

## MERCURY INC5 HIGHLIGHTS: MONDAY, 14 JANUARY 2013

On Monday, INC5 delegates met in plenary in the morning and afternoon. Contact groups on selected technical articles and on financial resources and technical assistance convened in the morning and evening. A contact group on emissions and releases met in the afternoon, followed by a Friends of the Co-Chairs group on the issue in the evening.

### PLENARY

**EMISSIONS AND RELEASES:** INC4 contact group on emissions and releases Co-Chair John Roberts (UK) introduced a document requested by INC4 on mercury air emission thresholds for facilities and information on releases to land and water (UNEP(DTIE)/Hg/INC.5/4). Several delegations supported the Chair's text as a basis for negotiations. GRULAC noted incomplete regional coordination on emissions and releases.

IRAQ, supported by YEMEN, introduced a submission (UNEP(DTIE)/Hg/INC.5/CRP.5) to: keep emissions and releases in two separate articles; provide limit values for each source category of emissions; and address all sources of releases. NEPAL and MOLDOVA called for a single article on emissions and releases. The PHILIPPINES stressed that flexible measures are still binding ones.

The AFRICAN GROUP, the EU and the REPUBLIC OF KOREA preferred option 1, which includes a list of control and/or reduction measures. JAPAN, COLOMBIA, NORWAY, the US and CANADA also preferred option 1, expressing openness to considering certain elements from option 2, which provides for nationally determined measures, with SWITZERLAND suggesting incorporation of national plans within a certain time period particularly for existing facilities. CANADA explained that option 1 is clear, requires action on both new and existing sources, and provides flexibility. URUGUAY called for ambitious and efficient reduction measures to achieve the convention's objective.

BRAZIL, ARGENTINA, MEXICO, CUBA, BOLIVIA, the DOMINICAN REPUBLIC, CHILE, CHINA, NEPAL and INDIA favored option 2.

**Article 10. Emissions:** NORWAY emphasized the need to ensure that Article 10 delivers the necessary emission reductions; discuss timeframes for reductions; and set a goal for emission reductions from existing sources. The EU recommended setting timelines for existing sources. JAPAN stated that implementation of emission limit values not only for existing, but also new, sources of emissions should be deemed of equivalent effectiveness to best available techniques (BAT) and best environmental practices (BEP); and recommended developing

clear and objective criteria for selecting emission sources. The AFRICAN GROUP and SWITZERLAND recommended that BAT and BEP be applicable to all new facilities and phased in for existing sources.

The US, supported by SWITZERLAND, introduced a submission on general guidance on BAT (UNEP(DTIE)/Hg/INC.5/CRP.6) as a complement to the definition of BAT developed at INC4. The US also underscored the need for: mandatory requirements on new and existing sources; thresholds for most significant sources of emissions; and continued economic growth along with emission reductions from listed mercury sources.

CHILE cautioned against setting thresholds without taking into account the significance of the source for global mercury emissions. INDONESIA cautioned against setting global thresholds, and with ARGENTINA highlighted difficulties in setting thresholds for specific sectors. CHINA favored focusing on major sources of emissions. CANADA, with IPEN, noted that a facility's size is not necessarily an indication of the amount of mercury emissions.

**Article 11. Releases:** The EU noted that article 9 on ASGM addresses the most obvious sources of releases, and that article 11 should cover sources of major concern. The US and CANADA noted that major sources are covered in articles on products and processes, storage and waste, and ASGM.

Noting that the Arctic acts as a sink for anthropogenic mercury, the INUIT CIRCUMPOLAR COUNCIL drew attention to measurable health effects on Inuit children and, with ZMWG, urged mandatory action and controls on all, both new and existing, sources of emissions and releases. IPEN cautioned that the current article on emissions will not reduce global mercury pollution.

A contact group was established, co-chaired by John Roberts (UK) and Abdulkadir Jailani (Indonesia), focusing on: whether to merge articles 10 and 11; the use of thresholds as a means of screening sources to be addressed in the instrument; developing text on a rigorous and flexible approach, rather than focusing on option 1 or 2; and sources of releases to land and water.

**SUPPLY AND TRADE:** The EU, supported by NORWAY, introduced a submission (UNEP(DTIE)/Hg/INC.5/CRP.4) proposing a new annex on supply sources, including chlor-alkali production facilities, and a phase-out deadline for primary mining. The PHILIPPINES stressed the need to prevent mercury from such facilities from entering the market. The US and BRAZIL called for equal treatment of all secondary sources.

The US called for eliminating primary mining of mercury. CHINA opposed restricting existing mines. SWITZERLAND called for: banning opening of new mines; allowing export



of mercury from existing mines only for final disposal, with specific uses allowed only in the domestic market; and a uniform trade regime for parties and non-parties. JAPAN suggested the exception regarding naturally occurring trace quantities in mineral products also cover unintentional trace quantities and chemical products.

The AFRICAN GROUP highlighted, *inter alia*, prohibition of trade without PIC, and more stringent conditions for trade with non-parties than with parties. COLOMBIA and the PHILIPPINES noted PIC is a very important tool, while the US and CANADA opposed the proposed PIC scheme. JAPAN preferred a mechanism similar to that of the Stockholm and Rotterdam Conventions. CHILE called for clear language to avoid setting a precedent regarding other mining activities.

The National Resources Defense Council (NRDC) noted that only chlor-alkali plants in the EU and US are prevented from sending mercury overseas, and warned against mercury dumping. IPEN said primary mercury mining should be banned; export prohibited, including to non-parties; and PIC procedures required.

**ASGM:** The US introduced a submission (UNEP(DTIE)/Hg/INC.5/CRP.2), supported by the EU, to allow trade in mercury for ASGM with the written consent of the importing party or non-party, and certification that the import is consistent with a party's ASGM action plan and progress reports, or certification that the non-party is taking steps to reduce use of mercury in, and the release to the environment of mercury from, ASGM and processing. JAPAN requested developing a specific process for imports of mercury for ASGM.

The PHILIPPINES expressed concern that the Chair's text contained no limits on mercury use in ASGM. The AFRICAN GROUP called for developing text on the reduction and eventual phase-out of mercury use in ASGM. SWITZERLAND and PERU suggested clarifying that ASGM is a "permitted use" under the treaty. NORWAY, GUYANA and SWITZERLAND proposed to gradually reduce trade in mercury for ASGM and for the COP to review and decide when trade is no longer allowed. BRAZIL warned against negative incentives that could result in a mercury black market and use of more harmful substances.

ZMWG underscored the need to clearly indicate that ASGM-related trade and use will not continue indefinitely. IPEN requested prohibiting mercury trade for ASGM.

#### **STORAGE, WASTES AND CONTAMINATED SITES:**

**Article 13. Mercury wastes:** The PHILIPPINES called for binding requirements for storage and environmentally sound management of mercury wastes. SWITZERLAND recommended making reference not only to the definitions, but also to the procedures on transboundary movements, from the Basel Convention; and clarifying the term "disposal" in accordance with the Basel Convention. LEBANON called for specific standards for mercury waste disposal. CHILE called for a clear definition of mercury "wastes." The EU underscored the need to develop guidance, in cooperation with the Basel Convention, to clarify the level of mercury content that would trigger the application of the waste provisions of the mercury treaty.

SWITZERLAND, NORWAY and the EU, opposed by JAPAN, proposed to request, rather than allow, the COP to adopt requirements such as those related to wastes facility location, design and operation, and adequate treatment before final disposal. SWITZERLAND, NORWAY, COLOMBIA and the AFRICAN GROUP favored lifting brackets around text on applying controls equivalent to those in the Basel Convention to non-parties to that Convention. The US called for a flexible approach based on the development of technical guidance on

environmentally sound management, to avoid difficulties for non-parties to the Basel Convention to become parties to the mercury instrument.

**Article 12. Environmentally sound interim storage of mercury, other than waste mercury:** The EU recommended requesting, rather than allowing, the COP to adopt requirements for storage. BRAZIL requested the guidelines to be adopted by the COP to be flexible to accommodate developing countries' diverse circumstances. IPEN recommended that the COP adopt a guidance document on interim storage and provide for capacity building and technology transfer for environmentally sound storage.

**Article 14. Contaminated sites:** JAPAN called for deleting the paragraph on cooperation and financial and technical assistance. BRAZIL, IRAN and MOROCCO requested retaining the provision, pending parallel discussions on financial resources and technical assistance. IPEN urged mandatory language on parties identifying and cleaning up contaminated sites and for financial assistance in that regard.

#### **CONTACT GROUP ON FINANCIAL RESOURCES AND TECHNICAL ASSISTANCE**

In the morning, the contact group focused on technology transfer, discussing whether Article 16 *bis* (technology transfer) and Article 16 (technical assistance) could be merged, with many developing countries noting the importance of a detailed free-standing provision.

Chair Guthrie then proposed to have a provision on the tasks of the COP, such as assessing needs and the current status of technology transfer, and identifying obstacles and best practices. Delegates also discussed whether obligations should be addressed to all parties, or to developed countries and other parties within their capabilities. Delegates discussed whether to "provide" or "promote" technology transfer and whether to do so on a "concessional or preferential basis" or on a "mutually agreed" basis. Some indicated that they could agree to compromise language from the Rio+ 20 outcome document to do so "on favorable terms, including on concessional and preferential terms, as mutually agreed." A number of developed countries opposed, preferring using text on technology transfer from the Stockholm Convention. Discussions continued into the night.

#### **CONTACT GROUP ON EMISSIONS AND RELEASES**

Participants broached consideration of thresholds, including how to define and express them, and agreed that a smaller group of technical experts would discuss the issue further on Tuesday. The group also considered the US submission on general guidance on BAT, with some countries noting such guidance should come at a later date. In an effort to find common ground between the two options presented in the Chair's text, the group discussed new and existing sources separately, with some agreement emerging that there should be more flexibility for existing sources.

#### **IN THE CORRIDORS**

Delegates got down to brass tacks on Monday as contact groups started work on what are widely acknowledged as the two lynchpin areas of the negotiations: financing and technical assistance, and emissions and releases. While many noted that these groups worked hard and made sure they did not overstep their respective mandates, another participant predicted, "only tying everything together at the right moment, in the right way, will bring the right result."