

November 4, 2010

Mr. Per M. Bakken, Head
Chemicals Branch
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Dear Mr. Bakken,

Thank you for the invitation for NGOs to participate in the UNEP Global Mercury Partnership Advisory Group (PAG) meeting, held 21-22 September 2010 in Geneva. While we were pleased to learn of the progress made in several areas, concerns remain regarding both the content and process related to the waste partnership area, its business plan and related initiatives.

As reflected in the PAG's draft minutes, it's important to note that no partnership should overstep their role in deference to the Intergovernmental Negotiating Committee (INC) process. This statement is also reflective of recent comments submitted to the waste partnership, where it was observed that decisions presented on issues in their draft business plan will be the subject of much negotiation at the INCs. Therefore, it's preemptive to address these issues without this acknowledgement, as otherwise it may appear that there is an attempt to finalize policy and options before countries have discussed and negotiated them.¹

Of equal importance are our concerns related to waste partnership continuing to present waste combustion as an appropriate end-of-life management strategy for managing mercury, especially since input to the contrary was expressed which, to our knowledge, has not been adequately addressed. While there was not much time for input on this during the PAG, several NGOs had expressed concerns related to this during the product partnership meeting in May, in Washington, DC, and these concerns remain.

While the rationale for addressing waste combustion was presented during the second meeting of the waste partnership in Tokyo, Japan earlier this year (see slide 3 of the following link: http://www.chem.unep.ch/mercury/Sector-Specific-Information/Docs/waste/S2_01-Draft-BATBEP-Presentation.pdf), we don't believe that the correct interpretation of the UNEP GC 24/3 Decision is to promote waste incineration as an appropriate option for managing mercury. On the contrary, our understanding is that the referenced language (see 27.b of : http://www.unep.org/gc/gc24/docs/GC24_decisions.pdf) evolved from discussions about reducing mercury emissions from various sources, including waste combustors, but not in promoting incineration of mercury in products or waste as a viable end-of-life approach.

¹ IPEN comments on UNEP Mercury partnership on waste area, 10 September 2010

In addition, we have several other concerns with the draft business plan that have recently been submitted to the waste partnership.² For the time being, these have yet to be addressed. Nevertheless, we would like to highlight one of our primary concerns once more: the lack of clarity between the issue of storage and waste, and the continuing tendency to confuse the issues of commodity elemental mercury and waste mercury. While we understand and support UNEP's initiative to develop a glossary of terms to clarify this, this area in particular will require continued vigilant oversight over time to minimize confusion.

Finally, on a process level, we are concerned that the waste partnership area does not appear receptive to addressing input. In fact, during the recent PAG meeting, we were surprised to hear that the waste partnership is unwilling to make any changes, unless they hear otherwise from the INC. This statement was reflected in the draft PAG minutes:

“The waste partnership area indicated they would continue the BAT/BEP guidance as currently planned and would update its business plan in response to INC developments. In addition, the waste partnership area plans to present case studies in the BAT/BEP guidance.”

However, given the widespread understanding and recognition that the partnerships should be open to dialogue and exchange views, etc., we hope that the waste partnership would also be willing to incorporate input from other partnerships and stakeholders, as well as the INC.

In summary, we respectfully request UNEP to assist in addressing the above issues, with the goal of resolving them prior to INC 2 — and also prior to the finalization of any partnership plan or initiative. On this last point, are we correct in assuming that before documents are presented on behalf of the partnership, they would first be circulated widely for consultation?

Thank you (in advance) for any assistance you may be able to provide.

Sincerely,

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² ZMWG comments on UNEP Mercury partnership on waste area, 10 September 2010

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