REPORT OF THE MEETING OF THE BUREAU OF THE INTERGOVERNMENTAL NEGOTIATING COMMITTEE ON MERCURY

18 – 19 January 2016
Jakarta, Indonesia

Participants – Mr. Xia Yingxian (China, for Asia Pacific) Mr. David Kapindula (Zambia, for Africa), Mr. Alojz Grabner (Slovenia, for Central and Eastern Europe), Mr. Vladimir Lenev (Russian Federation, for Central and Eastern Europe) Ms. Nina Cromnier (Sweden, for the Western European and Others Group), Ms. Sezaneh Seymour (United States of America, for the Western European and Others Group), Ms. Gillian Guthrie (Jamaica, for Latin America and the Caribbean), Mr. Fernando Lugris (Uruguay, for Latin America and the Caribbean) and the Interim secretariat for the Minamata Convention on Mercury.

1. Opening of the Bureau meeting

1. The Bureau meeting opened at 10 a.m. with welcoming remarks from Mr. Lugris, Chair of the intergovernmental negotiating committee on mercury (inc). He passed on the regrets of Mr. Khashashneh (Jordan, for Asia and the Pacific) and Mr. Cisse (Mali, for Africa) who were unable to join the meeting, however, noted that all regional groups were represented. He passed on his congratulations to the Government of Jordan who had recently ratified the Convention, as well as to all who were close to ratifying, including the Government of Zambia who had just ratified the Convention at the national level. Mr Lugris noted with sadness the terrible events in Jakarta the week before the Bureau meeting, but indicated that such events would not prevent the Bureau from the important work it had to undertake.

2. Turning to the substance of the meeting, the Chair noted that INC7 will be the final INC, and will require thorough preparations. The upcoming regional consultations in preparation for INC7 will assist with this, however, there is also a need for those participating in the meeting to come well prepared with a vision of success. Governments should also ensure that the right delegations are present. The level of expectation will be driven by the Bureau members, and it is important to convey positive messages to the regions.

2. Adoption of the provisional agenda

3. The Chair presented the broad outline of the provisional agenda, highlighting the expectations under each item. The agenda was adopted without change.

3. Tour de table on progress towards ratification and early implementation in their region, along with further discussions of possible activities which could be undertaken to support ratification and early implementation

4. The interim secretariat presented an update of the overall status of ratifications, with 20 countries having deposited their instruments by mid-January 2016, along with the understanding that many countries are making significant progress towards ratification. He indicated that the information has been gathered through working with countries as well as through the regional chemicals and waste subprogramme coordinators of UNEP.

5. Ms. Seymour indicated that countries from the JUSCANZ group continue their efforts at the national level towards ratification. While countries have made progress, they are not yet in a position to make an announcement. She congratulated those countries who had recently ratified (the Governments of Jordan and Kuwait in particular), as well as countries indicating they have undertaken the internal process but have not yet deposited their instrument. Ms. Cromnier indicated that the EU was making progress, and it was now expected that ratification may occur early in 2017.

6. Mr. Xia firstly welcomed the Chair in his new role as Ambassador of Uruguay to China. He then indicated that he had received few responses from countries of the Asia and the Pacific region, however, hoped further updates would be forthcoming in the regional consultations which were to take place back to back with the Bureau meeting. Japan had indicated that they had finished their second reading, and hopefully would conclude the work in the coming months. China had faced some technical issues with the Chinese version of the Convention text, but hoped to complete the work in February or April 2016. The Chair highlighted the need for any region which identified errors in the translation of the Convention text to submit a request for revision to the Office of
Legal Affairs, Treaty section at UN Headquarters in New York, as then the appropriate process could be used to amend the language versions.

7. Mr. Kapindula indicated that many African countries were approaching ratification, with a large number doing initial assessments. He hoped to receive further updates at the regional consultations for Africa. The Chair highlighted the need to consider how to provide further technical support for implementation, including tailoring activities towards specific country needs.

8. Mr. Grabner indicated that many EU countries were in the process of ratification, and would be ready to ratify once the EU went ahead. Mr. Lenev indicated that it was useful that the regional consultations were extended to Russian speaking countries from Central Asia as this would assist the ratification for many. A number of countries were close to ratification, and he also hoped that Central Asian countries would benefit from the assistance of the new UNEP sub-office in the Central Asia region. He indicated that a delay for some countries could result from the need to translate the text into local languages. He noted that the Russian Federation was likely to ratify only after the first meeting of the Conference of the Parties (COP1).

9. The Chair thanked all for their interventions. He noted that within the GRULAC region, many countries had made good progress towards ratification, with deposits expected very soon from Peru and some other countries. Mr. Lugris also felt that the regional meeting would provide a good opportunity to share experiences. He indicated that there was a need to maintain a level of competition to encourage ratification, as well as benefit for special assistance in certain circumstances. He indicated that he saw the Bureau as a vehicle to convey information on countries and regions special needs to the interim secretariat.

4. Update on activities undertaken since the last Bureau meeting

10. The representative of the interim secretariat indicated that currently 20 countries had submitted their instruments of ratification, approval or accession, and there were indications that additional countries were preparing their instruments. On this basis, it would appear feasible to schedule the first meeting of the Conference of the Parties for mid-2017.

11. Since the previous Bureau meeting held in July 2015, the interim secretariat had supported the fourth meeting of the group of technical experts on Article 8, as well as the meeting of the ad hoc working group of experts on on financing in line with the mandate of INC6. A number of countries had also been supported towards implementation and ratification, and further activities are planned to continue through 2016.

12. Preparations for INC7 had been ongoing, including both logistic preparations and the preparation of documents. Two site visits to Jordan have been conducted, and the facilities are considered excellent. The meeting will be under the patronage of His Majesty The King of Jordan, and it is anticipated that the meeting will be opened by a senior government official as well as senior representation from UNEP and GEF. It is planned to have a meeting of the Partnership Advisory Group of the UNEP Global Mercury Partnership on 8 March, with regional meetings for the INC to be held on 9 March, followed by the six days of INC7 from 10 to 15 March 2016.

13. Additionally, the interim secretariat supported the organization of four regional meetings in preparation for INC7, to be held in Jakarta (Indonesia), Lusaka (Zambia), Brno (Czech Republic) and Montevideo (Uruguay). These meetings will be key to prepare for INC7, as they will allow for detailed strategic and policy discussions of the documents as well as the possible development of regional positions. The Chair noted the importance of discussing all issues relevant to INC7, and for the Bureau members to play a proactive role in the regional discussions. As it was key that all delegates come to the INC fully informed about the issues set out in the document, the Chair indicate that all the documents should be presented in detail to allow questions for clarification and discussion of the issues.

14. The regional meetings and the INC will both provide opportunities to understand further the support required by countries in the early implementation of the Convention, with consideration of the potential need for more tailored assistance, which may focus on particular topics or national priorities.

The interim secretariat had continued to receive financial support for its activities, which has permitted the organization of the regional meetings, the intersessional work as well as the INC and also the activities undertaken in support of the ratification and early implementation of the Convention. Support has been received from Austria, Belgium, Canada, China, Denmark, the European Commission, Finland, France, Germany, Japan, the Netherlands, Norway, Sweden, Switzerland, and the United States of America. Also the contribution of the Government of Jordan towards the organization of INC7 was welcomed.

15. Mr. Kapindula asked whether there is detailed information on the UN organizations working in each region, as this was very useful to avoid duplication of efforts. Ms. Seymour emphasised that coordination of activities was critical for effective work and to avoid duplication, and recalled that it had been previously agreed
that this information would be collated and presented on the Minamata website, while recognizing that information may not have been submitted to the Secretariat.

16. With regard to the regional meetings, Mr. Kapindula emphasised that it may be necessary to have some closed sessions within the regional meeting. Mr. Grabner asked whether the agenda for each meeting was available. The interim secretariat indicated that a generic agenda for the regional meetings had been circulated to the Bureau, and that individual agendas for each regional meeting would be developed once input had been received from the respective Bureau members and regional coordinators.

17. The Chair indicated that information on the global efforts towards implementation and information on needs would be very useful. It was agreed that Bureau members would collect the information and pass it on to the interim secretariat, and the Chair emphasised that this was key to support ongoing work.

5. Progress report from intersessional expert group meetings

Article 8 – Group of Technical Experts on Emissions

18. The interim secretariat reported that the intersessional expert group on emissions had met from 7 to 11 September 2015 in Stockholm. The draft guidance on BAT/BEP had been made available for public comment, and the experts considered the submitted comments while revising this guidance. The experts also considered the other guidance required under Article 8 and, following discussions, finalized all guidance for submission to the INC as the results of the work of the group.

19. The Chair indicated that there would be an opportunity for discussion of the guidance as it was important that all were comfortable with them. The need for countries to prepare and read the documents in advance of the meeting was expressed, and the importance of the guidance should be noted during the regional meetings. In recognition of this, the Chair indicated that it would be useful to discuss the documents on day preceding the start of the INC, with an opportunity to meet with the co-chairs of the group of technical experts. It was noted by one Bureau member that the guidance is not legally binding, and the secretariat was asked to seek advice on the legal status of “guidance” versus “guidelines”. It was considered that it should be feasible to move forward in a cooperative way and provisionally adopt the guidance at INC7, before their formal adoption at COP1.

20. The issue of releases was briefly considered. It was noted that the BAT/BEP guidance for releases would require different expertise, recognizing in addition, that sources of releases that would need to be controlled have not yet been identified. It was also noted that the inventory guidance developed for emissions would however be applicable to releases, particularly as the UNEP Inventory Toolkit covers all environmental media.

Article 13 – Ad hoc working group of experts on financing

The ad hoc working group of experts on financing established at INC6 met from 26 to 29 October 2015 in Sao Paolo, Brazil upon the invitation of the Government of Brazil to consider issues relating to the specific international programme (SIP) under the financial mechanism of the Minamata Convention (Article 13). The co-chairs report of the meeting would be submitted to INC7 for consideration. Ms. Guthrie, co-chair of the expert group, indicated that the group had been keen on working on how to phrase the outcome of its work, and looked for shared understanding. In considering the hosting institution for the SIP, the expert group had agreed that UNEP was the best candidate, however, had invited the Executive Director of UNEP to prepare an information document on the options within UNEP and related governance arrangements. In considering the scope, the expert group had considered it was key to complement existing programmes. For sources of resources, the need for a broad based donor contribution was identified, with both financial, in-kind and expertise contributions required. The expert group also noted a resource mobilisation strategy would be needed to attract a broader range of donors, including non-traditional donors. The group considered the UNEP Global Mercury Partnership could contribute to the work. In considering duration, some considered that the programme should be time-limited while others considered this was not required. It was also noted that some provisions in the Convention had specific timeframes while others did not and the issue of duration was not yet resolved. It was considered key that the INC, in discussing the issues of financing, should build on the co-chairs report.

21. The Chair thanked the co-chairs of the ad hoc working group of experts on financing for the successful work and the good progress made to date. He noted that the co-chairs summary would be introduced in plenary, with a presentation by the co-chairs stating the clear outcome of the work and encouraging the INC to move forward on the issue.

22. The Bureau discussed briefly that the issue of the hosting institution of the specific international programme could be advanced at INC7 without fully elaborating all the arrangements or exactly what activities could be covered within the general scope of the specific international programme, defined in the Convention as capacity building and technical assistance. It was noted that the INF document requested from the Executive Director of UNEP which presented different options within UNEP as the hosting institution would be available shortly. The Chair indicated that the ambition was to determine one hosting institution. It was also feasible that the
INC could agree that UNEP should be the hosting institution and request the Executive Director of UNEP to give effect to such decision. Alternatively, the structure of the proposal could be set out with certain issues (e.g. arrangements) left in square brackets by INC7 for onward submission to COP1. This would give the interim secretariat some structure to work with in the preparation for COP1. It was recognized that issues left unresolved would need to be decided at COP1. There was hence a need to transform areas of common understanding among the group of technical experts into real proposals that could be brought forward to COP1. There would be a need for a good reading of the outcome of the expert meeting, and it may be useful to have a technical briefing on the issue on 9 March 2016. The need to keep the collaborative spirit enjoyed thus far was important, noting that it would be key to successful implementation of the Convention. The Chair underlined his expectation that INC7 would be in a position to present a proposal on the hosting and operationalization of the specific international programme.

23. In considering implementation, the question of when the specific international programme would be operationalised was raised and, the interim secretariat indicated that it was anticipated immediately following COP1. The Chair expressed his anticipation that some donors would come forward with pledges to the programme already at INC7.

24. Other discussions related to Article 13 at INC7 will need to focus on the guidance to be provided to the GEF, noting that the negotiations for the seventh replenishment will commence prior to COP1. Hence, guidance extending beyond the guidance to GEF 6 would be timely at INC7 if that guidance is to inform the GEF7 replenishment process. Additionally the Final Act requested guidance for the GEF to be developed by the Committee. The guidance developed by INC6 was specific for GEF6, and also did not provide the indicative list requested in the Convention text. Concerns were raised that opening the issue of the guidance to the GEF may potentially cause some areas agreed at INC6 to unravel, however, it was noted that the draft guidance as prepared by the interim secretariat in coordination with the GEF secretariat and with input by the BRS secretariat clearly builds on the agreement reached at INC6, while providing additional details. Concerns were raised about potential duplication between the GEF activities and the specific international programme.

6. Strategic discussion on INC7, including preparations and the possible flow of discussions

a. Key issues for consideration at INC7

25. In considering the issues for INC7, the Chair emphasised the need to make significant progress on matters to be adopted at COP1, as well as on the elements needed for effective implementation. It was noted that some may consider it useful for discussions to continue at COP1, however, the need to adopt guidance on a provisional basis where possible to facilitate the work by Parties and countries in the interim period was highlighted.

b. Presentation of documents prepared for INC7

26. The interim secretariat presented all meeting documents prepared for INC7, noting that many had been available on the Convention website in an advance English version for some time. Comments raised during the discussions are presented below.

27. In considering guidance on stocks under article 3 (document 7/4), it was noted that there were certain points in the draft guidance, such as the possible consideration of ore as a type of stock, which may require significant discussion. On additional guidance required under article 3 (document 7/5), it was considered important that countries be encouraged to make a statement, particularly in relation to submissions.

28. On the documents relating to guidance on emissions under article 8, it was noted that these are very significant documents, with many detailed technical issues. It was considered important that the input from the regions be taken into consideration. The Chair highlighted that he considered it important to have a technical briefing session on 9 March 2016 to allow interaction with the co-chairs and lead experts where available. It was noted that further legal advice on the differences between guidance and guidelines would be useful. In introducing the documents in plenary at INC7, the need to step through them one by one was highlighted.

29. In considering the draft Memorandum of Understanding (MoU) between the GEF Council and the COP of the Minamata Convention (document 7/7), it was noted that such a MoU is a standard agreement, similar to those existing for other MEAs. The interim secretariat also informed that it had a close and productive working relationship with the GEF secretariat, as well as a good relationship with the STAP and the implementing agencies. This is contributing to a strong GEF team which facilitates work with the GEF. The interim secretariat is also in a position to play a role in coordinating and developing a good picture of efforts on a global level and bringing people together.

30. For the guidance to the GEF required under article 13 (document 7/8), it was very clear that the INC6 discussion should not be undone. The need for coordination of the discussions with the discussions on the work of the specific international programme was highlighted. The ordering of discussion between guidance to the GEF and guidance to the specific international programme was considered, and the bureau noted that the SIP should be
31. On the question of reporting under Article 21 (documents 7/10 and 7/11), the issue of availability of data was raised. The infrastructure needs for obtaining data was highlighted, as well as the question of whether support for reporting would be available. The need for the reporting format to focus on key issues was noted. The Chair highlighted that the reporting system may feed into compliance as well as into effectiveness evaluations. These linkages were considered important by other Bureau members. It was highlighted that there may be two types of reporting, one on measures being implemented at the national level, and the other on mercury behaviour in the environment. The activities at the national level should be identified in the work on the initial assessment. Gaps on monitoring and data collection may be a separate issue. It was considered that perhaps the discussion at INC7 may need to initially focus on the question of what the reports will be used for – there have been many previous considerations that reporting should not be burdensome, however some now are considering that more detail may be useful. Caution was expressed that reporting can be a challenge in certain circumstances, and very long or complex forms may be very difficult, especially where Parties have a large amount of data to report on. It was noted that the aim of the Convention is to protect human health and the environment, and that reporting should be seen as one of the tools to reach that goal. It was not considered useful to have a large expenditure on reporting, and that the link to the core concepts of implementation and the financial mechanism should be key.

32. On effectiveness evaluation under Article 22 (document 7/12), discussion focused on what could be achieved at INC7. The need to recognize a suitable baseline and consideration of what to measure when going forward was noted, particularly in relation to the gaps and also what is feasible economically and politically. The question of methodologies is highly technical, and it was pointed out that the right technical people may not be present at INC7. Consideration could be given to the role that the UNEP Global Mercury Partnership can play in this exercise. It was noted that some MEAs, recognizing the need for expertise on issues such as methodologies, have established dedicated expert groups. In considering a baseline, it was noted that the UNEP Global Mercury Assessment may form a solid basis, however consideration needs to be given to how to assess gaps or other aspects of effectiveness which are not covered within the assessment. Depending on other work required between INC7 and COP1, it may be feasible to establish intersessionally a group of technical experts to consider the methodologies and the gaps in current baselines and activities. The work carried out under other MEAs should be taken into consideration, in particular for lessons learned. The objective of effectiveness evaluation should be considered in setting up such work.

33. In considering Rules of Procedure (document 7/13), it was noted that the questions relating to voting had proved problematic in other forums, however, a discussion at INC7 would be useful to consider whether the issue could be resolved. For the financial rules (document 7/14), some were keen on clarifying within the financial rules the distribution of any host country contribution. The Chair indicated he was keen for all issues in the financial rules to be resolved.

34. In considering the report of the Executive Director of UNEP on proposals for delivering the permanent secretariat of the Minamata Convention (document 7/15) it was noted that the document was not yet available. In considering options of a merged secretariat with the joint secretariat of the BRS Conventions and a stand-alone secretariat, the need for an efficient and effective secretariat was highlighted by the Bureau members. It was highlighted that efficiency and effectiveness should be considered not only in the light of costs, but also in the delivery of services to Parties. Additional information would be considered when the document was available, however, the number of staff and staff skills required would be important. The need for the assessment to be objective was highlighted. The Chair indicated that, if needed, further discussions to narrow options could be undertaken, however, progress at INC7 would need to be reached.

35. In considering the offer from the Government of Switzerland to host the permanent secretariat of the Minamata Convention (document 7/16), noting that it was the only offer received, the issue of linking the financial contribution to the integration of the secretariat into the Basel, Rotterdam and Stockholm Conventions was discussed. It was noted that, should integration not occur, the Minamata secretariat could continue to work in Geneva under the current arrangements with the host country. It was noted that there are a number of details to be considered further, particularly in relation to the timing of a possible merger, e.g., whether there would there be potential for a merger over a longer time period, for example. The Chair noted that there may be significant discussions at INC7, however, that this was likely to be an issue to be resolved only at COP1. The need to contemplate the proposals for delivering the secretariat and the offers to host the secretariat as separate issues, although interlinked, was highlighted. Considerations for delivering the secretariat should be based on the needs of the Convention and balanced with the wishes of Parties.

36. In considering the document on waste thresholds under Article 11 (document 7/19), the interaction between the Basel and Minamata conventions was highlighted.
c. Approach to discussions, priority issues and strategies for the use of plenary and contact groups

37. Following the detailed discussion on the documents, the Chair indicated that there was a clearer picture on how to move forward. There are a number of technical issues, some of which may require further work in contact groups at INC7. On finance, there needs to be a balance between the specific international programme and the GEF. It was noted that the MoU may not require extensive discussion, however, would need to be considered by a group with experience on legal issues, potentially along with discussions on rules of procedure and financial rules. Issues relating to the proposals on providing the secretariat and the offer to host the secretariat are expected to be discussed in plenary only.

38. As a general approach, the Chair indicated that he may group issues into categories and assign them to contact groups as needed. The potential categories could be: technical issues; financial issues; monitoring and reporting issues; as well as rules and legal issues. The technical issues would focus mainly on the guidance under Article 3, however, would also consider other technical issues which require further discussion in a smaller setting.

39. While efforts would be made to maintain the usual practice of only having two contact groups working in parallel it was noted that the priority for the meeting is to complete the discussions, and it may be necessary to have multiple groups should some issues take additional time.

40. A general timeframe for the meeting was established, with efforts being made to consider the issues which may take additional time early in the meeting to allow a contact group initiate its work as early as possible.

d. Challenges and opportunities at INC7, including role of Bureau members

41. In considering the challenges and opportunities at INC7, the opportunity to consider and finalize on a provisional basis a number of guidance documents was recognized, while noting the interest of some in having decisions taken by Parties at COP1. It was acknowledged that Bureau members may play a role in facilitating informal discussions, and may be called upon in a formal or informal role as needed.

42. In discussing this, it was noted that the level of ambition for INC7 is high, and strategies were considered, with one approach being to tackle easier issues early in the meeting to achieve process as early as possible. Some issues, while not political, have many outstanding issues which may take time to work through. Resolving technical issues during INC7 was seen as key, particularly those related to guidance which would be used by Parties and countries in the period between entry into force and COP1. Success on technical issues was also seen as key in ensuring a successful COP1. The need to identify the issues which could only be solved by COP1 was highlighted, as well as the need to make as much progress as possible on other issues.

43. The Chair highlighted that it was important to have the right delegates with technical knowledge at INC7 to allow discussions to move forward. He noted that there would not be detailed technical negotiations, however, discussions on technical policy, legal issues and finance would require suitable presence to allow progress towards decision and adoption on a number of issues.

e. Update on logistical planning for INC7

44. The interim secretariat provided an update on the logistical planning for INC7, indicating that the host country agreement was in the final stages prior to signature, and that there was ongoing cooperation with the UN security staff both in headquarters and locally. The information note for participants is available on the website, including information on accommodation available in a number of hotels close to the venue. The conference venue is large and well equipped with numerous meeting rooms available for use.

45. By mid-December 2015, registrations had been received from more than 200 participants.

46. In considering the generally timing for meetings, it was recalled that the regional meetings will be held on 9 March 2016 in the morning. In the afternoon, there will be side events and technical briefings, with a number of streams in parallel. The GEF Secretariat will host a reception on the evening of 9 March 2016, and the Government of Jordan on 10 March 2016, while the Government of Switzerland will host a Swiss break on 12 March 2016.

47. The host Government is in contact with the representatives of all Governments with embassies in Amman to attend the opening.

f. Regional meetings in preparation for INC7

48. The Chair indicated that a full programme of regional meetings had been organized. He encouraged a detailed discussion of the issues for INC7, including highlighting the need for progress in preparation for COP1. He further required the Bureau members to raise any issues of concern following the meetings, particularly to
allow further bilateral consultations. He noted that the regional meetings were an important means of both conveying and gathering information.

49. The interim secretariat provided an update on the preparations of the regional meetings noting that they were being organized in cooperation and coordination with the BRS secretariat and the Basel and Stockholm Regional Centres. It was further informed that the regional meetings were being held thanks to a significant financial contribution from the Government of Switzerland as well as contributions from the Government of Germany and the Netherlands.

g. Side events/technical sessions

50. Given the working needs of INC7, it was agreed that side events and technical sessions would be held only during the afternoon 9 March 2016, with lunchtimes during the meeting reserved for potential contact groups or informal consultations.

7. Short update on planning for COP1

51. It is considered likely that the Convention will enter into force later in 2016, with the first meeting of the COP held in mid-2017. There are a number of actions mandated in the Convention for decision at COP1, and the outcome of INC7 will be key to this. Additionally, given the good preparation to date, it may be feasible for decisions to be taken at COP1 which are not required until an unspecified time. These decisions, particularly in relation to guidance documents, will facilitate the implementation of the Convention.

8. Next meeting of the Bureau

52. The next Bureau meeting will be held on 9 March 2016 in Jordan, prior to the regional meetings. Regular Bureau meetings will then be held throughout INC7.

53. The Chair informed that the future President of COP1 would be invited in an observer capacity to attend the Bureau meetings between INC7 and COP1. It is intended that the first face to face meeting of the Bureau following INC7 would be held in Zambia. The final bureau meeting before COP1 is expected to be held in mid-2017 upon the invitation of one of the INC bureau members in line with normal practice throughout the INC process.

9. Any other issues raised by the Bureau

54. No other issues were raised.

55. The meeting was closed at 4.15 p.m. on 19 January 2016.