

**Informal consultations in follow-up to the third session of the intergovernmental negotiating committee on a global legally binding instrument on mercury, 31 January to 1 February 2012**

**Meeting of the Bureau of the Intergovernmental Negotiating Committee to prepare a global legally binding instrument on mercury, 2 February 2012**

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**OVERVIEW OF INTERSESSIONAL WORK REQUESTED BY THE INTERGOVERNMENTAL NEGOTIATING COMMITTEE AT ITS THIRD SESSION**

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**I. Requests from the third session of the intergovernmental negotiating committee**

1. Before the closure of the third session of the intergovernmental negotiating committee in Nairobi, the committee requested a number of intersessional tasks to be undertaken in preparation for continued discussions at the next session. This included the preparation by the secretariat of the revised draft text of the instrument for the next session, based on reports by contact groups and work of the legal group; a compilation of reporting obligations and action plans envisaged in the draft negotiating text and a survey of reporting obligations and action plans under other relevant multilateral environmental agreements; and information on possible transitional arrangements pending phase-out of mercury-added products and manufacturing processes in which mercury was used. In addition, the committee requested the preparation, with the support of the secretariat, of an approach to possible elements of articles 10 and 11 and of a proposal for articles 15 and 16 of the draft text, consisting of a conceptual approach followed by possible text, to be developed by the co-chairs of the contact group on emissions and releases and the contact group on financial resources and technical and implementation assistance, respectively.

2. In addition, the secretariat will prepare the usual “organizational” meeting documents for the next session, including the provisional agenda, annotated provisional agenda and scenario note for the session.

**II. Process for document preparation for INC4**

3. The secretariat will lead the preparation of the documents, namely the revised draft text of the instrument, the compilation of reporting obligations and action plans and survey of reporting obligations and action plans under other relevant multilateral environmental agreements and the information on possible transitional arrangements pending phase-out of mercury-added products and manufacturing processes in which mercury was used. The other documents as requested at INC3, which would provide an approach to possible elements of articles 10 and 11 and a proposal for articles 15 and 16 of the draft text, consisting of a conceptual approach followed by possible text, would be developed by the relevant co-chairs respectively, with the support of the secretariat. Further details with regard to the preparation of each of the documents are provided in section III.

4. In follow-up to the third session of the committee, the secretariat has written to all Governments calling for submission of further views on financial resources and technical and implementation assistance. Governments were encouraged to focus their submissions on new approaches. The letter, sent electronically to the SAICM national focal point of each Government and copied electronically to all Government participants at the third session, requested that such views be submitted in writing to the secretariat by 31 December 2011. All submitted information has been made available on the mercury negotiations webpage and will be taken into account by the co-chairs when preparing the meeting document setting out a proposal for articles 15 and 16 of the draft text.

5. In the schedule for document preparation, a number of key dates should be noted. Meeting documents are expected to be available six weeks prior to the meeting (14 May 2012). Meeting documents need to be submitted by the secretariat to UNON conference services for processing

(including editing and translation) at least six weeks before this date (by 2 April 2012). As all documents require internal review within the Chemicals Branch prior to submission, the internal deadline for completion of drafts has been set to 12 March 2012 for all the documents except for the draft text and a conceptual proposal to be prepared by the co-chairs for the contact group on financial resources and technical and implementation assistance which is to be finalized by 23 April 2012. It is further the intention of the secretariat to issue the revised draft text ahead of the 14 May deadline, to allow Governments additional time for review.

### **III. Preparation of individual meeting documents**

#### **a) Revised text of the comprehensive and suitable approach to mercury**

6. The committee requested the secretariat to prepare for consideration by the committee at its fourth session a revised version of the draft text set out in document UNEP(DTIE)/Hg.INC.3/3. The revised text would include any textual changes presented in the conference room papers coming from the contact group co-chairs and the legal group, and as agreed by the committee as being an accurate reflection of the discussions within the contact groups. Such textual changes were annexed to the report of the committee on the work of its third session.

7. Where new text has been submitted by the co-chairs of a contact group or by the legal group at the third session of the committee, and had been agreed by the committee to be incorporated into a revised version of the draft text of the mercury instrument, the secretariat will replace previous corresponding article or annexe in UNEP(DTIE)/Hg.INC.3/3 with this new text, as contained in the annexes to the report of the third session (UNEP(DTIE)/Hg/INC.3/8). The text of all other provisions will be reproduced from UNEP(DTIE)/Hg.INC.3/3 without any modification. The document will also contain a table at the end summarizing the source of the text provided under each article.

8. The articles and annexes which would be replaced by new draft text in the revised version of document INC.3/3 include:

- article 9 Artisanal and small-scale gold mining and its annex E Artisanal and small-scale gold mining, as prepared by the contact group on artisanal and small-scale gold mining;
- articles 12 Environmentally sound storage [of commodity mercury], 13 Mercury wastes and 14 Contaminated [and polluted] sites, as prepared by the contact group on storage, waste and contaminated sites;
- articles 18 Information exchange; and 19 Public information, awareness and education, as prepared by the contact group on awareness raising, research and monitoring and communication of information;
- articles 24 Conference of the Parties, paragraphs 1-4 and 6; and 25 Secretariat, paragraphs 1-3, as prepared by the legal group on the basis of its deliberations on 4 November 2011;
- article 26 Settlement of disputes and its annex J Arbitration and conciliation procedures, as prepared by the legal group on the basis of its deliberations on 2 and 3 November 2011;
- article 28 Adoption and amendment of annexes, paragraphs 1-3 and 5, as prepared by the legal group on the basis of its deliberations on 4 November 2011;
- articles 29 Right to vote; 30 Signature; 31 Ratification, acceptance, approval or accession, paragraphs 1-3; 35 Depositary; and 36 Authentic texts, as prepared by the legal group on the basis of its deliberations on 1 November 2011.

9. It is anticipated that the revised draft text would be available on the mercury negotiations webpage in all UN languages by end February/early March.

**b) Compilation of reporting obligations and action plans envisaged in the draft negotiating text and a survey of reporting obligations and action plans under other relevant MEAs**

10. The committee requested that the secretariat also prepare, for consideration by the committee at its fourth session, a compilation of reporting obligations and action plans envisaged in the draft negotiating text, accompanied by a survey of reporting obligations and action plans under other relevant multilateral environment agreements.

11. In order to satisfy this request, the secretariat will prepare a document that, in its first part, compiles the provisions on reporting obligations and action plans envisaged in the revised draft text. It is anticipated that the compilation would be presented in two tables – the first one for reporting obligations and the second one for action plans that have been envisaged. By order of appearance, the relevant information would be excerpted and would be accompanied by a summary of the types of information to be reported or to be included in an action plan and, when specified, the timeframe and follow up action envisaged for each provision.

12. In a second part, the secretariat would provide a survey of reporting obligations and action plans under other relevant multilateral environment agreements, such as the Stockholm Convention on Persistent Organic Pollutants, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal and the Strategic Approach to International Chemicals Management. The secretariat would analyze the similarities and differences between the reporting obligations and action plan requirements under these instruments.

**c) Information on possible transitional arrangements pending phase-out of mercury-added products and manufacturing processes in which mercury was used**

13. The committee also requested that the secretariat prepare, for consideration by the committee at its fourth session, information on possible transitional arrangements pending phase-out of mercury-added products and manufacturing processes in which mercury was used. The information would include ideas expressed at the current session and experiences under other multilateral environmental agreements, including the Montreal Protocol and the Stockholm Convention, in dealing with products and processes that have continuing use. The information would also include options for how the conference of the parties could manage such transitional arrangements.

14. In order to satisfy this request, the secretariat will prepare a document that sets out the approaches to managing products and processes under the Stockholm Convention and the Montreal Protocol (including the concepts of country-requested specific exemptions, more generalised exemptions for certain product categories and the concept of limited approved uses). It will further include information on the processes undertaken to grant or renew exemptions, and the level of review of such exemptions undertaken within these instruments. Following this compilation of approaches, the paper will provide some possible approaches to manage the transitional arrangements for mercury, including defining possible categories of mercury-added products and manufacturing processes in which mercury was used, drawing both on the existing instruments and on the proposals made during the third session.

**d) Preparation of an approach to possible elements of articles 10 and 11**

15. The committee requested that the co-chairs of the contact group on emissions and releases, with the support of the secretariat, would develop an approach to possible elements of articles 10 and 11. The approaches would include approaches that committed parties to taking particular measures to control and/or reduce emissions but allowed flexibility to reflect national circumstances, along with approaches that committed parties to developing nationally determined measures to control and/or reduce emissions.

16. The co-chairs of the contact group will present their thought starter to the informal consultations, in order to allow discussion and feedback on the suggested approach and preparations

from bureau members and other participants. The thought starter would set out the proposed components and ideas for the development of an approach to possible elements of articles 10 and 11.

**e) Preparation of a proposal for articles 15 and 16 of the draft text, consisting of a conceptual approach followed by possible text**

17. The co-chairs of the contact group on financial resources and technical and implementation assistance, with the support of the secretariat, would prepare a proposal for articles 15 and 16 of the draft text, consisting of a conceptual approach followed by possible text. The proposal would take into account the views expressed by parties at the current session and views submitted in writing to the secretariat by 31 December 2011. Parties were encouraged to focus their submissions, which would be posted on the UNEP mercury programme website, on new approaches. The proposal would also take into account the possible approaches to financial mechanisms set out in document UNEP(DTIE)/Hg/INC.3/4 and the outcomes of the consultative process on financing options for chemicals and wastes.

18. See separate note for further information.

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