

**FIRST MEETING OF THE *AD HOC* OPEN-ENDED WORKING GROUP TO REVIEW AND ASSESS MEASURES TO ADDRESS THE GLOBAL ISSUE OF MERCURY: 12-16 NOVEMBER 2007**

The First Meeting of the *Ad hoc* Open-ended Working Group (OEWG) to Review and Assess Measures to Address the Global Issue of Mercury was held from 12-16 November 2007, in Bangkok, Thailand. Over 250 participants, representing governments, UN agencies, and intergovernmental and non-governmental organizations, attended the meeting convened by the United Nations Environment Programme (UNEP).

The OEWG discussed options for enhanced voluntary measures, and new or existing international legal instruments on mercury. The meeting considered a report on the Analysis of Possible Options to Address the Global Challenges to Reduce Risks from Releases of Mercury and available response measures to address strategic objectives. Delegates debated extensively the need for intersessional work by the Secretariat and agreed on seven tasks to be undertaken during the intersessional period including analysis on, *inter alia*:

- 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.

During their discussions, delegates were guided by the priorities articulated in UNEP Governing Council Decision 24/3 IV to, *inter alia*: reduce atmospheric mercury emissions from human sources; find environmentally sound solutions for waste containing mercury; reduce global mercury demand and supply; identify environmentally sound storage solutions for mercury;

and increase knowledge on areas such as inventories, human and environmental exposure, environmental monitoring and socioeconomic impacts.

**A BRIEF HISTORY OF MERCURY AND THE WORKING GROUP**

Mercury is a heavy metal that is widespread and persistent in the environment. It is an element that 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.

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This issue of the *Earth Negotiations Bulletin* © <enb@iisd.org> is written and edited by Melanie Ashton, Bo-Alex Fredvik and Kunbao Xia. The Digital Editor is Markus Staas. The Editor is Pamela S. Chasek, Ph.D. <pam@iisd.org> and the Director of IISD Reporting Services is Langston James "Kimo" Goree VI <kimo@iisd.org>. The Sustaining Donors of the *Bulletin* are the United Kingdom (through the Department for International Development – DFID), the Government of the United States of America (through the Department of State Bureau of Oceans and International Environmental and Scientific Affairs), the Government of Canada (through CIDA), the Danish Ministry of Foreign Affairs, the Government of Germany (through the German Federal Ministry of Environment - BMU, and the German Federal Ministry of Development Cooperation - BMZ), the Netherlands Ministry of Foreign Affairs, the European Commission (DG-ENV) and the Italian Ministry for the Environment, Land and Sea. General Support for the *Bulletin* during 2007 is provided by the Swiss Federal Office for the Environment (FOEN), the Norwegian Ministry of Foreign Affairs and the Ministry of Environment, the Government of Australia, the Austrian Federal Ministry of Agriculture, Forestry, Environment and Water Management, the Ministry of Environment of Sweden, the New Zealand Ministry of Foreign Affairs and Trade, SWAN International, the Japanese Ministry of Environment (through the Institute for Global Environmental Strategies - IGES) and the Japanese Ministry of Economy, Trade and Industry (through the Global Industrial and Social Progress Research Institute - GISPRI). Funding for translation of the *Earth Negotiations Bulletin* into French has been provided by the International Organization of the Francophonie (IOF) and the French Ministry of Foreign Affairs. Funding for the translation of the *Earth Negotiations Bulletin* into Spanish has been provided by the Ministry of Environment of Spain. The opinions expressed in the *Earth Negotiations Bulletin* are those of the authors and do not necessarily reflect the views of IISD or other donors. Excerpts from the *Earth Negotiations Bulletin* may be used in non-commercial publications with appropriate academic citation. For information on the *Bulletin*, including requests to provide reporting services, contact the Director of IISD Reporting Services at <kimo@iisd.org>, +1-646-536-7556 or 300 East 56th St. Apt 11A, New York, NY 10022, USA.

**21ST SESSION OF THE UNEP GOVERNING**

**COUNCIL/GMEF:** The UNEP Governing Council/Global Ministerial Environment Forum (GC/GMEF) discussed the need for a global assessment of mercury at its 21st session in February 2001 in Nairobi, Kenya. 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 whether 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, Kenya, the GC/GMEF considered UNEP's Global Mercury Assessment report and 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, facilitated by technical assistance and capacity building from UNEP, governments and relevant international organizations. The decision requested the Executive Director to consult and cooperate with other intergovernmental organizations in order to avoid duplication. The Executive Director was also requested 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:** The 23rd session of the UNEP GC/GMEF took place from 21-25 February 2005, in Nairobi, Kenya. Delegates once again discussed the issue of mercury and 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 information on supply, trade and demand of 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 also 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, and was preceded by an event convened by the Swiss Confederation entitled, "Health and environmental concerns associated with heavy metals: global need for further action?"

IFCS-V agreed to establish a working group to draft a decision on the future of IFCS to be presented at IFCS-VI, identified a series of potential next steps to assist developing countries and countries with economies in transition with tools

and approaches for applying precaution in domestic decision-making processes, and adopted the Budapest Statement on Mercury, Lead and Cadmium.

The Budapest Statement on Mercury, Lead and Cadmium, *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, preventing 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, including partnerships and other activities; to give high priority to considering further measures to address risks to human health and the environment from mercury, lead and cadmium, and to consider a range of options including the possibility of establishing a legally binding instrument, as well as partnerships; and called upon developed countries and other countries to support these activities.

**INTERNATIONAL MERCURY CONFERENCE:** The European Commission convened an International Mercury Conference in Brussels, Belgium, from 26-27 October 2006. Delegates discussed actions needed at the local, national, regional and global levels to reduce health and environmental risks related to the use of mercury, with a view to providing input to GC-24/GMEF and relevant chemicals agreements. Options discussed included: development of a legally binding international agreement on mercury; inclusion of mercury in existing legally binding agreements; and voluntary and other measures.

**24TH SESSION OF THE UNEP GOVERNING**

**COUNCIL/GMEF:** While meeting in February 2007, in Nairobi, Kenya, GC-24/GMEF discussed the issue of mercury extensively. Participants' preferences for international cooperation on mercury 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. Agreeing on the need to outline priorities in reducing risks from releases of mercury, delegates requested the UNEP Executive Director to prepare a report on mercury emissions and strengthen the UNEP Mercury Partnership Programme. It also established an *ad hoc* open-ended working group 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. The working group is to be guided by the following priorities, as set out in Decision 24/3 IV:

- 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 public and environmental health; and
- to increase knowledge on areas such as inventories, human and environmental exposure, environmental monitoring and socioeconomic impacts.

The group will provide a progress report to the tenth special session of the GC/GMEF in 2008, and a final report to GC-25/GMEF in 2009, which will take a decision on the matter.

### REPORT OF THE OEWG

On Monday morning, 12 November, Per Bakken, Head, Chemicals Branch, Division of Technology, Industry and Economics, UNEP, welcomed delegates to the First Meeting of the Ad hoc Open-ended Working Group (OEWG) to Review and Assess Measures to Address the Global Issue of Mercury. He noted the large number of participants from governments and the broad range of civil society organizations. Bakken thanked Switzerland, Sweden, Norway, the Nordic Council, Australia and Germany for their financial support.

Saksit Tridech, Permanent Secretary, Ministry of Natural Resources and Environment, Thailand, welcomed delegates and noted that due to its bioaccumulative and persistent nature, mercury is becoming a serious global concern. He outlined that mercury use has been perceived as necessary for economic development and prosperity, but that public health, economic and social issues must be jointly considered when addressing the issue of mercury.

Shafqat Kakakhel, Deputy Executive Director, UNEP, conveyed the best wishes of UNEP Executive Director Achim Steiner, stressed the need for addressing the problem of mercury and warned that the protection of sectoral interests could hamper progress addressing the issue. He noted that although many countries have taken significant steps to curb the effects of mercury, mercury is still treated as a commodity of commerce. Kakakhel expressed hope that the meeting would make progress, overcome historic inertia and forge ahead on addressing the issue of mercury, and committed UNEP's full support to the process.

The Working Group elected John Roberts, UK, as Chair. Delegates also elected Abiola Olanipekun (Nigeria), Gustavo Solórzano Ochoa (Mexico), Irina Zastenskaya (Belarus) and Keiko Seoawa (Japan) as members of the Bureau. The Secretariat confirmed that Bureau members would serve for both meetings of the Working Group.

The Secretariat noted that as a subsidiary body of the UNEP Governing Council (GC), the rules of procedure of the GC apply to the work and proceedings of OEWG, and these were adopted by the OEWG. The Secretariat then introduced the annotated provisional agenda (UNEP(DTIE)/Hg/OEWG.1/1/Add.1), which was adopted without amendment.

Chair Roberts noted that two meetings of the OEWG have been planned and the second meeting may produce consensus recommendations to be submitted to the 25th session of the UNEP Governing Council for consideration. He highlighted that at this meeting delegates should come to a common understanding on options and provide the Secretariat with instructions for its further work.

Throughout the week, delegates met in plenary and contact groups to discuss options for the global control of mercury and the intersessional work of the Secretariat. This report is organized according to the agenda of the meeting.

### REVIEW AND ASSESSMENT OF OPTIONS FOR ENHANCED VOLUNTARY MEASURES AND NEW OR EXISTING INTERNATIONAL LEGAL INSTRUMENTS

On Monday in plenary, Chair Roberts introduced the discussion on the options for enhanced voluntary measures and new or existing international legal instruments and the study on options for the global control of mercury (UNEP(DTIE)/Hg/OEWG.1/2). He explained that the discussion would start with general comments and then focus on aspects of response measures and strategies, based on priorities set out in Decision 24/3 IV including: unintentional emissions; supply of mercury; management of waste products; long-term storage of mercury; and measures to reduce demand. Delegates also requested and agreed to consider the need to increase knowledge on areas such as inventories, human and environmental exposure, environmental monitoring and socioeconomic impacts.

Portugal, on behalf of the European Union (EU), said the OEWG should aim to take long-term action and make commitments in the global control of mercury. She said that both legally binding and voluntary measures would be necessary to tackle mercury and cautioned that partnerships cannot substitute for government commitments.

Switzerland urged that response measures to mercury include best available techniques (BAT) and best environmental practices (BEP). He also introduced a conference room paper submitted with Norway on the outcome of the OEWG (UNEP(DTIE)/Hg/OEWG.1/CRP.1). Noting that voluntary measures to address mercury releases have proven insufficient, Nigeria, on behalf of the African Group, called for a legally binding instrument to effectively address mercury. She underscored that the only viable approach would be to add a protocol on mercury to the Stockholm Convention.

Norway highlighted that sustainable long-term efforts depend on clear international commitments and that the most appropriate way to promote technical assistance is within a legal framework. He stressed that the OEWG should narrow the range of options to facilitate future decision-making and said the paper submitted by Switzerland and Norway was intended to provide the meeting with a sense of direction. The African Group, the EU, Kenya, the Gambia, Senegal and Qatar welcomed the outline of the conference room paper. Stressing the need for flexibility in the number of recommendations, the US suggested that instead of narrowing options, delegates should aim to "focus" options.

New Zealand stated that volcanoes were a source of mercury in his country and that numerous ways of managing mercury could be brought together. Donald Hannah, New Zealand and Chair of the contact group on mercury at UNEP GC-24/GMEF, provided his personal reflection on the process of addressing mercury at UNEP GC-24/GMEF. He cautioned that entrenched positions could hamper progress and that in order to "keep the issue out of the mud," flexibility was required. Hannah highlighted the importance of addressing small-scale gold mining and energy production and predicted the meeting would be productive if delegates focused on the "hard issues."

The US stated the meeting posed a real opportunity for risk reduction, looked forward to a robust discussion on mercury in products and processes and considering demand reduction goals. He stated the most appropriate way to address the supply side of mercury was to reduce the demand.

Noting that his country had experienced Minamata Disease, a large scale mercury poisoning, Japan supported global measures to effectively address mercury contamination and stated it was open to both legally and non-legally binding options.

Australia explained his government was in “caretaker mode” pending elections and was therefore unable to make any commitments for the incoming government. He supported actions to address the global mercury issue, and called for the discussion on advantages and disadvantages of different options and their costs.

The Gambia said that voluntary measures are not effective, especially in Africa, where adequate resources, technologies and capacity for managing mercury problems are not available.

Brazil called for progress on both tracks, including voluntary measures and legally binding instruments. He highlighted the principle of common but differentiated responsibilities, and said coherent approaches, an institutional framework, technologies and adequate financial resources were necessary.

China reported that his country had conducted a mercury survey, enacted laws and regulations, and reduced and forbidden some mercury uses including in chlor-alkali production. China, supported by Qatar, called for providing developing countries with appropriate alternative technologies, financial resources and assistance in building capacity.

The Dominican Republic stressed the need for strengthened regional processes and, along with Tuvalu and Tanzania, favored a legally binding instrument. Noting that voluntary measures are not always implemented and that a legally binding instrument would entail additional costs for negotiations, Mexico favored a combination of voluntary and legally binding measures. Panama favored a voluntary instrument and use of existing legally binding instruments and stressed that capacity-building needs in developing countries must be addressed.

Drawing attention to the fact that 80% of the mercury deposited in its territory comes from foreign sources, Canada expressed openness to all options. Pakistan supported voluntary measures and noted that developing countries do not have adequate resources to comply with a legally binding instrument.

The Secretariat of the Basel Convention noted the Basel Convention includes mandatory mercury regulations. The European Environment Bureau, on behalf of the Zero-Mercury Group, and the International POPs Elimination Network (IPEN), favored a broad comprehensive legally binding instrument to address the full life cycle of mercury.

Oman explained that technical and financial assistance were needed to effectively address the challenges posed by mercury. Belarus noted that most Central and Eastern European (CEE) countries favored a legally binding approach.

**STUDY ON OPTIONS FOR THE GLOBAL CONTROL OF MERCURY:** The Secretariat introduced the study on options for the global control of mercury (UNEP(DTIE)/Hg/OEWG.1/2) on Monday and discussion continued in plenary throughout the week. Discussion was structured around available response

measures for reducing atmospheric emissions of mercury from human sources; managing mercury waste; reducing mercury demand; reducing mercury supply; long-term storage of mercury; addressing mercury-contaminated sites; and the need to increase knowledge on areas such as inventories, human and environmental exposure, environmental monitoring and socioeconomic impacts.

On Thursday, delegates considered intersessional work to be completed by the Secretariat to elaborate on the study in preparation for the second meeting of the OEWG. A contact group was established and it agreed on the tasks for the Secretariat and these were presented to plenary on Friday morning.

**Discussion on the study of options for the global control of mercury:** Introducing the report, the Secretariat noted that it excludes value judgments and cost-benefit analysis of the options. Noting that there is no “silver bullet” in tackling mercury, Kenya said the methodology agreed from the OEWG on mercury should also be used to address lead and cadmium. Uganda favored developing a legally binding instrument and using existing legally binding agreements. Switzerland and Nigeria praised the report for its comprehensiveness and clarity. The US said the options presented in the document could be linked to goals at the national and regional levels. Australia highlighted that cost-benefit analysis is central to the assessment of the options, and the Gambia noted that results of cost-benefit analysis would vary from country to country.

The Secretariat presented the regional priorities, cross-cutting issues and key principles for addressing the global issue of mercury submitted by the Latin American and Caribbean Group (GRULAC) (UNEP(DTIE)/Hg/OEWG.1/CRP.19). Noting strong regional consensus, Argentina highlighted that development of national inventories; access to mercury-free technology for artisanal small-scale mining (ASM); and identification and implementation of measures for the environmentally sound management of mercury wastes were priorities for GRULAC. Belarus, on behalf of the CEE countries, stressed financial resources and technological transfer were not only important for developing countries but also for countries with economies in transition.

On establishing a mercury protocol under the Stockholm Convention, Japan stressed the importance of developing inventories, as required by the Stockholm Convention. Norway, supported by the EU, said that lessons from the Stockholm Convention with respect to BAT and BEP could be fully exploited if a new protocol is to be established under this Convention. Oman and Peru disagreed with the option of a mercury protocol to the Stockholm Convention, stating that mercury is not an organic pollutant and supported the development of a new legally binding instrument to specifically address mercury.

Peru stressed importance of monitoring, assessing and establishing a database for mercury in water. Health Care Without Harm (HCWH) and IPEN stressed the need for new and additional funding through a financial mechanism, be it within the framework of a stand-alone convention, or an amendment to an existing instrument.

Chair Roberts noted there was greater support among delegates for the development of a protocol under the Stockholm Convention, or a stand-alone convention, as opposed to the option of globalizing the Convention on Long-Range Transboundary Air Pollution or attempting to address mercury directly through amending the Stockholm Convention. He also noted a few countries indicated they were in favor of just voluntary approaches.

Chair Roberts invited the Secretariat to brief delegates on the practicalities of adopting a protocol to the Stockholm Convention. The Secretariat explained that parties have the legal authority to adopt a protocol to the Stockholm Convention, and that the decision would be political as opposed to legal. He explained that the financial mechanism of the Stockholm Convention would be applicable to the protocol, but the protocol would not automatically receive additional financial resources. Switzerland and Brazil questioned if the Global Environment Facility (GEF) was likely to open a new window for mercury activities. Cautioning that establishing a protocol is complex and time-consuming, Argentina favored exploring existing conventions and processes based on multi-substances such as the Strategic Approach to International Chemicals Management (SAICM). Noting the need for significant new and additional funding, HCWH called for a financial mechanism and said this was crucial to move from merely a good idea, to achieving objectives.

IPEN reiterated that SAICM calls for further exploring measures to control mercury, including legally binding measures and partnerships. Favoring voluntary approaches, Australia said addressing mercury under SAICM could lead to rapid and additional action on mercury. With regard to the reference to mercury in the Global Plan of Action on SAICM, he said this was primarily a clearinghouse of ideas. Belarus said that SAICM could be a desirable option, while noting that it does not oppose a legally binding instrument option.

The African Group stressed that there is no provision within SAICM to sustain activities to achieve its goal, and that although the Quick Start Programme (QSP) has provided a jump start, it is grossly inadequate to implement the Global Plan of Action. Zimbabwe said that voluntary strategies such as SAICM are not sufficient to address mercury on a global scale. The EU said it had contributed 5 million Euros to the QSP under SAICM, and stressed that mercury is a health issue and should be addressed through partnerships.

The US suggested that a high-level declaration could be used to raise the profile of mercury within the development assistance community. He said that the US was involved in numerous partnership projects to address mercury, urged more countries to become involved and committed its continued support to voluntary approaches.

Highlighting that bilateral development programmes attract significantly more funding than multilateral programmes, New Zealand questioned why mercury is not prioritized by developing countries for donor assistance. Tanzania reiterated that partnerships are not sufficient to deal with the growing mercury problem and explained that mercury is not prioritized for donor funds because addressing abject poverty is top priority for his country.

Norway highlighted that his country favored a legally binding approach, but was also involved in numerous voluntary initiatives to address mercury. He said SAICM was an overall policy framework, not an alternative to a legally binding instrument as it lacks an executive body and a financial mechanism.

Switzerland explained that fragmentation was linked to increased transaction costs and stressed the importance of coherence and harmonization in addressing mercury issues. He said legally binding instruments have historically been more financially effective and highlighted that the cost of the negotiation of SAICM was greater than that of a convention. Switzerland also observed that the developed countries supporting the development of a legally binding instrument were those currently making the most significant financial contribution to SAICM. China suggested that discussion should focus on the status of the mercury problem and availability of technologies. Peru highlighted the need to develop inventories of mercury contamination in air, water and soil.

The Gambia said mercury would continue to accumulate in the environment if only voluntary measures are taken, but said his country would consider all options. Senegal and Burkina Faso supported a legally binding approach, but said other approaches should not be excluded. Qatar, South Africa, Oman and Trinidad and Tobago stressed the need for an independent legally binding instrument on mercury. Trinidad and Tobago suggested developing a legally binding convention on heavy metals to also address lead and cadmium. Suriname stressed the necessity for new and additional financial and technical resources. Canada supported the option of an industrial code of conduct, and suggested developing an intergovernmental code of conduct on mercury.

The US noted that voluntary approaches provide flexibility in implementing activities, which vary in scale and nature in each country. Argentina favored allocating resources to projects that reduce mercury exposure rather than in negotiation sessions. The International Energy Agency (IEA) said its Clean Coal Center could provide advice to multi-pollutant reduction partnerships such as with flue gas desulphurization. The Island Sustainability Alliance questioned if voluntary measures would sufficiently address populations at risk from mercury exposure. The Natural Resources Defense Council (NRDC) urged countries to commence voluntary measures including emission inventories, which could be integrated into the legally binding instrument later.

**Unintentional emissions of mercury from human sources:** On unintentional emissions from coal usage and industrial processes, the US highlighted the importance of BAT and BEP, including multi-pollutant reduction technologies as well as developing high-level awareness and political will on developing such technologies. New Zealand noted that technical solutions for addressing emissions from coal usage and industrial processes are available, and called for providing developing countries and countries with economies in transition with development assistance to implement technical solutions.

Norway listed political response measures, in the form of international coordinated efforts with targets and commitments, as a priority and Japan supported developing and applying BAT

and BEP. Zimbabwe, supported by Switzerland, highlighted the enabling activities under the Stockholm Convention and suggested this approach would be more effective to reduce unintentional emissions than voluntary approaches. The EU stressed that regardless of the global instrument selected, BAT and BEP were necessary. Australia reflected on its experience in reducing emissions from coal-fired power plants and, supported by Brazil and Madagascar, stressed the importance of technology transfer and capacity building. Argentina discussed the possibility of listing methylmercury under the Stockholm Convention. Canada said BAT and BEP could be achieved in many ways, but that emission targets or goal setting were necessary. China stressed that response measures should be applicable to individual countries and that economic assessment was necessary. Malaysia highlighted the need for more technical information and flexibility in selecting response measures.

Delegates established a contact group to look at additional response measures to atmospheric emissions of mercury from human sources in coal and industrial processes. Chaired by Keiko Segawa (Japan), the group added some response measures to the list contained in the report of the Secretariat on options (UNEP(DTIE)/Hg/OEWG.1/2). On reducing mercury emissions from coal usage, the group added, *inter alia*: using high rank or low-mercury containing coal to decrease mercury emissions; establishing mercury emissions reduction targets and timetables, and mercury emissions limits (end of pipe control); establishing monitoring and reporting programmes; promoting the development and use of mercury specific and cost-effective control techniques; and promoting the development and use of cost-effective multi-pollutant control techniques (e.g., “zero” or “low” emissions).

On reducing mercury emissions from industrial processes, the group added available response measures, *inter alia*, achieving greater efficiency in mercury catalyst uses through best practices in vinyl chloride monomer production; ensuring the reuse of any byproduct materials in an environmentally sound manner; using low mercury content biomass fuels; establishing mercury reduction targets and emissions limits; and establishing monitoring and reporting programmes.

On Wednesday afternoon, Chair Segawa introduced the report of the contact group on atmospheric emissions of mercury from human resources (UNEP(DTIE)/Hg/OEWG.1/CRP.9). Belarus noted that contaminated sites are also a source of atmospheric emissions of mercury. The Sierra Club requested that mercury-specific controls and separation processes should remove mercury vaporized during thermo-processes, including during hand-made and industrial jewelry and production. Delegates requested the Secretariat add these to the list of options included in the final report of the meeting.

**Mercury releases from artisanal and small-scale mining:** On the issue of mercury emissions and use from ASM, New Zealand emphasized the difficulty of engaging directly with people undertaking ASM. Colombia suggested ecological surveys were necessary to quantify the extent of mercury contamination. Highlighting that ASM is the main source of mercury emissions in his country, Brazil said an integrated and coherent approach was necessary, including the transfer of technology and the provision of new and additional financial resources. The

Philippines explained ASM was a serious issue in her country, and that although national legislation has been established on a mercury import licensing system, most mercury enters through the “back door” and that the supply side of the equation must be addressed. She said many people live in mercury contaminated mining sites and that environmental monitoring is necessary to assess the scope of the problem. Citing the low market price of mercury, Norway said effective international limitations on supply and trade are a necessary condition for progress on addressing mercury.

Tanzania, on behalf of the African Group, proposed legalization of ASM and providing technology to make ASM operations environmentally and socially acceptable. He proposed regulating the transport of mercury via the Rotterdam Convention on Prior Informed Consent.

The EU highlighted the importance of introducing micro-credit programmes to allow poor miners to purchase cleaner technologies. Guinea stressed the importance of raising awareness of the dangers associated with mercury, not only to gold consumers, but also to artisanal miners and those working in the processing and trading of gold. The US cautioned that substituting mercury with cyanide could cause further problems. Switzerland stressed the importance of certification in marketing and developing methods to identify socially and environmentally sustainable gold mining practices.

Peru highlighted the need to monitor and control ASM in riverbeds. Stressing that international support is required to address issues associated with ASM, China suggested that the United Nations Industrial Development Organization (UNIDO) and other organizations provide guidance on BAT and BEP. Mozambique confirmed that mercury use in ASM is a significant issue, that his government has little knowledge of the mercury market, and said that trade controls were necessary.

HCWH and IPEN underscored that ASM is a human and environmental tragedy involving many remote sites, very poor people and often activities outside the law. Because of this, he said there was no simple way of applying BAT and BEP and that the supply of mercury must be addressed. He stressed the need to address the mercury entering the market as a result of chloro-alkali plant closures and suggested a buy-back scheme was a necessary voluntary activity, but that a legally binding instrument, consistent with trade measures, was needed to fully address mercury. The Health and Environmental Alliance (HEAL) highlighted the high concentrations of mercury in breast milk and said mercury exports must be restricted. UNIDO outlined its ASM initiative, which he said was a partnership that recognized the need to take immediate action. Nigeria and Norway clarified that the measure to institute mechanisms limiting mercury supply should be done through new international instruments in addition to existing ones. NRDC announced that the US House of Representatives has recently unanimously passed a mercury bill to ban its export by 2010.

Delegates requested the Secretariat add these to the list of options included in the final report of the meeting.

**Mercury supply:** On mercury supply, the EU, supported by the African Group, favored a phase-out and an international ban in the trade of elemental mercury and stated only a legally binding instrument could enforce this. Noting that the energy

savings, combined with the avoidance of mercury emissions from florescent lamps, outweighs the mercury contained in the lamps. New Zealand, supported by Japan, Canada and US, cautioned banning mercury trade that may be required for the fabrication of these lamps. Canada emphasized the need to promote mercury recycling. The Basel Action Network underscored the importance of harmonizing mercury trade restrictions with international trade rules. Norway said incentives to reduce mercury use would best be addressed through a legally binding instrument or a protocol to the Stockholm Convention on mercury. The US advocated that reducing demand is the best way to address the supply of mercury and stressed the elasticity of mercury demand is unknown. Belarus proposed the addition of a response measure to tackle illegal trade in mercury. China stressed that the supply and demand of mercury must be considered simultaneously. Concurring that primary mercury production should cease, the International Council on Mining and Metals (ICMM) said that mercury would continue to be produced as byproducts from other industrial processes.

Guinea suggested a system of sending used mercury-containing products back to the producer. China stressed pricing policies may reduce demand on primary mercury resources. WWF noted that reducing supply would not impact the operations of ASM. He cited examples of operators recovering lost mercury from rivers to serve their mining needs.

Chair Roberts summarized that there was universal support for phasing out primary production of mercury, but acknowledged diverging views on the need to restrict and ban trade. China suggested conclusive analysis was needed to establish if recycled mercury could satisfy demand and that the Secretariat could undertake the analysis intersessionally.

Delegates requested the Secretariat add these to the list of options included in the final report of the meeting.

**Mercury waste:** On mercury waste management, the EU highlighted the importance of eliminating the use of mercury-containing products before their disposal and therefore preventing them from reaching landfills. For mercury-containing products that cannot be substituted, she proposed labeling to inform consumers. She reiterated that the environmentally sound management of landfills containing mercury can best be achieved through an independent legally binding instrument or a protocol to an existing convention. Kenya suggested utilizing the Stockholm Convention Guidelines on BAT and BEP. Norway noted that mercury-containing amalgams in dentistry could be easily substituted and that a legally binding instrument could draw the lessons from the waste disposal measures of the Basel and Stockholm Conventions. Noting that their countries have dumpsites instead of managed landfills, the Gambia and Peru stressed the importance of first raising awareness among the general public about the perils of mercury waste.

Japan, on behalf of Asia and the Pacific, stressed the need for strengthening international cooperation in mercury waste management, as well as research. Japan expressed its commitment to continue to contribute to the development of BAT and BEP guidelines for managing mercury wastes.

The Dominican Republic highlighted correlation between wastes and their sources, mercury-free substitutes, the need for disposal capacities in developing countries, and recycling. Brazil

suggested environmentally sound recovery from the chlor-alkali industry as a response measure. The US highlighted the link between mercury waste and storage and called for the further development of measures such as trapping and removal facilities, as well as liability and compensation systems in international trade. Kiribati called for assistance in finance, technology and capacity building. He highlighted the issue of “old” school laboratory chemicals, including mercury salts, and said this represented a potential regional project. China highlighted the importance of education and public participation.

Qatar stressed that developing countries require know-how on the handling and disposal of hazardous waste. Tanzania suggested promoting green products as an additional response measure and highlighted that developing countries frequently import products that are close to end-of-life and that these often contain mercury.

Referring to the Basel Convention Declaration on E-Waste, Kenya said implementation of this declaration would contribute to the reduction of mercury waste and said this should be referenced by the OEWG. The Basel Convention Secretariat noted that its technical guidelines on mercury were in development and invited input. She also highlighted that the Basel Convention was working with the US and Norway to develop capacity for managing medical waste. Canada highlighted the importance of looking at the life cycle of mercury from mining, production, supply to waste disposal, and noted that the Basel Convention provides a basis for a global action on mercury wastes. Jamaica supported the Basel Convention’s continuing work in managing the transboundary movement of hazardous waste. While recognizing the useful role of the Basel Convention in controlling the transboundary movement of mercury wastes, Belarus and Switzerland supported an independent legally binding instrument.

Mexico explained it has three chlor-alkali producing facilities and said regulation and legal instruments are required to address waste issues. The Basel Action Network highlighted the need for closed-loop life-cycle management of mercury-containing products. Underscoring the need for long-term containment of mercury, IPEN said communities in developed countries are willing to accept the importation of waste from developing countries if educated on the issue. She cited the Persistent Organic Pollutants in Pacific Island Countries Project, funded by the Australian Government as an example.

Arnika Toxic and Waste Programme stressed that current fragmentation around mercury in the existing chemical conventions does not cover all mercury waste needs and that a legally binding instrument was required. Noting that some incinerators are seen as “barbecues” of dioxins and furans in developing countries, the African Group, proposed to promote the use of alternative healthcare disposal systems.

Delegates requested the Secretariat add these to the list of options included in the final report of the meeting.

**Long-term storage of mercury:** Regarding environmentally sound storage solutions for mercury, Norway stressed that these are linked to waste management solutions. Mexico said that its stockpiles from mercury-containing tailings are not easily controlled or managed. Stressing the importance of extending mercury product stewardship to its original producer, Jamaica,

supported by Zimbabwe, proposed measures to return the products containing mercury to the original manufacturers at the end-of-life. Kenya, supported by the Gambia, suggested transporting mercury products to countries that have facilities for environmentally sound mercury storage. The Gambia added that most developing countries do not have BAT and resources for long-term mercury storage. The EU said that decommissioned mercury should be removed from the market and that storage should prevent entry of mercury into the biosphere. Tuvalu said that safe storage is impossible in Pacific islands that are low-lying and face rising sea levels. ICMM called for more research in viable encapsulation of mercury within underground storage.

Delegates requested the Secretariat add these to the list of options included in the final report of the meeting.

**Contaminated sites:** On the issue of contaminated sites and potential response measures. Switzerland and Brazil reiterated the importance of developing BAT and BEP guidelines. Norway, supported by Tuvalu, suggested monitoring contaminated sites as an additional response measure. The Center for Public Health and Environmental Development, Nepal, stressed the need for monitoring compliance and reporting.

Malaysia explained her government had conducted a study on developing standards on contaminated sites and stressed the need for developing guidelines. Qatar stressed the need for guidelines and technologies. Brazil discussed a US\$35 million GEF project to address sites contaminated by persistent organic pollutants. The US said that contaminated sites are a national issue and therefore should be addressed through developing national technical guidelines and implementing national programmes.

The Gambia explained that, as in other developing countries, his country has dumpsites not landfills and these should be considered as contaminated sites. Brazil suggested that when selecting sites for remediation, priority should be given to sites associated with an exposed population. Stressing the huge task of evaluating contaminated sites, the EU suggested that priority be given to sites generating ecological and health problems.

IPEN suggested “public listing” of mercury-contaminated sites as an additional response measure. The Secretariat confirmed it had requested information from governments on contaminated sites and urged governments to provide information on these sites.

Belarus, on behalf of the CEE countries, suggested identifying land and water sites that are more favorable for the transformation of mercury to its organic form as an additional response measure. Noting that developing countries lack experience and resources in the remediation of contaminated sites with heavy metals, Egypt said the criteria and standards of such sites should include a socioeconomic analysis. HEAL stressed importance of addressing the health impacts of contaminated sites. China requested clarification of the definition or threshold value for mercury contaminated sites, to which UNIDO clarified that significant concentrations of elemental mercury do not occur in nature and therefore any site with detectable concentrations of mercury is likely to be contaminated. Chair Roberts pointed to the need to establish health and environmental criteria for mercury concentrations. Guinea said that legislation requiring environmental remediation should be enacted and enforced.

Delegates requested the Secretariat add these to the list of options included in the final report of the meeting.

**Mercury demand in products:** On mercury demand, Chair Roberts noted that discussion on reducing mercury use in ASM had been addressed and invited discussion on reducing mercury consumption in: vinyl chloride monomer and chlor-alkali production; products including packaging; and use in dentistry.

Norway suggested the development of a step-by-step mercury substitution strategy as an additional available response measure. He acknowledged the possibility of including mercury in the Rotterdam Convention, but said prior informed consent would not fully address this issue. He suggested the Nordic Council of Ministers Report on a mercury substitution priority working list could be used as a basis for a step-by-step strategy in a legally binding instrument.

HCWH observed that the healthcare sector is unique as health professionals are supportive and receptive to information on mercury. Stating that mercury use in the healthcare sector could be eliminated under a voluntary approach within a decade, he said a strong partnership with the World Health Organization could help achieve success.

Japan described the process of minimizing supply of mercury in the manufacturing process in her country. She said demand had decreased significantly, through substitution and improvement of processes.

Recognizing small-scale gold mining as a major sector for mercury, the EU stressed the need for developing mercury-free gold mining technologies. She said a legally binding instrument is most effective in phasing out mercury-containing products, and a code of conduct for dental amalgam would be useful. Egypt called for restricting consumption of mercury in packaging, and requested support to developing countries for capacity building in research and development of mercury-free alternatives. Regarding restricting the use of mercury in pharmaceuticals, he suggested also restricting its use in medical devices. Switzerland said that restriction and bans for mercury in production could not be adopted effectively without cooperation, noting that a piecemeal approach would allow free-riding. Oman supported putting implementation of these measures under the framework of the Rotterdam Convention. US suggested that the list of measures be revised to include non-legally binding measures, and that the Secretariat prepare a paper on mercury-containing products for which substitutes are available. Peru stressed the need to work together with neighboring countries in addressing the issue of demand. Qatar highlighted the need to develop alternatives in order to mine gold in a cheaper and safer way. China highlighted the importance of coordinating policies on reducing demand with policies in other areas such as trade policies. He suggested promoting research and use of mercury-free alternative catalysts as an additional response measure.

The US proposed promoting the use of mercury-free products instead of banning mercury use in products for which alternatives exist. NRDC said that mandatory legal frameworks at the state level in the US have led to a decrease in the demand for mercury-containing products. China expressed reservations to the response measure on transitioning from vinyl chloride monomer catalysts to mercury-free oxychlorination of ethylene. Guinea supported restricting mercury use in products for which



affordable alternatives exist as long as it is technically feasible. Japan suggested special disposal, collection and “recycling” of mercury-free alternatives. Norway stressed the importance of raising awareness among medical professionals about the substitution of dental amalgam.

Tanzania proposed promoting donations and exportation of mercury-free products while restricting donations of mercury-containing products to avoid dumping. Japan reiterated the importance of recovering mercury products in addition to their disposal and collection to discourage their use. HEAL, supported by the US, proposed to prevent the use of mercury amalgams in children and pregnant women. Noting its willingness to participate in the research of alternatives to vinyl chloride monomer and chlor-alkali production, China proposed to promote the development of a non-mercury catalyst for the acetylene process. Delegates agreed that the additional comments would be incorporated by the Secretariat.

Delegates requested the Secretariat add these to the list of options included in the final report of the meeting.

**Knowledge on inventories, human and environmental exposure, monitoring and socioeconomic impacts:** In the discussion on inventories, Switzerland suggested the pollution release and transfer registers, used within the United Nations Economic Commission for Europe (UNECE), could be used in creating a mercury register and in conducting national inventories of mercury stockpiles and production. Canada stressed the importance of science and monitoring in the setting and in the following-up of goals. Belarus proposed that research on continued mercury use should also cover the impacts on human health. Stressing the importance of setting priorities, Mexico proposed establishing an inventory of the different uses of mercury. Egypt underscored the importance of raising awareness among custom officials. Kiribati proposed a bio-monitoring measure to provide mercury baseline levels of fish populations to protect human health and the environment.

Brazil noted the difficulty his country found in quantifying mercury emissions due to the lack of a national mercury inventory. Norway noted that knowledge of mercury emissions is poorer in developing countries and suggested the additional response measure of a global monitoring plan for mercury. Stressing that people need more awareness of the risks associated with mercury to make informed choices, HCWH suggested monitoring methylmercury in fish as an additional response measure and this was supported by Norway, Switzerland and the Island Sustainability Alliance. Morocco suggested assessment of the socioeconomic effects of mercury as an additional response measure. Noting the advantage of biological monitoring to quantify mercury in humans, Belarus cited the monitoring of breast milk for persistent organic pollutants under the Stockholm Convention and suggested a similar programme for mercury as an additional response measure. Colombia suggested an early warning system for mercury-exposed populations as an additional response measure. The United Nations Institute for Training and Research outlined a pilot programme enabling the public to access information on emissions inventories through pollution release and transfer registers, and explained the project presently included three countries, but could be expanded with additional and sustainable funding.

The EU, supported by the Gambia, noted the need for further socioeconomic analysis of mercury impacts and regional health projects to increase knowledge and capacity on mercury among states. She cited awareness-raising workshops, particularly in the healthcare sector, as well as pilot projects in reducing mercury and increasing knowledge among users and consumers. The Center for Public Health and Environmental Development said awareness programmes must also reach small-scale entrepreneurs, traditional healers and artisanal miners. Seychelles called for increased capacity building for developing countries in mercury monitoring.

**Final Outcome:** On Friday, the OEWG noted that the tables containing the strategic objectives and associated available response measures (UNEP(DTIE)/Hg/OEWG.1/1/CRP.21 and UNEP(DTIE)/Hg/OEWG.1/L.2, Annex I) are neither complete, prioritized nor a negotiated text. The OEWG list of the strategic objectives include:

- Regarding the increasing knowledge on areas such as inventories, human and environmental exposure, environmental monitoring and socioeconomic impacts, to increase knowledge and capacity building on mercury among states and among individual mercury users and consumers;
- Regarding reducing atmospheric emissions of mercury from human sources, to reduce mercury emissions from coal usage, ASM and from industrial processes;
- Regarding environmentally sound solutions for the management of mercury waste, to: reduce generation of wastes that contain mercury; promote separate collection and treatment of mercury-containing wastes; and reduce mercury emissions to air and reduce migration of emissions of mercury from landfills;
- Regarding reducing global mercury demand, to reduce mercury use in: ASM; vinyl chloride monomer and chlor-alkali production; products, including packaging; and dental practices;
- Regarding global mercury supply, to reduce mercury from: mining and extraction of virgin mercury and other ores; from decommissioned chlor-alkali cells; stockpiles; and international trade of mercury;
- Regarding sound storage solutions for mercury, to: reduce releases from stored mercury and mercury wastes; and manage existing stockpiles of mercury and mercury-containing wastes to prevent environmental contamination; and
- Regarding contaminated sites, to prevent mercury contamination from spreading, and control and remediation of contaminated sites.

**Intersessional work by the Secretariat:** The issue of intersessional work was taken up in plenary on Thursday and in a contact group that met on Thursday evening and in plenary on Friday.

Nigeria, for the African Group, presented its proposal for intersessional work by the Secretariat before the second meeting of the OEWG (UNEP(DTIE)/Hg/OEWG.1/CRP.20), including seven elements:

- elaboration on a legally binding instrument for global mercury control;
- analysis of the financial mechanism and technology transfer and support;

- analysis of costs and benefits of options;
- broader supply and demand analysis;
- further consideration of options for legally binding and voluntary measures;
- further analysis of response measures; and
- developing interim measures for funding.

The US introduced its proposal for intersessional work (UNEP(DTIE)/Hg/OEWG.1/CRP.17), including:

- collecting and summarizing data on priority areas;
- preparing an updated paper on the major mercury containing products and processes;
- examining the demand elasticity of mercury in artisanal mining; and
- considering the voluntary framework proposed by the US.

The US introduced a second paper on elements for voluntary framework to address global mercury risks (UNEP(DTIE)/Hg/OEWG.1/CRP.18), including political commitment; a mechanism to achieve the commitment; and ability to provide for appropriate support.

Australia presented its joint paper with New Zealand (UNEP(DTIE)/Hg/OEWG.1/CRP.16), which proposed the Secretariat prepare a document on information on the costs and benefits of various response measures and strategies aimed at reducing global mercury risks.

In the general discussion on the proposals for intersessional work, Norway highlighted the importance of drawing on previous work, such as the report of the Nordic Council on a mercury substitution priority working list, financial considerations, and the need for providing the Secretariat with flexibility to do its assigned intersessional work.

The EU suggested organizing and grouping the list of available response measures and supported further analyzing both a protocol to the Stockholm Convention and a free-standing Convention. Brazil supported the African Group's proposal, highlighting the sections on the financial mechanism and technology support, and further analysis of measures. Supporting the African Group's proposal, Belarus emphasized the need for more information on the financial aspects.

Argentina supported the proposal submitted by New Zealand and Australia relating to a cost-benefit analysis of response measures, and the African proposal, especially on analysis on sustainable technology transfer and support. The US, supported by Switzerland, suggested streamlining the African proposal to ensure the Secretariat's work was manageable.

Regarding analysis of sources, supply, demand and elasticity of mercury, Switzerland suggested adding a "price tag" to each task requested of the Secretariat. Noting that the Secretariat can undertake analysis but not take political decisions, China, supported by Switzerland and the EU, said the Secretariat did not have the mandate to elaborate a legally binding instrument for global mercury control.

Noting that much information about the major sources of mercury released by each country is already available, Switzerland, opposed by the US, said that data on priority areas should not be a major work undertaken by the Secretariat. The US explained that the intersessional work on data on priority areas should build on existing data sets.

The EU and Switzerland noted it would be too ambitious to examine the elasticity of demand of mercury in relation to ASM. The US argued that a policy to ban mercury trade should be analyzed before proposing to implement it.

With regard to further analysis on developing legally binding and voluntary options, Chair Roberts proposed that the Secretariat elaborate the details of a protocol under the Stockholm Convention, a stand-alone convention and voluntary approaches to address the global mercury problem. Switzerland suggested two separate studies on legally binding options and voluntary measures. The US highlighted that evaluation of effectiveness of options for international instruments, as called for by the African proposal, was a task for governments and not the Secretariat. The EU suggested also including other heavy metals, but New Zealand, supported by China, cautioned that the mandate of the OEWG is for mercury only.

Regarding the analysis of response measures, Chair Roberts highlighted the African proposal to group measures according to those that could be implemented at the national level and those at the international level. Noting that there are dozens of response measures, the US suggested the workload for the Secretariat would be heavy and was not supportive of grouping response measures into broader clusters. She favored maintaining the priorities outlined in Decision GC 24/3 IV as clusters. Switzerland, supported by the EU and Norway, suggested that grouping response measures would make the information more digestible, and with Canada and Switzerland, he also supported Australia and New Zealand's proposal. New Zealand highlighted that their proposal attempted to faithfully capture to Decision GC 24/3 IV while providing flexibility for the Secretariat. He said ultimately its aim was to identify the "big ticket items," and the gains and their costs.

With regard to intersessional work on technical support and a financial mechanism, Chair Roberts invited delegates to consider the paragraph on financial considerations and technical support of the African proposal (UNEP(DTIE)/Hg/OEWG.1/CRP.20). Noting the OEWG had spent considerable time on response measures, and little time on technical support and a financial mechanism, Brazil emphasized the need to address the issue during the intersessional period. The EU opposed analysis by the Secretariat on the creation of a mercury fund, similar to the Multilateral Fund of the Montreal Protocol. The US said the issue of technical support and a financial mechanism had been addressed adequately at the meeting and should not be a topic for intersessional work. Norway and Switzerland supported further work intersessionally and further discussion at the second OEWG meeting.

HEAL stated that the financial resources required are dependent on agreed targets for mercury discussions and Brazil suggested it would be useful to quantify the financial resources. New Zealand said that the issue of financial resources should be investigated in terms of voluntary instruments.

The US proposed requesting the Secretariat to prepare an updated paper on major mercury-containing products and processes that have effective substitutes. The EU suggested widening the proposal on intersessional work to include BAT and BEP guidelines.

A contact group, chaired by Ivina Zastenskaya (Belarus), was established to discuss the proposal on the intersessional work by the Secretariat. On Friday, Zastenskaya presented the contact group's report, which compiled the CRPs by New Zealand/Australia, the EU, Africa and the US on intersessional work (UNEP(DTIE)/Hg/OEWG.1/CRP.23). The Secretariat specified that the description of the process by which countries would pursue the implementation options are in relation to a new free-standing convention, a protocol under the Stockholm Convention and voluntary arrangements. Following Switzerland's reiteration of its request to include a price tag attached to each intersessional task, the Secretariat proposed specific estimates for each task, noting that the combined direct and staffing costs would amount to US\$510,000.

China suggested the submission from the contact group was too focused on work related to a legally binding instrument. He emphasized importance of preparing an updated paper on the major mercury-containing products and processes that have effective substitutes. He suggested that the updated paper should also consider the major mercury-containing products and processes that do not have commercially available substitutes. Tanzania supported China's proposal while the Gambia, Belarus and Argentina objected to it. The Secretariat noted the brevity of the intersessional period and the limited resources. Chair Roberts suggested that the OEWG take note of China's suggestion and that the Secretariat would compile the information, as requested, if it is available. The OEWG supported this formulation. China sought clarification on reference to the Secretariat's work on "targets and timetables" and the Secretariat responded that it would only undertake editorial work by grouping those agreed upon by the OEWG.

Switzerland suggested making cost-benefit analysis a priority and allocating with necessary resources, while cutting the budget for some other tasks. After interventions from several delegates, Chair Roberts concluded the OEWG should not seek to negotiate priorities for intersessional work. The Secretariat clarified that to be completed, the intersessional work must be financed in the near future. The EU noted that the market would define priorities, as donors would specify which activities they wish to support.

Delegates agreed to the revised report of the contact group with minor amendments.

**Final Outcome:** The final outcome on intersessional work (UNEP(DTIE)/Hg/OEWG.1/L.1), requests the Secretariat to undertake intersessional work in preparation for the second meeting of the OEWG to:

- provide information on: modalities to allow the GEF to provide financial resources; elements of the structure of the Multilateral Fund of the Montreal Protocol that could serve as a model; and available funds of the GEF, SAICM and other funding arrangements (in the context of the possible development of a new free-standing convention, a new protocol under the Stockholm Convention, and voluntary arrangements);
- provide information on how sustainable technology transfer and support could be facilitated for global mercury control action (based on experience with existing legally binding and voluntary arrangements);

- describe the process by which countries would pursue the options of a new free-standing convention, a new protocol under the Stockholm Convention, and voluntary arrangements;
- organize response measures within each strategic objective according to the following clusters: inventories and knowledge building; targets and timetables; BAT/BEP and product standards/restrictions; financial considerations and capacity building; and technology transfer. These response measures would be annotated to indicate those that can be implemented at the national level and those that would benefit from a coordinated international framework;
- make a general qualitative assessment of the potential costs and benefits associated with each of the strategic objectives, and gather and present any available information on the socioeconomic costs of continuing the status quo;
- undertake an assessment of whether projected appropriate demand could be met if primary mining was phased out and provide a brief summary of major sources of mercury releases by country, or if unavailable, by region;
- prepare an updated paper on the major mercury-containing products and processes that have effective substitutes and on experience in switching to non-mercury processes or products; and
- provide information on funding currently available through the GEF, SAICM and other funding arrangements to increase knowledge on areas such as inventories, human and environmental exposure, environmental monitoring and socioeconomic impacts.

### **REPORT ON ACTIVITIES UNDER THE UNEP MERCURY PROGRAMME**

Discussion of this agenda item took place on Thursday in plenary. The Secretariat reported on the development of a report on atmospheric emissions, the UNEP Mercury Programme Partnerships and ongoing activities including work in cooperation with the Basel Convention, initiatives on outreach and risk and on inventories.

#### **Development of a report on atmospheric emissions:**

The Secretariat introduced the plan for the development of a report on atmospheric emissions and site-based contamination (UNEP(DTIE)/Hg/OEWG1/3), as requested by UNEP GC Decision 24/3. He said that the report would draw on input from the Fate and Transport Partnership and the Arctic Monitoring and Assessment Programme and that the draft report would be distributed to governments at the beginning of June 2008. He explained comments should be provided to the secretariat by 16 July 2008, and that the report would be finalized before the next meeting of the OEWG. He noted that an outline of the report was available, and invited governments' comments. He also asked governments and others to provide additional or updated information relating to contaminated sites and best practices for reducing mercury emissions by the end of 2007.

Italy announced that the Fate and Transport Partnership will prepare a report and its first draft will be submitted to UNEP in January 2008 for incorporation into the UNEP report. Japan announced that her government would undertake a national mercury inventory, and convene a workshop on mercury. She said the results of the survey would be provided to the Secretariat as a contribution to the report on atmospheric emissions.

**Report on ongoing activities:** The Secretariat reported on its cooperation with the Basel Convention and its work enhancing outreach and risk communication for at-risk populations, including sensitive populations (UNEP(DTIE)/Hg/OEWG.1/4).

He explained that UNEP Chemicals has been working with the Basel Convention to develop guidelines for the handling of mercury and noted a draft was available for comments.

With regard to identifying populations at risk due to mercury exposure (UNEP(DTIE)/Hg/OEWG.1/INF/4) and an awareness-raising package (UNEP(DTIE)/Hg/OEWG.1/INF/5), the Secretariat said the aim was to develop concise and useable products. He invited comments from all stakeholders by 31 December 2007. Tanzania highlighted the need to field-test the documents intersessionally. The Secretariat welcomed the initiative and said the results could be provided at the second meeting of the OEWG.

Regarding progress with inventories (UNEP(DTIE)/Hg/OEWG.1/INF/7), the Secretariat explained it had developed a toolkit to assist developing countries as a first step in developing plans to address mercury. He highlighted the use of the toolkit was being piloted and would be revised accordingly by mid-2008.

#### **Status report on UNEP Mercury Programme**

**Partnerships:** The Secretariat explained that at its 24th session, UNEP recognized the importance of the UNEP Mercury Partnerships Programme and called for its enhancement (UNEP(DTIE)/Hg/OEWG.1/5). He explained UNEP Chemicals had initiated the process of developing an overarching objective for the programme and recognized the need to develop governance arrangements, clear objectives, rigor and a business plan. He outlined that a meeting would be convened in April 2008 to agree on the issues. He outlined five active partnerships and highlighted that participation has not been as comprehensive as expected.

Brazil highlighted the need for the involvement of the recipient country government in all partnerships and said the QSP system of government endorsement was a good example.

Norway underscored the importance of partnerships to address mercury in the short-term.

Argentina supported a voluntary approach and transparent framework for partnerships. Switzerland commented that the first draft of the partnership document lacked a clear overarching goal, common structure, and financial and institutional sustainability. The US stressed the importance of financing options and prioritization within the areas of work of partnerships. Trinidad and Tobago supported periodically updating mercury inventories to identify new sources such as its use in sewage treatment. Jamaica, supported by the Dominican Republic and Mali, expressed concern that developing countries, particularly small island developing states, are not sufficiently involved in partnerships. Japan expressed interest to join the product partnership to share its expertise in alternatives in mercury-containing batteries and lamps. The Secretariat, the US and the Dominican Republic praised UNIDO for its leadership role in partnerships. Noting that the Global Mercury Partnership Project had contributed to the Millennium Development Goals, UNIDO explained that the problems of ASM are not of mercury but of development. Guinea proposed that the knowledge of

identified contaminated sites be disseminated to neighboring countries. South Africa emphasized that partnerships are only interim and complementary measures to address the global mercury problem.

The European Environment Bureau said that voluntary partnership programmes alone cannot effectively solve the global mercury problem, but could be complementary to a legal binding instrument.

#### **OTHER MATTERS**

The Secretariat announced the second meeting of the OEWG is tentatively scheduled for 6-10 October 2008, in Nairobi, Kenya.

#### **CLOSING PLENARY**

The report of the meeting (UNEP(DTIE)/Hg/OEWG.1/L.1 and L.2) was considered in plenary on Friday. Delegates discussed the report and made several amendments to accurately reflect the meeting. Chair Roberts stressed that the report must reflect the content of interventions and those that were agreed to do so, were accepted. Canada suggested amendments noting Annex 1 of the report continues to be considered a non-agreed-upon indicative list of possible measures. China suggested some sections focused too heavily on the advantages of a legally binding approach, stated the report should be balanced and suggested amendments noting both voluntary and legally binding approaches were discussed. The US proposed several amendments and additions on strengthening partnerships, to which the EU and Switzerland responded that the speakers who said it was urgent to work towards the establishment of a legally binding instrument, had received "substantial support." Switzerland added reference to the ongoing partnership initiative with the Basel Convention as an example of successful combinations of voluntary and legally binding approaches. Qatar added reference on the importance of a standardized framework and agreed timeline for partnerships and the report was adopted, as amended.

In closing, Switzerland suggested transmitting the report of the OEWG to Basel Convention COP9 for information. The EU stressed the intersessional work assigned to the Secretariat will provide a valuable contribution to the second meeting of the OEWG and concluded that the EU would endeavor to provide financial resources to the Secretariat for this intersessional work. Chair Roberts thanked the Government of Thailand, all participants and the Secretariat for their efforts and the meeting was gavelled to a close at 4:54 pm.

#### **A BRIEF ANALYSIS OF THE OEWG**

After discussing the issue of mercury at each meeting of the UNEP Governing Council since 2001, the 24th session in February 2007 acknowledged that an in-depth discussion was required to make progress on the issue. As such, an *Ad hoc* Open-ended Working Group (OEWG) on mercury was established and mandated to review and assess options for enhanced voluntary measures and new or existing international legal instruments for addressing the global challenges posed

by mercury. The OEWG is to meet twice and then to provide options for consideration by the UNEP GC at its 25th session in 2009.

Arriving in Bangkok for the first meeting of the OEWG, delegates articulated mixed feelings. Many recalled the “torrid” experience of the contact group on mercury at 24th session of the Governing Council, while others observed that the OEWG represented an opportunity to engage in an in-depth discussion on issues specific to the global mercury problem. While most delegates were realistic that this meeting represented only the first step, many were optimistic that the OEWG could help to focus or narrow down the list of options to address mercury, provide clear direction for the Secretariat’s intersessional work and therefore set the stage for significant progress at the second meeting of the OEWG. Others feared that due to the underlying disagreement over how to address mercury – either through adopting a legally binding instrument or by using a voluntary approach – that countries may just repeat entrenched positions and therefore sacrifice the opportunity to engage in constructive debate.

The following analysis examines the OEWG’s deliberations in greater detail, considers the upcoming work in the intersessional period and looks ahead to how this work may shape discussions at the next meeting of the OEWG in October 2008.

#### **KEY OUTCOMES: FROM NAIROBI TO BANGKOK**

Delegates spent the majority of the meeting considering options for the global control of mercury outlined in a report prepared by the Secretariat (UNEP(DTIE)/Hg/OEWG.1/2) and focused their discussion on tables addressing the seven priorities set out in Decision 24/3 IV and potential response measures. While it was hoped that delegates could move the process forward by narrowing the list of options, instead they added more measures throughout the week. Some participants referred to other measures being a “shopping list,” and at the request of some delegations the meeting report was amended to clearly reflect that the measures included did not reflect a “completed or prioritized” list, or a negotiated text. Many delegates were pleased with the general agreement of the need to cease mining of virgin mercury and saw this as a sign of progress. Some suggested, however, that celebration over this issue was premature, given that 95% of mercury is mined by a single country that was not represented. Others were cautiously optimistic that a partnership initiative with the US is being developed to begin addressing this issue and that the initiative gathered momentum during the meeting when Switzerland announced it would also participate.

When considering the path forward, several delegates pointed to the larger issue of the diverging views on the need for voluntary measures or a legally binding instrument to address mercury. Interventions throughout the week were flavored with the taste of entrenched positions on the most appropriate way to address mercury. The US, in favor of voluntary measures, cited the high costs of negotiating conventions, the higher cost of implementation, the long timeframe of negotiations and the need for immediate action. The US also highlighted the opportunity to address mercury through the Strategic Approach to International Chemicals Management (SAICM). Those preferring a legally binding instrument, including Norway, Switzerland and the

African Group, cited effectiveness of conventions and the need for an adequate and sustainable financial mechanism to address mercury. The African Group and other developing countries stressed the need for “new and additional” financial resources. Switzerland argued that conventions often cost less to negotiate than voluntary measures and said the process of negotiating SAICM exceeded that of negotiating a convention. Underscoring that voluntary initiatives allow free-riding and that legally binding agreements lead to more effective for implementation, Switzerland also observed that the developed countries currently funding SAICM are also the countries calling for a legally binding approach to mercury. As such, many concluded a legally binding approach would lead to a more sustainable financial mechanism.

Notably, Norway and Switzerland, two countries that have historically been in favor of a legally binding instrument voiced support for the important role of partnerships and the need for voluntary measures as a compliment to a legally binding instrument. As the debate morphed from to bind or not to bind, to bind and partner, or just to partner, other delegates noted the significant change of position of Japan and Canada, who stated they were “open to all options,” including a legally binding approach. Some noted that while some entrenched positions remained, such as the US’ staunch attachment to partnerships and China’s hesitation to consider a legally binding instrument, these were increasingly alienated and this could be an indication of increased congruence by the majority of countries. Other seasoned participants speculated that the newfound openness of countries may represent a negotiating strategy and highlighted that when the crunch comes the entrenched positions will likely resurface.

Central to the discussion of the need for a legally binding instrument was the question of what sort of instrument is needed. With three legally binding chemicals conventions – Basel, Stockholm and Rotterdam – already in existence, there were several possible avenues for addressing mercury under a legally binding framework. At the close of the meeting, it was clear that those in favor of a legally binding approach agreed that either a protocol to the Stockholm Convention or a free-standing convention were the most appropriate options, as there was little support for attempting to globalize the regional Convention on Long-Range Transboundary Air Pollution and agreement that as mercury is inorganic, it could not be addressed through the Stockholm Convention, without amendment of the convention.

Potentially concurrent activities to address mercury under other legally binding instruments were observed by several delegates. These include the impending listing of mercury under the Rotterdam Convention’s Prior Informed Consent procedure. As many delegates noted, listing will not necessarily reduce trade, but will ensure countries are informed about the import and export of mercury. Others discussed the potential to nominate consideration of methylmercury under the Stockholm Convention, through the Persistent Organic Pollutants Review Committee process. Many however noted this process would only serve to address the single compound of methylmercury and not mercury in its elemental form.

There was agreement among delegates on the importance of intersessional work for informing the work of the second

OEWG. A contact group spent many hours negotiating the requested intersessional work. While the US favored a comprehensive study on the elasticity of mercury demand, many noted the resource limitations and time constraints and more skeptical observers pointed to a ploy of “paralysis by analysis.” Delegates did request the Secretariat to undertake studies on mercury demand, the costs and benefits of various potential response measures, available funding for mercury through the Global Environment Facility and SAICM, and information on effective substitutes for mercury containing products and processes. The agreed tasks are significant and, as the Secretariat highlighted at the close of the meeting, so far unfunded. This left many delegates concerned that only some of the studies would be completed. Others were optimistic that funders would come out of the “woodwork”.

While delegates were generally satisfied with the outcome of the meeting and were optimistic about the potential of the OEWG’s second meeting, some veterans who noted the absence of India and Pakistan tempered this with caution. These they said, may prove to be the “elephants in the room” and expressed hope that bilateral discussions during the intersessional period may ensure a fuller participation at the next meeting.

**LOOKING FORWARD: FROM BANGKOK TO NAIROBI**

Looking ahead to the second meeting in October 2008, several delegates hoped that OEWG would complete its task of agreeing on a suite of options to take forward to the next UNEP Governing Council. A programme of work to address the global challenge of mercury could include both voluntary and legally binding components. Other delegates were more cautious. Some suggested the outcome of the second meeting was contingent on the arrangement of the agenda and the willingness of delegates to adhere to it. To achieve its task of providing options to the Governing Council that address the priorities, the meeting must remain focused. A few delegates were uncertain of the willingness of those married to voluntary approaches, to entertain extensive discussion of options of legally binding approaches.

According to one delegate, the risk is that the meeting could be hijacked by well-worn debates on the relative merits of legally binding and voluntary approaches, which is for resolution under Governing Council and is not under the remit of the OEWG. Whatever happens, most delegates hoped that arrival in Nairobi does not spark a quick return to old trenches, but that instead the upbeat and open atmosphere of the meeting in Bangkok travels to Africa with delegates.

**UPCOMING MEETINGS**

**STOCKHOLM CONVENTION POPRC-3:** The third meeting of the Persistent Organic Pollutants Review Committee (POPRC) of the Stockholm Convention will take place from 19-23 November 2007, in Geneva, Switzerland. For more information, contact: Stockholm Convention Secretariat; tel: +41-22-917-8191; fax: +41-22-917-8098; e-mail: ssc@pops.int; internet: <http://www.pops.int>

**UNEP GCSS10/GMEF:** The tenth Special Session of the UNEP Governing Council and the Global Ministerial Environment Forum will convene from 20-22 February 2008,

in Monaco. For more information, contact: Beverly Miller, Secretary of the UNEP Governing Council; tel: +254-20-762-3431/762-3411; fax: +254-20-762-3929/762-3748; e-mail: [beverly.miller@unep.org](mailto:beverly.miller@unep.org); internet: <http://www.unep.org/resources/gov/>

**UNEP GLOBAL MERCURY PARTNERSHIP MEETING:**

The meeting of Partners to develop an overarching framework for UNEP Global Mercury Partnership will be held from 1-3 April 2008, in Geneva. For more information, contact: UNEP Chemicals Branch, Division of Technology, Industry and Economics; tel: +41-22-917-8183; fax: +41-22-797-3460; e-mail: [mercury@chemicals.unep.ch](mailto:mercury@chemicals.unep.ch); internet: <http://www.chem.unep.ch/mercury/default.htm>

**NINTH MEETING OF THE CONFERENCE OF THE PARTIES (COP) TO THE BASEL CONVENTION: COP9**

is scheduled to take place from 23-27 June 2008, in Bali, Indonesia. For more information, contact: Secretariat of the Basel Convention; tel: +41-22-917-8218; fax: +41-22-797-3454; e-mail: [sbc@unep.ch](mailto:sbc@unep.ch); internet: <http://www.basel.int>

**SIXTH SESSION OF THE INTERGOVERNMENTAL FORUM ON CHEMICAL SAFETY (IFCS): IFCS VI**

will take place from 15-19 September 2008, in Dakar, Senegal. For more information, contact: IFCS Secretariat; tel: +41-22-791-3873; fax: +41-22-791-4875; e-mail: [ifcs@who.int](mailto:ifcs@who.int); internet: <http://www.who.int/ifcs>

**SECOND MEETING OF THE AD HOC OPEN-ENDED WORKING GROUP ON MERCURY:**

This meeting is tentatively scheduled to be held from 6-10 October 2008, in Nairobi, Kenya. For more information, contact: UNEP Chemicals Branch, Division of Technology, Industry and Economics; tel: +41-22-917-8183; fax: +41-22-797-3460; e-mail: [mercury@chemicals.unep.ch](mailto:mercury@chemicals.unep.ch); internet: <http://www.chem.unep.ch/mercury/>

**GLOSSARY**

ASM	Artisanal and small-scale mining
BAT	Best available technology
BEP	Best environmental practice
GC/GMEF	Governing Council/Global Ministerial Environment Forum
GEF	Global Environment Facility
OEWG	Open-ended Working Group
SAICM	Strategic Approach to International Chemicals Management
UNEP	United Nations Environment Programme