

## MERCURY INC5 HIGHLIGHTS: SUNDAY, 13 JANUARY 2013

The fifth session of the Intergovernmental Negotiating Committee to Prepare a Global Legally Binding Instrument on Mercury (INC5) opened on Sunday, 13 January, in Geneva, Switzerland. Plenary met in the morning, afternoon and evening, with a contact group convening in the evening to focus on products and processes.

### OPENING CEREMONY

Jacob Duer, INC Team Coordinator, UNEP, launched the opening ceremony, noting attendance by around 900 delegates, including representatives from more than 140 countries. INC Chair Lugris urged participants to scale up efforts to find consensus. Bakary Kante, on behalf of UNEP Executive Director Achim Steiner, highlighted the release of the Global Mercury Assessment 2013. Bruno Oberle, Switzerland's State Secretary and Head of the Federal Office for the Environment, urged delegates to conclude a legally binding instrument including financial and technical support, and monitoring and implementation mechanisms. Delegates then watched a video on the Minamata disease.

### PLENARY

Delegates adopted the meeting's agenda without amendments (UNEP(DTIE)/Hg/INC.5/1 and Add.1). Chair Lugris presented the meeting's organization of work, highlighting: evening plenary sessions in addition to morning and afternoon ones; specific indications on organization of work in the report of the Bureau meeting held in December 2012 in Beijing, China; consideration of all articles in plenary before establishment of contact, drafting or Friends of the Chair groups; and review of all text by the legal group before adoption. All regional groups expressed commitment to conclude the negotiations at INC5 and supported the Chair's text as a basis for negotiations (UNEP(DTIE)/Hg/INC.5/3), with the European Union (EU) and Japan for the ASIA-PACIFIC GROUP wishing to draw also on supplementary documents, and the US raising concerns about certain policy choices in the Chair's text and changes to unbracketed text already reviewed by the legal group at INC4.

**OPENING STATEMENTS:** Mexico for the Latin American and Caribbean Group (GRULAC) called for: an independent fund similar to the Montreal Protocol Multilateral Fund; a specific article on human health; and a holistic and balanced approach to emissions and releases. Nigeria for the AFRICAN GROUP underscored the need for: an "all-media" control treaty; further efforts towards the phase-out of mercury in health care; guarantees that products exported to Africa are mercury-free and that export of mercury-containing products be subject to prior informed consent (PIC); and an interim financial arrangement.

The EU favored covering the whole mercury lifecycle, and ensuring dynamic provisions on the review and adaptation of the instrument and its annexes. The ASIA-PACIFIC GROUP

emphasized: clear science-based criteria to identify sources of mercury and compounds released in the atmosphere; prioritization of areas for financial assistance; and compliance and implementation plans.

The US stressed the need for clear obligations on mercury air emissions. CANADA stressed global health benefits deriving from a strong provision on air emissions. CHINA cautioned against new proposals at this stage. ARGENTINA and IRAQ underscored addressing releases to water and land. ALGERIA stressed the need for compensation for stopping mercury production. Calling for substantive reductions, NORWAY cautioned that measures envisaged in the draft may not adequately respond to the serious effects of mercury. CHILE called for explicitly excluding mercury compounds arising naturally. PERU stressed the impacts of artisanal and small-scale gold mining (ASGM).

MOROCCO underscored the need to develop a list of all mercury-added products, including all vaccines used for human and animal health. NIGERIA recommended banning mercury use in cosmetics and pesticides. BANGLADESH cautioned against banning all uses of mercury, particularly where substitutes are not available at a similar cost.

JAPAN highlighted provisions on financial and technical assistance as the greatest challenge. SAUDI ARABIA underscored the need for a technical assistance mechanism. INDIA noted that binding compliance provisions need to be accompanied by meaningful financial support and technology transfer. JORDAN favored a flexible dedicated special fund, managed by the Global Environment Facility (GEF), and dedicated national level units.

The World Health Organization (WHO) stressed the need to address major sources, noting the greatest gains would be from addressing emissions and ASGM. The World Organization For Animal Health (OIE) underscored the importance of thimerosal in animal vaccines. The AFRICAN UNION COMMISSION stressed capacity and institution building. The GLOBAL INDIGENOUS PEOPLES CAUCUS expressed concern about lack of reference to indigenous peoples in the text and called for appropriate protections. The Zero Mercury Working Group (ZMWG) underscored the societal benefits of preventing mercury exposure. The COLLABORATION CENTER FOR MINAMATA DISEASE VICTIMS and the International POPs Elimination Network (IPEN) highlighted the struggle of Minamata disease victims and opposed calling the instrument the Minamata Convention.

The WORLD ALLIANCE FOR MERCURY-FREE DENTISTRY called for phasing out dental amalgam by 2025 and by 2018 for baby teeth. The INTERNATIONAL ACADEMY OF ORAL MEDICINE AND TOXICOLOGY said the use of amalgam cannot be justified economically because of environmental costs. HUMAN RIGHTS WATCH



called for including effective health strategies on mercury in the convention. The Coalition for Mercury-Free Drugs (CoMeD) opposed use of mercury in vaccines.

The INC approved using the Chair's text as the basis for negotiations. Chair Lugris urged delegates not to introduce new text, except to resolve outstanding issues in the Chair's text, and to focus on removing brackets.

**PREAMBLE:** Chair Lugris acknowledged that many countries were yet to make submissions. JAPAN called for language on Minamata disease, the polluter pays principle and the importance of preventive measures. CANADA said it will provide language on ecosystems and indigenous peoples in the Arctic. IRAQ suggested reflecting the Rio principles.

**PRODUCTS AND PROCESSES:** JAPAN, on behalf also of the EU and JAMAICA, presented a submission based on intersessional work on the issue (UNEP(DTIE)/Hg/INC.5/CRP.1). Many countries supported establishing a contact group and using the submission as a basis for continuing negotiations. CHINA preferred the approach taken in the Chair's text and, with BRAZIL and INDIA, stressed the need to consider the feasibility of phase-out dates, especially in developing countries. The US requested that related annexes focus on those products and processes that use the most mercury; and raised concerns with how vinyl chloride monomer (VCM) production is currently dealt with, calling for country-specific exemptions.

**Article 6. Mercury-added products:** The PHILIPPINES favored an ambitious positive-list approach, stressed the importance of a PIC procedure, and, with the AFRICAN GROUP, called for measures discouraging the manufacture of new mercury-added products. JAPAN supported including a clarification that, for the purpose of Article 6, mercury-added products shall not include assembled products. JAMAICA called for working with the World Customs Organization to develop harmonized custom codes for mercury-added products. SWITZERLAND suggested providing for a risk assessment prior to listing new products. NEPAL called for exemptions for use of mercury for religious purposes, noting use in ceremonies and symbolic idols. SWITZERLAND and NORWAY preferred including dental amalgam under Annex C, Part I (mercury-added products subject to Article 6.1) rather than Part II (mercury-added products subject to Article 6.2).

The WORLD DENTAL FEDERATION supported a phase-down of dental amalgam and, with the WHO, requested preventive oral health programmes. The INTERNATIONAL ASSOCIATION FOR DENTAL RESEARCH called for further research on advancement of dental health, alternative dental material and safe disposal of amalgam. The WHO noted that thimerosal in vaccines is still necessary, supported by the GAVI ALLIANCE, and that related work should be led by the WHO. SAFEMINDS urged review of mercury use in vaccines under UNEP rather than the WHO.

**Article 7. Manufacturing processes in which mercury is used:** The PHILIPPINES preferred employing a negative-list approach. JAPAN supported a general ban, with exemptions if needed, of processes that use mercury or mercury compounds as electrodes or catalysts. SWITZERLAND, supported by GRULAC, proposed to lift brackets on the provisions relating to reporting.

**Article 8. Exemptions available to a party upon request:** SWITZERLAND suggested lifting brackets around the need for an explanation to accompany the registration of exemptions, and with the RUSSIAN FEDERATION and GRULAC supported provision for 5-year exemptions.

**Article 8 bis. Special situation of developing countries:** Many developing countries, opposed by several developed countries and the Center for Public Health and Environmental Development (CEPHED), supported retaining Article 8 *bis* entitling developing country parties to delay for ten years their compliance with control measures. GRULAC asked to retain in brackets Article 8 *bis*.

Chair Lugris established a contact group, co-chaired by Karel Bláha (Czech Republic) and Abiola Olanipekun (Nigeria), on Articles 6-8 and related annexes, and proposed continuing discussion of Article 8 *bis* in plenary.

**ARTICLE 15. FINANCIAL RESOURCES AND MECHANISMS:** Many developed countries, opposed by BRAZIL, KIRIBATI and the AFRICAN GROUP, supported using the GEF as the financial mechanism. IPEN said if GEF is to be the mechanism, it must take developing country concerns fully into account. The PHILIPPINES, with IRAN, called for a dedicated fund under the authority of the conference of the parties (COP), and, with ZMWG, implementation of the polluter pays principle.

JAPAN called for a reference to South-South cooperation and, with COLOMBIA and ZMWG, to funding from the private sector. IPEN urged imposing extended producer responsibility for mercury-containing products. The US requested reinserting eliminated text on a broad donor base and countries' varying capacities.

**ARTICLE 16. TECHNICAL ASSISTANCE [AND CAPACITY BUILDING]:** The EU and the US supported reference to capacity building in the title. BRAZIL recommended that developed countries and others within their capabilities provide technical assistance, while JAPAN and the US noted that developing countries and the private sector may also do so. NORWAY and CANADA called for cooperation with other conventions on chemicals and wastes.

**ARTICLE 16 BIS. TRANSFER OF TECHNOLOGY:** The EU and CANADA opposed a separate article on technology transfer, noting that some elements could be integrated in Article 16. CANADA and NEW ZEALAND noted that governments cannot mandate technology transfer. JAPAN and the REPUBLIC OF KOREA supported deleting Article 16 bis. SWITZERLAND called for a clear commitment to provide an enabling environment. INDIA considered technology transfer a key substantive element of the treaty.

Chair Lugris established a contact group on Articles 16 and 16 *bis* to be co-chaired by Johanna Lissinger Peitz (Sweden) and Gillian Guthrie (Jamaica), and called for informal consultations on Article 15.

#### **CONTACT GROUP ON SELECTED TECHNICAL ARTICLES**

Participants began by considering Article 6, discussing, *inter alia*, the collection of information on mercury-added products and their alternatives, measures to prevent the incorporation of mercury-added products into assembled products, and the manufacture of new mercury-added products. Discussions continued into the night.

#### **IN THE CORRIDORS**

As INC participants geared up for their final negotiating session, many stressed the potential for this week's work to culminate in a historic treaty. Ten years after the initial proposal to develop an international regime on mercury, a sense of urgency was evident, with many underscoring the health and socioeconomic benefits that would stem from an effective mercury instrument and others exclaiming that it is "now or never" for making a difference for present and future generations. At the same time, delegates recognized the magnitude of the task at hand, as several key aspects of the instrument, such as financial and technical assistance, are to be resolved, availing themselves of the evening plenary option from day one to maximize chances of crossing the finish line by Friday.