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Agenda item 3 of the provisional agenda*

**Review and assessment of options for enhanced voluntary measures
and new or existing international legal instruments**

**Expanded voluntary approach for mercury: information document
submitted by the Government of the United States of America**

The secretariat has the honour to provide, in the annex to the present note, an information document submitted by the United States of America on an expanded approach to the programmatic and organizational structure on mercury for the information of the Working Group at its second meeting. The submission has been reproduced without formal editing.

* UNEP(DTIE)/Hg/OEWG.2/1.

Annex

Submission by the United States of America Information Document on an Expanded Approach

The Programmatic and Organizational Structure on Mercury (POSM) A Comprehensive and Strategic Voluntary Instrument

Preface

Governments have discussed global approaches to mercury for several years under the auspices of the United Nations Environment Program (UNEP) and, in 2005, established the Global UNEP Mercury Partnership. These mercury discussions have continued in the UNEP-hosted Ad Hoc Open Ended Working Group (AHOEWG), where some governments favor more robust voluntary approaches and others advocate for a new or existing treaty to take up the mercury challenge. For consideration by the AHOEWG, the United States offers the following elements of an expanded, voluntary framework for addressing mercury contamination. We believe this framework offers a vehicle for continued action and progress, building upon a number of important steps that UNEP has taken, such as the 2002 Global Mercury Assessment, the 2006 Trade Report, the development of the overarching framework for the UNEP Global Mercury Partnership, as well as its goal and sector objectives, and the draft 2008 Emissions Study.

Introduction

The United States proposes that the AHOEWG discuss the merits of an enhanced framework, the Programmatic and Organizational Structure on Mercury (POSM), and forward this approach to the UNEP Governing Council (GC) in February 2009 for consideration. Once adopted by the GC, implementation could begin immediately, allowing for quick, focused international cooperation and capacity building, funding, and meaningful commitments toward mercury reductions.

There are a number of other successful examples of voluntary instruments, such as the Non-Legally Binding Instrument on All Types of Forests adopted by the United Nations General Assembly in October 2007, noted for its viability and robustness, and the Group on Earth Observations (GEO), an international coordinating and monitoring system. These agreements are successful, voluntary systems that facilitate and build on the desire of national governments to achieve greater environmental protection through international cooperation. In this respect, both GEO and the Non-Legally Binding Instrument on All Types of Forests are useful models for creating a mechanism to address mercury contamination.

UNEP could follow a similar model with respect to mercury pollution by strengthening the Partnership framework that has been agreed to by further negotiating a detailed, voluntary instrument with open-ended intergovernmental membership, a small but balanced implementing body, and an efficient meeting structure with a list of key responsibilities. The “negotiation process” could produce a number of documents to support and expand the current framework, such as a political statement, terms of reference, and a program of work to address the need for enhanced capacity building and financing. UNEP, the Mercury Partnership, international and regional organizations, and other existing implementing agencies would be utilized to achieve the goals of the POSM. In addition, the POSM would establish a dedicated, voluntary fund to be financed by developed and major emerging economies. This fund would act in addition to other established financing mechanisms, such as the GEF and the QSP.

What Would the GC Decision Look Like?

- The resolution would include:
 - Statement of political commitments
 - Articulation of scientific rationale for additional action on mercury
 - Reiterate support for the Partnership, its Advisory Group, and the existing business plans and programs of work
 - Recognition of need for enhanced support to developing countries
 - Invitation to Rotterdam Convention Parties to consider submitting appropriate documentation in order to initiate the process for establishing prior informed consent procedures for elemental mercury, offering an opportunity to improve the ability of a country to control the flow of mercury into its territory.

- The POSM could elaborate on: (see Annex I for details)
 - Global emissions and use reduction goals that are numeric and near term
 - Commitment to develop national plans of actions and sector specific goals
 - Dedicated funding source to help developing countries achieve goals
 - Annual reporting provisions across all areas covered by the POSM
 - Governing body and meeting schedule
 - Secretariat

What are the benefits of the POSM ?

- Incorporates the significant work of the Mercury Partnership into an enhanced structure
- Promotes immediate global action in priority areas through a targeted mechanism
- Fosters truly global action by using a framework in which all governments can fully participate
- Directs more funding to implementation because of lighter infrastructure and lower overhead costs
- Focuses funds on priority areas where action is most needed to achieve global environmental benefit and protect human health
- Allows countries to identify areas where most progress can be achieved through flexible design

What Actions Might POSM Take?

Emissions

- Development and application of Best Available Technology/Best Environmental Practice guidance for key sectors with largest emissions including, for example, combustion, smelting, cement production, incineration, industrial processes that use mercury.
- Support for the UNIDO goal of reducing releases from artisanal mining by 50% by 2015 and development of an action plan for achieving that goal.
- Application of activities and technologies to achieve country-specific, sectoral, and/or global goals tied to flexible BAT/BEP reductions that reflect appropriate baselines/progress achieved to date.

Global Demand in Products and Processes

- Agree to a global demand reduction goal for mercury use in products and processes built on identified reduction opportunities.
- Development of information tools on availability and costs of alternative products to facilitate progress toward goal.
- Development and application of best practices guidance on reducing/eliminating mercury use for industrial uses and artisanal mining, including support for the UNIDO goal of reducing demand for mercury in artisanal mining by 50% by 2017.
- Commitment to prevent the construction of new mercury-cell chlor-alkali production facilities.

Supply

- Development of best practices for capture and reuse of mercury and, where appropriate, agreement to apply best practices, including sound storage and sequestration of surplus mercury.
- Strategic plan to end primary mining with guidance on how to increase viability of environmentally preferable sources of mercury.
- Invitation for the Parties to the Rotterdam Convention for further action on mercury.

ANNEX I

What Could the POSM Look Like in Detail?

We welcome further discussion on the structure of the POSM which could follow the model outlined below:

Scope of Work

- Identify priority areas for international cooperation and assistance, such as emissions and supply using GC Decision 24/3 as basis.
- Identify additional areas for technical assistance and sharing of best practices on national priorities, such as contaminated sites.
- Request UNEP Chemicals to function as the Secretariat of the POSM.

Mercury Reduction Goals

- Develop mercury reduction goals and timeframes, potentially on a sectoral basis, and be informed to the extent appropriate by existing goals and objectives developed through the UNEP Mercury Partnership or other relevant efforts.
- Governments would identify domestic priority actions to contribute to global reduction goals in specific sectors. These actions could then be implemented through national action plans that are communicated to the Secretariat, with annual progress reports. Best practices or equivalent technologies could be identified in the National Plan and adopted with due consideration for specific national circumstances.

National Plans

- International agreement to develop national plans which contribute to global mercury reduction goals. Such plans would be provided to Secretariat and information on efforts to implement national plans updated and communicated annually.

Governing Body- the Strategic Mercury Advisory Council

- Establishing a Strategic Mercury Advisory Council (SMAC) as the governing body for the POSM. The SMAC would be open to all interested governments, could meet biennially concurrent with GMEF, and adopt rules of procedure by consensus of governments at its first meeting.
- SMAC to establish a subsidiary body, balanced between 10 donor and 10 recipient countries, to meet twice a year to: advise the SMAC on a regular basis; manage the POSM fund; develop, review, and approve project guidelines under the Fund; create technical groups to develop best practices and review National Plans and their progress toward POSM goals. The subsidiary body would be informed by the work of the Partnership and its Advisory Group, and other relevant institutions.

The Mercury Fund

- Agreeing to annual funding of approximately \$20 million per year¹ for the first four years, to be reviewed thereafter every four years. Contributors to include major emerging economies.

Contribution of UNEP Mercury Partnership and Partnership Advisory Group (PAG)

- The UNEP Mercury Partnership to serve as an implementing arm to develop projects with funding from the Mercury Fund or other sources.
- Recognize the ongoing role of the PAG in administering the work of the Partnership, including: review of progress toward goals and implementation of the business plans; assure consistency in applying operational guidelines; and report on activities.

How Would Projects under the Mercury Fund Come Forward?

A country seeking assistance would first develop a National Plan that contains specific information on reductions it would like to achieve over a specified timeframe. The National Plan, which can be developed with assistance from the Mercury Fund, if needed, would constitute a country's domestic consensus and commitment for action on mercury. A country could then submit projects to implement the plan to the Mercury Fund. Projects must demonstrate progress toward the country-specific goal and be brought forward by the country, working with an established implementing agency. Similar to arrangements under the Montreal Protocol's Multilateral Fund, a project would constitute a contractual arrangement with the recipient country to achieve the specified reductions.

Projects could also be brought forward by countries through the Mercury Partnership, which would serve as one implementing agency under the POSM Mercury Fund. Projects already underway or in the sector business plans of the Mercury Partnership would continue.

Projects would identify local government in-kind and direct support (at least 50%) for the project and plans for sustaining the progress achieved, including identifying private sector or NGO contribution, where appropriate. Double funding or funding outside the survey baseline would render a program ineligible for assistance. Failure to meet the terms of the project could jeopardize further funding and disbursement would be contingent on satisfying the reporting and verification.

¹ The figure of \$20 million annually is derived as follows. We assume that ¼ of eligible countries will come forward each year. Of those that come forward, 2/3rd in the initial years are assumed to be requests for National Plans and Surveys and the remaining 1/3rd are for implementation, recognizing that significant survey work has already been funded by UNEP. The average value of the plan/survey is expected to be about \$350k each and implementation projects at \$500k each. In addition, funds would be required for the development of best practice documents and other technical assistance tools, bringing total estimated assistance to about \$16 million USD. It is anticipated that Secretariat and meeting costs will be approximately \$4 million per year. We would expect that once the Fund is established, the ratio between Secretariat and implementation costs would go down.