

## Minamata COP-5 Highlights: Tuesday, 31 October 2023

Delegates resumed discussions of the previous day's plenary on artisanal and small-scale mining (ASGM). They adopted a decision on 'The effects of mercury pollution on Indigenous Peoples and on local communities,' which relates to ASGM activities in Indigenous Peoples' territories, and the need for awareness raising on the harmful impacts of mercury exposure. The COP also adopted a draft decision on mercury emissions, which calls on parties to develop national plans for controlling emissions, and to report back to COP-6 on their experiences.

The plenary formed two new contact groups — one on the budget and programme of work for the 2024-25 biennium, and another on thresholds for mercury waste. Two Friends of the President groups were formed, one to finalize proposed changes to the national reporting format, and the second to discuss the composition of the effectiveness evaluation group.

For the first time in its history, the COP considered the issue of mercury sources and trade as a separate agenda item.

### *Matters for Consideration or Action by the Conference of the Parties*

**ASGM:** NIGERIA, BRAZIL, SURINAME, JAPAN and the US voiced support for the draft decision ([UNEP/MC/COP.5/6](#)), which calls on parties to advance implementation of Article 7 on ASGM in the context of projects on biodiversity, land degradation, international waters and trade, and outlines actions for obtaining the free, prior and informed consent (FPIC) of "Indigenous Peoples and local communities" to ASGM in their territories.

GUINEA, BURUNDI, SENEGAL and TANZANIA alerted delegates to the need for regional approaches to support effective implementation of National Action Plans (NAPs). PANAMA stressed that all NAPs should include ways to protect vulnerable populations. KENYA called for helping developing countries with best available techniques (BAT) and best environmental practices (BEP) for managing tailings, and for the World Health Organization (WHO) to support countries' public health strategies.

As a possible alternative to "develop and promote alternative sustainable economic activities and livelihoods for Indigenous Peoples and local communities," the US proposed to, "protect and strengthen the access of Indigenous and local communities to traditional livelihoods and cultural practices and, where appropriate, develop and promote alternative economic activities."

Further consideration of the draft decision was postponed pending addition of these and other edits.

In a joint statement, INDIGENOUS ORGANIZATIONS called for access to regional monitoring programmes and access to data on mercury-contaminated areas. She noted that NAPs should be developed with the effective participation of Indigenous Peoples, especially regarding FPIC.

The INTERNATIONAL INDIAN TREATY COUNCIL called for clean-up of mercury-contaminated sites and waterways, and for ending the global trade in mercury.

The INUIT CIRCUMPOLAR COUNCIL highlighted the involvement of Inuit people in the Minamata Convention from its earliest stages, noting that the Arctic region is most vulnerable to mercury impacts, and that "We are not stakeholders; we are rights holders."

The INTERNATIONAL POLLUTANTS ELIMINATION NETWORK (IPEN) noted that many countries with ASGM have replaced mercury with cyanide and other chemicals, and stressed the importance of supporting such a change with chemical safety and clean-up knowledge. She called on parties to consider an amendment at COP-6 of Article 2 of the Convention, which includes ASGM as "use allowed" with regard to mercury.

COP-5 President Dumitru requested the Secretariat to prepare a draft reflecting the views expressed. She then invited delegates' views on a proposal by the Latin American and Caribbean Group (GRULAC), Canada and Australia on the effects of mercury pollution on Indigenous Peoples and local communities.

BRAZIL, MEXICO, the EU, the US, INDIGENOUS ORGANIZATIONS and IPEN expressed strong support for the GRULAC proposal. BRAZIL emphasized that those most affected by mercury pollution should have "an agenda item of their own" at future COPs. He proposed changing a reference to "participation of Indigenous Peoples" to "participation of Indigenous Peoples' organizations." The EU, supported by the US, proposed deleting the references to principles 10 (on public participation) and 22 (on Indigenous Peoples) of the 1992 Rio Declaration on Environment and Development.

Delegates adopted the GRULAC proposal as a decision of the COP.

**Programme of Work and Budget:** The Secretariat presented the relevant documents ([UNEP/MC/COP.5/23](#)). A contact group was established, co-chaired by Maria del Mar Solano Trejos (Costa Rica) and Přemysl Štěpánek, (Czechia). Several parties, including SWITZERLAND, EU, JAPAN, UK, stressed that core activities, such as the effectiveness evaluation, should be covered by core contributions. The AFRICAN GROUP voiced support for the 5% budget scenario that allows adequate resources for, *inter alia*, inter-sessional work and full participation of developing countries in meetings.

**Credentials:** Oarabile Serumola (Botswana), Chair, Credentials Committee, reported that 100 parties had submitted valid credentials, and 13 still had to submit.

**National Reporting:** The Secretariat presented the documents on proposed amendments to the reporting format ([UNEP/MC/COP.5/15/Add.1](#)) and draft guidance on completing the national reporting format ([UNEP/MC/COP.5/15/Add.2](#)). President Dumitru and many delegates applauded the 95% reporting rate by parties, describing it as an impressive achievement.

PAKISTAN pointed out that there is no provision for recovery and recycling of mercury in the reporting format. The AFRICAN GROUP noted challenges with data collection at national level.

The EU voiced support for the draft guidance on national reporting format. The US also welcomed the recommendations for changes to the reporting format, but expressed concern that some changes may create an unnecessary burden on countries.

UGANDA proposed consideration of a real-time reporting tool, noting that national reporting is limited by the lack of tools and availability of accredited laboratory facilities.

NIGERIA and CHILE supported the proposals for changes to the reporting format.

The US, CANADA, and INDIA proposed changes to specific elements of the reporting format and the draft guidance. Dumitru established a Friends of the President group to resolve the differences, chaired by Chile.

SAUDI ARABIA preferred establishing a formal contact group so that participation would be open to all. Dumitru, with CANADA, stressed that any parties with constructive proposals would be welcome to join the Friends of the President group. CHILE requested that, for the sake of transparency, there should be two co-facilitators, and Dumitru invited Canada to co-facilitate the discussion on Tuesday afternoon.

**Implementation and Compliance Committee (ICC):** ICC Chair Paulina Riquelme (Chile) presented the Committee's report ([UNEP/MC/COP.5/14](#)), which includes recommendations to the COP-5 on issues ranging from reporting format, implementation and systemic issues identified in national reporting.

The US requested that any recommendations to the COP be connected to issues of compliance that are clearly identified and examined by the committee.

**Mercury Waste: Consideration of the Relevant Thresholds:**

The Secretariat introduced the relevant documents ([UNEP/MC/COP.5/9](#), [UNEP/MC/COP.5/INF/12](#) & [INF/13](#)). Oluwatoyin Olabanji (Nigeria), Co-Chair, Group of Technical Experts on Mercury Waste Thresholds, reported that while the group decided that a single threshold value should be adopted for wastes contaminated with mercury or its compounds, they could not agree on which of three options to endorse: 10, 15 or 25 mg/kg. The group also proposed an "opt out clause" for those parties which already have certain targeted waste management measures in place that protect human health and the environment.

Delegations mentioning the opt out clause expressed interest in including it in the decision. Most also favored inviting the Basel Convention Conference of Parties to update the Basel Convention technical guidelines on environmentally sound management of wastes consisting of, containing or contaminated with mercury or mercury compounds, taking into account any Minamata COP-5 decision.

BURKINA FASO endorsed the 10 mg threshold option. Peru expressed support for a low threshold. The EU, NORWAY and

THAILAND said they preferred a 25 mg threshold. AUSTRALIA favored a 15 mg threshold. The US and SWITZERLAND said they preferred a 10 or 15 mg threshold. MEXICO said that while its law currently has a 25 mg threshold, it was open to considering lower values.

JAPAN and IRAQ said any threshold chosen should be backed up by scientific evidence. CHINA, IRAN, BANGLADESH, and SAUDI ARABIA said the threshold choice should consider differing national circumstances.

The ENVIRONMENTAL AND SOCIAL DEVELOPMENT ORGANIZATION and the ZERO MERCURY WORKING GROUP urged setting a threshold limit as low as possible, no greater than 10 mg. IPEN concurred, saying if a higher threshold is set by COP-5, it should be reviewed by COP-7.

Delegates decided to create a contact group, co-chaired by Karissa Kovner (US) and Zaigham Abbas (Pakistan), to discuss the three threshold options and other aspects of the draft decision ([UNEP/MC/COP.5/9](#)).

**Effectiveness Evaluation:** The Secretariat introduced the documents ([UNEP/MC/COP.5/16](#), [UNEP/MC/COP.5/16/Add.1](#) and [UNEP/MC/COP.5/16/Add.2](#)), noting three matters for the COP's attention: consideration of a draft decision on the effectiveness evaluation; establishment of the effectiveness evaluation group; and adoption of the proposed indicators for evaluation.

Uruguay, for GRULAC, called for financial and expertise back-up for implementation, and for a global monitoring plan that will also contribute to strengthening national capacities.

The EU, SWITZERLAND, and CANADA supported adopting the indicators. IPEN proposed that the indicators on the total amount of mercury mined should take into account parties' different approaches to calculating the percentage of mercury extracted from cinnabar, and should cover both legal and illegal mining.

On membership of the effectiveness evaluation group, the EU proposed having not more than three members from each UN region. With NORWAY, he noted that evaluation of the Stockholm Convention has been conducted with just two members per region. The UK and JAPAN also supported having a limited number of representatives. IRAN stated that having a larger number of members in the group will help to ensure the evaluation takes a comprehensive perspective. INDIA, JAPAN and BOTSWANA emphasized the need to finalize this decision.

On timeline, SWITZERLAND, the US and NORWAY proposed finalizing the work by COP-7. The EU suggested COP-6 or COP-7. CHINA called for the evaluation outcome to be presented at COP-8 and noted her country's submission of further comments to the secretariat. AUSTRALIA noted COP-7 would mark 10 years after the Convention's entry into force.

President Dumitru proposed that the COP could take the middle ground of finalizing the effectiveness evaluation by COP-7. She established a Friends of the President group to reach agreement regarding regional representation of the effectiveness evaluation group, facilitated by Linroy Christian, Antigua and Barbuda. She requested the Secretariat to prepare a draft reflecting the changes, for presentation to plenary.

**Mercury Supply Sources and Trade:** COP-5 President Dumitru noted that this is the first time a COP has considered this agenda item, which relates to implementation of Article 3 of the Convention. The Secretariat presented documents, and parties

were asked to comment on a draft decision set out in the annex to [\(UNEP/MC/COP.5/3\)](#), as well as a proposal by Australia, Canada, Chile, and the US to conduct a study of the global supply, trade and use of mercury compounds.

Dumitru noted a lot of support for the study proposal, and proposed adoption in plenary. SAUDI ARABIA, with IRAQ, requested more time to submit comments. Dumitru urged parties to submit their comments to the co-sponsors during the evening, and proposed to return to this item later in the week.

CANADA clarified that the goal of the study proposal is to start compiling information to assist future decisions of the COP, and stressed that this is separate from the effectiveness report.

The US recalled its position at COP4-2 that national reporting on stocks and sources should be viewed as a tool to allow parties to manage its mercury in the context of use and trade, not as a mechanism for a global assessment of stocks and sources.

GRULAC emphasized the importance of addressing the present lack of information on these compounds.

The EU agreed on the need for additional measures to reduce supply and control mercury trade.

COLOMBIA supported the proposal, while calling for activities to strengthen national capacity on controlling mercury trade, for example training customs officials. He suggested adding text proposing to “establish a clearing house mechanism which contains the informed consent between the parties and all information related with mercury trade.”

NORWAY, AUSTRALIA, SWITZERLAND, and GUINEA supported the proposal.

UGANDA noted that mercury trade routes across the African region point to the need for restrictions on mercury trade.

TANZANIA highlighted his country’s guidelines for the regulating import, use, and disposal of mercury in ASGM.

PANAMA highlighted the problem of traceability, noting that mercury is frequently processed through customs free areas. He recommended that the Convention’s questionnaire include guidelines for shipping manifests, as per the Basel Convention, to improve traceability.

AUSTRALIA indicated support for updating existing guidance on stocks and sources, as contained in the proposal.

**Emissions of Mercury:** The Secretariat introduced the relevant document ([UNEP/MC/COP.5/7](#)), noting it contained a proposal for a COP decision.

Noting the lack of good and comparable data on emissions in his region, the AFRICAN GROUP urged more financial technical assistance to improve data collection, generation and sharing, as well as a regional programme to monitor atmospheric emissions of mercury. THAILAND urged updating existing guidance on BAT and BEP on emissions. PAKISTAN called for training sessions on the use of BAT and BEP. The EU supported the draft decision. The US urged countries to establish emissions inventories and supported an update by the Secretariat at COP-6 on national plans. IPEN called for producing BAT and BEP for all emissions sources, and more studies and data, including regarding emissions in the oil and gas sector.

Delegates adopted the draft decision calling for parties to submit national plans and the Secretariat to report on plans at COP-6.

### **Contact Group on Annex Amendments**

Co-Chair Itsuki Kuroda (Japan) reported to morning plenary that the group agreed on listings for all products in Part I of Annex

A except for two, with further discussion required for phaseout dates on some items. Kuroda reported delegates agreed to phase out use of mercury catalysts in polyurethane production by 2025. She noted general agreement on a COP decision declaring that alternatives to mercury catalysts and processes are economically and technically feasible for production of vinyl chloride monomer (VCM) and of sodium or potassium methylate or ethylate, but one party wished to revisit the language on production.

When the group reconvened, delegates quickly agreed on decision language declaring mercury-free processes for production of sodium or potassium methylate or ethylate are technically and economically feasible. When they returned to VCM, one party requested deletion of the mercury-free VCM production declaration, saying that the technical, economic, environmental, and health assessments of mercury-free alternatives “require further study.” Others opposed deletion, so the draft VCM declaration was left bracketed for the time being.

The group spent the rest of its time examining the African Group proposal for additions to Part II of Annex A regarding dental amalgam ([UNEP/MC/COP.5/5/Add.2](#)). Some delegates suggested having parties submit national reports to the Secretariat instead of national phaseout plans as the African proposal calls for. Several raised questions about the frequency and manner of reporting and the burden this might entail. A few questioned why parties that have already phased out dental amalgam should be required to submit plans. One delegate called for submitting plans or reports about phasing down, not out, but a regional group insisted that phaseout remain the stated goal. After several attempts at forging a compromise text reflecting the competing views, delegates agreed to leave the longer, heavily bracketed text for later group discussion.

The group agreed to have the co-chairs and Secretariat draft decision text incorporating group work from Monday and Tuesday, and to post it online to use as the basis for further work.

### ***In the Corridors***

On the second day of COP-5, smaller delegations were already feeling the pinch and expecting to be overstretched and overworked as the week progresses. In contact group deliberations on the Annexes in the morning, a member from a small delegation had to be summoned from plenary to explain a point he had made to the group the previous evening about proposed dental amalgam amendments. By the end of Tuesday, the plenary had formed two more contact groups — one on the budget and Programme of Work, and another on mercury waste thresholds. In addition, some agenda items with a smaller number of outstanding issues were referred to two new Friends of the President groups.

A COP-5 delegate, who had also attended the recent Fifth International Conference on Chemicals Management (ICCM5), with its confusing mix of multiple concurrent groups, said, “I’m still suffering from PTSD from ICCM5; these guys better stick to the only-two-groups-at-a-time rule!”

Others pointed out even with the two-at-a-time rule, so many groups with different mandates stretch delegates’ time, energy, and endurance. “There’s no way around it, though,” reflected one, “since this COP has a full agenda with many important decisions to take.” Despite the stretched attention and tight schedules, most noted with satisfaction that interventions continue to be polite and constructive, even upbeat, and expressed the hope that spirit persists until Friday.

