



## SIXTH SESSION OF THE INTERGOVERNMENTAL NEGOTIATING COMMITTEE TO PREPARE A GLOBAL LEGALLY BINDING INSTRUMENT ON MERCURY: 3-7 NOVEMBER 2014

The sixth session of the Intergovernmental Negotiating Committee to Prepare a Global Legally Binding Instrument on Mercury (INC6) begins today and is scheduled to conclude on Friday, 7 November, in Bangkok, Thailand. INC6 will carry out work to prepare for the entry into force of the Minamata Convention on Mercury and for the first meeting of the Conference of Parties.

Following a round of regional group meetings on Sunday, 2 November, delegates will resume negotiations, focusing on preparation for entry into force of the Convention and those issues that will be decided upon by the Conference of Parties at its first meeting (COP-1). Issues under consideration include, *inter alia*: importing mercury; registering exemptions; reporting and monitoring; rules of procedure and financial rules for the COP; guidance and assistance to countries with artisanal and small-scale gold mining; storage, wastes and management of contaminated sites; and operation of the financial mechanism.

### 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.

**24TH SESSION OF THE UNEP GC/GMEF:** In February 2007, the United Nations Environment Programme's Governing Council/Global Ministerial Environment Forum (UNEP GC/GMEF) discussed the issue of mercury extensively. 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 to 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.

### 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 the demand for mercury if primary production were phased out; major mercury-containing products and processes for which effective substitutes exist; and funding available through the Global Environment Facility (GEF) 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 of 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.

**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 Fernando Lugris (Uruguay) to clean up the negotiating text and, in cooperation with the Co-Chairs of the contact groups, to present possible compromise articles where there was divergence among countries. Delegates further requested 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 20 *bis* on health aspects and 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. INC4 also called for intersessional work on emissions and releases.

**INC5:** The fifth session of the INC convened from 13-19 January 2013 in Geneva, Switzerland. Delegates successfully completed the negotiation of a new global treaty: the Minamata Convention on Mercury. INC5 addressed several complex policy and technical issues, including mercury air emissions and releases to water and land, health aspects, and phase-out and phase-down dates for products and processes. A final compromise was reached late Friday night, based on a package addressing outstanding issues related to the preamble, finance and compliance. The Minamata Convention’s major highlights

include: the ban on new mercury mines, the phase-out of existing ones, control measures on air emissions, and the international regulation of the informal sector of artisanal and small-scale gold mining.

**27TH SESSION OF THE UNEP GOVERNING COUNCIL/GMEF:** UNEP GC/GMEF took place from 18-22 February 2013 in Nairobi, Kenya. Decision GC.27/L.4 welcomed the completion of negotiations of the mercury treaty, authorized the Executive Director to provide an interim secretariat to the instrument prior to its entry into force, and invited parties to the Basel, Rotterdam and Stockholm (BRS) Conventions to consider steps to facilitate cooperation and coordination with the Minamata Convention.

**THE DIPLOMATIC CONFERENCE OF PLENIPOTENTIARIES ON THE MINAMATA CONVENTION ON MERCURY AND ITS PREPARATORY MEETING:** The Minamata Convention on Mercury was adopted on Thursday, 10 October 2013 in Kumamoto, Japan, following decades of increased awareness regarding the toxicity of mercury and mercury-related compounds. The week started with a two-day open-ended intergovernmental Preparatory Meeting on 7-8 October, during which participants negotiated resolutions on elements of the Final Act, including: promoting and preparing for the early implementation of the mercury instrument; arrangements for the interim period between the signing of the instrument and its entry into force, such as arrangements for financial and technical assistance during that period; and secretariat arrangements. This was followed by the Diplomatic Conference of Plenipotentiaries on 10-11 October, attended by more than 1,000 participants from over 140 countries, IGOs and NGOs. The Convention was signed by 91 countries and the European Union (EU).

### INTERSESSIONAL HIGHLIGHTS

**THE FIRST UN ENVIRONMENT ASSEMBLY OF THE UN ENVIRONMENT PROGRAMME:** UNEA1 was held in Nairobi, Kenya from 23-27 June 2014. In Decision UNEP/EA.1/L.17, the UNEA requests the Executive Director to facilitate cooperation, as appropriate, between the interim secretariat of the Minamata Convention, the Secretariat of the BRS conventions and others.

**BUREAU MEETINGS:** The Bureau held a teleconference on 12 February 2014 for members to brief each other on achievements since the Conference of Plenipotentiaries and to prepare for INC6. A subsequent meeting of the INC Bureau was held in Jordan from 15-16 May 2014, during which members provided updates on progress toward ratification and early implementation in their regions and discussed possible activities to support these efforts. The Bureau also met in Washington, DC, United States, from 9-10 October 2014. During this session the GEF Secretariat noted that GEF6 had allocated US\$ 141 million for mercury activities and requested guidance from the INC on priorities. Co-Chair John Roberts of the Expert Group on Best Available Techniques and Best Environmental Practices (BAT/BEP) reported on the work of the expert group, noting the establishment of a subgroup on monitoring. He flagged potential discussion at INC6 of participation of additional observers in the closed group, noting the Co-Chairs’ preference for maintaining this status, and highlighted the need for adoption of rules of procedure. The Bureau reviewed the documents for INC6 and underscored that no deviation from the priority-setting outlined in the Final Act should occur.