
BAN MERCURY WORKING GROUP

Report on the Global Mercury
Assessment Working Group
Geneva, Switzerland
9-13 September 2002

Last 9-13 of September 2002, Ban Mercury Working Group participated in the UNEP Chemicals initiative – Global Mercury Assessment Working Group (GMA) held in Geneva, Switzerland. The GMA is part of the process currently undertaken by UNEP Chemicals, in cooperation with other members of the Inter-Organization Programme for the Sound Management of Chemicals (IOMC), to develop a global assessment of mercury and its compounds, which will be presented to the UNEP Governing Council at its twenty-second session (GC 22) in February 2003.

Below are the accounts, accomplishments, and highlights of the GMA from the Ban-Hg-Wg perspective:

OUTPUT OF THE ONE-WEEK MEETING

All the work that has been put in the one-week GMA (as well as before and afterwards) will result in one major centerpiece document – the Mercury Global Assessment Report (Report), and several auxiliary documents of equal, if not, of greater strategic importance:

1. Executive Summary of the Report; and
2. An Annex that contains:
 - a) The Working Group's Conclusion on the Global Adverse Impact of Mercury;
 - b) The Possible Options for Addressing any Significant Global Impacts of Mercury; and
 - c) Proposals for Immediate Action to be Considered by the Governing Council.

These documents will be passed on to the UNEP Governing Council in February 2003, wherein the Governing Council will weigh the recommendations contained in the documents and then take a course of action.

The efforts of the Ban-Hg-Wg representatives has been to ensure that the documents the Governing Council will be reviewing come February 2003 will be balanced, and provide the Governing Council a panorama of views and issues that are often ignored and glossed over by mainstream and corporate society.

THE BAN-HG-WG OBJECTIVES FOR THE GMA AND HOW WE FARED

Ban-Hg-Wg established a set of strategic objectives to accomplish in the GMA, and these were:

1. ***Inject important information and highlight issues missing or glossed over in the draft assessment report***

Before the GMA meeting, Ban-Hg-Wg participated in the comments process for the Report months in advance of the GMA. When the 1st draft of the Report came out, upon review, Ban-Hg-Wg was surprised that most of its comments were not included in the draft Report. This fact made it paramount for those attending the GMA in Geneva to be able to inject the ignored Ban-Hg-Wg suggestions into the draft text and ultimately keep those suggestions in, until the text was finalized.

The main deficiency of the Report then, was that it was too antiseptic - weighed down by a lot of technical language that disembodied the document from the human and environmental concerns that gave rise to it. The Ban-Hg-Wg representatives were aware of this flaw, and tried to improve upon the document at every opportunity in the various drafting sub-groups created during the meeting.

The Ban-Hg-Wg representatives intensely maneuvered to inject some of the following major issues into the Report, and related documents: elaboration of high exposure subgroups; reiteration of mercury as a threat to food supply and socio-economic structure; highlight on global fishing; emphasis on the interrelationship between local and global impacts; introduce the issue of the role of trade in the transboundary movement of mercury; elaboration on direct exposure and disparate impacts on sub-populations (including the risks of mercury exposure from fish, dental amalgams and vaccines containing mercury); promoting awareness of exposure concerns; global assessment needs; advancing the principle of reducing trade and developing storage opportunities; introduce and concretely focus on the need for financial assistance and alternatives for communities impacted by the elimination of mercury; and pushing for the importance of reducing and eliminating mercury wherever possible.

There were other drafting skirmishes, too detailed and many in number to mention in this report. Let it stand, however, that there is a consensus among the Ban-Hg-Wg representatives that with the inclusion of the points that were raised by them, the Report became a better document.

2. *Assist, in any way, to have the meeting reach a conclusion that mercury pollution is an international issue of such importance that it warrants international action*

The foremost concern in the minds of the Ban-Hg-Wg representatives upon entering the GMA was the uncertainty as to where the GMA would be heading on the mercury issue, particularly, the possibility that countries may simply decide to tackle the mercury problem solely on a regional, or even worse, on an individual national level. Since Ban-Hg-Wg strongly strives for a global answer to the mercury problem, any solution less of a concerted international action would not do.

One of the remarkable things that prevailed in the GMA is the overwhelming agreement among all country delegates that indeed, mercury and mercury pollution is an international issue that clearly warrants international action. The collective agreement was to such an extent that no delegate questioned the proposition. Thus, the goal of international action pervaded throughout the GMA, and was instilled in the Executive Summary, Assessment Report, and the Annexes, allowing the Ban-Hg-Wg representatives precious opportunity to focus on the other objectives squarely.

3. *Place Ban-Hg-Wg on the map of the issue by being credible and useful to the debate*

As a newly formed coalition wading through the marsh of international diplomacy, it was imperative that the Ban-Hg-Wg establishes its credibility and usefulness in the debate in the eyes of the international community present in the GMA.

Our representatives achieved this goal. It was, for them, coaxing the delicate balance of being assertive and firm in dealing with the delegates, and intelligent in expressing the Ban-Hg-Wg position. At the same time, not be perceived as unreasonable or argumentative. Well-timed and mannered interventions at the floor of the plenary, or at huddles in small groups further bolstered Ban-Hg-Wg's credibility.

Ultimately, the factor that helped build Ban-Hg-Wg's credibility in the GMA is the sincerity and integrity our representatives brought with them to fight for the issue. Sincerity bestowed by the constituents they represented, and the integrity that arises with the knowledge that they bore no corporate agenda into the mercury forum.

A small indication of the success of this objective is the request by various delegates to be included in the Hg-Info list serve, and praising the information handouts Ban-Hg-Wg distributed in the meeting.

4. *Developing alliances and options for the future meetings of the UNEP Governing Council*

The success of objective number 3 was quite instrumental in shaping the outcome of objective 4. Failure to come across as credible and reasonable would have made it very difficult for Ban-Hg-Wg to create, even more so to develop alliances with other delegates. As it turned out, our representatives were not only able to create strategic alliances during the GMA, particularly in eliciting country support for our issues, but were able to cultivate these alliances even after the meeting.

The collaborative relationships the Ban-Hg-Wg representatives presently have with various country delegates are a testament to the success of objective 4.

HIGHLIGHTS OF THE GMA

Day One – A Blazing Start; Presence in Numbers; Parochial Partition; Blocked Entry; New Allies

The GMA Working Group started promptly, and the Acting Chairman, Mr. James B. Willis, was efficient in establishing the order of the 1-week meeting, and getting the meeting to start posthaste. During the course of the meeting, it was decided that the best way to manage the gargantuan task of reviewing the draft Report was to divide the meeting in two: a plenary body to discuss the global impacts of mercury and the options of dealing with problem (Plenary), and an open-ended drafting group whose main task is to go over the draft Report (Drafting Group) and create the outline for the Executive Summary.

The delegate from Norway promptly intervened and raised the concern of those delegations that only had one delegate, on how to participate and have a voice on both deliberations. The intervention highlighted the noticeable number of delegates the US had sent - at the time of the intervention there were around 6 delegates. A day later, a lot of delegates were astonished to learn that the US sent 14 delegates to the meeting. Their number bode well for the US as it enabled them to be present in all the subsequent break out groups.

It was at this point that the Secretariat elaborated upon the standard reporting mechanism in these cases, whereby the chairperson/s of the drafting group would report to the plenary the outcome of their assigned tasks, and that no document will be finalized by the drafting group until it is brought up in plenary.

The reassurance of the Secretariat momentarily quelled the concerns of some of the delegates, allowing the proposed mechanism to pass. Until the Acting Chairman suggested that co-chairpersons representing developed and developing countries be nominated for both the plenary

and drafting sub-group, brought a fresh wave of muted disapproval from some delegates, particularly from developing country delegates, who felt that the proposal was quite parochial and demeaning. The Acting Chairman may have had the best intentions at that point, however, some delegates felt that he should have been more sensitive to the issue and should have proceeded cautiously on the “groupings” or altogether refrained from using the terms.

As the murmurs died down, the delegates met with their respective “groups” and began to deliberate on who will assume the post of co-chairpersons. The division of the Plenary into two and the election of co-chairs presented a pivotal strategic point for the meeting as the task of drafting the outline for the Executive Summary was assigned to the Drafting Group.

The importance of the Executive Summary was well debated in the Plenary. Although the Assessment Report is the centerpiece document, it is the Executive Summary, as acknowledged by most delegates, the document which will be most likely read by the decision makers in February 2003. Thus, it falls upon the Executive Summary to frame the global problem of mercury in a balanced and most inclusive manner.

The Ban-Hg-Wg representatives were concerned that the Drafting Group may come under undue influence from a particular country in drafting the Executive Summary, if the co-chair that is elected into the Drafting Group comes from the same country. In one swift stroke, a particular country could therefore take control of the Executive Summary and the Assessment Report provided they have the numbers to pull it off.

The Ban-Hg-Wg representatives decided to split as a group, one to attend the developed country meeting, and the others to attend the developing country meeting. It was in the developed country meeting where a delegate questioned NGO participation, particularly directed at the Ban-Hg-Wg representative present.

The delegate claimed that as an NGO representative, our Ban-Hg-Wg representative was not allowed to attend the developed country meeting. The Ban-Hg-Wg representative was quick to note that as NGOs, Ban-Hg-Wg was invited as a stakeholder and that the meeting was open to everyone, diffusing the delegate’s claim.

No one from the “developing country” group questioned the presence of the Ban-Hg-Wg members present in their meeting.

It was difficult to organize a voting block for the meeting because no one knew each other. So, the selection of the co-chairs was more or less left to chance. For the Plenary, the delegates from Denmark, representing the developed countries, and Uruguay representing the developing countries were voted as co-chairs, and for the Drafting Group, the delegates from the US and India were chosen. When the results were announced in plenary, it was clear to the Ban-Hg-Wg representatives of the need to focus its attention on the Drafting Group.

Curiously, the US co-chair who was voted has not yet arrived for the meeting. So, by the afternoon of the first day, to the consternation of some delegates, the Drafting Group had to convene, and re-scheduled to reconvene the following morning when the US delegate arrives.

The Ban-Hg-Wg representatives took advantage of this respite as they gathered allies from other NGOs present in the meeting. Allies from the National Wildlife Federation of the US, Greenpeace International, the US based group Consumers for Dental Choice, and the Canadian Arctic Resources Committee, helped build a strong NGO base throughout the meeting. There was a good balance of technical and international policy knowledge within the group, which enabled the NGOs to be present in all sub-groups, and help negate and counter-balance US dominance in the GMA.

Day Two – Country Voices; Frustration over Language; Intense Advocacy

Day two of the GMA was for the most part earnest. A sense of the magnitude of the work in the coming days lay over the delegates, and a focus to forge ahead was shared by all.

At the Plenary, voices of delegates were being heard, and strong advocates they were on the options to address the mercury problem. Norway opened the day questioning the process of drafting the Executive Summary; South Africa and Ghana participating actively giving rise as voice for the African region calling for technical and financial support; Sweden pushing for an international legally binding initiative, life-cycle approach to the mercury conundrum, and proposal for the creation of an international instrument with inclusion of other heavy metals for a later time; Finland raising concerns about the mercury waste issue; Egypt raising the issue of the treatment of victims and rehabilitation of the environment; Tanzania joining the chorus of African voices calling for the substitution of products and processes, promotion of alternative technologies to mercury – these were among some of the voices heard over the plenary.

Although, some of the voices from the regions were beginning to be heard, delegates whose mother language is not English have begun to express some frustration over the lack of translation facilities. One delegate quipped, “How would the English-speakers feel if I take the floor and start speaking in Spanish?” This sentiment was shared by a lot of delegates who felt the imbalance in the debates that favored English-speakers.

At the Drafting Group, the Ban-Hg-Wg representatives began the tedious task of injecting the issues and objective data missing from the draft Report. During the course of the day, a small technical sub-group was created to draft the initial outline for the Executive Summary. The US co-chair handpicked three delegates to task - Denmark, US, and Ban-Hg-Wg.

When the small technical sub-group convened, other delegates wanted to join the technical sub-group. Our lone representative, raised the issue of procedure and sub-group composition, and took a stand against participation in the 3 person technical subgroup meeting, which resulted in some friction for Ban-Hg-Wg the following day.

Day Three – Hardball Diplomacy

The stand taken by our representative the day before culminated in an early morning “diplomatic” tête-à-tête with the US head of delegation. In no uncertain terms, the US head of delegation curtly informed our representative that he viewed our representative’s action as an “obstruction” to his delegation, and that NGOs do not have the authority to participate in this meeting, and any further “obstructive” action taken by Ban-Hg-Wg in the meeting will cause the US to call for our expulsion and exclusion in the Drafting Group.

The points raised by the head of US delegation were, for the most part, obtuse, and it is unfortunate that he had to blow the incident out of proportion.

Ban-Hg-Wg representative’s action was based on the edict laid down by the US co-chairperson constituting 3 delegates to form the technical sub-group. So, if there were any questions on the composition of the technical sub-group, such questions should have been raised before the co-chairperson that laid down the rule.

NGOs **DO** have the authority to participate in the meetings. The General Council in creating a global assessment called for the contribution by NGOs, and indeed our participation in the GMA is part of the NGOs obligation to contribute to the GMA. Under UN procedures there are cases where NGOs are not permitted to participate, in cases of private negotiations between countries for example. But the case in point is not a negotiation, but a simple outline-drafting group!

Governments often use the threat of expulsion and exclusion from meetings in the UN system to stifle an active NGO. By raising this threat, the US head of delegation affirmed the effectiveness of Ban-Hg-Wg in keeping the right issues in the Draft Report, and the loss of their dominance over the Drafting Group.

After the early morning exchange, the Ban-Hg-Wg representatives quickly met and briefly assessed the situation. A decision was made to maintain the intensity of the advocacy work and ignore the threat, and at the same time rally support from other delegates in support of the issues Ban-Hg-Wg was raising in the Drafting Group.

The day ended without further fanfare, and the GMA ended without Ban-Hg-Wg being expelled and excluded from the Drafting Group meetings.

Day Four – Review of the Outline; Latin America makes a Stand

Much of the drama was left on the third day. As the fourth day progressed, most of the delegates were anxious to review the outline for the Executive Summary (Outline) and start drafting the Executive Summary. The Outline was presented to the Plenary late morning, and deliberations began in the afternoon.

Several major points were added onto the Outline: the sub-section on International Commerce was made to include a discussion on the transboundary movement of mercury waste – done through the well-timed intervention of Finland; and the inclusion of dental amalgams and vaccines in the discussion in direct human exposure. An item that produced some debate was the highlighting of the financial and technical assistance to be given to countries, particularly, developing countries in the last section of the outline.

The US made an intervention against the mention of any specific options in the Outline, which was supported by the delegate from Sweden. This caused some developing country delegates to insist on its retention. The provision stayed on for a while, and was later modified and simply referred to under an all-inclusive reference to the Annexes.

Throughout the fourth day, the US took a more flexible stand, and met eye-to-eye with Ban-Hg-Wg on some issues, particularly, on inserting a provision on the differentiated impacts of mercury on sensitive sub-populations. Curiously enough, Sweden intervened to quash the inclusion of the provision, just when Ban-Hg-Wg and the US have come to reach an agreement on the wording.

For the remainder of the meeting, Sweden, especially through one of its delegates was, as one confused delegate would comment, “Was all over the place.” The Swedish delegation came up with some very inconsistent positions later on, especially on some comments it made on dental amalgams.

The Group of Latin American (GRULAC) countries prepared a statement as a region, which they insisted to be taken as part of the submission to the General Council. This was an excellent move by GRULAC since as a region the combined weight of their intervention would be more forceful rather than if done by their individual member countries. The most notable portion of their statement on mercury is their request for the Governing Council to consider imposing producer responsibility in addressing the mercury problem.

Day Five – Subtle Changes; Drafting of the Executive Summary

The lone Norwegian delegate proved herself to be the foremost developed country counter-balance to the US, and leader in the GMA. On the final day, the Norwegian delegate raised two

crucial issues, in which she stood her ground against several US rebuttals, and an impatient and patronizing co-chair from Uruguay.

When the draft text of the “Consideration of Any Significant Global Adverse Impacts of Mercury” (Impacts) was submitted to the Plenary from the Drafting Group, subtle changes were introduced that would have caused a major shift in the focus the document. The first of the series of changes occurred in the first paragraph, when the following sentence was added on, “The primary species of concern is methyl mercury”.

The introduction of this sentence changed the course of the Impacts document and focused it solely on methyl mercury, which should not be the case. The Norwegian delegate immediately caught on to this and intervened for its deletion and a return to the original text. The US delegate countered the proposal and insisted on its retention. An exchange between the two delegates ensued, and was only resolved when a suggestion of rephrasing the sentence and adding it on to another paragraph placated both delegates.

The same debate, however, would rise again because in the new draft of the Impacts document, the word “methyl” was inserted at almost every mention of “mercury”. The Norwegian delegate fought hard to re-align the focus of the Impacts document to cover the broader element of mercury, and delete the “methyl” insertions. On the other hand, the US delegate would come back to “methyl” mercury as the primary source of concern since human exposure is primarily through methyl mercury, and fight for its retention.

The removal of “methyl” from most of the Impacts document prevailed through the perseverance of the Norwegian delegate, and support from other countries such as Denmark, Finland, and Ghana.

The other important point raised by Norway was the drafting and review of the Executive Summary. Due to the lack of time, it was passed that a group headed by the two co-chairs for the Drafting Group, in consultation with Denmark, the US, and Philippine delegate, would prepare the draft of the Executive Summary. Norway raised concerns over the transparency of the review process and how the draftees will handle the comments. Norway voiced the concerns of so many delegates who were intimidated to ask the question because of the fading time, and a barrage from an obviously irate co-chair. By asking the question, Norway was able to elicit from the Secretariat an explanation of the review process that helped many delegates who were not familiar with the procedure understand the process and who were very much concerned over the transparency of the review.

After some furious last minute debates on the report, the GMA ended at 5:30 p.m.

As delegate after delegate exited the room, one could noticeably see delegates approaching and extending their hands to the Ban-Hg-Wg representatives in thanks and camaraderie. The Ban-Hg-Wg representatives together with their NGO allies retreated to the old city of Geneva, where they de-briefed and acknowledged the fulfilling experience everyone had at the end of the GMA.

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