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Ad Hoc Open-ended Working Group on Mercury

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Item 3 of the provisional agenda*

**Review and assessment of options for enhanced voluntary
measures and new or existing international legal instruments**

**Statement prepared by the African region at a regional
preparatory meeting**

Note by the secretariat

The secretariat has the honour to provide, in the annex to the present note, a statement prepared by the African region at a regional meeting held on 18 and 19 July 2008 in Dar es Salaam, United Republic of Tanzania, for the information of the Working Group at its second meeting. The statement has been reproduced without formal editing.

* UNEP(DTIE)/Hg/OEWG.2/1.

Annex

African regional position for a legally binding instrument for the global control of mercury

In considering the need for a legally binding instrument it is recognised that mercury is a global pollutant, with serious health and environment effects which particularly affect women and children, but can affect other sections of the population.

It is therefore considered that:

There is a need for a broad comprehensive legally binding instrument to address the full life cycle of mercury, including the need for long-term action and commitments in the global control of mercury, with high level political authority or commitment

Binding commitments are more just and create a more level playing field for all countries with regard to the commitments that are met and the assistance provided

The global trade of mercury can only be regulated within a legally binding framework. The trade-related environmental measures established by such a multilateral environmental agreement would allow Parties to develop national trade rules addressing the global concern of mercury without being judged as discriminatory and/or protectionist since such multilateral agreed trade-related rules respect the WTO principles and dispute settlement rules.

The most appropriate way to promote technical assistance is within a legal framework

Access to international financial mechanisms will be facilitated by a legally binding agreement. The increased likelihood of the provision of new and additional financial resources will enable countries to effectively reduce mercury sources without affecting trade, poverty reduction goals or other development goals

The inadequacy of partnerships to substitute government commitments, although they may provide an important contribution towards control of mercury. Partnerships and other voluntary mechanisms can effectively address local challenges; however tend to fail in the longer term

Legally binding instruments offer the option to establish different compliance timetables for developed and developing countries

It will ensure implementation is not isolated and ad-hoc but comprehensive and global, furthermore it will contract all parties in the long term in a balanced way

Governments adopting such a framework will be supported to include mercury in their national and regional priorities and in taking action to implement such action.

There is also a need for regional action to address the requirement for research and data on the impact of mercury and its compounds, including health data on the impact of chemicals and mercury in particular

OPTION A – FREE STANDING CONVENTION

A stand alone Convention for mercury

Free standing legally binding Convention for inorganic toxic substances, initially on mercury, but with the potential for GC 26 to approve criteria to include other substances and launch negotiations.

The African position supports a legally binding instrument, for the reasons expressed above.

OPTION B - Protocol to the Stockholm Convention

Protocol on mercury to the Stockholm Convention

African regional position is the preference for a legally binding instrument as indicated above

The African regional proposal is to develop a protocol to the Stockholm Convention

These two options are compared in the attached table. It is noted that the region is proposing the first option, of a free standing convention.

The elements of any agreement which may assist in addressing the issues of mercury could include:

Reduction with the goal of elimination of mercury supply

Reduction with the goal of elimination of the international trade of mercury

Public information and awareness raising

Capacity building programs

Sustainable and effective financial resources to assist implementation (including options such as microcredits)

Global monitoring program for mercury in the environment and humans, including requirements for and assistance in the development of national inventories and measure for sound management of identified mercury wastes.

BAT/BEP requirements along with mechanisms for technology transfer

Need to formalise partnerships between stakeholders, including provisions for take-back schemes

Prohibition of the use of mercury in products and processes and research into and promotion of mercury free alternatives

Remediation of contaminated sites

Environmentally sound management of mercury waste

Table of options

Issue	Free-Standing Convention	Stockholm Protocol
Decision to launch negotiations	UNEP GC (majority vote/consensus)	Stockholm COP (consensus)
Negotiation process	Intergovernmental negotiating committee (INC) supported by UNEP Chemicals (unless otherwise decided)	Ad hoc working group under the Convention, supported by Stockholm secretariat (unless otherwise decided)
Countries eligible to be Parties	<i>Open-ended</i>	Stockholm Convention Parties only, or open-ended (depending on decision by Stockholm Convention Parties)
Scope	Could cover full range of mercury priorities, other heavy metals or other persistent inorganic pollutants	Depending on preferences of Stockholm Convention Parties, could cover the full range of mercury priorities, or only those directly related to methylmercury. Probably not open to additional substances.
Control measures	Open for full range of measures, including BAT/BET, standards, bans, partnerships, etc.	Depending on preferences of Convention Parties, could be open to full range of measures, or only those types of measures that are currently used in Stockholm Convention
Financial mechanism	GEF or other entity could operate the financial mechanism. Would require commitment from donors for new and additional funds, amendment to GEF Instrument, and MOU between COP and GEF Council	Could use existing Stockholm financial mechanism operated by GEF, but no significant mercury funds would be available without commitment from donors for new and additional funds
Flexibility of funding arrangements	May provide opportunities to develop additional funding mechanisms (such as microcredits)	Existing mechanisms for funding are the ones to follow and may not adequately address regional concerns
Synergies with existing Conventions	Could be integrated into the new synergies relationship that the other Conventions may agree to in 2009 and 2010	Probably same secretariat as Stockholm Convention. Probably Stockholm COP serving as MOP for Protocol