Despite substantial health risks, mercury compounds are often added to skin lightening products to lighten the skin, making them illegal under national laws and the Minamata Convention. These violations are facilitated by the lack of e-commerce regulatory oversight, resulting in an explosion of counterfeit products offered in local markets and by internet platforms globally. Antigua & Barbuda and the ZMWG will be presenting new evidence on the magnitude of the problem and the legal/implementation reforms necessary to prevent illegal skin lighteners from entering the marketplace.

LIST OF SPEAKERS

- Charline Cheuvart, EEB/ZMWG
- Michael Bender, MPP/ZMWG
- Dr. Linroy Christian, Antigua and Barbuda
- David Lennett, NRDC

THURSDAY, 10 MARCH 2022

15H30-16H30 CET
Mercury-added Skin Lighteners

The Experience of Antigua & Barbuda

Linroy Christian
Director of Analytical Services
Focal Point to the Minamata Convention on Mercury
Article 4 Obligations

Paragraph 1

- **CFL's**
  - Reduction through private sector influence

- **High Pressure Mercury Vapor Lamps (HPMV)**
  - Utilities company initiative to reduce legacy disposal in the Landfill

- **Cosmetics**
  - Legislative instrument proposed

- **Medical Devices**
  - Policy initiative taken in some sectors

Paragraph 3

- **Dental Amalgam**
  - Use of dental amalgam widely discontinued due to conscious effort by the private sector

  - Policy objective not previously elaborated

  - Sector-specific action/promotion required:
    - Insurance sector
    - Dental sector to promote best environmental practices for disposal
**The MIA Process**

**ESTIMATED 43.5 Kg Hg RELEASED IN ANTIGUA AND BARBUDA PER YEAR**

- Hg added Consumer Products, 29.6%
- Other Intentional Product/Process Use, 25.4%
- Waste Deposition and Wastewater Treatment, 11.2%
- Extraction and Use of Fuels, 4.1%
- Waste Incineration and Burning, 28.0%
- Cemeteries, 1.1%
Sixteen (16) brands purchased and analysed

Two (2) purchased within the region contained mercury in excess of 1 ppm. 19,000 ppm mercury was recorded in one case. This cream is still marketed in the region.

The MIA report recommended the imposition of a ban on creams in excess of 1 ppm.

The manufacture of such products are informal and likely pose significant risk.
Additional Work on Cosmetics

**XRF**

- **98 brands screened**
- **10 creams > 1 ppm**
- **3 creams > 1000 ppm**

USA, Europe, Africa and the Caribbean

An additional 41 products comprising soaps, lotions and gels to be evaluated

Further screening to be conducted with DMA

Continued work with NGO partners:
- Biodiversity Research Institute
- Integrated Health Outreach
- Zero Mercury Working Group
Building a Database on Cosmetics

• The SIP project for Antigua and Barbuda is expanding cosmetics work:

  • Participating countries have expressed interest in reviewing imported brands for further analysis
  • Samples to be collected across the region
  • Data repository in Antigua and Barbuda as hub of the CRMMN
  • Consideration of online sales in sampling methodology
  • Informal national production to be considered
Implications of Cosmetics Use

- Human health
  - Directly to the user
  - Secondary effects:
    - Implications for children and infants
- Disposal and environmental health implications
- Social and societal impacts
- Economic and trade implications
  - Regional agreements and the Caribbean Community
Illegal Trafficking

- Confiscation of consignment of mercury from regional air carrier
  - Crudely transported in used vitamin bottle
  - Transportation with strong oxidizing compounds
- Safety concerns
- Possible use in informal cosmetics sector
- Customs and Border concerns
- Use of mercury in traditional practices
  - Current exemption in Annex A not supported in the Antiguan context
The Way Forward

- Improved data collection in the Caribbean region
  - Science to action
  - Capacity enhancement

- Public and policy level education

- Formal adoption of policy
  - Comprehensive policy on MAPs developed for Ministerial endorsement
  - Engagement of the private sector
  - Identification of mercury-free alternatives

- Continued legislative enactment and review
  - **Ban on imports > 1ppm**
  - Online sales

- Enhanced regional discourse
  - cosmetics manufacture
  - Illegal transit of mercury
Thank you for your attention
Skin Lighteners Widely Available Despite Convention Obligations

Minamata Convention on Mercury
Fourth Conference of the Parties

pre-COP4.2 Side Event  10 March 2022

Michael Bender
ZMWG Co-coordinator
Zero Mercury Working Group (ZMWG)

• International coalition of 110 public interest, environmental and health non-governmental organizations from over 55 countries

• Formed in 2005 and co-coordinated by the European Environmental Bureau and the Mercury Policy Project

• Supports the Minamata Convention with the goal of reducing mercury in the global environment to a minimum.
NGO Partners:

- **AFRICA** - Bio Vision Africa, **Uganda**; Center for Environment Justice and Development (CEJAD), **Kenya**; Centre Africain pour la Santé Environnementale (CASE), **Cote d’Ivoire**; groundWork (gW), **South Africa**; Sustainable Research and Action for Environmental Development (SRADev), **Nigeria**

- **AMERICAS** - Casa Cem, **Mexico**; Sierra Club & Mercury Policy Project (MPP), **United States**; Integrated Health Outreach (IHO), **Antigua and Barbuda**; Toxisphera Environmental Health Association (TEHA), **Brazil**

- **ASIA** - BAN Toxics, **the Philippines**; Center for Public Health and Environment (CEPHED), **Nepal**; Earth, **Thailand**; Environmental and Social Development Organization (ESDO), **Bangladesh**; NEXUS3Foundation, **Indonesia**; Toxics Link, **India**

- **MIDDLE EAST** - Environment Friends Society, **Bahrain**

- **EUROPE** - European Environmental Bureau (EEB), **Belgium**
ZMWG Investigations of Mercury Added Skin Lightening Products Sold Globally

- **2017- 2022**, 3 separate ZMWG investigations, confirming continued worldwide availability of illegal products
- Main concern: health risks and illegality of Hg products
- **Starting in 2021**, Minamata Convention bans manufacture and trade of cosmetics containing over 1 ppm mercury
- **Our 2022 report** echoes recommendations made in our 2018 & 2019 testing reports & 2019 enforcement report; also includes recommendations for legal online reforms
- Recommendations covered in the next presentation.
Health Risks of Mercury Added Skin Lightening Products

• Mercury compounds are added to lighten the skin by suppressing the production of melanin
• Symptoms associated with exposure are not unique to mercury, so difficult to identify or diagnose until serious health effects occur
• The regular use of skin lighteners containing mercury can lead to rashes, skin discoloration and blotching
• Long-term exposure may damage the eyes, lungs, kidneys, digestive, immune and nervous systems
• Can also expose others, through skin-to-skin contact, and may even require home decontamination
Widespread Use of Skin Lighteners

• Symbol of societies grappling with internalized racism and colorism.

• In some populations, > 50% of individuals use regularly.

• One analysis estimated that 27.7% of individuals globally have used skin lighteners at one time or another.

• World Health Organization warns of the health risks of certain skin lighteners—and recommends phase out
Online Sales of Mercury Added Skin Lighteners

• Growing market share of e-commerce generally
• Challenges of regulating online sales, especially where the seller is outside the country
• Non-domestic online sellers evade domestic laws that “brick and mortar” stores must comply with
• Violations of health and safety laws facilitated by e-commerce sites not only threaten public health, but also create an uneven playing field
Prior ZMWG Mercury Test Results (2017-2019)

• In 2017 and 2018, ZMWG purchased 338 skin lighteners from local shops in 22 countries

• 10% were found to contain mercury levels above 1 ppm

• Follow-up study was conducted by ZMWG in 2019, targeting those identified during the 2017-2018 study, as well as others

• Of 166 samples analyzed, purchased from e-platforms and some shops, 56% had mercury levels over 1 ppm
Publicized Test Results Appear Not To Deter Online Platforms

• Most e-commerce platforms are not sufficiently motivated to verify the legality of products sold.

• When platforms were notified of illegal high-mercury products, a common response was that they voluntarily removed products and/or put filters in place as a deterrent.

• Yet it appears that those measures did little to deter online sellers.

• Some products reappeared, as our NGO monitoring showed

• As noted in the 2019 ZMWG report, follow-up investigations showed that same brands found to contain high mercury levels on several sampling occasions in physical shops and via e-commerce platforms.
Responses From E-commerce Platforms

• In 2019, high mercury products were purchased on seven platforms: Amazon, eBay & Flipkart; from South Africa’s Bidorbuy; from Nigeria’s Jumia; & from Lazada & Daraz, both part of Alibaba

• Following the 2019 ZMWG study, most of the online platforms were asked to stop selling high mercury products.

• Some did so, while others did not respond or claimed that they had no legal obligations to do. Amazon India, for example, in a 2020 response stated that: “The products offered for sale on the Marketplace are always owned and/or sold by the seller at any point of time (and not by Amazon.)”

• Reuters review in June 2020 showed continued listings of 19 high-mercury products spanning all seven platforms, including Amazon, Daraz and Ebay.
2022 ZMWG Skin Mercury Skin Lightener Test Results

- NGOs from 17 countries searched for over 80 suspect products containing over 1 ppm mercury
- Purchased 271 products from more than 40 e-commerce sites accessed from Asia, Europe, Africa & Americas
- 36 brands contained high levels of mercury
- 129 products w/over 1 ppm mercury on 30 sites
- Majority were accessed from multiple countries & continents through a range of online platforms

*Product purchased from Amazon.com*
Ten Most Often Available Illegal Online Products Found

- Collagen Plus Vit E
- Arché Formula AA Pearl Cream
- Goree Beauty Cream
- Golden Pearl Whitening Beauty Cream
- JiaoBi Whitening set
- Faiza Beauty Cream
- Chandni Whitening Cream
- Goree Day and Night Whitening Cream
- Noor Herbal Beauty Cream
- Due Beauty Cream
Online Platforms Selling the Most Targeted Products With Mercury Content Over 1 ppm

• More than half of the 40 samples purchased on eBay platforms
• Shopee - 18 out of 34 samples
• Jiji – 14 out 31 samples
• Flipkart - 13 out of 21 samples
High-mercury vs. total SLPs purchased on e-commerce

- Number of samples purchased
- Number of samples tested with mercury levels over 1ppm

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<th>Number of samples purchased</th>
<th>Number of samples tested with mercury levels over 1ppm</th>
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ZeroHg
Country of Origin (on Packaging) of Most High-Mercury Products

- Most high-mercury products appear to originate Pakistan, Thailand and China
- In some cases, steps are being taken to curtail illegality- e.g. Public notice action against Skin Cream Manufacturer by Pakistan PSQCA
- However, information is difficult to confirm:
  - Often illegal nature of the business,
  - Challenge of identifying those responsible and their methods, and
  - Role of counterfeit products.
Origin of SLPs over 1 ppm based on package labelling

- Pakistan: 43%
- United States of America: 1%
- Thailand: 8%
- Taiwan: 4%
- The Philippines: 1%
- Malaysia: 4%
- Mexico: 4%
- Hong-Kong: 1%
- Indonesia: 1%
- Japan: 1%
- United Arab Emirates: 1%
- N/A (not indicated or language issue): 6%
Recommendations to follow in next presentation
Thank you!

www.zeromercury.org/mercury-added-skin-lightening-creams-campaign/
Preventing the Illegal Production and Trade of Mercury-Added Skin Lightening Creams

David Lennett
Natural Resources Defense Council
March 2022
Three Routes of Illegal Commerce

Illegal Domestic Production

Manufacture of illegal creams within the country

Online Sales

Sellers offering illegal creams through online platforms

Illegal Imports

Trade of illegal creams across international borders
Tools for Identifying Illegal Production

- Licensing/registration requirements to import/use mercury or mercury compounds
- Registration/identification of importers facilitates follow-up enforcement
- Review/revise HS codes to identify mercury-added products and compounds
- Labeling requirements for cosmetics requiring full ingredient disclosure
Seven Pillars for Prevention of Illegal Trade

- Create Foundation for Enforcement
- Build Frontline Capacity
- Cross-Border Cooperation
- Enforcement Operations
- Prosecution
- Education and Outreach
- Global Information and Coordination Mechanisms
Foundation for Enforcement

- Licensing/registration requirements covering products and feedstock chemicals
- Tracking use and disposal within licensing system
- Use of internet-based system to facilitate ease and speed of communication with applicants and other users, and to promote staff efficiencies
- Integration with Customs to maximize utility of information in system
- Clear and meaningful fines/penalties for violations. Criminal penalties, including imprisonment, are necessary.
Build Frontline Capacity

Customs officials capacity building

- Training
- Quick reference guide/check list/manual
- Detection equipment
- Technical support
- Risk profiling (scrutinize free trade zones)
- Management of seized goods
- Coordination with licensing/regISTRATION system administrator
Global Information and Coordination Mechanisms

- Enforcement Networks
  - Green Customs Initiative
  - Interpol
  - Pangea

- Minamata Convention
  - Information Exchange Platform
  - Resources, including preparation of Customs and Enforcement Officers Training Manual
  - Support Regional Collaboration
  - XRF Group Purchasing and Training
  - Effectiveness Evaluation
  - Consider Need for Mercury Compound Trade Regulation
Online Sales of Skin Lightening Creams
Legal Reforms Needed to Prevent Sales

- Online platform – publisher or retailer?
  - Laws enacted decades ago to promote internet commerce treated internet platforms like newspapers, exempting them from liability for illegal/unsafe product sales
  - But internet platforms today are not like newspapers
    - Profit from each product sale
    - Control content of website and terms of sale
    - Often represent foreign sellers which have no physical or financial presence in country
    - Often distribute the product directly

Illegal and unsafe online product sales is a wider problem
Change is Coming
Liability Reform

Recent USA court cases
EU legal framework revisions under variety of relevant laws
WTO now negotiating digital commerce rules
Legitimate businesses seek relief from sale of counterfeit, illegal, unsafe competitor products
## Online Platform Legal Reform Principles

| Platform liability comparable to stores for violations of health and safety laws, injuries to consumers | Require verification of third-party sellers | Require verification that products meet content requirements | Clarify ingredient disclosure requirements apply to online sales, comparable to product labeling | Require third-party seller to consent to jurisdiction of local courts and appoint local agent acting on its behalf |
Complementary Measures to Liability Reform

- Licensing and registration legal framework, including ingredient labeling of cosmetics sold online, and clear legal authority to regulate/prohibit online sales
- Capacity to conduct periodic purchasing and testing of online creams
- Supporting tools and measures (alert systems, detention lists)
- Collaboration with governments where creams are manufactured
Final Observations

- Skin lightening products are the ASGM of the products area
  - Many informal participants
  - Decentralized illegal activity
  - Insufficient awareness of health risks
  - Requires attention on both supply and demand side
  - Widespread geographically
- Online platform liability reform necessary
- Enforcement is a serious challenge
- Anticipate post-2020 compliance issues and greater attention to new legal frameworks, capacity building, international cooperation, online sales
- Needs to be a Minamata Convention priority