

MERCURY INC4 HIGHLIGHTS: SATURDAY, 30 JUNE 2012

INC4 met in Plenary to hear reports from contact groups, and to discuss: how to regulate trade and supply of mercury products; final provisions of the treaty; institutional arrangements; health aspects; and national implementation plans. Contact groups met throughout the day and into the night seeking common ground on the most complex issues. A “Swiss Break” was also held in the evening.

PLENARY

PRODUCTS AND PROCESSES: Contact group Co-Chair Reville said the group: discussed the structure of relevant annexes, specifically whether to use a negative, positive or hybrid list approach; and started to review operative articles. The INC asked the contact group to continue its work.

IMPLEMENTATION AND COMPLIANCE: Contact group Co-Chair Nieto reported the group had drawn up a list of issues of agreement and disagreement, and the INC asked the contact group to reconvene to consider new text based on that list.

EMISSIONS AND RELEASES: Contact group Co-Chair Roberts reported that the group worked through the non-paper reflecting text from various CRPs, discussing the aim of Section G and the role of inventories. He said definitions of BAT/BEP will be crucial to reaching agreement, and greater clarity is needed about the sources that will be set out in Annex F (Air emissions) and potentially Annex G (Releases to land and water). The INC asked the group to continue its work.

LEGAL GROUP: Co-Chair Susan Biniac (US) informed plenary that they had concluded consideration of the agreed text in Articles 9 (ASGM), 14 (Contaminated sites), and 18-20 of Section J (Awareness-raising, research and monitoring, and communication of information) (CRP.20). She noted the need to define the scope of words like “processing” and “use and consumption,” as well as to determine timing of reporting obligations.

SUPPLY AND TRADE: The Secretariat presented text on Sections C (Supply) and D (International trade in mercury [and mercury compounds]). The US highlighted its submission (CRP.2), emphasizing that major sources of mercury should be removed from circulation where possible. The EU reiterated the need for strong provisions on primary mining and all significant sources, as reflected in its submission (CRP.7).

SWITZERLAND, the PHILIPPINES, the AFRICAN GROUP and AUSTRALIA supported phasing out primary mining. The AFRICAN GROUP called for measures to create alternative employment, and financial and technical assistance for parties with mercury stocks.

NORWAY and JAPAN said primary mercury mining should be prohibited. NORWAY said supply of mercury from several other sources should be phased out, and that a PIC procedure could be a possible solution for trade, while JAPAN called for maintaining controlled supply for specific purposes, and clear definitions of mercury and mercury compounds.

CHILE cautioned against using an MEA to ban mining, and, as an alternative, proposed restrictions on mercury resulting from primary mining. She urged introduction of a reference to “mercury” mining, noting other types of mining may produce trace mercury with negligible environmental and health impacts. CHINA called for flexibility regarding new and existing mines, stressing the need to ensure mercury supply for existing products and VCM production. IRAQ said the article should allow: extraction of mercury from other sources without limitations; and a clear mechanism for prior notification in trade.

Regarding trade, the PHILIPPINES, supported by IPEN and opposed by CHINA, called for trade licensing systems, with publicly available records maintained by the Secretariat. CANADA said it did not support a PIC procedure, but preferred the approach used under the Stockholm Convention. AUSTRALIA and CANADA urged consistency between the new instrument and WTO rules. IPEN stressed the need to consider illegal trade. The INC agreed to establish a contact group on the issue chaired by Karel Blaha (Czech Republic) and Abdullah Al-Rasheed (Saudi Arabia).

INSTITUTIONAL ARRANGEMENTS: On the functions of the COP, the Committee agreed to forward the text to the legal group with brackets on issues linked to ongoing negotiations. On the secretariat, SWITZERLAND, the EU and NORWAY supported, and the US, the AFRICAN GROUP, CANADA, AUSTRALIA, and MEXICO opposed, a reference to building on the enhanced cooperation and coordination between the Basel, Rotterdam and Stockholm conventions’ secretariats.

FURTHER DEVELOPMENT OF THE CONVENTION: On amendments to the convention, the INC agreed that thresholds for entry into force be based on the number of parties at the time at which an amendment was adopted, forwarding the text, with brackets on voting procedures, to the legal group.

FINAL PROVISIONS: Ratification: Chair Luginer noted brackets on a provision that requires parties to identify the legislation or other measures that permit them to implement their obligations upon ratification. COLOMBIA, AUSTRALIA and JAPAN supported deleting this paragraph and KENYA, CHILE and IRAN added that ratification often precedes the internal legislative processes to fully implement a treaty. The US called for retaining the paragraph, and CANADA and the EU said it requires further work. The paragraph will be further addressed during INC5.

Entry Into Force: Chair Lugris noted that in Article 32 text on the number of ratifications required for entry into force remains bracketed. JAPAN preferred postponing discussion of this article pending resolution on control measures. SWITZERLAND noted that the Basel Convention entered into force after the deposit of 20 instruments, and expressed a preference for 30 instruments for a mercury convention. AUSTRALIA, based on “past experience” supported a threshold of 50 instruments. The EU opposed, and MEXICO and the AFRICAN GROUP supported, inclusion of a paragraph stating legal obligations for developing countries are conditional upon establishment of a stand-alone multilateral fund. The text was forwarded to the legal group with these brackets remaining.

Reservations: Presenting Article 33, UNEP Legal Officer Masa Nagai noted that the current text includes two options, one allowing and one prohibiting reservations to the convention. NORWAY, COLOMBIA, the EU and SWITZERLAND opposed allowing reservations. The US, CUBA and MEXICO recommended, and INC agreed, to postpone this discussion to INC5.

Withdrawal: Chair Lugris noted brackets in Article 34(1) refer to the number of years after entry into force that a party may withdraw from the convention. The EU supported allowing withdrawals after three years, while the US supported a one-year withdrawal period. The text was forwarded to the legal group.

SECTION J: In the morning, contact group Co-Chair Riviera presented the report on discussions on Article 23 (Effectiveness evaluation), noting there is disagreement among delegates regarding the final form of reporting obligations (Article 22) and the relationship of these with the convention’s effectiveness evaluation.

In the afternoon, GRULAC presented a proposal on Article 20bis (Health aspects) (CRP.19), under which parties shall, *inter alia*, implement programmes on the prevention of occupational exposure and facilitate and assure proper access to health care to populations affected by mercury exposure. The AFRICAN GROUP and several countries and NGOs supported the proposal. IPEN urged referring to “vulnerable populations” and, with the INTERNATIONAL INDIAN TREATY COUNCIL and others, called for specific references to indigenous peoples.

NEW ZEALAND, MOLDOVA, the US and the EU said a stand-alone article on health aspects was not needed and preferred addressing health aspects in various sections of the convention. CANADA stressed that the convention should not be a substitute for the responsibility of national governments on human health, and with SWITZERLAND, underlined that the proposal exceeds the scope of the convention. JAPAN said overlap exists between this proposal and other articles, and with the work of WHO. WHO said any of its member states can request the type of assistance described in the GRULAC proposal.

On Article 21 (Implementation plans), the US emphasized the need to put in place national implementation plans (NIPs) prior to ratification. The EU and CANADA noted NIPs should be discretionary. MEXICO, CHILE, and others, said NIPs are key to diagnosing the state of mercury use in a country and defining actions to address hazards, while NEW ZEALAND highlighted national action plans (NAPs) are already in the text of the convention. ARGENTINA, BRAZIL, the AFRICAN GROUP, CHILE and IPEN highlighted the need for financial support for developing NIPs.

Chair Lugris opened discussions on Article 22 (Reporting), noting its dependence on progress on other issues.

Delegates decided to forward articles 20bis, 21 and 22 to the contact group on Section J.

FINANCIAL RESOURCES AND TECHNICAL

ASSISTANCE: Contact group Co-Chair Ferreira reported on progress discussing Article 16 (Technical assistance) in the morning, and Co-Chair Peitz reported on Article 15 (Financial resources and mechanisms) in the afternoon, noting the group had incorporated new proposals into a document and will need to continue work to finalize the first reading.

CONTACT GROUPS

FINANCIAL RESOURCES AND TECHNICAL

ASSISTANCE: The contact group discussed Article 15 on financial resources and mechanisms, and considered: whether or not to finance the “full” incremental costs of implementation; priorities for funding; and whether the financial mechanism should be a stand-alone mechanism, “an existing mechanism,” or the GEF. One developing country stressed the need for the INC to establish a timetable for the allocation of funds, and another called for text describing funding arrangements for the interim period. In the afternoon, the contact group met to finalize a first consideration of the text, with one developing country proposing that all parties contribute to the fund, and another urging the inclusion of reference to “the entity or entities operating the mechanism” in a paragraph concerning the leveraging of finances.

SUPPLY AND TRADE: The contact group used CRP.7 as a basis for discussion. A few participants expressed concern at the difficulty of implementing primary mining bans in some developing countries and delegates discussed whether and how to provide flexibility to these countries. Regarding a requirement to dispose of mercury and mercury compounds released as by-products in specific activities, some countries favored deleting the whole section, while others opposed listing of “non-ferrous mining and smelting operations,” stressing it could affect some recycling activities. One participant urged retention of the paragraph, noting the activities listed are significant sources of mercury and parties should work to prevent an over-supply to achieve the convention’s objectives.

PRODUCTS AND PROCESSES: The contact group met in the afternoon, identified major issues relating to both products and processes, and reconvened in the evening to begin revision of text.

IMPLEMENTATION AND COMPLIANCE: The contact group met to consider a non paper developed by the Co-Chairs based on the group’s identification of consensus elements for treaty text. Views diverged on, *inter alia*, whether the treaty should establish a mechanism and a committee, or a mechanism consisting of a committee and whether the mechanism should promote compliance or also facilitate implementation.

EMISSIONS AND RELEASES: Delegates considered three non-papers prepared by technical sub-groups on: BAT, atmospheric mercury emissions source categories (Annex F), and sources of releases to water and land (Annex E).

IN THE CORRIDORS

In contrast to the rapid pace set early in the week as delegates harvested “low-hanging fruit,” the fourth day of INC4 delivered a lower yield. Disappointment over the lack of progress in the finance contact group spilled over to other areas, including to the contact group on compliance, where participants started to “plant” brackets in a text intended to reflect areas of consensus.

Yet, seasoned delegates recalled where the text stood at this stage in the negotiations of the Stockholm Convention and reasoned that most difficult issues, like compliance and finance, require these back and forth exercises to mature, and at the current pace are still likely to be ripe for harvest by INC5.