Implementation review and support

Article 3 Trade

This session will outline how the Minamata Convention sets out obligations with regard to the trade in mercury (Article 3, MC-1/2). The session will also provide additional information on the evolution of mercury trade flows.

Thursday 08 October 2020

10h00-11h00 CEST

16h00-17h00 CEST

Please register for the WebEx session using the links above.

More information about Minamata Online here

Check the Minamata Online calendar

SPEAKERS

Claudia ten Have
Senior Policy Coordination Officer, Minamata Convention on Mercury

Marianne Bailey
Programme Officer for Capacity-building and Technical Assistance, Minamata Convention on Mercury

Eisaku Toda
Senior Programme Officer, Minamata Convention on Mercury

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Minamata Policy Expert, Department of Environment, United Nations Industrial Development Organization

Lara Ognibene
Legal/Programme Officer, Minamata Convention on Mercury
Implementation review and support

Information Session

Article 3:
Provisions on mercury trade
1. BACKGROUND ON WHY THE MINAMATA CONVENTION ADDRESSES MERCURY TRADE
   - Why it is important for controlling mercury risks
   - How mercury trade has evolved in recent years
   - Minamata Convention and the Rotterdam Convention

2. ARTICLE 3 REQUIREMENTS ON MERCURY TRADE
   - OVERVIEW OF THE ARTICLE INCLUDING PROVISIONS ON MERCURY SUPPLY AND STOCKS
   - HOW THE TRADE REQUIREMENTS WORK
     - Scenario One: Exporter is a Party → Importer is a Party (Article 3.6.a)
     - Scenario Two: Exporter is a Party → Importer is a non-Party (Article 3.6.b)
     - Scenario Three: Exporter is a non-Party → Importer is a Party (Article 3.8)
     - General Consent Notifications
   - Forms and Guidance
   - Summary of mercury trade provisions

3. CURRENT INFORMATION ON STUDIES AND OTHER INFORMATION RELATED TO MERCURY TRADE

4. UNIDO (2018) CURBING ILLICIT MERCURY AND GOLD FLOWS IN WEST AFRICA: OPTIONS FOR A REGIONAL APPROACH

5. HIGHLIGHTS OF A WORKSHOP TO SHARE KNOWLEDGE AMONG BOLIVIA, COLOMBIA, ECUADOR, MEXICO, PANAMA AND PERU (2019)

Question and Answers
BACKGROUND ON WHY THE MINAMATA CONVENTION ADDRESSES MERCURY TRADE
Why reduce the supply and demand of mercury?
How is mercury used?

Mercury in artisanal and small-scale gold mining

Many substitutes for mercury in products and mercury processes are available, cost-effective and safe.
Pathways into the environment and human health

How mercury can enter our environment

Artisanal and small-scale gold mining and coal burning are the largest anthropogenic sources of emissions.
Global mercury demand is expected to decline in response to the treaty.

Note: Units (rounded) for the mercury pathways are in tonnes. They are means (averages) within varying ranges of uncertainty (not shown), depending on the pathway.
Mercury traded worldwide 2000-2018

Metric tons of mercury

Year
Amount
5000  4000  3000  2000  1000  0  1000  2000  3000  4000  5000  6000  5000  4000  3000  2000  1000  0
Life-cycle approach: Reducing demand, and managing excess mercury
**Minamata Convention and Rotterdam Convention**

**Article 3 of the Minamata Convention** regulates the import and export of mercury as one of the main instruments to reduce the supply and trade of mercury.

**The Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade** also includes trade related obligations regarding mercury.

**Mercury compounds**, including inorganic mercury compounds, alkyl mercury compounds and alkylmercaptoalkyl and aryl mercury compounds, are listed as chemicals subject to Prior Informed Consent (PIC) Procedure in Annex III to the Convention.

The Rotterdam Convention aims to “[..] promote shared responsibility and cooperative efforts among Parties in the international trade of certain hazardous chemicals in order to protect human health and the environment from potential harm and to contribute to their environmentally sound use, by facilitating information exchange about their characteristics, by providing for a national decision-making process on their import and export and by disseminating these decisions to Parties.” (Article 1 of the Rotterdam Convention).

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**Article 17.4 of the Minamata Convention** states that each Party shall designate a national focal point for the exchange of information under the Convention, including with regard to the consent of importing Parties under Article 3.

**Article 4.1 of the Rotterdam Convention** provides that each Party shall designate one or more national authorities that shall be authorized to act on its behalf in the performance of the administrative functions required by this Convention. For more information on the specific responsibilities of the designated national authority please visit the BRS [website](#).
SECTION TWO

ARTICLE 3 REQUIREMENTS ON MERCURY TRADE

OVERVIEW OF ARTICLE 3
• Contains control measures to limit the global supply of mercury
• Complements and reinforces demand reduction control measures (Articles 4-7)
• Outlines procedures to follow for trade in elemental mercury
MAIN SOURCES OF MERCURY SUPPLY

- Primary mining
- By-product mercury
- Decommissioned chlor-alkali plants
- Mercury recovered from wastes and used products
- Existing stocks
MAIN SOURCES OF MERCURY SUPPLY – some important points

**Primary Mined Mercury**
Mines must be phased out; no new mines; and the mercury from primary mines can only be used for specifically allowed products and processes, not including artisanal and small-scale gold mining

**Mercury from Decommissioned Chlor-alkali Plants**
Use of mercury in chlor-alkali production must be phased out by 2025; closed plants leave behind very large quantities of mercury; parties must take measures to ensure disposal of excess mercury

**Mercury Stocks**
Parties must endeavor to identify large stocks of mercury and supply sources; guidance adopted by COP1
TRADE PROCEDURES—PRIOR INFORMED CONSENT

- Not allow the **export** of mercury unless the importing country provides written consent, the mercury is for an allowed use or environmentally sound storage, and all other conditions of Article 3.6 are met.

- Not allow the **import** of mercury without consent of the relevant government official, ensuring both the mercury source and proposed use are allowed under the Convention (and applicable domestic law).

Provisions Effective immediately upon Entry into Force for the party
HOW IT WORKS

SCENARIO ONE
Exporter is a Party → Importer is a Party (Article 3.6.a)

SCENARIO TWO
Exporter is a Party → Importer is a non-Party (Article 3.6.b)

SCENARIO THREE
Exporter is a non-Party → Importer is a Party (Article 3.8)
SCENARIO ONE

EXPORTER IS A PARTY → IMPORTER IS A PARTY

Mercury export is allowed if:

- Importing Party has provided written consent
- Mercury is for use allowed under the Convention, OR for environmentally sound interim storage
SCENARIO TWO

EXPORTER IS A PARTY $\rightarrow$ IMPORTER IS A NON-PARTY

Mercury export is allowed if:

- Importing non-Party certifies it has measures in place to protect human health and the environment.
- Importing non-Party ensures its compliance re: storage and final disposal.
- Mercury is for use allowed under the Convention, OR for environmentally sound interim storage.

- Importing non-Party has provided written consent.

Party to Convention

Exporter

Non-Party

Importer
SCENARIO THREE

EXPORTER IS A NON-PARTY → IMPORTER IS A PARTY

Mercury export is allowed if:

- Importing Party has provided written consent
- Exporting non-Party has provided certification that the mercury is not from primary mercury mining or from decommissioning chlor-alkali facilities
GENERAL CONSENT NOTIFICATIONS

• The Convention allows for Parties to issue consent either on an import by import basis or through a general notification of consent provided to the Secretariat.

• A general notification of consent may include terms and conditions, and may be revoked at any time by that Party or non-Party.

To date, general consent notifications received from: Canada, Japan, Thailand, United States
SUMMARY OF MERCURY TRADE PROVISIONS

Not allow the export of mercury unless the importing country provides written consent, the mercury is for an allowed use or environmentally sound storage, and all other conditions of Article 3.6 are met.

Not allow the import of mercury without government consent, ensuring both the mercury source and proposed use are allowed under the Convention (and applicable domestic law).

Restrict the export and use of mercury from primary mercury mining, so that it is not available for use in artisanal and small-scale gold mining (ASGM).

Restrict the use of excess mercury from decommissioning chlor-alkali plants under Article 3.5(b).
Form A: Form for the provision of written consent by a Party to the import of mercury

Form B: Form for the provision of written consent by a non-party to the import of mercury

Form C: Form for non-Party certification of the source of mercury to be exported to a Party

Form D: Form for general notification of consent to import mercury

Article 17: Parties must designate a focal point for information exchange, including with respect to trade consent.
# Forms to be used for mercury trade under the Minamata Convention

<table>
<thead>
<tr>
<th></th>
<th>Importing Party</th>
<th>Importing non-Party</th>
<th>Exporting Party</th>
<th>Exporting non-Party</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(has registered General Notification of Consent (Form D))</td>
<td>(has not registered General Notification of Consent (Form D))</td>
<td>▪ Exporting Party may rely on General Notification of Consent (GNC).</td>
<td>▪ Exporting Party may rely on GNC.</td>
</tr>
<tr>
<td>Exporting Party</td>
<td>▪ Exporting Party may rely on General Notification of Consent (GNC).</td>
<td>▪ Exporting Party may rely on GNC.</td>
<td>▪ Should use Form A.</td>
<td>▪ Should use Form B.</td>
</tr>
<tr>
<td>Exporting non-Party</td>
<td>▪ Exporting non-Party may rely on GNC. ▪ Exporting non-Party should submit Form C to importing Party.</td>
<td>(outside the scope of the Convention)</td>
<td>▪ Should use Form A. ▪ Exporting non-Party should submit Form C to importing Party.</td>
<td>(outside the scope of the Convention)</td>
</tr>
</tbody>
</table>

**Form A:** Form for the provision of written consent by a Party to the import of mercury

**Form B:** Form for the provision of written consent by a non-party to the import of mercury

**Form C:** Form for non-Party certification of the source of mercury to be exported to a Party

**Form D:** Form for general notification of consent to import mercury
The Secretariat makes public the forms and guidance adopted.


These forms and guidance, as adopted, are presented below.

<table>
<thead>
<tr>
<th>Arabic</th>
<th>Chinese</th>
<th>English</th>
<th>French</th>
<th>Russian</th>
<th>Spanish</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 3 COP1 MC-1/2</td>
<td>Forms related to Article 3 on Mercury trade</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 3 COP1 MC-1/2</td>
<td>Guidance on completing the forms required under article 3 related to trade in mercury</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 3 COP1 MC-1/2</td>
<td>Guidance on the identification of individual stocks of mercury or mercury compounds exceeding 50 metric tons and sources of mercury supply generating stocks exceeding 10 metric tons per year</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 6 COP1 MC-1/12</td>
<td>Format for the registration of exemptions for the products and processes listed in Part I of Annexes A and B</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 7 COP1 MC-1/13</td>
<td>Guidance on developing a national action plan to reduce and, where feasible, eliminate mercury use in artisanal and small-scale gold mining</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 8 COP1 MC-1/14</td>
<td>Guidance on Best Available Techniques and Best Environmental Practices - Taking into account any difference between new and existing sources and the need to minimize cross-media effects (including guidance on support for Parties in implementing the measures set out in paragraph 5, in particular in determining goals and in setting emission limit values)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 8 COP1 MC-1/16</td>
<td>Guidance on criteria that Parties may develop pursuant to paragraph 2(b)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article 8 COP1 MC-2/6</td>
<td>Guidance on the methodology for preparing inventories of emissions</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
The Secretariat keeps public register of General notification of consent.

SECTION THREE

CURRENT INFORMATION ON STUDIES AND INFORMATION RELATED TO MERCURY TRADE
Mercury trade – a few examples of studies

Global studies
• UNEP (2017) Global mercury supply, trade and demand
• UNEP (2020) Illegal trade in chemicals
• IUCN Netherlands (2020) Opening the black box: local insights into the formal and informal global mercury trade revealed.

Regional/national studies
• UNIDO (2018) Curbing illicit mercury and gold flows in West Africa: options for a regional approach
• Julián Casasbuenas G and Plácido Silva Duarte (2018) Mercury trade and supply in artisanal and small-scale gold mining in Colombia
• Yuyun Ismawati (2018) Illegal and illicit mercury trade in Indonesia
IUCN Netherlands (2020)
Opening the black box: local insights into the formal and informal global mercury trade revealed
Illegal trade in chemicals

UNEP (2020)
Minamata Initial Assessments may provide some data on mercury trade. Some Parties describe their current or planned measures on trade control. (Example from Nigeria below)

### Existing Legislation Relevant to Mercury Management in Nigeria

<table>
<thead>
<tr>
<th>Provision of the Minamata Convention</th>
<th>Relevant institution</th>
<th>Relevant Act, legislation and regulation</th>
<th>Relevant Provision</th>
<th>Implication for Nigeria</th>
<th>Proposed legal reform action (if needed)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 3 on supply sources and trade</td>
<td>NAFDAC</td>
<td>NAFDAC ACT No.15 of 1993-Cap NL LFN 2001</td>
<td>Regulate and control the importation, exportation, manufacture, advertisement, distribution, sale and use of food, drugs, cosmetics, medical devices, bottled water and chemicals; [Sec. 5(a)].</td>
<td>This mandate covers all types of chemicals, including the import and export of mercury</td>
<td>No reform needed</td>
</tr>
<tr>
<td>Party obligations related to:</td>
<td>NESREA</td>
<td>NESREA ACT No. 25 of 2007,</td>
<td>Enforces compliance with regulations on the importation, exportation, production, distribution, storage, sale, use, handling and disposal of hazardous chemicals and waste other than in the oil and gas sector; [Sec. 7 6(c)].</td>
<td>The NESREA mandate specifically target hazardous chemicals which mercury belongs. It therefore covers the control of mercury import and export.</td>
<td></td>
</tr>
<tr>
<td>- Disallow export and import of mercury. Except in instances stated in paragraph 6 (a)(b) under the article.</td>
<td>FMENV</td>
<td>Rotterdam Convention Act No. 15 of 2007</td>
<td>Rotterdam Convention Act provides for the banning and restriction of the use, export and import of hazardous chemicals and pesticides. It has provisions for the implementation of Prior-Informed Consent (PIC) procedure for hazardous chemicals.</td>
<td>Although the Federal Ministry of Environment is the Designated National Authority for the implementation of the Rotterdam Convention in Nigeria. This Act does not give authority for its implementation to any institution. The Act gives the country the legal backing to control mercury trade and supply.</td>
<td>Amendment of Rotterdam Convention Act No. 15 of 2007 to give authority to the Federal Ministry of Environment for its implementation.</td>
</tr>
<tr>
<td>- Notification and consent of import/export of mercury.</td>
<td>Federal Ministry of Mines and Steel Development (FMMSD)</td>
<td>FMMSD has the main duty for the following:</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
ASGM National Action Plans

Some Parties describe their current situation of mercury trade related to ASGM in their National Action Plans. (Example from Mongolia below)

Table 5 Illegal attempts to import, transport and sell mercury in Mongolia

<table>
<thead>
<tr>
<th>Date</th>
<th>Comments</th>
<th>Amount of mercury unveiled, kg</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>17 Feb, 2017</td>
<td>A (Orkhon aimag resident), T (Darkhan-Uul aimag resident), B, O and D (from Ulaanbaatar) were found to have 34 kgs mercury in their car</td>
<td>34</td>
<td>Criminal Police Unit, Railway Police Department</td>
</tr>
<tr>
<td>21 Feb, 2017</td>
<td>People were caught while selling 900 gr mercury from Toyota Allian car in Khoroo 32, Bayangol District</td>
<td>0.9</td>
<td><a href="http://unuudur.mn/article/95763">link</a></td>
</tr>
<tr>
<td>19 Jan, 2017</td>
<td>Experts of Capital City Emergency Management Department found 1 kg mercury selling attempt in Khoroo #16, Sukhbatar District, in response to information from citizens</td>
<td>1</td>
<td><a href="http://unuudur.mn/article/95763">link</a> Capital City Emergency Agency</td>
</tr>
<tr>
<td>22 Dec, 2016</td>
<td>Khan-Uul District Traffic Police Officer detect a Range Rover transporting 64.5 kg mercury in Bayangol District, Ulaanbaatar</td>
<td>64.5</td>
<td><a href="http://unuudur.mn/article/95763">link</a> <a href="http://police.gov.mn/a/2386">link</a></td>
</tr>
<tr>
<td>28 Nov, 2016</td>
<td>Police seizes 40 kg mercury while being transported by Prius 20 car in Bayanzurkh District, Ulaanbaatar</td>
<td>40</td>
<td><a href="http://www.police.gov.mn">link</a></td>
</tr>
<tr>
<td>2016</td>
<td>6 calls related to mercury received in 2016</td>
<td></td>
<td>Capital City Emergency Agency</td>
</tr>
<tr>
<td>May 2016</td>
<td>30 kg mercury detected at customs in Gashuunsukhait border pass, Umnugobi Aimag, hidden in Nord Benz truck transporting coal. Driver was arrested while attempting to sell the mercury</td>
<td>30</td>
<td><a href="http://unuudur.mn/article/95763">link</a></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>170.4</td>
<td></td>
</tr>
</tbody>
</table>
UNIDO (2018) CURBING ILLICIT MERCURY AND GOLD FLOWS IN WEST AFRICA: OPTIONS FOR A REGIONAL APPROACH
Objectives

• Present **benefits of a regional approach** to Hg trade in ECOWAS and the possible **elements** of such an approach

• **Learn from experiences** of participants taking regional approaches
Background

- Request from ECOWAS countries
- Support from Switzerland
- Study with the Global Initiative
West African Region
Why a regional approach

• Improve the control of trade of mercury in the entire region rather than changing its pattern
• Assist the phase out of Hg in Artisanal and Gold Mining Sector (major Hg consumption in the region)
• Facilitate a coordinated implementation of the Minamata Convention and regional policies
• Use synergies controlling the trade of other hazardous substances
• Efficient and effective use of resources available
Elements of a regional approach

• Harmonisation of the Hg regulations and policies at national and regional level
Elements of a regional approach

Improve knowledge on Hg flows

Source: Carsten Lassen et al, Mercury trade and use for artisanal and small-scale gold mining in sub-Saharan Africa. World Bank and COWI, 2016.
Elements of a regional approach

- Increase engagement with customs and other boarder controlling entities
- Build sustainable capacity of these entities
- Focus on regional hubs
Elements of a regional approach

• Continue working with the ASGM sector make Hg free mining more attractive

• Concretises the implementation of existing regional regulations (e.g. ECOWAS mineral and mining act)

• Strengthen the gold trade regulation at international level (in gold importing countries)
Further information

Link to the study

In English:

En français:
HIGHLIGHTS OF A WORKSHOP TO SHARE KNOWLEDGE AMONG BOLIVIA, COLOMBIA, ECUADOR, MEXICO, PANAMA AND PERU (2019)
Workshop to share knowledge among Bolivia, Colombia, Ecuador, Mexico, Panama and Peru on mercury trade

Co-organised by the Secretariat of the Minamata Convention and the Government of Bolivia and funded by the European Commission

Participants included national focal points, customs officers, selected representatives from relevant ministries and competent authorities and other stakeholders.

The workshop was structured as a collaborative taskforce to:

- exchange information and perspectives on each country’s national circumstance;
- delve deeper into the practicalities of the implementation of mercury trade obligations and any challenges encountered; and
- explore possible solutions and approaches to address them at national and sub-regional levels.
EC funded pilot to support the development of a protocol on confiscated mercury in Peru

The protocol is one of the expected outputs of a larger project implemented by the Ministry of Environment of Peru and funded by multiple donors.

Goal

“Strengthening of institutional capacities for the management of mercury seized within the framework of the Minamata Convention on Mercury”

Scope

The purpose of this project is to develop an integrated management system for seized mercury within the framework of the Minamata Convention, in order to improve the traceability of the control of seized mercury and ensure the rational environmental disposition of the mercury product in control actions and control of state entities.

Impact

- Reduction of illegal trade in mercury
- Reduction in the number of mining workers and control personnel who have contact with this chemical annually.
- Due diligence on seized mercury and safe disposal for the environment

Product 01

Harmonization and adaptation of the legislative framework

Product 02

Establishment of a single protocol for the seizure and management of mercury

Product 03

Implementation of logistic facilities and equipment

Product 04

Strengthening the capacities and skills of the stakeholders