

**Meeting of the bureau of the intergovernmental negotiating committee to prepare a
global legally binding instrument on mercury
Geneva, 30 March 2011**

Report

Introduction

1. In concluding its second session, held in Chiba, Japan, from 24 to 28 January 2011, the intergovernmental negotiating committee to prepare a global legally binding instrument on mercury discussed forthcoming intersessional work. The Chair advised the committee of his intention to convene a meeting of the Bureau and other representatives who during the second session had performed roles such as chairing groups and facilitating consultations on issues. The principal purpose of the meeting would be to guide the secretariat as it began the task of preparing a new draft text for the negotiations as requested by the committee.

2. The Bureau meeting was convened at the offices of the United Nations Environment Programme in Geneva, Switzerland, on 30 March 2011. It was attended by the following members of the Bureau:

Mr. Yingxian Xia (China, for Asia-Pacific)
Ms. Katerina Sebkova (Czech Republic, for Central and Eastern Europe)
Ms. Gillian Guthrie (Jamaica, for Latin America and the Caribbean)
Mr. Mohammed Khashashneh (Jordan, for Asia-Pacific)
Mr. Oumar Diaoure Cissé (Mali, for Africa)
Ms. Abiola Olanipekun (Nigeria, for Africa)
Mr. Vladimir Lenev (Russian Federation, for Central and Eastern Europe)
Mr. John Thompson (United States of America, for the Western European and Others Group)
Mr. Fernando Lugris (Uruguay, for Latin America and the Caribbean)

3. One member of the Bureau, Ms Nina Cromnier (Sweden, for the Western European and Others Group) was unable to attend the meeting. Ms. Szvilia Deim (Hungary and Presidency of the European Union) substituted for her at the present meeting.

4. The Bureau meeting was preceded by an informal consultation on 28 and 29 March 2011 in which Bureau members had the opportunity to exchange views with individuals who had served as contact group chairs, facilitators and regional group coordinators during the second session of the committee, namely Mr. Mario Vega (Costa Rica), Mr. Per Nylykke (Denmark), Ms. Marianne Wenning (European Union), Ms. Kersten Stendhal (Finland), Mr. Teruyoshi Hayamizu (Japan), Mr. Damaso Luna Corona (Mexico), Mr. Daniel Ziegerer (Switzerland), Mr. Wijarn Simachaya (Thailand) and Mr. John Roberts (United Kingdom). Two contact group chairs, Mr. Filipe Ferreira (Brazil) and Mr. Donald Hannah (New Zealand), and one facilitator, Ms. Nolozuko Zukie Gwayi (South Africa), were unable to attend the informal consultation. Mr. Ferreira was represented by his colleagues, Ms. Sergia de Souza Oliveira and Mr. Bruno Neves. The Government of Switzerland kindly hosted a dinner for the participants in the consultation to facilitate continued discussion.

Organizational matters

5. The meeting was opened at 10 a.m. by the Chair, Mr. Fernando Lugris. The Bureau adopted the following agenda:

1. Review of the outcomes of the second session of the intergovernmental negotiating committee.
2. Preparation of the new draft text of the instrument for the third session of the committee.
3. Overview of other documents requested by the committee for its third session.
4. Consultations during the intersessional period leading up to the third session of the committee.
5. The possible flow of the mercury negotiations.
6. Any other issues.

Review of the outcomes of the second session of the intergovernmental negotiating committee

6. The Bureau reflected on its discussions with contact group co-chairs, facilitators and regional group coordinators during the informal consultation that had preceded the present meeting. It was felt that the consultation had been a useful follow-up to the second session, enabling clarification of certain outcomes and fostering a common understanding of key negotiating issues.

7. The Bureau recalled the excellent hosting of the committee's second session in Chiba by the Government of Japan. It reiterated the condolences expressed during the informal consultation to the Government and people of Japan in relation to the recent earthquake there and its aftermath. At its second session the committee had made important progress in the negotiations, having agreed to use as a starting point the elements paper prepared by the secretariat and having undertaken a complete first reading of the document so that delegations could express their positions on all aspects of the negotiating mandate. The committee had further requested the secretariat to prepare, for consideration at its third session, a new draft text to reflect the views of parties expressed during the session and in submissions to be made after the session. Following the session in Chiba, the Governing Council of the United Nations Environment Programme, at its 26th regular session held in Nairobi from 20 to 24 February 2011, had reaffirmed the committee's negotiating mandate.

8. During the informal consultation one of the co-facilitators on the issue of mercury-containing products and processes had indicated that some amendments were needed to the co-facilitators' report. The secretariat confirmed to the Bureau that these would be reflected in the report of the second session of the committee. With regard to the report of the facilitator who gathered views on the preamble of the mercury instrument, it was explained by the secretariat that a footnote to his report reflecting the views of interested parties on when the issue of the preamble should be discussed had not been included in the report of the committee's second session because the footnote had not been introduced in plenary. The secretariat had nevertheless noted the content of the footnote and would reflect it in the new draft text of the instrument.

Preparation of the new draft text of the instrument for the third session of the committee

9. Members of the Bureau reiterated the importance of the new draft text being party-driven. The secretariat confirmed that it would base the new text on the views expressed by parties during the second session of the committee and in submissions received afterwards. It was envisaged that the new draft text would be a synthesis of these views rather than a compilation. Noting the aversion expressed by some parties to excessive use of brackets in the text, the secretariat confirmed that it would use a variety of means to present the different views as clearly as possible. One member of the Bureau underlined that interventions during the second session of the committee and the subsequent written submissions should be the primary source of material to be reflected in the new draft text. Other materials such as conference room papers and the reports of facilitators presented during the committee's second session could inform the drafting work but should not be a direct source.

10. The Bureau noted that, given that a number of parties had expressly requested the inclusion of their proposals for preambular text, these would be incorporated in the new draft text. However, it would be indicated in the document that some parties felt that it would be premature to discuss the preamble during the committee's third session and that parties which had not yet made proposals for preambular text would be free to do so at a later stage in the negotiations.

11. The Bureau noted the secretariat's confirmation that the section of the new draft text dealing with products and processes would include three options, namely the "positive list" and "negative list" approaches described in the "elements paper" considered by the committee at its second session and the alternative "hybrid approach" proposed at that session.

12. The Bureau also noted advice by the secretariat that in preparing the new draft text it would consider the possible rearrangement of elements addressing emissions of mercury to the air and releases to land and water in order to reflect the views expressed by parties.

13. In relation to finance and health issues, the secretariat observed that while interventions during and submissions after the committee's second session provided a certain amount of material that could be reflected in the new draft text, it was preparing additional meeting documents on these topics for the third session that might allow more scope to explore various possible approaches to health and finance issues.

14. The Bureau noted the discussion during the informal consultation on a possible function-based definition of artisanal and small-scale gold mining (focused on the use of mercury as a means of aggregating gold) as an alternative to the more general definition that had been proposed in the secretariat's "elements paper" at the second session of the committee.

15. Some members of the Bureau recommended that where it was not possible to draft actual text concepts that had been proposed should be noted in placeholder fashion.

Overview of other documents requested by the committee for its third session

16. The Bureau noted comments made during the informal consultations concerning the other four documents requested by the committee for consideration at its third session. These included calls for the secretariat to seek comments from a diverse range of scientists on the draft paper on mercury releases from the oil and gas industry and to gather a range of views on the topic of mercury use in vaccines for the paper on health issues. The secretariat's consultations with Basel Convention colleagues to harmonize approaches taken in the paper on the relationship between the future mercury instrument and the Convention had been welcomed. With regard to the further comparative analysis of options for finance mechanisms, it had been recognized that the report of the co-facilitators' consultations during the committee's second session provided much material that could be explored in the paper, which might take a criteria-based approach.

Consultations during the intersessional period leading up to the third session of the committee

17. Members of the Bureau expressed support for the holding of regional consultations in the lead-up to the committee's third session and noted the tentative dates and venues for these. Bureau members and regional coordinators were invited to work with the secretariat to advance the planning for the events. The Chair emphasized the need for additional donor support for regional consultations, the cost of which was not included in the original budget for the mercury negotiations. One Bureau member indicated that while a face-to-face meeting for his sub-group would not be feasible, there could be interest in having a teleconference with the Chair and secretariat. The need for extra-budgetary support for the provision of interpretation services for African and Latin American and Caribbean group meetings during the sessions of the intergovernmental negotiating committee was also noted.

The possible flow of the mercury negotiations

18. The Bureau agreed that greater use of contact groups would be needed from the committee's third session onwards, anticipating the greater intensity of negotiations as the process moved towards completion.

Issues suggested for contact group discussion included air emissions and releases to soil and water; wastes, storage and contaminated sites; artisanal and small-scale gold mining, products and processes; finance and compliance; and trade (including primary mining). Some Bureau members were of the view that using contact groups would be preferable to the practice at the committee's second session of appointing facilitators to undertake consultations. Several Bureau members expressed support for adjourning plenary from time to time if it seemed more productive to work more extensively in contact groups instead. It was observed that clear mandates would be needed for each contact group and care should be taken in scheduling meetings in order to avoid any particular group having to work repeatedly in the evenings. It was felt that, not counting the legal group, no more than two groups (including plenary) should meet simultaneously.

19. The possible need for intersessional working groups later in the negotiations was noted, as was the potential to take pressure off the negotiations by deferring certain issues to the Diplomatic Conference and the interim period between adoption of the instrument and its entry into force.

20. The Bureau was supportive of further technical briefings being organized on the eve of the committee's third session. Suggestions for topics included storage and waste; oil and gas; contaminated sites; and health.

21. It was agreed that it would be desirable for the Bureau to meet again before the committee's third session, possibly by teleconference if a face-to-face meeting was not possible. The suggested timing for the further meeting was the week beginning 10 October 2011.
