He then opened the floor for comments, paragraph by paragraph.

(i) Paragraph 8

The EU and its Member States opened the discussion by proposing a number of textual changes to paragraph 8 (outlined in Annex A below). While two stakeholders (ICCA, USA) supported these proposed changes, other stakeholders (CIEL, GRULAC) asked for more time to consider the EU/MS proposal. One stakeholder (USA) noted that paragraphs 8, 9 and 10 are duplicative and it might be worth grouping them into one or two paragraphs following the discussions.

A more general point regarding the intention of this paragraph was made by one stakeholder (GAHP) in response to a comment that this would be a cross-cutting issue throughout the whole text of the beyond 2020 instrument and should be taken to the Bureau to avoid separate discussions in each of the four VWGs.

One representative from the GRULAC region asked to see their proposal reflected in the text: "*In addition to increase the financial contributions, we consider that private sector entities should increase their contributions through a range of approaches and partnerships*". Iran supported this proposal noting that private sector involvement should include both financial contributions as well as in-kind contributions and capacity building.

The Africa Group requested the inclusion and consideration of their proposal of a financial contribution of 0.5% of industry's annual turnover. One stakeholder (CTECO) requested that private sector contributions should be used for Community Based Disaster Risk Management (CBDRM). The Co-facilitator confirmed that both points will be included into the outcome document of the VWG and moved on to the next paragraph.

(ii) Paragraph 9

CTECO reiterated their point made earlier, that in order for private sector contributions to be managed in a transparent manner and that there is accountability the contributions should be used for CBDRM.

The representative of the EU/MS provided their proposed textual changes to this paragraph, which should help to further focus this paragraph on the role of governments (see Annex A). A number of stakeholders (Africa Group, Brazil, CIEL, ICCA, USA) supported the general idea of this proposal. ICCA noted their agreement to proposal by the EU/MS, however, they would encourage flexibility regarding the way countries implement the polluter-pays principle and extended producer responsibility based on their national circumstances. The USA considered the first and last parts of the paragraph too prescriptive noting that countries have different approaches to internalizing costs. CIEL, supported by the Africa Group, asked to include a reference to the proposal made by CIEL and IPEN and the Africa Group by including “globally coordinated” before “levies and taxes” in the text proposal provided by the EU/MS and to include “to encourage governments to establish a global fund”.

GAHP took the floor and proposed that the issue of levies and taxes should be included in a separate paragraph given their importance, as well as expressed their view that it would be a step backwards if elements such as the internalization of costs and the polluter pays principle would be removed from the text after all Parties agreed to those principles at the Rio Conference in 1992. She agreed however to the compromise proposed by ICCA in the chat box to include “such as” before the “extended producer responsibility” to reflect that countries apply the principle differently or have a different name for it. Brazil also proposed to add after “extended producer responsibility”, “as set forth in national regulations”.

Iran expressed its support for both the polluter pays and extended producer responsibility principles to be retained in the text and proposed the removal of the brackets in the text. Iran also requested the addition of “inter alia” after “action”.

*(iii)*Paragraph 10 / ALT 10

Mr. Hernaus introduced paragraph 10 and an alternative text for paragraph 10 (ALT 10) as presented on the screen, which highlights the need to increase contributions for the implementation of the sound management of chemicals and waste through a range of approaches and partnerships. He gave the floor to the VWG asking what kind of partnerships and approaches stakeholders would suggest, if the paragraph captures all elements stakeholders would like to see addressed and which paragraph – 10 or ALT 10 – the group would wish to continue working with.

The VWG participants generally supported the idea to use ALT 10 as the basis for their further discussion. ICCA expressed its view that paragraph 10 would be redundant if paragraphs 8, 9 and 10 is looked at in conjunction. Reflecting on the comment made earlier by GRULAC to include that the private sector should increase their contribution through a range of approaches and partnerships, the industry representative proposed to include this element of paragraph ALT 10 into paragraph 8 and delete this paragraph in its entirety. GAHP supported the proposal to delete paragraph 10 /ALT 10 and include any important parts of ALT 10 into 8 and further noted that GHS would be a collaboration between industry, government and others and therefore the reference to it may better be placed elsewhere. ICCA and the USA supported GAHP’s intervention while UNITAR and ILO opted for a reference to GHS to remain in this paragraph. GAHP then tried to clarify its point that while GHS was very important indeed, a passing reference in this paragraph would not be enough and that it would better fit into the sections on what needs to be done and particularly in a clear target and date by which GHS should be rolled out worldwide.

As for the previous two paragraphs, the EU/MS proposed textual changes to paragraph ALT 10 (see Annex A) to ensure that industry is responsible for GHS implementation and does not pay national administrations to do this work. CIEL requested clarification on the inclusion of "while going beyond its legal obligations" and "support domestic chemicals management schemes" and asked for this text to be bracketed and they would reserve the opportunity to comment on this new proposal at a later stage since there would be confusion with the different versions of the text. Iran and GRULAC also asked for more time to consider this paragraph. The Co-facilitator Mr. Hernaus agreed with the request for more time to consider the new text proposal and invited participants to share general views on this paragraph. The USA stated the need to ensure that the text proposal provided by the EU/MS text needs to be reviewed in light of the non-binding nature of the new instrument.

UNEP intervened on the EU/MS text proposal, in particular the text "going beyond its legal obligations" sharing experiences from UNEP's work with downstream users whose efforts to soundly manage chemicals is done through voluntary investments and goes beyond legal obligations. She further stated that the call to action in this paragraph could be made clearer. For example, it would be important for regulators and the rest of the supply chain to see that actions are possible and taking place. Therefore, the call to action should include consistent reporting on implementation of what is being done in the beyond 2020 instrument.

The EU/MS clarified that the intention of including "going beyond its legal obligations" was to acknowledge that varying legislation exist in different countries and to emphasize the existence of voluntary initiatives. However, they would be open to discuss better wording to make this point clearer.

The Africa Group provided examples from their region to explain what the reference to "going beyond its legal obligations" would imply to explain why they would not be able to accept this proposal.

(iv) Paragraph 11

Mr. Hernaus opened the discussions on this paragraph referring to IP3 when the involvement of the finance sector was previously discussed and there was agreement this sector should be taken on board, however, the question remained how this could be realized accordingly.

A number of stakeholders (Africa Group, CIEL, EU/MS, USA) expressed their preference for the wording in ALT 11 as a starting point for the ensuing discussions. Two stakeholders (USA, ICCA) noted that this guidance should be to Multilateral Development Banks rather than the financial sector and requested that paragraph 11 is put in brackets. ICCA and Canada further noted that targeted development banks would ensure that the financing goes beyond chemicals and waste and links to biodiversity, climate change and sustainability agendas for which similar guidance are being developed.

The EU/MS presented their proposal for textual changes for paragraph ALT 11 (see Annex A). The Africa Group pointed out that the insurance sector should be included in the proposed text. The Africa Group supported by IUTC and CIEL also expressed that in order to address the double standards of multinational companies operation in developed versus developing countries there is a need to address basic minimum standards guiding how companies in different countries ought to ensure that their operations protect the environment and human health irrespective of the state of their national legislation.

When closing the discussions on this paragraph, the Co-facilitator noted that based on the discussion the VWG will note that the original paragraphs 10 and 11 are either considered as redundant or not the right basis for further discussions.

II. Financing the Secretariat (page 16, Section 3)

The Co-facilitator Mr. Ormond opened this agenda item summarizing the written submissions received from stakeholders on this topic by 11 December 2020 for the second round of electronic feedback. He then opened the floor for comments on the paragraphs as shown on the screen.

(i) Paragraph 18

The VWG generally supported the need to strengthen financing for the Secretariat and most participants supported the idea to call for contributions from each stakeholder group. CIEL, supported by ITUC, proposed to add sentence "as well as through contributions from the international fund" referring to CIEL's proposal to establish a new international fund, which could also be used to finance the Secretariat. WHO clarified their proposal to replace "all stakeholders" with "other stakeholders" as there is a specific reference earlier in the text to governments who are also stakeholders.

The GAHP representative then shared her experience from the 2006-2014 SAICM Secretariat budget discussions during which apparently hardly any stakeholder showed interest to finance the Secretariat. She noted that the lack of sufficient funding was the reason why the implementation of SAICM has not been successful as it could have been and this statement was supported by the Africa Group and Switzerland. She questioned whether the best way to ensure a stable financing for the Secretariat would be to include this into the instrument text or rather have a resolution for adoption by ICCM5. Besides that, she pointed out that the size of the budget would regularly be discussed at meetings of the governing body. Regarding the language in this paragraph, she urged the group to strengthen the language, e.g. to not only "identify" the costs but "approve" or "adapt" it; to include "essential" before costs; as well as to say that the Secretariat should be financed "based on an indicative voluntary scale". GAHP then proposed new text for this paragraph as follows "*A core budget for the beyond 2020 instrument for the operating costs of the Secretariat, including conference services, meetings, staff costs and office costs, is essential. The core budget should be financed by voluntary contributions from governments based on an indicative scale and contributions from other stakeholders in accordance with their abilities.*". CIEL, the EU/MS, Norway and Switzerland welcomed the new proposal and expressed interest to further work on this proposed text.

GRULAC again asked for more time to discuss internally whether they can support this paragraph, however they would fully support the need for financing the Secretariat. Colombia highlighted that GRULAC had made a proposal at the beginning of this negotiation process for a specific, independent financial fund for implementation of the new instrument and requested for more time to consider the dedicated external financing, noting that the discussion on financing the Secretariat should be linked to the discussion on financial support for implementing the new instrument.

Switzerland proposed, as previously stated in their written submission, that paragraph 18 is a chapeau paragraph to point out that contributions are needed from all stakeholders within in their capacities. The chapeau paragraph could be shortened, and content be moved to the subsequent paragraphs. Canada and Norway also expressed their openness to potentially shortening this paragraph.

Iran highlighted the importance and primary role of governments and industry to contribute to financing the Secretariat because these stakeholder groups have more financial resources, while noting some "ambiguity" in demanding "all stakeholders" to contribute to the Secretariat budget. He stated that the industry does not meet its responsibility in this regard.

The Africa Group reiterated GAHP's point in it intervention highlighting that the independent evaluation of SAICM (2006-2015) clearly states that the Secretariat could not fulfil all its functions due to lack of funding. She stated that even if it was a voluntary approach there would be a responsibility as governments to fund. She noted that it cannot just be the responsibility of industry to fund the Secretariat. She proposed to assess the indicative contributions and then communicate what is expected from governments and industry to fund, noting that governments also have the responsibility for mainstreaming at the national level

Lastly, the EU/MS intervened to reiterate that they would also consider sustainable and predictable financing for the Secretariat and that any approach in this regard should be voluntary but indicative.

(ii) Paragraphs 19-22

Mr. Ormond provided a short summary of the written submissions received on these paragraphs. He also noted the proposal by Canada and Japan to combine these paragraphs as presented on the screen.

With regard to these 3 paragraphs, CIEL indicated that the text should reference that contributions should be non-earmarked to enable the Secretariat to use these funds in accordance with priorities and needs. CIEL noted that there is a need to ensure full transparency of legal agreements that provide funding or other in-kind contributions. GAHP and the USA reiterated the need to include a reference to transparency in the text.

Japan expressed its appreciation for the inclusion of its proposal on paragraph 20 to specify expected contributions by type rather than by stakeholder. In this proposal, the Secretariat would be requested to list the expenditure costs of each item, which would serve as a basis for stakeholders to monetise their in-kind contributions.

WHO requested the deletion of "sector" before "sector participation" in paragraph ALT 20 c) as they consider it unnecessarily limiting and it could be misinterpreted to state that sectors other than the environment might have to fund their own participation in the beyond 2020 process. The USA supported this request.

GAHP reminded the VWG that there is a need to differentiate between the core budget, i.e. the operational costs of the Secretariat and other activity costs. She further pointed out that the UN has strict rules regarding in-kind contributions and the costs of in-kind contributions for meetings for example would usually not be carried by the Secretariat. Thus, GAHP, supported by the EU/MS, Norway, Switzerland and the US requested that the text is consulted with UNEP Finance colleagues to ensure accordance with UN rules and report back to the group.

The Africa Group highlighted the need to increase funding for the means for implementation as well. It would be important to support countries in implementing their national plans. Additionally, options for financial support for national level implementation should be explored such as through the Africa Group's proposal of financial contribution of 0.5% of industry's annual turnover as well as, through the GEF and the Special Programme. GAHP agreed that there is a need to increase funding on means of implementation at the national level, however, these funds would not necessarily go through the Secretariat.

Norway expressed its reservations regarding the current formulation of the ALT 20 text on in-kind contributions. CIEL, GRULAC and Switzerland reiterated the point made by Norway that ALT 20 is not clearly formulated, including the role of the Secretariat. GAHP noted that Alt 20 seems to mix contributions for implementation of the beyond 2020 instrument and in-kind support for the operating costs of the Secretariat.

The Co-facilitator summed up the discussions and noted that the VWG would revert to the original text as presented in document SAICM/IP.4/3. The VWG noted that further work on financing of the Secretariat is needed and the Co-facilitators stated that this will be included in their recommendation to the ICCM5 Bureau for further consideration.

3) Outcome of the VWG and next steps

The Co-facilitator Mr. Hernaus stated that having heard the VWG views and comments during the past three meetings of this Virtual Working Group and through the written submissions, the co-facilitators have prepared the outcome document of this virtual working group to reflect the discussions held, compromise text proposals, and new or alternative text, as appropriate. He mentioned that a draft of this outcome document was circulated to the participants of the virtual working group on Monday, 8 February 2021.

He noted that the outcome document of this VWG contains a summary of stakeholders' written inputs and oral interventions during the virtual meetings, and the final document will be finalized by the Co-facilitators and will be posted online under the dedicated VWG webpage and presented to the ICCM5 Bureau for their consideration.

Mr. Hernaus noted that the ICCM5 Bureau has requested that the Virtual Working Groups will take a pause while the ICCM5 Bureau, the IP Co-Chairs and the Secretariat reflect on the lessons learned from this virtual process. Should it be decided to allow more time for additional meetings, he mentioned that the VWG will continue the discussions on financial considerations, including the three proposals on private-sector involvement presented so far: the capacity building clearing house mechanism (ICCA), the proposal for a coordinated tax or fee on the chemical industry (IPEN) and the proposal for the chemical industry to contribute 0.5% of the industry's annual revenue to fund the implementation of SAICM National Implementation (African Group); dedicated external financing as proposed by Colombia; and financing the Secretariat.

The Co-facilitators thanked all members of this VWG for their valuable inputs and comments through written submissions and at the past four virtual meetings. They expressed their gratitude for the participants continued engagement and active participation in the discussions, which will help facilitate the deliberations at IP4.

Annex A:
Proposed textual changes during the VWG meeting by the EU and its Member States, with a number of additions or deletions of text from VWG participants

Paragraph 8

[Private-sector throughout the value chain should increase their efforts and financial contributions, including in-kind [and through a range of approaches and partnerships (add GRULAC)], to the implementation of the sound management of chemicals and waste, in order to avoid, or where no possible mitigate [their (delete CIEL)] inputs on the environment and health. These contributions should be used to support domestic chemicals management schemes and to finance the costs of, and among others, data generation, the identification and communication of hazards, comprehensive risk assessment and the measures for its mitigation, strengthening of all stakeholder's technical capacity, implementing PRTRs, prevention of exposure, the attention of exposed communities, compensation for resulting environmental and human harm and contaminated sites remediation.]

Paragraph 9

[Governments should implement actions, legislation and appropriate economic instruments, [inter alia, (add Iran)] to further encourage private sector involvement in the integrated approach, including the responsibilities of industry and national administration; [globally coordinated (add CIEL)] levies and taxes; the provision of incentives for the sound management of chemicals and waste; and the promotion of measures by industry [such as (add USA)] to internalise costs to further implement the polluter pays principle and extended producer responsibility [as set forth in national regulations (add Brazil)].]

Paragraph ALT 10

[In line with the three components of the integrated approach to financing, i.e. mainstreaming, private sector involvement and dedicated external finance, private sector while going beyond its legal obligations to commit to support the beyond 2020 objectives and targets of sound management of chemicals and waste by providing investment and in-kind contributions, including to implement the GHS globally and through fees paid to support domestic chemicals management, including enforcement, data generation, data sharing, partnerships~~,~~ and capacity building. Private sector to further advance the sound management of chemicals and waste through in-kind commitments to innovation, training, safety and sustainability initiatives as well as compliance with chemical regulatory requirements in jurisdictions around the globe.]

Paragraph ALT 11

[Invites the [financial sector (delete USA)] [Multilateral Development Banks (add USA)] to develop policies, guidance and recommendations for investments to minimize economic risks associated with unsound chemicals and waste management [and its link to biodiversity and climate change (add ICCA)], with the goal to facilitate investment flows towards safer chemicals and waste management [and cleaner production (add Africa)], including through the development of sustainability-centered loan criteria for the banking and investment sector engaged with companies in the chemicals and waste sector and associated sectors.]