

## Summary of the Second Segment of the Fourth Meeting of the Conference of the Parties to the Minamata Convention on Mercury: 21-25 March 2022

Nine years after its adoption, and five years after its entry into force, the Minamata Convention on Mercury is still a relative newcomer to the galaxy of multilateral environmental agreements. Parties are at the stage where detailed negotiations on a whole range of commitments are needed, especially since deadlines, agreed at the outset, are looming large. So, despite its technical nature, the resumed Fourth Meeting of the Conference of the Parties (COP 4.2) adopted 12 decisions that set the course of implementation in the years to come.

COP 4.2 marked the first appearance of artisanal and small-scale mining (ASGM) on the agenda since COP-1. ASGM represents the largest source of mercury emissions into the environment, even more than emissions from coal-fired power plants, which come second. In ASGM, the application of mercury for processing of the ore affects many people around the world, including some in remote communities, women of childbearing age, and child miners. Indigenous Peoples' testimonies moved the needle on ASGM national action plans, whereby parties agreed to consult with Indigenous Peoples and local communities in the development of these plans under the Convention.

The meeting also highlighted the wide range of products that account for mercury in the environment, and the levels of human exposure. Detailed negotiations on products from lamps to dental amalgam focused on how and when countries will eliminate the use of mercury-added products and processes. The Minamata Convention covers the whole life cycle of mercury and thus, the negotiations addressed many important issues from reporting on sources, export and intended uses, to preparing inventories of point sources to setting thresholds for determining when mercury-contaminated wastes require special management.

Parties took steps towards setting up the first "effectiveness evaluation" of the Convention, which will assess the real impacts of parties' efforts. Negotiations on the specific terms of reference were often heated, but parties eventually reached agreement on the basic steps towards the first real test of the Minamata Convention's value.

COP 4.2 also approved the budget and programme of work for the next biennium and also set the terms of reference for the next review of its financial mechanism

Also introduced by the Indonesian Presidency of COP-4 and adopted by heads of delegation at COP-4.2 was the Bali Declaration on Illegal Trade in Mercury. While non-binding, the Declaration is intended as a strong statement of collective will to address a growing problem.

During the course of the meeting, speakers drew attention to developments relevant to mercury in the broader international relations environment. These included the United Nations Environment Assembly's agreement to establish an intergovernmental science-policy panel on chemicals and waste, similar to those that already exist for climate and biodiversity. Delegates also highlighted the human rights dimension of pollution, and the Human Rights Council's recent recognition of the right to a healthy environment. Action on mercury, if parties are successful in their implementation of the Minamata Convention, will go a long way towards tackling the human and environmental costs of mercury.

COP 4.2 took place from 21-25 March in Bali, Indonesia.

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### A Brief History of the Minamata Convention

The Minamata Convention was adopted in 2013 to address mercury, a heavy metal that is persistent in the environment. As a naturally occurring element, mercury can be released into the air and water through the weathering of rock containing mercury ore or through human activities such as industrial processes, mining, deforestation, waste incineration, and burning fossil fuels. Mercury can also be released from mercury-containing products, including dental amalgam, electrical applications (such as switches and fluorescent lamps), laboratory and medical instruments (such as clinical thermometers and barometers), batteries, seed dressings, antiseptic and antibacterial creams, and skin lightening creams. Mercury exposure can affect fetal neurological development and has been linked to lowered fertility, brain and nerve damage, and heart disease in adults who have high levels of mercury in their blood. Discussions related to the need for a legal instrument to address the threats posed by mercury began in earnest in 2007. The Minamata Convention on Mercury was adopted on 10 October 2013 and entered into force on 16 August 2017. It currently has 137 parties.

### Key Turning Points

**24th Session of the UNEP GC/GMEF:** In February 2007, the United Nations Environment Programme (UNEP) Governing Council/Global Ministerial Environment Forum (UNEP GC-24/GMEF) discussed the issue of mercury extensively. Delegates' preferences for international cooperation on mercury ranged from starting a negotiating process for a legally-binding instrument to incorporating mercury into existing agreements, or concentrating on voluntary actions, especially through partnerships. They agreed in decision 24/3 IV that a "two-track" approach could take forward actions on mercury, while keeping open the path to a binding instrument in the future. An *ad hoc* open-ended working group (OEWG) of government and stakeholder representatives was established. The OEWG met twice, agreeing on one legally-binding option and three voluntary options for consideration by the UNEP GC.

**UNEP GC-25/GMEF:** In February 2009, the UNEP GC/GMEF adopted decision GC-25/5, by which delegates agreed to further international action consisting of the elaboration of a legally-binding instrument on mercury that could include both binding and voluntary approaches, together with interim activities, to reduce risks to human health and the environment. It also requested the UNEP Executive Director to convene an OEWG meeting in 2009 and an intergovernmental negotiating committee (INC) commencing its deliberations in 2010, with the goal of completing its work by GC-27/GMEF.

**Negotiation of the Convention:** The INC met five times between June 2010 and January 2013. INC-1 requested the UNEP Secretariat to draft "elements of a comprehensive and suitable approach" to a legally-binding instrument. This draft served as the basis for negotiation at INC-2, where delegates completed a first full reading of the paper and mandated the Secretariat to prepare new draft text for further negotiation at INC-3. At INC-4, delegates made progress on storage, wastes, and contaminated sites, but views diverged on compliance, finance, and control measures for products and processes. INC-5 addressed policy and technical issues such as: mercury air emissions and releases to water and land; health aspects; and phase-out and phase-down dates for products and processes. A compromise was reached late on the final night, based on a package addressing outstanding issues.

**UNEP GC-27/GMEF:** This meeting, in February 2013, concluded with a decision welcoming the completion of negotiations of the mercury treaty, authorizing UNEP's Executive Director to provide an interim Secretariat to the instrument prior to its entry into force, and inviting parties to the Basel, Rotterdam and Stockholm (BRS) Conventions to consider the steps to facilitate cooperation and coordination with the Minamata Convention.

**Diplomatic Conference of Plenipotentiaries on the Minamata Convention on Mercury and its Preparatory Meeting:** The Minamata Convention on Mercury was officially adopted on 10 October 2013, in Kumamoto, Japan, at the Diplomatic Conference of Plenipotentiaries. The Conference gathered more than 1,000 participants from over 140 countries, intergovernmental organizations, and non-governmental organizations. During the conference, the Convention was signed by 91 countries and the European Union (EU). From 7-8 October 2013, participants at an open-ended intergovernmental preparatory meeting negotiated resolutions on elements of the Final Act, including: promoting and preparing for the early implementation of the instrument; arrangements for the interim period before its entry into force, such as arrangements for financial and technical assistance during that period; and Secretariat arrangements.

**INC-6 and 7:** INC-6 convened in November 2014 in Bangkok, Thailand, during the interim period between the adoption of the Convention and COP-1. Delegates discussed issues including the financial mechanism, rules of procedure and financial rules, and possible approaches to reporting. INC-7 convened in March 2016 at the Dead Sea, Jordan. Delegates considered issues including: procedures for export and import of mercury; operation of the financial mechanism; and draft rules of procedure and financial rules for the COP. They also discussed guidance on issues including the identification of stocks of mercury and mercury compounds and sources of supply, and best available techniques and best environmental practices for controlling emissions.

**COP-1:** COP-1 met in Geneva in September 2017, and discussed, *inter alia*:

- reporting;
- effectiveness evaluation;
- financial mechanism;
- arrangements for a permanent secretariat;
- compliance and guidance; and
- guidelines related to technical aspects of the Convention.

A High-level Segment attended by two Heads of State and Government and 80 ministers provided an interactive platform to demonstrate political leadership and raise awareness of, and support for, implementation of the Convention. COP-1 agreed on interim arrangements for the Secretariat, which would be located in Geneva until a review of these arrangements was conducted at COP-2.

COP-1 also established the Specific International Programme (SIP) as one part of the financial mechanism, but was unable to agree on the Memorandum of Understanding (MoU) with the GEF, postponing this decision to COP-2.

**COP-2:** Delegates attending COP-2 in November 2018 agreed on permanent arrangements for a stand-alone Secretariat, based in Geneva. COP-2 also adopted decisions on, among others:

- cooperation with the BRS Conventions;
- rules of procedure for the Implementation and Compliance Committee;
- mercury waste thresholds;

- harmonized customs codes;
- contaminated sites;
- interim storage;
- capacity building, technical assistance, and technology transfer; and
- effectiveness evaluation.

The COP also approved the MoU with the GEF.

**COP-3:** COP-3 met in Geneva in November 2019, and discussed, *inter alia*:

- guidance for completing the national reporting format;
- the financial mechanism, including the GEF and the SIP, enhancement of the SIP, and review of the financial mechanism;
- capacity building, technical assistance and technology transfer;
- the sharing of secretariat services with the BRS Secretariat;
- the review of the Convention's Annexes A (mercury-added products) and B (processes using mercury or mercury compounds), which is due by 2022; and
- guidance on the management of contaminated sites.

COP-3 extended its allotted schedule as contact group deliberations on the effectiveness evaluation ran into the early hours of the morning beyond the final day. In the end, parties adopted a “minimalist text” decision on the issue, requesting the Secretariat to advance the work on the proposed framework for effectiveness evaluation and monitoring, and inviting parties to submit views on the indicators.

**COP-4.1:** Due to the COVID-19 pandemic, the Bureau agreed that the COP would be convened in two segments: a first virtual segment (COP-4.1) to address the most urgent issues and a second in-person segment (COP-4.2) where parties would consider the remaining items on the agenda. COP-4.1, held 1-5 November 2021, adopted two decisions: the 2022 programme of work and budget, and dates for COP-4.2. Participants also discussed three other time-sensitive issues: the Convention's effectiveness evaluation, national reporting, and the eighth replenishment of the GEF.

### Minamata COP-4.2 Report

COP-4.2 opened on Monday, 21 March. In a series of opening statements, high level officials and regional representatives highlighted the context in which COP-4.2 was taking place, identified entry points in global sustainable development policy processes that can be used to leverage the success of the Minamata Convention, and encouraged delegates to strive to reach agreement on all agenda items in order to keep the Convention on track to meet its deadlines and to enable parties to fulfill the Convention's obligations.

Wayan Koster, Governor, Bali, Indonesia, welcomed delegates and expressed strong support for international efforts to reduce and eliminate mercury.

Monika Stankiewicz, Executive Secretary, Minamata Convention, provided an overview of the ambitious agenda for COP-4.2, and called for special attention to the UNEP Executive Director's recommendations to strengthen the Convention's SIP on capacity building and technical assistance.

UNEP Executive Director Inger Andersen drew attention to the recently concluded Fifth UN Environment Assembly (UNEA-5), which agreed to establish a science-policy panel on the sound management of chemicals and waste. She noted how this will impact the Minamata Convention's work.

Siti Nurbaya Bakar, Minister of Environment and Forestry, Indonesia, expressed hope that COP-4.2 will allow parties to “bridge our differences and expand our similarities” on key issues such as the effectiveness evaluation. She explained that an “alarming increase” in global illegal mercury trade prompted Indonesia to propose a nonbinding Bali Declaration on combating such trade.

COP-4 President Rosa Vivien Ratnawati, Indonesia, noted that, despite pandemic challenges, “no action is not an option.”

In regional statements, Botswana, for the AFRICAN GROUP, highlighted two proposed amendments: a phase-out of fluorescent mercury lamps by 2025 and a ban on mercury in dental amalgam for children and breastfeeding and pregnant women by 2024.

Sri Lanka, for the ASIA-PACIFIC, called for maintaining and scaling up finance and technology transfer, bearing in mind the principle of common but differentiated responsibilities and respective capabilities.

France, for the EUROPEAN UNION and its Member States, called for COP-4.2 to agree on a functional framework for its first effectiveness evaluation, which, she said, must be completed by 2023.

The EU and the US, also on behalf of AUSTRALIA, CANADA, ICELAND, JAPAN, NEW ZEALAND, NORWAY, SWITZERLAND, and the UK, condemned Russian military aggression in Ukraine and called on Russia to cease hostilities.

Colombia, for the LATIN AMERICAN AND CARIBBEAN GROUP (GRULAC), underlined the need for its members to receive technology assistance and transfer to meet their obligations under the Convention and called upon donor countries to increase financial support for developing countries.

The AFRICAN GROUP, ASIA-PACIFIC, GRULAC and the EU expressed support for the proposed Bali Declaration's focus on combating the illegal trade in mercury.

Following confirmation of the agenda adopted at COP-4's online segment (UNEP/MC/COP.4/1 and Add.1) and approval of the organization of work presented by President Ratnawati and detailed by the Secretariat (UNEP/MC/COP.4/1/Add.1/Rev.1, Annex III), delegates presented opening positions on the agenda items.

This summary provides an overview of the deliberations and outcomes according to the order of the agenda.

### Organizational Matters

**Election of officers for the intersessional period and COP-5:** On Friday, delegates elected Claudia Dumitru (Romania) as President of COP-5. The following Vice-Presidents were nominated by their respective regions for the COP-5 Bureau: Oarabile Serumola (Botswana) and Roger Baro (Burkina Faso) for the African Group; Anahit Aleksandryan (Armenia) for Central and Eastern Europe; Osvaldo Patricio Álvarez Pérez (Chile) and Cheryl Eugene St. Romain (Saint Lucia) for GRULAC; Marie-Claire Lhenry (France) and Sverre Thomas Jahre (Norway) for the Western European and Others Group (WEOG); and Saeed Alzahrani (Saudi Arabia) and Syed Mujtaba Hussain (Pakistan) for Asia-Pacific.

The following were elected to the Implementation and Compliance Committee (ICC): Jean Hervé Mve-Beh (Gabon), Kuzumila Ngunila (Tanzania), and Christopher Kanema (Zambia) for the African Group; Atanas Stoyanov Dishkelof (Bulgaria), Jelena Kovačević (Montenegro), and Dubravka Marija Kreković (Croatia) for Central and Eastern Europe; Jimena Nieto Carrasco (Colombia), Meredith Henry-Cumberbatch (Suriname), and Paulina Riquelme (Chile) for GRULAC; Anik Beaudoin (Canada), Helga Schrott

(Austria), and Karoliina Anttonen (Finland) for WEOG; and Abbas Torabi (Iran), Itsuki Kuroda (Japan), and Mohammed Khashashneh (Jordan) for Asia-Pacific.

Elected to the SIP Governing Body were: Olubunmi Olusanya (Nigeria) and Anne Nakafeero (Uganda) for the African Group; Suzana Andonova (North Macedonia) and Mario Vujić (Croatia) for Central and Eastern Europe; Helges Samuel Bandeira (Brazil) and Gina Griffith (Suriname) for GRULAC; Andrew Clark (US) and Rafael Zubrzycki (Germany) for WEOG; and Satyendra Kumar (India) and Wasantha Dissanayake (Sri Lanka) for Asia-Pacific.

**Credentials:** Following interim reports on Monday and Wednesday, Credentials Committee Chair Oarabile Serumola, (Botswana) provided a final report on the status of credentials on Thursday. She reported that of 116 parties pre-registered for COP-4.2, 101 had submitted credentials in order and, as a result, the delegates of Burundi, Chad, Comoros, Republic of Congo, Cyprus, Guinea Bissau, Iraq, Jordan, Lebanon, Mali, Mauritius, Namibia, Palestine, Rwanda, and Saint Kitts and Nevis would be recorded as observers in the report of the meeting. Parties adopted the report on credentials as orally presented.

### Rules of Procedure

On Monday, Stankiewicz introduced the rules of procedure (UNEP/MC/COP.4/3), noting remaining brackets in rule 45 specifically in: paragraph 1 on the option to take a decision on matters of substance by means of voting, should all efforts to reach consensus fail; and paragraph 3 on the mechanism used to decide whether a matter before the COP should be considered a matter of substance or a matter of procedure. Delegates agreed to defer this matter to COP-5.

### Matters for Consideration or Action by COP-4

**Mercury-added products and manufacturing processes in which mercury or mercury compounds are used: Review of Annexes A and B:** On Monday, the Secretariat introduced its note (UNEP/MC/COP.4/4 and UNEP/MC/COP.4/INF/3). Darren Byrne (Ireland), Co-Chair, *Ad Hoc* Group of Technical Experts, noted the group convened 11 times to produce its report by 30 April 2021 (UNEP/MC/COP.4/INF/3). He invited parties and stakeholders to share further information.

IRAN, supported by BAHRAIN, LEBANON, and QATAR, asked for more time to further deliberate on problems faced by developing countries for phasing out mercury. ARGENTINA welcomed discussion on changing the annexes. The EU noted its active engagement during intersessional work and its proposed amendments. The US noted that the processes in part 2 of Annex B require COP attention regarding alternatives, and requested the Secretariat to consult with parties that had identified themselves as engaging in those processes and to prepare a short report for consideration at COP-5.

Noting the review inputs involved only eight countries and the EU and BRAZIL, with SAUDI ARABIA and IRAN, said the information was not comprehensive enough to make conclusive recommendations on the annexes, and called for collecting more information. BOLIVIA called for any new phase-out proposals to carefully consider the deadlines set, taking into account their socio-economic implications.

**Information on dental amalgam:** On Monday, the Secretariat introduced the documents (UNEP/MC/COP.4/5 and UNEP/MC/COP.4/INF/4), and the WORLD HEALTH ORGANIZATION (WHO) presented outcomes from its survey of 93 chief dental and other health officers (UNEP/MC/COP.4/INF/26).

GRULAC expressed concern that technical and economically viable alternatives have yet to be developed on a global scale. The AFRICAN GROUP drew attention to its proposed amendment to phase out manufacture and import of amalgam by 2027. He noted that dental mercury is used illegally in artisan and small-scale gold mining (ASGM) and said awareness should be raised regarding its health impacts. VIET NAM noted it would phase out amalgam in the near future.

**Customs codes:** On Tuesday, the Secretariat introduced the documents on this item (UNEP/MC/COP.4/INF/5), noting the draft guidance requested by COP-3 to provide support to parties wishing to use customs codes for monitoring and controlling the import and export of mercury-added products.

The EU requested the Secretariat to keep the guidance under review and provide support to countries. The PHILIPPINES requested that work should continue on the Harmonized System nomenclature for products to be added to Annex A. GRULAC asked the Secretariat to promote South-South cooperation on this matter. INDONESIA expressed concern that it may be difficult for his country to adopt codes beyond the eight-digit level. IRAN said the codes should be implemented on a voluntary basis.

Parties took note of the Secretariat's work. During the closing plenary on Friday, IRAN reiterated the importance of voluntary implementation, and requested deferring a decision until COP-5.

**Proposals for amendments to Annexes A and B:** On Monday, the Secretariat presented its note on proposed amendments (UNEP/MC/COP.4/26). The EU presented its proposal (UNEP/MC/COP.4/26/Add.1) to

- by 2023, eliminate exceptions for button batteries and halophosphate phosphor linear fluorescent lamps, add new measuring devices and polyurethane to Annex A, and ban the production of polyurethane using mercury-containing catalysts; and
- by 2024, add new restrictions on the use of dental amalgam.

The AFRICAN GROUP presented its proposal to ban most fluorescent lighting and phase out dental amalgam by 2029 (UNEP/MC/COP.4/26/Add.2). CANADA presented its proposal with SWITZERLAND (UNEP/MC/COP.4/26/Add.3) to add new products to part I of Annex A, such as photographic film and paper and propellant for satellites and spacecraft, to be banned by 2025.

MEXICO said the proposals posed new challenges for developing countries that would require additional resources for capacity building. The EU highlighted its own adoption of phase-out dates and regulations on mercury waste. The AFRICAN GROUP called for consensus on the proposals. CANADA noted that the products included in their proposal are not widely used, but adding them to Annex A could avoid their reintroduction. CHILE requested longer compliance deadlines, noting the difficulty of detecting, for example, button batteries in imported products.

SWITZERLAND welcomed the EU and AFRICAN GROUP's respective proposals. CHINA cautioned that countries' compliance capacity and available funding should be considered. THAILAND noted that some products proposed in the amendments are still needed in her country. NORWAY offered to share best practices

from its experience of successfully phasing out the use of dental amalgam.

NIGERIA, SIERRA LEONE, US, UGANDA, and ZAMBIA all expressed support and interest to further consider the proposals in a contact group. INDIA suggested alternative timelines to phase down, not phase out, certain uses of mercury in lighting and dentistry. JAPAN asserted that it is pursuing more stringent measures to phase out the use of dental amalgam than the Convention proposes, and shared how it has done so with the expert group.

BRAZIL, BAHRAIN, QATAR, and SAUDI ARABIA urged delaying consideration of amalgam until COP-5. PAKISTAN, the AFRICAN GROUP, the EU, ZAMBIA, US, SWITZERLAND, and NORWAY asserted that much work has been done on amalgam so it should be discussed at this COP.

Delegates agreed to establish a contact group co-chaired by Nicola Powell (Australia) and David Kapindula (Zambia) that would first discuss amendment proposals. The group met throughout the week. During its deliberations, questions were raised about the Annex A proposals on polyurethane tensiometers. As a result, these proposals were withdrawn.

The group agreed on the need for listing most of the proposed products, but differed on phase-out dates. By the end of the week, they had worked out compromises for eight products. Differences remained over phase-out dates for silver oxide and zinc air button batteries, three types of linear fluorescent lamps, and very high-accuracy capacitance and loss measurement bridges and high frequency radio frequency switches and relays in monitoring and control instruments. The contact group was also able to agree on the proposal for assessing technically and economically feasible mercury-free alternatives for two processes in Annex B.

Contact group discussions on dental amalgam quickly understood that certain parties were unwilling to consider a phase-out until COP-5. The group instead worked on a compromise proposed by the AFRICAN GROUP and EU to add new restrictions involving the use of mercury in bulk form by dental practitioners and the use of amalgam on young children and pregnant or breastfeeding women.

After the contact group reported back to plenary on Friday, INDIA offered to remove brackets indicating disagreement and agree to compromise on phase-out dates for the four outstanding product proposals for part I of Annex A.

Commending India's spirit of compromise, President Ratnawati asked delegates if the remaining brackets could be lifted, and this was agreed. IRAN said it could remove brackets on the four product listings, but not for the phase-out date proposals until they are discussed again at COP-5. The AFRICAN GROUP, supported by ARGENTINA, BRAZIL, CHILE, the EU, ICELAND, INDIA, INDONESIA, JAPAN, NIGERIA, NORWAY, SWITZERLAND, and the US, called for removing all brackets and agreeing to phase-out of the four products. IRAN reiterated its earlier position.

Later in Friday's plenary, the COP adopted the decision drafted by the Secretariat in consultation with the contact group co-chairs.

**Final Outcome:** In its decision (UNEP/MC/COP.4/CRP.16), the COP amends part I of Annex A to phase-out by 2025:

- compact fluorescent lamps with an integrated ballast for general lighting purposes that are  $\leq 30$  watts with a mercury content not exceeding 5 mg per lamp burner;
- cold cathode fluorescent lamps and external electrode fluorescent lamps of all lengths for electronic displays not already phased out;

- strain gauges used in plethysmographs;
- melt pressure transducers, melt pressure transmitters and melt pressure sensors, except those installed in large-scale equipment or those used for high precision measurement, where no suitable mercury-free alternative is available;
- mercury vacuum pumps;
- tire balancers and wheel weights;
- photographic film and paper; and
- propellant for satellites and spacecraft.

The COP also decides to amend part II of Annex A on dental amalgam to require parties to:

- exclude or not allow, by taking measures as appropriate, the use of mercury in bulk form by dental practitioners; and
- exclude or not allow, by taking measures as appropriate, or recommend against the use of dental amalgam for the dental treatment of deciduous teeth, of patients under 15 years, and of pregnant and breastfeeding women, except when considered necessary by the dental practitioner based on the needs of the patient.

The COP requests the Secretariat to draft a revised reporting format under Article 21 to collect information on the measures taken related to the provisions that were added by the present amendment, for their consideration by COP-5.

The COP decides to consider amending part I of Annex A to set the date after which the manufacture, import or export of the product shall not be allowed (phase-out date) for:

- button zinc silver oxide batteries with a mercury content  $< 2\%$  and button zinc air batteries with a mercury content  $< 2\%$ ;
- very high accuracy capacitance and loss measurement bridges and high frequency radio frequency switches and relays in monitoring and control instruments with a maximum mercury content of 20 mg per bridge switch or relay;
- linear fluorescent lamps for general lighting purposes: (a) halophosphate phosphor  $\leq 40$  watts with a mercury content not exceeding 10 mg per lamp; (b) halophosphate phosphor  $> 40$  watts; and (c) triband phosphor  $< 60$  watts with a mercury content not exceeding 5 mg/lamp.

The COP decides to consider at COP-5 adding the production of polyurethane using mercury-containing catalysts to part I of Annex B. The COP requests the Secretariat to compile information on the availability and technical and economic feasibility of mercury-free alternatives to the production of polyurethane using mercury-containing catalysts, to submit to COP-5.

Lastly, the COP requests the Secretariat to prepare, for consideration by COP-5, a short report on the technical and economic feasibility of mercury-free alternatives for the two processes listed in part II of Annex B, vinyl chloride monomer and sodium methylate, that refer to the COP establishing such feasibility.

**Artisanal and small-scale gold mining:** On Tuesday, the Secretariat presented the document on the draft update to guidance for the preparation of a national action plan to reduce and, where feasible, eliminate mercury use in ASGM (UNEP/MC/COP.4/6). Many delegations supported adoption of the updated guidance and welcomed the attention to tailings management. Several suggested possible related follow-up work, such as strengthening national capacity to manage ASGM tailings, capacity building for miners, and disseminating mercury-free technologies. CANADA called for developing guidance on the monitoring of mercury and mercury compounds at ASGM sites.

During Thursday morning's plenary, delegates considered a decision drafted by the Secretariat (UNEP/MC/COP.4/CRP.5). BRAZIL requested further consultations to revise the proposed decision. Delegates reviewed a revised text (UNEP/MC/COP.4/CRP.5/Rev.1) in the afternoon plenary and forwarded it to the Programme of Work (POW) and Budget Contact Group for review with an additional edit regarding local communities. During the final plenary on Friday, the COP adopted the updated guidance.

**Final Outcome:** In its decision (UNEP/MC/COP.4/CRP.11), the COP calls on parties to engage with indigenous peoples, local communities, and other relevant stakeholders in the development and implementation of national action plans. It requests the Secretariat to compile views on the needs and priorities of indigenous peoples and local communities with regard to the use of mercury in ASGM. The COP also requested the Secretariat, in cooperation with the UNEP Global Mercury Partnership, to disseminate the guidance on developing a national action plan, support its use by parties, and keep it under review.

**Releases of mercury:** On Tuesday, the Secretariat reported on the intersessional work requested by COP-3, including the draft guidance on the methodology for preparing inventories of releases (UNEP/MC/COP.4/7). Bianca Hlob'sile Dlamini (Eswatini), Co-Chair, Group of Technical Experts on Mercury Releases, summarized the work carried out by the group.

Most delegations supported adoption of the draft guidance on methodology for preparing national release inventories and the list of potentially relevant point sources, as well as mandating further expert group work on guidance for best environmental practices (BEP) and best available techniques (BAT). JAPAN and the US asked for adoption be delayed until later in the week to take into account discussions in the Contact Group on Annexes A and B.

The Secretariat was asked to consult delegations about elements for a possible decision on the methodology guidance and the roadmap for work on BEP/BAT. On Friday, the COP adopted a draft decision prepared by the Secretariat based on these consultations.

**Final Outcome:** In its decision (UNEP/MC/COP.4/CRP.8), the COP:

- invites parties to consider the list of potentially relevant point source release categories as set out in the appendix to Annex III to UNEP/MC/COP.4/7 when identifying relevant point source categories, pursuant to paragraph 3 of Article 9 of the Convention;
- adopts the guidance on the methodology for preparing inventories of releases, invites parties to take into account of the guidance when preparing their inventory of releases from relevant sources, and requests the Secretariat to compile inputs from parties on the use of guidance for consideration by COP-5;
- requests the Group of Technical Experts to work electronically to develop guidance on BEP and BAT; and
- requests the Group of Technical Experts' work be agreed by consensus. In case no consensus is reached, the Secretariat should take note of this lack of consensus, register the discussion and the different positions, and note the level of support for each position.

**Mercury waste: Consideration of the relevant thresholds:** On Tuesday, the Secretariat presented the documents on intersessional work on thresholds (UNEP/MC/COP.4/8 and UNEP/MC/COP.4/INF/27). Andreas Gössnitzer (Switzerland), Co-Chair, Group of

Technical Experts on Mercury Waste Thresholds, summarized the outcome of the group's work.

Delegates generally welcomed the two-tier approach suggested by the Group of Technical Experts for tailings from industrial-scale non-ferrous metal mining other than primary mercury mining. They diverged on how to handle thresholds for waste contaminated with mercury or mercury compounds ("category C wastes"). Several called for a contact group dedicated to this issue. President Ratnawati noted that there seemed to be consensus from the Group of Technical Experts' conclusions on ASGM tailings and tailings from industrial-scale non-ferrous metal mining other than primary mercury mining, but there were divergent views on category C wastes.

A contact group co-chaired by Teeraporn Wiriwutikorn (Thailand) and Karissa Kovner (US) was created to focus on the outstanding issue of category C wastes. The group met on Wednesday and Friday and examined two options offered for thresholds for category C wastes. The group spent most of its time discussing "option one," which would set a total concentration threshold of 25 mg/kg, while allowing for tougher thresholds to be set at the national or local levels. It envisions an expert group to develop voluntary guidance for setting thresholds for waste with mercury of 1-25 mg/kg. Proponents explained why this might be the best option and would allow work on technical guidelines for mercury waste to progress under the Basel Convention. Others raised possible practical problems in applying this approach, citing different national waste management circumstances and regulatory approaches.

The group spent little time discussing "option two," which would involve setting a range of thresholds between 1 and 25 mg/kg depending on type of waste and conditions.

The group was unable to agree on one of the options, so it instead focused on outlining how the group of technical experts should tackle it going forward. The group also discussed whether the intersessional work could be successfully conducted electronically, or, as two regional groups contended, one or more face-to-face meetings were required.

**Final Outcome:** In its decision (UNEP/MC/COP.4/CRP.17), the COP, *inter alia*:

- extends the mandate of the Group of Technical Experts with the goal of recommending and facilitating a decision on category C wastes by COP-5 or as soon as possible thereafter; and
- invites parties to share information and data on the waste categories listed in the indicative list contained in Table 3 of UNEP/MC/COP.3/5, including with respect to any relevant national or local thresholds and their establishment, and requests the Secretariat to compile such information and distribute it to the group of technical experts as soon as possible and make it available electronically.

The decision also calls on the Group of Technical Experts to:

- seek to collaborate, as appropriate, with the Basel Convention's small intersessional working group on mercury waste thresholds, with a view to exchanging information and avoiding duplication of work;
- use the indicative list of waste types contaminated with mercury or mercury compounds to identify relevant information or data that may inform the group's threshold discussion. The group should prioritize wastes that are common among parties and likely to pose a risk to human health or the environment

and should take into account that parties have varying waste management capacities; and

- consider the situation of parties that already manage mercury waste in an environmentally sound manner, including through the use of a risk-based approach that takes into account leaching potential.

The decision further states that no threshold needs to be established for tailings from ASGM, and defines the following two-tier thresholds above which tailings from mining other than primary mercury mining are not excluded from the definition of mercury waste pursuant to paragraph 2 of Article 11:

- Tier-1 threshold to be applied first: 25 mg/kg total mercury content; and
- Tier-2 threshold to be applied to tailings above the tier-1 threshold: 0.15 mg/L in the leachate using an appropriate test method simulating the leaching of mercury at the site where the tailings are deposited.

The Group of Technical Experts is requested to develop a guidance document on test methods to be used for the tier-2 threshold for tailings from mining other than primary mercury mining, and to continue its work primarily by electronic means, and to hold one face-to-face meeting of sufficient duration to address category C wastes, subject to the availability of resources, and to report on its work to COP-5.

**Financial Resources and Mechanism: Global Environment Facility:** On Tuesday, the Secretariat introduced the documents regarding the Convention and GEF (UNEP/MC/COP.4/9 and Add.1). The GEF Secretariat briefed delegates on its support over the last two years, noting its work on ASGM, mercury waste, and the chlor-alkali sector. The GEF Secretariat also reported on negotiations towards its eighth replenishment cycle (GEF-8), for the July 2022 - June 2026 period (UNEP/MC/COP.4/10 and Add.1, UNEP/MC/COP.4/INF/7 and INF/8). The GEF Secretariat noted that GEF-8 will be “more ambitious,” especially with regard to action on chemicals and waste, noting, for example, its aim to reduce ocean plastics by more than four million tons.

The US welcomed the agreement to increase GEF-8 spending on chemicals and waste to 15% of the total spending envelope. GRULAC, the AFRICAN GROUP, the EU, MEXICO, CHINA, and NIGERIA welcomed the contributions toward replenishment. The EU and CHINA noted the need for developing countries to be supported to comply with their responsibilities to eliminate mercury-based products by 2025.

**Specific International Programme to support capacity building and technical assistance:** On Tuesday, the Secretariat introduced the overall report on the SIP (UNEP/MC/COP.4/11), the report of the SIP Governing Body (UNEP/MC/COP.4/11/Add.1), and a report by the UNEP Executive Director on strengthening the SIP (UNEP/MC/COP.4/13). Reginald Hernaes (Netherlands), Co-Chair, SIP Governing Board, noted that 23 projects had been approved during the four years of the Programme’s operation, including projects in small island developing states and least developed countries. He expressed concern that the USD 2.2 million distributed across nine projects in the last application cycle was insufficient to meet needs, and urged greater financial support.

NORWAY and NIGERIA regretted that many technically-sound projects had not been funded. Supported by the AFRICAN GROUP, GRULAC, and ARGENTINA, they called for increasing SIP resources. GRULAC requested the Secretariat to work with the

Governing Board to estimate the resources that will be required over the next few years, and to contribute towards the prioritization of projects.

**Review of the financial mechanism:** On Tuesday, the Secretariat presented its note on the second review of the financial mechanism (UNEP/MC/COP.4/12), noting its recommendation for a draft decision regarding terms of reference (ToR) for the review. BRAZIL, the AFRICAN GROUP, and INDONESIA supported the proposed draft decision and ToR. The EU proposed adding the UNEP Executive Director’s report on the SIP to the review. The US, noting that the SIP was not really covered by the first review because it was just starting, proposed an adjustment to the timeframe covered by the review to differentiate between the GEF and SIP. The Secretariat was asked to produce a conference room paper (CRP), including the proposed changes. The COP adopted the revised decision on Friday.

**Final Outcome:** In its decision (UNEP/MC/COP.4/CRP.6), the COP adopts the ToR for the second review of the financial mechanism as set forth in an annex to the decision. It invites parties, intergovernmental organizations, non-governmental organizations, and stakeholders to submit information, consistent with the ToR, and organized by the listed performance criteria, on experience gained through their interactions with the financial mechanism as soon as possible and not later than 30 September 2022. The COP requests the Secretariat to compile the information received for consideration at COP-5.

**Capacity building, technical assistance and technology transfer:** On Thursday, the Secretariat introduced the documents on this item (UNEP/MC/COP.4/14 and UNEP/MC/COP.4/INF/23). The AFRICAN GROUP, BRAZIL, INDONESIA, NIGERIA, PAKISTAN, and TANZANIA expressed support for increased capacity building. PAKISTAN urged private sector engagement, especially regarding management of end-of-life products. The AFRICAN GROUP called for cooperation on waste management and documentation, pollution monitoring, and development of national action plans. INDONESIA urged stronger commitment from developed country parties, and greater regional cooperation. IRAN and LEBANON called for strengthening the role of the BRS regional centers. Delegates took note of the documents.

**Implementation and Compliance Committee and national reporting:** On Tuesday, President Ratnawati announced that these two agenda items would be discussed together, since they were related.

ICC Chair Paulina Riquelme (Chile) presented the report of the third meeting of the Committee, held online on 7-8 June 2021 (UNEP/MC/COP.4/15/Rev.1). She noted that the ICC had focused on analyzing the short reports submitted by parties, and noted several issues requiring clarifications, including that:

- parties might have interpreted certain reporting requirements in varying ways;
- parties might have had challenges in reporting on measures taken, or on their progress if the measures were under way at the time of reporting; and
- some documentation for the national reports had not reached the Secretariat for various reasons, including, in some cases, concerns about the protection of commercial-in-confidence information.

Riquelme noted that, for all parties, it had been the first experience of reporting on obligations under the Minamata

Convention. She highlighted the recommended elements for a decision included in the annex to the ICC report, including:

- welcoming the high reporting rate, timeliness, and completeness of the first national reports;
- reminding all parties of the importance of the reporting obligation under Convention Article 21;
- considering the factors that may have contributed to reporting challenges identified by the ICC and considering further action;
- requesting the Secretariat, with respect to matters relating to reporting on the export of mercury, to propose potential ways for parties to provide the Secretariat with information while excising information considered commercial-in-confidence; and
- requesting the Secretariat to continue to support parties in national reporting, including through training.

Delegates supported the ICC recommendations.

The Secretariat then presented a note on the first short national reports submitted by parties pursuant to Article 21 of the Convention (UNEP/MC/COP.4/16), as well as the draft guidance on completing the national reporting format (UNEP/MC/COP.4/17). She said that 90 parties (about 73%) had submitted their long reports by March 2022, and most had referenced the draft guidance. She highlighted questions for clarification in the next round of short reports involving mining, stocks and sources, and export consent.

The EU supported the draft decision as proposed. CANADA suggested updating the guidance after the analysis of the long reports is completed. COLOMBIA supported revising the guidance at COP-5 and asked the Secretariat to continue supporting parties in their reporting efforts. The AFRICAN GROUP said the Secretariat should help developing country parties in collecting the data needed to complete their reports. PAKISTAN suggested adding reporting on mercury recovery. INDONESIA called for clarification of the questionnaire used for preparing reports, and for the guidance to be updated at COP-5.

JAPAN said the guidance should be a living document that is continually updated based on experience. He objected to the language in the draft decision referring to providing copies of export consent to the Secretariat as an obligation and suggested instead “encouraging” parties to provide copies.

The US asked that the record reflect that national reporting on stocks and sources should be considered as a tool that would allow each party to manage its mercury in the context of use and trade, not as a mechanism for a global assessment of stocks and sources that could be used to track and create an aggregate report on global supply and trade.

INDIA called for modification of reporting formats to make them more user-friendly. The International Pollutants Elimination Network (IPEN) applauded the high reporting rate, but said ambiguities in terms and parameters meant reporting on mining, stocks, sources, uses, and trade was of poor quality.

COP President Ratnawati asked the Secretariat to prepare a CRP with a draft decision taking into account delegate’s remarks.

On Thursday, the plenary considered the draft decision. Delegates agreed to forward the text to the POW and Budget Contact Group for review. On Friday the COP adopted the decision.

**Final Outcome:** In its decision (UNEP/MC/COP.4/CRP.9), the COP, *inter alia*:

- welcomes the high rate of submission, the timeliness and the completeness of the short reports prepared by parties for the first reporting period;

- provides the clarification of the reporting format, as set out in the annex to the decision, regarding questions on amount of mercury mined and notifications of consent for mercury exports, as well as the term “final disposal”;
- requests parties to continue their ongoing efforts to endeavor to identify individual stocks and sources of mercury in accordance with paragraph 5 of Article 3 of the Convention;
- calls on parties that have received consent to export mercury to parties and/or non-parties to provide to the Secretariat either copies of the consent forms used or other suitable information in their reports;
- encourages parties that are developing Minamata initial assessments to complete them as soon as possible so that the assessments can support implementation measures and national reporting efforts;
- requests the Secretariat, based on the experience with the first national reports submitted, to identify any questions on the reporting format that may pose challenges to parties in responding, and to propose related clarifications, as appropriate, to COP-5; and
- requests the Secretariat to seek by 15 December 2022 any additional comments from parties and other stakeholders on the draft reporting guidance, and submit to COP-5 the guidance for possible adoption.

**Effectiveness evaluation:** On Monday, the Secretariat introduced documents on conducting an effectiveness evaluation of the Convention (UNEP/MC/COP.4/18), including indicators (UNEP/MC/COP.4/18/Add.1 and UNEP/MC/COP.4/INF/11) and guidance on monitoring of mercury and mercury compounds (UNEP/MC/COP.4/18/Add.2 and UNEP/MC/COP.4/INF/12 and INF/25). President Ratnawati noted the proposal offered at COP-4.1 by CANADA and NORWAY (UNEP/MC/COP.4/CRP.1).

The US, EU, JAPAN, AFRICAN GROUP, SWITZERLAND, and INDONESIA voiced support for using CRP.1 as the basis for further discussion. INDIA noted that it is important the evaluation framework takes into account national circumstances and capabilities in reporting. BRAZIL highlighted problems in the proposals on indicators. COLOMBIA stressed the importance of agreeing on an evaluation framework at COP-4.2. ARGENTINA said the monitoring framework should identify and fill information gaps. CHINA stressed comparability of data.

A contact group, co-chaired by Agustin Harte (Argentina) and Rodges Ankras (US), met throughout the week. Discussions focused principally on the ToR for the effectiveness evaluation group, the establishment of a scientific advisory group, the format of intersessional work of the aforementioned groups, and a framework for the effectiveness evaluation.

The contact group struggled to come to consensus on the membership of the effectiveness evaluation group, specifically the number of participants from each UN geographic region. Most delegates opted for the multilateral environmental agreement (MEA) expert group norm of three participants per region, but one country consistently argued for eight participants per region. This issue could not be resolved in the contact group and the Co-Chairs forwarded it to plenary for deliberation by the COP.

Another challenging matter was the format of meetings to advance intersessional work. Delegates from developing countries argued that online work proves difficult with ongoing connectivity



issues. They reached a compromise by agreeing to a limited number of in-person meetings.

Finally, delegates discussed at length what name to give to the science group. On Friday, the contact group agreed to “open-ended scientific group.”

During Friday’s plenary, Co-Chair Ankrah reported that the contact group was not able to reach consensus on the ToR for the effectiveness evaluation group, with one party requesting the number of participants per region to be increased from the proposed three to eight. The President invited the Co-Chairs of the POW and Budget Contact Group to present the budgetary analysis their group prepared with the assistance of the Secretariat to project what would be the budgetary implications of having three participants versus eight participants. POW and Budget Contact Group Co-Chair Hernaus noted the significant percentage of the biennium budget that would be claimed if participation for each region was increased by five participants. IRAN responded that this should not be an issue of budget but policy, and maintained its stance for eight participants.

The EU, AUSTRALIA, AUSTRIA, BELGIUM, BOTSWANA, BURKINA FASO, CANADA, CZECH REPUBLIC, CHILE, DENMARK, FINLAND, GHANA, ICELAND, IRELAND, ITALY, LUXEMBOURG, NETHERLANDS, NORWAY, PAKISTAN, POLAND, ROMANIA, SLOVAKIA, SPAIN, SWEDEN, SWITZERLAND, and the US supported the proposal for three participants.

The President paused plenary for consultations. Upon her return, she asked parties for another proposal. The US proposed going up to four participants, but IRAN rejected this proposal. ARGENTINA responded by proposing revisions to the CRP text that would postpone the decision on the establishment of the effectiveness evaluation group, but would proceed with the establishment of the open-ended science group. IRAN said it would need to discuss this proposal with Argentina to understand how the science group would function without the supervision of the effectiveness evaluation group; however, the US intervened to explain that the two groups do not require interaction. IRAN accepted this compromise. The COP adopted the revised decision with no further objections.

**Final Outcome:** In its final decision (UNEP/MC/COP.4/CRP.18), the COP, *inter alia*:

- agrees to begin the first effectiveness evaluation at COP-4, and to further consider its timeline at COP-5;
- decides to adopt the framework for the effectiveness evaluation of the Minamata Convention outlined in Annex I to the decision;
- establishes an Open-ended Scientific Group to work in line with its terms of reference, as outlined in Annex 3 to the decision; and
- requests the Secretariat to call for nominations for the Open-ended Scientific Group by 15 April 2022.

**Secretariat:** On Thursday morning, the Secretariat presented its report on implementation of the COP-3 decision on enhanced cooperation between the Minamata Secretariat and the Secretariat of the BRS Conventions (UNEP/MC/COP.4/20). The plenary considered a draft proposal by the AFRICAN GROUP, the EU, GRULAC, NORWAY, THAILAND, and SWITZERLAND (UNEP/MC/COP.4/CRP.3). CHILE, MALI, and PAKISTAN expressed support. The US stressed that institutional arrangements must be stable, cost-effective, and provide the services needed, and should answer only to the parties to the Minamata Convention. BRAZIL asked to note the UNEA-5 decisions on chemicals and for the Secretariat to participate in the formation of the intergovernmental science-policy panel on chemicals. The Chair asked the Secretariat

to present an amended decision text after consulting those parties that were proposing changes. The plenary adopted the resulting decision text on Friday after minor editorial changes offered by SWITZERLAND.

**Final Outcome:** In its decision (UNEP/MC/COP.4/CRP.10), the COP affirms the importance of continued cooperation, including the use of a task force between the two secretariats and the UNEP Chemicals and Health Branch. The COP requested the Executive Secretary to continue cooperation and, under the overall steering of the task force and inter-secretariat working groups, to:

- explore potential ways to further strengthen cooperation and collaboration on such matters with the BRS Secretariat;
- continue to implement shared services and purchase relevant services from the BRS Secretariat on a cost recovery basis, as appropriate; and
- report back to COP-5 on implementation, together with an outline of the cooperation activities planned for the period 2024-2025 for parties’ consideration.

**Financial Rules:** On Monday, Stankiewicz presented the financial rules for the COP, its subsidiary bodies and the Secretariat (UNEP/MC/COP.4/21), highlighting the remaining bracketed text but noting that the financial rules function without this text. Delegates agreed to defer this matter to COP-5.

**Gender:** On Thursday, the Secretariat presented an update on its progress in mainstreaming gender across the activities carried out under the Convention, as well as a draft decision and draft roadmap on the matter (UNEP/MC/COP.4/22). The AFRICAN GROUP, ARGENTINA, the EU, INDONESIA, MEXICO, NIGERIA, TANZANIA, and UGANDA welcomed the initiative. The plenary forwarded the draft decision to the POW and Budget Contact Group for review. The plenary adopted the decision on Friday.

**Final Outcome:** In its decision (UNEP/MC/COP.4/CRP.13), the COP, *inter alia*, recalls Sustainable Development Goal 5 on achieving gender equality; takes note of the gender road map of the Minamata Convention on Mercury and welcomes the Secretariat’s efforts to mainstream gender into its activities, projects and programmes; and requests the Secretariat to continue collaborating with UNEP, the secretariats of other MEAs, and relevant partners in the field of gender.

### **International Cooperation and Coordination**

On Thursday, the Secretariat presented: its note on its activities to cooperate and coordinate with other entities (UNEP/MC/COP.4/23); a report on activities on mercury of relevant international bodies (UNEP/MC/COP.4/INF/19); a report on cooperation and coordination between the Minamata and BRS Secretariats (UNEP/MC/COP.4/INF/17); and joint studies by the Minamata and BRS Secretariats on interlinkages between the chemicals and waste MEAs and biodiversity (UNEP/MC/COP.4/INF/13) and climate change (UNEP/MC/COP.4/INF/14).

Rodges Ankrah (US) and Teeraporn Wiriwutikorn (Thailand), Co-Chairs of the GLOBAL MERCURY PARTNERSHIP, discussed the report of Partnership activities (UNEP/MC/COP.4/INF/16 Rev.1), noting the 12th Partnership Advisory Group meeting in March 2022 had identified mercury trade and the impacts of mercury on biodiversity as issues needing further work.

UNEP highlighted the Executive Director’s report (UNEP/MC/COP.4/INF/15/Rev.1), which describes UNEP’s actions in response to outcomes of the previous three COPs. UNEP also presented an update on coordination efforts in the area of international chemicals

management, including a GEF-Strategic Approach to International Chemicals Management (SAICM) project on emerging chemicals issues, a pilot project in Africa to develop classification labeling of chemicals, and a forthcoming e-learning course on developing a chemicals database.

Carlos Martin-Novella, Deputy Executive Secretary of the BRS Secretariat, discussed areas of existing cooperation between the Minamata and BRS secretariats, highlighting work on mercury wastes.

WHO presented a report on cooperation of WHO and the International Labor Organization (ILO) under the Minamata Convention (UNEP/MC/COP.4/INF/18). She noted that half of the 61 Minamata assessment reports show no evidence of health ministry engagement with the Convention, two-thirds do not mention Article 16 on health aspects, and only seven of the reports mention health authorities' responsibilities with regard to ASGM. She called on parties to ensure that national health ministries are involved in mercury and reiterated WHO's readiness to support them.

INDIGENOUS PEOPLES presented a joint statement urging the Convention to promote human rights standards, including the UN Declaration on the Rights of Indigenous Peoples and ILO Convention No. 169. On ASGM, he called for parties to adopt concrete decisions. He urged parties to consult with Indigenous Peoples on creating national action plans and to work with Indigenous Peoples at COP-5.

The ZERO MERCURY WORKING GROUP highlighted its work on phase-out of mercury-added products and development of mercury-free procurement strategies, in cooperation with the Global Mercury Partnership and others.

SWITZERLAND proposed text welcoming relevant UNEA-5 resolutions. The proposed text requests the Secretariat to contribute to implementation, as appropriate. BRAZIL, the EU, and NORWAY supported the proposal. The EU called for further work as to how the Minamata Convention can contribute to the post-2020 global biodiversity framework.

The draft decision in UNEP/MC/COP.4/23, as amended in plenary, was forwarded to the POW and Budget Contact Group for review.

**Final Outcome:** In its decision (UNEP/MC/COP.4/CRP.12), the COP emphasizes that implementation of the Convention will contribute to achieving the Sustainable Development Goals (SDGs) and addressing the triple planetary crisis of pollution, biodiversity loss, and climate change. The COP agrees to keep under review the contribution made by the implementation of the Convention to implementation of UNEA's decisions.

The COP welcomes the UNEA resolutions on the sound management of chemicals and waste, and on a science-policy panel to contribute further to the sound management of chemicals and waste, and to prevent pollution. The COP requests the Secretariat to contribute to the implementation of these resolutions. They also welcome the activities of international organizations to foster ratification and implementation of the Convention, and invited parties, non-parties, and other stakeholders to engage further with the Global Mercury Partnership to support achievement of the Convention's goals.

The COP takes note of the study, "Interlinkages between the chemicals and waste MEAs and biodiversity," as well as the study, "Chemicals wastes and climate change: Interlinkages and potential

for coordinated action," which were prepared jointly by the Minamata and BRS Secretariats. The COP requests the Secretariat to continue working to show how implementation of the Minamata Convention contributes to international regulations and policies, including those related to pollution, biodiversity and climate change.

The COP also requests the Secretariat to prepare a report, including possible recommendations, on how the Convention could contribute to the post-2020 global biodiversity framework, once adopted, for consideration at COP-5.

### **Programme of Work and Budget**

On Wednesday, the Secretariat presented the documents for this agenda item (UNEP/MC/COP.4/24, Add.1 and Add.2; UNEP/MC/COP.4/INF/21 and INF/22). The contact group established by COP-4.1, co-chaired by Sam Adu-Kumi (Ghana) and Reginald Hernaus (Netherlands), reconvened to consider the budget and POW for 2023. The group met in closed sessions from Wednesday to Friday.

On Friday President Ratnawati noted the group's work and invited the Co-Chairs to report on the draft decision on the POW and budget. Co-Chair Hernaus outlined the elements of the decision. CHINA asked when the budget for the effectiveness evaluation will be implemented, and Secretariat responded that it will be implemented in the 2022-2023 biennium. With no further interventions, the plenary adopted the decision.

**Final Outcome:** In its final decision (UNEP/MC/COP.4/CRP.19), COP-4 adopted the final programme of work and budget for the biennium 2022-2023. The decision approves the budget for the general trust fund for 2023 of USD 4,516,686, which completes the approval of the full budget of the Convention for the biennium 2022-23.

Parties adopted budgetary allocations on all activities of the Secretariat including conferences and meetings, including COP-5, regional preparatory meetings, intersessional time-based expert groups mandated by the COP, and the capacity building and technical assistance programme of the Convention, as well as other overall management.

### **Venue and Date of COP-5**

Delegates discussed this agenda item on Friday. The Secretariat reported that no offers to host the next COP had been submitted, and that the rules of procedure specify that, in such cases, the COP will convene at the seat of the Secretariat, in Geneva, Switzerland, two years after the prior COP. She proposed that the COP consider the clock for "two years" to have started when COP-4.1 was convened in November 2021, and consequently the date for COP-5 be set for 28 October – 4 November 2023 in Geneva. She cautioned that this date should be considered tentative until the availability of the venue in Geneva can be confirmed.

**Final Outcome:** The COP decided (UNEP/MC/COP.4/CRP.15) to hold COP-5 on 28 October – 4 November 2023, in Geneva.

### **Bali Declaration on Combating Illegal Trade in Mercury**

The Bali Declaration (UNEP/MC/COP.4/L.2) was introduced by the Indonesian COP Presidency as a non-binding political declaration on illegal trade in mercury. It was formally presented to Executive Secretary Stankiewicz during a lunchtime ceremony on Monday, 21 March. The Declaration:

- affirms commitment to implementing monitoring, control, surveillance and enforcement efforts under national laws and

regulations for combating illegal trade in mercury and, in so doing, enhancing cooperation among parties;

- encourages parties to formulate policies, rules, and any other suitable measures to address illegal trade in mercury, including measures to increase transparency and enforcement of regulations, with particular attention to online platforms facilitating illegal trade in mercury;
- calls upon parties to enhance international cooperation and coordination to increase national capacity to combat illegal trade in mercury, to develop practical tools and notification- and information-sharing systems for monitoring and managing trade in mercury, to exchange experiences and practices relating to combating illegal trade in mercury;
- promotes cross-border, regional, and international cooperation among law enforcement networks to improve coordination relating to notification, prevention, investigation, prosecution, and punishment of illegal trade in mercury;
- promotes international and interagency cooperation, coordination and planning to facilitate capacity building; and
- invites international organizations, such as the Secretariat of the Minamata Convention, INTERPOL, the World Customs Organization, and the UN Office on Drugs and Crime, to explore the possibility of cooperation in addressing illegal trade in mercury.

The Declaration further recognizes that strategies to address and minimize illegal trade in mercury will be most effective if they include:

- demand-side control by promoting and financing research and access to non-mercury alternatives;
- supply-side control by, among other things, committing to phasing out primary mercury mining; and
- transit control by enhancing the monitoring of transiting goods and identifying and eliminating routes for illegally traded mercury.

The Declaration also:

- promotes the use of economically viable alternatives to mercury and implements incentive-based systems;
- encourages the active engagement and participation of, and close collaboration with, relevant stakeholders;
- invites cooperation in capacity building, technical assistance and technology transfer for the environmentally sound management of mercury and mercury waste in developing countries;
- promotes integrated study of illegal trade in mercury that combines socio-economic issues, financial factors, and the role of broader unlawful activities, such as corruption and illicit financial flows, in order to identify population groups that are at risk and develop targeted regulations;
- promotes the development and application of educational materials and programmes for use in schools and youth education, in particular in areas with high levels of ASGM activities; and
- encourages donor countries, agencies and international financial institutions to contribute to the advancement of the aims of the Declaration through funding and technical assistance in support of countries' national, cross-border and subregional efforts.

### **Closing Plenary**

The closing plenary began Friday evening at 6:14 pm and did not conclude for another 11 hours. It was suspended a number of times to await the completion of work in contact groups and informal

consultations. Between adopting decisions, President Ratnawati called for regional groups and others who wished to offer closing statements to do so.

GRULAC stressed that it remained committed to compliance with the Convention, as demonstrated by its high reporting rate. She underscored the importance of providing adequate, predictable, sustainable, and appropriate resources, including technology transfer, to help developing countries meet their Convention obligations.

The AFRICAN GROUP noted the many important decisions COP-4.2 was due to take, including on amendments to Annexes A and B and on the effectiveness evaluation. He noted his group's strong proposals on banning mercury-containing lamps and dental amalgam, and expressed regret that the COP could not agree on banning all of these along with button batteries. He urged that the maximum possible protection could be agreed regarding category C wastes. He said the Bali Declaration sends a very clear message: if we work together, we can prevent mercury from entering into the environment.

CHILE, noting that the UN Special Rapporteur on toxics and human rights pointed out the linkage between human rights and the Minamata Convention, expressed hope that future COPs will look at the scope of the Convention's work in a more holistic manner, bearing in mind the human right to a safe, clean and healthy environment.

After all the decisions were adopted, Executive Secretary Stankiewicz emphasized that the Convention is our chance to break "the cycle of misery that mercury brings" and applauded delegates for overcoming several challenges at COP-4.2 and moving closer to realizing the objectives of the Convention.

President Ratnawati outlined the decisions that were successfully adopted at this meeting. She wished the incoming COP President and new Bureau members luck in their new role and thanked the outgoing Bureau members for all of their dedicated work. Ratnawati added that this in-person COP had been "a dream" for many people, and expressed her satisfaction with its realization in Bali.

She closed the meeting at 5:21 am on Saturday morning, 26 March 2022.

### **A Brief Analysis of COP-4.2**

Since 2013 was the year of the Minamata Convention on Mercury's birth, and 2017 was the year of its entry into force, did 2022 mark its coming of age? Meeting in Bali, Indonesia, the second part of the fourth meeting of the Conference of the Parties (COP-4.2) focused on a number of key issues—some substantive, others symbolic. As is common in early adulthood, there were some hits and misses.

This brief analysis considers how COP-4.2 marked the maturing of the world's youngest multilateral environmental agreement (MEA), by considering how parties addressed the challenges of meeting their current obligations, while firming up institutional arrangements for transparency and accountability.

### **Getting Deep into Implementation**

COP-4.2 showed the Convention's growing maturity. With little fanfare, parties adopted key decisions on updated guidance on national action plans on artisanal and small-scale gold mining (ASGM), guidance on preparing release inventories, and terms of reference for the next review of the Convention's financial

mechanism. The COP also launched an initiative on mainstreaming gender in Convention activities and adopted the budget and programme of work.

COP-4.2 also celebrated the very high submission rate for the first national reports required by the Convention. Article 21 of the Minamata Convention requires each party to report on the measures it has taken to implement the provisions of the Convention. These reports constitute a necessary baseline. With 89% of parties presenting their first “short” report on mining, stocks and trade—and nearly 75% having already submitted their full national reports—there is clearly strong support for the Convention. However, as the International Pollutants Elimination Network (IPEN) noted, some of the data provided is poor quality because of ambiguity in parameters to be reported on mercury sources, stocks, trade quantities, and intended use. Noting this, the US requested that the reports not be used as the basis for a global report on implementation. Following on from this discussion, COP-4.2 adopted measures to improve clarity in further reporting, helping ensure that future rounds result in more meaningful data.

### ***Working through “Growing Pains”***

But COP-4.2 was not only a story of maturation. It also featured “growing pains” with regard to three important issues: setting thresholds for mercury wastes (Article 11); reviews of the products and processes explicitly controlled by the Convention (Article 23(5) (f) and Annexes A and B); and the effectiveness evaluation (Article 22). Each illustrated different challenges the Convention faces as it matures, and each provided clues about what may be necessary in coming years to “make mercury history.”

In the case of waste thresholds, an intersessional group of technical experts had managed to hammer out consensus on all but one category: wastes contaminated by mercury or mercury compounds, known in Convention circles as “category C wastes.” This sub-issue stymied both expert group and COP efforts for two fundamental reasons that may affect other Convention efforts to address mercury waste. First, parties, even countries in the Global North that have regulated category C waste, have taken different regulatory approaches, some setting triggers for special regulation or management measures based on total mercury concentration, whereas others based their regulations on measuring risk through leachate testing to see if the mercury in a waste is inert or escaping to the environment. The Minamata thresholds have to take into account varied approaches in place. Secondly, for some (not all) developing countries where dumps are common, and they have regulations but little capacity to enforce, sample, test and monitor, this debate is academic. These latter countries want tough thresholds, qualitative characterization, and an indicative list of the most common types of category C wastes so they can spot them easily.

When parties realized they could not set a threshold or thresholds for category C wastes, they punted by sending the issue back to the expert group, but this time with explicit instructions to consider the wide range of regulatory and on-the-ground experiences faced by parties. Going forward, the ability of negotiators to take into account and allow for parties’ varied experiences in regulating waste management will continue to be a key challenge.

COP-4.2 also experienced difficulty in the negotiation of deadlines to phase out mercury-added products in Annex A to the Convention. The African Group, the European Union (EU), Canada, and Switzerland came to COP-4.2 with ambitious goals to close a

few loopholes and add products to Annex A. The African Group and the EU also sought to phase out dental amalgam, but a handful of developing countries resisted addressing phase-out until COP-5. The proponents then switched tactics, going instead for new restrictions on use of amalgam in bulk and on young children and pregnant or breastfeeding women.

By contrast, the negotiations for closing loopholes on some button batteries, lamps, switches and measuring devices, and adding several new products to Annex A found support across the board, although it proved challenging to agree on how fast to phase out these products. In the end, all but Iran agreed to a compromise date on button batteries, certain high accuracy switches and relays, and three types of linear fluorescent lamps. During Friday’s late-night plenary proponents tried all sorts of peer pressure tactics to get Iran to relent, but the delegation stayed resolute, relying on the fact that since brackets still remain around the voting rules in the COP rules of procedure, there is no choice but to achieve consensus. The lesson for others is clear: if you can withstand intense peer pressure, you too can block a new obligation under the Convention.

The review of the annexes was further instructive, as it was the first time a country has signaled intent to invoke Convention provisions in Articles 27(4) and 30(5) to not apply an amendment to an annex until that country has specifically ratified, acceded, or accepted the amendment. Delegates were left wondering how many will follow Iran’s example, a path that potentially will undermine the Convention’s effectiveness.

The products listed in Annex A account for far less mercury in the environment than ASGM and emissions from coal-fired power plants, which represent a challenge of a different scale. In many countries, these products are little used or are already being phased out. For example, mercury-containing photographic film still has certain specialist applications, but is, for the most part, being replaced by digital technology. In North America, Europe, and Japan, the button batteries targeted have already been replaced in the market by mercury-free alternatives and China is a large manufacturer of mercury-free button batteries. So in this sense, the new Annex A commitments are somewhat symbolic—but parties’ adherence to the phase-out deadlines will be a test of good faith.

Where COP-4.2 proved most contentious was in relation to arrangements for its first effectiveness evaluation. Under Article 22, this evaluation is mandated no later than six years after the Convention’s entry into force—so, by 2023. However, given the intended ambition of the assessment, the COP had to approve and launch preparatory work now if the evaluation itself is to begin by August 2023, before COP-5 later that year.

The effectiveness evaluation will assess whether the Convention is working, not only in terms of parties “ticking the boxes” on commitments, but also in actual reduction of mercury in the environment. Parties differed over the weight that should be given to scientific assessment, with some asserting that countries should have the right to accept or reject evidence provided by a scientific advisory panel. These tensions emerged even in discussions of the name of the panel. Only late Friday night did delegates reach agreement to call it the “Open-ended Scientific Group.”

But the main drama of Friday’s all-night plenary—which did not conclude until sunrise on Saturday—largely hung on Iran’s insistence that the terms of reference for the effectiveness evaluation group should include a much larger number of representatives per region than the Convention’s budget could reasonably support.

Many parties spoke up to support having three representatives per region in the group, but Iran stuck to its initial proposal calling for eight parties per region. The deadlock was finally broken in the wee hours when parties agreed to a temporary work-around: postponing the decision on the terms of reference for the effectiveness evaluation group, but approving terms of reference for the scientific advisory group and the overall effectiveness evaluation framework, so that work can begin.

### **Providing for Transparency and Accountability**

Many of the underlying stumbling blocks at COP-4.2 related to issues of trust and transparency. Besides providing clarification of the reporting format, COP 4.2 also called on parties that have received consent to export mercury to provide the Secretariat with copies of that information, “pursuant to Article 21 of the Convention to show that the relevant requirements of Article 3 have been met.” Not all delegates welcomed this development, which they see as a new obligation. Some wondered if this is the first step toward a more structured prior informed consent (PIC) system, similar to the Basel Convention’s procedure for managing transboundary movements of hazardous and other wastes. Nevertheless, the COP essentially agreed to embrace this practice—arguably, an important step towards ensuring accountability under the Minamata regime.

Other measures providing for transparency and accountability relate to the issue of scientific assessment needing to be verified by parties, or a regionally-representative group. This has been a vexing question not only for the Minamata Convention, but for many other MEAs as well. The work of the new Open-ended Scientific Group will be something to watch as an indicator of implementation progress.

### **Meeting the Responsibilities of ‘Adulthood’**

Mercury is a contributor to many global environmental issues, and the human health impacts fall on some of the world’s most vulnerable people. The Minamata Convention can provide the institutional framework for real change on the ground to take place, while its links with broader global issues are acknowledged.

Accordingly, several delegates noted the international context around efforts to manage mercury. These include growing awareness of pollution as one of three major crises affecting the planet, along with climate change and biodiversity loss, and the Human Rights Council’s formal recognition of the right to a healthy environment. In her closing statement, Chile noted that the full implementation of the Minamata Convention is essential to ensure the right to a safe, clean, and healthy environment and therefore all human rights, and the scope of the Minamata Convention should be understood in a holistic manner.

Implementation of Minamata commitments has been on slow burn through the pandemic. But for many, COP-4 marked not only a return to face-to-face negotiations, it also marked the moment when the Convention, with its narrow focus on a single substance, reached maturity.

### **Upcoming Meetings**

**Twelfth Meeting of the Open-ended Working Group of the Basel Convention:** The face-to-face segment of the OEWG of the Basel Convention will conclude negotiations that began during an online segment held on 1-3 September 2020. **dates:** 4-6 April 2022 **location:** Nairobi, Kenya **www:** [www.basel.int](http://www.basel.int)

**Stockholm+50:** “Stockholm+50: a healthy planet for the prosperity of all – our responsibility, our opportunity” (Stockholm+50) will take place five decades after the 1972 United Nations Conference on the Human Environment. The event will provide leaders with an opportunity to draw on 50 years of multilateral environmental action to achieve the bold and urgent action needed to secure a better future on a healthy planet. **dates:** 2-3 June 2022 **location:** Stockholm, Sweden **www:** [www.stockholm50.global/](http://www.stockholm50.global/)

**Basel, Rotterdam and Stockholm Conventions COPs:** The face-to-face segments of the 15th meeting of the COP to the Basel Convention, 10th meeting of the COP to the Rotterdam Convention and 10th meeting of the COP to the Stockholm Convention will convene under the theme “Global Agreements for a Healthy Planet: Sound management of chemicals and waste.” **dates:** 6-17 June 2022 **location:** Geneva, Switzerland **www:** [www.brsmeas.org/](http://www.brsmeas.org/)

**62nd Meeting of the GEF Council:** The GEF is one of the financial mechanisms of the Minamata Convention. The next semi-annual meeting of the Council will be preceded by GEF civil society consultations. **dates:** 20-24 June 2022 **location:** virtual (TBD) **www:** [www.thegef.org/events/62nd-gef-council-meeting](http://www.thegef.org/events/62nd-gef-council-meeting)

**High-level Political Forum on Sustainable Development (HLPF) 2022:** The 2022 meeting of the HLPF, under the auspices of the Economic and Social Council, will convene under the theme, “Building back better from the coronavirus disease (COVID-19) while advancing the full implementation of the 2030 Agenda for Sustainable Development.” **dates:** 5-7 and 11-15 July 2022 **location:** UN Headquarters, New York **www:** [sustainabledevelopment.un.org/hlpf](http://sustainabledevelopment.un.org/hlpf)

**Eighteenth Meeting of the Persistent Organic Pollutants Committee (POPRC-18):** POPRC-18 will consider, *inter alia*: the draft risk profiles for chlorpyrifos, chlorinated paraffins with carbon chain lengths of C14 and chlorination levels at or exceeding 45% chlorine by weight, and long-chain perfluorocarboxylic acids (LC-PFCAs), their salts and related compounds; and the draft risk management evaluations for UV-328 and Dechlorane Plus. **dates:** 26-30 September 2022 (TBC) **location:** Rome, Italy **www:** [www.pops.int](http://www.pops.int)

**Minamata Convention COP-5:** This meeting is tentatively scheduled, pending confirmation of the availability of the venue. **dates:** 28 October – 4 November 2023 (TBC) **location:** Geneva, Switzerland **www:** [www.mercuryconvention.org/en](http://www.mercuryconvention.org/en)

For additional meetings, see [sdg.iisd.org/](http://sdg.iisd.org/)

### **Glossary**

ASGM	Artisanal and small-scale gold mining
BRS	Basel, Rotterdam and Stockholm Conventions
COP	Conference of the Parties
CRP	Conference room paper
GEF	Global Environment Facility
GRULAC	Latin American and Caribbean Group
ICC	Implementation and Compliance Committee
MEA	Multilateral environment agreement
POW	Programme of Work
SIP	Specific International Programme
ToR	Terms of reference
UNEP	United Nations Environment Programme
WHO	World Health Organization