



FIFTH SESSION OF THE INTERGOVERNMENTAL NEGOTIATING COMMITTEE TO PREPARE A GLOBAL LEGALLY BINDING INSTRUMENT ON MERCURY: 13-18 JANUARY 2013

The fifth session of the Intergovernmental Negotiating Committee to Prepare a Global Legally Binding Instrument on Mercury (INC5) begins today and is scheduled to conclude on Friday, 18 January, in Geneva, Switzerland. INC5 is expected to complete the negotiations of the text of a treaty to regulate mercury use at a global scale, with a view to adopting the treaty at a diplomatic conference to be held in Minamata, Japan, in October 2013.

Following a round of regional group meetings on Saturday, 12 January, delegates will resume negotiations focusing on a text prepared by INC Chair Fernando Lugris (Uruguay) during the intersessional period. They will also consider draft resolutions on elements of the final act to be adopted at the anticipated diplomatic conference where the instrument will be signed, including on: how to promote and prepare for the early implementation of the mercury instrument; arrangements for the interim period between the signing of the instrument and its entry into force, including arrangements for financial and technical assistance during that period; and secretariat arrangements.

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 mercury-containing products, 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.

Since 2001, the United Nations Governing Council/Global Ministerial Environment Forum (UNEP GC/GMEF) has regularly discussed the need to protect human health and the environment from the releases of mercury and its compounds.

24TH SESSION OF THE UNEP GC/GMEF: In February 2007, GC-24/GMEF discussed the issue of mercury extensively and participants' preferences for international cooperation on mercury ranged from starting a negotiating process for 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 Partnership. An *ad hoc* open-ended working group (OEWG) of government and stakeholder representatives was established to review and assess options for enhanced voluntary measures and new or existing international legal instruments for addressing the global challenges posed by mercury.

Decision 24/3 IV includes the following priorities: to reduce atmospheric mercury emissions from human sources; to find environmentally sound solutions for the management of waste containing mercury and mercury compounds; to reduce global mercury demand related to use in products and production processes; to reduce the global mercury supply, including considering curbing primary mining and taking into account a hierarchy of sources; to find environmentally sound storage solutions for mercury; to address the remediation of existing contaminated sites affecting human and environmental health; and to increase knowledge on areas such as inventories, human and environmental exposure, environmental monitoring and socioeconomic 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 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 for which effective substitutes exist; 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 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 identified elements. Delegates agreed on one legally binding option and three voluntary options for consideration by the UNEP GC.

25TH SESSION OF THE UNEP GOVERNING

COUNCIL/GMEF: UNEP GC-25/GMEF took place from 16-20 February 2009 in Nairobi, Kenya. 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 intergovernmental negotiating committee (INC) commencing its deliberations in 2010 with the goal of completing its work by GC-27/GMEF in February 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 GC decisions.

AD HOC OEWG TO PREPARE FOR THE INC ON MERCURY: This meeting convened from 19-23 October 2009 in Bangkok, Thailand. The *Ad Hoc* 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 the structure of the instrument and a description of options for substantive provisions.

INC1: The first session of the INC to prepare a global legally binding instrument on mercury convened from 7-11 June 2010 in Stockholm, Sweden. Delegates exchanged views on key elements of a convention, including: objectives; structure of the instrument; capacity building and technical and financial assistance; compliance; issues of supply, demand, trade, waste and storage; atmospheric emissions of mercury; and awareness raising and information exchange. The key outcome of INC1 was a request to the Secretariat to draft “elements of a comprehensive and suitable approach” to a legally binding instrument, which would serve as a basis for negotiation at INC2.

INC2: The second session of the INC convened from 24-28 January 2011 in Chiba, Japan. INC2 marked the first opportunity for delegates to start textual negotiations on potential elements for the mercury instrument, contained in a paper prepared by the Secretariat. INC2 achieved a first full reading of the paper and mandated the Secretariat to prepare a new draft text for further negotiation at INC3.

INC3: The third session of the INC convened from 31 October – 4 November 2011 in Nairobi, Kenya. INC3 completed a comprehensive review of the text of the draft instrument and requested the Secretariat to compile a revised draft text based on plenary negotiations, the reports of the INC3 contact groups, and the work of the legal group.

RIO +20 CONFERENCE: The UN Conference on Sustainable Development (Rio +20) took place in Rio de Janeiro, Brazil, from 20-22 June 2012. The outcome document, “The Future We Want,” contains a paragraph on the negotiation of an instrument on mercury stating that countries “welcome the ongoing negotiating process on a global legally binding instrument on mercury to address the risks to human health and the environment and call for a successful outcome of the negotiations.”

INC4: INC4 convened from 27 June – 2 July 2012 in Punta del Este, Uruguay. Progress was achieved on storage, wastes and contaminated sites, and options were narrowed on articles related to information and reporting. Views diverged on compliance, finance and control measures for products and processes, with discussions focusing on laying out the range of positions. Delegates requested: INC Chair Lugris to clean up the negotiating text and, in cooperation with the Co-Chairs of the contact groups, present possible compromise articles where there was divergence among countries; the Secretariat to analyze in cooperation with the World Health Organization the extent to which the other provisions of the draft mercury instrument reflect the content of Article 20bis on health aspects; the Secretariat to present a draft of the final act for consideration by INC5 to determine work from the moment of the signature of the instrument until its entry into force; and intersessional work on emissions and releases.

INTERSESSIONAL HIGHLIGHTS

REGIONAL CONSULTATIONS: Regional consultations in preparation for INC5 were held in Tunis, Tunisia, from 20-22 November 2012 for the African Group, back-to-back with African negotiators’ training on 23 November 2012. The Asia and Pacific Group met in Bangkok, Thailand, from 31 October-1 November 2012; the Latin America and Caribbean Group met in Bogotá, Colombia, from 26-29 November 2012; and the Central and Eastern Europe Group met in Brno, Czech Republic, from 8-9 December 2012. The consultations highlighted that there was general acceptance to use the Chair’s text as the basis for discussions at INC5, and support for the general approach set out in the scenario note for INC5.

BUREAU MEETINGS: A meeting of the INC Bureau was held in Prague, Czech Republic, from 11-12 September 2012, and was preceded by informal “Indaba” consultations with INC4 contact group Co-Chairs and regional group coordinators to review the outcomes of INC4 and prepare for INC5. A meeting of the INC Bureau was also held in Beijing, China, from 17-18 December 2012, where the Bureau agreed that only bracketed text or text not previously negotiated should be open for discussion, and that INC5 should seek to close issues and not reopen text already considered finalized at previous sessions. The Bureau identified as key outstanding issues: the preamble; objectives; definitions; emissions and releases; and financial resources, technical assistance and technology transfer. National implementation plans were also identified as key in relation to both emissions and releases and the general issue of support to governments. The Bureau also discussed ordering of priority policy questions in the discussions at INC5, highlighting financial issues and emissions and releases.