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**Intergovernmental negotiating committee
to prepare a global legally binding
instrument on mercury
First session
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**Draft report of the intergovernmental negotiating committee to
prepare a global legally binding instrument on mercury on the
work of its first session**

Introduction

1. At its twenty-fifth session, by section III of decision 25/5 of 20 February 2009, the Governing Council of the United Nations Environment Programme (UNEP) agreed to the elaboration of 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.

2. The Governing Council agreed further, in paragraph 27 of the decision, that the task of the intergovernmental negotiating committee was to develop a “comprehensive and suitable approach to mercury” that included provisions:

- (a) To specify the objectives of the instrument;
- (b) To reduce the supply of mercury and enhance the capacity for its environmentally sound storage;
- (c) To reduce the demand for mercury in products and processes;
- (d) To reduce international trade in mercury;
- (e) To reduce atmospheric emissions of mercury;
- (f) To address mercury-containing waste and remediation of contaminated sites;
- (g) To increase knowledge through awareness-raising and scientific information exchange;
- (h) To specify arrangements for capacity-building and technical and financial assistance, recognizing that the ability of developing countries and countries with economies in transition to implement some legal obligations effectively under a legally binding instrument is dependent on the availability of capacity-building and technical and adequate financial assistance;
- (i) To address compliance.

3. In paragraph 28 of decision 25/5 the Governing Council agreed that in its deliberations the intergovernmental negotiating committee should consider:

- (a) Flexibility in that some provisions could allow countries discretion in the implementation of their commitments;

- (b) Approaches tailored to the characteristics of specific sectors to allow transition periods and phased implementation for proposed actions, where appropriate;
- (c) Technical and economic availability of mercury-free alternative products and processes, recognizing the necessity of the trade in essential products for which no suitable alternatives exist and to facilitate the environmentally sound management of mercury;
- (d) Need to achieve cooperation and coordination and to avoid the unnecessary duplication of proposed actions with relevant provisions contained in other international agreements and processes;
- (e) Prioritization of the various sources of mercury releases for action, taking into account the necessity for developing countries and countries with economies in transition to achieve sustainable development;
- (f) Possible co-benefits of conventional pollutant control measures and other environmental benefits;
- (g) Efficient organization and streamlined secretariat arrangements;
- (h) Measures to address risks to human health and the environment as a consequence of anthropogenic mercury releases;
- (i) Any other aspects that the intergovernmental negotiating committee may consider relevant to mercury control.

4. In paragraph 32 of decision 25/5 the Governing Council requested the Executive Director to convene an ad hoc open-ended working group to discuss the negotiating priorities, timetable and organization of the intergovernmental negotiating committee. The ad hoc open-ended working group met in Bangkok from 19 to 23 October 2009 and agreed on a number of recommendations to the committee. Those recommendations are recorded in the report of the working group's meeting, which is reproduced in document UNEP(DTIE)/Hg/INC.1/INF/1.

I. Opening of the session

5. The first session of the intergovernmental negotiating committee to prepare a global legally binding instrument on mercury was opened at 10.20 a.m. on 7 June 2010 by Mr. Per Bakken, Head, Chemicals Branch, UNEP Division of Technology, Industry and Economics. Mr. Bakken welcomed the meeting participants and introduced Ms. Angela Cropper, Deputy Executive Director of UNEP, who made opening remarks. Following Ms. Cropper's remarks Mr. Andreas Carlgren, Minister for the Environment of Sweden, made a welcoming statement on behalf of the host Government.

6. Welcoming the meeting participants, Ms. Cropper observed that the committee was starting its work at an appropriate time and place, as Stockholm had hosted the historic United Nations Conference on the Human Environment 38 years earlier almost to the day. Since then, the international community had made great progress in responding to the global challenges posed by the use of hazardous chemicals, including through the Basel Convention on the Control of Transboundary Movements of Hazardous Chemicals and Their Disposal, 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. Much work remained to be done, however, to achieve the goal set at the 2002 World Summit on Sustainable Development that by 2020 chemicals were used and produced in ways that led to the minimization of significant adverse effects on human health and the environment.

7. Successfully concluding negotiations on global measures to reduce the risks to health and the environment from mercury pollution would be an important step towards achieving the 2020 goal and would address a major health threat to the lives of hundreds of millions of people around the world. She noted that all countries agreed that incidents like that which had occurred in Japan's Bay of Minamata more than forty years earlier must never happen again. Lower-level mercury poisonings nevertheless continued to occur, for example in the artisanal and small-scale gold mining sector. At a lower level still, both people and animals absorbed mercury into their bodies from everyday products, from industrial processes and coal-fired power stations and through the food that they ate. The consequences of such low-level exposures were of increasing concern.

8. To facilitate financial contributions to support the process, plans were under way to establish a mechanism, modelled perhaps on the Stockholm Convention's successful "POPs Club", for recognizing those Governments, organizations and partners that contributed financially or in other ways to ensuring

the successful outcome of the negotiations. The task and timetable before the committee were considerable and many important issues had to be resolved, including the critical links between implementation and compliance, but the negotiations presented a unique and historic opportunity to establish the means for eliminating anthropogenic releases of mercury to the greatest possible extent.

9. Mr. Carlgren welcomed the meeting participants on behalf of the host country and underscored the important challenge presented by mercury emissions to the global efforts to protect the environment and human health from hazardous substances. He expressed the hope that the negotiations would prove to be a milestone in those efforts and would result in an instrument that would stand as a worthy partner to the Basel, Rotterdam, and Stockholm Conventions and the Strategic Approach to International Chemicals Management.

10. For several decades, he said, Sweden and other countries had responded to evidence of increasing levels of mercury in the environment with national legislation. Swedish efforts had begun with research on contamination levels, recommendations on food intake limits, especially for pregnant women, and national bans on the use of mercury in some commercial products. Recently Sweden had enacted its strongest policy to date, a general ban on all uses of mercury. The success of the ban, on which Sweden would report at the second session of the committee, showed that countries could do without mercury and that concerted global action was feasible. The Nordic Council of Ministers had also been active in addressing mercury, including through support for the UNEP mercury programme. A recent report by the Council showed that controlling mercury not only benefited the environment and human health but also had important social and economic benefits.

11. Notwithstanding the success of Sweden's national measures, he said, national and regional actions were not enough. Both Sweden and the Nordic Council believed that, owing to the long-range environmental transport of mercury, only coordinated global action could successfully confront the risks that it posed. Likening the negotiation of a mercury instrument to erecting a strong building, he urged the representatives to act as both innovative architects and careful and efficient builders. With committed effort over the next three years, they could erect a new and much needed international agreement and help to safeguard the environment and the health of current and future generations.

12. Following Mr. Carlgren's statement a children's singing group, "Next Generation", performed two songs: "Yellow and Blue", whose colours recalled both the sun and the sky and the Swedish national colours; and "I Have a Dream", by the well-known Swedish group ABBA.

II. Election of officers

13. As its first act the committee elected Mr. Fernando Lugris (Uruguay) Chair of the committee by acclamation.

14. Following his election the Chair recalled that at its meeting the open-ended working group had agreed to recommend that the committee should adopt the draft rules of procedure set out in annex I to the report of the working group's meeting, which were before the committee in the annex to document UNEP(DTIE)/Hg/INC.1/3.

15. The Chair explained that it would be necessary to elect the officers of the committee before the meeting could proceed further and that it would therefore be necessary as a threshold matter for the committee to adopt a rule of procedure governing the election of officers. At his suggestion the committee accordingly adopted rule 8 of the draft rules of procedure recommended by the working group. The committee then elected the following Vice-Chairs of the committee by acclamation:

Mr. Yianxian Xia (China)
 Ms. Katerina Sebkova (Czech Republic)
 Ms. Gillian Guthrie (Jamaica)
 Mr. Mohammed Khashashneh (Jordan)
 Mr. Oumar Diaoure Cissé (Mali)
 Ms. Abiola Olanipekun (Nigeria)
 Mr. Vladimir Lenev (Russian Federation)
 Ms. Nina Cromnier (Sweden)
 Mr. John Thompson (United States of America)

Ms. Cromnier agreed to serve also as Rapporteur.

III. Organizational matters

A. Adoption of the rules of procedure

16. Following the election of the Bureau the committee adopted its rules of procedure on the basis of the draft rules of procedure set out in the annex to document UNEP(DTIE)/Hg/INC.1/3, as revised to correct a number of minor editorial errors. The rules of procedure as adopted are set out in annex I to the present report.

B. Adoption of the agenda

17. The intergovernmental negotiating committee adopted the following agenda on the basis of the provisional agenda that had been circulated in document UNEP(DTIE)/Hg/INC.1/1:

1. Opening of the session.
2. Election of officers.
3. Organizational matters:
 - (a) Adoption of the rules of procedure;
 - (b) Adoption of the agenda;
 - (c) Organization of work.
4. Preparation of a global legally binding instrument on mercury.
5. Other matters.
6. Adoption of the report.
7. Closure of the session.

C. Organization of work

18. At the suggestion of the Chair the committee 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 endeavour to carry out its work in plenary session.

19. The session was conducted as a paperless meeting: except upon request all documents were made available in electronic rather than printed form.

20. During its deliberations the committee had before it numerous working and information documents prepared by the secretariat pertaining to the provisions listed in paragraph 27 of decision 25/5, which would be discussed under item 4 of the agenda. At the request of the ad hoc open-ended working group to prepare for the intergovernmental negotiating committee, the committee also had before it a number of background documents prepared in response to previous decisions of the Governing Council and requests by the ad hoc open-ended working group on mercury. To assist the committee in keeping track of the documents before it the secretariat had prepared document UNEP(DTIE)/Hg/INC.1/INF/6, which listed those documents according to the paragraph 27 provisions to which they pertained.

21. The committee also had before it a draft matrix prepared by the secretariat in response to a request made during the meeting of the ad hoc open-ended working group to prepare for the intergovernmental negotiating committee, which was set out in the annex to document UNEP(DTIE)/Hg/INC.1/6. The purpose of the matrix was to assist the committee in tracking its progress in developing provisions of the instrument to be negotiated relating to obligations, compliance with those obligations and commitments in respect of financial and technical assistance. The committee agreed that the secretariat should use the matrix to keep track of progress in the negotiations for the benefit of the committee. One representative said that the matrix should be amended to include specific goals and indicators in respect of the financial and technical assistance necessary to enable implementation of the treaty. In response the chair indicated that the secretariat would take that comment into account and that it would be necessary for all States to work with the secretariat to make the matrix as effective as possible.

IV. Preparation of a global legally binding instrument on mercury

22. At the suggestion of the Chair the committee agreed that it would commence its consideration of agenda item 4 with general statements from regional groups, States, intergovernmental organizations and non-governmental organizations and that it would then proceed to discuss separately and in greater detail each of the provisions listed in paragraph 27 of decision 25/5.

23. Following that agreement the chair recalled the mandate of the committee, as set forth in the introduction above. The representative of the secretariat then briefly reviewed the documents relevant to the item, highlighting in particular document UNEP(DTIE)/Hg/INC.1/5, which presented options for substantive provisions that might be included in the legally binding instrument on mercury other than provisions on financial and technical assistance and compliance. He noted that in accordance with the ad hoc open-ended working group's request, the document neither pre-empted possible positions that countries might take nor suggested text for a legally binding instrument, but merely described options for provisions drawing on relevant existing instruments.

A. General statements

24. During the general statements the representatives who spoke expressed appreciation to the Government of Sweden for hosting the meeting and to the UNEP secretariat for its preparatory work. They also thanked the Nordic Council of Ministers for its support for the session.

25. There was a general consensus that a robust and comprehensive legally binding instrument on mercury was needed, and many representatives said that their countries would fully support the negotiating process. Several representatives highlighted their countries' experiences in dealing with the harmful impacts of mercury, suggesting that they would be useful in the discussions to come.

26. Several representatives said that the negotiations should involve all stakeholders from the outset. Several said that, given the importance of human health in the negotiations, occupational health and safety organizations should participate in the negotiations. One representative said that regional centres and UNEP regional offices should be involved as they were familiar with current conditions and needs in the regions. Several representatives said that civil society needed to be involved in the negotiation of the instrument and in the process of reducing mercury use. A number of representatives advocated coordination with existing instruments in the chemicals and wastes area so as to seek synergies, avoid overlapping mandates and duplication of efforts and take advantage of relevant experience. Several representatives stressed the need for transparency in the negotiations and said that all information and documentation should be readily available in the six official languages of the United Nations.

27. Regarding the terms of the instrument to be negotiated, several representatives stressed that it should cover the entire life cycle of mercury, while one said that it should cover only mercury and no other substances. Many representatives said that the instrument should protect the environment and human health for the benefit of future generations and should reduce the risks posed by mercury to especially vulnerable populations, including workers exposed to mercury-related hazards and the inhabitants of the Arctic region. Several said that it should result in the reduction of emissions from the main emissions sources, which would require cooperation by as many countries and organizations as possible. Many representatives said too that the instrument to be negotiated should take into account the specific circumstances and priorities of each country. Many representatives said that the instrument should cover products containing mercury, especially in the health-care sector, wastes and the remediation of contaminated sites, and called for a long-term strategy. Several representatives said that the instrument should cover the use of mercury in artisanal and small-scale gold mining, and some described their countries' experiences in that regard.

28. Many representatives said that the instrument should have ambitious goals, with substantial reduction targets, with some adding that it should be developed and ratified as a package and that countries should not be allowed to pick and choose among its provisions. Several others, however, said that the instrument should take into account that mercury was economically important and, if managed in an environmentally sound manner, could contribute to sustainable development. In that vein, several suggested that the instrument should provide exemptions for essential uses of mercury. One representative cautioned that a mercury instrument should not become a non-tariff barrier to trade. Many representatives said that the instrument being developed should provide for public information, awareness raising and education for vulnerable populations, with timely access to data on mercury hazards, sources and alternatives. Many said too that it should control transboundary movements of

mercury and mercury-containing products. One representative said that, while binding obligations were important, a framework for flexible and voluntary measures should be included in the mercury instrument.

29. There was considerable support among representatives of developing countries for the principle of common but differentiated responsibilities and for the provision of funding, technology transfer and capacity-building to enable developing countries to fulfil their obligations under the instrument without compromising poverty reduction in pursuit of the Millennium Development Goals. Many representatives of developing countries advocated the establishment of a financial mechanism modelled on existing mechanisms such as the Multilateral Fund for the Implementation of the Montreal Protocol.

30. Several representatives said that the mercury instrument should address the need, in particular of developing countries and countries with economies in transition, for the development of sustainable, non-toxic alternatives to products and processes containing or using mercury. Many representatives said that the polluter pays principle should be implemented when dealing with wastes and contaminated sites, with costs being shared by responsible parties, including the private sector. They suggested that extended producer responsibility should be provided for products containing mercury in order to make mercury less economically desirable.

31. There was general agreement that an effective implementation mechanism would be important to the success of the mercury instrument. Views differed, however, as to the nature of any such mechanism. Representatives of a number of countries said that there should be implementation of and compliance with any future instrument by all parties and that the elaboration of clear obligations and well-designed implementation and monitoring mechanisms, including specific goals, indicators, targets and time frames, was essential. Some representatives added that any compliance mechanism should be facilitative rather than punitive. Others added that a compliance mechanism should be built into the instrument rather than developed afterwards, as experience had shown that the latter approach was not effective. Several representatives said that the compliance provisions applicable to developing countries, in particular least developed countries, should be relatively lenient, providing, for example, grace periods.

32. One representative described his country's involvement with a subregional consultation on mercury for Arab countries held in Alexandria, Egypt, in April 2010, where a number of recommendations had been drafted for consideration by the committee. A representative of the Basel Convention regional centre in that country said that the centre had prepared a report on the meeting, which was available on the internet. He added that the centres could provide useful support for the negotiating process but required funding and technical assistance.

33. The representative of the World Health Organization (WHO) said that mercury constituted a major public health concern and that any new instrument needed to prevent disease attributable to mercury. She described steps taken by WHO to help phase out the use of mercury in health care and said that the current negotiations should strengthen existing efforts and facilitate new ones in that direction.

34. The representative of the International Labour Organization (ILO) said that his organization was working with member countries towards the elimination of mercury-related occupational diseases. He added that management of mercury in the workplace should be taken into account in developing the mercury instrument, as should the protection from mercury exposure of those who would be involved in decommissioning mercury-related installations and cleaning up mercury waste. Finally, he said that communities that depended on mercury for their livelihoods needed to be provided with viable employment alternatives and said that ILO would do its best to assist the committee in its work.

35. A representative of the Global Environmental Facility (GEF) said that the current session was being held at a crucial moment in the history of GEF because the fifth replenishment of the GEF trust fund included \$20 million for the sound management of chemicals. He said that GEF would work with UNEP and UNIDO to propose pilot activities relating to mercury.

36. A representative of a non-governmental organization said that mercury-based amalgam was still used by many dentists, especially in developing countries, and expressed the hope that the substance would soon be banned worldwide. The representative of a non-governmental organization representing indigenous peoples said that their human rights were being violated by exposure to mercury and that relevant human rights treaties should be reflected in any new mercury instrument.

37. During the general statements the representative of the European Union made a statement, asking that it be reflected in the present report. She said that, while it was fully committed to reaching rapid agreement on a legally binding mercury instrument, the European Union had not completed the

procedures necessary to allow its representatives to conduct negotiations on the instrument at the current session.

38. One representative, speaking on behalf of the countries in his region, said that it would be beneficial for the UNEP regional centre to assist those countries in the negotiating process for the development of the instrument.

39. Also during the general statements, several representatives conveyed offers from their Governments to host future sessions of the intergovernmental negotiating committee. Thus, the representative of Japan reported an offer by his Government to host the second session of the committee; the representative of Burkina Faso said that his Government wished to host the third session; the representative of Uruguay said that his Government was offering to host the fourth session of the committee, provided that it could secure the necessary financial support; and the representatives of Brazil and Switzerland both reported that their Governments wished to host the committee's fifth session. In addition, the representative of Japan said that his Government wished to host, in the city of Minamata, the conference of plenipotentiaries at which a new mercury instrument would be adopted. As a place where the dangers of mercury had become dramatically and tragically apparent, he suggested, Minamata was an especially fitting venue for the signing of an instrument aimed at eliminating those dangers; the Minamata Convention, he said, would be an apt name for such an instrument. Representatives speaking on behalf of the countries in Africa, Asia and the Pacific and Latin America and the Caribbean expressed their regions' support for the offers by Burkina Faso, Japan and Brazil and Uruguay, respectively.

40. The representative of the secretariat thanked the representatives for the generous offers of their Governments. He explained that the secretariat would consult those representatives on the necessary details and convey the offers to the Executive Director of UNEP, who as the convener of the intergovernmental negotiating committee would be responsible for deciding on the venues of its remaining sessions and of the diplomatic conference.

B. Objectives

41. Introducing the agenda item, the Chair invited the committee to begin a general discussion on the objectives of the instrument to be negotiated. Many representatives said that the objectives could not be decided upon without knowing what the other provisions of the instrument would be. Otherwise, they said, the objectives might not accurately reflect the content of the instrument. In that context several said that proposed text for the instrument's objectives should not be discussed until its remaining content had been defined.

42. Many representatives suggested that final discussion of objectives would have to await further discussion of control measures and financial and technical assistance. Several said too that when developing a legally binding instrument it was important to take into account national capacities, especially those of developing countries, small island developing States and least developed countries. Many representatives urged that throughout the discussions capacity-building, technology transfer and financial assistance should be borne in mind.

43. Many representatives said that the objectives of the instrument should constitute actions rather than outcomes. Many others said that the objectives, in addition to being simple, clear, concise and succinct, should specify realistic goals without detailing the means to achieve those goals. Several others suggested that they might include a combination of both actions and outcomes, while one said that the objectives should take the form of a simple overarching statement.

44. Many representatives said that the objectives should include the protection of human health and the environment and that the instrument should cover the entire life cycle of mercury in all media. Two said the objectives should include a means for evaluating the effectiveness of the instrument. One suggested that the objectives should include the protection of arctic populations and indigenous people, while another suggested that the objectives should be framed within a set of principles such as the precautionary principle.

45. Several representatives agreed that the objectives of the instrument should include the protection of human health and the environment but added that they should also include the elimination of mercury in water, soil and air and the phase-out of all forms of mercury. Others, however, said that the objective should be to reduce rather than eliminate mercury emissions and should reflect the fact that mercury was a naturally occurring element that was sometimes released without human intervention. Several agreed that the objective should be the elimination of mercury releases, but only to the extent that it was

feasible. In that context one representative added that the objectives of the instrument should align with the obligations that parties would have under the instrument.

46. The representative of a group of non-governmental organizations said that the objectives should serve to protect human health, wildlife and ecosystems through the elimination of anthropogenic sources of mercury, should be broad in scope and should recognize the special needs of all vulnerable populations.

C. Structure

47. The representative of the secretariat introduced document UNEP(DTIE)/Hg./INC.1/4, on possible options for the structure of the mercury instrument to be negotiated. The document identified three different options for how the control measures of the instrument might be contained within an overall structure common to most multilateral agreements.

48. The first option was the inclusion of control measures in the main body of the mercury instrument, supplemented by annexes that might provide additional details but still form an integral part of the instrument.

49. The second option was to have the text of the instrument contained in a convention and one or more protocols. The convention would include the basic structure of the instrument and certain categories of provisions but some or all of the control measures would appear in separate protocols. The convention text and the protocols would be legally distinct and could be adopted separately, by different parties.

50. The third option was an umbrella agreement, involving a relatively short main text containing no substantive provisions or control measures. The latter would appear in detailed annexes. The umbrella agreement and annexes would be adopted as a single package and the individual parts could not be severed from one another.

51. A fourth option would be to include all provisions in a single document, with no annexes or protocols.

52. The representative of the secretariat explained that the main differences between the options lay in the distribution of the control measures and the method of adoption of the basic instrument and the control measures. The second option was the most distinctive in that most control measures would appear in separate protocols, each of which would be a legally separate treaty. That could allow a country to subject itself to some control measures but not others.

53. A wide-ranging discussion followed the secretariat presentation, in which a broad consensus emerged that it was necessary to decide on the content of the future instrument before reaching a final decision on its structure. During the discussion, several representatives recommended or supported the idea of defining criteria for deciding on a structure. The following potential criteria were mentioned:

- (a) The objectives and function of the instrument should determine the choice of its form and structure;
- (b) The instrument should be comprehensive, with all parties being bound by the main obligations as a framework for legally binding commitments;
- (c) The instrument should be flexible and needs oriented and able to be adjusted readily to reflect new information, technology, needs and capacities without resort to complex ratification procedures;
- (d) The instrument should allow for ratification as a single package.

54. Representatives of many countries expressed a preference for the first option, which, it was noted, was like the structure of the Basel, Rotterdam and Stockholm conventions. Many representatives said that that option could help avoid fragmentation and support the efficient entry into force of a comprehensive instrument. Several representatives said that either option 1 or 2 would be acceptable. Several representatives said that option 3 should be kept open but several others said that they would not support it. No support was expressed for option 4 and two representatives said that they opposed it.

55. One representative said that a structure involving protocols would reduce time pressure by allowing ratification in stages but several others insisted that the mercury instrument should be ratified as a single package. Several others said that the use of protocols could satisfy the criteria listed above while allowing flexibility in respect of issues that might not apply to all countries. It was also noted that

aspects of options 1 and 2 could be combined. Several others, however, voiced concern that option 2 might result in an instrument that divided the parties and fragmented the substance of the instrument, and several said that they opposed any system that would allow countries to opt out of core commitments.

56. One representative said that if the Secretariat was tasked with preparing a possible text for the second session of the committee then it should be as neutral as possible on the structure of the instrument.

D. Financial and technical assistance

57. Introducing the sub-item, the Chair recalled that the UNEP Governing Council, when agreeing to go forward with negotiations for a mercury instrument, had clearly recognized that capacity-building and financial assistance would be needed to enable developing countries and countries with economies in transition to comply with some of their obligations under a new global legally binding instrument. He suggested that it would be useful for the Committee to focus at the current session on the underlying principles associated with the issue of technical and financial assistance and the general design of delivery mechanisms for such assistance

58. The representative of the secretariat then briefly outlined the extensive documentation relating to the sub-item, as described in document UNEP(DTIE)/Hg/INC.1/INF/6.

59. All representatives who spoke said that the effective implementation of certain features of a new global legally binding instrument would require capacity-building and technical and financial assistance. Many said, however, that it was premature to decide on the final means for delivering such assistance and that the focus at the current session should be on general principles and goals.

60. Many representatives said that developing countries and countries with economies in transition already faced great challenges in implementing the Basel, Rotterdam and Stockholm conventions and were thus understandably reluctant to assume additional obligations under new instruments without specific and long-term arrangements for sufficient capacitybuilding and technical and financial assistance. Many said too that developing countries lacked the capacity to manage mercury and mercury-containing products in an environmentally sound manner throughout their entire life cycle. Thus, their agreement to particular control measures and other aspects of a new instrument on mercury could depend on whether the instrument included provisions for sufficient capacity-building and technical and financial assistance.

61. Many representatives said that provisions for capacity-building and technical assistance should reflect the priorities of the new instrument, take advantage of lessons learned in the context of other issues and take advantage of potential synergies with existing institutions and initiatives, including the Basel, Rotterdam and Stockholm conventions, the Basel Convention regional centres, the regional offices of UNEP, ILO and WHO, the UNEP mercury programme, including the UNEP Global Mercury Partnership, the UNEP consultative process on financing options for chemicals and wastes and other relevant bilateral and multilateral initiatives. At the same time, many cautioned that the use of regional centres or offices would only be appropriate if they received additional resources commensurate with any additional work they might undertake. Many said that the design, funding and implementation of capacity-building and technical assistance programmes also needed to take into account the specific circumstances and priorities of the various countries and regions of the world and not encroach on national authority. Many suggested that further studies would assist in the development of focused and effective capacity-building and technical assistance provisions, including needs assessments, inventories of mercury products, wastes and contaminated sites, and identification of gaps in the infrastructure and human and technical capacities required to implement the instrument.

62. Representatives suggested a number of criteria to use in the development of a financial mechanism for a new mercury instrument. Thus it was said that the financial mechanism should provide sufficient, stable and predicable financial assistance; that it should mobilize resources from multiple sources; that it should spark enhanced action, innovation and financial support by the private sector; that it should be funded with new and additional resources; that it should be transparent, equitable, efficient and timely in its operation; that it should be accountable to the governing body of the new instrument; that it should focus on providing assistance aimed at enabling compliance with specific obligations; that it should tailor assistance to the specific needs of individual countries; that it should be responsive to the needs and priorities of developing countries and countries with economies in transition; and that it should take advantage of operational synergies with relevant institutions and initiatives.

63. Regarding specific models for a financial mechanism, many representatives favoured developing a mechanism along the lines of the Multilateral Fund for the Implementation of the Montreal Protocol, noting its successful track record, stable and predictable funding, independence, issue-specific focus and direct oversight by the parties to the Protocol. Many others said that the Global Environment Facility should play an important role in a future financial mechanism for mercury, suggesting that it had considerable expertise and played an active role on related issues and that it was important to avoid bureaucratic duplication. Some highlighted the potential value of exploring other avenues such as special trust funds and global health initiatives. Some said that it was too early to know what design might be most appropriate or effective but that the final design should reflect the specific needs of the instrument, should draw on lessons learned in other contexts and should combine successful features of existing structures.

64. Many representatives said that a financial mechanism should be funded through mandatory contributions from donor countries at specified levels. Many said too that it was important to look at all possible sources of financing, including other multilateral institutions and programmes, bilateral initiatives, the private sector and a broader set of donor countries. A number emphasized that funding levels must be feasible for donor countries.

65. Many welcomed the recent decision by the GEF Assembly to allocate \$10 million for enabling activities in connection with a possible legally binding instrument on mercury. One representative, however, said that while the Assembly's decision was welcome the amount was clearly insufficient to make a significant start on reducing mercury emissions.

66. A number of representatives highlighted specific areas requiring capacity-building and technical and financial assistance. Many said that developing countries should give activities developed under the mercury instrument, and supported by adequate assistance, high priorities in their social and economic development agendas. Some said that each country should set its own priorities, based on national studies and implementation plans. One suggested that some of the documents prepared by the secretariat were lacking in certain respects because they failed to include the social costs associated with the transition to mercury-free products and processes. Many suggested that intergovernmental organizations should develop training manuals covering the entire life-cycle of mercury and mercury-containing products.

67. The representative of WHO said that country-level partnerships could play an important role in establishing priorities and delivery mechanisms for tackling the mercury issue. WHO had a network of approximately 150 country offices and was willing to provide information and assistance. In addition, the Inter-Organization Programme for the Sound Management of Chemicals (IOMC), of which WHO was a member, could play a coordinating role.

68. The representative of the United Nations Institute for Training and Research (UNITAR) said that the organization, which was also a member of IOMC, had extensive experience in supporting chemicals management in developing countries and countries in transition. UNITAR was prepared to assist Governments and other stakeholders in capacity-building.

E. Compliance

69. In introducing the sub-item, the Chair noted that in decision 25/5 the Governing Council had requested that the issue of compliance be addressed in the instrument to be negotiated and that in the discussion of financial mechanisms compliance had emerged as a key element in an effective instrument.

70. The representative of the secretariat briefly reviewed the relevant documentation, highlighting in particular document UNEP(DTIE)/HG/INC.1/11, which included information on experience with compliance mechanisms in the context of a number of multilateral environmental agreements. He noted that most compliance mechanisms were facilitative rather than punitive, aiming to build parties' capacity to comply with their obligations, and that in some cases it had proven difficult to reach agreement on compliance procedures for multilateral environmental agreements after the agreements had been adopted. He suggested that while it might be premature to expect notable progress on the issue at the current meeting, consensus regarding the approach to be followed could greatly assist the committee in its work.

71. In the ensuing discussion, there was general agreement regarding the close relationship between compliance and the provision of technical and financial assistance. Many representatives said that compliance provisions and a financial mechanism should be developed and adopted in parallel, with

some saying that such an approach would enhance the credibility of a new mercury instrument. Many others disagreed, however, saying that the instrument should include an enabling clause instructing the governing body of the instrument to develop and adopt compliance procedures after its entry into force.

72. It was generally agreed that baselines and periodic reporting and performance reviews were fundamental elements of transparency and compliance, that they were needed to determine whether some parties required assistance in strengthening their compliance capacity and that they formed the basis for evaluating the effectiveness of an instrument. Many representatives stressed the importance of a provision for evaluating the instrument's effectiveness in accomplishing its objectives, with one adding that evaluation should include not only technical but also political aspects. One representative, however, noted that reporting posed a considerable burden to some parties and said that its benefits should be commensurate with the effort it required.

73. Several representatives stressed that any compliance procedures should apply to all provisions of any mercury instrument and to all parties. While widespread support was expressed for formal compliance mechanisms, one representative said that in his country's view voluntary compliance, underpinned by a strong reporting system, effective information dissemination and the availability of affordable alternatives, would contribute more to the instrument's success.

74. Many representatives, in particular of developing countries, stressed the need for mechanisms that addressed the economic and social costs of compliance. It was suggested that by identifying synergies among the various chemicals and wastes conventions the compliance-related burden of the parties could be reduced.

75. The representative of ILO said that reporting helped to identify requirements that parties were having difficulty with so that assistance could be targeted appropriately. He gave an overview of the organization's compliance mechanism and said that further information about it could be provided to the committee upon request.

76. Many representatives said that it was important to describe all commitments in clear and unambiguous language. Several suggested that a legal drafting group or other contact group should be established to ensure that all provisions of the instrument were clear and achievable; the group could be charged with developing all implementation provisions, including those covering financial assistance and compliance.

77. The representative of a non-governmental organization said that data collected to ensure implementation should be available to the public, as that would aid in ensuring compliance and help to ensure that data were high-quality.

F. Supply, demand, trade and wastes

78. The committee agreed to discuss mercury supply and storage, demand, trade and wastes together, as many representatives expressed the view that those subjects were interrelated cross-cutting issues. At the Chair's suggestion the committee commenced its consideration of the issues with a separate general discussion of each subject.

1. Reducing the supply of mercury and enhancing the capacity for its environmentally sound storage

79. Introducing the item the representative of the secretariat suggested that the implementation of measures to reduce the supply of mercury by a small number of countries could provide benefits for all and noted that a number of countries had already taken such steps.

80. In the discussion of the issue many representatives said that provisions on supply and storage of mercury should be among the core provisions of a legally binding instrument, along with provisions on demand for mercury in products and processes. Many representatives said that supply should be addressed in conjunction with demand, although one suggested that demand should be discussed before supply. One representative said that supply, demand, trade and wastes were core issues that had to be addressed together, including with regard to the social and economic costs and benefits of international action, and that they could not be resolved in the absence of assured and sufficient financial and technical assistance.

81. Many representatives expressed support for a ban on new and expanded mercury mining and the phase-out of mining where no other solution was readily available. One representative suggested that new mines were not needed because of global efforts to reduce mercury use, which were causing demand for mercury to decrease.

82. Many representatives advocated the development of a timeline for the progressive reduction of the mercury supply, with some saying that the pace and extent of reductions should take into account specific national circumstances and that exemptions should be allowed for specific, essential and acceptable uses similar to the exemptions available under the Stockholm Convention. The timeline should also feature a procedure for granting extensions for mercury use and should be linked to technical and financial assistance and capacity-building. One representative said that provisions to prohibit mercury use and trade should complement provisions to restrict the mercury supply.

83. Many representatives stressed the need for technical and financial assistance to developing countries during the transition away from mercury use. In that context, several said that a key element to the successful reduction of the mercury supply was the availability of safe and affordable alternatives. Several, however, suggested that restricting the supply of mercury would make mercury, and the products and processes that relied on it, more expensive and would thereby encourage the identification of alternatives. Another added that the different levels of competence of countries in the environmentally sound management of chemicals had to be considered.

84. Several representatives noted the importance of promoting the capture, recovery and environmentally sound storage of mercury. Some suggested that once primary sources of mercury were discontinued any residual need for the substance should be met through the recovery and re-circulation of mercury obtained as a by-product. One representative said that mercury recovered from recycling should be stored in an environmentally sound manner unless it was designated for specific uses and that mercury recovered from chlor-alkali plants should not reach the market. One representative suggested that care should be taken to minimize the amount of mercury being classified as waste, in particular where no appropriate storage facility was available. The representative of a non-governmental organization said that sequestered mercury would need to be transported from countries having no treatment facilities to those that had them.

85. Several representatives drew attention to the issue of illegal traffic in mercury, particularly in the context of artisanal and small-scale gold mining, saying that such traffic might increase once mercury supplies decreased. To address that concern, one representative suggested that supply and demand should be reduced concurrently and that supply, demand and trade should be addressed in a holistic fashion.

86. Many representatives said that little information was available on a number of important topics, including how to deal with surplus mercury resulting from restrictions or bans on mercury use or trade and who might pay for costs incurred during the transition from products and processes that used mercury to those that did not. In the light of that, they said, there was a need to develop a cost-benefit analysis that took into account national conditions and contained an exhaustive analysis of the best available alternative technologies, including among other things their technical feasibility, benefits and social and economic costs. Several representatives suggested that countries should develop national inventories or other means to collect sufficient knowledge on mercury supply, demand, use and trade.

87. Some representatives highlighted activities under way to assist the Government of Kyrgyzstan in its efforts to move away from mercury mining. The representative of Kyrgyzstan reaffirmed his country's intention to proceed with its efforts to close the one remaining primary mercury mine in that country, outlining the social and economic issues that would have to be tackled to do so. He acknowledged the support provided by Norway, Switzerland, the United States of America and several intergovernmental organizations in drawing up a national action plan and draft project aimed at closure of the mine.

2. Reducing demand for mercury in products and processes

88. Introducing the sub-item, the representative of the secretariat noted that viable alternatives existed for a majority of mercury uses and that many uses had already been phased out in certain countries and regions.

89. Many representatives supported a ban on the introduction of new types of products and processes containing or using mercury. Many also expressed broad support for phasing-out, limiting or otherwise controlling existing products and processes containing mercury. A number of different approaches were suggested for future consideration, including phase-out of all products and processes containing or using mercury, phase-out with time-limited exemptions for certain processes or in certain locations where economically feasible and cost-effective alternatives did not yet exist, banning specific products or processes, requiring the use of best-available technologies and best-environmental practices, employing public private partnerships and voluntary approaches within particular sectors, and labelling products to assist consumers and regulators to make informed choices. Several representatives offered

initial opinions for or against some of those options, but they and many others said that they were committed to continuing discussion of possible measures with an open mind and a commitment to building an effective agreement. Several noted the importance of developing specific criteria and review procedures for evaluating any exemptions that might be included in any mercury instrument adopted.

90. Many representatives outlined efforts within their own countries to eliminate or reduce the amount of mercury used in particular products and processes. Several discussed specific products or processes in their countries that could be difficult to eliminate. Several representatives thanked China for identifying the special challenges it faced in respect of its use of mercury in the vinyl chloride monomer process. Some representatives noted that while it was still in use in their countries, the mercury cell process in the chlor alkali industry was not recognized as the best available technique and was being phased out. Many expressed support for conducting national inventories of processes using mercury and products containing mercury, with some calling for health surveys to address the impact of exposure to mercury released in their countries from products and processes originating in other countries.

91. Many representatives said that the ready availability of cost-effective, nationally and regionally appropriate alternatives for specific products and processes would be needed before they could be eliminated and that capacity-building and financial and technical assistance would be needed in that context. Many representatives expressed support for increased knowledge and information exchange related to environmentally sound, affordable alternatives. Some observed that it would be important to ensure that alternative processes and products did not introduce additional threats to human health or the environment.

92. Many representatives, especially of developing countries, identified artisanal and small-scale gold mining as a primary concern, notably in view of the very large number of people involved worldwide and the severe environmental and health hazards facing miners and their communities. There was general agreement that the sector had to be addressed in any mercury instrument, and that it should be addressed separately from other sectors. Representatives of several countries with large artisanal and small-scale gold mining sectors outlined their experiences and highlighted the complexity of the situation. They stressed that social and economic factors were very important, despite the serious pollution and health hazards.

93. Several representatives from such countries outlined efforts to deal with the effects of mercury in the sector; one, for example, described a successful pilot project under which a number of gold processing plants had reduced mercury use by 80 per cent and increased gold recovery, thereby reducing production costs and helping to combat poverty. Many representatives said that financial and technical assistance were needed to promote such techniques on a wider scale. There was also a need for awareness-raising in mining communities and research into alternative low-cost processes, as well as consideration of how to combat illegal use in the sector.

94. Representatives of many developed countries said that more information on the sector from the countries where it was most prominent was needed, including advice as to whether restrictions on supply would be effective. One offered his country's support for regional and national multi-stakeholder action plans. Another, saying that the sector was marginalized and poorly regulated, said that it should be formalized to enhance access to miners and make it possible to improve working conditions and technologies in use. He circulated a conference room paper on his country's experience in the area.

95. The representative of UNIDO outlined its involvement in the UNEP artisanal and small-scale gold mining partnership area, highlighting solutions in respect of mercury recycling, alternatives, chemical-free techniques and formalizing the status of miners in the informal sector.

96. The representative of WHO recommended the withdrawal from the market of health-care products containing mercury, which she said could be replaced with affordable and validated alternatives. Since cost-effective alternatives to dental amalgam were not yet available in all countries, however, WHO recommended a phase-down rather than a total ban.

97. The representative of a non-governmental organization said that mercury fungicides were still in use in certain regions where alternatives were available and recommended that the mercury instrument should ban the use of mercury in agriculture. A representative of another non-governmental organization said that millions of indigenous peoples, whose traditional lands were often adjacent to or above gold mines, were affected by mining and should therefore be included in the search for solutions.

3. Reducing international trade in mercury

98. The representative of the secretariat introduced the sub-item recalling that decisions to restrict the export of mercury had already been taken by the European Union and the United States of America. He noted that the options for substantive provisions to reduce trade were presented in the secretariat note under two main headings: trade with parties and trade with non-parties. Additional information on the relevance of international trade law to a mercury instrument and on trade provisions in a number of multilateral agreements was also provided.

99. In the ensuing discussion, several representatives said that international trade should be addressed in the core provisions of a future mercury agreement. Several representatives said that any mercury instrument should include provisions relating specifically to trade with non-parties. Many representatives urged that provisions on international trade should be consistent with obligations under the World Trade Organization. Several said that the need for provisions on trade would depend on the content of provisions on supply, demand and storage. Several other representatives stated that data on trade in elemental mercury was difficult to obtain and that priority should be given to reducing supply, with the ultimate aim of phasing out trade entirely. Many representatives said that robust provisions on trade could reduce the supply of and demand for mercury.

100. One representative suggested that effective provisions on reporting and modalities for verifying reporting should be included when setting out obligations under trade and that those provisions should be clear and simple and include reporting deadlines.

101. Several representatives said that trade provisions might include an exemption for shipments of mercury destined for environmentally safe storage facilities where such facilities did not exist in the exporting country. Such provisions would be similar to those on exemptions for trade in persistent organic pollutants under Article 3 of the Stockholm Convention and should take into account relevant provisions under the Basel Convention.

102. Many representatives said that trade provisions should focus on controlling exports of elemental mercury, mercury-containing compounds and mercury-containing products, suggesting that control of users or importers had had limited success, including in areas where artisanal and small-scale gold mining was already an illicit activity.

103. Several representatives suggested that transboundary movements of mercury, mercury compounds and mercury containing products should be subject to a prior informed consent procedure.

104. One representative suggested that a system for licensing imports and exports of mercury-containing products similar to the licensing systems required under the Montreal Protocol would place additional burdens on countries. Another suggested, however, that such systems could be limited in scope and would not necessarily have to encompass mercury, mercury-containing compounds and mercury-containing products. The representative of ILO suggested that it would be useful for the committee to consider lessons learned from experience with the Globally Harmonized System of Classification and Labelling of Chemicals.

105. One representative said that it would be necessary to address products that were produced using mercury-based technologies. Mindful of the difficulty of controlling, or in some cases identifying, such products, he suggested exploring solutions such as labelling to indicate that mercury had been used in production processes. One representative suggested that elemental mercury, mercury compounds and mercury-containing products should be treated separately.

106. Several representatives said that it was important to minimize the risk of conflict between the trade provisions of a mercury instrument and other key provisions such as those relating to arbitration, compliance and other matters.

4. Mercury-containing wastes and remediation of contaminated sites

107. There was consensus that there was an urgent need to provide for appropriate disposal of mercury wastes to protect human health and the environment and that waste issues were closely linked to issues of supply, demand and trade.

108. Many representatives said that treatment of mercury wastes should be covered in the core provisions of any mercury instrument. Another added that illegal trade in mercury wastes should also be dealt with as those wastes, sometimes mixed with other hazardous wastes, could be transported across borders.

109. Representatives of many developing countries said that technical and financial assistance were needed, in particular in respect of remediation of contaminated sites. They gave examples of specific

situations in their countries; of solutions being contemplated or implemented, including nationwide assessment, control and prevention systems; and of the assistance that they required. The relationship of the waste issue to those of supply and demand was also acknowledged. There was widespread support among developing countries for the polluter pays principle.

110. Several representatives said that, while it was necessary to develop threshold values to be used in identifying and assessing contaminated sites, it was difficult to define such values that took into account all relevant considerations. The problem of mixed hazardous wastes was highlighted, with one representative saying that the mercury instrument should include provisions to ensure that mercury wastes were separated from ordinary waste and to establish threshold values for mercury and its compounds in the overall waste stream.

111. One representative said that his country depended heavily on coal that contained traces of mercury. He said that countries could not help the chemical composition of their natural resources and that the management of such resources should be left to countries and not regulated by treaty. Another representative said that some of the soil in his country contained naturally occurring mercury and that a mercury instrument should take such situations into account.

112. Representatives of several small island developing States said that their countries lacked sufficient land and technical capacity to store mercury waste. One suggested implementing a subregional approach to collecting mercury products and exporting them for proper storage. Another said that GEF should enhance its activities in the Pacific region, while a third said that a new mercury instrument should take into account the special situation of small island developing States with regard to the environmentally sound management of mercury and mercury-containing wastes.

113. Many representatives said that the prevention of the generation of wastes deserved particular emphasis as it would reduce waste and associated costs. They said that countries should focus on regulatory and other measures to prevent exposure to mercury and should move towards using mercury-free products and processes. Representatives of developing countries emphasized the importance of making affordable mercury-free products available.

114. There were numerous calls for coordinating a new mercury instrument with the provisions of other instruments, particularly the Basel and Stockholm conventions, in order to avoid regulatory duplication and confusion and “reinventing the wheel”. It was suggested that a corresponding horizontal provision might be needed. At the same time, it was cautioned that the Basel Convention did not cover mercury comprehensively and that it would be necessary to fill a number of gaps. The representative of a non-governmental organization, observing that the Basel Convention lacked a financial mechanism, said that it was important to ensure that the financial mechanism of any new mercury instrument should extend to waste issues.

115. Several representatives praised Japan for its efforts as the lead country in the UNEP waste management partnership area. The representative of Japan said that his Government intended to finish work on a guidance document in time to submit it to the committee at its second session.

116. Representatives of several countries mentioned the need to better inform the public and professionals about hazardous waste issues. Many representatives offered to make legislation or other information relating to waste management available to the committee for dissemination via its website, if that were considered appropriate.

117. One representative requested that the Basel convention secretariat should provide additional information not included in document UNEP(DTIE)/Hg/INC.1/INF/3. After listing a number of points that his country wished to see elucidated, including on the classification of substances as waste and definitions of disposal options, he drew participants’ attention to a background document that his country had circulated as a conference room paper on mercury in electrical and electronic equipment and electronic waste. A representative of the Basel Convention secretariat said that the secretariat was ready to provide additional information if requested to do so by the committee.

5. Storage

118. There was a general consensus that environmentally safe storage of mercury was a complex cross-cutting issue and of particular importance for achieving the objectives of the instrument. Many representatives said that storage should be a core provision of the convention, although several others said that guidelines that took account of national and regional circumstances were required rather than uniform rules. Several representatives suggested that storage was a key topic to be discussed at the next session of the committee.

119. It was generally agreed that mercury storage was a major short- medium- and long-term challenge, requiring more and better technical knowledge. Many representatives said that it involved not only elemental mercury but also mercury in stockpiles and waste and from other anthropogenic sources. Several representatives said that the reduction in global mercury use would increase the amount of mercury to be stored, making it important to look at storage early in the negotiating process. One said that her country had been storing mercury for many years and looked forward to contributing to the discussion. Another said that insurance, liability and compensation had to be taken into account, while two said that the management of long-term storage should not be so onerous as to discourage the recovery of mercury. The representative of the European Union said that the Union was introducing legislation on storage and was working on guidelines for underground storage.

120. Several representatives emphasized the need to prevent stored mercury being released again, for example if sites were neglected and became unsafe. Another advocated the adoption of criteria for mercury storage facilities. It was pointed out that underground facilities were expensive and subject to geological and seismic constraints, while surface storage sites were vulnerable to disasters. The best type of storage also depended on the form of mercury to be stored, and it was generally agreed that no single storage solution could be applied in all countries or circumstances.

121. Several representatives called for inventories to be made of mercury in stockpiles, waste and other forms to determine the volume to be stored. A representative of a non-governmental organization said that dental fillings contained a substantial quantity of mercury worldwide and that their disposal needed to be properly managed. Many representatives said that while mercury could not be destroyed, research had shown that it could be chemically transformed into stable forms, and progress had been made on converting it back into cinnabar. The representative of a non-governmental organization said that the aim should therefore be sustainable waste management rather than long-term storage.

122. Several representatives called for guidelines on best available technologies and best environmental practice for identifying mercury-containing products, recovery and separation, transportation and safe storage, saying that they should be affordable for developing countries. Many representatives said that financial and technical assistance, awareness-raising and capacity-building would be required to meet the high construction and maintenance costs and technical challenges of storage in developing countries.

123. Many representatives anticipated resistance to mercury storage from local populations and underlined the importance of promoting public acceptance by engaging all stakeholders, notably non-governmental organizations, workers and affected communities, at an early stage.

124. Several representatives called for provisions in the mercury instrument on international cooperation to achieve environmentally sound long-term storage. Several noted that it was not efficient or cost-effective for every country to have its own storage solution. Several representatives suggested that exporting mercury waste might be the best option in the short and medium terms for some countries, although they might need to develop recycling and recovery centres for capturing the mercury to be exported. Several representatives called for special provisions for small island developing States, where local storage was likely to be impossible and export a costly option. Several advocated preparing regional, subregional and national coordination and action plans, and many said that the Basel Convention had a role to play in respect of transboundary movements of mercury residues or metallic mercury, although the Convention did not cover mining waste. Procedures for transboundary transfer, tracking and reporting, including a prior informed consent procedure and provisions to avoid illicit trafficking, were needed. Several representatives recommended developing cooperation with the International Maritime Organization on the control of mercury shipments, and others said that the private sector might play a role in the stewardship of stored mercury.

125. Several representatives saw a need to continue intersessional work involving as many players as possible. Many said that there was a need for clear definitions of the terminology in use, and that it should be consistent with the provisions of the Basel Convention. The representative of a non-governmental organization suggested that UNEP should summarize regional long-term storage initiatives that had been conducted in the Asia-Pacific and Latin American regions.

G. Emissions

126. The representative of the secretariat outlined the documentation relating to the sub-item, as described in document UNEP(DTIE)/Hg/INC.1/INF/6, and updated the meeting on work under way relevant to the sub-item. That work included the updating of the 2008 Global Mercury Assessment, including mercury sources, emissions and transport, as requested by the Governing Council in

paragraph 36 of decision 25/5; a UNEP study of mercury emissions from coal combustion in the energy sector, focusing on China, India, the Russian Federation and South Africa; a study on types of mercury-emitting sources, current and future trends in mercury emissions and the cost and effectiveness of alternative control technologies and measures, as called for by the Governing Council in paragraph 29 of decision 25/5; and the updating of the UNEP mercury toolkit, which provided a means for assessing national mercury inventories and sectors with significant mercury releases.

127. He noted that the paragraph 29 study, which focused on sources frequently described as producing unintentional emissions, currently incorporated information on coal-fired power plants, industrial metals production, waste incineration and cement production, which contributed about 45 per cent of total global mercury emissions according to the Global Mercury Assessment. The secretariat had received information from 16 countries to date and encouraged further contributions. The study was expected to result in updated emissions inventories, including trends; technical descriptions of emitting sectors; information on the cost and efficiency of emissions controls; scenarios for emissions controls and guidance for national assessments.

128. Many representatives underscored the importance of the paragraph 29 study and supported the call by the secretariat for countries to provide needed data. Some suggested that releases to additional media such as soil and water should be included in future studies. A number noted that there was a wide divergence in the quality and quantity of emissions data within some regions and suggested broader efforts to address data gaps.

129. Many representatives said that atmospheric emissions of mercury were a priority issue to be addressed under the mercury instrument because of the potential for long-range transport and because they were the largest source of global mercury pollution. Many said that the instrument should also address emissions that occurred directly into soil or water, the national and international impact of various types of mercury emissions and the myriad sources of atmospheric emissions, including coal-fired power generation, cement production, metals processing and other industrial sources. Many representatives outlined efforts under way in their countries and regions to reduce such emissions, to gather relevant information and to support research.

130. Support was expressed for a variety of potential control measures, either individually or in combination, including national action and implementation plans, standardized regulatory approaches, defined objectives, binding targets and timetables, goal oriented voluntary measures, efficiency measures, partnership-based approaches, greater responsibility by the private sector and guidelines or requirements for the use of best-available technologies and best environmental practices.

131. Many representatives emphasized that countries possessed very different natural resource endowments and economic and developmental priorities. They said that control measures should not impede the economic growth of developing countries, especially in relation to energy production and consumption. In that context, voluntary measures were recommended along with careful consideration of national circumstances.

132. Many representatives highlighted the availability of proven technologies that significantly reduced atmospheric emissions of mercury and could be adopted more widely, noting that many such approaches also reduced emissions of other harmful pollutants. The representative of the European Union and its member states noted that the European Integrated Pollution Prevention and Control Bureau had developed reference documents on best available techniques in this area.

133. Many representatives underscored the need for capacity-building, financial and technical assistance and access to best available technologies to help developing countries reduce atmospheric emissions of mercury emissions, regardless of the nature of the control measures adopted in the instrument. Support for increased monitoring and reporting capacities, awareness raising among all stakeholders, information exchange and multi stakeholder consultations was also emphasized.

134. A number of representatives said that emissions from chlor-alkali manufacture or mining should be discussed separately from emissions from other sources. Several recommended seeking synergies and taking advantage of the work done under other international instruments and processes, including those of the United Nations Economic Commission for Europe. One requested the secretariat to prepare for the committee's second session an analysis of options for a framework for partnership-based approaches as part of the mercury instrument. Another suggested the use of bio-monitoring to examine the level and impact of emissions and one emphasized the importance of addressing occupational health.

135. The representative of the United Nations Institute for Training and Research said that national implementation strategies or action plans for reducing atmospheric emissions of mercury could play a

significant role after entry into force of a legally binding instrument. Parties could draw on lessons learned from the development of such plans under the Stockholm Convention. His organization stood ready to offer its experience in that regard.

136. Representatives from several non-governmental organizations spoke about mercury emissions to the air from human cells and teeth, noting the importance of identifying and addressing emissions to all environmental media, the importance of affordable and accessible technology for controlling emissions and the value of best available techniques and best environmental practices. They stressed the particular concerns of vulnerable indigenous populations of the Arctic and emphasized the need to take into account social and economic issues when identifying appropriate solutions to mercury emissions.

137. A representative of an industry association expressed his association's intention to work with Governments and other stakeholders to minimize and eliminate unintentional releases of mercury from coal but said that access to affordable and reliable electricity should not be impaired. Rapid global deployment of technologies to reduce mercury emissions therefore needed to be encouraged.

H. Awareness-raising and information exchange

138. The representative of the secretariat introduced the relevant documents, adding that an information pack about mercury, covering topics discussed under the current agenda item, was available in English, French and Spanish in printed form and on the UNEP mercury programme website.

139. There was consensus that effective awareness-raising and exchange of scientific information were crucial for the success of the future mercury instrument. Increasing public awareness of mercury could boost public support for efforts to reduce exposure to the chemical, and countries should not wait until the instrument's entry into force to initiate or enhance efforts in that area. Several representatives described related actions taken in their countries, while others said that their Governments were willing to share information and experiences. Many mentioned the cross-cutting nature of the issue, saying that it was linked to monitoring and reporting as well as to financing issues.

140. It was agreed that a mercury instrument should explicitly promote awareness-raising and exchange of scientific information with regard to the health and environmental hazards of mercury. Many representatives said that it should include provisions for the active involvement of civil society, the private sector, non-governmental organizations and other stakeholders in the efforts to confront the risks posed by mercury. Two representatives expressed their countries' support for a clear role for the secretariat of the instrument in awareness-raising and exchange of scientific information on the subject. Several said that it might be advisable to take advantage of existing mechanisms for exchanging and disseminating scientific information before devising new ones.

141. Groups identified as needing targeted information campaigns included women, children, the poor, health care workers, indigenous peoples, producers of mercury containing products, operators of plants and workers handling products and processes involving mercury. It was said that different audiences required different approaches and that information should be provided in appropriate formats and languages. It was suggested that disseminating information about products and processes involving alternatives to mercury could enhance public willingness to use such products and processes.

142. Many representatives stressed the importance of synergies among related conventions and urged cooperation with ILO and WHO as key actors with extensive relevant experience in the areas under discussion. The regional centres of the Basel and Stockholm conventions could also play an important role if the necessary financial and technical resources were provided.

143. The secretariat was requested to make the information pack on mercury available in Chinese. It was also asked to compile a global inventory of mercury cell chlor-alkali facilities, including information on their capacity, locations and any plans for conversion or closure, drawing on information developed under the UNEP Global Mercury Partnership.

144. The representative of ILO said that his organization had developed training and awareness-raising materials for workers handling mercury and could provide this material to the committee, should that be considered useful. He added that materials relating to the Globally Harmonized System of Classification and Labelling of Chemicals could easily be adapted.

145. The representative of WHO reminded participants that many relevant international mechanisms existed, including the FAO Provisional Tolerable Weekly Intake guidelines for mercury and the Codex Alimentarius guideline levels for methylmercury in fish. She said that her organization had developed a training package for health care workers on mercury and was developing a publication on mercury and

children's health that would be available in time for the committee's second meeting. WHO stood ready to offer guidance on awareness-raising and information dissemination in the health field and how they related to risk management.

146. The representative of UNIDO noted that workers typically had basic education levels and would benefit from appropriately designed awareness-raising material. He said that scientific information should be available via a single platform to ensure the efficient delivery of information and use of resources. UNIDO had published protocols relating to artisanal and small-scale gold mining, which it could supply on request.

147. One representative requested that an error in paragraph 32 of document UNEP(DTIE)/Hg/INC.1/INF/9 be corrected to reflect the fact that the United States Environmental Protection Agency did not participate in the study mentioned there. The secretariat took note of the request.

I. Final provisions

148. The representative of the secretariat introduced document UNEP(DTIE)/g/INC.1/7, setting out draft final provisions for the instrument to be negotiated. He explained that the provisions had been prepared in response to a request from the ad hoc open ended working group. He said that they were based on similar provisions from existing agreements and could be amended as the committee required, depending on the final structure of the mercury instrument, and recalled that only an initial discussion on the provisions was contemplated at the current session.

149. Several representatives said that agreement could be reached readily on many of the draft provisions but others, such as on the adoption and amendment of annexes, would require further discussion once the structure of the legally binding instrument was established.

150. Some representatives said that agreement on some provisions, such as on voting, signature, ratification, withdrawal and the various language versions of the instrument, could be reached with the expectation that they would be reviewed by a drafting group. Other provisions, such as on entry into force of the instrument, would need additional discussion. One representative suggested that options for entry into force other than the number of ratifications might be examined, such as those of the conventions under the auspices of the International Maritime Organization, which took into account certain characteristics of countries.

151. Several representatives said that provisions similar to paragraphs 4, 5 and 6 of article 22 of the Stockholm Convention should be included in respect of the adoption and amendment of annexes. Citing the Stockholm Convention as a model, one representative said that it would be helpful to have an option for parties to be bound by amendments to annexes only after submitting declarations of acceptance of those annexes rather than after the passage of a specified time, in the light of the fact that domestic processes to ratify treaties were sometimes time-consuming. One representative said that existing multilateral environmental agreements should be examined to identify advantages and disadvantages in current practices regarding amendments to annexes. Another representative said that it would be important to specify the type of amendment that could be made. Several representatives called for a provision similar to paragraph 4 of article 25 of the Stockholm Convention, which allowed parties to stipulate that amendments would enter into force for them only upon the deposit of an instrument of ratification, acceptance, approval or accession.

V. Other matters

A. Tracking tool

152. The representative of the group of Latin American and Caribbean countries introduced a revised version of the tracking tool set out in the annex to document UNEP(DTIE)/Hg/INC.1/6, saying that many representatives had recognized the need for a strong link in the mercury instrument between implementation and control measures and capacity building, technology transfer and financial assistance and that the negotiations should be guided by the principle of common but differentiated responsibilities and should seek to balance environmental, social and economic demands, the three pillars of sustainable development. He said that if used the tracking tool would need to be complemented by countries and supported by the secretariat as the negotiations proceeded.

153. *[To be completed]*

VI. Adoption of the report

154. *[To be completed]*

VII. Closure of the session

155. *[To be completed]*
