

## **Paper issued by the Arab Consultative Workshop**

**Organized by IndyACT with the support of Zero Mercury Working Group**

**Beirut, 4-5 November 2010**

An Arab consultative workshop organized by IndyACT – The League of Independent Activists with the support of the Zero Mercury Working Group, and with the highly appreciated funding from the German Ministry of Environment and the European Environment Bureau, was held in Beirut on November 4 and 5, 2010.

The workshop was attended by negotiators who follow up mercury negotiations and delegates from the following Arab countries: Jordan, Iraq, Saudi Arabia, Yemen, Sudan, Egypt, Libya, Tunisia, and Morocco, as well as the representative of the League of Arab States. Also attending the workshop were representatives of ten non-governmental organizations from the following Arab countries: Morocco, Tunisia, Egypt, Jordan, Syria and Lebanon. The presence of the Chairman of the Intergovernmental Negotiating Committee to prepare a global legally binding Instrument on Mercury Mr. Fernando Lugris, the member of the Bureau of the Intergovernmental Negotiating Committee Dr. Mohammed Khashashneh, and the representative of the Secretariat of the United Nations Environment Programme – Chemicals Branch – Mercury and other Metals Team, Ms. Sheila Logan was highly appreciated.

The workshop was concluded with a consensus on this paper that includes all the recommendations, goals and aspirations related to all aspects of the negotiation process on a legally binding treaty on mercury, which include the following:

- Participants thanked IndyACT and Zero Mercury Working Group for organizing the Arab Consultative Workshop and lauded the efforts for the good organization and for providing the conditions for its success.
- Participants praised the all-embracing role of the League of Arab States and welcomed the participation and presence of Ms. Naima Bouchama, the representative of the Arab League. They also welcomed the draft decision of the Executive Office of the Council of Arab Ministers Responsible for the Environment in its article 5, paragraph 11, item 2, where Arab countries were solicited to attend and participate in the Arab consultative workshop organized by IndyACT in collaboration with Zero Mercury Working Group (ZMWG), which will be held in Beirut, Lebanon on 4-5 November 2010 to prepare for the second round of negotiations on mercury.
- Participants welcomed the presence and participation of the Chairman of the Intergovernmental Negotiating Committee Mr. Fernando Lugris and his positive role in explaining and facilitating the discussions.
- Participants welcomed the presence and participation of the Secretariat of the United Nations Environment Programme represented by Ms. Sheila Logan and her positive role in explaining many points and the contents of the main paper prepared by the Secretariat.

- Participants welcomed the presence of the member of the Bureau of the Intergovernmental Negotiating Committee, the representative of the Asia Regional Group, and the representative of Jordan Dr. Muhammad Khashashneh who is the only Arab member in the Bureau, and his active participation in motivating the workshop and the serious discussions about all issues of concern to Arab countries.
- Participants discussed all the main issues and important topics concerning negotiations on an international binding treaty on mercury. The following issues were raised and discussed:
  - o Overview: Why Mercury? What are the key issues?
  - o Arab concerns about mercury
  - o Supply and storage
  - o Mercury in products and processes
  - o Mercury in waste and contaminated sites
  - o Mercury emissions
  - o Financial mechanism, compliance (implementation), reporting
  - o Financial and technical assistance, scientific information exchange
  - o Awareness-raising, capacity building and training
- Participants supported the inclusion of a schedule in the mercury treaty to eliminate the use of mercury in dental amalgam and to use alternatives that are already available.
- All Arab countries and NGOs participating in the workshop were efficiently and actively involved in the substantial and open discussions, which lasted two full days, in addition to the lateral, bilateral and multilateral discussions that were carried on after the end of the sessions.
- The second day of the workshop was devoted to the discussion of the main paper prepared by the Secretariat UNEP (DTIE)/Hg/INC.2/3 entitled “Draft elements of a comprehensive and suitable approach to a global legally binding instrument on mercury”.
- The discussions on this paper adopted a trajectory to outline Arab observations, recommendations and aspirations on various issues and topics. The discussion was deep, substantial and comprehensive through which Arab attitudes towards the key issues took shape. These are outlined as follows:

## **Part I: Introduction**

### **1- Objective**

Participants agreed that the main objective of the treaty is the protection of human health and the environment from releases of mercury and its compounds resulting from human activities.

### **2- Definitions**

The issue of whether if it is better to include definitions in the introduction or somewhere else was discussed, but the debate on this issue was not resolved.

## **Part II: Measures to reduce the supply of mercury**

### **3- Mercury supply sources**

Participants support what the document proposed and call for a precise definition of the expression “Not allowed”.

#### **4- Environmentally sound storage of mercury**

Participants welcomed this text, stressing the need for a flexible instrument allowing the transfer of mercury to countries that have the capacity to deal with mercury, with the need to add the Chemical Abstracts Service registry number in order to facilitate cross-border transfer in line with the Harmonized System. They also emphasized the need to build the capacity of developing countries at the stage of temporary storage, thereby taking into account their technical capacity and geological nature, until the transfer of mercury and its compounds to the final storage sites in developed countries that are capable of carrying out the final treatment of mercury and its compounds. Guidelines that will be set shall also take into account all the details concerning this issue. Reference was made here to distinguish between trading in mercury and its compounds and the transfer of quantities of mercury stored temporarily in some countries to the countries which receive mercury for final or long-term storage.

#### **5- International trade of mercury and its compounds with the States Parties to the Treaty**

Participants agreed on the text of the Secretariat paper without any additions or comments, confirming that the transfer of mercury to the final storage falls under the transportation section and not under the trade section.

In order to reduce the international trade of mercury and mercury-containing products, participants support export ban rather than import ban, as the experience has shown the weak efficiency of an import ban and the increase in cases of smuggling, particularly in developing countries.

#### **6- International trade of mercury and its compounds with non-States Parties to the Treaty**

Participants agreed on the text of the Secretariat paper, stressing the need to fight against illicit trade in mercury-containing products, in addition to the need to build the capacity of authorities concerned with trans-boundary movement such as customs and general security.

### **Part III: Measures to reduce intentional use of mercury**

#### **7- Mercury-added products**

Two definitions must be added to the Treaty, the first is “Mercury-added products” and the second is “Mercury-containing products”, with the ability to set limits on the proportions of mercury added to products.

#### **8- Manufacturing processes in which mercury is used**

Participants approved the text of the Secretariat paper, but they agreed to emphasize the need to mention the production of vinyl chloride which uses mercury.

## **9- Artisanal and small-scale gold mining**

A contact group will be formed to discuss this issue during the second session of negotiations in Japan. Participants agreed to submit a recommendation to GCC countries to be represented in this group and to be present to discuss the issue that concerns them directly.

## **Part IV: Measures to reduce releases of mercury to air, water and land**

### **10- Atmospheric emissions**

Participants agreed to provide assistance to developing countries to increase their control capacities in order to monitor their emissions in the atmosphere. Assistance should be provided to developing countries to control and monitor their intentional and non-intentional emissions in various environmental media: air, water, land and food, especially fish.

### **11- Releases to water and land**

Participants agreed on the need to include clear articles in the Treaty on building capacities and increasing developing countries' scientific knowledge and technical capacity for control and monitoring, in order to be able to fulfill their obligations in this regard, and on including monitoring and control programs, in addition to air, water, land, food, especially fish as a staple food for millions of people.

### **12- Mercury wastes**

Participants agreed on the need to include a strong and integrated system for mercury waste management and treatment in the Mercury Treaty, benefiting from the experiences of other conventions, provided that powers are not distributed between the conventions in a way that hinders the effective implementation of sound management in accordance with the requirements of the whole mercury treaty. The treaty should include a financial mechanism that meets the needs of treating mercury waste, temporary storage, transfer for final storage, and remediation of contaminated sites. This shall provide the conditions for success in the implementation of the Treaty contrary to the Basel Convention which lacks a financial mechanism, making its implementation inadequate and difficult.

Discussions also addressed the following:

- Role of regional centers of the Basel and Stockholm Conventions in training and technical assistance.
- Trans-boundary transfer: Specifying frameworks for cooperation and support (collaboration) with the Basel Convention.
- Classification of mercury-containing waste into two levels: a high concentration level that the Mercury Treaty deals with similarly to the Stockholm Convention, and a low concentration level that is being considered to be subject to the system of the Basel Convention.

- Transfer system in the mercury treaty should include strong controls that match or exceed those of the Basel Convention for the trans-boundary movement of hazardous waste in order to prevent and reduce illicit trade.
- Participation of Arab countries in the Contact Group to be established during the second session of negotiations in Japan.
- Contaminated sites: Participants agreed that the Treaty should include clear provisions on assisting developing countries in identifying, detecting, assessing the risk and treating contaminated sites, especially in gas producing countries, where contaminated sites might have spread without knowing their exact place, as well as other contaminated sites, whether resulting from these or other activities (such as gold mining, chlor-alkali processes or others).
- Studying the real needs of Arab countries, particularly in terms of legislation limiting the importation of products such as batteries or other mercury-containing products which are about to expire so they will turn to waste in a short period.
- Participants confirmed that they are looking forward to a strong treaty with an elaborate system under the jurisdiction of the expected mercury treaty, especially that the Basel Convention does not include a financial mechanism of its own and that the centers are inefficient and ineffective, in order to efficiently protect our countries and other developing countries against the illicit trade of mercury, its compounds, its products and its waste.

### **13- Contaminated sites**

- Based on the aforementioned, participants agreed on examining, identifying and remediating contaminated sites, and stressed the need to hold polluting corporations responsible for that and to assume their responsibilities by remediating these sites at their own expense.

### **Part V: Transitional measures**

#### **14- Allowable-use exemptions**

Participants agreed to call upon the Arab Group on the eve of the start of the second session in Japan, and to discuss the details of this issue in order to present it to the Contact Group.

### **Part VI: Financial resources and technical and implementation assistance**

#### **15- Financial resources and mechanisms**

Participants discussed the importance of availability of financial resources at all levels. They stressed the need for considering the needs and requirements of developing countries and the urgent need for including a strong, flexible and effective financial mechanism in the Treaty to provide the required assistance. They also pointed out the need that the first Conference of the Parties pays paramount importance to this matter. They also discussed the mechanisms of

delivery of funds to the beneficiary countries of financial assistance. They recommended creating a single fund that includes all the involved international parties, facilitating and encouraging the private sector to participate in this fund, and making participation available to banks, support funds and special tax revenues.

Participants agreed that the financial mechanism should be similar to that of the Montreal Protocol, which has proven its effectiveness and ability to meet the needs and to achieve the envisaged goals.

Participants also discussed reporting procedures on how to provide assistance, and stressed the need for periodic review of the effectiveness of arrangements taken in the light of the reports.

They also emphasized that the financial mechanism of the treaty for financial assistance should be strong and independent; otherwise we cannot develop a mechanism for compliance or for the implementation of the treaty. In addition, technical and financial assistance should be provided to developing countries to be able to fulfill their obligations. The Conference of the Parties shall establish an appropriate mechanism for providing sufficient and sustainable financial resources, so as to include other means of regional, bilateral and multilateral cooperation. They also stressed the need for a balance between compliance (implementation) and the financial mechanism. They also praised the Montreal Protocol model which includes an independent mechanism that functioned successfully for many years.

It is also important to consider the amount that we will need, what are the costs of monitoring, what are the national targets for each country, etc... This requires the adoption of an ambitious and positive approach to obtain the financial resources to meet the needs. And we, as countries in need of such a mechanism, must insist on the rapid approval given the significant risks to the environment and health, and on approving it at the beginning of the First Conference.

## **16- Technical assistance**

Participants pointed out the need for the treaty to establish a guide and an operational framework to encourage academia and research centers at the national and regional levels and to assist them in participating in providing technical assistance to States Parties in need, especially developing countries, since Arab countries comprise many universities and research centers equipped with the best and latest equipment and specialized human cadres.

Light was also shed on centers available to the Basel and Stockholm Conventions. Participants called upon these centers to reactivate their role to become more effective and active than before, especially since their main task is to provide technical assistance, capacity building and training.

Participants called for the establishment of national units similar to the Ozone units under the Mercury Treaty and funded by it. These units shall coordinate and cooperate with national mercury-related institutions. Participants also called for raising the degree of networking at the local and regional levels (three levels: special units, national level and regional level).

Participants demanded an increase in the efficiency and capacity of developing countries to detect the effects and residues of mercury in imported materials and goods, and to transfer the

necessary technology without any obstacles, particularly in imported fish, cosmetics, skin-lightening creams, as well as the need to raise the capacity of developing countries to detect mercury in various medical and other consumer products.

### **17- Implementation Committee**

Participants welcomed the replacement of the term “Compliance Committee” with “Implementation Committee” and considered it more convenient to the fact that the implementation of the Treaty is linked to the ability of States Parties to achieve this, giving high importance to the financial mechanism, technical and financial assistance mechanism, and implementation system, to enable developing countries to implement the requirements of the Treaty completely and successfully. They also agreed that request for funding assistance should be considered before considering the non-implementation, and that providing effective (financial and technical) assistance is necessary to enable States Parties to fulfill their implementation obligations.

## **Part VII: Awareness-raising, research and monitoring, and communication of information**

### **18- Information exchange**

Participants demanded that the treaty includes a clear mechanism for the exchange of information, and that a national institution for the exchange of information is established in each country to facilitate and ensure it is done as fast as possible. They pointed out that information on the safety and security of health and environment should not be confidential. They emphasized that the fifth paragraph relating to confidential information needs an accurate clarification so that there is no confidential information concerning the safety of persons and all possible consumers of mercury-containing goods and products. All information on their impact on people's health and safety of the environment should be available and should not be confidential under any title whatsoever.

### **19- Public information, awareness and education**

Participants emphasized the importance of circulating information at the local level, and that information should be available to the public and civil society without any impediments under any title whatsoever.

### **20- Research, development and monitoring**

Participants re-emphasized that increasing the capacity of developing countries in the fields of research, development and monitoring depends on the existence of an effective and powerful financial and technical mechanism.

### **21- National Implementation Plans**

Participants emphasized that the treaty should include national implementation plans provided that they are binding and financial resources are provided to prepare them, as was the case with

the Stockholm Convention. They further emphasized the freedom to choose national legislation and local plans.

## **22- Reporting**

Participants agreed on the content of the Secretariat paper, stressing the need to report on the objectives of countries.

## **23- Effectiveness evaluation**

Participants agreed on the content of the Secretariat paper.

## **Part VIII: Institutional arrangements**

### **24- Conference of the Parties**

Participants pointed out that the parts of the paper concerning the Conference of the Parties and the Secretariat are fixed parts in all conventions, with the need to take the privacy of this Convention into account.

### **25- Secretariat**

Participants agreed on the content of the Secretariat paper.

## **Part IX: Settlement of disputes**

### **26- Settlement of disputes**

Participants agreed on the content of the Secretariat paper.

## **Part X: Further development of the Convention**

### **27- Amendments to the Convention**

Participants agreed that studying these points could be postponed to the advanced stages of the negotiations.

### **28- Adoption and amendment of annexes**

Participants agreed that studying these points could be postponed to the advanced stages of the negotiations.

## **Part XI: Final provisions**

Participants emphasized the need to expedite the establishment of the legal group and to begin its work immediately, provided that referential terms are prepared for the formation of the legal group in consultation with Arab countries on this point.