

Draft report of the Central and Eastern European regional meeting to prepare for negotiation on a global legally binding instrument on mercury

1. The United Nations Environment Programme (UNEP) Governing Council, in paragraph 32 of decision 25/5 requested the Executive Director of UNEP to convene an ad-hoc open-ended working group to prepare for the work of the intergovernmental negotiating committee on mercury, in particular to discuss the negotiating priorities, timetable and organization of the intergovernmental negotiating committee, and also to support developing countries and countries with economies in transition to participate effectively in the work of the ad-hoc open-ended working group and the intergovernmental negotiating committee. The latter request is being met through a series of regional meetings.
2. The Central and Eastern European regional meeting to prepare for negotiations on a global legally binding instrument on mercury was held at the Bureau for Chemical Substances and Preparations, Lodz, Poland. The meeting was opened by Mr. Jerzy Majka, Inspector for Chemical Substances and Preparations, Bureau for Chemical Substances and Preparations at 10.00 a.m. on Monday 7 December. He welcomed participants to Lodz, once a city known for its textile industry but now becoming a centre for knowledge, science and technology, and wished them success in their deliberations.
3. Mr. Matthew Gubb, Coordinator of the secretariat for the mercury negotiations, Chemicals Branch, UNEP/Division of Technology, Industry and Economics expressed his gratitude to Poland for hosting the meeting. He said Lodz was a symbol of tradition, change and renewal, a situation familiar to many countries of the region. He noted that there were three separate meetings being held during the week, the current meeting, the Central and Eastern European regional meeting on the Strategic Approach International Chemicals Management and a workshop on nanotechnology organized by the Organisation for Economic Cooperation and Development and the United Nations Institute for Training and Research. Turning to the issue of mercury, he described the lengthy deliberations that had taken place on whether a legally binding instrument on mercury was necessary and that had finally lead to the adoption of UNEP Governing Council decision 25/5 in February 2009. He said the final preparatory phase to begin negotiations in June 2010 had begun and the current meeting provided an opportunity to share views on mercury-related issues, identify key challenges and inform participants on matters related to the negotiation process. In that context he welcomed his colleague from the UNEP Division of Environmental Law and Conventions who would make several presentations on the negotiation process. He concluded by recalling that no negotiation was expected at the current meeting, rather it would serve to increase awareness of current global action on mercury and facilitate effective participation at sessions of the Intergovernmental Negotiating Committee.
4. Ms. Katerina Sebkova (Czech Republic) served as facilitator of the meeting. She noted that the region had been quite active in the context of the Convention on Long-Range Transboundary Air Pollution of the United Nations Economic Commission for Europe and its Protocol on Heavy Metals. Regional activities had, however, been insufficient and the move to develop a legally binding instrument on mercury was therefore welcomed.

5. The meeting was attended by representatives of the following countries: Albania, Armenia, Bosnia and Herzegovina, Croatia, Czech Republic, Georgia, Macedonia (the former Yugoslav Republic of), Poland, Romania, Russian Federation, Serbia, Slovenia and Slovakia.
6. The meeting was also attended by representatives of the following non-governmental organizations: Armenian Women for Health and Healthy Environment, Arnika – Toxics and Waste Programme, Center for Environmental Solutions, Eco-Accord and Georgian Environmental and Biological Monitoring Association.
7. In order to inform the meeting on the current situation regarding mercury, Ms Sheila Logan, Programme Officer, Chemicals Branch, UNEP/Division of Technology, Industry and Economics made a presentation entitled 'Why is mercury a problem of global concern and what are proposed actions to manage mercury'. Following a request for clarification, Ms Logan said that the UNEP Global Atmospheric Mercury Assessment: sources, emissions and transport study, published in 2008, had used reference data from 2005. It was expected that data from 2009 and 2010 would be used to update the study for 2013. In addition to peer reviewed and public data, as of 2010, information would also be collected from countries and from national pollutant release and transfer registers. Currently the data collected focused on air emissions but available data on releases to land and water would be useful. A small scientific steering group would be established shortly that would guide the work early in 2010. Prioritization of actions might be governed by what was easiest and cheaper to achieve in the short term rather than the sector of most concern. In reply to a question regarding the establishment of standard data collection methods and emission factors, she said that UNEP had developed an emissions inventory tool kit to assist in that process. The draft document developed in 2005 had undergone a period of testing primarily in countries of the African, Asia-Pacific and Latin American and Caribbean regions. The document was currently under review and with financial assistance from the government of Denmark, would be available in 2010. Comments on that document would be welcome.
8. Mr. Gubb made a presentation on UNEP Governing Council Decision 25/5 on mercury. He said that following lengthy consultations culminating in deliberations in Nairobi in February 2009, countries had agreed to elaborate a global legally binding instrument that would include both binding and voluntary approaches and had requested that an intergovernmental negotiating committee be convened for that purpose. He outlined mandates for mercury work that had been decided at previous sessions of the UNEP Governing Council. The intergovernmental negotiating committee would be convened and supported by UNEP, with the first session in June 2010 in Stockholm, Sweden. The aim was to complete the negotiations in time for the 27th session of the UNEP Governing Council and the Global Ministerial Environment Forum in 2013.
9. He recalled that the global instrument would include provisions on: objectives, reduction of supply and enhanced capacity for sound storage, reduction of demand, reduction of international trade, reduction of atmospheric emissions, waste and remediation of contaminated sites, increasing knowledge, capacity building and technical and financial assistance, and compliance. The legally binding instrument was also expected to be flexible and address such issues as tailored approaches to specific sectors, availability of mercury-free alternatives, cooperation and coordination, prioritization of sources, co-benefits of conventional controls and other environmental benefits, and risks to human health and the environment. He described the emissions study on mercury that was currently being undertaken and would inform the negotiations. He noted that the UNEP Global Mercury Partnership was the key delivery mechanism for interim activities on mercury and continued support of that partnership had been urged by the Governing Council decision. He concluded by noting that the level of financial support for the negotiation process was looking healthy and expressed his gratitude to a number of governments, in particular Norway and Switzerland, for support already given. He said financial support for the long negotiation process ahead would continue to be sought.
10. Mr. Gubb informed the meeting of the results of the Ad-hoc Open-ended Working Group meeting which had been held in Bangkok, Thailand in October 2009 to make final preparations for

the negotiations. The Working Group had examined negotiation priorities, a timetable for negotiations, and how they would be organized. The timetable would be finalized at the first session of the intergovernmental negotiating committee. Sessions of the committee had been tentatively scheduled for June 2010, January 2011, October 2011, June 2012 and January 2013. He stressed the short time between each session for government consultations and preparation of documentation by the secretariat. The Working Group had reached agreement on draft rules of procedure for the intergovernmental negotiating committee that should be formally agreed at its first session. The Bureau would comprise ten members, all of who had been nominated and would be submitted for approval by the Intergovernmental Negotiating Committee at its first session. In other respects the draft rules of procedure mirrored those for the Intergovernmental Negotiating Committee that had developed the Stockholm Convention on Persistent Organic Pollutants.

11. The Working Group also decided to consider all issues at the first session of the intergovernmental negotiating committee and agree on a future work programme thereafter. Finally the Working Group agreed on a substantial body of documents to be prepared for the first session. These included factual options papers on the structure and substantive provisions of the future mercury instrument based on precedents in existing international agreements. Countries would shortly be contacted to provide their input and suggestions for the preparation of those documents including experience in implementing provisions of other multilateral environmental agreements. He said a separate paper on the final clauses of a future legally binding instrument such as amendments, depository and secretariat provisions that were standard clauses in multilateral environmental agreements would also be prepared.

12. All participants at the meeting made presentations on national activities and concerns related to mercury. Presentations that were submitted have been made available on the mercury website: www.chem.unep.ch/mercury.

13. During the presentations and ensuing discussions the following concerns were raised. It was recognized that, in the region, anthropogenic releases of mercury due to on-going industry continued. Additionally there was some contamination of different environmental compartments such as air, water and soil owing to past activities, releases or insufficient management from lack of resources or capacity. In a majority of the countries there remained lack of information on levels of mercury emissions, mercury in waste, legislation to tackle the issue and general public awareness of associated problems. Coal-fired power plants were the major source of mercury emissions, followed by contamination from industrial sites and mining, and mercury containing waste including medical and domestic products. Several mercury pollution hotspots were also identified. It was noted that while national data might be lacking global data provided a sound basis for taking action and the existence of a global treaty might promote action at the national level.

14. Ms. Logan made a presentation on activities under the UNEP Global Mercury Partnership, and the role of the partnerships in the negotiations. The current partnerships were mercury management in artisanal and small-scale gold mining, mercury control from coal combustion, mercury reduction in the chlor-alkali sector, mercury reduction in products, mercury air transport fate and research, mercury waste management and mercury supply and storage. The latter was initiated in April 2009. She described the actions currently being undertaken as well as the roles and responsibilities of relevant stakeholders and encouraged countries to join the partnerships.

15. In response to a request for clarification she said the overarching framework of the partnership programme was available on the UNEP Chemicals website at www.chem.unep.ch/mercury. The partnerships operated within their own rules with the overall goal to minimize and where feasible eliminate releases of mercury from anthropogenic sources. To join a partnership a country, organization or individual should write a letter to UNEP stating their intent to join and indicate areas of interest that might be under one or several partnerships. Currently there were a number of members of different partnerships that had not formally joined

those partnerships. The members of a partnership were expected to contribute through financial input, where possible, and through contribution to discussions, collaboration in projects or provision of information. She added that the partnerships offered a network and resource for information on particular issues and the partnership business plan provided a structure under which activities could be driven. There were also opportunities for informal exchange of information and possible solutions within the partnership structures. She emphasized that the partnerships were complementary to the negotiation process and a means to ensure interim activities during that time.

16. Mr. Masa Nagai, Senior Legal Officer, Division of Environmental Law and Conventions, UNEP made several presentations on the negotiating process for developing an international legally binding instrument on mercury including an overview; procedural matters; norms, principles and standards contained in the existing legal instruments of relevance to the mercury negotiations; key questions to be addressed during negotiations to ensure the effectiveness of the future instrument; strategies for negotiations; and managing the negotiating process.

17. Following those presentations, participants requested clarification on the timing of meetings, in particular the expected time that would elapse from the final meeting of the intergovernmental negotiating committee until the conference of plenipotentiaries and thereafter to the first conference of the parties. Mr. Nagai explained that the period between the final negotiating session and the conference of plenipotentiaries was frequently several months to allow for preparation of that conference, notification of governments and finalization of the instrument text. The time period from the conference of plenipotentiaries to the first conference of the parties was dependent on the number of ratifications required for entry into force of a legally binding instrument and the speed of ratification. Providing examples from other multilateral environmental agreements he said that time frame could span a few years. Regional awareness-raising activities often helped speed up the ratification process as governments were made aware of the implications of joining the instrument. Mr Nagai also explained the process commonly followed for drafting the text of multilateral environmental agreements.

18. In the following discussion, many participants said that one of the key benefits of developing a global legally binding instrument was that it would provide a strong legal basis to address mercury at the national level and would raise visibility on the issue thereby encouraging and facilitating national action on mercury. In many countries of the region the general population was not aware of the harmful effects of mercury to human health and the environment therefore awareness raising was of paramount importance. The importance of developing mercury inventories and monitoring programmes was also noted. Many participants stressed that capacity building and technical and financial assistance were essential to support countries during implementation of the legally binding instrument and to address problems associated with mercury throughout its lifecycle. The benefits of involving non-governmental organizations during the entire negotiation process and, thereafter, to develop projects at the local level was acknowledged. It was noted that cooperation between all stakeholders should be promoted at the national level as well as at the international level. The secretariat was encouraged to facilitate use of the mercury website through inclusion of links to a broad arena of sources of information on mercury.

19. Some participants requested clarification on the possibility of broadening the mandate of the legally binding instrument to include other chemicals of global concern, notably other heavy metals. Mr. Nagai explained that currently the mandate provided by the UNEP Governing Council focused strictly on mercury and the only means of expanding that mandate was to raise the issue at the Governing Council at its next regular session in February 2011. He added that it was the remit of governments to determine whether they might consider developing a flexible legally binding instrument that might allow for inclusion of other chemicals at some future date.

[20. One participant informed the meeting that a ministerial lunch focusing on chemicals would be organized during the Global Ministerial Environment Forum/Eleventh Special Session](#)

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[of the UNEP Governing Council in Bali in February 2010. She suggested that government representatives should prepare a briefing for their ministers on the importance of broadening the mandate for negotiations on mercury, as that was an issue having regional support.](#)

21. The meeting expressed their appreciation for the presentations made by the senior legal officer and acknowledged their usefulness to prepare strategies for the negotiating process.

22. Ms Logan made a further detailed presentation on the provisions to be included in the legal instrument, including relevance to identified national issues. Participants acknowledged the value of ensuring that regional representation at the intergovernmental negotiating committee included experts in the different issues to be discussed, in particular legal advisors. Noting that not all countries would have the means to have experts in all fields within their delegations, countries of the region were encouraged to avail themselves of expertise from other countries of the region during the negotiations.

23. The meeting agreed that, if so decided by the Central and Eastern European regional meeting on the Strategic Approach to International Chemicals Management (SAICM), the SAICM regional coordinating group for Central and Eastern Europe could also serve to coordinate and facilitate regional discussions and positions during the negotiation process for the development of a legally binding instrument on mercury. The meeting noted that if so agreed, the terms of reference of the regional coordinating group would have to be amended. To the greatest extent possible the group would continue to work through teleconferences and electronic contacts.

24. Following the customary exchange of courtesies the meeting was declared closed at 5.30 p.m. on Tuesday 8 December.