

On the Expected Council Conclusions for Addressing Global Mercury Challenges: Preparation for the 25th Governing Council of UNEP (Nairobi, 2009)

Mercury has been on the agenda of UNEP since 2001. Some progress has taken place since then, both at the political level and on the ground with several projects addressing the mercury crisis. However, it is now high time that a global framework is adopted to coordinate actions to reduce mercury supply, use and emissions of mercury from all global sources of concern. At the latest meeting of the Ad Hoc Open Ended Working Group on Mercury in Nairobi (October 2008), a comprehensive set of elements to be part of a global framework was agreed to by a broad consensus, and this was an important step forward. In addition, an overwhelming majority of countries supported a free-standing legally binding instrument on mercury.

The elements of a global mercury framework related to supply (including storage and trade), emission reductions (through the use of BAT or otherwise), and product/process phase-outs in particular will require a legal instrument to be effective for a number of reasons including the following:

- It is the only way to control supply and eliminate global mercury trade while minimizing possibility of conflicts with international trade law
- It will ensure the required substantial global coordination and a level playing field in effectively phasing out the use of mercury in products and processes, and otherwise reducing mercury emissions from industrial sources.
- The legal instrument is the most direct and effective vehicle for prohibiting new undesired activities
- It can elevate the importance of mercury as a priority issue in countries and regions, and facilitate implementation of relevant national legislation.

Therefore, we now call on the Governing Council to conclude that a free-standing legally binding instrument (LBI) is needed to address the global mercury challenges. The provisions of this LBI should include:

- A broad scope that includes those human activities which contribute to the global mercury pollution problem, and addresses the entire lifecycle of mercury.
- Tailored mercury control measures to particular sectors and sources of concern.
- Measures which incorporate the Precautionary Principle, the Polluter Pays Principle, and other relevant Rio Principles.
- Recognition of the role and importance of public interest, health and environmental stakeholders.

Accordingly, the Governing Council should request that an International Negotiating Committee (INC) for mercury be formed as quickly as possible, and that this INC should develop an LBI which does the following:

- Reduce mercury supply including the phase-out of primary mercury mining, and the sequestering of mercury from closing or converting chlor-alkali plants.
- Prohibit new uses of mercury, and phase-out its use in products and processes based upon the availability of safe and cost effective alternatives.

- Phase out international trade of mercury and mercury products.
- Minimize anthropogenic atmospheric emissions of mercury where processes or products cannot be phased-out or mercury use is unintentional, through such mechanisms as BAT/BEP requirements.
- Address the environmentally sound management of wastes containing mercury, including environmentally sound storage.
- Enhance the global monitoring of mercury, particularly in the food supplies of humans and wildlife.
- Provide opportunities to facilitate the effective remediation of contaminated sites.
- Ensure sufficient new and additional financial and technical resources including technology transfer, capacity building, and information exchange to enable developing and transition countries to control mercury sources effectively without disrupting poverty reduction goals.
- Public information and awareness-raising especially for women, children, Indigenous Peoples, Fisher Folk, consumers of fish, and the least educated.
- Strong, fair, and balanced mechanisms to support transparency, effective implementation, and compliance with the regime.

In its Decision, the Governing Council should also provide for the possibility that other metals can be added to the mercury LBI at a future time.