



**United Nations
Environment
Programme**

Distr.: General
24 March 2010

Original: English

**Intergovernmental negotiating committee
to prepare a global legally binding
instrument on mercury**

First session

Stockholm, 7–11 June 2010

Item 4 of the provisional agenda*

Preparation of a global legally binding instrument on mercury

**Report of the ad hoc open-ended working group to prepare for
the intergovernmental negotiating committee on mercury**

Note by the secretariat

The secretariat has the honour to provide, in the annex to the present note, the report of the meeting of the ad hoc open-ended working group to prepare for the intergovernmental negotiating committee on mercury, which was held in Bangkok from 19 to 23 October 2009. The report was originally issued as document UNEP(DTIE)/Hg/WG.Pre/1/10.

* UNEP(DTIE)/Hg/INC.1/1.

Annex

Report of the ad hoc open-ended working group to prepare for the intergovernmental negotiating committee on mercury

Background

1. At its twenty-fifth session, by section III of decision 25/5 adopted on 20 February 2009, the Governing Council of the United Nations Environment Programme (UNEP) agreed to elaborate a legally binding instrument on mercury, and asked the Executive Director of UNEP to convene an intergovernmental negotiating committee with the mandate to prepare that instrument, commencing its work in 2010. To prepare for the work of the intergovernmental negotiating committee, the Governing Council also requested the Executive Director to convene an ad hoc open-ended working group, to hold one meeting in the second half of 2009, to discuss the negotiating priorities, timetable and organization of the intergovernmental negotiating committee.

I. Opening of the meeting

2. The ad hoc open-ended working group to prepare for the intergovernmental negotiating committee on mercury met at the United Nations Conference Centre in Bangkok, from 19 to 23 October 2009. Mr. Per Bakken, Head, Chemicals Branch, UNEP Division of Technology, Industry and Economics (UNEP Chemicals), welcomed participants to the meeting and expressed thanks to the Governments of Finland, Germany, Norway and Sweden and to the European Commission for the funding which they had provided for the meeting, and the Governments of Canada, France and Switzerland for their support for the intergovernmental negotiation process. Following those introductory remarks, he declared the meeting open at 10.25 a.m. on Monday, 19 October 2009.

II. Election of officers

3. The group elected the following bureau for the meeting:

Chair:	Mr. John Roberts (United Kingdom of Great Britain and Northern Ireland)
Vice-chairs:	Ms. Irina Zastenskaya (Belarus) Mr. Takeshi Sekiya (Japan) Ms. Abiola Olanipekun (Nigeria) Mr. Fernando Lugin (Uruguay)

4. Ms. Olanipekun also agreed to serve as rapporteur for the meeting.

III. Organizational matters

A. Adoption of rules of procedure

5. The group agreed to apply the rules of procedure of the UNEP Governing Council, *mutatis mutandis*, to its meeting.

B. Adoption of the agenda

6. The group adopted the agenda set out below on the basis of the provisional agenda which had been circulated as document UNEP(DTIE)/Hg/WG.Pre/1/1:

1. Opening of the meeting.
2. Election of officers.
3. Organizational matters:
 - (a) Adoption of the rules of procedure;
 - (b) Adoption of the agenda;
 - (c) Organization of work.

4. Preparations for the work of the intergovernmental negotiating committee to prepare a global legally binding instrument on mercury:
 - (a) Timetable and organization of work of the intergovernmental negotiating committee;
 - (b) Update on preparations for the study on various types of mercury-emitting sources requested by the Governing Council (decision 25/5);
 - (c) Information that might assist the work of the intergovernmental negotiating committee.
5. Report on activities under the United Nations Environment Programme mercury programme.
6. Other matters.
7. Adoption of the report of the meeting.
8. Closure of the meeting.

C. Organization of work

7. The group agreed that it would meet from 10 a.m. to 1 p.m. and from 3 p.m. to 6 p.m. each day and that it would make every endeavour to conclude its work in plenary sessions without resorting to contact groups. In addition, it agreed to follow the proposed plan for its work set out in the scenario note distributed prior to the meeting (UNEP(DTIE)/Hg/WG.Prep/1/2) and a programme, which had been proposed in a conference room paper, for the information sessions that would take place during the meeting.

D. Attendance

8. Representatives of the following States participated in the meeting: Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Benin, Bolivia (Plurinational State of), Brazil, Burkina Faso, Burundi, Cambodia, Canada, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Czech Republic, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Fiji, Finland, France, Gambia, Georgia, Germany, Guatemala, Haiti, India, Indonesia, Iran (Islamic Republic of), Jamaica, Japan, Jordan, Kenya, Kiribati, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Libyan Arab Jamahiriya, Madagascar, Mali, Marshall Islands, Mexico, Myanmar, Nepal, Netherlands, Nigeria, Norway, Pakistan, Palau, Panama, Paraguay, Peru, Philippines, Poland, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Senegal, Serbia, Slovenia, Solomon Islands, South Africa, Spain, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, the former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Viet Nam, Yemen, Zambia, Zimbabwe.

9. The following United Nations bodies and specialized agencies were represented: Food and Agriculture Organization of the United Nations, Global Environment Facility, United Nations Development Programme, United Nations Industrial Development Organization, United Nations Institute for Training and Research.

10. The following intergovernmental organizations were represented: European Commission, International Energy Agency.

11. The secretariats of the following multilateral environmental agreements were represented: Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, Stockholm Convention on Persistent Organic Pollutants.

12. A number of non-governmental organizations were represented. Their names may be found in the list of participants, which is set out in document UNEP(DTIE)/Hg/WG.Prep/1/INF/5.

IV. Preparations for the work of the intergovernmental negotiating committee to prepare a global legally binding instrument on mercury

13. The group began its consideration of the item with general statements. All representatives who spoke expressed their support for the negotiating process and pledged to work in a constructive spirit towards the goal of adopting a legally binding instrument on mercury. There was also general agreement that decision 25/5 provided an excellent basis for the negotiation of an agreement that would successfully confront the challenges posed by mercury.

14. Representatives identified priorities for the current meeting and stressed, in particular, that its purpose was not to negotiate but instead to set the stage for successful negotiations by the intergovernmental negotiating committee. Attention was also drawn to the scope of the future instrument: one representative said that, as called for by decision 25/5, it should be a comprehensive instrument that included both hard and soft obligations and reflected the considerations outlined in the decision, including the need for flexibility and sector-specific approaches. Others said that in addition it should cover the full life cycle of mercury and facilitate synergies with existing chemicals-related multilateral environmental agreements.

15. One representative said that the instrument to be negotiated should feature plans to phase out mercury production and consumption in the various sectors, following the model of the Montreal Protocol on Substances that Deplete the Ozone Layer. Another said that it should include the development of legislative guidelines and criteria for assessment in accordance with standards on acceptable exposure limits.

16. Among issues identified as being of particular importance to the intergovernmental negotiating committee were the need to take into account all available scientific knowledge and the identification of areas where additional information was needed. The group agreed to provide guidance to the secretariat on documents that would be required.

17. Attention was also drawn by developing country representatives, including some from small island States and least developed countries, to the need for capacity-building and technical and financial assistance. Several also said that the instrument should feature a binding commitment on the part of developed countries to provide such assistance, which, as recommended by one representative, should be provided without impairing funding for poverty reduction and elimination.

18. Some representatives also stressed that the negotiations should take into account the fact that different countries had different priorities owing to their various levels of economic development and the extent to which mercury was regulated at the national level and that the instrument should take into account regional variations.

19. Several representatives made suggestions regarding the order in which issues should be taken up during the intergovernmental negotiating committee negotiations. One representative, however, echoed by others, said that it was important not to postpone any issues to the end of the process; he suggested, therefore, that at its first session the committee should review all the issues, while recognizing the need to revisit issues at subsequent sessions.

20. Observers present at the meeting made various suggestions for the group to consider in preparing the work of the intergovernmental negotiating committee, including the need for rules of procedure that allowed for meaningful participation by non-governmental organizations and a workplan to tackle mercury that focused on the complete life cycle of the chemical and featured the active involvement of all stakeholders, including workers, public health authorities, non-governmental organizations and indigenous peoples.

A. Timetable and organization of work of the intergovernmental negotiating committee

1. Rules of procedure

21. Introducing the issue the Chair observed that while it was for the intergovernmental negotiating committee to agree on whether to adopt its own rules of procedure and, if it so decided, in which form, the group could facilitate the committee's consideration and subsequent decision by making recommendations on the subject. The representative of the secretariat introduced the note by the secretariat on the item (UNEP(DTIE)/Hg/WG.Pre/1/3), which contained in its annex draft rules of

procedure for the group's consideration. He pointed out that those rules were essentially identical to those which had been successfully used in negotiating the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the Stockholm Convention on Persistent Organic Pollutants.

22. The group agreed that it would recommend that the intergovernmental negotiating committee should adopt the draft rules of procedure prepared by the secretariat, which were set out in the annex to document UNEP(DTIE)/Hg/WG.Pre/1/3, as amended in accordance with the group's discussions.

23. The draft rules of procedure as recommended by the working group, which reflect the working group's discussion as described in paragraphs 24–33 below, are set out in annex I to the present report.

(a) Composition of the bureau

24. In contrast to the draft rules set out in document UNEP(DTIE)/Hg/WG.Pre/1/3, which provided for a bureau consisting of one president and four vice-presidents, the group agreed that the bureau should consist of one president and nine vice-presidents, with two members appointed from each of the five regional groups. It was suggested that such an expanded bureau would be more diverse, that it would provide for continuity in what would be a relatively long negotiation and that it would facilitate the bureau's work in the event that a member from a given region was unable to attend a bureau meeting.

25. The working group further agreed that while it was for the intergovernmental negotiating committee to elect its own bureau it would nevertheless be useful for the regional groups to identify, at the current meeting, those individuals who would be put forward as candidates for the bureau at the first session of the intergovernmental negotiating committee. The regional groups, except for the Asian and Pacific group, which would name its candidates at the committee's first session, accordingly announced that the following individuals would be put forth as candidates for the bureau of the intergovernmental negotiating committee:

For the African group: Mr. Oumar Diaoure Cissé (Mali), Ms. Abiola Olanipekun (Nigeria);

For the Central and Eastern European group: Ms. Katerina Sebkova (Czech Republic), Mr. Vladimir Lenev (Russian Federation);

For the Latin American and Caribbean group: Ms. Gillian Guthrie (Jamaica), Mr. Fernando Lugris (Uruguay);

For the Western European and others group: Ms. Nina Cromnier (Sweden), Mr. John Thompson (United States of America).

26. Speaking for the Latin American and Caribbean group, the representative of Brazil announced that his region would nominate Mr. Lugris as a candidate for the chair of the intergovernmental negotiating committee. Several members of the working group voiced confidence that Mr. Lugris would make an excellent chair and the group agreed to record the support for Mr. Lugris' candidacy in the present report.

(b) Voting on matters of substance

27. As set out in document UNEP(DTIE)/Hg/WG.Pre/1/3, paragraph 1 of rule 37 of the draft rules of procedure provided as follows:

The committee shall make every effort to reach agreement on all matters of substance by consensus. If all efforts to reach consensus have been exhausted and no agreement reached, the decision shall, as a last resort, be taken by a two-thirds majority of the representatives present and voting.

28. There was general agreement that the intergovernmental negotiating committee should, as contemplated by the draft rule, make every effort to achieve consensus on the provisions of the legally binding instrument to be negotiated. There was a strong and widely shared conviction that, as a matter of principle, it would be important to strive for consensus in making decisions. The group agreed that the present report should record its views on that point to underscore its importance.

29. There was some debate, however, about whether the committee should be able to decide matters of substance by vote as a last resort in the event that it was unable to achieve consensus on a given issue. Many representatives argued that it should, maintaining that while consensus was extremely important it was nevertheless necessary to be able to make progress in the face of deadlock. Other representatives, however, opposed including the option of recourse to decision-making by vote. One, supported by several others, noted that certain countries were more deeply involved in the production and consumption of mercury than others and suggested that a legally binding instrument adopted by vote over their objection would not be effective. Others said that only a convention adopted through consensus would be truly legitimate and effective.

30. Several representatives, reiterating that the provision at issue had been used successfully by intergovernmental negotiating committees in the past, said that precedent should not be cast aside in the absence of specific reason for doing so. It was suggested too that no country would be bound by any decision of the committee with which it did not agree, as the instrument to be adopted would be subject to ratification by each country.

31. Following informal consultations and further discussion in plenary session, and in the light of the fact that the present report would record the group's widely shared conviction regarding the importance of consensus in the process of negotiating the legally binding instrument (as noted in paragraph 28 above), the group agreed to recommend rule 37 to the intergovernmental negotiating committee without amendment.

(c) Revision of the agenda

32. One representative said that it was necessary to clarify the meaning of the term "urgent and important" as used in rule 5 of the draft rules of procedure, which provided that only items that the intergovernmental negotiating committee considered to be urgent and important could be added to the agenda for a session of the committee during the session. The terms, he said, were subjective and would make it impractical to invoke the rule in practice.

33. Following informal consultations and further discussion in plenary session the group agreed to recommend rule 5 to the intergovernmental negotiating committee without amendment.

2. Timetable for the negotiations and issues under consideration in other international forums

34. The representative of the secretariat introduced the note by the secretariat on a proposed timetable for the negotiations to develop a global legally binding instrument on mercury, including factors that might influence the timing of consideration of specific provisions (UNEP(DTIE)/Hg/WG.Prep/1/4), which listed the provisions set out in Governing Council decision 25/5 to be included in a comprehensive and suitable approach to mercury, together with other issues the committee should consider in developing the instrument. In identifying the four factors governing timing set out in the secretariat document – the availability of knowledge on each provision, the complexity of the issues involved, the sensitivity or relative importance of the issues and the existence of cross-cutting issues – the representative of the secretariat noted that many of the issues were interrelated and could not be considered in isolation. Given that it was not possible to consider everything simultaneously, however, he noted that the group might suggest which issues to consider early, later or a number of times during the negotiation. The final decision on how to manage the process would be up to the intergovernmental negotiating committee, but the views of the group would assist it in preparing for the negotiations. He also observed that, as indicated in the note, the Government of Sweden had offered to host the first session of the committee in Stockholm.

35. He also introduced the secretariat note on relevant issues being considered in international forums and their possible impact on the mercury negotiation process (UNEP(DTIE)/Hg/WG.Prep/1/7), which included the efforts to enhance synergies between the Basel, Rotterdam and Stockholm conventions, negotiations for the fifth replenishment of the Global Environment Facility and negotiations on the international response to climate change.

36. Turning to the study requested by the Governing Council on the costs and effectiveness of alternative control technologies for reducing emissions, he said that the study was expected to be ready, in its preliminary form, by the second session of the intergovernmental negotiating committee in early 2011.

(a) **Priorities and order of discussion of issues**

37. In the ensuing discussion, some representatives said that it was up to the intergovernmental negotiating committee to decide at its first session on priorities and the order in which issues would be discussed. Many representatives said that all issues set out in decision 25/5 should be discussed at an early stage and none deferred. Drawing attention to the linkages between all the issues involved, one urged that care should be taken in proposing that the committee should delay discussion on any issue at its first session. He said that most of the substantive issues listed in decision 25/5 would need to be considered at several of the sessions. Given the many linkages between elements of substance, other representatives said that they should not be taken up in isolation but rather dealt with in a holistic manner.

38. One representative, speaking on behalf of many others, suggested a specific order in which the issues might be taken up but said that, given the linkages between compliance provisions and issues of substance and technical and financial assistance, all such issues should be negotiated concurrently. He said that, during the entire negotiation process, the need to achieve coherence with other existing international legal and political frameworks should be kept in mind. One representative stated the view that the full range of issues should be taken up at each session of the committee but added, with others agreeing, that issues on which there was sufficient information – such as supply, storage, primary mining and products – could be discussed early in the process.

39. One representative cautioned against the committee becoming absorbed in the early phase of the intergovernmental negotiating process in issues of relatively theoretical relevance and suggested that priority should be accorded to issues of direct importance for the specific commitments and measures on the ground.

40. Another representative said that it was important to reach consensus on the objective of the instrument as an undefined objective would hinder the clear orientation of further action. He said that it was also important to have sufficient technology to assist developing countries in meeting their obligations. He suggested that a compliance mechanism might be subject to discussion at a meeting of the parties after a mercury agreement came into effect.

41. Many representatives emphasized the need for financial and technical assistance to enable developing countries and countries with economies in transition to meet their legal obligations under the future instrument. One representative noted specifically that such assistance would be needed in respect of illegal traffic: a fully functioning financial mechanism was therefore vital. The issues of financial assistance, capacity-building, technical assistance and compliance were all interconnected and should be discussed throughout the negotiation process, starting from the committee's first session.

42. One representative suggested that an initial analysis of emission sources should be presented at the committee's first session, even if the commissioned study on emissions was not finalized, with a view to ensuring that the final study was available at the third session. Supporting that view, another said that provisions to reduce atmospheric emissions constituted a key aspect of the mercury negotiations. One representative said that information for the study from his region could only be collected if mercury inventory data were in place. Others agreed that comprehensive studies with field data would provide conclusions that would allow for meaningful participation in discussions during the negotiation process.

43. Many representatives cautioned that measures negotiated by the intergovernmental negotiating committee should be consistent with, and avoid duplication of, provisions in other international agreements. At the same time, negative synergies, i.e., a situation in which control measures in other instruments might lead to increased use of mercury, should be avoided. Several representatives urged that countries' different capacities for the management of chemicals in general, and mercury in particular, in addition to different priorities in different countries, should be kept in mind when setting discussion priorities.

44. One representative highlighted the importance of developing a plan that outlined the sequence and possible timing of discussions at the first and, where necessary, subsequent sessions. Another representative advocated that all issues should remain open for discussion throughout the negotiation process and cautioned against the danger of the committee becoming blocked on one issue at its first session.

45. It was suggested that the secretariat could provide updates on progress in the climate change negotiations, in particular on co-benefits for the reduction of mercury emissions; in the environmentally sound management of mercury-containing wastes under the Basel Convention; and in discussions on the

fifth replenishment of the Global Environment Facility of potential relevance for the future mercury instrument.

(b) Timing of sessions

46. With regard to the proposed timing of sessions of the intergovernmental negotiating committee, one representative requested that sessions of the committee should not be scheduled for January, as that was a holiday period for some countries. He said that in general care should be taken to avoid conflicts with holiday periods for countries in the Southern hemisphere, which were different from those in the Northern hemisphere. One representative from the Asian and Pacific region, supported by another, stressed the importance of taking into account holiday periods in that region. Those included the spring festival, which took place in the first two weeks of February, and another 10-day holiday period at the beginning of October. Another representative said that care should be taken to avoid scheduling conflicts with the tenth meeting of the Conference of the Parties to the Basel Convention, in 2011, and the third session of the International Conference on Chemicals Management, in 2012.

47. Following the discussions in plenary session and informal consultations the secretariat provided information to the regional coordinators on the factors that might influence the timing of sessions of the intergovernmental negotiating committee, including holiday periods and the dates of sessions of the UNEP Governing Council. The working group agreed that the information should be forwarded to the committee for its consideration in determining the dates of its sessions.

48. The representative of Switzerland announced that his country was willing to host a session of the intergovernmental negotiating committee and that he would consult the secretariat regarding the details. The representative of Burkina Faso likewise reported that his Government wished to host a session of the intergovernmental negotiating committee and said that he would contact the secretariat to discuss the details.

3. Options for the structure and provisions of the instrument

49. The working group considered the benefits of requesting the secretariat to prepare, for the intergovernmental negotiating committee, an analysis of possible options for the structure of the instrument to be negotiated, along with alternative approaches for its elements or measures.

50. Many representatives agreed that the secretariat should be requested to prepare such an analysis. Some urged caution, to avoid pre-empting possible positions that might be taken by countries. They expressed the view that the material prepared by the secretariat should only suggest elements for inclusion in an agreement, rather than draft text of those elements. One representative added, however, that the secretariat's work should be guided by the outcome of the current meeting and that a framework could be developed following a first round of discussions at the committee's first session.

51. The secretariat was encouraged to maintain some of the elements of the comprehensive mercury framework developed by the Ad Hoc Open-ended Working Group on Mercury (UNEP(DTIE)/Hg/OEWG.2/8, annex), such as flexibility of phase-out plans and application to certain sectors. It was also suggested that other multilateral environmental agreements should be examined, with a view to appraising the effectiveness of the tools used to implement them, such as national action plans.

52. Noting the routine nature of the final provisions of most multilateral environmental agreements, several representatives expressed the view that the secretariat could provide draft text for those provisions, but suggested that it could be counterproductive for the secretariat to prepare text on substantive issues such as air emissions, products and trade.

53. One representative underlined certain principles that he said must underpin any options paper, in particular the distinction between different countries in their ability to deal with the problem of mercury and between the various implementation tools.

54. Following its discussion above, the working group considered a conference room paper submitted by the group of Latin American and Caribbean countries containing a proposal that the secretariat should prepare a document setting forth draft elements of a legally binding instrument on mercury and information to assist the work of the intergovernmental negotiating committee. The group agreed to discuss the paper together with two other conference room papers prepared in connection with the group's deliberations under agenda item 4 (c), "Information that might assist the work of the intergovernmental negotiating committee". The first of those two papers, submitted by the secretariat, contained a list of documents that could be prepared by the secretariat to assist the work of the intergovernmental negotiating committee at its first session; the second, submitted by Switzerland, set

forth a proposal that the secretariat should prepare an options paper on how to ensure the achievement of synergies and institutional cooperation and coordination between the mercury instrument to be negotiated and other relevant multilateral environmental agreements and policies.

55. Following discussion of the three papers, in which representatives made a number of suggestions for revisions, the group requested the secretariat to consolidate them in a single paper that reflected the comments made during the discussion and to present it to the group for further consideration.

56. The consolidated paper prepared by the secretariat was subsequently discussed in plenary session. During those discussions one representative noted that the term “essential uses” in paragraph 2 (i) of the list of documents to be supplied by the secretariat had a specific meaning in the context of certain multilateral environmental agreements such as the Montreal Protocol. He expressed concern that the use of that term could be construed as a recommendation by the working group that the mercury instrument to be negotiated should in some way incorporate a specific interpretation of the term. Any such recommendation, he said, would be beyond the working group’s mandate. In response, the Chair confirmed that the role of the working group was to facilitate the provision of information by the secretariat that might help the intergovernmental negotiating committee in its work, but not to prejudge what use the committee might make of it. The working group agreed that the representative’s concern on this point would be reflected in the present report.

57. Another representative said that he understood the reference to financial assistance arrangements in paragraph 2 (e) of the list of documents to be prepared by the secretariat to include the financial mechanisms of the Montreal Protocol and the Stockholm Convention. It was agreed that the present report would note his understanding on that point and that the secretariat would take those conventions into account in preparing information for the intergovernmental negotiating committee on the subject of financial assistance arrangements.

58. With the above comments noted, the working group adopted without amendment the consolidated paper prepared by the secretariat, which is set out in annex II to the present report.

B. Update on preparations for the study on various types of mercury-emitting sources requested by the Governing Council (decision 25/5)

59. The representative of the secretariat introduced document UNEP(DTIE)/Hg/WG.Prep/1/5 on an outline of the study on various types of mercury-emitting sources as requested in paragraph 29 of decision 25/5. He said that a range of experts and a number of interested stakeholders had been consulted in developing the outline of the study, which, given the limited time available to complete the work, would focus on sources frequently described as producing unintentional emissions, such as coal-burning power plants. During the study stakeholders should be consulted, bearing in mind the need to complete the study before the second session of the intergovernmental negotiating committee. Where available, and working with countries, information on significant emissions from processes using mercury would also be presented. The study would also include an analysis and assessment of the costs and effectiveness of alternative control technologies and measures, building, where possible, on existing work. He urged Governments and other stakeholders to provide their input to the study in a timely manner and, reinforcing the need for transparency, said that information on progress in the study would be posted on the website of the UNEP mercury programme.

60. Mr. John Munthe, Swedish Environmental Research Institute, gave a presentation on the development of the study. He said that it would be based on previous reports on global mercury emissions and emissions control options prepared for UNEP in 2008 and would focus on the main emitting sectors in a number of countries. A range of information on emissions would be collected from the selected countries by means of a questionnaire. The study would focus on coal-fired power plants and industrial boilers, industrial metal production (non-ferrous smelters), waste incineration and cement production. Time and availability of information permitting, other sectors might also be considered. The study was expected to result in a set of scenarios in which ranges of control costs and likely emissions reduction would be presented for the selected countries and sectors. The results would be extrapolated to provide an overview of total costs for different emission reduction scenarios on a global scale. The following countries were proposed as candidate countries: Brazil, China, India, Russian Federation, South Africa, United States of America and the member States of the European Union.

61. He presented a timetable for preparing the study, which would begin at the end of 2009 or early in 2010 with a questionnaire requesting information in parallel with the preparation of what he termed the “zero draft”, would allow for continuous stakeholder consultations and would be completed by

October 2010 in time for, and to inform the work of, the negotiating committee at its second session. He elaborated on the information to be requested in the questionnaire and said that the quality and accuracy of the results in the study would depend heavily on the contributions received. He added that the zero draft report would serve as a first estimate of costs and efficiencies and as a template for information needed for more accurate estimates. In conclusion he drew attention to a coal combustion study being undertaken in parallel in China, India, the Russian Federation and South Africa with funding from the European Union, which would provide input for the emissions study.

62. In the ensuing discussion some representatives suggested additional topics to be addressed by the study such as contaminated scrap from electrical and electronic appliances, mercury releases from fuel, oil and gas, and mercury from medical appliances. Some representatives said that emissions to other media, such as water and soil, should be included in the report, one noting that such inclusion would enable the entire pathway of mercury emissions to be studied. Others preferred that the study be limited to air emissions. One representative said that emission trends up to 2050 based on scenarios developed by the Intergovernmental Panel on Climate Change were available and suggested that future trends should be examined to ensure the long-term applicability of the mercury instrument.

63. One representative said that further sectors should also be taken into account, at least through a compilation of known sources and quantities. Another said that additional information could be requested but limitations on time and resources might influence that decision. Some representatives, highlighting co-benefits with existing activities, said that useful information might already be available that was not mercury-specific but was part of work done under other international activities such as on climate change. One representative stressed the need to respect the terms of reference of other agreements when gathering data.

64. All representatives who spoke commended the inclusive nature of the preparation of the report. Many representatives stressed the importance of having the study ready for the second session of the committee and added that a progress report on the study should be provided for information at the first session to enable early discussion of risk management and reduction. A few representatives said that the quality of the information provided should not be sacrificed for the benefit of meeting a deadline and that the most up-to-date information should be included in the study. One representative added that the study should be used for reference and not as a baseline document during the negotiation process.

65. One representative, recognizing the importance of data gathering, noted that in many instances information might not be available, but that understanding where gaps lay was also useful. He commended the proposal to develop a zero draft report and, echoed by another representative, the pursuit of transparency through information exchange via the UNEP Chemicals website.

66. One representative said that the analysis of the cost-effectiveness of mercury control technology should cover not only costs and benefits of the control of mercury itself but also the co-benefits to, for example, the reduction of air pollutants and energy efficiency improvements that would facilitate countries' introduction of control. The study should also include information on appropriate control efforts such as pre-treatment of fuels and segregation of wastes and information on available control technologies. He recalled that waste management techniques varied by country and that waste was often dumped in landfills; hence the study should target broader waste disposal management and not just incineration. One representative, echoing the comments about the difference in waste management techniques, said the cement industry should also be taken into account and proposed that a country from his region should take the lead on that matter. Another highlighted the importance of the cost and efficiency of non-technological measures being considered together with the social and economic costs of inaction. One representative said that the economic situation of developing countries must be taken into account when examining cost-effectiveness and social and economic benefits so that control efforts were adapted to the situations of those countries.

67. A few representatives requested clarification on the process for collecting information, given that data should be gathered from all stakeholders, and whether information should first be collated at the country level. One representative suggested that a methodology for collecting information to reply to the questionnaire had to be developed so that information was collected in a harmonized manner. Another representative requested clarification regarding who would be the recipients of the questionnaire at the national level and the issues that the questionnaire would cover.

68. The group expressed its support for the outline of the study and agreed that to the extent possible, and if time and resources permitted, readily available information on other sectors and media would be included in the study.

C. Information that might assist the work of the intergovernmental negotiating committee

1. Documents prepared by the secretariat to assist the intergovernmental negotiating committee

69. The representative of the secretariat introduced the note by the secretariat on information that might assist the intergovernmental negotiating committee in its work (UNEP(DTIE)/Hg/WG.Prep/1/9), summarizing a number of studies prepared by the secretariat in response to various requests of the Governing Council and of the Ad Hoc Open-ended Working Group.

70. In response to a question from one representative he explained that the summary list of information in the note was not final and that the secretariat would welcome guidance from the group. Accordingly, representatives made a wide range of suggestions regarding further information that could be included. Some said it would be useful to have information on financial and technical assistance models. Others requested that the information should be updated, to take account of emerging issues, such as the reduction of international trade in mercury, and that the table in the above-mentioned note should be updated to indicate when information had been updated and the source.

71. Stress was laid on the need to ensure that terms used in the negotiation process were clearly defined. Where the issue of effectiveness was concerned, one representative suggested that a paper could be produced on compliance mechanisms and their relative effectiveness.

72. Some representatives pointed out that a significant amount of relevant information had already been compiled. They said that such information should be made available and, where applicable, improved and updated. It was also stressed that the documents to be prepared by the secretariat should be prepared within the limits of already available resources.

73. Attention was drawn to the difficulties faced by developing countries in such areas as their efforts to reduce coal consumption. In particular, one representative indicated that although UNEP was collecting national information on mercury such information from Africa was still lacking. Drawing attention to the different mercury-related problems faced by countries in the same region, one representative stressed that national information should be fully taken into account in the negotiation process.

74. Several representatives suggested that the secretariat of the Basel Convention could be requested to draft a paper for the intergovernmental negotiating committee on how it handled waste. In addition, they said that it would also be useful to learn of any other relevant activities currently being conducted under other environmental bodies. Noting that the structure and provisions of the Montreal Protocol could be considered as a model for phasing out mercury, several representatives requested the secretariat to provide information on the mechanisms used in that body that were relevant to the analysis of financial mechanisms.

75. Following discussion under the sub-item, two conference room papers were submitted for the working group's consideration. The first, submitted by the secretariat, contained a proposed list of documents to be prepared by the secretariat to assist the work of the intergovernmental negotiating committee at its first session, which took into account the comments noted above; the second, submitted by Switzerland, set forth a proposal that the secretariat should prepare an options paper on how to ensure the achievement of synergies and institutional cooperation and coordination between the mercury instrument to be negotiated and other relevant multilateral environmental agreements and policies. As noted above in section A.3. of chapter IV of the present report, the working group agreed to consider both conference room papers together with a third conference room paper relating to agenda item 4 (a), "Timetable and organization of work of the intergovernmental negotiating committee", submitted by the group of Latin American and Caribbean countries, which contained a proposal that the secretariat should prepare a document setting forth draft elements of a legally binding instrument on mercury and information to assist the work of the intergovernmental negotiating committee. An account of the group's consideration of the three papers is set forth above in section A.3. of chapter IV of the present report.

2. Information sessions

76. Under the sub-item the working group held three information sessions on issues relevant to the work of the intergovernmental negotiating committee, the first on mercury supply and storage, the second on artisanal and small-scale gold mining and the third on mercury in products and waste. During each session the working group heard a number of presentations and discussed the information

presented. Outlines of the presentations may be viewed on the website of the UNEP mercury programme (www.chem.unep.ch/mercury).

(a) Mercury supply and storage

77. During the session on mercury supply and storage the working group heard an overview of mercury supply and trade; a report on an international forum on a primary mercury mine in Kyrgyzstan; a presentation on the status of the new partnership area on mercury supply and storage under the UNEP Global Mercury Partnership and a regional approach to mercury storage; information on the legislative situation in the European Union in respect of mercury supply and storage; and information on a report on technologies for the stabilization of elemental mercury and mercury-containing wastes.

78. Opening the session the Chair drew attention to documents relevant to the issue, including a report by the secretariat on activities relating to mercury supply and the sound storage of mercury (UNEP(DTIE)/Hg/WG.Prep/1/INF/3); a conference room paper reproducing the table of contents and executive summary of the report referred to above on technologies for the stabilization of elemental mercury and mercury-containing wastes; a conference room paper setting forth information on the legislative situation in the European Union in respect of mercury supply and storage; and a report on a study indicating that the elimination of primary mercury mining would not have a significant adverse economic effect (UNEP(DTIE)/Hg/OEWG.2/6).

79. Mr. Peter Maxson, a consultant engaged by UNEP, presented the overview on mercury supply and storage. He outlined the sources and consumers of mercury around the world, by geographic region and activity, indicating the relative importance of each. He explained that the market for mercury responded favourably to contractions in supply, for example through price increases that made recycled mercury and non-mercury alternatives more attractive. Given that and the fact that mercury producers were few in number while consumers were numerous, dispersed and difficult to regulate, he said that reducing the supply of mercury constituted an important and potentially effective policy option. He outlined bans on mercury exports recently enacted by the European Commission and the United States of America. He listed such bans, which also featured requirements for the safe long-term storage of mercury, along with bans on primary mercury mining and sequestration of existing stockpiles, as measures for reducing mercury supply.

80. The representative of the secretariat reported on the international forum on a primary mercury mine in Kyrgyzstan, the world's last such facility serving the global market, which accounted for 10 per cent of the global supply of mercury. UNEP and the United Nations Institute for Training and Research (UNITAR) were working with the country on an action plan aimed at putting in place sustainable development projects that would enable the country to decommission the mine without suffering undue economic disruption. In connection with that plan an international forum had been held on 18 October 2009, at which possible options had been outlined for remediation and decommissioning and alternative development opportunities identified for the village where the mine was located. The forum participants had expressed appreciation for the country's efforts and progress to date and sympathy for its need to proceed in a way that took into account its social and economic situation. Noting that achieving rapid progress in Kyrgyzstan would send an important signal during the work of the intergovernmental negotiating committee, they had said that there was a need to move forward in the near term on strategic areas related to remediation and to the local development of alternatives, and also to conduct feasibility studies to generate the information required to promote investment.

81. Following the secretariat's presentation Mr. Batyrkul Isaevich Baetov, State Secretary of the Kyrgyz Ministry of Industry, Energy and Fuel Resources, outlined the history of the mercury mine at issue and his Government's efforts to deal with its environmental effects. He said that, while his Government was willing to consider a transition away from mining, it would have to be done in a manner that took into account social and economic considerations in addition to environmental concerns. Furthermore, he said, action was for the time being precluded by a lack of funding, but he hoped that progress in that regard could be made at the current meeting.

82. Mr. Michael Bender, co-founder of the Zero Mercury Working Group, spoke about the new storage and supply partnership area under the UNEP Global Mercury Partnership and a regional approach to storage. He said that a proposed business plan for the partnership area had been prepared with the goal of reducing mercury supply by 50 per cent from 2005 levels; a draft of the plan would be circulated at the present meeting as a conference room paper. That target, he said, could be achieved through further restrictions on mercury, sequestration of mercury from chlor-alkali cell production and by reducing primary mercury mining. Next steps for the partnership area were to encourage further progress on the regional storage projects, promote funding opportunities, revise the draft business plan

and seek potential new partners, including a Government to serve as lead or co-lead. Where regional storage efforts were concerned, he reviewed storage projects under way in the Asian and Pacific and Latin American and Caribbean regions. Project participants favoured the development of viable storage options as an alternative to trade in surplus mercury in the future, believing that it would ensure consistent and sustained government policies on the issue.

83. The representative of the European Commission said that the European Union had phased out primary mercury mining in 2003 and was in the process of eliminating mercury-cell chlor-alkali production. It had also instituted a ban on the export of mercury. As those measures would result in a large amount of mercury for which there was no longer a European market it had been necessary to enact rules requiring the storage of excess mercury. A regulation to that effect had been adopted in 2008 and a study was under way on the basis of which detailed regulations on safe storage would be developed. The study would deal with efforts to solidify mercury for storage and other technical issues that could be of interest to the intergovernmental negotiating committee and would be made available on the website of the UNEP mercury programme.

84. The representative of Germany outlined a study that his Government had commissioned on methods for stabilizing liquid mercury, mercury compounds and mercury-containing wastes through solidification, which it had made available as a contribution to the continuing work on storage under the Global Mercury Partnership. The goal of the processes was to reduce the volatility and solubility of mercury and mercury-containing products so that they posed less risk to human health and the environment when handled and stored. The full report on the study was available on the website of the Gesellschaft für Anlagen- und Reaktorsicherheit, the firm that had prepared it, and would also be posted on the website of the UNEP mercury programme. The author of the study, Mr. Sven Hagemann, was available to answer questions during the current session.

85. In the ensuing discussion, all the representatives who took the floor expressed their appreciation to the secretariat for the presentations, which provided useful information for the intergovernmental negotiating committee.

86. Several representatives commended the Government of Kyrgyzstan on the progress that it had made towards the closure of its primary mercury mine, the rehabilitation of the environment surrounding the mine and the transition to alternative economic activities. They also expressed their appreciation of the international support for those efforts.

87. The representative of the United States of America said that his Government had set aside initial funding for the Kyrgyz mine closure and looked forward to working with Norway, Switzerland, other donor States, the private sector and Kyrgyzstan on the issue. He stressed the importance of mercury storage as an essential adjunct to reducing supply and said that the intergovernmental negotiating committee should deal with mercury storage early on in the negotiations.

88. The representative of Switzerland recalled that discussions between his Government and UNITAR had been key to early efforts to deal with the mercury mine in Kyrgyzstan, which was a member of Switzerland's Global Environment Facility constituency. Those efforts were characterized by extensive cooperation involving Governments, international bodies and non-governmental organizations that had been fostered by an enabling environment generated by the success of a mercury-related partnership programme initiated under the leadership of the United States of America. He said that it would be necessary for the donor community to discuss creative approaches to meeting the need of Kyrgyzstan for financial support to help it to undertake the projects necessary to address the environmental challenges and ameliorate the social and economic impact of closing the mine.

89. One representative gave further details of the action plan prepared for Kyrgyzstan, commending the fruitful cooperation of countries, non-governmental organizations and international organizations, before mentioning the need for, and his Government's willingness to explore the possibility of, further donor support for planned activities.

90. A number of representatives commended the bans on the export of mercury and the imposition of storage obligations by the European Union and the United States of America in 2008, which would come into effect in 2011 and 2013, respectively. One representative noted that his country exported mercury compounds to both the European Union and the United States of America and stressed the need for greater transparency about the trade in mercury compounds. Another said that developing countries should be provided with alternatives to mercury before developed countries imposed bans on mercury exports.

91. Numerous representatives stressed the importance of regional differences with regard to mercury supply and storage and also underlined the importance of country-specific factors. It was pointed out that in many areas the social effects and economic costs of moving away from the use of mercury were prohibitive for the countries concerned, particularly developing countries. In that context, several representatives noted that artisanal gold mining was the only viable livelihood for many poor people.

92. Several representatives outlined details of their countries' trade in, and regulation of, mercury and mercury compounds and the problems that they faced, citing the various uses of mercury in local manufacture and difficulties in controlling mercury use in artisanal mining in remote, inaccessible areas in spite of licence systems, national import bans or import registers. One representative said that his country had imposed an import ban in response to the harm to water supplies and other resources caused by the use of mercury in gold mining in his country. One member stressed that those interpreting country data on mercury use and regulation for the purposes of providing analysis for the intergovernmental negotiating committee should be intimately familiar with the countries to which the data pertained.

93. The illegal use of mercury in mining and stocks of mercury and mercury compounds held within countries were cited by several representatives as issues meriting urgent attention. One representative said that in reducing mercury supply more attention should be given to market demand if smuggling, illegal mining and the growth of the black market were to be prevented.

94. Noting that it would take a considerable amount of time to put a binding agreement on mercury in place, one representative highlighted the importance of developing synergies within Governments and international bodies, interim activities on supply and storage and securing funding for those activities.

95. Representatives commended UNEP on its work on safe storage and called for further technical studies on storage and stabilization, for international action on long-term storage problems and for information to allow for further discussion on the issues highlighted. One representative observed that regional storage projects would provide useful information for the intergovernmental negotiating committee to take into account. He also said that technical considerations relating to the geological and climatic conditions of candidate countries should be taken into account and that it would be necessary to explore how to share responsibility for storage among waste generators, product producers, disposal firms and others. He also said that the stabilization of mercury for storage was very important and asked that the paper reported on by Germany on that subject should be made available for consideration by the intergovernmental negotiating committee. Another representative said that the study on stabilizing mercury would be beneficial for the regional mercury storage project under way in Asia.

96. One observer, responding to a point made by a representative in describing the mercury trade in his country, noted that terminology and definitions as they related to mercury compounds on the market would be an important issue for the intergovernmental negotiating committee, as they would facilitate understanding of the nuances in trade flows and were pertinent to the discussion on the siting of storage facilities.

97. Responding to questions, Mr. Maxson said that one tariff code covered all mercury compounds except amalgams, so that information was lacking on the quantities of the individual compounds, their destinations when sold and their uses. He suggested that countries and others might have information on that subject that would be useful to the intergovernmental negotiating committee. Regarding the balance between supply and demand and possible negative effects of restricting the mercury supply, he suggested that so long as restriction was implemented gradually, so that mercury traders and users had time to adjust, the effect would be beneficial. As for the availability of mercury-free alternatives, he said that they were available for virtually all uses. The barrier to their uptake was not technical, but rather a lack of incentive to employ them, partly owing to their cost compared to that of mercury products and processes, and a lack of awareness of their existence.

(b) Artisanal and small-scale gold mining

98. During the session on artisanal and small-scale gold mining the working group heard an overview of the issues involved and ways to accomplish a transition away from mercury use in the sector; an overview of national strategic planning projects for the sector; and information on UNEP Global Mercury Partnership activities in the sector.

99. Mr. Kevin Telmer, Artisanal Gold Council, gave an overview of the extent and causes of problems associated with the use of mercury in the artisanal gold mining sector, along with possible solutions. He began by emphasizing the importance of the sector, which accounted for 12 per cent of the world's gold production, employed approximately 10 million miners in 70 countries and, owing to its relatively high profitability, played a substantial role in poverty alleviation. He described the manner in which mercury was typically used to extract gold from ore and how it led to releases of mercury to the atmosphere. He then outlined a number of simple and inexpensive but effective technical solutions aimed at reducing or eliminating mercury use and releases. They included alternative processing methods that used less or no mercury, emissions control through fume hoods and retorts, and mercury reactivation, a form of recycling. He noted that while good alternatives existed, those engaged in artisanal mining were largely unaware of them. There was therefore a great need for awareness-raising about alternatives, as well as about the harmful effects of mercury. Possible policy solutions included measures to reduce the supply of mercury and raise its price, such as export bans and restrictions on primary mining; measures to stimulate demand for alternatives, such as liberalization of gold markets; and measures to formalize the artisanal mining sector, which would facilitate the education of miners and the provision of assistance to them. He suggested that countries and partners could support the transition to non-mercury alternatives by identifying priorities and viable mechanisms and undertaking pilot projects to test and refine their approaches.

100. Ms. Vilma Morales, Directorate of Environmental Health and National Institute of Occupational Health of Peru, highlighted the importance of strategic planning in assisting countries in their efforts to regulate artisanal mining activities and thus reduce mercury use and emissions. In that context, she outlined work undertaken by UNEP in that area, including various projects under the Quick Start Programme of the Strategic Approach to International Chemicals Management in Latin America and South-East Asia and the draft guidance document developed to support Governments in those areas in the development of national strategic plans. She then described in more detail the extent of artisanal and small-scale gold mining in Peru and listed obstacles to efforts to tackle the associated problems, such as the remoteness of the mines, the absence of applicable legislation, the poverty of the local populations and the lack of awareness of the dangers of mercury. Lastly, she reviewed three projects mounted in that country to tackle the problem of artisanal and small-scale gold mining with support from the Governments of Canada, Switzerland and the United States of America.

101. Mr. Ludovic Benaudat, UNIDO, examined options for reducing mercury use by the artisanal and small-scale gold mining sector, including raising the price of mercury to encourage miners to use it more sparingly; ensuring that miners had access to information on cleaner production; replicating positive methods to move towards low or zero mercury use; and providing additional financial and technical support. Outlining the work and priorities of the UNEP Global Mercury Partnership he reviewed a number of regional projects in South-East Asia, Latin America and West Africa. He described worst practices in the industry, such as whole-ore mercury amalgamation and mercury-cyanidation combination, and stressed the need to promote awareness of cleaner and often cheap technologies and practices to counter ignorance of the adverse environmental and health effects of current methods of gold extraction. He also described possible market-based approaches such as premium pricing or special gold branding, whereby producers received a price premium for adhering to good social and environmental practice. Priorities for further action included documenting efforts to legalize and integrate workers into the formal sector; establishing a global knowledge base on artisanal and small-scale gold mining; developing a technical manual on existing technologies and practices; and obtaining feedback on mercury requirements for the proposed gold standard jointly put forward by the Alliance for Responsible Mining and Fairtrade Labelling Organizations International.

102. In the ensuing discussion all who spoke praised the presentations, which they said provided highly pertinent information that should be made available to the intergovernmental negotiating committee.

103. Several representatives commended the work of UNEP and the partnership area on artisanal and small-scale gold mining under the Global Mercury Partnership, including efforts to support Governments in the development of national and regional strategic plans for dealing with mercury use in such mining. The representatives of two countries expressed appreciation for technical and financial support for awareness-raising and improved management in that sector, including from UNIDO and the Governments of Finland and the United States of America. One, however, called on UNIDO to extend urgently its operations to more African countries in a bid to raise awareness.

104. There was general agreement that artisanal and small-scale gold mining was of considerable importance as it provided many livelihoods in more than 70 countries, including for some of the world's poorest, and involved billions of dollars in annual cash flows. Several representatives said that it was important to bear in mind that mercury use in artisanal and small-scale gold mining posed social and economic, and not just environmental, problems.

105. There was also agreement that the problems posed by mercury use in the sector were substantial. One representative said that her Government therefore supported the identification in decision 25/5 of artisanal and small-scale gold mining as a priority area for near-term action. It was noted that mercury emissions had a global impact through long-range environmental transport but that the harmful effects of mercury use in artisanal and small-scale gold mining had a disproportionate impact on those closest to it, including in particular miners and mining communities, who faced severe health hazards and the degradation of local environments and food chains. Several representatives described those impacts in their countries, which were felt in particular by communities that were heavily dependent on fishing.

106. A number of representatives pointed out that the increasing price of gold was drawing more and more people to artisanal and small-scale gold mining, including women and children and those with little or no technical knowledge about the risks posed by mercury. One representative, speaking for the African region, said that artisanal and small-scale gold mining was of priority concern for the continent as both an environmental and social issue. The migration of people to work in the sector had disrupted social patterns and resulted in settlements near mining sites characterized by unhealthy living conditions, increased incidence of sexually transmitted diseases, erosion and contamination of waterways and fish. The representative of another African country said that artisanal and small-scale gold mining was responsible for 97 per cent of the mercury releases in her country and that the burning of amalgam in people's homes was widely practised, producing uncontrolled releases of mercury fumes.

107. There was general agreement, however, that while the problem was significant solutions did exist. One representative, outlining his country's support for projects on artisanal and small-scale gold mining, said that the presentations at the current session confirmed the fundamental lesson of those projects: promoting simple alternative technologies and educating mining communities could yield significant reductions in mercury releases but a broader framework such as a global convention could significantly enhance the success of such an approach by making it more sustainable and ensuring that it was extended to all geographic regions.

108. Others agreed that the solution lay in raising awareness among miners and mining communities about the risks posed by mercury use and the alternatives to it. In that context two representatives said that it was not possible to control mercury use in artisanal and small-scale gold mining merely through measures such as bans. Where such mercury use was banned it existed nevertheless due to smuggling and, in the absence of awareness-raising regarding risks and alternatives, it would continue.

109. Alternatives, however, would have to be financially viable, as experience had shown that less profitable alternatives would not be widely taken up. Several representatives noted further that solutions would have to take into account the differing circumstances of the many countries involved. In that vein one representative said that in her country mining by artisanal methods, with its characteristic use of mercury, was not always carried out on a small scale; medium-sized enterprises were also engaged in the practice. Several representatives said too that alternatives would not constitute solutions in the absence of adequate financial and technical assistance. An effective financial mechanism was therefore key to addressing the challenges posed by mercury use for artisanal and small-scale gold mining.

110. In response to a question about the effect of liberalizing gold trading laws, Mr. Telmer explained that in his view regulations that inhibited free trade could also have the unintended effect of interfering with economic incentives aimed at reducing the use of mercury for gold extraction. He also explained that while there was abundant information on alternatives to mercury for use in the artisanal and small-scale gold mining sector much of it was technical and thus of limited value for many in mining communities; there was therefore a need for awareness-raising materials aimed specifically at them as a means of accelerating the transition to non-mercury alternatives. Mr. Benaudat gave examples of alternative means of awareness-raising that had been adapted to local conditions and successfully employed, such as simplified brochures and theatrical performances. He also said in response to another question that much information existed on the health effects of mercury on those engaged in artisanal and small-scale gold mining from a number of studies, including studies conducted under the auspices of the Global Mercury Project, and was available on the Project website. Ms. Morales agreed about the need for awareness-raising, citing the example of a miner who, when interviewed for a newscast, professed to be unaware of any health risks associated with his work.

(c) Mercury in products and waste

111. During the session on mercury in products and waste the working group heard a presentation on the transition to mercury-free products and a presentation on mercury waste.

112. Mr. David Lennett, Natural Resources Defence Council and Zero Mercury Working Group, described the partnership goals and global demand for mercury for products. He also outlined the findings of the 2008 global report on mercury use in products and processes, levels of substitution, technology change-over and available substitutes (UNEP(DTIE)/Hg/OEWG.2/7/Add.1, annex), examined three product categories and drew conclusions for a successful transition to mercury-free products. Explaining that the use of mercury in products constituted an important sector, he said that a selective approach was required. The UNEP partnership programme expected a significant reduction over the following six years for batteries, electronic devices and measuring and control devices. In lighting, dental amalgam and other uses it was expected that more limited reductions would be obtained. The 2008 global report defined transition success as more than 50 per cent of Governments indicating that non-mercury substitutes were available and commonly used with no negative consequences, and two or more Governments indicating no mercury use for a product in 2009; he listed some products for which such transition success had been demonstrated. Alternatives to those products existed but obstacles remained for others. He went on to describe a range of products and the related legislation, in particular in the European Union and the United States of America, and their alternatives and transition status. In conclusion, he said that for most mercury products the alternative technology solution was known and in use. Issues of production capacity, quality control and cost might still arise in some parts of the world. Government mercury phase-out laws and policies frequently triggered manufacturer involvement and expedited production shifts; production increases could minimize price disparities. The remaining cost differential failed to reflect legacy costs for future generations or the increased cost of handling waste management. Finally, he noted that interrelated issues of production capacity, cost and quality control would benefit from a global instrument on mercury.

113. Mr. Ibrahim Shafii, Secretariat of the Basel Convention, gave a presentation on the mercury waste issue in the context of the work of the intergovernmental negotiating committee. He said that mercury posed special waste management challenges in that it could be contained in a form such that it did not circulate in the environment but could not be destroyed. The Basel Convention, he said, provided a framework for managing wastes containing mercury. Explaining how mercury waste was classified under the Convention, he said that other chemical conventions invoked the provisions of the Basel Convention for waste management rather than develop their own strategies, as exemplified by paragraph 2 of Article 6 of the Stockholm Convention and decision V/24 of the Meeting of the Parties of the Montreal Protocol. A similar approach, he suggested, could be followed for mercury.

114. He drew attention to technical guidelines aimed at assisting Parties in achieving the environmentally sound management of mercury wastes which were under development jointly with UNEP and, in that context, expressed appreciation to the Government of Japan for its support for that process. Finalization of the guidelines was expected before the completion of the mercury negotiations. Elaborating on the contents of the draft guidelines, which were to be presented to the Conference of the Parties at its tenth meeting in October 2011 for adoption, he said that they could be consulted on the Convention website.¹ The guidelines were being pilot tested in capacity-building projects in several countries, with funding from Norway and the United States of America, and comments were invited from stakeholders with a view to their improvement. In conclusion, he suggested that policies aimed at the reduction of mercury in products might be the most effective means to control mercury in waste.

115. In the ensuing discussion, all the representatives who took the floor expressed their appreciation to the secretariat for the presentations, which they said would provide useful information for the intergovernmental negotiating committee.

116. One representative, speaking on behalf of the partnership area lead, gave a progress report on the activities of the products partnership, in particular its successes in spurring voluntary and legislative action. The representative of Germany informed the group about a market analysis of mercury-containing products and alternatives in selected regions that his Government had funded. He briefly explained the methodology used in the study and added that its results shed light on the widely varying knowledge about the risks posed by mercury, the availability of mercury-free alternatives and the reasons why they were or were not used.

1 www.basel.int/techmatters/mercury/guidelines/040409.doc.

117. The group learned of successful initiatives by the European Union in restricting mercury content in certain products and other regulatory measures that had been adopted. In practice, mercury-free alternatives had proved to be technically and economically feasible in many areas. The representative of the European Commission gave an overview of the legal situation in the European Union with regard to mercury-containing products.

118. A number of representatives informed the group of their country's regulatory activities on mercury. One highlighted the issue of mercury products and waste as a key area of concern to African countries, which were usually at the receiving end as importers of mercury-containing products. They lacked information on the composition of products and did not have suitable analytical facilities. Many grave health issues were linked to the disposal of such products and exposure to mercury. Another pointed out that for countries like hers with large mining sectors the issue of mercury assumed great importance.

119. Another representative, relating his country's experience with a study on mercury-free alternatives in hospitals, noted that the results had not been fully successful and reminded the group that his country was introducing options for control measures for mercury and alternative technologies. Such options, he said, should take into account social and economic factors.

120. Some representatives highlighted the importance of legislation and other international provisions, in particular those under the Basel Convention. One explained that his country always attempted to bring its legislation on environmental matters into line with that of Europe and, in that context, expressed support for a proposal to make mercury substitutes accessible from a financial and technical viewpoint. Capacity-building, he said, was vital in that regard.

121. Another representative informed the group that, with a view to reducing the amount of mercury in the product life cycle, her country was prepared to consider the full range of options for dealing with products and processes discussed at the meetings of the Ad Hoc Open-ended Working Group on Mercury, and also other waste management options, giving particular attention to their flexibility and their suitability for implementation on a global scale.

122. The representative of UNITAR presented an overview of the projects through which his organization provided countries with assistance under the products partnership area. He described both current and planned future projects in several countries covering mercury inventory and risk management and set out some of the goals that UNITAR hoped to attain through those projects.

123. In conclusion, the Chair noted the need to ensure that, in the context of the intergovernmental negotiating committee, an appropriate relationship was established with the Basel Convention.

V. Report on activities under the UNEP mercury programme

A. Update of the study of mercury emissions

124. The representative of the secretariat introduced document UNEP(DTIE)/Hg/WG.Prep/1/6 on updating the study of mercury emissions prepared by UNEP, as requested by decision 25/5, for submission to the Governing Council at its twenty-seventh session. He noted that during the development of the report UNEP had identified a number of data and information gaps, which were listed in the annex to the document. UNEP would circulate requests for information to Governments and others in early 2010 and it was expected that during the updating process those gaps would be filled.

125. The group took note of the information provided.

B. Activities under the Global Mercury Partnership

126. The representative of the secretariat introduced a report on activities of the UNEP Global Mercury Partnership prepared by the Partnership Advisory Group (UNEP(DTIE)/Hg/WG.Prep/1/8). The report described a range of activities held under the Global Partnership during 2007 and 2008 in response to the call for interim activities set out in paragraph 34 of decision 25/5. An overarching framework for the Partnership and a current list of partnerships were set out in document UNEP(DTIE)/Hg/WG.Prep/1/INF/1. The UNEP Global Mercury Partnership newsletter would also shortly be available. Currently there were 44 partners in the partnership representing a broad constituency of members. Summarizing the activities she said that the Partnership supported a number of projects, including significant activities aimed at phasing out primary mercury mining and options for

long-term environmentally sound storage of mercury. In addition, supply and storage was a new area led by the Zero Mercury Working Group.

127. The group heard presentations on the current status of the partnerships on mercury releases from coal combustion from a representative of the Clean Coal Centre of the International Energy Agency; on mercury air transport and fate research from the representative of Canada on behalf of Italy (which was the lead for that partnership); and on mercury cell chlor-alkali production from a representative of the United States of America. Presentations on other partnerships were provided during the information sessions and are reflected in section C of chapter IV above.

128. All representatives who took the floor praised the partnerships programme, the lead countries and organizations and the contributors. It was noted that the earliest that a legally binding instrument might enter into force was 2013 and that meanwhile the partnerships provided a critical means of action to address the mercury challenge. Further development of the partnership process was advocated and it was suggested that the programme might also provide an impetus to develop national action on mercury. It was also suggested that the partnership programme should continue to expand and be strengthened to address priority action in the short term. It would not only serve as a means to inform the negotiation process on issues related to specific sectors but also suggest possible objectives and timelines for reducing mercury uses and releases. All countries were encouraged to contribute to the partnerships that afforded an opportunity to tackle work on mercury at the national level while continuing negotiations at the international level.

VI. Other matters

A. Offer to host the first session of the intergovernmental negotiating committee

129. The representative of Sweden, speaking on behalf of the Nordic Council of Ministers, which included Denmark, Finland, Iceland, Norway, Sweden, the autonomous territories of the Åland Islands, the Faroe Islands and Greenland, confirmed a pledge by the Nordic Council of Ministers to provide funding for the organization of the first session of the intergovernmental negotiating committee on mercury and the offer by her Government to host the session in Stockholm from 7 to 11 June 2010. She noted that Stockholm had been selected as a European Green Capital for 2010 and had received a European Commission award to encourage green practices and to identify where improvements could be made. She described the venue and said that she looked forward to welcoming participants to the session, adding that further information could be obtained on the website www.respoint.se/itp/event/inc1.

B. Travel and other arrangements

130. One representative reported that another representative from his region, owing to the terms of the air ticket that had been procured for her by the secretariat, had been forced to return to her country prior to the conclusion of the current meeting. As a result she had been unable to participate in some of the deliberations. Another participant from the region would have to spend excessive hours during the journey waiting for connecting flights. Asking that the present report reflect his displeasure he implored the secretariat to do all in its power to avoid such inconveniences in the future and to take all steps necessary to ensure that all representatives could participate fully in all meetings during the intergovernmental negotiating committee process for the entirety of their duration.

VII. Adoption of the report

131. The Working Group adopted the present report on the basis of the draft circulated during the meeting, on the understanding that finalization of the report would be entrusted to the Rapporteur, in consultation with the Chair and with the assistance of the secretariat.

VIII. Closure of the meeting

132. Following the customary exchange of courtesies the Chair declared the meeting closed at 5:15 p.m. on Friday, 23 October 2009.

Annex I

Draft rules of procedure for the intergovernmental negotiating committee to prepare a global legally binding instrument on mercury

I. Purposes

These rules of procedure shall govern the negotiation of a global legally binding instrument on mercury.

II. Definitions

Rule 1

1. “Party” means a State, or a regional economic integration organization that is a member of a specialized agency of the United Nations, participating in the work of the intergovernmental negotiating committee for a global legally binding instrument on mercury (hereinafter referred to as the committee). “Regional economic integration organization” means an organization constituted by sovereign States of a given region to which its member States have transferred competence in respect of matters covered by the committee’s work. Participation of such a regional economic integration organization shall in no case entail an increase in the representation to which the member States of that organization would otherwise be entitled.
2. “Chair” means the Chair elected in accordance with rule 8, paragraph 1, of these rules of procedure.
3. “Secretariat” means the secretariat provided by the Executive Director required to service the negotiations.
4. “Executive Director” means the Executive Director of the United Nations Environment Programme.
5. “Session” means any series of meetings convened in accordance with the present rules of procedure.
6. “Representatives present and voting” means representatives of Parties present and casting an affirmative or negative vote. Representatives who abstain from voting are considered as not voting.

III. Place and dates of sessions

Rule 2

The venue and dates of the sessions shall be decided by the committee in consultation with the secretariat.

IV. Agenda

Drawing up of the provisional agenda for a session

Rule 3

The Executive Director shall, after approval by the Bureau referred to in paragraph 1 of rule 8 below, submit to each session the provisional agenda for the following session. The provisional agenda shall include all items proposed by the committee.

Adoption of the agenda

Rule 4

At the beginning of each session, the committee shall adopt its agenda for the session based on the provisional agenda.

Revision of the agenda

Rule 5

During a session, the committee may revise the agenda for the session by adding, deleting or amending items. Only items that the committee considers to be urgent and important may be added to its agenda during the session.

V. Representation

Composition of delegations

Rule 6

The delegation of each Party shall consist of a head of delegation and such alternate representatives and advisers as may be required.

Alternates and advisers

Rule 7

The head of delegation may designate an alternate representative or an adviser to act as a representative.

VI. Officers

Elections

Rule 8

1. The committee shall elect from among the representatives of the Parties a Bureau comprising one Chair and nine Vice-Chairs, one of whom shall act as Rapporteur.
2. In electing the officers, the committee shall have due regard to the principle of equitable geographical representation. Each of the five regional groups shall be represented by two members of the Bureau.

Acting Chair

Rule 9

If the Chair finds it necessary to be absent from a session or any part thereof, he or she shall call upon a Vice-Chair to take his or her place.

Replacement of the Chair

Rule 10

If the Chair is unable to continue to perform his or her functions, a new Chair shall be elected for the unexpired term, with due regard to rule 8, paragraph 2.

Substitute members

Rule 11

If a Vice-Chair finds it necessary to be absent from a session or any part thereof, a new Vice-Chair shall be designated by the same regional group. Such substitution shall not exceed the period of one session.

Replacement of a Vice-Chair

Rule 12

If a Vice-Chair resigns or is otherwise unable to complete his or her term of office, a new Vice-Chair shall be elected for the unexpired term, with due regard to rule 8, paragraph 2.

VII. Secretariat

Rule 13

The Executive Director may designate his or her representative during the sessions.

Rule 14

The Executive Director shall provide and direct the staff of the secretariat required to service the negotiations, including any subsidiary organs that the committee may establish.

Rule 15

The Executive Director, or his or her designated representative, may, subject to rule 19, make oral and written statements to the committee and its subsidiary organs concerning any matter under consideration.

Rule 16

The Executive Director shall be responsible for convening sessions in accordance with rules 2 and 3 and for making all the necessary arrangements for sessions, including the preparation and distribution of documents at least six weeks in advance of the sessions.

Rule 17

The secretariat shall, in accordance with these rules: interpret speeches made at sessions; receive, translate and circulate the documents of the sessions; publish and circulate reports and relevant documentation to the Parties; have the custody of the documents in the committee's archives; and generally perform all other work that the committee may require.

VIII. Conduct of business

Quorum

Rule 18

1. The Chair may declare a session open and permit the debate to proceed when at least one third of the Parties participating in the session are present. The presence of a majority of Parties so participating shall be required for any decision to be taken.
2. For the purposes of determining a quorum for a decision to be taken on a matter within the competence of a regional economic integration organization, that organization shall be counted to the extent of the number of votes it is entitled to cast.

Powers of the Chair

Rule 19

In addition to exercising the powers conferred upon him or her elsewhere by the present rules, the Chair shall declare the opening and closing of each session, shall direct the discussion, ensure observance of the present rules, accord the right to speak, put questions to the vote and announce decisions. The Chair shall rule on points of order and, subject to the present rules, shall have control over the proceedings of the sessions and over the maintenance of order at sessions. The Chair may propose to the session the limitation of the time to be allowed to speakers, the limitation of the number of times each Party may speak on any subject, the closure of the list of speakers or the closure of the

debate. The Chair may also propose the suspension or the adjournment of the session or of the debate on the question under discussion.

Rule 20

The Chair, in the exercise of his or her functions, remains under the committee's authority.

Powers of the acting Chair

Rule 21

A Vice-Chair acting as Chair shall have the same powers and duties as the Chair.

The Chair shall not vote

Rule 22

The Chair shall not vote, but may designate another member of his or her delegation to vote in his or her place.

Speeches

Rule 23

No one may address the session without having previously obtained the Chair's permission. Subject to these rules, the Chair shall call upon speakers in the order in which they signify their desire to speak. The Chair shall call a speaker to order if his or her remarks are irrelevant to the subject under discussion.

Precedence

Rule 24

The Chair, Vice-Chair or a designated representative of any subsidiary organ that may be established subject to rule 48, may be accorded precedence in speaking for the purpose of explaining the conclusion arrived at by the subsidiary organ concerned and for the purpose of replying to questions.

Points of order

Rule 25

1. During the discussion of any matter, a representative of a Party may at any time raise a point of order and the point of order shall be immediately decided upon by the Chair in accordance with these rules. A representative of a Party may appeal against the Chair's ruling. The appeal shall be put to the vote immediately and the Chair's ruling shall stand unless overruled by a majority vote of the representatives present and voting.
2. A representative of a Party raising a point of order may not speak on the substance of the matter under discussion.

Time limit on speeches

Rule 26

The committee may limit the time allowed to each speaker and the number of times that each person may speak on any question, except on procedural questions, when the Chair shall limit each intervention to a maximum of five minutes. When debate is limited and a speaker has spoken for his or her allotted time, the Chair shall call him or her to order without delay.

Closing of list of speakers

Rule 27

During the course of a debate, the Chair may announce the list of speakers and, with the committee's consent, declare the list closed. The Chair may, however, accord the right of reply to any Party if, in his or her opinion, a speech delivered after he or she has declared the list closed renders this justified. When the debate on an item is concluded because there are no other speakers, the Chair, with the committee's consent, shall declare the debate closed.

Adjournment of debate

Rule 28

During the discussion of any matter, a representative of a Party may move the adjournment of the debate on the subject under discussion. In addition to the proposer of the motion, one representative of a Party may speak in favour of and one against the motion, after which the motion shall be immediately put to the vote.

Closure of debate

Rule 29

A representative of a Party may at any time move the closure of the debate on the subject under discussion, whether or not any other representative of a Party has signified his or her wish to speak. Permission to speak on the closure of the debate shall be accorded only to two representatives of Parties opposing the closure, after which the motion shall be immediately put to the vote. If the committee is in favour of the closure, the Chair shall declare the closure of the debate.

Suspension or adjournment of the session

Rule 30

During the discussion of any matter, a representative of a Party may move the suspension or the adjournment of the session. Such motion shall not be debated, but shall immediately be put to the vote.

Order of procedural motions

Rule 31

Subject to rule 25, and regardless of the order in which they are submitted, the following motions shall have precedence, in the following order, over all other proposals or motions before the session:

- (a) To suspend the session;
- (b) To adjourn the session;
- (c) To adjourn the debate on the subject under discussion;
- (d) To close the debate on the subject under discussion.

Proposals and amendments

Rule 32

Proposals and amendments shall normally be introduced in writing and submitted to the secretariat, which shall circulate copies to all representatives of Parties. As a general rule, no proposal shall be discussed or put to the vote at any session of the committee unless copies of it have been circulated in the official languages of the session to all representatives of Parties not later than the day preceding the session. Subject to the committee's consent, the Chair may, however, permit the discussion and consideration of proposals or amendments that have not been circulated or have only been circulated the same day.

Decisions on competence

Rule 33

Subject to rule 31, any motion calling for a decision on the committee's competence to adopt any proposal or any amendment submitted to it shall be put to the vote before a vote is taken on the proposal or amendment in question.

Withdrawal of proposals or motions

Rule 34

A proposal or a motion may be withdrawn by its proposer at any time before voting on it has commenced, provided that the proposal or the motion has not been amended. A proposal or motion that has thus been withdrawn may be reintroduced by another representative of a Party.

Reconsideration of proposals

Rule 35

When a proposal has been adopted or rejected, it may not be reconsidered at the same session unless the committee, by a two-thirds majority of the representatives present and voting, so decide. Permission to speak on a motion to reconsider shall be accorded only to two representatives of Parties opposing the motion, after which it shall immediately be put to the vote.

Voting rights

Rule 36

1. Each Party shall have one vote, except as provided for in paragraph 2.
2. A regional economic integration organization, on matters within its competence, shall exercise its right to vote with a number of votes equal to the number of its member States participating in the committee. Such an organization shall not exercise its right to vote if any of its member States exercises its right to vote, and vice versa.

Adoption of decisions

Rule 37

1. The committee shall make every effort to reach agreement on all matters of substance by consensus. If all efforts to reach consensus have been exhausted and no agreement reached, the decision shall, as a last resort, be taken by a two-thirds majority of the representatives present and voting.
2. Decisions of the committee on procedural matters shall be taken by a majority of the representatives present and voting.
3. Where there is disagreement as to whether a matter to be voted on is a substantive or procedural matter, that issue shall be decided by a two-thirds majority of the representatives present and voting.

Method of voting

Rule 38

Subject to rule 44, the committee shall normally vote by show of hands, but any representative of a Party may request a roll-call, which shall then be taken in the English alphabetical order of the names of the Parties, beginning with the Party whose name is drawn by lot by the Chair. If, however, at any time a Party requests a secret ballot, that shall be the method of voting on the issue in question.

Recording of roll-call

Rule 39

The vote of each Party participating in a roll-call shall be recorded in the relevant documents of the session.

Conduct during voting

Rule 40

After the Chair has announced the beginning of voting, no representative of a Party shall interrupt the voting except on a point of order in connection with the actual conduct of the voting. The Chair may permit representatives of Parties to explain their votes, either before or after the voting, except when the vote is taken by secret ballot. The Chair may limit the time to be allowed for such explanation. The Chair shall not permit the proposer of a proposal or of an amendment to explain his or her vote on his or her own proposal or amendment.

Division of proposals or amendments

Rule 41

A representative of a Party may move that parts of a proposal or of an amendment shall be voted on separately. If objection is made to the request for division, the motion for division shall be voted upon. Permission to speak on the motion for division shall be given only to two representatives of Parties in favour and two against. If the motion for division is carried, those parts of the proposal or of the amendment that are subsequently approved shall be put to the vote as a whole. If all operative parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

Voting on amendments

Rule 42

1. When an amendment to a proposal is moved, the amendment shall be voted on first. When two or more amendments to a proposal are moved, the committee shall vote first on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest therefrom and so on, until all the amendments have been put to the vote. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon. If no amendments are adopted, the proposal shall be put to the vote in its original form.
2. A motion is considered an amendment to a proposal if it adds to, deletes from or revises part of that proposal.

Voting on proposals

Rule 43

1. If two or more proposals are related to the same question, the committee shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. The committee may, after each vote on a proposal, decide whether to vote on the next proposal.
2. Any proposals or motions requiring that no decision be taken on the substance of such proposals shall, however, be considered as previous questions and shall be put to the vote before them.

Elections

Rule 44

All elections shall be held by secret ballot unless, in the absence of any objection, the committee decides to proceed without taking a ballot when there is an agreed candidate.

Rule 45

1. If, when one person or Party only is to be elected, no candidate obtains, in the first ballot, the majority required, a second ballot shall be taken, restricted to the two candidates obtaining the largest number of votes. If in the second ballot the votes are equally divided, the Chair shall decide between the candidates by drawing lots.
2. In the case of a tie in the first ballot among the candidates obtaining the second largest number of votes, a special ballot shall be held for the purpose of reducing the number of candidates to two. In the case of a tie among three or more candidates obtaining the largest number of votes, a second ballot shall be held. If a tie results among more than two candidates, the number shall be reduced to two by lot and the balloting, restricted to them, shall continue in accordance with the preceding paragraph.

Rule 46

1. When two or more elective places are to be filled at one time under the same conditions, those candidates obtaining the required majority on the first ballot shall be elected.
2. If the number of candidates obtaining such majority is more than the number of places to be filled, those candidates obtaining the largest number of votes shall be elected.
3. If the number of candidates obtaining such majority is less than the number of places to be filled, additional ballots shall be held to fill the remaining places, the voting being restricted to the candidates obtaining the greatest number of votes in the previous ballot, who shall number not more than twice the places remaining to be filled. In the case of a tie between a greater number of unsuccessful candidates, however, a special ballot shall be held for the purpose of reducing the number of candidates to the required number.
4. If three restricted ballots are inconclusive, unrestricted ballots shall follow in which votes may be cast for any eligible person or member. If three such unrestricted ballots are inconclusive, the next three ballots (subject to exception in a case similar to that of the tie mentioned at the end of the previous paragraph of this rule) shall be restricted to the candidates obtaining the greatest number of votes in the third of the unrestricted ballots. The number of such candidates shall be not more than twice the number of places remaining to be filled.
5. The following three ballots thereafter shall be unrestricted and so on, until all the places are filled.

Equally divided votes**Rule 47**

If a vote is divided equally on matters other than elections, the proposal shall be regarded as rejected.

IX. Subsidiary organs**Subsidiary organs of the sessions, such as working groups and expert groups****Rule 48**

1. The committee may establish such subsidiary organs as may be necessary for the effective discharge of its functions.
2. Subject to paragraph 2 of rule 8, each subsidiary organ shall elect its own officers. The number of such officers shall be no more than five.
3. The rules of procedure of subsidiary organs shall be those of the committee, as appropriate, subject to such modifications as the committee may decide upon in the light of proposals made by the subsidiary organs concerned.

X. Languages and records

Languages of the sessions

Rule 49

Arabic, Chinese, English, French, Russian and Spanish shall be the languages of the sessions.

Interpretation

Rule 50

1. Speeches made in a language of the session shall be interpreted into the other languages.
2. A representative may speak in a language other than a language of the session. In this case he or she shall himself or herself provide for interpretation into one of the languages of the session, and interpretation into the other languages by the interpreters of the secretariat may be based on the interpretation given in the first language.

Languages of official documents

Rule 51

Official documents shall be made available in the languages of the session.

XI. Public and private meetings

Plenary meetings

Rule 52

The plenary meetings shall be held in public unless the committee decides otherwise. All decisions taken at a private meeting shall be announced at an early public meeting.

Other meetings

Rule 53

Meetings of subsidiary organs, other than any drafting group that may be set up, shall be held in public unless the organ concerned decides otherwise.

XII. Observers

Participation of observers

Rule 54

Observers may participate in the work of the session in accordance with the established practice of the United Nations General Assembly.

Observers from non-governmental organizations

Rule 55

Relevant non-governmental organizations participating in the session as observers may make their contributions to the negotiating process, as appropriate, on the understanding that these organizations shall not have any negotiating role during the process and taking into account decisions 1/1 and 2/1, adopted by the Preparatory Committee for the United Nations Conference on Environment and Development at its first and second sessions, concerning the participation of non-governmental organizations.

XIII. Suspension and amendment of the rules of procedure

Rule 56

A rule of procedure may be amended or suspended by a decision of the committee taken by consensus provided that 24 hours notice of the proposal has been given.

Annex II

Information to be provided to the intergovernmental negotiating committee at its first session

1. **Outcomes of the meeting of the open-ended working group**
 - (a) Report of the meeting of the ad hoc open-ended working group to prepare for the intergovernmental negotiating committee on mercury, including the draft rules of procedure;
 - (b) The materials presented at the information sessions that took place during the meeting.
2. **Materials addressing the following**
 - (a) Description of options for the structure of the mercury instrument, based upon the provisions of paragraph 27 of Governing Council decision 25/5 and reflecting the comprehensive and suitable approach called for in that decision;
 - (b) Description of options for substantive provisions that might be included on effective implementation of the instrument, based upon the provisions of paragraph 27 of Governing Council decision 25/5 and relevant provisions from other conventions and taking into account, among other things, the principles of the Rio Declaration on Environment and Development;
 - (c) A possible tool, structured in accordance with the provisions of Governing Council decision 25/5, for tracking the progress of the intergovernmental negotiating committee in developing provisions of the mercury instrument relating to obligations, compliance and commitments related to financial and technical assistance and capacity-building for developing countries, especially least developed countries and small island developing States, and countries with economies in transition;
 - (d) Standard articles on final provisions that are typically included in multilateral environmental agreements;
 - (e) Options for predictable and efficient financial assistance arrangements based on examples from other multilateral environmental agreements, including options under the direct authority of the Parties, based on previously prepared assessments and updated to take into account issues of particular relevance to mercury;
 - (f) Options for the delivery of technical assistance and capacity-building based on examples from other multilateral environmental agreements, including the use of regional and other centres such as those of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal and the Stockholm Convention on Persistent Organic Pollutants, based on previously prepared assessments and updated to take into account issues of particular relevance to mercury;
 - (g) Key concepts, procedures and mechanisms of legally binding multilateral agreements that may be relevant to furthering compliance under the mercury instrument;
 - (h) Effectiveness evaluation arrangements in other conventions and possible approaches to establishing baselines;
 - (i) The concept of “essential use” as it is used in other international agreements;
 - (j) A glossary of key terms;
 - (k) Progress in the preparation of the study called for in paragraph 29 of Governing Council decision 25/5;
 - (l) International trade law that may be relevant to the future mercury instrument, including provisions on trade set out in relevant existing conventions;
 - (m) Provisions of the Basel Convention relevant to mercury;
 - (n) Activities under the Strategic Approach to International Chemicals Management relevant to reducing the risks from mercury;

- (o) Synergies and institutional cooperation and coordination with related multilateral environmental agreements and policies;
- (p) Progress of the consultative process on financing options for chemicals and wastes led by the United Nations Environment Programme.

3. Updates of the following documents

- (a) The note prepared by the secretariat for the current meeting on relevant issues being considered in international forums and their possible impact on the mercury negotiation process (UNEP(DTIE)/Hg/WG.Prep/1/7), to include:
 - (i) Developments in relation to existing multilateral environmental agreements;
 - (ii) Efforts to enhance synergies in the chemicals and waste cluster, including an update following the first simultaneous extraordinary meetings of the conferences of the Parties to the Basel Convention, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the Stockholm Convention;
 - (iii) Progress in the climate change negotiations;
 - (iv) Progress in the Global Environment Facility replenishment negotiations;
- (b) Report on supply, trade and demand information for mercury (UNEP/GC/24/INF/17, annex II, appendix I (November 2006));
- (c) Note prepared by the secretariat for the current meeting on the timetable for the mercury negotiations (UNEP(DTIE)/Hg/WG.Prep/1/4) – amendment of paragraph 10 to include the additional criterion, “direct relevance for concrete measures on the ground”;
- (d) Note prepared by the secretariat for the current meeting on information that might assist the intergovernmental negotiating committee to prepare a global legally binding instrument on mercury (UNEP(DTIE)/Hg/WG.Prep/1/9) – update of the table of information;
- (e) Report prepared by the secretariat for the second meeting of the Ad Hoc Open-ended Working Group on Mercury presenting the costs and benefits for each of the strategic objectives (UNEP(DTIE)/Hg/OEWG.2/5/Add.1);
- (f) Report prepared by the secretariat for the second meeting of the Ad Hoc Open-ended Working Group on Mercury on information, based on experience with existing legally binding and voluntary arrangements, on how sustainable technology transfer and support could be facilitated for global mercury control actions (UNEP(DTIE)/Hg/OEWG.2/10).

4. Materials from other sources, including non-governmental organizations, that could be made available through the secretariat

- (a) Arctic Monitoring and Assessment Programme reports;
- (b) European Union study on storage requirements and stabilization referred to during plenary discussions;
- (c) Work under the Convention on Long-Range Transboundary Air Pollution on best available techniques relating to emission limit values;
- (d) Guidance documents developed within the scope of the UNEP Global Mercury Partnership, in particular but not limited to guidance on technical requirements for long-term storage;
- (e) National and regional assessment tools and actions to control mercury;
- (f) National assessments of the costs of inaction;
- (g) Methodologies on environmental and health risk assessments and technical guidelines on and descriptions of good practices for mercury risk management;
- (h) Relevant reports from the World Health Organization and other sources;
- (i) Approaches for assisting the transition of workers who currently depend for their livelihoods on activities that release mercury;

- (j) Compilation of information on best available techniques and best environmental practices for the disposal of mercury-containing waste, including an update on the development of the Basel Convention mercury waste guidelines;
 - (k) Information on mercury releases to water bodies and their health effects (sufficient information may be available in the document entitled “Guidance for identifying populations at risk from mercury exposure” (August 2008) (available online at www.chem.unep.ch/mercury/IdentifyingPopnatRiskExposuretoMercuryFinalAugust08.pdf).
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