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**REPORT ON THE TRAINING OF AFRICAN NEGOTIATORS ON THE
INTERGOVERNMENTAL NEGOTIATING COMMITTEE (INC) FOR MERCURY**

OUAGADOUGOU, BURKINA FASO, 15-16 SEPTEMBER 2011

Report on the Training of African Negotiators on the Intergovernmental Negotiating Committee (INC) for Mercury

Objective of the Mission

The objective of the mission was for the MEAs Project to organize in collaboration with the Government of Burkina Faso and the United Nations Environment Program (UNEP) a training workshop for African negotiators on the Mercury INC in Ouagadougou, in preparation for the upcoming Mercury INC.

Background

The Capacity Building Project on Multilateral Environmental Agreements (the MEAs Project) is an EU-funded project within the Department of Rural Economy and Agriculture (DREA) with main objective of strengthening the capacity of African ACP countries, the African Union Commission and the Regional Economic Communities (RECs) to effectively implement or coordinate implementation of MEAs with the view of positively impacting on sustainable development and poverty reduction on the continent. As part of the implementation of its program, the MEAs Project is supporting activities related to enhancement of negotiation capacities on MEAs, such as that of the Mercury INC.

Mercury and its compounds are toxic substance which can have adverse effects on human health and the environment. Despite the risks due to mercury, Africans have very low awareness of this toxic substance which is used in soap; cosmetics; antiseptics; paints; pesticides; pharmaceutical products; human and veterinary products; and even in dental fixtures. Outdated mercury process and production equipment are still dumped into the developing countries, including Africa. The INC for Mercury was established by a UNEP Governing Council Decision with the mandate to prepare a global legally binding instrument on Mercury. This legally binding instrument would help control the use and handling of mercury and mercury compounds. It will even help prevent or minimize dumping to developing countries in the guise of exports of factory equipment used in manufacturing processes of mercury. The instrument would hopefully be broad in scope to include issues of technology transfer, low cost alternatives, producer responsibility and capacity building which would be beneficial to Africa. A Legally Binding Instrument on Mercury would benefit Africa more if Africans would agree on common position on specific issues of relevance to the continent.

The first and second INCs have already been held and the third INC will be held in Nairobi, Kenya, from 31 October to 4 November 2011. Negotiations in the interest of Africa have been so far not very effective due, among other things, to the lack of a proper coordination mechanism. The same Governing Council Decision that established the INC also requested UNEP to support developing countries and countries with economies in transition to participate effectively in the work of the INC. It is against this background that the MEAs Project in collaboration with UNEP held training for African negotiators on Mercury, in Ouagadougou, Burkina Faso from 15 to 16 September 2011, with financial contribution of US\$50,000 from the MEAs Project. This training is also important in that it is a key milestone towards the achievement of the objectives of the MEAs Project.

Introduction

The MEAs Project in collaboration with the United Nations Environmental Program (UNEP) and the Government of Burkina Faso organized a two days training workshop back-to-back with the Regional Consultation Meeting on Mercury INC, in Ouagadougou, Burkina Faso, from 15-16

September 2011. The meeting was attended by 41 participants from Government institutions drawn from the 5 regions of Africa and 5 CSOs. The European Union (EU) in the person of Mr. Peter Maxson attended the training as an observer. The AUC was represented by the 2 MEAs Project Coordinators, Ms. Fatoumata Jallow Ndoye and Mr. Livingstone Sindayigaya. The training was facilitated by 3 experts from UNEP and the MEAs Project Coordinator, Fatoumata Jallow Ndoye.

Opening statements were made by the Director of Sustainable Development Department of Burkina Faso, the UNEP Representative and the AUC Representative in the person of Mrs. Fatoumata Jallow Ndoye. In her statement, Mrs. Ndoye expressed her gratitude to the people and Government of Burkina Faso for their hospitality and expressed the same to the EU and UNEP for respectively funding and facilitating the work of the MEAs Project. She talked about the hazards of mercury, the potential risks it poses to Africans and the need for the African negotiators to negotiate an instrument that is beneficial to Africa. She also gave an overview of the MEAs Project, the importance of MEAs for Africa, the activities undertaken and planned by the MEAs Project, the expected involvement of member states, and the important partnership forged with institutions like UNEP, UNCCD, the Food and Agricultural Organization, the Global Environmental Facility, the Strategic Approach to Integrated Chemicals Management (SAICM), Regional Economic Communities, regional scientific centers.

Training Workshop Objectives

The objectives of the training were:

- To enhance the skills and capacity of Africa negotiators
- To assist African Mercury negotiators to adequately prepare for INC3 and other INCs
- To sensitize African negotiators and other African stakeholders on the importance and necessity of negotiating a legally binding instrument on Mercury
- To ensure that Africans agreed on common position on specific issues of relevance to the continent,
- To ensure that Africa's interests during the upcoming and other INCs would be better defended

Training Sessions

The workshop took the form of short presentations by the UNEP facilitators followed by discussions and clarifications. The focus was mostly on the positions adopted during the previous 3 days and to see how these positions would be defended at the upcoming INC. There was a round table discussion on the INC process and participants were invited to discuss areas where support was needed. The round table discussion was followed by short presentations on negotiations, diplomacy in treaty making, and effective participation of African delegates. The rest of the workshop was devoted to simulation exercises and debate. The sessions were very interactive and took the form of exchange of experience and recommendations, particularly to the AUC.

Simulation Exercises

3 simulation exercises and 1 debate were conducted. Each of these sessions was followed by plenary discussions.

Debate:

A group of 4 participants were invited to debate on the visions and perspectives of mercury in their countries. From the issues that emerged from the group and the ensuing discussions, it was clearly shown that almost all African countries were at the same level of awareness, that capacity was lacking in management of mercury and that negotiation capacity of Africans needed to be enhanced. It was also obvious that apart from Algeria that had a mercury plant, there was similar and common interest for all African countries.

Simulation Exercises:

Three proposals were given as positions for the participants to defend or oppose;

- 1st simulation exercise: the position given was as follows “Country X proposes that: The objective of the Convention is to protect human health and the environment from harmful effects of mercury taking into account common but differentiated responsibilities”.
About 70% of the participants defended the proposal while about 30% opposed on the grounds that the term “harmful effects” should be removed as it was considered that all effects of mercury were harmful. The other argument given by the opposing group was that the term “common but differentiated responsibilities” should be better defined.
- 2nd simulation exercise: the position given was as follows “Country Y opposes to discuss any global control on mercury, unless substantial financial resources are secured to enable such control”.
About 80% of the participants opposed the position saying that the position was very rigid and should allow more flexibility to gain support.
- 3rd simulation exercise: the position given was as follows “Country Z proposes that there should not be any article on emission releases of mercury”
Almost all participants opposed this position as they believe that mercury releases were also important and should be given due consideration.

After the simulation exercises there was plenary in which there was feedback and discussions on the simulations. At the end of the training exercises, the AUC requested participants to complete evaluation forms in which they were asked to give not only their impressions but also the impact the training had on them. The AUC also invited the negotiators to register on the data base of African experts on MEAs established for the MEAs Project by the AUC Department of Communication.

Key Issues that emerged from the training workshop:

- Importance of a common position for Africa
- Linguistic and financial constraints
- Importance of composition of core group being multi disciplinary
- Importance of working closely with relevant African CSOs
- Key issues likely to create controversies and those of priority for Africa at INC 3
- Making good alliances without compromising the group position
- Making good trade-offs without compromising the interest of Africa
- Looking beyond the INC and the COP-Issues related to ratification and domestication of the final legal instrument
- Intra and inter country collaboration as contributing factors to successful negotiation

- Good preparation including selecting the right delegation, identifying lead negotiator; knowing the various players, coordinating with countries with similar interests, preparing negotiation checklist and delegate's brief
- African participation in debates and working groups in COPs including the attributes of a good negotiator, etiquette and effect of negotiating language
- Importance and mechanisms of environmental diplomacy in resolutions and decisions
- AU status versus that of the EU in negotiations, clarified

Impact of the training:

From the evaluation forms completed by the participants, it was revealed that:

- the training was very good, timely, apt and satisfactory
- the subjects were relevant and educative but more legal issues to be dealt with next time
- the negotiators were more confident and courageous to participate in international negotiations and at INC 3
- the negotiators were better focused and diplomatically prepared to argue on issues without losing the African position
- the participants were better aware of the common interest for Africa and the need for a common position
- the core group was better informed and prepared
- the challenges involved for African negotiators was better understood and the common position and interest for Africa better appreciated
- the techniques and strategies of negotiations were better understood and negotiators were better prepared and equipped to negotiate internationally and appreciated the views of other groups better
- the negotiators were keen and ready to share the knowledge gained from the training with others
- the negotiators were pleased and satisfied with the leadership role played by the African Union Commission and the interest shown in the negotiation process.

Mails were received from almost all the participants when they returned to their countries, expressing their gratitude and appreciation for the training.

Recommendations:

The following were the workshop recommendations:

- More simulation exercises should be conducted especially on other issues that have not been dealt with in the simulations of the present training
- Longer training sessions should be conducted next time
- The representatives in the different contact groups for next INC should be supported so that they would arrive earlier than other participants
- Training on mercury inventory should be conducted for francophone countries similar to the one already conducted for anglophones
- Training in implementation strategies should be conducted
- Francophone negotiators had language barrier and should be supported to enhance their knowledge of the English language

- African group needed to be comprised of different disciplines; legal experts, technical experts, economists and even diplomats and should be supported in this
- A mechanism should be put in place to retain and maintain the good negotiators
- The African group should adopt the strategy of SAICM in the coordination of the core group of negotiators i.e. to seek support from SAICM to fund core group members apart from the country nominees
- African group should be supported with interpretation facilities at next INC
- The core group should be financially supported to meet to develop strategy for INC 3 based on the new knowledge acquired
- The African Union Commission should consider financially supporting the core group and to provide interpretation facility in future
- Other African countries should emulate Gabon and financially support the negotiators
- The African Union Commission should continue to be proactively involved in MEAs negotiations

Way Forward:

- The African Union Commission to mobilize more resources to conduct more training of such nature
- The Chair of the Group of African negotiators (Nigeria) will send a proposal to the AUC seeking support for interpretation and core group participation at INCs
- African Union Commission through its MEAs Project will consult with UNEP to see feasibility of supporting the core group participation and interpretation, given that the funds earmarked for the training that was transferred to UNEP by AUC have not been completely utilized.