Co-facilitators’ Proposed Draft for Section H: Mechanism for Updating the Framework
in response to the open discussion of the VWG held on 5 November 2020 and
stakeholder submissions received by 15 November 2020

3 December 2020

KEY

- **Italics** – Text in italics represents the context and the co-facilitators’ presentation of the paragraph.

- Normal font – represents the proposal from the co-facilitators, based on the compilation text, the 5 November meeting of the Virtual Working Group (VWG), and the submissions received by 15 November through the request for electronic input.

- **X.** The paragraph numbering remains true to the paragraph numbering in the compilation text. New, additional, or reorganized proposals appear as “bis” paragraphs with annotations in the text for transparency purposes.

**Paragraph 1**

H. Mechanism for updating the framework\(^1\)

1. A process for updating sections or the totality of the Beyond 2020 framework shall be initiated by the international conference triggered through the adoption of a resolution calling for an updating process. This shall occur when there is a need to keep pace with changes and needs in global chemicals and waste management.

*Based on the open discussion on 5 November and the seven submissions received via electronic input, most stakeholders agree to establish a mechanism for updating the beyond 2020 instrument. A number of those stakeholders provided caveats that the process should not be too onerous and inflexible to meet the needs of the instrument. Another stakeholder proposed to delete the second sentence of para 1 because it seems unnecessary. Several stakeholders also expressed the need to ensure that the timeframe for updating be reasonable (and indicated that the proposed 2030, every 10 years, or every 5 years may not be long enough). The co-facilitators would therefore suggest removing the opening and closing bracket from this section given that there is general agreement to include it. The co-facilitators also suggest that this section be kept simple and not duplicate the other sections.*

There were two diverging views on this section, both of which suggest the deletion of this paragraph. One stakeholder noted its concern for institutional burden, in particular for developing countries, and the diversion of limited resources, and the other noted that there is no need for this text given that the international conference can initiate a process for updating the instrument at any time. The VWG may wish to give consideration to these views and should be prepared to further discuss on 3 December.

*One stakeholder requested a clarification on what the intended use or scope of this may be and their understanding is that this could be a backup of SPI in relation to new issues of concern.*

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\(^1\) Elements that have been inserted in this section have been taken from Document SAICM/IP.3/5/Corr.1 that was prepared by the co-chairs for IP3 but was not discussed in detail. This section was inserted upon consultation with the Bureau.
Japan, in keeping with its views related to Section G with respect to its dual monitoring and impact evaluation approach to reporting, proposes alternative text for paragraph 1 that would read: “A process for updating sections or Annex of the Beyond 2020 instrument shall be initiated by ICCM taking into account the results of process and impact evaluation of the Beyond 2020 instruments under section G. Update of Annex could occur when needs to keep pace with social changes and additional needs in global chemicals and its waste management are identified.” Should the VWG agree in Section G that such an approach is to be considered, the VWG will need to consider such corresponding text here in Section H.

One stakeholder proposes additional text for the end of paragraph 1 that would read: “…This shall occur when there is a need to keep pace with changes and needs in global chemicals and waste management, and also take particular consideration of the evaluation of the entire new instrument every 10 years, which could be a trigger for more substantial updates.”

Taking into account these views, the co-facilitators propose to:

- delete “sections and the totality of” and “triggered through the adoption of a resolution calling for an updating process” to keep it short and clear in its objective. The international conference only takes decisions through the adoption of resolutions so that does not need to be stated and the international conference can decide what to propose as needing to be updated.
- add a phrase to reflect the link between section G and H, taking into account the existing text on where the need for any update might come from in the second sentence of paragraph 1.
- Leave open the question of the timeframe, as we note that there appears to be very little support for agreeing to periodic updates every 10 or 5 years. Stakeholders should therefore be prepared to discuss the various timeframes proposed at the 3 December VWG.

The paragraph would then read as follows:

1. A process for updating sections or the totality of the Beyond 2020 framework shall be initiated by the international conference triggered through the adoption of a resolution calling for an updating process. This shall occur when there is a need to keep pace with changes and needs in global chemicals and waste management, taking into account the results of the assessment of the information and data called for from all stakeholders under section G and the overall effectiveness of the Beyond 2020 instrument every [10][5] years.

Paragraph (i)

(i) The process for updating the instrument must should take into consideration reporting, reviewing and evaluation processes and timelines, and must include, as necessary, recommendations of which specific sections of the agreement should or must be retained, amended, eliminated or updated.

Japan, in keeping with its proposal in Section G with respect to a dual monitoring and impact evaluation approach to reporting, proposes the deletion of subparagraph (i) since it is captured in their new proposed text under paragraph 1 above. Should the VWG agree in Section G that such an approach is to be considered, the VWG will need to give consideration to such corresponding text here in Section H.

The co-facilitators note that in the November 5 discussion and in the written submissions, a number of stakeholders called for the process of updating the instrument to not be overly prescriptive or cumbersome. The co-facilitators therefore propose that this paragraph be deleted. Should the VWG disagree, the co-facilitators would propose that the use of obligatory text choices, such as “must,” is best deleted.
Paragraph (ii)

(ii) The international conference may create a mechanism such as a working group, monitoring body, or intersessional process, or another mechanism as appropriate, for the purpose of developing recommendations and options including timelines for implementation for updating.

There was general dissatisfaction with paragraph ii, primarily in that it provides authority to the international conference, which, as one stakeholder rightly noted, should be in Section A, if it is needed. The co-facilitators therefore propose the deletion of this paragraph.

Paragraph (iii)

(iii) The mechanism will be empowered through delegated authority by the international conference to direct the Secretariat or any subsidiary body or working group to undertake work in support of its mandate.

There was also general dissatisfaction with paragraph (iii), especially use of the terms “empowered,” “delegated authority,” and the phrase “in support of its mandate.” In addition, if there are responsibilities that need to be assigned to the international conference, those responsibilities should be included in Section A. The co-facilitators therefore propose that this paragraph be deleted. Should the VWG disagree, the co-facilitators would note that stakeholders have called for further clarification regarding the intent of this sub-paragraph and further discussion would be needed.

Paragraph (iv)

(iv) Amendments may also be proposed by any government stakeholder and will require formal adoption by the international conference.

One stakeholder suggests changing the word “government” to “stakeholders.” This is a significant difference from the original text and seems worthy of further consideration by the VWG. Therefore, the co-facilitators are putting [government] in brackets for purposes of discussion but will remove it if the discussion is such that it is clear that all stakeholders are comfortable with the suggestion to allow any stakeholder to propose an update. In order to consistent with the whole paragraph, the co-facilitators propose to change the word “amendments” to “updates”.

The sub-paragraph would then read as follows:

(iv) Such updates may also be proposed by any [government] stakeholder and will require formal adoption by the international conference.

Paragraph (v)

(v) The text of any proposed amendment shall be communicated to all international conference stakeholders and focal points by the secretariat allowing for sufficient time for review and consultation.

One stakeholder suggested a revised text for (v) that would read: “The text of proposed amendment updates should be communicated to all international conference stakeholders and focal points by the Secretariat allowing for sufficient time for review and consultation at least six months before ICCM at which it is proposed for adoption.” Accordingly, the communication role of the Secretariat should be
reflected into Section C (Secretariat) under V. Institutional arrangements. The VWG may want to consider this suggestion, including its movement to Section C.

In order to be consistent with the whole paragraph, the co-facilitators propose to change the word “amendments” to “update” and delete the word “international conference” to allow other stakeholders to receive the communication as well. The communication should be made six months in advance as called for in the rules of procedure (the Secretariat is looking into the time period specified in the Rules of Procedure).

The sub-paragraph would then read as follows:

(v) The text of any proposed update shall be communicated to all stakeholders and focal points by the Secretariat at least six months in advance of the international conference.

Paragraph (vi)

(vi) The budget for the mechanism process to update the instrument will be provided for via the operational budget adopted by the international conference.

There were no comments on this sub-paragraph. Therefore, the co-facilitators have proposed only minor editorial changes for consistency purposes.

Hence, the clean text would read:

H. Mechanism for updating the framework

1. A process for updating the Beyond 2020 framework shall be initiated by the international conference. This shall occur when there is a need to keep pace with changes and needs in global chemicals and waste management, taking into account the assessment of the information and data called for from all stakeholders under section G: Mechanisms for Taking Stock of Progress and the overall effectiveness of the beyond 2020 instrument [every 10][5] years.

2. Such updates may be proposed by any [government] stakeholder and will require formal adoption by the international conference. The text of any proposed update shall be communicated to all stakeholders and focal points by the Secretariat at least six months in advance of the international conference. The budget for the process to update the instrument will be provided for via the operational budget adopted by the international conference.

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2 If this section impacts the work and mandates of the international conference under Section V. Institutional arrangements and its rule of procedures, those should be updated accordingly.