

**TELECONFERENCE OF THE BUREAU  
OF THE INTERGOVERNMENTAL NEGOTIATING COMMITTEE  
TO PREPARE A GLOBAL LEGALLY BINDING INSTRUMENT ON MERCURY,  
11 August 2011**

**SUMMARY OF DISCUSSIONS**

**Timing -** Thursday 11 August, 2 pm Geneva time

**Participants -**

INC Bureau members : INC Chair Fernando Lugris (Uruguay), Yingxian Xia (China), Katerina Sebkova (Czech Republic), Gillian Guthrie (Jamaica), Mohammed Khashashneh (Jordan), Oumar Cissé (Mali), Abiola Olanipekun (Nigeria), Nina Cromnier (Sweden), John Thompson (United States)

Absent: Vladimir Lenev (Russian Federation)

Secretariat : Per Bakken, Matthew Gubb, Sheila Logan, Aase Tuxen, Glenn Wiser

**Purpose of the Bureau meeting -**

The teleconference of the Bureau provided an opportunity for the Chair to present his proposed approach to the discussions at the upcoming third session of the negotiating committee (INC3), as set out in the draft scenario note, and to seek feedback from the Bureau. The teleconference also allowed the secretariat to update the Bureau on preparations for the upcoming regional consultations as well as the third session of the intergovernmental negotiating committee, including a briefing on the draft text, currently available in the advance English version. How the regional consultations might feed into the discussions at the third session was also discussed.

**Summary of the teleconference -**

**1) Logistical update from the secretariat on preparations for INC3 and the regional consultations**

**INC3 in Nairobi, 31 October – 4 November 2011** - Preparations are on track. The annotated agenda (in 6 languages) and new draft text (in advance English version) are already available on the mercury negotiations webpage. Other documents are still under processing and will be made available as soon as possible.

So far, more than 220 Government participants have registered, together with two intergovernmental organizations and 88 non-governmental organizations. Participants (including bureau members) who have not yet done so are encouraged to register as soon as possible. Thanks to a contribution from the Government of Germany, some funding is available to support NGO participation. The Zero Mercury Working Group and IPEN are coordinating the NGO grant, which also includes some funding to support NGO participation at the regional meetings in advance of INC3.

The draft programme for the technical briefing on Sunday 30 October is now also available on the webpage. The secretariat should consider including a presentation on the concept of BAT/BEP in the programme, if feasible. Provisions are also being made for a technical exhibition, which is expected to take place from Sunday 30 October until 1 or 2 November. Regional consultations will be possible from lunchtime onwards. As was the case for INC1 and INC2, secretariat is facilitating the identification of donors willing to support interpretation for the Latin American and the Caribbean and African regional meetings during INC3.

The secretariat is planning a lunch-time side-event on Monday 31 October on the topic of financial assistance. Further details will be provided at the Bureau meeting in October. As was the case for INC1 and INC2, no additional side-events would be organized, in order to ensure ample time for regional and contact group meetings during the week.

**Regional consultations** – Regional consultations are planned as follows:

- **Africa regional consultation:** Ouagadougou, Burkina Faso, 12 to 14 September 2011, followed on 15 and 16 September by a two-day negotiators training organized by the Division of Environmental Law and Conventions (DELIC) and the Regional Office for Africa (ROA) of UNEP in cooperation with the African Union Commission, in the context of the ACP-MEAs Project. Both meetings will be open for participation of NGOs as observers, with closed sessions for Governments only on 14 September 2011.

- **Latin America and the Caribbean regional consultation:** Panama City, Panama, 19 to 23 September 2011. The first two days of the consultation will be open for participation of NGOs as observers (19 and 20 September).
- **Asia and the Pacific regional consultation:** Kobe, Japan, 26 to 28 September 2011. The first two days of the consultation will be open for participation of NGOs as observers (26 and 27 September).
- **Central and Eastern Europe regional consultation:** Brno, Czech Republic, 5 to 6 October 2011. Given the limited amount of time available, this consultation will be for Governments only. Time for a meeting between NGOs and the region would instead be arranged in Nairobi on Sunday 30 October 2011.

Logistical arrangements are well underway for all four meetings. Registration is still open for a few weeks for the meetings in Kobe and Brno, but already closed for the meetings in Ouagadougou and Panama City.

The INC Chair will as far as possible attend all four consultations. However, if for practical reasons he cannot attend in Brno, he will meet with the Central and Eastern Europe region in Nairobi on Sunday 30 October.

UNON Conference services is doing all it can to finalize the other language versions of the new draft text in time for the regional consultations in September.

## 2) **Expectations for INC3 (Chair), including presentation of the draft scenario note and consideration of possible contact groups**

The draft scenario note, setting out the expectations for INC3, was reviewed and a number of adjustments were suggested by the bureau members. The Chair, together with the secretariat, would finalize the scenario note as soon as possible, so it can be sent to UNON for document processing.

During the discussions a few points not directly affecting the wording in the scenario note were raised, including:

- Contact groups are expected on a number of issues at INC3. However, to retain flexibility no listing would be included in the scenario note. Due to small delegations, contact groups on “universal issues” (i.e. those that are relevant to all parties) should as far as possible not take place in parallel. Clear mandates for each contact group would be important, in order to ensure progress. This would be discussed in further detail during the Bureau meeting in October.
- The mandate for the legal group, as agreed at INC2, should be sent to the bureau members.

## 3) **Presentation on the draft text**

The INC at its first session requested the secretariat to develop a paper presenting draft elements of the comprehensive and suitable approach to mercury called for by UNEP GC decision 25/5 to the committee at its second session, to be based upon views expressed by Governments at INC1 and subsequent submissions in writing by Governments. This “elements paper” (document UNEP(DTIE)/Hg/INC.2/3) followed the overall structure of other chemicals agreements, e.g., Stockholm and Rotterdam Conventions and contained 36 draft articles and six annexes. The committee agreed to use the elements paper as the basis for its discussions at the second session.

For the third session, the committee has requested the Secretariat to develop a new draft text based on the elements paper discussed at the second session, submissions from Governments (21 submissions received from Governments and regional groups) and views expressed by parties at the second session. On this basis, the secretariat has developed a new *party driven* draft text (document UNEP(DTIE)/Hg/INC.3/3).

The secretariat used the following general approaches to develop and structure the new draft text:

- All text proposals or proposals that the secretariat could readily convert into text were incorporated into the new document. Proposals that could not readily be converted into text were noted in comments. The secretariat avoided developing general proposals into text when doing so would require it to introduce its own views into the new draft;
- Proposals appear without attribution to the parties that proposed them;
- Similar proposals were synthesized and combined whenever possible; the wording of some proposals was modified to make them consistent with legal practice under existing multilateral environmental agreements;

- Follows a similar structure to elements paper. A few articles (e.g., storage and allowable use exemptions) appear in different places in line with the discussion at INC2;
- Some new articles have been added to the text in response to party proposals – these are indicated by brackets and the use of “bis” following the article number;
- Article numbers and annex letters have been revised to make them sequential throughout the text;
- Options: In some cases, some party proposals represented fundamentally different policy approaches that could not readily be combined. For example, there are four options for Article 6 (mercury-added products) because parties submitted four fundamentally different approaches for that article;
- Square brackets ([ ]) indicate two or more approaches that are alternatives to one another or that appear only as a placeholder. They are used when a party has proposed the deletion or alteration of text in the elements paper, or a party has proposed new text;
- Alternatives: The secretariat sometimes concluded that different approaches would be too confusing if they were presented by using square brackets. Thus, the text sometimes presents two or more approaches to a phrase or passage as “alternative 1,” “alternative 2” and so on. Such alternative phrases or passages should be treated as though they were bracketed;
- The draft text may appear complex, however, it reflects as far as possible all party views and proposals. Some bracketed text, alternatives, and options will likely be discarded as their proponents see that their policy objectives are present in other parts of the text. Key to further developing the text may be to resolve key policy issues before fine-tuning the text.

The new draft text will be presented by the secretariat in detail at each of the regional consultations.

#### **4) Regional consultations, including Chair’s key messages for Bureau members**

The regional meetings in preparation for INC3 will be key to ensuring progress at the upcoming session. The INC Chair tasked the bureau members with the following, in order to ensure that the discussions at the regional consultations can be taken fully into account at the Bureau meeting in October:

- Make sure that all regions understand how the draft text was generated, and that it is a party-driven text. Emphasize to the regional groups/confirm that we expect the new draft text to be used as the starting point for discussions at INC3;
- Encourage regional interventions, as far as possible, to ensure sufficient discussion time during IN3;
- Convey that it is expected that parties and regional groups will be well-prepared for the INC and ready for active negotiations, especially on some of the key sections;
- Regional groups should identify the priority issues they believe will need substantial discussion and where a contact group might be needed;
- Identify provisions that might, in the region’s view, be sent to the Legal Group early during INC3, so that the group can start its work in earnest. Encourage Governments to ensure that there are lawyers from their region that can participate in the work of the Legal Group;
- Convey that continued support from donors is critical for continued progress;
- Begin to think about possible needs for inter-sessional work between INC3 and INC4, taking into consideration that time is very limited between these two sessions and that Rio+20 is also taking place during this period;
- Provide a detailed summary at the bureau meeting of the regions’ discussions at the regional consultations, especially emphasizing how they might influence the negotiations at INC3 and identifying possible “sticky”/challenging issues that might be foreseen for INC3.

#### **5) Next bureau meeting**

Sweden has kindly offered to host the Bureau meeting on 10 and 11 October 2001 and practical arrangements relating to the venue are in the process of being finalized. Formal invitation letters will be sent out to bureau members as soon as possible. The meeting will be an opportunity to review the outcomes of the regional meetings and make final preparations for INC3.

#### **6) Any other issues raised by the Bureau**

No other issues were raised.