

Zero Mercury Working Group Comments on the Waste Partnership Business Plan (10 September 2010)

We welcome the opportunity to provide comments on the first Draft of the Business Plan (Business Plan) of the Waste Partnership (WP). The work of the WP can contribute to the development of the treaty on mercury and we are keen in helping enrich the work of the partnership towards this goal.

In this regard, we have reviewed the Business Plan and have noted the following major issues:

1. The issue of storage and waste and its continuing tendency to confuse the issue between commodity elemental mercury and waste mercury.

The confusion from storage and waste is from the use of the term “storage” with regard to mercury and the term’s legal significance under the Basel Convention (Basel). At the start of the Asia Storage Partnership, for instance, the subject of concern was excess mercury generated in Asia not simply waste mercury. However, the term has legal significance under Basel as it is considered part of “disposal operations” and applies primarily to wastes. The term “storage” was used in the Asia Storage Partnership in its ordinary and common definition, without the intent of using the Basel definition.

To our mind, storage operations cover elemental mercury no matter whether it is characterized as ‘waste’ or ‘commodity’. For instance, commodity elemental mercury coming out stockpiles need to be properly managed and if we continue to follow a rather narrow interpretation of what storage covers there can be unintended consequences of easing out commodity elemental mercury. In order to address this confusion, we suggest that the BP:

- Treat storage separately from waste to allow an area where commodity elemental mercury can be governed.
- Change the term storage and utilize another term, such as, permanent sequestration, to further distinguish the two concepts.

2. There are terminologies used in the document that need to be defined.

The use of the term life-cycle management, for instance is undefined and often used in the document. Does this refer to raw materials extraction, manufacturing, and other product stages prior to end-of-life? If this is the case then would it not be outside of the partnership jurisdiction as it does not refer to waste anymore? The term would need to be defined.

We highlighted other terms in the document.

3. Projects in areas that are ambiguous need to be carefully looked at and qualified before it can be included in the plan, particularly mine tailings and solidification and stabilization of mercury containing waste, including landfilling.

On the issue of mine tailings, at the onset it would seem apparent that these could be covered as wastes. However, if elemental mercury is recovered from the tailings does this elemental mercury immediately result in being categorized as waste or commodity in all cases?

On the issue of solidification of mercury containing waste and landfilling, for instance, there is still no consensus approach on these. What types of mercury contaminated wastes, level of contamination are allowed to be landfilled? The same issue applies to solidification, and so on and so forth.

The WP needs to be cognizant that it needs to allow the INC the leeway to clarify these issues. The WP must not wade blindly into issues that can prejudice or presume that the INC will resolve the issue one way or another.

In this regard, we suggest that the issues we raised above be removed from the BP until the INC has made definite strides in resolving the issue.

We provide more specific comments in track changes and insert comment mode throughout the document.

For more information please contact:

Richard Gutierrez, Ban Toxics!/ Zero Mercury Working Group, 26 Matalino St., Suite 329 Eagle Court, Diliman, Quezon City 1101, PHILIPPINES, Tele Fax: +63 2 929 1635, Richard@bantoxics.org, www.bantoxics.org

Elena Lymberidi-Settimo, European Environmental Bureau/Zero Mercury Working Group, 34, bd. De Waterloo, B-1000, Brussels, Belgium, T: +32 2 2891301, elena.lymberidi@eeb.org, www.zeromercury.org