

Report of the African regional meeting to prepare for negotiation on a global legally binding instrument on mercury

1. The UNEP Governing Council, in paragraph 32 of decision 25/5 requested the Executive Director of the United Nations Environment Programme (UNEP) to convene an ad-hoc open-ended working group to prepare for the work of the intergovernmental negotiating committee, in particular to discuss the negotiating priorities, timetable and organization of the intergovernmental negotiating committee, and also to support developing countries and countries with economies in transition to participate effectively in the work of the ad-hoc open-ended working group and the intergovernmental negotiating committee. The latter request is being met through a series of regional meetings.
2. An African regional meeting to prepare for negotiation on a global legally binding instrument on mercury was held at the headquarters of the United Nations Environment Programme, Nairobi, Kenya, from 17 to 19 August 2009.
3. The meeting was opened by Ms. Sheila Logan, Programme Officer, Chemicals Branch, UNEP/Division of Technology, Industry and Economics who expressed gratitude to the European Commission for its financial contribution to the convening of the meeting and to the host country Kenya. She noted that the need for preparatory discussions in view of negotiating a global legally binding instrument on mercury had been flagged in UNEP Governing Council decision 25/5 on mercury. In order to inform the meeting on the current situation regarding mercury she continued by making several presentations on the following: why mercury is a problem of global concern and what are the proposed actions to manage mercury; a brief overview of the UNEP Governing Council decision 25/5 on mercury – the negotiations and interim activities; the role of the UNEP Global Mercury Partnership in the negotiation process; and information currently available on priority areas from UNEP and other bodies.
4. The meeting was chaired by Mr. David Kapindula (Zambia).
5. The meeting was attended by representatives of the following countries: Burundi, Central African Republic, Comoros, Congo, Democratic Republic of the Congo, Djibouti, Egypt, Ethiopia, Ghana, Guinea, Kenya, Libya Arab Jamahiriya, Madagascar, Malawi, Mali, Mozambique, Niger, Nigeria, Swaziland, Uganda, United Republic of Tanzania and Zambia.
6. A presentation was also made on the UNEP Global Mercury Partnership – 2009 Partnership Advisory Group meeting and outcomes by Ms. Abiola Olanipekun (Nigeria), chair of that Group. This presentation as well as those made by the secretariat representative can be found on the mercury website: www.chem.unep.ch/mercury.
7. In the ensuing discussion it was noted that current activities on mercury were voluntary initiatives since the negotiation process had not yet commenced. To date, however, very few countries were participating in those initiatives or had registered interest in the work of the partnership. There was a lack of awareness of specific risks of mercury which might sensitize interested parties, especially developing countries, to undertake more action. It was clarified that the only requirements for eligibility for participation in the Partnership was to indicate support for the partnership goal – that was to reduce and where possible to eliminate the use of mercury - to bring some input to the partnership whether it be a financial contribution, information or input to

the discussions and to express interest in one or more of the partnership areas: mercury management in artisanal and small-scale gold mining, mercury control from coal combustion, mercury reduction in the chlor-alkali sector, mercury reduction in products, mercury air transport and fate research, mercury waste management, and mercury supply and storage.

8. Participants emphasized the need for specific data on mercury emissions by geographical areas. The technical and financial difficulties of measuring mercury emissions were, however, noted. It was suggested that, through the Global Mercury Partnership under the partnership area on mercury fate and transport there might be opportunities to explore partnerships with academic institutions to undertake such sampling and analysis. UNEP Governing Council 25/5 also requested that the 2008 report on Global Atmospheric Mercury Assessment: Sources, Emissions and Transport be updated by 2013 which would ensure that additional data is available. In addition, it was expected that the Ad-hoc Open-Ended Working Group to Prepare for the Intergovernmental Negotiating Committee on Mercury, to be held in Bangkok Thailand in October 2009, might identify data gaps that could be filled during the negotiation process. Further clarification was also provided on the concerns associated with the use of mercury in dental amalgam.

9. Presentations were made on some national problems and solutions related to mercury, covering, in particular, artisanal and small-scale gold mining, a programme for fluorescent lamp disposal and general mercury contamination and waste disposal by participants from the Democratic Republic of Congo, Egypt, Mali, Kenya and Nigeria. These presentations have been made available on the mercury website: www.chem.unep.ch/mercury .

10. One country described an existing programme for the disposal of fluorescent lamps through donor assistance and detailed some of the costs involved. That project was praised as being quite advanced in relation to current capacities in most countries in Africa. In that context the opportunity for information exchange at the current meeting was commended and future possibilities for south-south exchange of experience and cooperation were noted. It was also noted that the existence of an inventory of mercury had assisted to trigger the development of the fluorescent lamp programme and that there had been little government investment. However mercury recovered was not recycled or reused as that was not considered cost effective – rather it was deposited in secure land-fills.

11. Several presentations were made on the problems associated with artisanal and small-scale gold mining using mercury for amalgamation. These problems were not only those arising directly from use of mercury but those related also to the resultant socio-economic issues. Increasing gold prices have attracted unskilled labour and the informal sector towards artisanal and small-scale gold mining including vulnerable populations of children and women. Children working in the mines no longer attend schools and women have moved away from their traditional roles in agriculture as artisanal and small-scale gold mining is more lucrative. The agglomeration of poorer populations around mining areas has led to adverse health impacts including exposure, poor living conditions and sexually transmitted diseases. Environmental impacts in these areas include erosion around the mining sites and contamination of water ways and fish. The latter is of particular concern where a threat to the fishing industry might have socio-economic consequences and where fish constitute a major part of the diet, especially of the poorer communities.

12. Artisanal and small-scale gold mining often begins once large-scale mining operations have ceased at sites that are too depleted for heavy machinery extraction. The mercury used by the informal sector often enters the country illegally and in an uncontrolled way largely owing to uncontrolled borders. While it is usually forbidden to use mercury there is no monitoring of its use in this small-scale sector. By contrast, large-scale mining operations are no longer allowed to use mercury and are controlled. It was suggested that some type of prior informed consent be established to control imports of mercury. However, illegal trafficking of mercury might still continue and it appeared that in most cases the mercury market was not regulated. In one country the miners were being encouraged to use maize and a process of flocculation for gold extraction, however it is common knowledge that the process produces less gold and it thus less attractive.

13. Countries also raised concerns related to disposal of medical equipment containing mercury, mercury in products, the increasing use of fossil fuels containing mercury and mercury in waste disposal sites. All countries said that lack of knowledge was an obstacle to taking action to overcome mercury related problems. Near dumpsites there were several instances of metal poisoning, especially of children, and health issues linked to exposure to mercury. While there were attempts to overcome this problem through national assessments of current levels of mercury use and releases to the environment as well as associated health problems, all countries underscored the need for technical and financial assistance to undertake such assessments as well to address the problems identified. Two instances were cited where national committees had been established to raise awareness on and examine issues related to mercury.

14. Several countries mentioned the presence of mercury in products and articles and the need to identify efficient, viable and cost-effective alternatives to replace that mercury. Development of a time-frame for phasing out mercury from products would be useful.

15. The meeting was informed of a regional awareness raising programme, funded by the United Nations Industrial Development Organization and covering Burkina Faso, Guinea, Mali and Senegal to develop a regional plan to address the issue of mercury. It was also suggested that the Lake Victoria Environment Programme be requested to prioritize mercury monitoring.

16. Mr. Masa Nagai, Senior Legal Officer, Division of Environmental Law and Conventions, UNEP made several presentations on the negotiating process for developing an international legally binding instrument on mercury including an overview, strategies and managing the negotiating process.

17. During the ensuing discussion, the meeting developed strategies for negotiation by the African group at the intergovernmental negotiating committee as follows:

- flexibility and transparency in understanding areas of interest and concerns of other regional groups;
- identification of means to catalyze action at the national level and strengthening of existing institutions within Africa to address mercury issues;
- knowledge of the provisions of the Governing Council decision to ensure adequate reflection in the text of the legally binding instrument;
- preparation of regional positions in respect of phase-out options for various categories of products;
- establishment of a group to coordinate the African position during the development of a legally binding instrument;
- ensuring effective participation of the African group in sub-committees during the negotiation process; and
- collaboration with other developing country regional groups.

18. The representative of the secretariat made presentations on the agenda of and issues facing the Ad-hoc Open-Ended Working Group to Prepare for the Intergovernmental Negotiating Committee on Mercury, detailed consideration of provisions to be included in the legal instrument including relevance to identified national issues and factors for the timing of consideration of provisions.

19. The meeting decided to establish a group composed of representatives of twelve African countries to prepare the African region position for the preliminary discussions at the Ad-hoc Open-Ended Working Group to Prepare for the Intergovernmental Negotiating Committee on Mercury. The group would through sub-regional consultation ascertain national and regional positions that would be coordinated through a lead member. The group was composed, subject to possible amendment at the Ad-Hoc Open-ended Working Group, as follows: Mr Adama Cham

(Gambia), Mr. Oumar Diaoure Cissé (Mali), Mr. Bangali Dioumessi (Guinea), Mr. Jean Claude Emene Elenga (Democratic Republic of Congo), Ms. Josephine Kalima (Tanzania), Mr. David Kapindula (Zambia), Ms. Abiola Olanipekun (Nigeria), Mr. John Alexis Pwamang (Ghana), Mr. Gerald Musoke Sawula (Uganda), Mr. Adel Shafei Osman (Egypt), Ms. Elsabe Steyn (South Africa) and M. Cheikh Ndiaye Sylla (Senegal).

20. Mr. Kapindula was proposed to lead the work of the group. All countries in the African region would be contacted by Mr. Kapindula on Monday 24 August, 2009 with an explanatory letter of the process to be followed for establishing an African regional position. Countries would be expected to submit their national positions and concerns by 18 September to Mr. Kapindula who would then transmit those proposals to the small group. That group would, in turn prepare a coordinated position and inform countries of the African region in time for the Ad-Hoc Open-ended Working Group. The secretariat was requested to assist the consultations of the small group through facilitating teleconferencing if such a discussion forum was deemed necessary.

21. The meeting also agreed that Ms. Olanipekun would serve as the bureau member for Africa at the Ad-Hoc Open-ended Working Group and that Mr. Cissé and Mr. Sawula would serve as co-chairs for the African regional group at that working group.

22. The meeting agreed on a preferred schedule for initiating discussions on the provisions of the Governing Council decision as follows:

- To specify objectives: should be discussed early in the schedule and revisited at subsequent meetings of the Intergovernmental Negotiating Committee.
- To reduce supply and enhance storage capacity: should be discussed early in the schedule and revisited at subsequent meetings.
- To reduce demand: should be discussed early in the schedule.
- To reduce international trade: should be discussed early in the schedule.
- To reduce atmospheric emissions: should be discussed following receipt of the Study on Various Types of Mercury-emitting Sources, as well as Current and Future Trends of Mercury Emissions Including an Analysis and Assessment of the Costs and the Effectiveness of Alternative Control Technologies and Measures as well as the outcome of the fifteenth Conference of the Parties on the United Nations Framework Convention on Climate Change.
- To address waste and remediation of contaminated sites: should be discussed later in the schedule.
- To increase knowledge: should be discussed early in the schedule and revisited at subsequent meetings.
- Capacity building: should be discussed very early in the schedule and revisited at subsequent meetings.
- Financial Resources and Mechanisms: should be discussed very early in the schedule and revisited at subsequent meetings
- Compliance: should be discussed early in the schedule and revisited at subsequent meetings.

23. The mechanisms and workings of the legally binding instrument could also be discussed later in the schedule. It was acknowledged that the priorities and considerations of other regional groups might affect this schedule and the meeting participants iterated their willingness to be flexible in the order of discussions.

24. Following the customary exchange of courtesies the meeting was declared closed at 4 p.m. on Wednesday, 19 August.