

## FIRST SESSION OF THE INTERGOVERNMENTAL NEGOTIATING COMMITTEE TO PREPARE A GLOBAL LEGALLY BINDING INSTRUMENT ON MERCURY: 7-11 JUNE 2010

The First Session of the Intergovernmental Negotiating Committee (INC 1) to prepare a Globally Legally Binding Instrument on Mercury begins today in Stockholm, Sweden.

During INC 1 delegates will consider the structure of a legally binding instrument, hold an initial discussion of substantive provisions, consider standard provisions typically included in multilateral environmental agreements, and agree a timetable for further discussion of provisions.

### A BRIEF HISTORY OF THE GLOBAL ISSUE OF MERCURY

Mercury is a heavy metal that is widespread and persistent in the environment. It is a naturally occurring element and can be released into the air and water through weathering of rock containing mercury ore or through human activities such as industrial processes, mining, deforestation, waste incineration and burning of fossil fuels. Mercury can also be released from a number of products that contain mercury, including dental amalgam, electrical applications (e.g., switches and fluorescent lamps), laboratory and medical instruments (e.g., clinical thermometers and barometers), batteries, seed dressings, antiseptic and antibacterial creams and skin-lightening creams. Mercury exposure can affect fetal neurological development and has been linked to lowered fertility, brain and nerve damage and heart disease in adults who have high levels of mercury in their blood.

**21ST SESSION OF THE UNEP GOVERNING COUNCIL/GMEF:** In February 2001, the UNEP Governing Council/Global Ministerial Environment Forum (GC/GMEF) discussed the need for a global assessment of mercury. Decision 21/5 called for the initiation of a process to undertake a global assessment of mercury and its compounds, and requested that the results of the assessment be reported to the 22nd session of the Governing Council. It also decided to consider if there is a need for assessments of other heavy metals of concern. The decision included a clause underlining the need to take preventive actions to protect human health and the environment, mindful of the precautionary approach.

**22ND SESSION OF THE UNEP GOVERNING COUNCIL/GMEF:** At its 22nd session in February 2003 in Nairobi, the UNEP GC/GMEF considered UNEP's Global Mercury Assessment report and in Decision 22/4 V noted that there is sufficient evidence to warrant immediate national action

to protect human health and the environment from releases of mercury and its compounds. The decision requested the Executive Director to invite submission of governments' views on medium- and long-term actions on mercury, and to compile and synthesize these views for presentation at the Governing Council's 23rd session, with a view to developing "a legally binding instrument, a non-legally binding instrument, or other measures or actions."

**23RD SESSION OF THE UNEP GOVERNING COUNCIL/GMEF:** UNEP GC-23/GMEF took place from 21-25 February 2005, in Nairobi. Delegates adopted Decision 23/9 IV, which requested the Executive Director to further develop UNEP's Mercury Programme by initiating, preparing and disseminating a report summarizing supply, trade and demand information on mercury. The decision requested that governments, the private sector and international organizations take immediate actions to reduce the risks posed on a global scale by mercury in products and production processes, and requested the Executive Director to present a report on progress in the implementation of the decision as it relates to mercury to GC-24/GMEF. It concluded that further long-term international action was required to reduce such risks and decided to assess the need for further action on mercury, including the possibility of a legally-binding instrument, partnerships, and other actions at GC-24/GMEF.

**IFCS-V:** The fifth session of the Intergovernmental Forum on Chemical Safety (IFCS-V) was held in Budapest, Hungary, from 25-29 September 2006. IFCS-V adopted the Budapest Statement on Mercury, Lead and Cadmium, which, *inter alia*: urged IFCS participants to initiate and intensify actions, as appropriate, to address the excess supply of mercury on a global scale through a variety of possible measures, such as an export prohibition, prevention of excess mercury from re-entering the global market, and a global phase-out of mercury primary production; invited the UNEP GC to initiate and strengthen voluntary actions at the global level for mercury, lead and cadmium; and prioritized considering a range of options including the possibility of establishing a legally-binding instrument, as well as partnerships.

**24TH SESSION OF THE UNEP GOVERNING COUNCIL/GMEF:** In February 2007, GC-24/GMEF discussed the issue of mercury extensively and participants' preferences for international cooperation on mercury that ranged from an immediate negotiating process towards a legally-binding instrument, to incorporating mercury into existing agreements, or concentrating on voluntary actions, especially through partnerships. Delegates agreed in Decision 24/3 IV that a "two-track" approach could be employed to take forward actions on mercury, while keeping open the path to a binding instrument in the future. The UNEP Executive Director was requested to

prepare a report on mercury emissions and strengthen the UNEP mercury partnerships. An *ad hoc* open-ended working group (OEWG) of government and stakeholder representatives to review and assess options for enhanced voluntary measures and new or existing international legal instruments for addressing the global challenges posed by mercury was also established. Decision 24/3 IV, provides the following priorities, to: reduce atmospheric mercury emissions from human sources; find environmentally sound solutions for the management of waste containing mercury and mercury compounds; reduce global mercury demand related to use in products and production processes; reduce the global mercury supply, including considering curbing primary mining and taking into account a hierarchy of sources; find environmentally sound storage solutions for mercury; and address the remediation of existing contaminated sites affecting public and environmental health; and increase knowledge on areas such as inventories, human and environmental exposure, environmental monitoring and socio-economic impacts.

**FIRST MEETING OF THE OEWG ON MERCURY:** The First Meeting of the OEWG to Review and Assess Measures to Address the Global Issue of Mercury was held from 12-16 November 2007 in Bangkok, Thailand. The OEWG discussed options for enhanced voluntary measures, and new or existing international legal instruments on mercury. Delegates agreed on seven intersessional tasks to be undertaken by the Secretariat, including analyses of: financial considerations of a free-standing convention, a new protocol to the Stockholm Convention and voluntary measures; sustainable technology transfer and support; implementation options; organization of response measures; costs and benefits for each of the strategic objectives; meeting demand for mercury if primary production is phased out; major mercury-containing products and processes with effective substitutes; and funding available through the Global Environment Facility and the Strategic Approach to International Chemicals Management.

**SECOND MEETING OF THE OEWG ON MERCURY:** The Second Meeting of the OEWG on Mercury convened in Nairobi, Kenya, from 6-10 October 2008. The OEWG discussed a future mercury framework including: elements to be addressed by a mercury framework; the type of framework to be used; and the capacity building, financial and technical support required to deliver on the elements. Delegates agreed on one legally binding option and three voluntary options for consideration by the UNEP GC/GMEF.

**25TH SESSION OF THE UNEP GOVERNING COUNCIL/GMEF:** UNEP GC-25/GMEF took place from 16-20 February 2009, at the UN Office in Nairobi, Kenya. Delegates agreed to develop a legally-binding agreement on mercury. Decision GC 25/5 agreed to further international action consisting of the elaboration of a legally binding instrument on mercury, which could include both binding and voluntary approaches, together with interim activities, to reduce risks to human health and the environment. It also requested the Executive Director to convene one OEWG meeting in 2009, and an INC, commencing its work in 2010 with the goal of completing its work by GC-27 in 2013. Agreement could not be reached on leaving the "door open" to consider other heavy metals, but the decision does recognize that the mandate of the INC may be supplemented by future decisions of the GC.

**AD HOC OEWG TO PREPARE FOR THE INC ON MERCURY:** This meeting convened from 19-23 October 2009, in Bangkok, Thailand. The OEWG agreed to recommend rules of procedure to the INC, as well as intersessional work for the Secretariat to prepare documentation for the INC, including options for structure of the instrument and a description of options for substantive provisions.

**MERCURY TECHNICAL BRIEFING:** Per Bakken, UNEP Chemicals, introduced the briefing, which was facilitated by Brenda Koekoek, UNEP Chemicals.

**Mercury in Products and Processes:** Carolyn Vickers, World Health Organization (WHO), said that WHO recommends the phase-out of mercury thermometers and mercury blood pressure

measuring devices, and that affordable, mercury-free and solar-powered options are available. For dental amalgam, a Global Phase Down/Preventive Approach is being explored through the Global Mercury Partnership, and potential alternatives are promising.

Y.R. Singh, Alkali Manufacturers' Association of India, introduced the Government-Industry partnership Corporate Responsibility on Environmental Protection and the situation of using mercury cells in chlor-alkali industry, noting the emissions of mercury by this sector have been drastically reduced in India and the Government has set a plan with a target to convert all mercury-cell plants to membrane-cell process by 2012.

**Mercury Storage and Waste:** John Holmes, Integrating Knowledge to Inform Mercury Policy (IKIMP) and Sven Hagemann, Gesellschaft für Anlagen- und Reaktorsicherheit mbH, presented a strategic framework for storage of elemental mercury. Holmes explained that the decision-making framework developed by IKIMP is a knowledge exchange initiative which provides a mechanism for use of scientific and technical knowledge in public policy-making. Hagemann discussed the technical concepts for storage and disposal, emphasizing that the term "storage" can have two distinct meanings: long-term management and storage in warehouses, which is reversible; and underground storage, or geological disposal, which precludes the possibility of resource recovery.

Ibrahim Shafii, Basel Convention Secretariat, reviewed the development of technical guidelines on the environmentally-sound management of mercury waste under the Basel Convention, emphasizing that policies to reduce mercury in products would be the best way of controlling mercury in waste.

**Mercury and Mining:** Ludovic Bernaudat, United Nations Industrial Development Organization (UNIDO), discussed initial results from Artisanal and Small Scale Gold Mining (ASGM) strategic planning activities. He described activities in francophone western Africa, and said ASGM is so complex, many stakeholders must be engaged across different sectors to holistically assess the situation.

Susan Keane, Natural Resources Defense Council, described activities in Cambodia and the Philippines, and said the world is currently experiencing the biggest gold rush in history. Explaining that ASGM contributes to poverty alleviation in rural areas, she noted that ASGM in the Philippines produces 80% of the country's gold.

Benjamin Davies, International Council on Mining and Metals (ICMM), discussed the relationship between ASGM and the formal mining sector. He highlighted ICMM's work in partnership with the World Bank and Communities and Small-Scale Mining. He outlined the potential for large-scale mining to help legitimize sometimes illegal activities, as well as pilot activities to refine engagement practices.

**Paragraph 29 Study and Mercury Emissions from Coal:** John Munthe, Swedish Environmental Research Institute reported that pursuant to Paragraph 29 of the UNEP decision on mercury, a number of countries and organizations had submitted information, but additional data is still needed to prepare for the report. He said expected results of the study would include information on: updated emissions inventories; cost and efficiencies for various emission controls; and different scenarios of emission control options.

Lesley Sloss, International Energy Agency Clean Coal Center (IEA CCC) discussed mercury emissions from coal, reviewed the process optimization guidance document, and noted that the completed document will be posted on the websites of UNEP, IEA CCC and various nations later this year.

Gregory Scott, South African Department of Environmental Affairs, presented South Africa's coal and power generation profile. On South Africa's draft mercury emission profile, he explained the high degree of variability relates to the uncertainty in the mercury concentrations in the coal and the assumptions made in the calculations.