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FIRST MEETING OF THE INTERGOVERNMENTAL NEGOTIATING COMMITTEE TO PREPARE A GLOBAL LEGALLY BINDING INSTRUMENT ON MERCURY: 7-11 JUNE 2010

The First Meeting of the Intergovernmental Negotiating Committee to Prepare a Global Legally Binding Instrument on Mercury (INC 1) was held from 7-11 June 2010 in Stockholm, Sweden. The meeting was attended by over 400 participants, representing governments, UN agencies, and intergovernmental and non-governmental organizations.

INC 1 was the first of five meetings anticipated to convene prior to the twenty-seventh session of the United Nations Environment Programme Governing Council/Global Ministerial Environment Forum (UNEP GC/GMEF) in 2013. Delegates at INC 1 began work on the development of a legally binding instrument on mercury by engaging in initial exchanges of views on key elements of a convention, including: objectives; structure of the instrument; capacity-building and technical and financial assistance; compliance; issues of supply, demand, trade, waste and storage; atmospheric emissions of mercury; and awareness-raising and information exchange.

Participants arrived in Stockholm feeling relaxed and optimistic about the task ahead. A spirit of congeniality reigned throughout the week-long session as delegates participated in a general exchange of views on key issues. The major outcome of the meeting was delegates' request to the Secretariat for significant intersessional work, including the "elements of a comprehensive and suitable approach" to a legally binding instrument. This will be used as a basis for negotiations at INC 2, which will take place from 24-28 January 2011, in Chiba, Japan.

A BRIEF HISTORY OF THE GLOBAL ISSUE OF MERCURY

Mercury is a heavy metal that is widespread and persistent in the environment. It is a naturally occurring element and can be released into the air and water through weathering of rock containing mercury ore or through human activities such as industrial processes, mining, deforestation, waste incineration and burning of fossil fuels. Mercury can also be released from a number of 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.

21ST SESSION OF THE UNEP GC/GMEF: In February 2001, the UNEP GC/GMEF discussed the need for a global assessment of mercury. 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.

IN THIS ISSUE

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22ND SESSION OF THE UNEP GC/GMEF: At its 22nd session in February 2003 in Nairobi, the UNEP GC/GMEF considered UNEP's Global Mercury Assessment report and in 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. The decision requested the Executive Director 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 GC/GMEF: UNEP GC-23/GMEF took place from 21-25 February 2005, in Nairobi. Delegates 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 supply, trade and demand information on 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 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. IFCS-V adopted the Budapest Statement on Mercury, Lead and Cadmium, which, *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, prevention of 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; and prioritized considering a range of options including the possibility of establishing a legally binding instrument, as well as partnerships.

24TH SESSION OF THE UNEP GC/GMEF: In February 2007, the GC-24/GMEF discussed the issue of mercury extensively and participants' preferences for international cooperation on mercury that 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. The UNEP Executive Director was requested to prepare a report on mercury emissions and strengthen the UNEP mercury partnerships. 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 was also established. Decision 24/3 IV, provides the following priorities to: reduce atmospheric mercury emissions from human sources; find environmentally sound solutions for the management of waste containing mercury and mercury compounds; reduce global mercury demand related to use in products and production processes; reduce the global mercury supply, including considering curbing primary mining and taking into account a hierarchy of sources; find environmentally sound storage solutions for mercury; address the remediation of existing contaminated sites affecting public and environmental health; and increase knowledge on areas such as inventories, human and environmental exposure, environmental monitoring and socio-economic impacts.

FIRST MEETING OF THE OEWG ON MERCURY: The First Meeting of the OEWG to Review and Assess Measures to Address the Global Issue of Mercury was held from 12-16 November 2007 in Bangkok, Thailand. The OEWG discussed options for enhanced voluntary measures, and new or existing international legal instruments on mercury. Delegates agreed on seven intersessional tasks to be undertaken by the Secretariat, including analyses of, *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.

SECOND MEETING OF THE OEWG ON MERCURY: The Second Meeting of the OEWG on Mercury convened in Nairobi, Kenya, from 6-10 October 2008. The OEWG discussed a future mercury framework including: elements to be addressed by a mercury framework; the type of framework to be used; and the capacity building, financial and technical support required to deliver on the elements. Delegates agreed on one legally binding option and three voluntary options for consideration by the UNEP GC.

25TH SESSION OF THE UNEP GC/GMEF: The 25th session of the UNEP GC-25/GMEF took place from 16-20 February 2009, at the UN Office in Nairobi, Kenya. Delegates agreed to develop a legally binding agreement on mercury. Decision GC 25/5 agreed to further international action consisting the elaboration of a legally binding instrument on mercury, which could include both binding and voluntary approaches, together with interim activities, to reduce risks to human health and the environment. It also requested the Executive Director to convene one OEWG meeting in 2009, and an INC commencing its work in 2010 with the goal of completing its work by GC-27 in 2013. Agreement could not be reached on leaving the "door open" to consider other heavy metals, but the decision does recognize that the mandate of the INC may be supplemented by future decisions of the GC.

***AD HOC* OEWG TO PREPARE FOR THE INC ON MERCURY**: This meeting convened from 19-23 October 2009, in Bangkok, Thailand. The OEWG agreed to recommend rules of procedure to the INC, as well as intersessional work for the Secretariat to prepare documentation for the INC, including options for structure of the instrument and a description of options for substantive provisions.

INC 1 REPORT

On Monday morning, 7 June, Per Bakken, UNEP Chemicals, opened the meeting and welcomed participants. He noted that the start of negotiations, long anticipated by many, had finally arrived. Angela Cropper, Deputy Executive Director, UNEP, welcomed participants and thanked the Government of Sweden and the Nordic Council of Ministers for hosting INC 1. Highlighting the significance of INC 1's location, Cropper noted that 38 years ago this week the UN Conference on the Human Environment convened in Stockholm, and said the global community had since made significant progress in addressing global challenges posed by use of hazardous chemicals. Andreas Carlgren, Minister for the Environment, Sweden, on behalf of the Nordic Council of Ministers, said Nordic countries are cooperating to address mercury pollution, and underscored that only coordinated action would make it possible to control the problem. He proposed a general ban on the use of mercury and highlighted the importance of financial support and research.

On the work of the *Ad-hoc* Open-Ended Working Group (OEWG) to Prepare for the Intergovernmental Negotiating Committee on Mercury held in October 2009, Per Bakken noted the preliminary nomination of INC Bureau members. Delegates elected Fernando Lugris (Uruguay) as INC Chair by acclamation.

The following were elected to the Bureau by acclamation: Oumar Diaoure Cissé (Mali) and Abiola Olanipekun (Nigeria); Yingxian Xia (China) and Mohammed Khashashneh (Jordan); Katerina Sebkova (Czech Republic) and Vladimir Lenev (Russian Federation); Gillian Guthrie (Jamaica) and Fernando Lugris (Uruguay); Nina Cromnier (Sweden) and John Thompson (US). Nina Cromnier was also elected as Rapporteur.

The Secretariat introduced the draft rules of procedure (UNEP(DTIE)/Hg/INC.1/3) and listed several editorial amendments, and the meeting adopted the amended document by acclamation. The Committee adopted the provisional agenda (UNEP(DTIE)/Hg/INC.1/1) without amendment.

Throughout the week, delegates met in plenary to discuss elements of a mercury instrument. This report is organized according to the agenda of the meeting.

PREPARATION OF A GLOBAL LEGALLY BINDING INSTRUMENT ON MERCURY

On Monday morning, Chair Lugris expressed hope that INC 1 would, *inter alia*: identify and discuss options for the instrument's structure; explore, in a preliminary fashion, each issue in paragraph 27 of UNEP Governing Council Decision 25/5; identify provisions that require further consideration and those that are less controversial; and recognize areas that may require intersessional work by the Secretariat. The Secretariat introduced a negotiation tracking tool (UNEP(DTIE)/Hg/INC.1/6), explaining that it is currently an empty matrix, which could be used to track the Committee's progress relating to obligations, financial and technical assistance, capacity building and compliance. Chair Lugris then invited general statements on the preparation of a global legally binding instrument on mercury.

Nigeria, for the African Group, hoped that the mercury instrument would be broad in scope and would include issues concerning technology transfer and low-cost solutions for mercury alternatives for developing countries and countries with economies in transition, as well as emphasize the Extended Producer Responsibility principle to decrease the economic desirability of mercury use. Spain, for the EU Member States, noted that compliance will be important in creating a secure environment for the negotiations, and welcomed broad participation for greater confidence building. The European Commission, for the EU, reiterated their commitment to obtain a legally binding instrument on mercury, but noted that due to the absence of "formal authorization to negotiate," the EU and its Member States would be unable to engage in negotiations that would affect the bloc's common law on mercury. Chile, for the Latin America and Caribbean Group (GRULAC), highlighted the importance of: capacity building and transfer of technology; transparency, inclusiveness, and participation of all the countries; access to documentation; and reaching agreement by consensus. The Russian Federation, for Central and Eastern Europe, said this instrument would protect human health and the environment. Egypt, for the Arab Group, said that the new agreement should enable governments to take trade measures to control mercury pollution, taking into account the interests of all countries. Japan, for Asia and the Pacific, highlighted importance of awareness raising, knowledge sharing, capacity building, technology transfer and financial resources. GRULAC, the Arab Group, and several individual countries, highlighted the principle of common but differentiated responsibilities, and emphasized the importance of a financial mechanism.

Japan expressed strong support for a legally binding instrument on mercury, offered to host INC 2, and suggested naming the instrument "Minamata Convention on Mercury." Burkina Faso offered to host INC 3. Uruguay offered to host INC 4. Brazil committed to actively participate in the negotiations, and offered to host INC 5. Switzerland committed to support the INC process, and also offered to host INC 5.

China reaffirmed his government's support for international action to control mercury, and highlighted the need for data and information. Indonesia said the instrument should only apply to mercury. New Zealand recommended focusing on human activities that contribute to mercury, and highlighted the importance of designing the instrument to complement others, particularly the Basel Convention. Bangladesh emphasized that least-developed countries should be exempted or given a grace period for compliance, and underscored the need to avoid the financial assistance problems of other conventions.

Norway called for substantial emissions reductions using alternative technologies, practices and products. Canada noted that the country's population and environment are particularly affected by mercury releases originating outside the country, and with South Africa, emphasized the need to avoid duplication with other instruments. Colombia underscored the needs of developing countries and the importance of funding mechanisms. Australia emphasized the need to find solutions that are science-based and tested against the criteria of effectiveness, efficiency and practicality. Iceland encouraged the use of available scientific knowledge to find viable alternatives to mercury.

India said the INC should encourage public-private partnerships to further stimulate the elimination of mercury. Jordan stressed the need to develop tools for the provision of

information on mercury elimination. The US reminded delegates of the threat of mercury exposure to the health of women and children, especially among indigenous peoples. Haiti called on developed countries to find alternatives to mercury that are reliable and affordable. Nigeria, with Kenya, Cuba and South Africa, stressed the importance of a financial mechanism and technology transfer. The Philippines highlighted the importance of public participation in treaty negotiations.

Panama called for cooperation and support from developed countries in addressing mercury pollution. Oman emphasized the importance of awareness-raising campaigns. Tanzania noted that approximately 20 million Tanzanians depend on artisanal and small-scale gold mining (ASGM) for their livelihoods. Honduras highlighted the difficulties of immediate elimination of mercury amalgams in dentistry.

The Basel Convention Regional Center (BCRC), Egypt, encouraged the use of expertise and facilities of the BCRCs for training and technology transfer. The World Health Organization (WHO) outlined the organization's activities related to mercury, and noted that 5,600 hospitals have committed to becoming or are now mercury-free. The International Labor Organization (ILO) noted that the workforce involved in decommissioning mercury establishments will be exposed to mercury and stressed the need to remember these workers during development of the legally binding instrument. The Global Environment Facility (GEF) noted that the fifth GEF replenishment package includes US$20 million for pilot projects on mercury.

The International POPs Elimination Network (IPEN) emphasized that mercury is more than a series of technical challenges and said complex cultural, social, and labor dynamics must be addressed. The Zero Mercury Working Group called for, *inter alia*: a ban on elemental mercury; the systematic phase-out of mercury-containing products; and the promotion of the use of non-mercury and lower mercury uses in ASGM. The Global Network of Health Professionals urged delegates to formulate a strong instrument, including concrete commitments and sufficient resources. The World Medical Association and the Sustainable Development Policy Institute pledged support for the phase-out of mercury. Highlighting that dental amalgam is 50% mercury, the World Alliance for Mercury Free Dentistry called for the legally binding instrument to set a date for banning mercury in amalgam. The International Indian Treaty Council stressed that forcing indigenous peoples to avoid mercury-contaminated traditional foods is unacceptable, and violates human rights.

OBJECTIVES OF THE INSTRUMENT: On Monday morning, the Secretariat introduced the document on options for substantive provisions that might be included in the mercury instrument (UNEP(DTIE)/Hg/INC.1/5).

In the ensuing discussion, GRULAC stressed the need to tackle the conditions governing the instrument, especially the financial mechanism. The EU Member States urged consideration of the concept rather than the content. Japan emphasized that the objective must be clearly stipulated and avoid ambiguous statements, and should not include reference to complete elimination of mercury. Canada stressed a concise objective with realistic goals. The US and Jamaica urged a combination of actions and outcomes in the objectives. The African Group suggested "life-cycle approach" and "ultimate elimination" as key words for inclusion in the objective. China suggested including reference to protection of human health, reduction of mercury releases, capacity building, and technology transfer.

Norway and Australia favored "minimizing and, where feasible, ultimately eliminating" anthropogenic mercury releases. India preferred a simple statement of objectives, as opposed to a comprehensive set of actions. Indonesia supported the objectives to ensure collaborative action at all levels in order to protect human health and the environment from anthropogenic mercury releases. Switzerland favored a brief general discussion and suggested referencing the protection of human health and the environment from anthropogenic mercury releases. IPEN said the objectives should be broad and take into consideration vulnerable groups.

OVERALL STRUCTURE OF THE INSTRUMENT: On Tuesday morning, the Secretariat introduced the discussion noting three options for the structure of the instrument, including: control measures plus annexes; convention plus protocols; and an umbrella agreement and annexes (UNEP(DTIE)/Hg/INC.1/4). Delegates engaged in a preliminary discussion, stressing it was premature to take a decision on this.

The EU Member States supported the structure with control measures plus annexes or a convention plus a single protocol, which it said should be decided at a later stage. GRULAC preferred an agreement plus annexes, but said the group did not want to prejudge the result of the discussion. The African Group supported control measures plus annexes, underscoring the need for flexibility to address particular national needs and the importance of avoiding bureaucratic bottlenecks.

New Zealand said delegates should first agree on objectives and then control measures to achieve them. Norway and Japan supported a structure similar to the Stockholm Convention, which involves control measures plus annexes. Australia expressed openness to all options and suggested control measures with annexes may be appropriate. The US noted that the control measures plus annexes and convention plus protocols structures merited further consideration. Canada opposed any structure that would allow selective ratification and delays of entry into force of protocols. Switzerland said the structure of the instrument should: be effective and efficient; bind all parties to key obligations; include comprehensive tools for legally binding measures and voluntary partnerships; and reflect future developments regarding mercury. Egypt called for a structure that is flexible, dynamic, and gives equal treatment to all stakeholders. India noted that a convention plus protocols structure offers flexibility in implementation. Iraq suggested a combination of the control measures plus annexes and convention plus protocols options, and Jordan suggested focusing discussion on these two options. China, supported by Indonesia, emphasized the need to decide on content before form.

The Zero Mercury Working Group, also on behalf of IPEN, supported control measures plus annexes and emphasized it would not support a structure under which governments could avoid adopting control measures and related provisions in entirety.

CAPACITY BUILDING, TECHNICAL AND FINANCIAL ASSISTANCE: Chair Lugris opened discussion on this item on Tuesday morning. The Secretariat introduced the documents

including, options for: substantive provisions (UNEP(DTIE)/Hg/INC.1/5 Section IIIB); predictable and efficient financial assistance (UNEP(DTIE)/Hg/INC.1/8); delivery of technical assistance and capacity building (UNEP(DTIE)/Hg/INC.1/9); and facilitating sustainable technology transfer (UNEP(DTIE)/Hg/INC.1/10).

The EU Member States stressed the need for a synergistic, country-driven approach and for the INC to consider private sector financial contributions, as well the GEF. The African Group called for adequate financial resources that are solely dedicated to mercury, and recognized the Multilateral Fund of the Montreal Protocol as a model, as well as the GEF, with some conditions, as possible financial mechanisms. She stressed the financial mechanism should be governed by the Conference of Parties and must be transparent, accessible, equitable and responsive to needs.

GRULAC, China, Cuba, Senegal and Colombia underscored the importance of a stand-alone financial mechanism modeled on the Montreal Protocol's Multilateral Fund. Brazil emphasized that each country should set its own priorities, said that the Montreal Protocol's financial mechanism is the most successful model, and suggested consideration of using GEF as a cooperative bank. He further noted that the mechanism should facilitate the active participation of the private sector.

China emphasized that the mechanism needs to be negotiated by all countries. The African Group emphasized the importance of a concrete financial mechanism. Switzerland noted that the financial mechanism must be sustainable, effective, responsive to countries' needs and to guidance from the COP, integrated into the compliance mechanism, and ensure fair burden-sharing.

Mexico and Senegal urged a stronger degree of political commitment on financing from developed countries, while Iraq appealed for comprehensive and adequate support in capacity building, technology transfer and financial resources.

While agreeing to provide adequate financial and technical assistance to developing countries for the implementation of the new instrument, Norway, Japan and Canada supported using existing mechanisms. Canada said the issue of a compliance mechanism should move forward in conjunction with the financial mechanism.

Pakistan suggested developing specific country-based approaches, including assessing the situation, identifying key issues related to mercury and need for capacity building, technology support and financial resources in relation to the issue of mercury. Senegal highlighted the importance of institutional support and strengthening regional centers of the chemicals conventions. Sri Lanka stressed the need for awareness-raising and capacity-building campaigns.

The US emphasized that all options should remain on the table for future discussion and said there may be considerable advantages to a stand-alone mechanism. Oman emphasized the need for guaranteed sustainability of funding to allow for quick responses to mercury. India emphasized the need for symmetry between financial assistance and obligations of countries to ensure provision of funding.

Jordan said that capacity building and technical and financial assistance are the most important aspects of the convention, and cited both the Montreal Protocol and Stockholm Convention as models. Indonesia stressed the importance of permanent and sustainable funding, and said the GEF may not be an appropriate mechanism to supply these. Bangladesh noted the importance of collective cooperation. Honduras emphasized that technical assistance should be broad, permanent and focused on allowing countries to meet their obligations, and underscored the need to account for social costs.

WHO noted that its 150 country offices could play a coordination role at the country level. The UN Institute for Training and Research (UNITAR) stressed the need to consider capacity building during the early stages of implementation, and offered to share its experience with assisting developing countries and countries with economies in transition in chemicals management.

IPEN highlighted desirable characteristics for a financial mechanism, including the ability to: access large and small amounts of funding; be responsive and have a genuine interest in mercury; and help developing countries fulfill their treaty obligations without compromising poverty-reduction goals. Delegates agreed to continue their consideration of this issue at INC 2.

COMPLIANCE: This issue was discussed on Tuesday afternoon. The Secretariat presented the documents (UNEP DTIE)/Hg/INC.1/11, 5 and 12), outlining procedures, mechanisms and approaches for ensuring compliance with a legally binding instrument.

There was general agreement regarding the close relationship between compliance and the provision of technical and financial assistance. Many representatives stressed the importance of reaching agreement on compliance in the INC process. Some representatives said that compliance provisions and a financial mechanism should be developed and adopted in parallel. Others disagreed, however, saying that the instrument should include an enabling clause instructing the governing body of the instrument to develop and adopt compliance procedures after its entry into force.

GRULAC favored addressing the issue of compliance in a preliminary way, and highlighted the need to develop an enabling clause, including provision of financial resources and technology transfer and taking into account the principle of common but differentiated responsibilities. The EU Member States said full implementation of the instrument by all parties is of the utmost importance, and favored negotiating the issue in a common group covering obligations and compliance, as well as financial and technical assistance. The EU committed to address compliance, and looked forward to constructive work on this at future INCs. The African Group supported a carefully negotiated provision of compliance, which should be coordinated with a financial mechanism and technology transfer.

Norway highlighted necessary elements of a compliance mechanism, including: reporting by the parties; verification of the information provided; and effective evaluation, including monitoring. China said that compliance is contingent upon provision of financial resources and capacity building. Japan, with Pakistan, welcomed establishing an effective compliance mechanism for the mercury instrument. Switzerland supported the establishment of a compliance group early in the process and stressed this should be finalized in the negotiation process, unlike the Stockholm Convention.

Iraq suggested that non-compliant countries be treated fairly before sanctions are imposed. Canada stressed that national reporting is the backbone of any compliance mechanism, highlighting the need for the INC to draft obligations to facilitate the assessment of compliance. New Zealand stressed the need to link concepts to compliance, and suggested the INC begin consideration of specific provisions on the cross-cutting elements of objectives, structure, capacity building, finance and technical assistance, and compliance.

India suggested voluntary compliance may be better than a compliance mechanism at achieving the objectives of the instrument. Mexico underscored the need for caution, and for information to determine whether resources can be mobilized to meet the costs of measures being considered. The Philippines supported developing a compliance mechanism during INC negotiations and emphasized that while countries must do what they can on their own, resources and capacity may be limited. Haiti said coordination mechanisms to address illegal trafficking in mercury are essential to success. Tuvalu called for minimizing the number of INCs, and stressed the need for grace periods for compliance.

ILO outlined its work on compliance monitoring and offered to provide its model to the INC. WHO offered technical assistance to countries wishing to monitor reductions in children's exposure to mercury. IPEN emphasized that effective monitoring, reporting, and review mechanisms are essential to promote transparency and ensure compliance. The Zero Mercury Working Group suggested making data publicly available to ensure the transparency and credibility of the process.

Concluding the discussion, Chair Lugris encouraged regional groups to communicate with their bureau members regarding their needs for greater documentation from the Secretariat for INC 2 on the issue of compliance.

CLUSTER OF TOPICS: Supply of mercury: This item was addressed on Tuesday afternoon and Wednesday morning. The Secretariat introduced the document related to reducing mercury supply (UNEP (DTIE)/Hg/INC.1/5).

GRULAC highlighted the need for a cost-benefit analysis to inform consideration of control measures and the use of best available technologies, and proposed establishing a timeframe for progressive reduction of mercury with nationally defined levels.

Iraq called for eliminating production and supply of primary mercury. Kyrgyzstan shared the experience of a hydro-metallurgical process to extract mercury from liquid solutions. The US suggested considering sources together with supply, and noted that they, with UNEP, would assist Kyrgyzstan to address the issue of elemental mercury mining. The EU said supply and storage should be addressed in the core provisions of the Convention, alongside provisions on demand for products and processes, and reported that the EU adopted an export ban in 2008, which would come into effect in March 2011.

Indonesia emphasized the importance of reducing the trade of and demand for mercury, while Norway stressed that primary mining must be prohibited, and mercury as a by-product be captured, recovered and stored in an environmentally-sound manner. Switzerland highlighted the connection between supply and use, and supported a blanket supply-side ban on mercury, with limited exemptions. Australia supported prohibiting production of primary mercury and eliminating primary mercury supply by a fixed date.

The African Group stressed the importance of controlling mercury supply, lamenting that Africa receives large quantities of mercury that are used in ways that threaten human health and the environment. China, supported by India, highlighted the need to address the issue of demand before tackling the issue of supply. Indonesia called for an integrated approach to control illegal trafficking while reducing supply and demand. Japan stressed the importance of promoting environmentally-sound storage and disposal, and supported phasing out mercury supply. Kyrgyzstan pledged to keep its commitment to close its primary mercury mine in spite of the change of the government, and highlighted the need to have a parallel process to tackle social and economic problems associated with the closing.

India underscored the need for flexible timeframes for the phase-out and consideration of permitted uses and exemptions. Sri Lanka noted that mercury is used in its indigenous medicinal practices for curing acute illnesses, and said a reduction of supply should not affect this national interest. Iraq highlighted the pervasiveness of mercury-containing products, noting that even the bulbs illuminating INC 1 may contain mercury. Papua New Guinea noted that data on supply, sources and volumes must be collected and analyzed. Pakistan suggested developing a licensing system with monitoring for import and export of mercury.

IPEN called for immediate implementation of adequately funded mercury control programmes. The International Council on Mining of Metals (ICMM) noted that by-product mercury from mining may be used to meet demand as part of managed phase-out of supply. The Zero Mercury Working Group suggested banning primary mining and export of elemental mercury or compounds, with an exemption process providing for licensing and reporting.

Demand for mercury in products and processes: The Secretariat introduced documents on reducing demand for mercury in products and processes (UNEP(DTIE)/Hg/INC.1/5, UNEP(DTIE)/Hg/INC.1/INF/2, 8, 9, 10 and 11) on Wednesday.

The African Group stressed that the mercury instrument should provide for awareness-raising and address attitudinal changes in developing countries. The EU and EU Member States expressed support for addressing demand in the core provisions of the convention, and suggested the Secretariat explore further options for consideration at INC 2.

Bangladesh stated that his country could only agree in principle to reduce the demand for mercury in products and processes. New Zealand supported obligations to reduce demand for mercury in products and processes. The US expressed support for a broad-based ban on products with exceptions, or for a list of banned products, and said labeling or controls on uses of products may not be effective.

Japan urged delegates to share information on alternatives for both products and processes. On products, Norway called for a general ban on the use of mercury with few exemptions, the gradual phase-out of dental amalgam, and the labeling of mercury-containing products. China supported phasing out

mercury in products and processes. Switzerland suggested that the employment of technologies using mercury be ceased by 2020.

Nepal noted the lack of awareness, scientific knowledge, and substitutes in his country, and suggested developing interim provisions, including technologies and financial resources for countries without capacity. The Dominican Republic called for an inventory of products containing mercury and emphasized the responsibility of producers to provide relevant information. Brazil stressed that reduction of supply and demand must consider availability of environmentally-sound alternatives. Tajikistan noted the importance of addressing the use of mercury in catalysts for synthesis and for scientific purposes. Pakistan suggested establishing mercury content limits in products and using alternatives where possible.

Colombia said demand reductions would require inventory and diagnosis of the national situation. India stressed the success of public-private partnerships and called for a voluntary approach to phase out products and processes. The Seychelles suggested the instrument take into account the livelihoods of people dependent on the fisheries industry, particularly small island developing states (SIDS). Haiti reminded delegates of two types of mercury that are missing from the INC 1 documents—mercury in electrodes and nanoparticles.

Panama expressed concern over mercury risks posed to vulnerable groups such as children and adults with chronic contact with mercury, and called for: long-term monitoring; training professionals in providing services to such vulnerable groups; and raising awareness on preventing mercury hazards.

The United Nations Industrial Development Organization (UNIDO) said people in some regions are still unaware of efforts to phase out the use of mercury in the ASGM sector. WHO highlighted the need to stop the use of mercury-based skin lightening products. IPEN called for a global ban on mercury-containing pesticides and fungicides. The Zero Mercury Working Group called for, *inter alia*, a prohibition in the use of mercury in new products, as well as a ban on construction of chlor-alkali plants. Health Care Without Harm cautioned that transition to non-mercury products within the health sector should be done gradually to avoid disrupting health care provision. California Indian Environmental Alliance urged parties to include indigenous communities' views, especially on ASGM.

International trade of mercury: This topic was discussed on Wednesday. The Secretariat introduced the documents on reducing international trade in mercury (UNEP(DTIE)/Hg/INC.1/5 and UNEP(DTIE)/Hg/INC.1/16).

During the discussion, several representatives said that international trade should be addressed in the core provisions of a future mercury agreement, and many delegates urged that provisions on international trade should be consistent with obligations under the World Trade Organization (WTO). Several said that the need for provisions on trade would depend on the content of provisions on supply, demand and storage, and several others stated that priority should be given to reducing supply, with the ultimate aim of phasing out trade in elemental mercury entirely. Many delegates said that robust provisions on trade could reduce the supply and demand for mercury.

The EU underscored that options for environmentally-sound disposal of mercury may not be available in each party's territory. The African Group called for strict control of all forms of mercury and emphasized that export controls may be more effective than import controls. Japan expressed support for exemptions that allow trade: either for environmentally-sound disposal or when no alternatives are available for specified uses. The US emphasized that trade measures can be used to control supply. China called for consideration of the cost and benefit of a potential monitoring system for trade.

Norway highlighted the Stockholm Convention's provisions on trade as a model, and said the instrument should regulate trade with non-parties. Argentina asked the Secretariat to provide information about the experiences of the Montreal Protocol in allowing trade with non-parties, which the Secretariat did on Friday.

Egypt called for synergy with WTO rules. Switzerland emphasized that negotiations should aim to ban trade, but noted that some exceptions may be necessary, and said that any solution must be consistent with WTO law.

Canada noted that categories of mercury may need to be discussed individually, and said the options for regulating import and export of mercury may not be equally appropriate or efficient. The ILO highlighted its experience in collaborating with UNITAR on the development of the Globally Harmonized System for Classification and Labeling and offered to share its library of resources.

Mercury containing waste and remediation of contaminated sites: This topic was discussed on Wednesday afternoon. The Secretariat introduced documents related to mercury-containing waste and the remediation of contaminated sites (UNEP(DTIE)/Hg/INC.1/5 Chapter 2 Sections F and G).

During the discussion, delegates agreed that there was an urgent need to provide for appropriate disposal of mercury wastes to protect human health and the environment, and that waste issues were closely linked to issues of supply, demand and trade.

Malaysia highlighted his country's efforts to address remediation of contaminated sites. The African Group urged the use of the polluter pays principle to help the continent deal with mercury waste and the remediation of mercury-contaminated sites. Japan and Norway called for the use of best available techniques and best environmental practices to address this issue, with Japan highlighting the work of his government in improving the management of mercury-containing wastes.

China, Switzerland, Norway, the EU Member States, and Jordan stressed that this discussion should be informed by the Basel Convention Secretariat. Urging the use of the extended producer responsibility principle to help SIDS deal with mercury-containing wastes, Kiribati stressed that although such schemes may not be included in the instrument, there is a need for immediate action on mercury. Iraq requested UNEP and concerned governments to assist his country in dealing with remediation of mercury-contaminated sites.

Egypt, South Africa, Papua New Guinea, and Tunisia highlighted the needs of developing countries for capacity building and technical support in assessing mercury-contaminated sites and taking remedial actions. Brazil and Jamaica said when developing the mercury instrument, there

is a need to develop criteria and reference values for assessing mercury-contaminated sites. Jamaica said the instrument should take into account the special situation of SIDS and, supported by the US and Australia, recognized the role and technical guidelines of the Basel Convention, noting the need to make reference to its relevant provisions. The US said minimizing the use of mercury in products and processes is the most effective way to prevent additional accumulation of mercury wastes, and highlighted the importance of regulatory and legislative measures, information sharing, training and capacity building.

South Africa, Sri Lanka, Egypt and the Philippines called for inclusion of the polluter pays principle in the instrument. India noted difficulty in separating mercury from fly ash produced in coal burning and said technology should be developed to address this. South Africa said that the instrument should take into consideration the situation in developing countries, especially in Africa. Pakistan noted the need for a clear definition of mercury-containing wastes and mercury-contaminated sites. Sri Lanka emphasized that the commitment of producers to create mercury-free products at affordable prices is essential. Iraq underscored the need for human and financial resources to assist countries with remediation of contaminated sites.

The Basel Convention Secretariat offered assistance in deliberations on waste management. IPEN emphasized the need to avoid regulatory lapses between the mercury instrument and the Basel Convention. Island Sustainability Alliance emphasized the need for financial and technical assistance to ensure compliance and called for inclusion of the precautionary principle. The California Indian Environmental Alliance called for the inclusion of a requirement to address legacy mining waste in the convention.

Storage of mercury: This item was discussed on Wednesday afternoon and Thursday morning. The Secretariat introduced the documents related to enhancing the storage capacity of mercury (UNEP(DTIE)/Hg/INC.1/5). The EU emphasized the importance of disposing surplus liquid mercury, and noted that the Basel Convention technical guidelines may provide useful guidance. Bahrain emphasized the need for environmentally-sound storage, noting that "safe" storage might be neglected and in time become unsafe. Brazil emphasized that due to the cost of instituting storage options, the export of metallic mercury to countries with appropriate infrastructure is most viable. The US suggested it may be most cost effective for each region to have a plan for its own storage or export, as appropriate. GRULAC noted that underground storage is not viable in the region due to costs, public resistance and inappropriate geological characteristics, and stressed the need for consideration of transit and temporary storage of waste and congruence with the Basel Convention. The African Group called for prohibition of export of mercury wastes to countries lacking capacity for environmentally-sound storage.

New Zealand underscored the need for provisions that encourage recovery and storage and are broad enough to allow inclusion of innovations in stabilization measures. Iraq emphasized the need to raise awareness and build capacity in developing countries, and suggested using surplus mercury.

Japan emphasized the need to consider underground disposal of the solidified chemical compound. The Philippines underscored that guidelines on best available techniques and best environmental practices must be affordable and applicable to developing countries and countries with economies in transition. Norway called for the development of guidelines in cooperation with the Basel Convention, underscoring that storage challenges are important areas for technical and financial assistance.

India called for comprehensive assessment of the resources required by parties for environmentally-sound storage prior to the consideration of control measures. China, Jamaica, Indonesia and Bangladesh supported international cooperation for environmentally-sound storage of mercury wastes, and requested financial and technical assistance for developing countries.

Jamaica, supported by Brazil, suggested taking into account the special circumstances of SIDS and the relevant provisions of the Basel Convention, including liability and compensation. Pakistan proposed the development of criteria for environmentally-sound mercury storage facilities, and for the operation and supervision of such facilities. Brazil highlighted the need for shipping of mercury-containing wastes to be conducted in an environmentally-sound manner.

The EU and EU Member States reported that technology is being developed to convert liquid mercury into solid mercury with lower vapor pressure. Argentina said that storage is a cross-cutting issue and should be linked to control measures.

The Zero Mercury Working Group requested UNEP to develop a common set of definitions on environmentally sound storage of mercury waste. IPEN said the private sector should fully internalize the cost for safe storage of their wastes, and stressed the importance of active participation of NGOs and other stakeholders. Consumers for Dental Choice urged the phase-out of mercury-containing dental amalgam. The ICMM recognized the need for enhanced capacity for the storage of mercury in the short to medium term. Brazil stressed that stored mercury should not find its way back into the mainstream or the black market.

ATMOSPHERIC EMISSIONS OF MERCURY: On Thursday morning, the Secretariat introduced the documents (UNEP(DTIE)/Hg/INC.1/5 and UNEP(DTIE)/Hg/INC.1/15), and called on delegates to provide information on the elimination of unintentional atmospheric emissions of mercury.

GRULAC said that mercury emissions to other "environmental media," including soil and water, are as important as atmospheric emissions. The African Group highlighted the divergence in the quantity and quality of mercury data available on the African continent and called for institutional strengthening to enable a better provision of information.

On unintentional emissions through the combustion of coal and ASGM activities, Switzerland said it was necessary to give priority to effective reduction measures, and suggested the INC make use of existing legal instruments on transboundary air emissions. Norway noted that unintentional emissions are the most common form of mercury emission, and said the instrument should include "concrete minimum measures" to be taken by all parties.

Japan emphasized the need for use of best available techniques at the national level, and called for each country to develop an implementation plan reflecting its individual circumstances.

India cited his country's development goals and reliance on coal combustion for power-generation and, supported by South Africa, said talk of reduction targets is premature, and reiterated

support for a voluntary approach to reducing emissions. China, supported by Cuba, expressed determination to control mercury emissions and said, due to an ongoing reliance on fossil fuels, voluntary efforts are the only solution. Indonesia said each country should set its own timeline for meeting obligations of the convention.

The US emphasized that national implementation plans could support compliance with obligations of the convention, but were not ends in themselves. The EU reaffirmed that atmospheric emissions should be addressed in a core provision of the instrument, and highlighted its efforts to address the issue within the EU.

Colombia highlighted the need for identification of products and processes that release substantial amounts of mercury. Iraq questioned whether controlling unintentional emissions in a mercury instrument could harm the international economy. Cameroon called for raising awareness of mercury pollution among stakeholders and building capacity in developing countries.

Sri Lanka said the instrument should incorporate provisions for access to best available techniques and best environmental practices at reasonable and affordable prices. Underscoring that the workplace is the first line of defense against mercury emissions, Brazil encouraged consideration of these "prior" emissions. Haiti highlighted the need for collating baseline information on concentrations of mercury in air and ecosystems.

UNITAR highlighted the importance of developing national reduction strategies or national action plans and offered assistance to countries.

Consumers for Dental Choice said that mercury storage in human tissues is a major source of mercury emissions. The World Coal Institute supported helping developing countries meet their treaty obligations without compromising their ability to achieve development goals and reduce poverty. IPEN and the Zero Mercury Working Group said that emission sources such as coal fired power plants and cement production should be included in the new treaty. The Inuit Circumpolar Council explained that women in some areas of the Russian Federation are advised to refrain from breastfeeding due to mercury contamination.

AWARENESS RAISING AND SCIENTIFIC INFORMATION EXCHANGE: This issue was discussed on Thursday afternoon. Delegates highlighted the need for: the development of national inventories of emissions; enhanced scientific research; training; the exchange of information; cooperation with other organizations such as WHO, UNIDO and UNITAR; establishing a clearinghouse mechanism; full participation of all stakeholders, including affected and vulnerable groups and NGOs; and information on the effects of mercury on health and environment. They also emphasized the important role of regional centers of the Basel and Stockholm Conventions.

GRULAC, supported by Canada, called for the development of national inventories of mercury sources and emissions, emphasizing their importance for information exchange and awareness raising. The African Group said a clearinghouse should be established to facilitate exchange of scientific and technical information. The EU Member States underscored the need for a synergistic approach to information exchange, and called for cooperation with existing systems.

Iran emphasized that regional centers could play key a role in awareness raising and scientific information exchange, given the necessary financial and technical assistance. Canada offered to share the country's experience with multidisciplinary monitoring and assessment initiatives. Japan offered to share policies and techniques developed subsequent to the outbreak of Minamata disease. The US requested the Secretariat to compile a global inventory of mercury cell chlor-alkali facilities. Highlighting the difficulty of changing mercury-use habits, China urged early action on information and awareness-raising. Switzerland said available and accessible information would lead to effective implementation of a mercury instrument, and suggested considering how the new instrument may interact with information exchange activities under the chemicals regime.

Tanzania highlighted that different users have different needs for information. Jordan underscored the importance of regional exchange of information. Colombia prioritized the training of health personnel on the dangers of mercury. Bangladesh emphasized the need to raise awareness on e-waste disposal. Mexico said developing countries require tools to collect, analyze and use information themselves. Pakistan highlighted the important role of stakeholders. Brazil called for the engagement of community leaders, media, decision-makers, the private sector and the ILO.

The ILO and the WHO offered to assist by providing awareness-raising materials. UNIDO said that the results of scientific studies on mercury should be made available on a wide platform that is readily accessible to all.

IPEN emphasized that the treaty should "honor the public's right to know," and stressed that awareness-raising should target all peoples who rely on fish for their primary dietary needs. The Zero Mercury Working Group called for a global monitoring network for fish and marine mammals that would monitor the treaty's effectiveness. The Center for Public Health and Environmental Development, Nepal, called on the INC to include expertise of NGOs in awareness-raising campaigns at the local level.

FINAL PROVISIONS: The Secretariat introduced the document on draft final provisions (UNEP(DTIE)/Hg/INC.1/7) on Thursday afternoon, noting it represents a compilation of the provisions of existing MEAs. GRULAC noted its preference for a structure with control measures plus annexes, and suggested that a framework be established to allow for adding annexes. The EU and EU Member States said that some provisions listed in the document could be easily agreed, while others should be negotiated when the structure of the instrument is decided. The African Group said final provisions should contain clear legal procedures to aid in implementation.

Canada and Iraq said that it is too early to discuss annexes and their amendments, since the decision on the structure has not been made. Regarding the potential language on amendments, GRULAC, Canada, Australia and the US suggested using language similar to that of the Stockholm Convention, which permits parties to make a declaration to which they will be bound after deposit of their instruments of ratification. The US classified the final provisions into three categories: those that

are non-controversial and could be accepted, such as those on signature and deposit; those to be considered at a later stage, such as on amendment of annexes; and those that are essentially acceptable, but require improvement, such as the settlement of disputes, withdrawal and ratification.

OTHER MATTERS

MATRIX TRACKING TOOL: On Thursday afternoon, GRULAC introduced a conference room paper (CRP.3), including a revised tracking tool to establish a link between control measures and implementation measures, and a table to be used by individual countries to identify potential cooperation requirements. On Friday morning, GRULAC clarified that the document was provided for delegates to consider during the intersessional period. The Secretariat was requested to compile feedback for consideration at INC 2.

ESSENTIAL USES: On Friday morning, the Secretariat introduced the document pertaining to the concept of essential use in international agreements (UNEP(DTIE)/Hg/INC.1/13). The EU and EU Member States said the concept of essential uses may be necessary. Switzerland suggested taking into account the experience of the UNECE Convention on Long-range Transboundary Air Pollution, specifically the Protocol on Heavy Metals, and also considering "permitted," as opposed to "essential," use.

Underscoring that the concept of essential use may be too narrow, China suggested using the Stockholm Convention's terminology of "acceptable" use. Norway preferred "acceptable purposes," "permitted uses," and "temporarily permitted uses." The US looked forward to future discussions, particularly on the use of mercury in drugs. Brazil stressed the need to consider the definition of exemptions for products using mercury. The Dominican Republic emphasized that exemptions should be clearly defined to avoid loopholes in the future.

SYNERGIES: On Friday morning, the Secretariat introduced the document on synergies and institutional coordination and cooperation (UNEP(DTIE)/Hg/INC.1/17), which includes the outcomes of the recent the simultaneous extraordinary meetings of the Conferences of the Parties to the Stockholm, Basel and Rotterdam Conventions (ExCOPs).

Reflecting on the outcomes of the ExCOPs, the EU Member States, supported by Indonesia, highlighted that the decision from this meeting recognizes both SAICM and the proposed legally binding instrument on mercury as areas where activities on synergies should be taken forward. The EU noted the importance of considering synergies with the SAICM process.

Underscoring that the current international environmental architecture includes over 500 environment MEAs, Switzerland, supported by Norway, stressed the need to address fragmentation, overlaps and inconsistencies. Acknowledging the many attempts to improve international environmental governance, he highlighted the historic decision of the ExCOPs as the first concrete step for reversing the trend of fragmentation of international environmental governance. Switzerland stressed that the mercury instrument must be integrated into this system, and suggested the Secretariat should prepare a document considering administrative and substantive synergies.

China stressed the design of the mercury instrument is of crucial importance, and said the ExCOPs synergies decision does not pertain to the mercury negotiations. He said the UNECE Heavy Metal Protocol was a "club of the rich" and questioned its applicability to poor countries. Iraq underscored the need to enhance support for the global management of chemicals. The US said administrative considerations are very important and the work of the ExCOPs should be taken into account.

Brazil said synergies should be explored, but cautioned that the synergies process is still developing, and is expected to conclude in 2013, at the same time the mercury instrument is completed. Recognizing that work would not be conducted "in a vacuum," Brazil cautioned against giving more work and responsibility to conventions that already have internal problems. He said Brazil would continue to support the synergies process, but it remains to be proven that the process will provide solutions.

Pakistan supported clear and transparent synergies with other MEAs. WHO expressed interest in working with the INC on synergies with the health sector. GRULAC noted the importance of synergies and said that this process will involve coordination with national focal points. Haiti stressed the need to avoid duplication with other MEAs.

DEFINITIONS: On Friday morning, the Secretariat introduced the glossary of key terms (UNEP(DTIE)/Hg/INC.1/14), which contains definitions that will be used throughout the process, and called on delegations to review and comment on it during the intersessional period. The EU and EU Member States suggested that the INC use language already in use by other MEAs.

INC 2: On Friday morning, Japan gave a presentation on preparations for INC 2 in January 2011, announcing that the meeting would be in Chiba City. He also expressed his country's interest in hosting the Conference of Plenipotentiaries in 2013, and in naming the mercury instrument the Minamata Convention.

PARTNERSHIPS: On Friday morning, the Secretariat highlighted the activities of the Global Mercury Partnership, noted that the second meeting will take place during the week of 20 September 2010, and urged governments and other stakeholders who have not already done so to join.

GENERAL STATEMENTS: On Friday morning, IPEN underscored the importance of including national implementation plans in the treaty, emphasizing that these plans can collate information used for decision-making and involve national stakeholders. GRULAC highlighted the need for two days of regional coordinating meetings before future sessions of the INC. The African Group supported GRULAC, noting the difficulty of communicating electronically during the intersessional period.

Citizens Against Chemicals Pollution, Japan, said naming the instrument **t**he Minamata Convention would directly connect the tragedy suffered by 30,000 people in Minamata, Japan, to international efforts to protect human health and the environment. The World Alliance for Mercury Free Dentistry proposed that all parties provide information to their populations on the mercury content of silver amalgam. The World Dental Federation said restrictions on the use of amalgam will result in significant social costs.

CLOSURE OF THE MEETING

On Friday afternoon, Chair Lugris requested delegates to mandate the Secretariat to prepare, for consideration by the INC, "elements of a comprehensive and suitable approach to a legally binding instrument on mercury, including provisions

identified in paragraph 27 of Governing Council Decision 25/5, and taking into account considerations listed in paragraph 28 of that decision as well as the principles of the Rio Declaration on Environment and Development." He noted these would be used as a basis for negotiations at INC 2, and called on interested parties to submit their views to the Secretariat by 31 July 2010. Chair Lugris proposed, and delegates agreed, to include this mandate in the report of the meeting.

Chair Lugris then introduced a non-paper on information to be provided to INC 2, containing requests for the preparation of seventeen documents that will inform negotiations at INC 2. Delegates agreed to record the request in the report of the meeting and to annex the specific requests to the report.

Rapporteur Nina Cromnier then introduced the report of the meeting (UNEP(DTIE)/Hg/INC.1/L.1), explaining this reflected INC 1's discussions. Chair Lugris requested delegates to consider the report section-by-section, and the report was adopted with several editorial amendments to accurately reflect the content of the discussions.

Japan thanked Chair Lugris for his work and Sweden for hosting the meeting. He expressed great appreciation to Per Bakken, UNEP Chemicals, who will retire before INC 2. GRULAC underscored the productive work at INC 1 and expressed its willingness to undertake intersessional work. The African Group looked forward to maintaining momentum in future INC deliberations. The EU Member States thanked UNEP, the Secretariat and the Nordic Council of Ministers, as well as the Government of Japan for offering to host INC 2. The EU noted it expected to be in a position to fully negotiate at INC 2.

Chair Lugris thanked delegates for their cooperation, commitment and constructive spirit and encouraged delegates to keep the spirit of INC 1 alive during the following INC meetings. Chair Lugris praised the leadership of Per Bakken and the work of the Bureau and gaveled the meeting to a close at 7:02 pm.

A BRIEF ANALYSIS OF INC 1

Sweden's famous Vasa Museum features a vessel that sank in the 16th century while fully loaded with people and cargo. According to the Chinese delegation, this ship, the Vasa, which features strikingly elaborate decorative carvings, sank because it was badly designed. This cautionary tale served as an important metaphor for the first of five sessions of the Intergovernmental Negotiating Committee to prepare a global legally binding instrument on mercury (INC 1). While the meeting proceeded in a remarkably convivial atmosphere, the substantial task of creating a modern, effective and well-financed convention weighed on participants' minds. INC 1 did not delve into the nuts and bolts of instrument design, but was instead dedicated to an exchange of views. While differences of opinion were clearly evident, negotiations were deferred to INC 2, where, many predicted, the "knives will be out."

Three key and interrelated issues emerged as vital to future discussions: capacity building and financial and technical assistance; a non-compliance mechanism; and unintentional atmospheric emissions of mercury. This brief analysis discusses these substantive issues, assesses the implications of the week's discussions for future negotiations of a mercury instrument, and considers the context of the mercury negotiations within the context of the other chemicals and wastes conventions.

CAPACITY BUILDING AND FINANCIAL AND TECHNICAL ASSISTANCE

Not surprisingly, properly financing the instrument took top priority at INC 1. The cross-cutting issues of capacity building and financial and technical assistance were raised repeatedly as delegates highlighted the need for support to enable parties from developing countries and countries with economies in transition to take action on mercury, including, *inter alia*: compliance with potential obligations and control measures under the instrument; inventories of mercury use; waste disposal and management; and raising awareness of the threats posed by mercury to human health and the environment.

Developed countries have historically favored the Global Environment Facility (GEF) as the funding mechanism of choice, seeing it as a way to simplify resource distribution and avoid proliferation of financial mechanisms for multiple multilateral environmental agreements (MEAs). The GEF is under executive control of the GEF Council, which is dominated by donors. This arrangement would limit the Conference of the Parties' control over its financial mechanism and has been an ongoing point of contention in many MEAs, including the Stockholm Convention. Throughout the negotiations on the Stockholm Convention, discussions of the financial mechanism were deferred until the GEF was the only "game in town," and was nominated as the "interim" financial mechanism.

Many participants were, therefore, pleasantly surprised when the US alluded to its interest in a stand-alone financial mechanism for the instrument on mercury. The establishment of an independent mechanism would give the Conference of the Parties to the convention direct control over its financial mechanism, thus allowing parties to determine how resources should be allocated. It would also provide a way to tie finance directly to compliance, which one delegate quipped "sounds good if you say it fast," but requires elaboration of the details to ensure effectiveness.

Developing countries, which have raised concerns in the Stockholm process about the GEF's responsiveness, transparency of decision-making, and co-financing requirements, were expected to favor a stand-alone financial mechanism modeled on the Multilateral Fund of the Montreal Protocol. Yet, the African Group expressed interest in developing a stand-alone financial mechanism while maintaining a role for the GEF. This surprised several, who noted Africa is the continent with the least uptake of GEF projects, often because they are unable to meet the co-financing requirements.

The EU, Norway and Switzerland, among others, tentatively favor the GEF as the financial mechanism, with some conceding that its weaknesses—particularly efficiency—can be improved. The EU's inability to negotiate during INC 1, due to issues related to the Lisbon Treaty, prevented it from doing more than sharing its views on this topic. Therefore, the issue failed to gain traction. Many also emphasized it was too early to establish firm positions on the funding mechanism, but expressed willingness to consider all of the options before the Committee. The potential flexibility by major players on finance encouraged several to

venture that the mercury INC process may have learned from the processes that have gone before it, possibly leading to a more comprehensive and effective instrument.

INTEGRATING COMPLIANCE FROM THE OUTSET

Further demonstrating the clarity of hindsight, many proponents of a compliance mechanism, including the EU, Switzerland, Norway and Canada, highlighted the failures of both the Rotterdam and Stockholm Conventions to agree on compliance procedures years after the conventions' entry into force. At recent Stockholm COPs, negotiations on compliance were sidelined by trade-offs between listing new chemicals and additional financial assistance, with a small number of countries rejecting what they perceive to be a punitive system, which penalizes the parties that cannot meet their obligations due to inadequate finance. This week, compliance mechanism proponents made it clear they are eager to ensure the issue is given due attention during negotiations, to guarantee that the mechanism is addressed in the core provisions of the instrument and not left to languish indefinitely, or to be considered as a "bolt on" late in the game.

Pragmatically, some developing countries suggested that if the "money is right," they could accept compliance. India, however, strongly favors voluntary measures. Early in the week, GRULAC stated it wanted the financial commitments of developed countries included in the compliance mechanism, effectively meaning those that don't pay their dues could fall into noncompliance. This would augment mutual accountability between developed and developing countries, ensure adequate funds and, in turn, potentially increase the effectiveness of the instrument. To reinforce the links between compliance and other key elements of the instrument, the EU proposed a group on implementation, compliance and finance to begin work at INC 2. However, late in the week, GRULAC presented a revised negotiation tracking tool that removed compliance as a cross-cutting issue, and instead proposed it as an isolated subject. Needless to say, delegates do have strong and divergent views on the issue of compliance, and this may be an ongoing point of contention in future INCs.

THE VOLATILE METAL—ADDRESSING ATMOSPHERIC EMISSIONS

Potentially, the most controversial substantive issue facing the INC process is unintentional mercury emissions caused by coal combustion. The EU and the US both stressed that this must be addressed in the core provisions of the instrument. This is particularly important to the EU who, after the failure of Copenhagen, is desperately seeking climate co-benefits. In the Montreal Protocol process, the US has continually emphasized the climate benefits of alternative instruments to the UNFCCC. But India, China, and a number of others opposed this suggestion, indicating they will refuse to consider legal measures or quantitative targets. They emphasized, with the support of Brazil and South Africa, that their development goals, which are dependent on continued use of fossil fuels, must be prioritized.

Notably, mercury-specific technologies are being developed, and mercury emissions in coal combustion are currently being reduced in some areas, including the US and EU, through technologies designed to capture sulfur dioxide and other emissions. Thus, setting legally binding limits on unintentional atmospheric emissions in the instrument would not necessarily mean reducing dependence on fossil fuels, but would require implementation of clean technologies. A study (the paragraph 29 study), which will explore trends in mercury emissions, the technical characteristics of primary sources of emissions, and possible control measures, is required before negotiations on this issue can commence. It is anticipated to be available for INC 2, but as not all countries involved in the study have submitted the information necessary, the result may be less comprehensive that originally envisaged. Seasoned delegates predicted that substantive debate at INC 2 would be dominated by this issue.

MERCURY AND SYNERGIES

If constructing a mercury instrument can be likened to the careful crafting of a boat, then delegates may look to the design of other boats in the already existing fleet of chemicals and waste conventions for design ideas. While most delegates agree on the importance of learning from these other conventions, they disagree on a possible need to join the fleet. The EU and Indonesia emphasized the importance of considering the outcomes of the Extraordinary Meetings of the Conferences of the Parties to the Basel, Stockholm, and Rotterdam Conventions, and the associated decision to take forward synergies with SAICM and the mercury process. Switzerland and Norway said this was essential to reduce the fragmentation of international environmental governance. However, this approach met with strong opposition from China, who said the synergies decision does not pertain to mercury. Brazil was more circumspect at INC 1, but at the recent eighteenth session of the Commission on Sustainable Development, Brazil did state that it considered mercury as separate and excluded from the synergies process.

China and Brazil's preference to ring-fence this new boat from the existing fleet is likely explained by fears that by joining the synergies fleet, the mercury vessel may run the risk of picking up some unwanted passengers (also known as lead and cadmium). The "open door" for other heavy metals was debated at UNEP GC 25 and will be revisited at UNEP GC 26. As one of the aims of the synergies process is to prevent proliferation of MEAs and resulting fragmentation, it seems probable that if the Governing Council does decide that international action is required on lead and cadmium, this would be linked to the mercury process.

THE PROTRACTED PROCESS OF BOAT BUILDING

When evaluating the success of INC 1, it is useful to reflect on the goal stated by Chair Lugris: to take a preliminary look at all elements of an instrument on mercury, and to identify key areas of agreement and those which are more controversial. By Lugris' definition, INC 1 met its goal.

While many delegates were pleased with the progress of the meeting, underscoring the importance of building rapport among the large team of boat designers and builders, others expressed concern about wasted time, noting that most of the statements made during INC 1 had been made in previous meetings, and lamenting the lack of contact groups and other opportunities for detailed negotiations on specific issues. One delegate emphasized that the pace of work needs to increase dramatically by INC 2, as the Committee has a total of 20 days together in which to design and build an instrument on mercury.

Looking forward to INC 2, it is clear there are many elements to consider and balance in order to construct an instrument that is

acceptable to all. While INC 1 addressed issues sequentially, this approach may only result in tangible progress in future meetings if general statements are curtailed and interventions focused on specific measures. Conversely, issue-based contact groups may preclude the opportunity for cross-cutting negotiations and trade-offs, particularly if they are conducted in parallel. The tracking tool introduced by GRULAC potentially provides a useful blueprint for linking the horizontal issues of finance and compliance to each of the control measures. However, this will only be possible if delegates agree to use it.

The intricately carved Vasa sank on its maiden voyage because it was too large, too bulky, and its center of gravity too high to stay afloat. In other words, its form was not fit for its function. The function of the mercury instrument will be articulated by its control measures on supply, demand, trade, waste, storage, and atmospheric emissions, and it is on these that INC 2 must concentrate its efforts. Following this function, the form of the agreement should integrate these controls with compliance and finance measures. The challenge facing delegates at INC 2, and subsequent INCs, is to ensure that the new mercury instrument's form and function are conducive to a long, useful life.

UPCOMING MEETINGS

Montreal Protocol OEWG-30: The Open-ended Working Group of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer. **dates:** 15-18 June 2010 **location:** Geneva, Switzerland **phone:** +254-20-762-3850/1 **fax:** +254-20-762-4691 **email:** ozoneinfo@unep.org **internet:** http://ozone.unep.org/Meeting_Documents/oewg/30oewg/index.shtml

Seventh International Experts Workshop on Mercury Emissions from Coal Combustion: This meeting is a joint partnership meeting for two partnership areas on the reduction of mercury releases from coal combustion partnership area and the mercury air transport and fate research partnership area. **dates:** 16-18 June 2010 **location:** Glasgow, Scotland **phone:** +41-22-917-8867 **fax:** +41-22-797-3460 **email:** chemicals@unep.ch **internet:** http://www.unep.org/hazardoussubstances/Mercury/PrioritiesforAction/Coalcombustion/Meeting/tabid/4493/language/en-US/Default.aspx

Fifth meeting of the Quick Start Programme Executive Board: As part of the fifth meeting of the QSP Executive Board, the SAICM Secretariat is organizing a session to present a number of QSP projects that have been completed or are at an advanced stage. Selected participants are invited to provide information on the results and experience in the implementation of the projects funded by the QSP trust fund. **dates:** 29-30 June 2010 **location:** Geneva, Switzerland **phone:** +41-22-917-8532 **fax:** +41-22 -797-3460 **email:** saicm@chemicals.unep.ch **internet:** http://www.saicm.org/index.php?menuid=24&pageid=419&submenuheader=

Regional Workshop on WEEE/E-Waste Management: The International Environmental Technology Centre (IETC) under UNEP's Division of Technology, Industry and Economics (DTIE) in cooperation with the Global Environment Centre Foundation (GEC), is organizing a regional workshop on Waste Electrical and Electronics Equipment (WEEE)/E-waste to build capacity on WEEE/E-waste and to discuss current challenges. **dates:** 6-9 July 2010 **location:** Osaka, Japan **phone:** +81-6-6915-4581 **fax:** +81-6-6915-0304 **email:** ietc@unep.org **internet:** http://www.unep.or.jp/ietc/SPC/news-jul10.asp

First Step Workshop & Conference on E-Waste in the South Pacific Region: This conference and workshop will bring together corporate stakeholders, government authorities and researchers in e-waste to collaborate on the development the future management of e-waste in the Asia-Pacific Region. The conference themes include sessions on: Policy and Legislation, ReDesign, ReUse and ReCycle. **dates:** 21 July 2010 **location:** Brisbane, Australia **phone:** +61-7-3735-4378 **email:** ewaste2010@griffith.edu.au **internet:** http://www.ewaste2010.org/

Regional Awareness Raising Workshop on Enhancing Cooperation and Coordination for the implementation of the Basel, Rotterdam and Stockholm Conventions in the Middle East: The Basel, Rotterdam and Stockholm Conventions are organizing this regional workshop to raise awareness in the Middle East on enhancing cooperation for the implementation of the three conventions. **dates:** 20-22 September 2010 **location:** Cairo, Egypt **phone:** +41-22 -917-8296 **fax:** +41-22 -917-8082 **email:** pic@pic.int **internet:** http://www.pic.int/mbg-short.php?ReId=188

Sixth Meeting of the Persistent Organic Pollutant Review Committee (POPRC-6): The POPRC is a subsidiary body to the Stockholm Convention established for reviewing chemicals proposed for listing in Annex A, B, and/or C. **dates:** 11-15 October 2010 **location:** Geneva, Switzerland **phone:** +41-22-917-8729 **fax:** +41-22-917-8098 **email:** ssc@unep.ch **internet:** http://chm.pops.int/

Twenty-second Meeting of the Parties to the Montreal Protocol (MOP 22): This meeting is scheduled to take place in Kampala, Uganda in November 2010. **dates:** 8-12 November 2010 **location:** Kampala, Uganda **phone:** +254-20-762-3850/1 **fax:** +254-20-762-4691 **e-mail:** ozoneinfo@unep.org **internet:** http://ozone.unep.org/Events/meetings2010.shtml

The Second Session of the Intergovernmental Negotiating Committee to Prepare a Global Legally Binding Instrument on Mercury (INC 2): This meeting is the second of five scheduled meetings to negotiate a legally binding instrument on mercury. **dates:** 24-28 January 2011 **location:** Chiba, Japan **phone:** +41-22-917-8183 **fax:** +41-22-797- 3460 **email:** mercury@.unep.org **internet:** http://www.chem.unep.ch/mercury/

GLOSSARY

ASGM	Artisanal and small-scale gold mining
BCRC	Basel Convention Regional Center
GEF	Global Environment Facility
ICMM	International Council on Mining and Metals
IEG	International environmental governance
ILO	International Labor Organization
INC	Intergovernmental Negotiating Committee
MEA	Multilateral environmental agreement
OEWG	Open-Ended Working Group
SIDS	Small island developing states
UNIDO	UN Industrial Development Organization
UNITAR	UN Institute for Training and Research
WHO	World Health Organization
WTO	World Trade Organization