



NRDC CHECKLIST OF LEGAL AUTHORITIES TO IMPLEMENT MINAMATA CONVENTION ON MERCURY

This document provides a simplified list of authorities needed to comply with the Minamata Convention on Mercury.¹ It should be used in conjunction with the Convention text, and related materials providing additional details regarding Convention obligations.²

Supply and Trade³

- Not allow new primary mercury mining
- Phase out existing primary mercury mining within 15 years⁴
- Prevent the import and use of mercury from primary mercury mining for artisanal and small-scale gold mining (ASGM)
- In accordance with Article 3.5(b), restrict the import and use of excess mercury from decommissioning chlor-alkali plants, and require environmentally sound disposal
- Obtain information on stocks of mercury or mercury compounds exceeding 50 metric tons (MT), and mercury supply generating stocks exceeding 10 MT/yr⁵
- Not allow the export of mercury unless the importing country provides written consent,⁶ the mercury is for an allowed use or environmentally sound storage, and all other conditions of Article 3.6 are met⁷

¹ The Convention text may be found at <http://www.mercuryconvention.org/Convention/tabid/3426/Default.aspx>.

² See e.g., <http://www.nrdc.org/international/files/minamata-convention-on-mercury-manual.pdf> for a detailed guide to the Convention.

³ Since this checklist is primarily intended for developing countries, it is assumed that governments will desire control over individual mercury shipments entering the country and thus not provide a general notification of import consent or waive restrictions on the sources of mercury imports under Articles 3.7 and 3.9.

⁴ Most countries do not have existing primary mercury mines, and thus can simply prohibit any primary mercury mining to meet all Convention obligations related to phasing out this activity.

⁵ See Article 3.1 for definition of mercury compounds in this context.

⁶ A national focal point for trade-related consent must be designated under Article 17.4 of the Convention.

⁷ Governments may consider adoption of a mercury trade licensing system to meet the PIC requirements, the source/use restrictions, and the reporting obligations of Article 3.

- 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)

Mercury-Added Products⁸

- Not allow the manufacture, import, and export of products listed in Part I of Annex A not otherwise excluded following the phase out date listed in the Annex⁹
- Phase down the use of dental amalgam through two or more measures listed in Part II of Annex A
- Take measures to prevent the incorporation of products listed in Part I of Annex A (i.e., switches and relays, batteries) into larger, assembled products
- Discourage the manufacture and distribution of new mercury product types¹⁰

Manufacturing Processes

- Not allow the use of mercury or mercury compounds in the manufacturing processes listed in Part I of Annex B¹¹
- Restrict (as specified in the Annex) the use of mercury in the processes listed in Part II of Annex B¹²
- Not allow new facilities from using mercury in the processes listed in Annex B, except facilities using mercury catalysts to produce polyurethane
- For facilities with processes listed in Annex B, identify and obtain information on mercury or mercury compound use; and control mercury emissions to air, and releases to land and water
- Discourage new uses of mercury in industrial processes¹³

⁸ Since this checklist is primarily intended for developing countries, it is assumed that governments will not avail themselves of the compliance option under Article 4.2, which requires a Party to have already reduced to de minimis levels the manufacture, import and export of a large majority of the products listed in Part I of Annex A.

⁹ The prohibition date must be consistent with Articles 4 and 6 of the Convention.

¹⁰ The Convention does not define “discourage”, but restrictions on new mercury product types without demonstrated environmental or human health benefits would meet this Convention obligation.

¹¹ In this context, mercury compounds are defined broadly under Article 2(e). Governments with existing factories may elect to phase out the use of mercury, and prohibit any new factories. The choice of phase out date must be consistent with Articles 5 and 6 of the Convention.

¹² Governments without existing plants using mercury in the processes listed in Part II of Annex B may choose to prohibit any mercury use in those industrial processes to meet all Convention obligations related to such processes under Article 5.

¹³ The Convention does not define “discourage”, but restrictions on new mercury uses in industrial processes where non-mercury alternatives are available or the manufacturing process provides no significant environmental or human health benefits would meet this Convention obligation.

ASGM (for all governments)

- Take measures to reduce, and where feasible, eliminate mercury and mercury compound use, emissions (to air), and releases (to land and water) associated with ASGM

ASGM (for governments where ASGM activity is “more than insignificant”)

- Establish coordinating mechanism and delineate agency roles for development/implementation of an ASGM National Action Plan (NAP)¹⁴
- Define and formalize¹⁵ or regulate¹⁶ ASGM consistent with the Convention¹⁷
- Eliminate whole ore amalgamation, open burning of amalgam or processed amalgam, burning of amalgam in residential areas, and cyanide leaching of mercury-laden sediment, ore or tailings (the “worst practices”)
- Set mercury use reduction goals or targets consistent with the timely elimination of the worst practices and other use reduction efforts¹⁸
- Reduce mercury emissions, releases, and exposures associated with ASGM,¹⁹ and prevent mercury exposures of vulnerable populations (particularly women of child-bearing age and children)²⁰
- Prevent the diversion of mercury and mercury compounds from other sectors to ASGM, and manage mercury trade consistent with the NAP²¹
- Implement a public health strategy to address mercury exposures to ASGM miners and communities

¹⁴ Checklist users required to prepare a NAP are encouraged to consult the Guidance for NAP Development for more detail on each of the NAP associated obligations, to ensure the legal authorities are appropriately tailored for the conditions in each country.

¹⁵ Formalization is a process to integrate ASGM into the official economy and society, and may address issues related to mining titles, royalties, access to credit and markets, etc.

¹⁶ Regulation is the development of legal requirements covering issues such as child labor and environmental protection.

¹⁷ Governments may also use tax or other incentive mechanisms to facilitate formalization.

¹⁸ Note the authority required for all governments to reduce/eliminate mercury use in ASGM, as discussed above, and the authority required to reduce to emissions, releases, and exposures discussed immediately below. Such authorities may take the form of a phase-out date for mercury use, or requiring mercury free techniques by a date certain.

¹⁹ This authority may include management requirements for mercury storage and waste tailings.

²⁰ This authority may include addressing the use of child labor.

²¹ Governments required to prepare a NAP may particularly benefit from a mercury trade licensing program and a mechanism for tracking shipments domestically, in order to prevent unauthorized diversions and otherwise manage mercury trade consistent with NAP commitments, as required by Annex C.1(f) of the Convention. Significant civil and criminal penalties for the illegal trade of mercury may also be considered.

Air Emissions

- Require best available techniques/best environmental practices (BAT/BEP) or associated emission limit values (ELVs) for new (as defined in Article 8.2(c)) sources listed in Annex D (coal-fired power plants, coal-fired industrial boilers, non-ferrous metal smelting and roasting processes,²² waste incineration,²³ and cement production²⁴)
- Require one or more measures identified in Article 8.5 to control/reduce mercury emissions from existing sources listed in Annex D, which shall be operational at the source within 10 years²⁵
- Require monitoring/reporting and otherwise establish a mercury emissions inventory for sources listed in Annex D

Releases to Land and Water

- Require reporting or otherwise obtain information as needed to identify significant sources of mercury/mercury compound releases to land or water,²⁶ and to maintain an inventory of releases from the sources identified
- Take one or more measures specified in Article 9.5 to control/reduce mercury and mercury compound releases to land and water from significant sources it identifies

Interim Mercury Storage²⁷

- Take measures to ensure interim mercury storage is conducted in an environmentally sound manner, taking into account guidelines to be developed by the Conference of the Parties (COP)²⁸

²² Specifically, roasting/smelting related to lead, zinc, copper and industrial gold production. ASGM is covered separately, as discussed above.

²³ Includes medical waste, municipal waste, hazardous waste, and sewage sludge incinerators.

²⁴ Includes the co-burning of wastes in cement plants.

²⁵ Governments may choose not to regulate every source, provided the sources they do regulate account for at least 75% of the emissions within the source category listed in Annex D. This flexibility may be particularly useful where the country has many sources of varying characteristics.

²⁶ These sources differ from those covered elsewhere in the Convention, such as ASGM sites, industrial processes listed in Annex B, or waste management facilities covered under Article 11.

²⁷ Temporary storage associated with an allowed use under the Convention.

²⁸ The authority may address areas such as quantity limits, duration, best practices, reporting, etc.

Mercury Waste Management

- Use a definition of mercury waste consistent with Article 11.2
- Take measures to manage mercury wastes in an environmentally sound manner, taking into account guidelines developed under the Basel Convention and in accordance with COP requirements to be developed.
- Take measures to restrict mercury derived from the treatment or re-use of mercury waste to allowed uses under the Convention or environmentally sound disposal
- Require transport across international boundaries in accordance with the Basel Convention, or if the Basel Convention does not apply, consistent with international rules, standards, and guidelines.

Contaminated Sites

- Develop strategies for identifying and assessing mercury/mercury compound contaminated sites
- If risk reduction activities are taken at contaminated sites, they are taken in an environmentally sound manner, incorporating risk assessment where appropriate²⁹

Public Health

- Promote the development and implementation of strategies to identify and protect populations at risk, such as developing fish consumption guidelines
- Promote occupational exposure educational and prevention programs
- Promote prevention, treatment, and care services for affected populations

Financial Resources

- Access domestic resources as may be needed to implement Convention obligations
- Access financial resources available under the Convention financial mechanism and other resources available from multilateral, regional, and bilateral funding sources

²⁹ Note the Convention does not expressly require contaminated site remediation, nor does the Convention address liability or resource issues related to contaminated site remediation. Accordingly, governments may want to consider authorities related to contaminated sites more broadly.

Information Exchange/Awareness-Raising

- Collect and disseminate information on annual quantities of mercury and mercury compounds emitted, released, or disposed; and other information specified in Article 18
- Share information on the health and safety of humans and the environment as non-confidential, in accordance with Article 17.5
- Report to the COP on progress in implementing Convention obligations under Article 21

Participation as Party/Administrative Matters

- Fully participate as a Party to the COP, including voting, if and when required
- Participate in one of the dispute resolution processes specified if needed, under Article 25 of the Convention
- Determine how future Convention annex amendments will be ratified under Article 30.5 of the Convention