

MINAMATA CONVENTION ON MERCURY



UNITED NATIONS
2013

MINAMATA CONVENTION ON MERCURY

The Parties to this Convention,

Recognizing that mercury is a chemical of global concern owing to its long-range atmospheric transport, its persistence in the environment once anthropogenically introduced, its ability to bioaccumulate in ecosystems and its significant negative effects on human health and the environment,

Recalling decision 25/5 of 20 February 2009 of the Governing Council of the United Nations Environment Programme to initiate international action to manage mercury in an efficient, effective and coherent manner,

Recalling paragraph 221 of the outcome document of the United Nations Conference on Sustainable Development "The future we want", which called for a successful outcome of the negotiations on a global legally binding instrument on mercury to address the risks to human health and the environment,

Recalling the United Nations Conference on Sustainable Development's reaffirmation of the principles of the Rio Declaration on Environment and Development, including, inter alia, common but differentiated responsibilities, and acknowledging States' respective circumstances and capabilities and the need for global action,

Aware of the health concerns, especially in developing countries, resulting from exposure to mercury of vulnerable populations, especially women, children, and, through them, future generations,

Noting the particular vulnerabilities of Arctic ecosystems and indigenous communities because of the biomagnification of mercury and contamination of traditional foods, and concerned about indigenous communities more generally with respect to the effects of mercury,

Recognizing the substantial lessons of Minamata Disease, in particular the serious health and environmental effects resulting from the mercury pollution, and the need to ensure proper management of mercury and the prevention of such events in the future,

Stressing the importance of financial, technical, technological, and capacity-building support, particularly for developing countries, and countries with economies in transition, in order to strengthen national capabilities for the

management of mercury and to promote the effective implementation of the Convention,

Recognizing also the activities of the World Health Organization in the protection of human health related to mercury and the roles of relevant multilateral environmental agreements, especially the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade,

Recognizing that this Convention and other international agreements in the field of the environment and trade are mutually supportive,

Emphasizing that nothing in this Convention is intended to affect the rights and obligations of any Party deriving from any existing international agreement,

Understanding that the above recital is not intended to create a hierarchy between this Convention and other international instruments,

Noting that nothing in this Convention prevents a Party from taking additional domestic measures consistent with the provisions of this Convention in an effort to protect human health and the environment from exposure to mercury in accordance with that Party's other obligations under applicable international law,

Have agreed as follows:

Article 1

Objective

The objective of this Convention is to protect the human health and the environment from anthropogenic emissions and releases of mercury and mercury compounds.

Article 2

Definitions

For the purposes of this Convention:

(a) "Artisanal and small-scale gold mining" means gold mining conducted by individual miners or small enterprises with limited capital investment and production;

(b) "Best available techniques" means those techniques that are the most effective to prevent and, where that is not practicable, to reduce emissions and releases of mercury to air, water and land and the impact of such emissions and releases on the environment as a whole, taking into account economic and technical considerations for a given Party or a given facility within the territory of that Party. In this context:

(i) "Best" means most effective in achieving a high general level of protection of the environment as a whole;

(ii) "Available" techniques means, in respect of a given Party and a given facility within the territory of that Party, those techniques developed on a scale that allows implementation in a relevant industrial sector under economically and technically viable conditions, taking into consideration the costs and benefits, whether or not those techniques are used or developed within the territory of that Party, provided that they are accessible to the operator of the facility as determined by that Party; and

(iii) "Techniques" means technologies used, operational practices and the ways in which installations are designed, built, maintained, operated and decommissioned;

(c) "Best environmental practices" means the application of the most appropriate combination of environmental control measures and strategies;

(d) "Mercury" means elemental mercury (Hg(0), CAS No. 7439-97-6);

(e) "Mercury compound" means any substance consisting of atoms of mercury and one or more atoms of other chemical elements that can be separated into different components only by chemical reactions;

(f) "Mercury-added product" means a product or product component that contains mercury or a mercury compound that was intentionally added;

(g) "Party" means a State or regional economic integration organization that has consented to be bound by this Convention and for which the Convention is in force;

(h) "Parties present and voting" means Parties present and casting an affirmative or negative vote at a meeting of the Parties;

(i) "Primary mercury mining" means mining in which the principal material sought is mercury;

(j) "Regional economic integration organization" means an organization constituted by sovereign States of a given region to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to this Convention; and

(k) "Use allowed" means any use by a Party of mercury or mercury compounds consistent with this Convention, including, but not limited to, uses consistent with Articles 3, 4, 5, 6 and 7.

Article 3

Mercury supply sources and trade

1. For the purposes of this Article:

(a) References to "mercury" include mixtures of mercury with other substances, including alloys of mercury, with a mercury concentration of at least 95 per cent by weight; and

(b) "Mercury compounds" means mercury (I) chloride (known also as calomel), mercury (II) oxide, mercury (II) sulphate, mercury (II) nitrate, cinnabar and mercury sulphide.

2. The provisions of this Article shall not apply to:

(a) Quantities of mercury or mercury compounds to be used for laboratory-scale research or as a reference standard; or

(b) Naturally occurring trace quantities of mercury or mercury compounds present in such products as non-mercury metals, ores, or mineral products, including coal, or products derived from these materials, and unintentional trace quantities in chemical products; or

(c) Mercury-added products.

3. Each Party shall not allow primary mercury mining that was not being conducted within its territory at the date of entry into force of the Convention for it.

4. Each Party shall only allow primary mercury mining that was being conducted within its territory at the date of entry into force of the Convention for it for a period of up to fifteen years after that date. During this period, mercury from such mining shall only be used in manufacturing of mercury-added products in accordance with Article 4, in manufacturing processes in accordance with Article 5, or be disposed in accordance with Article 11, using operations which do not lead to recovery, recycling, reclamation, direct re-use or alternative uses.

5. Each Party shall:

(a) Endeavour to identify individual stocks of mercury or mercury compounds exceeding 50 metric tons, as well as sources of mercury supply generating stocks exceeding 10 metric tons per year, that are located within its territory;

(b) Take measures to ensure that, where the Party determines that excess mercury from the decommissioning of chlor-alkali facilities is available, such mercury is disposed of in accordance with the guidelines for environmentally sound management referred to in paragraph 3 (a) of Article 11, using operations that do not lead to recovery, recycling, reclamation, direct re-use or alternative uses.

6. Each Party shall not allow the export of mercury except:

(a) To a Party that has provided the exporting Party with its written consent, and only for the purpose of:

(i) A use allowed to the importing Party under this Convention; or

(ii) Environmentally sound interim storage as set out in Article 10; or

(b) To a non-Party that has provided the exporting Party with its written consent, including certification demonstrating that:

(i) The non-Party has measures in place to ensure the protection of human health and the environment and to ensure its compliance with the provisions of Articles 10 and 11; and

- (ii) Such mercury will be used only for a use allowed to a Party under this Convention or for environmentally sound interim storage as set out in Article 10.

7. An exporting Party may rely on a general notification to the Secretariat by the importing Party or non-Party as the written consent required by paragraph 6. Such general notification shall set out any terms and conditions under which the importing Party or non-Party provides its consent. The notification may be revoked at any time by that Party or non-Party. The Secretariat shall keep a public register of all such notifications.

8. Each Party shall not allow the import of mercury from a non-Party to whom it will provide its written consent unless the non-Party has provided certification that the mercury is not from sources identified as not allowed under paragraph 3 or paragraph 5 (b).

9. A Party that submits a general notification of consent under paragraph 7 may decide not to apply paragraph 8, provided that it maintains comprehensive restrictions on the export of mercury and has domestic measures in place to ensure that imported mercury is managed in an environmentally sound manner. The Party shall provide a notification of such decision to the Secretariat, including information describing its export restrictions and domestic regulatory measures, as well as information on the quantities and countries of origin of mercury imported from non-Parties. The Secretariat shall maintain a public register of all such notifications. The Implementation and Compliance Committee shall review and evaluate any such notifications and supporting information in accordance with Article 15 and may make recommendations, as appropriate, to the Conference of the Parties.

10. The procedure set out in paragraph 9 shall be available until the conclusion of the second meeting of the Conference of the Parties. After that time, it shall cease to be available, unless the Conference of the Parties decides otherwise by simple majority of the Parties present and voting, except with respect to a Party that has provided a notification under paragraph 9 before the end of the second meeting of the Conference of the Parties.

11. Each Party shall include in its reports submitted pursuant to Article 21 information showing that the requirements of this Article have been met.

12. The Conference of the Parties shall at its first meeting provide further guidance in regard to this Article, particularly in regard to paragraphs 5 (a), 6 and 8, and shall develop and adopt the required content of the certification referred to in paragraphs 6 (b) and 8.

13. The Conference of the Parties shall evaluate whether the trade in specific mercury compounds compromises the objective of this Convention and consider whether specific mercury compounds should, by their listing in an additional annex adopted in accordance with Article 27, be made subject to paragraphs 6 and 8.

ARTICLE 4

MERCURY-ADDED PRODUCTS

1. Each Party shall not allow, by taking appropriate measures, the manufacture, import or export of mercury-added products listed in Part I of Annex A after the phase-out date specified for those products, except where an exclusion is specified in Annex A or the Party has a registered exemption pursuant to Article 6.

2. A Party may, as an alternative to paragraph 1, indicate at the time of ratification or upon entry into force of an amendment to Annex A for it, that it will implement different measures or strategies to address products listed in Part I of Annex A. A Party may only choose this alternative if it can demonstrate that it has already reduced to a de minimis level the manufacture, import, and export of the large majority of the products listed in Part I of Annex A and that it has implemented measures or strategies to reduce the use of mercury in additional products not listed in Part I of Annex A at the time it notifies the Secretariat of its decision to use this alternative. In addition, a Party choosing this alternative shall:

(a) Report at the first opportunity to the Conference of the Parties a description of the measures or strategies implemented, including a quantification of the reductions achieved;

(b) Implement measures or strategies to reduce the use of mercury in any products listed in Part I of Annex A for which a de minimis value has not yet been obtained;

(c) Consider additional measures to achieve further reductions; and

(d) Not be eligible to claim exemptions pursuant to Article 6 for any product category for which this alternative is chosen.

No later than five years after the date of entry into force of the Convention, the Conference of the Parties shall, as part of the review process under paragraph 8, review the progress and the effectiveness of the measures taken under this paragraph.

3. Each Party shall take measures for the mercury-added products listed in Part II of Annex A in accordance with the provisions set out therein.

4. The Secretariat shall, on the basis of information provided by Parties, collect and maintain information on mercury-added products and their alternatives, and shall make such information publicly available. The Secretariat shall also make publicly available any other relevant information submitted by Parties.

5. Each Party shall take measures to prevent the incorporation into assembled products of mercury-added products the manufacture, import and export of which are not allowed for it under this Article.

6. Each Party shall discourage the manufacture and the distribution in commerce of mercury-added products not covered by any known use of mercury-added products prior to the date of entry into force of the Convention for it, unless an assessment of the risks and benefits of the product demonstrates environmental or human health benefits. A Party shall provide to the Secretariat, as appropriate, information on any such product, including any information on the environmental and human health risks and benefits of the product. The Secretariat shall make such information publicly available.

7. Any Party may submit a proposal to the Secretariat for listing a mercury-added product in Annex A, which shall include information related to the availability, technical and economic feasibility and environmental and health risks and benefits of the non-mercury alternatives to the product, taking into account information pursuant to paragraph 4.

8. No later than five years after the date of entry into force of the Convention, the Conference of the Parties shall review Annex A and may consider amendments to that Annex in accordance with Article 27.

9. In reviewing Annex A pursuant to paragraph 8, the Conference of the Parties shall take into account at least:

- (a) Any proposal submitted under paragraph 7;
- (b) The information made available pursuant to paragraph 4; and
- (c) The availability to the Parties of mercury-free alternatives that are technically and economically feasible, taking into account the environmental and human health risks and benefits.

Article 5

Manufacturing processes in which mercury or mercury compounds are used

1. For the purposes of this Article and Annex B, manufacturing processes in which mercury or mercury compounds are used shall not include processes using mercury-added products, processes for manufacturing mercury-added products or processes that process mercury-containing waste.
2. Each Party shall not allow, by taking appropriate measures, the use of mercury or mercury compounds in the manufacturing processes listed in Part I of Annex B after the phase-out date specified in that Annex for the individual processes, except where the Party has a registered exemption pursuant to Article 6.
3. Each Party shall take measures to restrict the use of mercury or mercury compounds in the processes listed in Part II of Annex B in accordance with the provisions set out therein.
4. The Secretariat shall, on the basis of information provided by Parties, collect and maintain information on processes that use mercury or mercury compounds and their alternatives, and shall make such information publicly available. Other relevant information may also be submitted by Parties and shall be made publicly available by the Secretariat.
5. Each Party with one or more facilities that use mercury or mercury compounds in the manufacturing processes listed in Annex B shall:
 - (a) Take measures to address emissions and releases of mercury or mercury compounds from those facilities;
 - (b) Include in its reports submitted pursuant to Article 21 information on the measures taken pursuant to this paragraph; and
 - (c) Endeavour to identify facilities within its territory that use mercury or mercury compounds for processes listed in Annex B and submit to the Secretariat, no later than three years after the date of entry into force of the Convention for it, information on the number and types of such facilities and the estimated annual amount of mercury or mercury compounds used in those facilities. The Secretariat shall make such information publicly available.
6. Each Party shall not allow the use of mercury or mercury compounds in a facility that did not exist prior to the date of entry into force of the

Convention for it using the manufacturing processes listed in Annex B. No exemptions shall apply to such facilities.

7. Each Party shall discourage the development of any facility using any other manufacturing process in which mercury or mercury compounds are intentionally used that did not exist prior to the date of entry into force of the Convention, except where the Party can demonstrate to the satisfaction of the Conference of the Parties that the manufacturing process provides significant environmental and health benefits and that there are no technically and economically feasible mercury-free alternatives available providing such benefits.

8. Parties are encouraged to exchange information on relevant new technological developments, economically and technically feasible mercury-free alternatives, and possible measures and techniques to reduce and where feasible to eliminate the use of mercury and mercury compounds in, and emissions and releases of mercury and mercury compounds from, the manufacturing processes listed in Annex B.

9. Any Party may submit a proposal to amend Annex B in order to list a manufacturing process in which mercury or mercury compounds are used. It shall include information related to the availability, technical and economic feasibility and environmental and health risks and benefits of the non-mercury alternatives to the process.

10. No later than five years after the date of entry into force of the Convention, the Conference of the Parties shall review Annex B and may consider amendments to that Annex in accordance with Article 27.

11. In any review of Annex B pursuant to paragraph 10, the Conference of the Parties shall take into account at least:

- (a) Any proposal submitted under paragraph 9;
- (b) The information made available under paragraph 4; and
- (c) The availability for the Parties of mercury-free alternatives which are technically and economically feasible taking into account the environmental and health risks and benefits.

Article 6

Exemptions available to a Party upon request

1. Any State or regional economic integration organization may register for one or more exemptions from the phase-out dates listed in Annex A and Annex B, hereafter referred to as an "exemption", by notifying the Secretariat in writing:

(a) On becoming a Party to this Convention; or

(b) In the case of any mercury-added product that is added by an amendment to Annex A or any manufacturing process in which mercury is used that is added by an amendment to Annex B, no later than the date upon which the applicable amendment enters into force for the Party.

Any such registration shall be accompanied by a statement explaining the Party's need for the exemption.

2. An exemption can be registered either for a category listed in Annex A or B or for a sub-category identified by any State or regional economic integration organization.

3. Each Party that has one or more exemptions shall be identified in a register. The Secretariat shall establish and maintain the register and make it available to the public.

4. The register shall include:

(a) A list of the Parties that have one or more exemptions;

(b) The exemption or exemptions registered for each Party; and

(c) The expiration date of each exemption.

5. Unless a shorter period is indicated in the register by a Party, all exemptions pursuant to paragraph 1 shall expire five years after the relevant phase-out date listed in Annex A or B.

6. The Conference of the Parties may, at the request of a Party, decide to extend an exemption for five years unless the Party requests a shorter period. In making its decision, the Conference of the Parties shall take due account of:

(a) A report from the Party justifying the need to extend the exemption and outlining activities undertaken and planned to eliminate the need for the exemption as soon as feasible;

(b) Available information, including in respect of the availability of alternative products and processes that are free of mercury or that involve the consumption of less mercury than the exempt use; and

(c) Activities planned or under way to provide environmentally sound storage of mercury and disposal of mercury wastes.

An exemption may only be extended once per product per phase-out date.

7. A Party may at any time withdraw an exemption upon written notification to the Secretariat. The withdrawal of an exemption shall take effect on the date specified in the notification.

8. Notwithstanding paragraph 1, no State or regional economic integration organization may register for an exemption after five years after the phase-out date for the relevant product or process listed in Annex A or B, unless one or more Parties remain registered for an exemption for that product or process, having received an extension pursuant to paragraph 6. In that case, a State or regional economic integration organization may, at the times set out in paragraphs 1 (a) and (b), register for an exemption for that product or process, which shall expire ten years after the relevant phase-out date.

9. No Party may have an exemption in effect at any time after 10 years after the phase-out date for a product or process listed in Annex A or B.

Article 7

Artisanal and small-scale gold mining

1. The measures in this Article and in Annex C shall apply to artisanal and small-scale gold mining and processing in which mercury amalgamation is used to extract gold from ore.

2. Each Party that has artisanal and small-scale gold mining and processing subject to this Article within its territory shall take steps to reduce, and where feasible eliminate, the use of mercury and mercury compounds in, and the emissions and releases to the environment of mercury from, such mining and processing.

3. Each Party shall notify the Secretariat if at any time the Party determines that artisanal and small-scale gold mining and processing in its territory is more than insignificant. If it so determines the Party shall:

(a) Develop and implement a national action plan in accordance with Annex C;

(b) Submit its national action plan to the Secretariat no later than three years after entry into force of the Convention for it or three years after the notification to the Secretariat, whichever is later; and

(c) Thereafter, provide a review every three years of the progress made in meeting its obligations under this Article and include such reviews in its reports submitted pursuant to Article 21.

4. Parties may cooperate with each other and with relevant intergovernmental organizations and other entities, as appropriate, to achieve the objectives of this Article. Such cooperation may include:

(a) Development of strategies to prevent the diversion of mercury or mercury compounds for use in artisanal and small-scale gold mining and processing;

(b) Education, outreach and capacity-building initiatives;

(c) Promotion of research into sustainable non-mercury alternative practices;

(d) Provision of technical and financial assistance;

(e) Partnerships to assist in the implementation of their commitments under this Article; and

(f) Use of existing information exchange mechanisms to promote knowledge, best environmental practices and alternative technologies that are environmentally, technically, socially and economically viable.

Article 8

Emissions

1. This Article concerns controlling and, where feasible, reducing emissions of mercury and mercury compounds, often expressed as "total

mercury”, to the atmosphere through measures to control emissions from the point sources falling within the source categories listed in Annex D.

2. For the purposes of this Article:

(a) “Emissions” means emissions of mercury or mercury compounds to the atmosphere;

(b) “Relevant source” means a source falling within one of the source categories listed in Annex D. A Party may, if it chooses, establish criteria to identify the sources covered within a source category listed in Annex D so long as those criteria for any category include at least 75 per cent of the emissions from that category;

(c) “New source” means any relevant source within a category listed in Annex D, the construction or substantial modification of which is commenced at least one year after the date of:

(i) Entry into force of this Convention for the Party concerned; or

(ii) Entry into force for the Party concerned of an amendment to Annex D where the source becomes subject to the provisions of this Convention only by virtue of that amendment;

(d) “Substantial modification” means modification of a relevant source that results in a significant increase in emissions, excluding any change in emissions resulting from by-product recovery. It shall be a matter for the Party to decide whether a modification is substantial or not;

(e) “Existing source” means any relevant source that is not a new source;

(f) “Emission limit value” means a limit on the concentration, mass or emission rate of mercury or mercury compounds, often expressed as “total mercury”, emitted from a point source.

3. A Party with relevant sources shall take measures to control emissions and may prepare a national plan setting out the measures to be taken to control emissions and its expected targets, goals and outcomes. Any plan shall be submitted to the Conference of the Parties within four years of the date of entry into force of the Convention for that Party. If a Party develops an implementation plan in accordance with Article 20, the Party may include in it the plan prepared pursuant to this paragraph.