

# International Scene

---

## **Blair Hodgson**

*The author is with the Minerals and Metals Sector,  
Natural Resources Canada.  
Telephone: (613) 996-0915*

**T**raditional challenges to expanding exports of mineral and metal products remain important. These include existing tariff levels, exchange rates, the relative growth of Canadian total productivity factor, the emergence of competing suppliers in other nations, and the rate of growth of aggregate demand in key markets. Nonetheless, in recent years, successive rounds of trade negotiations have lowered traditional barriers to international commerce. This has given greater prominence to "new" market access restrictions deriving primarily from environmental and social policy initiatives.

Public policy concerns in these areas are being addressed in domestic and international initiatives. At times, however, the identification of problems and solutions in the international debate has suffered from a lack of integrated scientific and policy research. This can lead to a poor assessment of risk and the establishment of priorities that skew scarce resources towards problems of a lesser risk at the expense of the more serious. This review summarizes some of the more important international developments in 1996.

## **MULTILATERAL DEVELOPMENTS**

### **World Trade Organization**

The World Trade Organization (WTO) held its first regular biennial Ministerial Conference December 9-13, 1996, in Singapore. The Ministerial Conference is the highest executive body of the WTO and, as such, it provides political guidance and overall coherence for the new trading system that was established at the end of the Uruguay Round of Multilateral Trade Negotiations. No agreement was reached on a zero-for-zero duty-free package for nonferrous metals; however, it is likely that there will be a new round of trade negotiations by the year 2000.

The 128 member states of the WTO agreed upon an active work program for 1997 and beyond that will include work on links between trade and investment policies and competition and trade policies. In this regard, two new working groups will be established to examine the relationship between trade and investment and between trade and competition policy. The Committee on Trade and Environment will continue to examine the scope of the complementarities between trade liberalization, economic development and environmental protection under its existing terms of reference. The WTO renewed its commitment to the observance of internationally recognized core labour standards and recognized that the International Labour Organization (ILO) is the competent body to set and deal with these standards.

Currently, there are 28 countries (including China, Russia, Taiwan and Saudi Arabia) that have made application to accede to the WTO. Most of the smaller countries are from three areas: C.I.S. states, Central and Eastern European countries, and the Middle East.

### **Basel Convention**

The Basel Convention was intended to restrict the transboundary movement of hazardous wastes in order to protect countries – particularly developing countries – that might not have the capacity or technology to handle them safely. The Convention defines recycling as a "disposal" activity, and recyclable materials as "wastes." The Convention came into force in May 1992 and more than 100 countries have ratified it; the United States is the most notable exception.

It is a continuing concern to Canada, as well as to some other governments, that the Convention does not adequately distinguish between recyclable materials destined for recovery operations and hazardous wastes destined for final disposal. At the third Conference of Parties (COP) held in September 1995, member countries agreed to amend the Convention and to immediately ban the export of hazardous wastes arising from developed countries and destined for developing countries and, by December 31, 1997, to ban the export of hazardous recyclables arising from developed countries and destined for developing countries.

One major difficulty has been the ambiguity of exactly which materials would be subject to the "ban" amendment. A Technical Working Group (TWG) has been compiling a list of materials that will always, or almost always, exhibit hazard characteristics and, as such, will be subject to the "ban" amendment. The TWG is, as well, compiling a list of materials that do not, under normal conditions, exhibit hazard characteristics as these will be considered to be beyond the scope of the Convention. It is expected that the TWG will recommend adoption of these material lists to the fourth COP tentatively scheduled for September 1997.

Work also continues on the development of a Compensation and Liability Protocol. Many differences remain to be resolved between states, especially regarding the channelling of liability (developing countries want the generator/exporter always to be held solely liable regardless of where or when an incident occurs), and the scope of the coverage (developing countries want the long-term care of disposal sites to be included). This will continue, although the ban amendment will further complicate the discussions.

### **International Maritime Organization: Convention on the Carriage of Hazardous and Noxious Substances (HNS)**

The HNS Convention, designed to provide a system of liability and compensation for victims of catastrophic environmental events, was finalized on May 3, 1996. The Convention references lists of products and substances as diverse as chlorine gas, land mines and sawdust that have their origin in other international instruments.

The Convention includes a shared liability system. Once it enters into force, claims for damage will be paid by the insurance carried by shippers and by funds generated by levies on the volume of shipments of substances included in the Convention. Of the 6500 substances covered, 19 high-volume, low-hazard commodities, including coal, nonferrous sulphide concentrates, direct reduced iron and wood chips, account for some three quarters of all international shipments. Because the Convention requires claims to be paid by assessing a fee on all shipments of HNS cargoes, Canada negotiated to have these 19 substances excluded. This was important for two reasons: first, it removed the threat of a significant administrative and financial burden on Canadian shipments of these materials; and second and more importantly, it avoided coal and concentrates from being labelled "hazardous and noxious" by a United Nations Convention.

The HNS Convention will be open for signature for one year from October 1, 1996 to September 30, 1997.

### **Convention on Long-Range Transboundary Air Pollution (LRTAP)**

This Convention, negotiated in the context of the United Nations Economic Commission for Europe, has a number of protocols. Those on SO<sub>2</sub> and NO<sub>x</sub> are best known. Preparations are advancing, however, on three additional fronts: persistent organic pollutants (POPs), a second-stage NO<sub>x</sub> protocol, and heavy metals.

For heavy metals, formal negotiations of a protocol will begin in 1997. Based on preliminary work to date, it has been agreed that the negotiations will focus on reducing airborne emissions of lead, cadmium and mercury as a first step. The protocol will, however, include criteria and a process for adding other metals at a later date. Some countries are expected to seek future controls on nickel, copper, zinc, arsenic and chromium. A key area of debate will be efforts by some countries to include limits on the use of metals in products within the scope of the protocol, even if the products are not direct and significant sources of air pollution.

Formal negotiations for a POPs protocol will also commence in 1997. An initial draft list of substances has been prepared consisting primarily of pesticides and industrial chemicals that are already strongly regulated in most countries. These substances will be subject to strict controls on their use, and in some cases all uses may be banned.

The initial draft list also covers dioxins, furans and polycyclic aromatic hydrocarbons (PAHs), which are by-products from combustion (e.g., coke ovens, aluminum smelters, etc.). A range of management options may be considered for these substances, including national emissions reductions and mandatory applications of best available control technologies. Negotiations on the POPs protocol are to be completed by the end of 1997.

### **SOUND MANAGEMENT OF CHEMICALS**

Minerals and metals are classified as chemicals in international nomenclature. Many also meet one of the hazard classification criteria and are therefore captured by regulatory exercises aimed at hazardous or dangerous chemicals. This is similar to the manner in which some metal scrap is considered a hazardous waste. The matter of the sound management of chemicals is being discussed in a variety of international fora.

## Commission on Sustainable Development (CSD)

In 1992, the United Nations General Assembly (UNGA) established the Commission on Sustainable Development (CSD) to monitor progress in achieving the objectives of the United Nations Conference on Environment and Development (UNCED). Since then, the CSD has encouraged governments to provide annual updates on country-specific activities to implement *Agenda 21*, the sustainable development action plan adopted at the UNCED. In June 1997, a Special Session of the UNGA will provide an opportunity to review the progress that has been made in the five years since the UNCED. In addition, it should also establish the future direction of global sustainable development strategies in all sectors and in cooperation with all stakeholders.

Canada is submitting a monograph on the Sustainable Development of Minerals and Metals to both the CSD and the UNGA Special Session. This monograph is based on the principles and policies outlined in Canada's new Minerals and Metals Policy, which has been broadened to reflect international sustainable development issues and concerns.

## International Forum on Chemical Safety (IFCS)

The IFCS was established in April 1994, by 114 countries, for the purpose of identifying priorities for cooperative action in pursuit of Chapter 19 of the UNCED's *Agenda 21* entitled the "Environmentally Sound Management of Toxic Chemicals including Prevention of Illegal International Traffic in Toxic and Dangerous Products." Minerals and metals, while covered in the context of chemicals, are not recognized as having different characteristics and, hence, different behaviour in the environment from organic chemicals.

The Forum has a number of priorities dealing with international risk management, harmonization of classification and labelling, information exchange, risk reduction, education and training, and the prevention of illegal international traffic in toxic and dangerous products. It provides advice and recommendations to governments, international organizations, intergovernmental bodies and non-governmental organizations on aspects of chemical risk assessment and the environmentally sound management of chemicals. The Forum is a coordinating body with no formal reporting relationship to the United Nations.

Canada will host the Forum II meeting in Ottawa, February 10-14, 1997. As of December 20, 1996, more than 270 people from 75 countries had registered.

## OECD Risk Reduction

The 1990 OECD risk reduction program started with the consideration of five pilot chemicals or groups of

chemicals, including lead, cadmium and mercury. Initial work centred on life-cycle assessment, routes of exposure, and experience with existing controls. A number of lead products received particular attention, as well as lead in wastes and recycling. In February 1996, OECD Environment Ministers agreed to a Ministerial Declaration on lead. In response to the challenge from Ministers for voluntary initiatives, lead producers established the International Lead Management Centre.

With regard to the overall risk reduction program, the OECD Joint Meeting of the Chemicals Group and Management Committee considered progress to be slow and agreed to review the program in light of technological advances and lessons learned as a result of work undertaken. In addition, members stated that there was a need to consider a wider range of actions, including the role of non-regulatory measures. Member countries also requested more information on alternatives to the chemical-by-chemical risk-management approach for chemical risk reduction. To that end, workshops on non-regulatory initiatives and "use clusters" were co-hosted by Canada and the United States in Washington in September 1996. Some 70 participants from 13 countries attended.

While it was recognized that non-regulatory initiatives, like regulatory initiatives, involve the commitment of time and financial resources by governments and industry, workshop participants agreed that non-regulatory approaches and programs offer valuable opportunities for reducing risks and should be pursued by OECD member countries.

"Use clusters" that could be formed around any grouping (e.g., product uses, industry sectors, functions, health or environmental objectives, etc.) were found to be potentially useful when compared to a chemical-by-chemical approach. In particular, dealing with one industry sector, instead of several unrelated sectors, appears to offer efficiencies. Nonetheless, much more work is needed to find opportunities for this approach.

In November 1996, OECD countries agreed to develop a future work plan for risk reduction that will include non-regulatory and cluster approaches. The work plan will be developed and monitored by a newly established Advisory Group on Risk Management.

## International Legally Binding Instrument for the Application of the Prior Informed Consent Procedure (PIC) for Certain Hazardous Chemicals and Pesticides in International Trade

Intergovernmental negotiations began in 1996 to turn an existing voluntary arrangement (the London Guidelines) covering a handful of pesticides and chemicals into a legally binding convention. The

convention would establish export controls on a range of substances and perhaps products. Signatory governments would have to receive, from the destination country, formal consent in advance before any controlled substance could receive an export permit.

Currently, one form of asbestos (crocidolite) is covered by the voluntary PIC system, as are mercury- and arsenic-based pesticides. However, a number of governments and environmental organizations can be expected to seek an expansion in coverage to include all banned or severely restricted substances. Metals such as lead, mercury, cadmium, radioactive materials and nickel could be caught up in such a definition.

Negotiations thus far have been complicated by differing interpretations of the negotiating mandate. Some countries have sought to focus the discussions on PIC, while others have introduced various additional chemicals management issues (e.g., chemical classification and labelling). Several European nations have also sought support for widening the scope of the existing PIC mandate to accommodate a framework convention for chemicals management.

The original negotiating mandate called for two substantive negotiating sessions, with the convention to be adopted at the end of a final third session. However, as progress has not been as rapid as was originally envisaged, a third substantive negotiating session will be needed, likely in the early spring of 1997. If that session is successful, the convention could be ready for adoption in the fall of 1997.

## United Nations

As was stated in the United Nations Conference on Environment and Development (UNCED 1992) *Agenda 21*, Chapter 19, the use of chemicals is essential to meet the social and economic goals of the world community, although much remains to be done to ensure the environmentally sound management of toxic chemicals within the principles of sustainable development.

Although several international initiatives on hazardous chemicals have been developed since the UNCED, an April 1996 meeting of experts examined possible "further measures" needed to reduce the risk from hazardous chemicals. Discussions included the idea of developing an integrated legal mechanism called a Framework Convention. However, Canada is considering that more value might be gained by an integrated mechanism that includes not only legally binding instruments, but also non-regulatory and voluntary initiatives for the sound management of chemicals.

## NAFTA-CEC Sound Management of Chemicals

Canada, Mexico and the United States selected four substances for the development of Regional Action

Plans under the Sound Management of Chemicals initiative of the NAFTA Commission for Environmental Cooperation (CEC). In addition to PCBs, which was preselected by the three countries' Environment Ministers at a meeting in Mexico City at the end of 1995, the three additional substances chosen were DDT, chlordane and mercury. Task Forces with two representatives from each country were established for each substance to work on development of the Action Plans. A fourth Task Force was also established to identify criteria for adding future substances to this initiative.

Draft Regional Action Plans were developed during the year and copies were distributed to stakeholders in advance of a workshop in Mexico City in October 1996. Comments and suggestions were made to the Task Forces by stakeholders to assist them with the final drafting of the Action Plans. As a result of stakeholder concerns regarding the process for selecting additional substances, it was agreed in Mexico that the criteria document would be redrafted and the consultation period would be extended to March 1997 for final approval by Environment Ministers in June 1997. All other Action Plans were completed in 1996.

## BILATERAL/REGIONAL DEVELOPMENTS

### Asia-Pacific Economic Cooperation - Group of Experts on Mineral and Energy Exploration and Development

The Group of Experts on Mineral and Energy Exploration and Development (GEMEED) held its inaugural meeting in Santiago, Chile, in March 1996. The GEMEED was created as a subgroup of APEC's Energy Working Group with the purpose of providing a forum in which both mining and energy exploration and development issues can be addressed within APEC. The next GEMEED meeting will take place in Seoul March 24-27, 1997.

The establishment of the GEMEED adds a minerals dimension to the work themes undertaken by the APEC Energy Working Group. Given that the world's multi-billion-dollar mining exploration, investment and trade activity is primarily taking place among APEC countries, it made sense for APEC to create a forum where these interests and issues can be discussed in an open and transparent manner. Key elements of the mandate of the GEMEED include trade and investment and the impact of environmental and health-based regulations developed in fora outside of APEC but which could eventually impact on trade within the APEC region.

A GEMEED Workshop was held in Canberra, Australia, from September 9 to 12, 1996, to develop a

comprehensive database related to mining and energy resource-related opportunities, other related data, and venture capital financing sources. The objective of the database, which will be accessible through the Internet, is to provide APEC member economies with an up-to-date assessment of their mining and energy resource sectors in order to facilitate strategic planning, definition of new trends, and investment in resource development and infrastructure.

## Mexico

In May 1996, Anne McLellan, Minister of Natural Resources Canada (NRCan), signed with Minister Blanco a Memorandum of Understanding creating a Working Group on Mineral and Metal Policy between NRCan's Minerals and Metals Sector and the Secretaría de Comercio y Fomento Industrial (Ministry of Trade and Industrial Development) (SECOFI). The first Working Group meeting, held in November 1996, highlighted similarities in the two mineral economies and addressed current issues directly related to joint Canada/Mexico commodity and policy priorities.

## First Annual Conference of Mines Ministers of the Americas

The First Annual Conference of Mines Ministers of the Americas was held in Santiago, Chile, on May 15, 1996. The Conference was attended by all major mining countries in the hemisphere except the United States. In its presentation to the Conference, Canada reiterated that it is committed to good mining relations with its Latin American neighbours and is supportive of its private-sector initiatives there. The Conference produced the *Santiago Declaration* which, inter alia, institutionalizes the Conference of Mines Ministers of the Americas, which will serve as a high-level policy forum exclusively for mining in the Americas.

## Sustainable Development (SD) Summit for the Americas

The Government of Bolivia, with the assistance of the Organization of the American States (OAS), held an SD Summit for the Americas in Santa Cruz in December 1996. The Summit produced a Declaration of Principles and an Action Plan. This will in turn feed into the Summit of the Americas II to be hosted by Chile in late 1997.

Because it is important that governments address the environmental, social and economic impacts of mineral development in the context of sustainable development, Canada was successful in promoting the inclusion of minerals in the Declaration of Principles and Action Plan. The Summit agreed to an initiative that sustainable development be addressed at the Second Conference of Mines Ministers of the Americas in Peru in September 1997.

## Canada-Chile Bilateral Free Trade Agreement

The Canada-Chile Free Trade Agreement was signed in Santiago, Chile, on December 5, 1996, and will enter into force on June 2, 1997. It is an interim agreement that is intended to serve as a bridge to Chile's accession to the North American Free Trade Agreement (NAFTA). The agreement will significantly increase Canadian access to Chilean markets. It also provides for immediate duty-free access for most industrial goods, which account for 80% of Canadian exports, and the elimination of Chile's 11% import duty on almost all remaining industrial and resource-based goods over five years. It also provides significant new protection for Canadian investments in Chile, including an agreement to automatically grant Canadian investors the benefits of any further liberalization that may occur in the future.

The Chilean economy parallels that of Canada, as both countries have resource-based economies that are highly dependent upon trade. The Chilean investment regime is also of interest as Canada is the second largest investor in Chile with 80% of that investment being in the mining sector.

As soon as the agreement enters into force on June 2, 1997, the Chilean duty on 85% of Canadian exports of industrial and resource-based goods will be changed from 11% to zero. Tariffs on most other industrial and resource-based goods will be eliminated over five years. Canadian coal, asbestos, potash, nickel and mining equipment exporters will benefit from the tariff reductions in the agreement.

On services and investment, basic NAFTA disciplines will apply, except for capital transfers. Chile did preserve the right to restrict repatriation of proceeds from the liquidation of an investment for at least 12 months and to impose a 30% reserve requirement on foreign credits for up to two years. Chile has agreed to negotiate an agreement to eliminate double taxation.

The agreement includes an environmental side-agreement. The activities under the Canada-Chile MOU for Environmental Cooperation will serve as the proxy for environmental cooperation under the side-agreement. Mining is one of the key areas under the MOU.

## China

The Canada/China Ferrous Minerals and Metals Working Group provides a bilateral forum to discuss bilateral iron ore, steel and gold issues, including Canadian iron ore and steel sales to China, projects for Canadian engineering firms, and gold mining joint ventures in China involving Canadian companies. The date for the next meeting of this group has not yet been decided. The Canada/China Nonferrous

Metals and Minerals Working Group considers such topics as business opportunities in both China and Canada and developments in international organizations that affect how metals are produced, traded, used and recycled, as well as future cooperation projects between both countries in the nonferrous metals sector. The next meeting of the Canada/China Nonferrous Metals and Minerals Working Group will likely be in April or May 1997 in Beijing.

Amendments to the 1986 Law of the People's Republic of China on Mineral Resources were promulgated on August 29, 1996, and will come into effect on January 1, 1997. One of the most important changes to the law is that China will now allow the transfer of exploration and exploitation rights in certain situations. In addition, China's draft regulation on the Management of Foreign Investment in Exploration and Exploitation of Mineral Resources will come into effect at that time. The regulation was drafted with the purpose of enlarging international cooperation in exploration and exploitation of mineral resources and stepping up management of foreign investment in exploration and exploitation of mineral resources.

## Korea

The Canada/Korea Energy and Minerals Working Group provides a bilateral forum to consider cooperation, especially in the areas of investment and exploration. The next meeting of the Working Group will take place on March 6, 1997, in Seoul. Issues that will be discussed include: the Canadian investment climate and promising orebodies in Canada (e.g., copper, lead-zinc and coal deposits), the Korea Mining Promotion Corporation (the Korean agency that deals with investment in other countries), regulatory actions affecting trade in nonferrous metals (e.g., the Basel Convention, OECD issues, including the OECD lead activity, international criteria for substances dangerous to the environment, and commodity groups), the controlled use of asbestos, the new Minerals and Metals Policy of the Government of Canada, and the MOUs that CANMET has with three Korean institutions.

## Canadian Gold Mission to Russia

Russia is an area of interest to Canadian mining companies; Canadian expertise in hard rock mining complements Russia's need for this expertise and capital. In September 1996, NRCan co-sponsored a two-day seminar on gold mining in Russia in collaboration with the Russian Federation Committee on Precious Metals and Precious Stones (Roskomdragmet). Some 25 Canadian companies from three sectors that could reap benefits from Canadian mineral investment in Russia (i.e., mining companies, financial firms, and mining-related service companies) took part in the seminar.

## European Union

The Canada-European Commission Minerals and Metals Working Group provides an annual forum to consider minerals issues of interest to Canada and the European Union. At the December 1996 meeting, Canada presented its new *Minerals and Metals Policy: Partnerships for Sustainable Development*, and the Report from the Research Implications Working Group, which followed up on one of the recommendations of the Technical Workshop on Biodegradation/Persistence and Bioaccumulation/Biomagnification. In addition, issues related to metals and the environment were discussed.

*Note: Information in this review was current as of January 31, 1997.*