Overview of Existing Materials and Tools: *Focus on the Lead Paint Model Law and Its Delivery*

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Overview of Presentation

1) Overview of Existing Materials

2) Development of the Model Law

- Lead Paint Alliance-Driven Process
- Description of the Process
- Summary of the Model Law

3) Key Provisions of the Model Law

- Legal Limits on Total Lead Content
- Third-Party Testing and Declaration of Conformity
- Enforcement Tools

4) Considerations for the Delivery of the Model Law

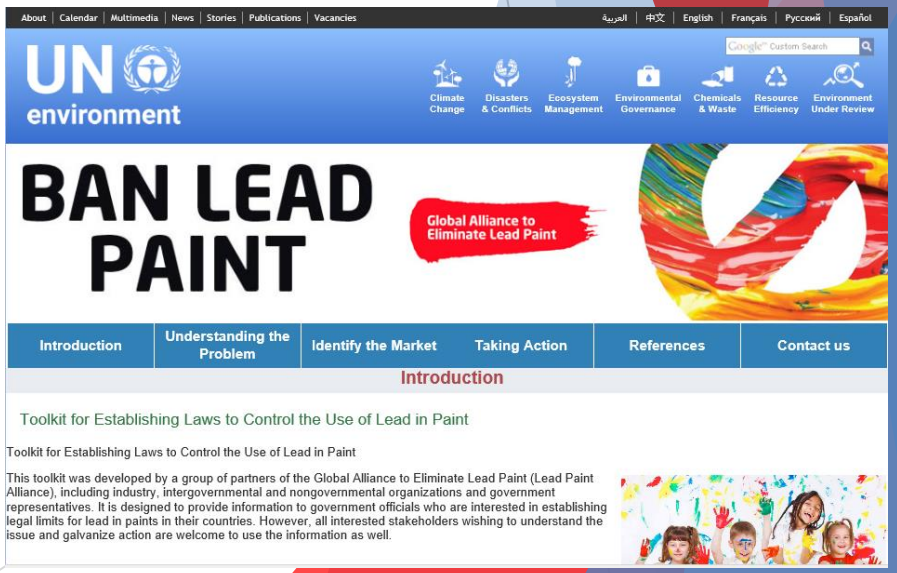
5) Ongoing Efforts on Laws

- Global
- Europe/Central Asia
- Asia Pacific
- Latin America/Caribbean
- Africa

Part 1:
Overview of Existing Materials

Existing Materials and Tools

- Alliance Model Law (to be discussed later)
- Alliance Regulatory Toolkit
- UNEP 2017 Global Status Update on Laws
- WHO Global Map on Status of Lead Paint Laws
- Other Materials and Tools
  - UNEA3 Commitment model language
  - World Health Assembly Roadmap for Health in Chemicals Management (May 2017) – calls for action on lead paint
  - NYU Map of Economic Impacts of Childhood Lead Poisoning (NYU School of Medicine)
  - IPEN Global Map of Lead Paint Testing Data
  - World Bank Report (final by Winter 2017)
  - ABA Resolution



Overview of the Toolkit

- Provides information on health and environmental concerns
- Explains test methods
- Describes existing paint market
- Shows how to establish laws
- Structure:
  - Understanding the Problem
  - Identifying the Market
  - Taking Action

LEAD PAINT ALLIANCE

Understanding the Problem

Modules in this section:

- Module A. Lead Paint and the Problem
- Module B.i. Health Hazards of Lead
- Module B.ii. Environmental Impact of Lead
- Module B.iii. Economic Impact
- Module C.i. Measuring Lead in Blood
- Module C.ii. Measuring Lead in Paint
- Module C.iii. Blood Prevalence Studies
- Module C.iv. Conducting Environmental Sampling

Identifying the Market

Modules in this section:

- Module D. Industry Perspective on the Elimination of Lead Paint
- Module E. Alternatives to Lead in Paint
- Module F. Summary of Lead in Paint Testing in Developing Countries
- Module G. Challenges for Small and Medium Paint Manufacturers

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Taking Action

Modules in this section:

- Module H (i-iv). 4 Case Studies on Existing Lead Paint Laws (European Union, United States, Uruguay and Philippines)
- Module I. Conducting lead awareness-raising campaigns
- Module J. Developing Legal Limits on Lead in Paint

LEAD PAINT ALLIANCE

Next Steps for Key Existing Materials and Tools

- Regulatory toolkit
  - Updates to existing modules
  - Add model law module
  - Alliance “working group” conducts updates; EPA in-kind support
- Model Law and Guidance
  - Translation into languages is funded (UN Environment – French; EPA – Spanish; US Department of Commerce – Russian)
- Global Status Update
  - Update annually
  - Alliance “working group” conducts updates; EPA in-kind support
- IPEN Lead Paint Map
  - Update as needed
  - EPA in-kind support, working with IPEN

Part 2:
Development of Model Law and Guidance for Regulating Lead Paint

Development of the Model Law and Guidance

- **Lead Paint Alliance-Driven Process**
  - Alliance is a voluntary international initiative led by the United Nations Environment Program and the World Health Organization
  - U.S. Environmental Protection Agency serves as Chair of the Lead Paint Alliance Advisory Council
  - The Lead Paint Alliance was created through the Strategic Approach to International Chemicals Management (SAICM) in 2009
  - Governments requested a model law to help establish lead paint laws

Development of the Model Law and Guidance

- **Process for Drafting Model Law and Guidance**
  - Model law is based on existing lead paint laws, and includes changes to reflect lessons learned from those laws, and international best practices for standards and regulations
  - Model law is intended to be both easy to implement and customizable to national circumstances
  - Worked with stakeholders (industry, civil society, technical experts) on the draft, and incorporated their comments
    - Global and regional paint industry associations and companies supportive of lead paint laws
  - Draft provided on the United Nations Environment web site to solicit broad public comment
  - Year-long process, finalized October 2017

Development of the Model Law and Guidance

- **Summary of Model Law and Guidance**
  - Created by a drafting group comprised of the Lead Paint Alliance Secretariat and Alliance Advisory Council members
  - Structure: 1. Guidance; 2. Model Law
  - Guidance provides:
    - Detailed background on the public health and economic costs of lead in paint;
    - Explains the "case for legal limits" – economic and health benefits, trade benefits, setting a low concentration standard; only way to ensure low lead levels in paint; and
    - Presents the objectives and key elements of an effective lead paint law, such as:
      - Definitions
      - Clear limit on total lead
      - Setting effective dates
      - Compliance and enforcement provisions
      - Consequences for non-compliance

Part 3:
Key Provisions of the Model Law for Regulating Lead Paint

Model Law: Key Provisions

- **Legal Limit on Total Lead Content**
  - Why 90 parts per million?
    - Technically feasible for manufacturers to achieve
    - Lowest & most protective standard currently used in countries
  - Countries with low legal limits include:
    - 90 ppm: Canada, India, Kenya, Nepal, Paraguay, the Philippines, Tanzania, and the United States
    - 600 ppm: Argentina, Brazil, Chile, Costa Rica, Dominica, Guyana, Jordan, Mexico, Oman, Panama, South Africa, Sri Lanka, and Uruguay
  - Why "total lead" and not "soluble lead"?
    - Total lead more protective
    - Total lead test method more reliable and affordable
    - China one of few with soluble standard for paint

Model Law: Key Provisions

- **Legal Limit on Lead in Paint - Scope of Coverage**
  - Manufacture, sale and import of lead paint
  - Including all paints is the ideal
  - Exceptions may be needed (e.g., artist paint)
  - Precautionary labelling in the event of exceptions
  - Prohibiting lead in paint would also protect from exposure from use on toys and other products
- **Setting Effective Dates**
  - Provides industry with a timeline for compliance
  - Can choose to use phased effective dates for different types of paints

Model Law: Key Provisions

- **Declaration of Conformity by Manufacturers and Importers**
  - Step 1: Third-Party Testing
  - Step 2: Prepare Declaration of Conformity (see next slide)
  - Step 3: Submit Declaration of Conformity to paint distributors and retailers, and the relevant government agency upon request
  - Step 4: Keep records of Declaration and related test results for five years
- Only imports to avoid duplicate sampling of same paint

Model Law: Key Provisions

- **Content of Declaration of Conformity**
  - Identification of the paint covered (e.g., name, type, date of production, etc.)
  - Name and contact information for manufacturer or importer
  - Sworn affidavit signed by manufacturer or importer
  - Contact information for laboratory and individual maintaining records of test results

Model Law: Key Provisions

- **Third-Party Testing Requirements**
  - **Who?** Manufacturers and importers of paint must ensure testing by third-party laboratory
  - **What?** Must submit "sufficient samples" of first production batch of paint, or whenever there is a "material change"
  - **Where?** Samples must go to a third-party laboratory accredited under international standards for testing lead paint

Model Law: Key Provisions

- **Third-Party Testing Requirements (continued)**
  - Meaning of "third-party laboratory"
  - International standards for sample preparation and test methods
    - International Standards Organization (ISO)
    - American Society for Testing & Materials (ASTM) International
  - In-country lab capacity should not be a barrier to implementation or compliance
    - If only importing, lab capacity not necessarily needed in each country – importers can use lab data from exporting country (see next slide)
    - If exporting, lab capacity can be met by the international lab community through the International Laboratory Accreditation process

Difference between Declaration of Conformity and Third-Party certification Approach

- **Mandatory Declaration of Conformity**
  - Mandatory – provide to government/ certify accuracy
  - Enforcement provisions
  - Based on third-party testing by accredited lab
  - No third-party certification step to reduce cost / barriers
  - Could be used as basis for certification program by government, if desired
- **Voluntary Third-Party Certification**
  - Not mandatory
  - Third-party certification by private entity; also provides third-party testing
  - While it may raise awareness, it is not enforceable by government

Model Law: Key Provisions

- **Importers: Reliance on Foreign Test Results**
  - Model law provides that an importer can sometimes rely on a foreign paint manufacturer's test results to issue its own declaration of conformity (see below)
  - Importer must exercise due care to ensure the foreign test results meet the third-party testing requirements of the law, including keeping records of the test results, and reviewing how the testing was conducted

Model Law: Key Provisions

- **Government Role in Ensuring Compliance**
  - Government Inspections
    - Enter facility or store to inspect and to view testing data/Declaration of conformity and related records
    - Ensures law is being followed
  - Government testing
    - Government can test paint

Model Law: Key Provisions

- **Enforcement and Consequences for Non-Compliance**
  - What actions constitute a violation of the law?
    - Manufacturing, selling, distributing, or importing paint containing lead over the legal limit
      - KEY: Sale and distribution of paint is prohibited. This incentivizes retailers to check the declarations of conformity they receive from manufacturers, importers, or distributors.
    - Failing to cooperate with government inspectors/testing
    - Failing to provide a declaration of conformity or making a false declaration
    - Attempting to exert undue influence over third party laboratory testing the paint

Model Law: Key Provisions

- **Enforcement and Consequences for Non-Compliance**
  - What are the penalties for failing to follow the law?
    - Civil monetary penalties
    - Criminal penalties
    - Other appropriate relief or sanctions

Part 4:
Considerations for the Delivery of the Model Law

Critical Roles

- UN Environment Chemicals, Law and Regional Offices and Alliance Partners
- Project Implementation Leads (national and/or regional)
- Legal experts (national and/or regional)
- National government focal point

Project Implementation Leads (National and Regional)

- Build and sustain momentum
- Serve as working level contact
- Provide expertise in some cases
- Coordination
  - National level
  - Region level, including with UN Regional Offices

Legal Experts

- Evaluate legal frameworks
- Support drafting
- Training
- Raising awareness

Legal Experts

- Evaluate legal frameworks
  - Does Statutory legal authority to phase-out lead paint already exist?
  - Identify lead agency/agencies
  - Identify other relevant agencies
  - Mechanisms for interagency coordination
  - Other relevant aspects of legal system that can promote lead paint phase out
  - Can the legal limits be adopted at, or harmonized across, a regional grouping?

Legal Experts

- Support drafting
  - Work with relevant government officials and stakeholders to support drafting of legislation/regulation, as appropriate. In doing so, foster a sense of ownership and support efforts to adapt the Model Law to national / regional systems.
  - Help organize / participate in multi-stakeholder meeting(s) on lead paint convened by or with governments, international bodies, or the program implementers, as appropriate and help build a sense of local ownership of lead paint phase out efforts.
  - Seek to ensure that legal limits on lead paint are protective (i.e., 90 ppm) and include strong compliance assurance mechanisms.

Legal Experts

- Training - national officials and stakeholders in coordination with program implementers
  - Work with implementers to design and conduct trainings on the Model Law and how it can be adapted to meet national and regional circumstances.
  - Work with implementers to organize training of trainer activities and train trainers to understand and deliver trainings.
  - Work with implementers to train key officials and/or stakeholders on the Model Law so that they can apply it to their national or regional situations.

Legal Experts

- Raising awareness
  - Coordinate with implementers to raise awareness of health, environmental and economic development impacts of lead paint in specific countries, as needed, relying on existing research.

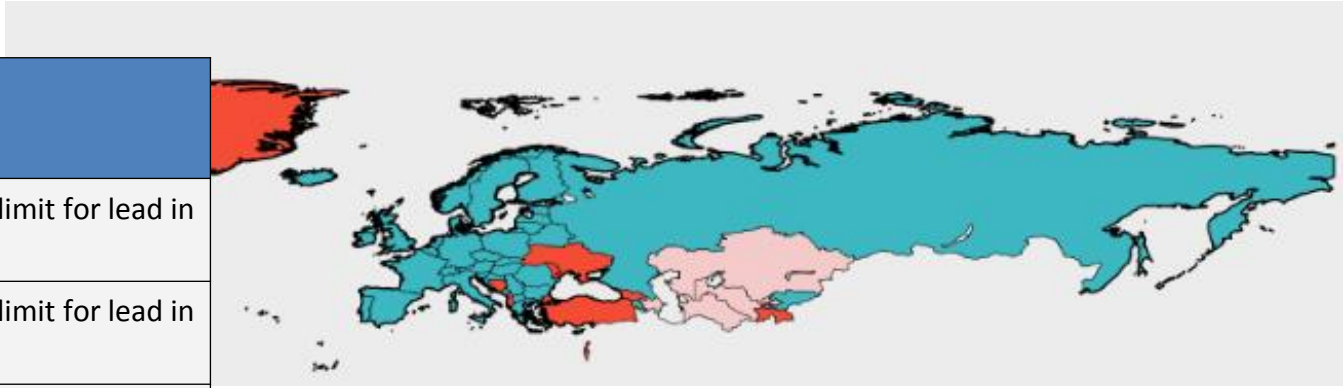
Part 5:
Ongoing Efforts on Laws

Global

- Meetings/events/webinars
  - Annual International Lead Poisoning Prevention Week of Action (since 2013)
  - UNEA2 side event; graffiti event; press event; ministerial discussion
  - SAICM webinar by Lead Paint Alliance (2016)
  - EPA training of Environment, Science, Technology and Health officers in US Embassies (ongoing)
    - Central Asia, South America, Africa – done; Asia Pacific, CEE and Middle East upcoming
    - US embassies potentially available to help raise awareness in target countries
- ABA Resolution (August 2017)
- World Bank Report (pending)
- UNEA3 (December 2017)
  - Government commitment to laws (Alliance developed model language)
  - NGO/industry commitments (Alliance developed model language)
  - USG Resolution on lead paint

UN Environment European Region and Central Asia Sub-region

Country	Lead Paint Laws
Armenia	5,000 ppm limit for lead in driers in household paints and 150,000 ppm limit for lead in pigments in paints
Belarus	5,000 ppm limit for lead in driers in household paints and 150,000 ppm limit for lead in pigments in all paints
31 EU countries	EU REACH restricts the addition of certain specific lead compounds to paints
The Former Yugoslav Republic of Macedonia	Restricts use of certain lead compounds in paint
Kyrgyzstan	Restricts use of certain lead compounds in paint
Monaco	Restricts use of certain lead compounds in paint
Montenegro	Restricts use of certain lead compounds in paint.
Russian Federation	Prohibits the use of lead in paints used in “construction for interior works”
Serbia	Restricts use of certain lead compounds in paint. For industrial paints containing lead, precautionary labelling is required
Switzerland	100 ppm lead limit for all paints offered for sale by manufacturers



Yes

No

Data not available

Source: WHO 2017

Ongoing Efforts: Draft Technical Regulation

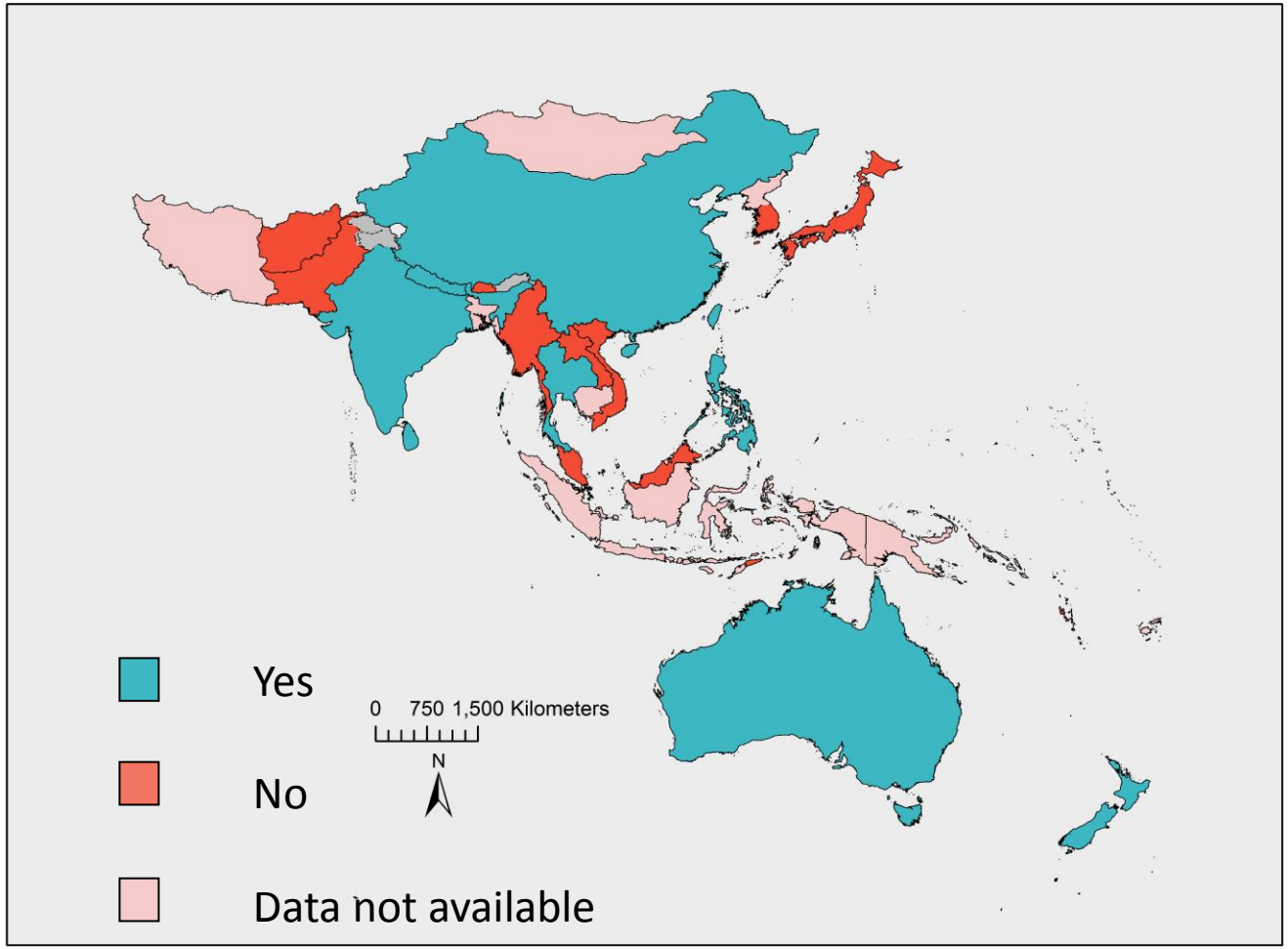
- **Eurasian Economic Union (EAEU) draft Technical Regulation under consideration by the Eurasian Economic Commission**
  - EAEU Member States: Armenia, Belarus, Kazakhstan, Kyrgyzstan and the Russian Federation
  - Kazakhstan is the lead government for the Technical Working Group – may be a champion for change
  - Based on former Customs Union Technical Regulation
    - Lead paint limit 5,000 / 150,000 ppm depending on the type of paint
    - Also prohibits use of lead compounds in any paint

Ongoing Efforts:

- **Moldova Workshop -** highlighted need for guidance on laws
- **US Department of Commerce Project**
  - Working with Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan, Turkmenistan and Afghanistan
  - Have begun a Central Asian regional dialogue – two meetings held so far (Almaty March and Washington DC in September)
  - Tajikistan offering a tender for a lead paint lab
  - Kazakhstan exploring revision of EAEU TR

UN Environment Asia Pacific Region

Country	Lead Paint Laws
Australia	1000 ppm lead limit for the sale, manufacture, export, and import of all paints
China	90 ppm soluble lead concentration limit for decorative, household and automotive paint. 1000 ppm soluble lead limit depending on the use of the paint
India	90 ppm lead limit for manufacture, trade, import and export of household and decorative paints
Nepal	90 ppm lead limit for any paint imported, produced, sold or used
New Zealand	1000 ppm lead limit for the sale, manufacture, export, and import of all paints
Philippines	90 ppm lead limit for architectural, decorative, household and industrial paint
Sri Lanka	90 ppm lead limit for interior and exterior emulsion paint or 600 ppm lead limit for floor and enamel paint. Paints used in the building industry that contain lead must be labelled as such, including the lead content
Thailand	100 ppm lead limit for all paint



Source: WHO 2017

Ongoing Efforts:

- Cambodia Draft Law:
  - Lead paint law in Cambodia was included as a part of an overall environmental law reform
    - In-country support for stronger environmental laws to reduce pollution and improve public health
  - Cambodia brought in experts from international organizations and the United States to assist in drafting their environmental code and key implementing directives
  - Draft lead paint directive is based on the Model Law and Guidance, e.g., lead paint limit - 90 ppm
- World Bank working in Laos on a lead paint law for 2019
- Bangladesh draft guidance – 50 ppm (possibly soluble); registered uses allowed; enforcement unclear

UN Environment Latin American and Caribbean Region

Country	Lead Paint Laws
Argentina	600 ppm total lead concentration limit for manufacture, import and sale of paint (Mexico – soluble?)
Brazil	
Chile	
Costa Rica	
Dominica	
Guyana	
Mexico	
Panama	
Trinidad and Tobago	
Uruguay	
Paraguay	Not confirmed by WHO -- 90 ppm soluble lead concentration
Cuba	20,000 ppm lead limit

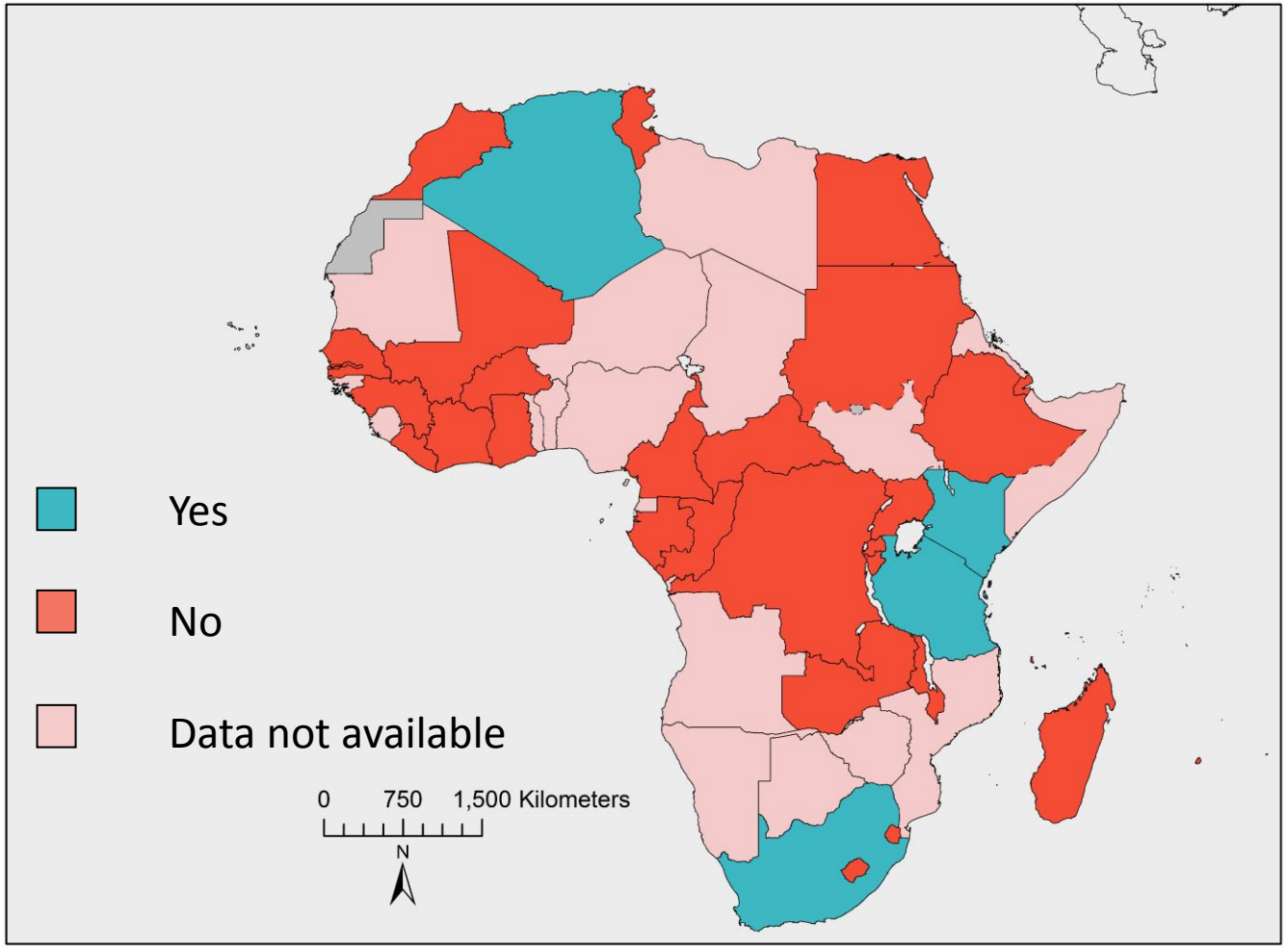
Source: WHO 2017

Ongoing Efforts:

- Paraguay just passed a law (August 2017) with a 90 ppm lead paint standard, as recommended by the Lead Paint Alliance Model Law
  - Missing some key elements for an effective law (soluble limit, scope not clear
  - Lowest standard in the region
- International Paint and Printing Ink Council (IPPIC) worked with paint manufacturing associations in Latin America to co-sponsor two workshops in Colombia in October 2016. These workshops encouraged the elimination of lead additives from paint through best industry practices. Considering workshop in Ecuador.
- Lead Paint Alliance (UNEP and PAHO) sent letters to environment and health ministers in CARICOM countries in October 2016 and conducted a technical webinar to promote lead paint laws in April 2017; follow-up in Jamaica being considered

UN Environment Africa Region

Country	Lead Paint Laws
Algeria	1000 ppm total lead limit for manufacture, import and sale of paint.
Kenya	90 ppm total lead limit for manufacture, import and sale of all paint; sampling and testing requirements.
Tanzania	90 or 100 ppm total lead limit depending on type of paint
South Africa	600 ppm total lead concentration limit for manufacture, import and sale of paint; no testing or certification requirements



Source: WHO 2017

Ongoing Efforts: Setting Regional Standards

- In 2015 the Lead Paint Alliance held a sub-regional workshop in East Africa (only 4 Sub-Saharan countries have lead paint laws)
  - 15 East and West African countries agreed to work toward a common standard of 90 ppm total lead (group discussion outcomes available)
- The **East African Community** is in the process of revising an existing regional standard
  - Existing standard is 100 ppm soluble lead; some gaps
  - Kenya and Tanzania passed a revised national lead paint standards of 90 ppm total lead in 2017 – both approaches could be models for the regional standard but they too have some gaps
  - Burundi chairs the EAC Technical Committee in charge of the standard
- The **Economic Community of West African States** had a draft regional standard of 600 ppm soluble and may be considering changing it to 90 ppm
- **Cameroon** - regulation on lead paint enacted in September; some gaps

Summary

- Alliance has many existing materials and tools to support enacting laws
- Model Law is a key tool
  - Ensure effective laws: Gaps in recent laws show need
  - Supported by Alliance stakeholders
- Effective delivery of model law at national and regional levels is critical
- Build on ongoing efforts

Thank you!