

## Minamata COP-5 Highlights: Thursday, 2 November 2023

Delegates agreed on the composition of the effectiveness evaluation group that will report back to COP-7 (2027) on the effectiveness of the Convention, and adopted a package of indicators that will guide the evaluation.

They also adopted a decision on artisanal and small-scale gold mining (ASGM), whereby they seek to engage with Indigenous Peoples and local communities in decision-making processes regarding ASGM.

Delegates adopted a decision to conduct a study on the global supply, trade, production and use of mercury compounds, but did not resolve differences over a draft decision on mercury supply sources and trade.

Delegates agreed to invite the Conference of the Parties to the Convention on Biodiversity (the CBD COP) to consider additional indicators to cover highly hazardous chemicals and mercury under Target 7 of the Kunming-Montreal Global Biodiversity Framework.

Contact groups on amendments of the Convention Annexes and on waste thresholds also made progress on several key issues, including an agreement on a threshold value for mercury waste, and on phaseout dates for linear fluorescent lamps.

### Report-backs

The three contact groups on Programme of Work (PoW) and budget, Annexes A and B, and mercury waste thresholds requested more time to complete their deliberations, and this was agreed.

Maria del Mar Solano Trejos (Costa Rica), Co-Chair, Contact Group on PoW and Budget, reported that work remained on outstanding issues of staff management, effectiveness evaluation and capacity building, as well as the need to clear any decisions from a budgetary perspective from other contact groups or plenary.

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

**Credentials:** Cheryl Eugene-St Romain (St Lucia), Credentials Committee, reported that 105 parties had submitted their credentials. She noted that 10 parties had not submitted their credentials and therefore would participate as observers, namely, Cameroon, Chad, Comoros, Republic of the Congo, Guinea, Iraq, Mali, Mauritania, Paraguay and Vanuatu. IRAQ and MAURITANIA advised the plenary that they anticipated receiving their credentials before the end of the meeting, and the Chair responded that this change could be included in the final report of the meeting.

The plenary adopted the report of the Credentials Committee as orally presented.

**Mercury and Kunming-Montreal Global Biodiversity Framework:** Delegates resumed their discussion of the agenda item, referring to the draft decision contained in document [UNEP/MC/COP.5/20](#). The US agreed to remove previous brackets around a paragraph referring to Global Environment Facility (GEF) programs.

CHINA questioned a proposal for the Minamata COP to invite the CBD COP to consider including a “headline indicator” related to highly hazardous chemicals and a component indicator related to mercury. She emphasized that Target 7 of the Global Biodiversity Framework (GBF) already provides for actions that will reduce the risks from highly hazardous chemicals, for example, through its indicators on wastewater treatment and solid waste.

The EU, CANADA and AUSTRALIA preferred to retain the text. CANADA stated that indicators for highly hazardous chemicals are needed in the GBF, which, she argued, does not currently have much chemicals focus.

After adjourning for further consultation, AUSTRALIA presented compromise text developed with China, which “notes the absence in the monitoring framework...regarding the overall risk from highly hazardous chemicals, and invites the COP to the CBD to consider additional indicators, under Target 7, to cover highly hazardous chemicals and mercury.”

With these changes, the COP adopted the decision.

**Effectiveness Evaluation:** With reference to the report-back from the Friends of the President group, the Chair noted general agreement that the indicators contained in [UNEP/MC/COP.5/16/Add.1](#) could be adopted. The Secretariat outlined the substantive changes that were agreed, namely, that the outcome of the first effectiveness evaluation would be considered at COP-7, and that the membership of the effectiveness evaluation group would comprise five representatives of parties from each UN region, making a total of 25 members.

With these changes, the COP adopted the decision.

**Artisanal and Small-scale Gold Mining (ASGM):** Following the previous day’s discussions, plenary adopted a draft decision on ASGM (CRP.7) which, *inter alia*, calls on parties to engage Indigenous Peoples, local communities and other relevant stakeholders in developing national action plans, and recognizes that national action plans are central to the achievement of obligations under Article 7.

**Mercury Supply Sources and Trade:** On a proposal sponsored by the US, Canada, the Latin American and Caribbean Group (GRULAC), and Australia to request that the Secretariat

conduct a study on mercury compounds, CANADA reported that agreement had been reached on amended text. She recalled that national reporting requirements do not currently include mercury compounds, yet Article 3 requires the COP to evaluate whether the trade in specific mercury compounds compromises the objective of the Convention.

SAUDI ARABIA and CAMBODIA supported the decision. MEXICO queried why the text did not include elemental mercury in the scope, but after consultation with the co-sponsors agreed to drop the request. Plenary adopted the proposal.

COP-5 President Dumitru reminded parties that a draft decision on mercury supply sources and trade ([UNEP/MC/COP.5/3](#)) was still outstanding, and requested they make efforts to send inputs to the secretariat to expedite a decision later that day.

Parties resumed discussion in the afternoon. They reviewed, *inter alia*, several deletions based on a proposal from the US. The EU noted that the text on the screen did not include their written amendments provided earlier in the week, which asked parties to: “develop guidance to identify, manage and reduce mercury mining as well as exports of mercury from secondary mining and mercury as a by-product; and invites parties to the Global Environment Facility, the UNEP Mercury Partnership, and other stakeholders to support this activity by providing experience from previous supply-related activities.” During the lengthy discussion, CHILE reiterated that the term “secondary mining” does not appear in the Minamata Convention, and requested that it be removed.

JAPAN asked for time to propose alternative text, noting that her country trades mercury for allowed uses, compliant with Article 3. She noted that illegal trade was addressed in the Bali Declaration introduced at COP-4, and stressed that JAPAN sees tackling such trade as an utmost priority. Several parties, including BRAZIL, CANADA, and GUINEA, requested a definition of the term “secondary mining.” IRAQ asked the Secretariat to prepare a report on secondary mining for COP-6. GUINEA asked, “if one of the sources of mercury is products containing mercury, and it is not addressed here, when will it be addressed?” CHILE reminded parties that the decision was on mercury supply and trade, not on compounds. The plenary closed, with the COP-5 President having cleared most of the text. COP-5 President Dumitru invited JAPAN to facilitate an informal consultation with interested parties on alternative text, with a view to resuming deliberations the following day.

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

The group opened its deliberations with an agreement to set 2026 as the phaseout date for linear fluorescent lamps for general lighting purposes.

The group then focused on a proposal for a draft decision on cosmetics with added mercury. As revised by the group, the draft decision would invite parties and relevant stakeholders to submit information to the Secretariat by 30 June 2024 on challenges in preventing the manufacture, import, and export of cosmetics listed under Part I of Annex A, as well as current measures to address such challenges. The Secretariat would prepare a draft report based on this information and make it available by 31 March 2025 for comments, and would prepare a final report taking into account the comments for consideration by COP-6.

On dental amalgam, the group could not agree to lift brackets on an Annex A Part 1 entry on phaseout, so they agreed to forward to COP-6 for its consideration. The group agreed to amend Part II to require parties that have not yet phased out dental amalgam to

submit to the Secretariat a national action plan, or a report based on available information, regarding progress they have made or are making to phase out or phase down dental amalgam. The report would be submitted every four years as part of national reporting under the Convention.

The group also debated a proposal to require parties to exclude or not allow the use of dental amalgam in government insurance policies or programmes. They could not agree on this language, and instead agreed to forward the proposal to COP-6 for further consideration.

### ***Waste Thresholds Contact Group***

The group continued to work on amending the opt-out clause. As further amended, the paragraph would allow a party to, as an alternative to accepting the single total threshold concentration value, document that it has an alternative approach which protects human health and the environment. The party would have to notify the Secretariat of its choice and document its approach. The Secretariat would maintain a public register of such information.

The group then decided on a threshold value of 15 mg/kg total concentration of mercury.

A few delegations proposed a new preambular paragraph inviting the Basel Convention to consider the “disproportionate impacts” of transboundary movements of mercury waste on developing countries. Some pointed out that this should be an operational paragraph, and further discussion of the matter was deferred to the evening session of the group.

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

The metaphorical clock ticked ever more loudly, as pressure was on to complete negotiations and present agreed text that can be translated and distributed before the close of COP-5. Similar to the previous day’s rate of progress, delegates in plenary began the day by adopting text with seeming ease—the fruit of collaborative approaches in formal and informal groupings throughout the week. “I’m actually shocked at how easily decisions are being passed,” said one observer, as delegates adopted another four decisions in the morning and adjourned early to allow the contact groups to continue.

But tensions ran high in some contact groups, erupting over waste thresholds, as one regional group member—possibly, like many others, under-caffeinated and sleep-deprived—accused others of a failure to listen to concerns about problems encountered on the ground.

Proponents of phaseout and phasedown measures on dental amalgam were disappointed that the only concession they achieved was to have parties to submit action plans or report on phasedown progress. This situation, another observer noted, could continue indefinitely, as parties’ reluctance to adopt a voting procedure under Rule 45 of the Convention’s rules of procedure means there is no way to break the impasse on this long-standing issue.

Nevertheless, delegates found some things to celebrate, in view of the progress made at COP-5 so far. A patron of the conference center’s coffee bar remarked on its festive, “disco-like” atmosphere as busy negotiators could occasionally be spotted there, ruffled and bleary-eyed, seizing a moment of respite before diving back into the fray.

The *Earth Negotiations Bulletin* summary and analysis of COP-5 will be available on Monday, 6 November 2023 at [enb.iisd.org/minamata-convention-mercury-cop5](http://enb.iisd.org/minamata-convention-mercury-cop5)