

## EEB/ZMWG Inputs on Gender and Toxics to inform the preparation of the thematic report of the Special Rapporteur to the Human Rights Council

Brussels, 12 March 2024

### Toxic substances reinforcing racist and sexist norms: a case study of mercury in skin lightening products.

Many people of colour are under the pressure of Eurocentric beauty standards, based on the racist notion that lighter skin is more desirable. In the quest for lighter skin, many turn to skin lightening products, unwittingly expose themselves to more toxic and often illegal substances. Starting in 2021, the Minamata Convention on Mercury requires each country which has ratified the Convention to ban the manufacture, import or export of cosmetics containing over 1 part per million (ppm) mercury. In 2023, the Minamata Convention strengthened its provisions by prohibiting all mercury-added cosmetics, including those below the 1 ppm threshold. Many European countries have had similar regulations in place for decades, but illegal products, particularly from the internet, are increasingly being purchased.

#### Colorism

Over the past few decades, skin-whitening cosmetics have increasingly been advertised in online platforms, shops, glossy magazines, health centres and wellness boutiques, among many others. Beauty standards promoted by the media, advertising, and marketing reinforce the bias towards lighter skin tone. It is important to note that the globalisation of skin whitening is based on more than a desire for lightness<sup>1</sup>. The commonly transmitted message favours skin that is youthful looking and lighter.

This kind of marketing has intentionally (or not) added to the prejudice or discrimination against people, particularly women, with darker skin tones. In fact, manufacturers are well-aware of the colonial patterns they tend to reproduce. Recently, Unilever and L'Oréal announced they would remove references to 'white', 'light' or 'fair' from their product name.<sup>2</sup> Yet, renaming such skin lightening products is not sufficient considering how deeply colourism is now culturally, historically and socially enshrined.

The repeated message "white is better" highlights how deeply race, gender, femininity and ageism are interlinked and how the skin-lightening industry is attempting to make this message sound acceptable. As a result, women in the Philippines prefer white skin because it is "beautiful", "is clean to look at" or

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<sup>1</sup> Amina Mire, "[What you need to know about rebranded skin-whitening creams](#)", The conversation, Original publication July 27, 2020 (accessed June 15, 2021)

<sup>2</sup> Rachel Ramirez, "[Beauty companies are changing skin-whitening products. But the damage of colorism runs deeper.](#)", Vox, Original publication July 1, 2020 (accessed June 15, 2021)

“symbolizes better status in life”.<sup>3</sup> Overall, in Africa, Asia and other regions, women bleach their skin because fair skin is often seen as more attractive. Unfortunately, studies have shown that such practices provide them with an economic advantage.<sup>4</sup>

For example, in 2018, the father of Beyoncé addressed this issue in a radio interview by stating that his daughter is more accepted in the entertainment industry because of her light skin.<sup>5</sup> This issue does not concern only the entertainment world, but seems to be more general: it is quite symptomatic indeed that Kamala Harris’s skin tone had been artificially lightened on Vogue’s cover after her election, raising critics and complaints.<sup>6</sup>

### Health effects

Skin lightening products come in different forms, including creams and soaps, which have often been used for decades. They are used all over the world, including in the European Union (EU). In addition to the social, cultural, economic and gender-specific problems, there are serious health issues resulting from the use of mercury and other hazardous substances in these products, which, despite their illegality, are still widely available in the EU.<sup>7</sup>

The production of the pigment melanin in the skin cells is reduced or blocked by mercury compounds. Therefore, the natural ability of the skin to protect itself from UV light is destroyed, thereby increasing the risk of skin cancers in lightened skin. Depending on the active ingredients, skin-lightening formulations can cause a number of direct and indirect skin disorders,<sup>8</sup> as well as neurological and kidney problems.<sup>9,10</sup>

Mercury is on the World Health Organization’s (WHO) list of the 10 chemicals or groups of chemicals of major health concern.<sup>11</sup> As a WHO fact sheet explains, “Adverse health effects of the inorganic mercury

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<sup>3</sup> Ecowaste Coalition, [Toxic Expose: Online Trade of Mercury-Containing Skin Whitening Cosmetics in the Philippines](#) (2021)

<sup>4</sup> Ola Brown, [“Banning skin bleaching products won’t work as long as fair skin is linked with beauty and success”](#), CNN, Original publication January 15, 2019 (accessed June 15, 2021)

<sup>5</sup> Ola Brown, [“Banning skin bleaching products won’t work as long as fair skin is linked with beauty and success”](#), CNN, Original publication January 15, 2019 (accessed June 15, 2021)

<sup>6</sup> Terry Nguyen, [“Kamala Harris’s Vogue cover controversy, explained”](#), Vox, Original publication January 11, 2021 (accessed June 15, 2021); [“Vogue Cover of Kamala Harris Was Meant to Break Stereotypes. It Made Her Skin ‘Lighter’”](#), News 18, Original publication January 11, 2021 (accessed June 15, 2021); Krishna Priya Pallavi, [“Kamala Harris’s skin ‘lightened’ by Vogue for cover. Internet reacts strongly”](#), India today, Original publication January 11, 2021 (accessed June 15, 2021); Chloe Street, [“‘Disrespectful’, ‘Amateurish’ and ‘anti-black’: Kamala Harris’ US Vogue cover sparks social media outrage”](#), Evening Standard, Original publication January 11, 2021 (accessed June 15, 2021)

<sup>7</sup> World Health Organization, [Preventing disease through healthy environments: mercury in skin lightening products](#) (World Health Organization, 2019)

<sup>8</sup> Andreas Prevodnik et al., [MERCURY-ADDED SKIN-LIGHTENING CREAMS: Available, inexpensive and toxic](#) (2018)

<sup>9</sup> [“Mercury in skin lightening products - a threat to health”](#), World Health Organization, Original publication October 7, 2020 (accessed June 15, 2021)

<sup>10</sup> Zeromercury, [FACT SHEET: Mercury in Skin Lightening Cosmetics](#) (2019)

<sup>11</sup> WHO, [Exposure to Mercury: a major public health concern](#) (2021); WHO, [Mercury in skin lighting products](#) (2019); [“Mercury and health”](#), WHO, Original publication March 31, 2017 (accessed June 15, 2021)

contained in skin lightening creams and soaps include: skin rashes, skin discoloration and scarring, reduction in the skin's resistance to bacterial and fungal infections, anxiety, depression, psychosis and peripheral neuropathy."<sup>12</sup>

The amount or concentration of mercury in a product is hardly ever labelled on the packaging or listed in the ingredients list, although directions to avoid contact with silver, gold, rubber, aluminum and jewelry may indicate the presence of mercury. Most mercury in skin lightening products enters the environment in wastewater, and may be transformed there into methylmercury, the most toxic compound, by bacteria. Methylmercury accumulates in fish, and thus, can enter the human diet.

Due to the hazardous nature of mercury-containing products, several regulations were put in place at both the global and European levels to address this.

### **Existing governments' efforts/examples to address this issue**

Many governments have already legislation in place aimed at tackling the issue of mercury-added cosmetics. In the European Union, mercury in cosmetics is prohibited under the Cosmetic Products Regulation 1223/2009.<sup>13</sup> The Mercury Regulation 2017/852<sup>14</sup> prohibits the manufacture, import and export of mercury added cosmetics. Mercury in cosmetics is also covered through legislation relevant to Trade of Dangerous Chemicals. The production (e.g. for export) in the EU of mercury containing cosmetics was also banned in 2003 under Annex 5 of the EU Regulation 689/2008 implementing the Rotterdam Convention.

To survey illegal use, a functional regional information sharing system, named the Safety Gate Rapid Alert System (RAPEX)<sup>15</sup>, established by Article 12 of the EU Directive 2001/95/EC on general product safety and its notification system, was put in place in the EU. It enables a quick exchange of information between EU/European Economic Area (EEA) member states and the European Commission about non-food products posing a potential risk to consumers. Checking on their website<sup>16</sup> it is possible to view the recent alerts and reports for such products, including certain skin lightening creams with high mercury levels. Other system have also been developed such as the ASEAN Post Marketing Alert System which identifies cosmetic products that are not in compliance with the ASEAN Cosmetic Directive. The ASEAN Cosmetic

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<sup>12</sup> WHO, [Mercury in skin lighting products](#)

<sup>13</sup> The European Parliament and the European Council, [REGULATION \(EC\) No 1223/2009 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 30 November 2009 on cosmetic products](#), 2009, Brussels

<sup>14</sup> The European Parliament and the European Council, [Regulation \(EU\) 2017/852 of the European Parliament and of the Council of 17 May 2017 on mercury, and repealing Regulation](#), 2017, Brussels

<sup>15</sup> Andreas Prevodnik et al., [Enforcement measures to restrict high mercury cosmetic products under the Minamata Convention](#) (Zero Mercury Working Group, 2019)

<sup>16</sup> "[Safety Gate: the EU rapid alert system for dangerous non-food products](#)", European Commission (accessed June 15, 2021)

Directive includes several objectives from registration, notification and post-market surveillance, to labeling requirements and a prohibited substances list<sup>17</sup>.

Other examples of government controls, regulations and cooperation schemes may be found in the ZMWG 2019 Enforcement report<sup>18</sup>.

As mentioned above, the Minamata Convention on Mercury, which recognises the vulnerabilities of specific groups such as women, indigenous communities, children as well as future generations, bans the manufacture, import and export of all cosmetics with mercury. Many countries around the world have adopted equivalent legislation. The Minamata Convention secretariat is undertaking efforts to acknowledge the gendered exposure and impacts of mercury and how to tackle them at the policy level.<sup>19</sup>

### Lack of regulation, illegal trade and online sales

Despite legal bans, mercury-added products are widely available in shops and sold over the Internet, promoted online on social media sites, and sold through mobile apps. Extensive testing between 2017 and 2024 by the Zero Mercury Working Group (ZMWG),<sup>20</sup> coordinated by the European Environmental Bureau, and the Mercury Policy Project, confirms that local markets and also internet platforms, such as Amazon and eBay (along with many other online internet marketers worldwide), are selling toxic, dangerous and often illegal skin-lighteners. Many of these products have already been identified by governments around the world as over 1 ppm. Further, often due to third party liability protection, e-commerce giants have failed to ensure that cosmetics sold through their sites directly or by third-party sellers are free of toxic and illegal substances like mercury, along with many other hazardous products.

In our most recent testing study, "Online Marketing of Toxic Skin Lighteners: Mercury cosmetics marketed as a 'solution' to dark skin"<sup>21</sup>, a total of 213 skin lightening products (SLPs) samples were purchased by

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<sup>17</sup> For more information, see: [https://www.hsa.gov.sg/docs/default-source/hprg-cosmetics/annexes-of-the-asean-cosmetic-directive\(updated-july-2019\).pdf](https://www.hsa.gov.sg/docs/default-source/hprg-cosmetics/annexes-of-the-asean-cosmetic-directive(updated-july-2019).pdf); <https://asean.org/wp-content/uploads/2012/05/ASEAN-Guidelines-Limits-ofContaminant-Cosmetics-.pdf>

<sup>18</sup> Prevodnik et al., [Enforcement measures to restrict high mercury cosmetic products under the Minamata Convention](#) (Zero Mercury Working Group, 2019)

<sup>19</sup> Marianne Bailey, [Women and Mercury: Role of the Minamata Convention what needs to be achieved at the policy and implementation levels to reduce women`s exposure to mercury](#) (2020)

<sup>20</sup> The Zero Mercury Working Group (ZMWG) is an international coalition of more than 110 public interest environmental and health non-governmental organizations from over 55 countries from around the world formed in 2005 by the European Environmental Bureau and the Mercury Policy Project. ZMWG strives for zero supply, demand, and emissions of mercury from all anthropogenic sources, with the goal of reducing mercury in the global environment to a minimum. Our mission is to advocate and support the adoption and implementation of a legally binding instrument which contains mandatory obligations to eliminate where feasible, and otherwise minimize, the global supply and trade of mercury, the global demand for mercury, anthropogenic releases of mercury to the environment, and human and wildlife exposure to mercury. [Zeromercury](#) (accessed June 15, 2021)

<sup>21</sup> Bender et al., [Online Marketing of Toxic Skin Lighteners: Mercury cosmetics marketed as a "solution" to dark skin](#)" (Zero Mercury Working Group, 2023)

our partner NGOs from 23 online platforms in 12 countries. Of the 213 SLPs purchased and analyzed, 191 (90%) were found to contain mercury levels that exceeded the widely accepted legal threshold of 1 ppm. The mercury concentration for these samples ranged between just over 1 ppm to 74800 ppm.

As our ZMWG reports have shown, mercury-added products can be easily found on the EU or global market and purchased by consumers, not aware of the risks involved. This is an issue of growing concern, as the sale of skin-lightening products is a fast growing multi-billion-dollar industry, spurred on by increased advertising and online sales during the pandemic. A recent undercover investigation by the Environmental Investigation Agency (EIA)<sup>22</sup> was able to confirm the continued production, trade, and sale of mercury-added SLPs despite a global ban and revealed it is common practice for SLP producers across the globe to create creams consisting of 3-4% of a mercury compound.

## Recommendations

Despite the Convention's ban on the manufacture and trade of mercury-added SLPs, our data, along with many other studies conducted throughout the world, demonstrate the continued proliferation and global availability of mercury-added SLPs worldwide. Governments should take additional measures to reduce the availability of mercury-added SLPs including:

- Aligning national laws with the Minamata Convention's related provisions banning the manufacture and trade of mercury-added SLPs.
- Curtailing the merchandising of mercury-added SLPs, including sales, offering of sales, marketing, advertising and display.
- Coordinating inter-ministerial, bilateral and/or regional measures to phase-out mercury-added SLPs.
- Enhancing public awareness about the hazards of mercury-added SLPs, especially among physicians, dermatologists and beauty centers, as well as the general public.
- Since the Minamata Convention does not yet regulate all mercury compounds, and considering that mercury compounds are an essential ingredient in mercury-added SLPs that some claim are legal to trade, it is imperative that the Convention considers regulating mercury compounds, subject to the Treaty's trade restrictions. Such a recommendation would also apply to national governments.

Efforts are needed at the EU level and globally, to enact laws and regulations and to strengthen enforcement measures, as outlined in our ZMWG enforcement report.<sup>23</sup> In addition, a liability regime for online marketplaces should be enacted and coordination promoted between Parties to the Minamata Convention on Mercury, given the high proportion of illegal activities online, such as the often illegal and

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<sup>22</sup> [Mercury in Retrograde: the Dark World of Toxic Skin Lightening Products](#) (Environmental Investigation Agency, 2023)

<sup>23</sup> Prevodnik et al., [Enforcement measures to restrict high mercury cosmetic products under the Minamata Convention](#) (Zero Mercury Working Group, 2019)

unsafe products ZMWG purchased. Furthermore, internet platforms should be regulated in a manner similar to local markets, including the obligation to require product labeling and country of origin, verify traders and conduct random checks on services and products offered.

Such measures could be better complemented if trends towards skin lightening is reversed and if the media, beauty, film and modeling industry put an end to advertising the superiority of white/fair skin. For this to happen, a change of mindset is needed and movements - such as 'Women of Worth' in India and the 'Dark is Beautiful Campaign', 'Unfair & Lovely' in Austin, USA or 'Dark is Divine' in Pakistan - have been playing a key role on that matter. They all seek to bring cultural change and make today's societies more inclusive, with this common message that all colours are equally beautiful.

For more detailed information:

- The [ZMWG Skin lightening campaign page](#), gathering all reports (testing) made between 2017 until now among others.
- Online Marketing of Toxic Skin Lighteners: Mercury cosmetics marketed as a 'solution' to dark skin (October 2023): <https://www.zeromercury.org/wp-content/uploads/2023/10/ZMWG-SLP-Oct-2023-Full-Report.pdf>
- Enforcement measures to restrict high mercury cosmetic products under the Minamata Convention (November 2019): <https://www.zeromercury.org/wp-content/uploads/2019/11/Enforcement-measures-to-restrict-high-mercury-cosmetic-products-under-the-Minamata-Convention.pdf>
- The [CNN White Lies Series](#) as part of As Equals

**For reference**, please consult Chapter 17 on *Toxic substances reinforcing racist and sexist norms: a case study of mercury in skin lightening products* from "[Why the European Green Deal needs ecofeminism: Moving from gender-blind to gender-transformative environmental policies](#)".