



Distr.: General
9 June 2017

Original: English



**United Nations
Environment
Programme**

**Conference of the Parties to the
Minamata Convention on Mercury
First meeting**

Geneva, 24–29 September 2017

Item 4 of the provisional agenda*

**Report on the achievements of the
intergovernmental negotiating committee to
prepare a global legally binding instrument on
mercury**

**Achievements of the intergovernmental negotiating committee
to prepare a global legally binding instrument on mercury**

Note by the secretariat

1. The secretariat has the honour to provide, in the annex to the present note, a summary of the work carried out by the intergovernmental negotiating committee to prepare a global legally binding instrument on mercury, established by decision 25/5 of the Governing Council of the United Nations Environment Programme. The report covers the period from the committee's first session, in June 2010, to the first meeting of the Conference of the Parties to the Minamata Convention on Mercury, in September 2017.
2. The Conference of the Parties may wish to take note of the report and express its appreciation to the intergovernmental negotiating committee for all its achievements.

* UNEP/MC/COP.1/1.

Annex

Achievements of the intergovernmental negotiating committee to prepare a global legally binding instrument on mercury

I. Introduction

1. Consideration of the most appropriate mechanism to address the global issue of mercury was undertaken between 2007 and 2009 and included both voluntary and legally binding approaches. In February 2009, the Governing Council of the United Nations Environment Programme (UNEP) requested the Executive Director of UNEP to convene an intergovernmental negotiating committee with the mandate to prepare a global legally binding instrument on mercury. The mandate of the committee, which is set out in part III of Governing Council decision 25/5, was reaffirmed by the Council in its decision 26/3 of 24 February 2011; previous decisions, namely decisions 23/9 and 24/3, had paved the way for the negotiation process to be initiated.

2. Decision 25/5 contemplated that the committee should complete its work prior to the twenty-seventh regular session of the Governing Council, in 2013. In line with that mandate, the intergovernmental negotiating committee held five sessions. At its fifth session, the committee reached agreement on the final draft text of the Minamata Convention on Mercury, which was adopted and opened for signature at a diplomatic conference held in Kumamoto, Japan, in October 2013. The committee then further reconvened twice, in Bangkok in November 2014 and at the Dead Sea, Jordan, in March 2016, in order to facilitate the rapid entry into force of the Convention and its effective implementation upon entry into force.

II. Development of a legally binding instrument on mercury

3. The first session of the committee, held in Stockholm from 7 to 11 June 2010, formally launched the negotiations with the adoption of the rules of procedure under which it would operate and the election of the Chair, Fernando Lugris (Uruguay), and nine vice-chairs, who together comprise the Bureau of the committee. Delegates then had the opportunity to give an initial presentation of their views on each of the provisions listed in the negotiating mandate. The committee concluded by requesting the secretariat to prepare additional documents to support discussion at its second session, including a paper containing possible draft elements of the comprehensive and suitable approach to mercury called for in decision 25/5.

4. At its second, third and fourth sessions, held respectively in Chiba, Japan, from 24 to 28 January 2011, in Nairobi from 31 October to 4 November 2011 and in Punta del Este, Uruguay, from 27 June to 2 July 2012, the committee carried out complete reviews of the successive iterations of the draft elements and draft text for a comprehensive and suitable approach to a global legally binding instrument on mercury (see UNEP(DTIE)/Hg/INC.2/3, UNEP(DTIE)/Hg/INC.3/3 and UNEP(DTIE)/Hg/INC.4/3) prepared by the secretariat for each respective session on the basis of the views expressed during discussions and submitted in writing. The committee concluded its fourth session by requesting the Chair to prepare, for consideration at its fifth session, a Chair's draft text, namely, a version of the draft instrument on mercury in which he proposed compromise text in an effort to bridge the differences between the various positions espoused by the parties. At the same session, the committee tasked the secretariat with preparing draft elements of the Final Act to be adopted at the Conference of Plenipotentiaries at which the Convention would be adopted and opened for signature. Those draft elements were to cover, among other things, how to promote and prepare for the early implementation of the mercury instrument; arrangements for the interim period between the signing of the instrument and its entry into force, including arrangements for financial and technical assistance during that period; and secretariat arrangements.

5. At its fifth session, held in Geneva from 13 to 18 January 2013, the committee used the Chair's draft text (see UNEP(DTIE)/Hg/INC.5/3) as a basis for discussion. The text bridged a number of gaps, leading to rapid progress in some areas, and resulting, after long hours of negotiations, in agreement on the text of a global legally binding instrument on mercury, thereby bringing the Minamata Convention on Mercury into being. The committee also requested the secretariat to update the elements of the draft Final Act that it had prepared following the fourth session (see UNEP(DTIE)/Hg/INC.5/6).

6. Work during the sessions of the committee took place in plenary as well as smaller settings, including in contact, drafting and other groups. A legal group was established at the committee's second session under the chairmanship of Susan Biniiaz (United States of America) to examine elements on which substantive agreement had been reached to ensure that the text of the individual elements, and the interplay between them, reflected and gave effect to the committee's intentions in a legally sound manner, highlighting any ambiguities or potential conflicts that might require further consideration by the committee. Prior to and during the committee's fifth session, the legal group prepared draft provisions of the instrument based on the policy approaches agreed by the committee; reviewed draft provisions prepared by the committee and other groups; examined the consistency of the various draft provisions, harmonizing them as necessary; and advised the committee or other groups on any legal questions that arose. At the committee's fifth session, the legal group reviewed all the texts prepared by contact groups and provided comments of a legal nature on them, prior to forwarding them to the committee for adoption.

7. In addition, significant work was carried out intersessionally between the first and the fifth sessions. Governments were invited to contribute written submissions and to participate in a number of regional and other consultations. An intersessional expert meeting on financial resources and technical and implementation assistance was established at the third session, under the chairmanship of Adel Shafei Osman (Egypt) and Johanna Lissinger Peitz (Sweden). A large number of documents were also made available to support the committee's discussions, with a total of 64 meeting documents and 29 information documents issued between the first and the fifth sessions.

III. Adoption and opening for signature of the Minamata Convention and the Final Act

8. The Conference of Plenipotentiaries on the Minamata Convention was held in Kumamoto, Japan, on 10 and 11 October 2013 after a ceremonial opening in Minamata on 9 October and a preparatory meeting in Kumamoto on 7 and 8 October. The Conference adopted the text of the Convention as well as the Final Act and its resolutions. The Convention and the Final Act were then opened for signature, with 92 States and 1 regional economic integration organization signing the Convention and 112 States and 1 regional economic integration organization signing the Final Act during the Conference.

IV. Preparations for the entry into force of the Convention and the first meeting of the Conference of the Parties

9. In order to facilitate the rapid entry into force of the Convention and its effective implementation upon its entry into force, the Conference of Plenipotentiaries, in its resolution on arrangements in the interim period, invited the Executive Director of UNEP to convene further meetings of the intergovernmental negotiating committee during the period between the date on which the Convention was opened for signature and the date of the opening of the first meeting of the Conference of the Parties to the Convention.

10. As a result, the committee reconvened twice in that period, holding its sixth session in Bangkok from 3 to 7 November 2014 and its seventh session at the Dead Sea in Jordan from 10 to 15 March 2016. It was guided in its work by the tasks set out by the Conference of Plenipotentiaries in paragraphs 5 to 8 of its resolution on arrangements in the interim period, in relation to the development and provisional adoption of items necessary for the effective implementation of the Convention upon its entry into force (para. 5); to matters required by the Convention to be decided upon by the Conference of the Parties at its first meeting (para. 6); to the provisional adoption of guidance and procedures pending formal adoption by the Conference of the Parties (para. 7); and to support for activities required or encouraged by the Convention to facilitate the rapid entry into force of the Convention and its effective implementation upon entry into force (para. 8).

11. At those sessions, the committee made good progress in a number of areas, adopting, on a provisional basis pending formal adoption by the Conference of the Parties, relevant forms and guidance for use under article 3 of the Convention, on mercury supply sources and trade, and article 6, on exemptions available to a party upon request, as well as guidance for use under article 8, on emissions. At its seventh session, the committee also agreed to the use, on a provisional basis, of the guidance for article 7, on developing a national action plan to reduce, and where feasible, eliminate mercury use in artisanal and small-scale gold mining, in its current form to assist countries in the period between that session and the first meeting of the Conference of the Parties.

12. The successful outcome in relation to article 8 was achieved thanks to the hard work carried out by the group of technical experts established by the Conference of Plenipotentiaries as a subsidiary body reporting to the committee in order to develop the guidance called for in article 8 of the Convention. In particular, under the chairmanship of Adel Shafei Osman (Egypt) and John Roberts (United Kingdom of Great Britain and Northern Ireland), the group prepared and forwarded to the seventh session of the committee draft guidance on best available techniques and best environmental practices, on criteria that parties might develop pursuant to paragraph 2 (b) of article 8, on preparing inventories of emissions, as well as on support for parties in implementing the measures set out in paragraph 5 of article 8, in particular in determining goals and in setting emissions limit values.

13. Progress was also made under article 13, on the financial mechanism of the Convention, including through the establishment at the committee's sixth session of an ad hoc working group of experts on financing, co-chaired by Gillian Guthrie (Jamaica) and Greg Filyk (Canada), with the mandate to provide input to the seventh session in implementing the decision of the Conference of Plenipotentiaries relating to the specific international programme to support capacity-building and technical assistance. Although a few remaining details are still to be finalized by the Conference of the Parties, the committee agreed at its seventh session, on the basis of that group's work, that UNEP would be the host institute for the specific international programme. Finally, also at its seventh session, the committee provisionally adopted and forwarded to the Council of the Global Environment Facility (GEF) for its consideration draft guidance to GEF and a revised memorandum of understanding between the Conference of the Parties and the GEF Council.

14. The committee also had fruitful discussions on other issues, including on article 21, in relation to the timing and format of reporting, and on article 23, in relation to the rules of procedure and financial rules that the Conference of the Parties is to adopt for itself and its subsidiary bodies at its first meeting. Many of the issues were resolved, while others remain to be resolved at the meeting of the Conference of the Parties.

15. On a number of other issues, following requests by the committee at its sixth and seventh sessions, Governments and interested stakeholders contributed written submissions to further support the work being carried out. Technical work was undertaken by the secretariat further to the committee's sixth and seventh sessions, and the result of that work — in relation to article 7, on artisanal and small-scale gold mining; article 10, on environmentally sound interim storage of mercury, other than waste mercury; article 11, on mercury wastes; article 12, on contaminated sites; and article 22, on effectiveness evaluation — is being forwarded to the Conference of the Parties for consideration at its first meeting. In relation to article 11, the committee also decided at its seventh session that informal efforts to propose appropriate thresholds should be pursued by those with the relevant expertise. Finally, at its first meeting, the Conference of the Parties will be invited to consider a revised report on the provision of the function of the permanent secretariat, as well as the offer from the Government of Switzerland relating to the physical location of the secretariat.

16. Through its work at its last two sessions, which was supported by significant intersessional efforts, including submissions solicited from Governments and other relevant actors on a number of issues, the development of supporting documentation — with 45 meeting documents and 21 information documents prepared for the sixth and seventh sessions, the convening of regional and other consultations, as well as intersessional expert meetings on financing and emissions, the committee undeniably paved the way for a successful first meeting of the Conference of the Parties as well as the rapid entry into force and effective implementation of the Minamata Convention.