



**Conference of the Parties to the
Minamata Convention on Mercury
Fifth meeting**

Geneva, 30 October–3 November 2023

Item 4 (a) of the provisional agenda*

**Matters for consideration or action by the Conference
of the Parties: mercury supply sources and trade****Mercury supply sources and trade****Note by the secretariat****I. Introduction**

1. The present note provides information on the status of implementation of article 3 of the Minamata Convention on Mercury based on the first full national reports submitted by parties pursuant to article 21 of the Convention and the work carried out by the Implementation and Compliance Committee pursuant to article 15 of the Convention. The note also presents possible action for consideration by the Conference of the Parties based on the secretariat's analysis of the first full national reports (see document UNEP/MC/COP.5/INF/20) and on relevant recommendations contained in the report on the work of the Implementation and Compliance Committee of the Minamata Convention (UNEP/MC/COP.5/14, annex). More information on the first full national reports is available in document UNEP/MC/COP.5/15.

II. Implementation

2. Given the complexity of article 3 obligations, this section provides information on the status of implementation of each paragraph of article 3 of the Convention, from paragraph 3 to paragraph 13.

3. Pursuant to paragraphs 3 and 4 of article 3 of the Convention, each party is obligated not to allow primary mercury mining that was not being conducted within its territory at the date of entry into force of the Convention for that party. 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 15 years after that date. During this period, mercury from such mining is to be used only in manufacturing of mercury-added products in accordance with article 4 or in manufacturing processes in accordance with article 5, or to be disposed of in accordance with article 11, using operations that do not lead to recovery, recycling, reclamation, direct re-use or alternative uses.

4. In their first full national reports, some parties reported the presence of informal primary mercury mining in their territories, while other parties appeared to draw a difference between formal and informal primary mercury mining and, therefore, did not report on all primary mercury mining activities conducted in their territories. In this respect, the Implementation and Compliance Committee recommended, in paragraph 11 of its report, that the Conference of the Parties recall that paragraphs 3 and 4 of article 3 of the Convention require parties to control primary mercury mining and note that,

* UNEP/MC/COP.5/1.

while parties in their reports have characterized primary mercury mining as “formal”, “informal” or “illegal”, in this regard parties are encouraged to report on all primary mercury mining activities being carried out in their territories, irrespective of their status as formal, informal or illegal, in their next national reports. Section III of the present note proposes draft decision text on this matter for consideration by the Conference of the Parties.

5. Paragraph 5 (a) of article 3 states that each party shall 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. In decision MC-1/2, the Conference of the Parties at its first meeting adopted the 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.

6. In their first full national reports, some parties reported on their endeavours to identify stocks and sources in accordance with paragraph 5 (a) of article 3 and attached their results, as requested, in a more consistent way than in the previous, short reporting cycle. However, the totality of information still provides an uneven overview of the outcome of parties’ individual endeavours and an incomplete status of the stocks and sources globally.

7. In accordance with decision MC-4/8,¹ in its report, the Implementation and Compliance Committee, in paragraph 12 of its report, requested the secretariat to reach out to parties that had responded that they had carried out Minamata Initial Assessments but had not endeavoured to identify stocks and sources as per paragraph 5 of article 3 of the Convention to seek clarification on the challenges faced; and to parties that responded that they had endeavoured to identify stocks and sources to provide information on their endeavours, if they had not already done so, including on the results of the efforts undertaken (even if identification of stocks and sources was not yet completed), amounts of stocks and supplies, and, if possible, calculation method used. Furthermore, the Committee expressed the need to further clarify the accumulated stockpiles meaning and calculation method, as contained in the guidance on the identification of individual stocks of mercury or mercury compounds adopted by the Conference of the Parties at its first meeting.

8. In this respect, the Implementation and Compliance Committee, recommended, in paragraph 13 of the report on its work, that the Conference of the Parties further clarify types of actions that could be taken to fulfil the continuing obligation to endeavour to identify stocks and sources as per paragraph 5 of article 3 of the Convention, defined in paragraph 3 of decision MC-4/8 as an ongoing effort, taking into account the fact that the Conference of the Parties adopted guidance on the identification of stocks of mercury at its first meeting, and with the view to possibly adding to that guidance. Section III of the present note proposes draft decision text on this matter for consideration by the Conference of the Parties.

9. The decommissioning or conversion of chlor-alkali facilities has been a major source of mercury worldwide. Paragraph 2 of article 5 of the Convention states that each party shall not allow the use of mercury in chlor-alkali production after 2025. Paragraph 5 (b) of article 3 states that each party shall 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 11,² using operations that do not lead to recovery, recycling, reclamation, direct re-use or alternative uses.

10. All 10 parties that reported in their national reports that they have excess mercury available from the decommissioning of chlor-alkali facilities reported progress in managing such excess mercury and in phasing out mercury use in chlor-alkali production ahead of the 2025 deadline set out in part I of annex B to the Convention.

¹ In decision MC-4/8, the Conference of the Parties requested parties to continue their ongoing efforts to endeavour to identify individual stocks and sources of mercury in accordance with paragraph 5 of article 3 of the Convention. In particular, those parties that have finished their Minamata Initial Assessments and those that have completed their initial inventories are reminded to share the results of their endeavours in their next national reports.

² Paragraph 3 (a) of article 11 of the Convention requires that parties take appropriate measures so that mercury waste is managed in an environmentally sound manner, taking into account the guidelines developed under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal and in accordance with requirements that the Conference of the Parties shall adopt in an additional annex. Such an annex has not yet been adopted.

11. Paragraphs 6 to 8 of article 3 of the Convention contain the provisions to be implemented by parties in relation to trade in mercury with other parties and with non-parties. The required measures reflect several key principles, namely:

- (a) Mercury to be traded must not be from sources not allowed under paragraphs 3 or 5 (b) of article 3;
- (b) The consent of the importing country, regardless of whether it is a party or a non-party, must be obtained before export takes place;
- (c) An exporting party may rely on a general notification to be submitted to the secretariat as written consent required under paragraph 6;
- (d) The export, regardless of whether it is to a party or non-party, must be for a use allowed under the Convention or for environmentally sound interim storage as set out in article 10;
- (e) Trade with non-parties is allowed, provided that:
 - (i) For export from a party to a non-party, the non-party can provide certification demonstrating that it has certain measures in place to ensure protection of human health and the environment and to ensure its compliance with the provisions of articles 10 and 11;
 - (ii) For import from a non-party, parties must obtain from the non-party a certification that the mercury is not from sources identified as not allowed under paragraph 3 or paragraph 5 (b). A party that submits a general notification of consent may decide not to require written consent or the certification on the sources of mercury provided the conditions listed in paragraph 9 of article 3 are met. This procedure is no longer available, in accordance with paragraph 10 of article 3.

12. The Conference of the Parties at its first meeting adopted specific trade forms³ and guidance⁴ to be used by parties and non-parties for providing consent for trade in mercury under article 3, namely:

- (a) Form A: form for the provision of written consent by a party to the import of mercury;
- (b) Form B: form for the provision of written consent by a non-party to the import of mercury;
- (c) Form C: form for non-party certification of the source of mercury to be exported to a party (to be used in conjunction with form A and form D, when required);
- (d) Form D: form for general notification of consent to import mercury.

13. Pursuant to paragraph 11 of article 3, each party shall include in its reports submitted pursuant to article 21 information showing that the requirements of article 21 have been met.

14. In their first full national reports, an increasing number of parties, compared to the previous, short reporting cycle, submitted information on exports of mercury from their territories, as prompted by the relevant question of the reporting format, and pursuant to decision MC-4/8.⁵ However, this information provides an incomplete overview of global mercury trade flows.

15. With respect to trade forms, some parties have expressed to the secretariat the need to revise the existing trade forms and guidance, as adopted by the Conference of the Parties at its first meeting, to include information on transit countries, free-trade zones and electronic forms.⁶ The secretariat also

³ The forms are available at <https://mercuryconvention.org/en/documents/forms-related-article-3-mercury-trade>.

⁴ The guidance is available at <https://mercuryconvention.org/en/documents/guidance-completing-forms-required-under-article-3-related-trade-mercury>.

⁵ Decision MC-4/8, among other things, called on parties that had received consent to export mercury to parties and/or non-parties to provide to the secretariat either copies of the consent forms used or other suitable information in their reports submitted pursuant to article 21 of the Convention, to show that the relevant requirements of article 3 of the Convention had been met.

⁶ At its first meeting, the Conference of the Parties adopted further guidance in regard to paragraphs 5 (a), 6 and 8, in accordance with paragraph 12 of article 3, 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; forms related to article 3 on trade in mercury; guidance on completing the forms required under article 3 related to trade in mercury; guidance in relation to mercury supply sources and trade in relation to certification.

received requests from parties to raise awareness about provisions of the Convention on allowed uses and sources of mercury in order to help parties to comply with article 3 requirements.

16. In this respect, the Implementation and Compliance Committee, recommended, in paragraph 15 of the report on its work, that the Conference of the Parties request the secretariat to support parties in better understanding the trade provisions, their interrelation with other articles of the Convention, and the use of trade forms adopted by the Conference of the Parties, in particular with respect to imports from non-parties. In the same paragraph, the Committee also identified the need to work on awareness-raising activities related to provisions of the Convention on allowed uses and sources of mercury in order to help parties comply with article 3 requirements.

17. The secretariat engages with the Green Customs Initiative coordinated by the United Nations Environment Programme, which aims at enhancing the capacity of customs and border control officers to enforce and foster compliance to trade-related conventions, multilateral environmental agreements and corresponding national legislation.⁷ It is also worth noting that it would be beneficial to enhance cooperation with the secretariats of other multilateral environmental agreements, such as the secretariat of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the Stockholm Convention on Persistent Organic Pollutants, and the secretariat of the Montreal Protocol on Substances that Deplete the Ozone Layer, to strengthen implementation of article 3 provisions. Section III of the present note proposes draft decision text on this matter for consideration by the Conference of the Parties.

18. Parties also submitted information on measures taken to prevent exports which are not in compliance with the Convention and reported limited capacity to enforce trade-related laws and regulation at the national level, resulting in illegal or informal trade being carried out within their territories, and the availability on the market of mercury from unreported sources. Furthermore, in its report, the Implementation and Compliance Committee welcomed the transparency of parties that reported on illegal or informal trade and concluded that a better understanding of the needs of parties in controlling trade that is not compliant with the Convention could be a good basis for enhancing international cooperation and supporting and promoting sharing of lessons learned between parties.

19. With respect to illegal trade, some parties shared with the secretariat their interest in accessing funding, including through the financial mechanism of the Convention, to take action as envisioned in the Bali declaration on combating illegal trade in mercury, which was launched by the Government of Indonesia during the second part of the fourth meeting of the Conference of the Parties in 2022.⁸

20. In this respect, the Implementation and Compliance Committee, in paragraph 15 of the report on its work, recommended that the Conference of the Parties encourage parties that did not receive consent, or relied on a general notification of consent, for all exports of mercury from the party's territory to provide more information, if any, in their next national reports, including on measures taken to prevent exports which were not in compliance with the Convention. Section III of the present note proposes draft decision text on this matter for consideration by the Conference of the Parties.

21. Finally, paragraph 13 of article 3 of the Convention requires the Conference of the Parties to evaluate whether the trade in specific mercury compounds compromises the objective of the Convention and consider whether specific mercury compounds should, by their listing in an additional annex adopted in accordance with article 27 of the Convention, be made subject to paragraphs 6 and 8 of article 3. The Conference of the Parties may wish to consider at its sixth meeting a timeline and process for addressing 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 of article 3, as provided in paragraph 13 of article 3.

III. Proposed action

22. In the light of the issues identified in the secretariat's analysis of the first full national reports (UNEP/MC/COP.5/INF/20) with respect to article 3 of the Convention as well as the recommendations agreed on by the Implementation and Compliance Committee as part of its report to

Guidance documents in relation to mercury supply sources and trade, and certification adopted in decisions MC-1/2 and MC-1/3, are available on the Convention website at <https://mercuryconvention.org/en/about/forms-guidance>.

⁷ See www.greencustoms.org/who-we-are.

⁸ The Bali declaration on combating illegal trade in mercury is set out in annex III to the report of the Conference of the Parties to the Minamata Convention on Mercury on the work of its fourth meeting (UNEP/MC/COP.4/28/Add.1).

the Conference of the Parties (UNEP/MC/COP.5/14), the Conference of the Parties may wish to consider and adopt a decision as proposed in the annex to the present note. Recommendations from the Implementation and Compliance Committee have been identified in the footnotes to the proposed text.

Annex

Draft decision MC-5/[--]: Mercury supply sources and trade

The Conference of the Parties,

Noting with appreciation the information provided by parties in their first full national reports covering the period from entry into force of the Minamata Convention on Mercury until 31 December 2020, and the progress made by parties in meeting their obligations under article 3 of the Convention,

Welcoming in particular the progress made by parties in phasing out mercury use in chlor-alkali production ahead of the 2025 deadline set out in part I of annex B to the Convention,

Noting that, notwithstanding the progress made so far, parties expressed the need to receive additional support and assistance to strengthen the implementation of article 3,

1. *Recalls* that paragraphs 3 and 4 of article 3 require parties to control primary mercury mining, notes that parties in their reports have characterized primary mercury mining as “formal”, “informal” or “illegal”, and encourages parties to report on all primary mercury mining activities being carried out in their territories, irrespective of their status as formal, informal or illegal, in their next national reports;¹

2. *Encourages* parties that did not receive consent, or relied on a general notification of consent, for all exports of mercury from the party’s territory to provide more information, if any, in their next national reports, including on measures taken to prevent exports which are not in compliance with the Convention;²

3. *Encourages* parties to promote joint campaigns and training opportunities to strengthen the capacity of enforcement officers, including customs officers, to control mercury trade at the national level;

4. *Invites* parties to submit to the secretariat information on experiences and challenges faced in the implementation of article 3 as well as information on activities undertaken in relation to the Bali declaration on combating illegal trade in mercury by March 2025, and requests the secretariat to compile the information received for consideration by the Conference of the Parties at its sixth meeting;

5. *Requests* the secretariat, subject to the availability of resources, to:

(a) Draft an update to the existing guidance on stocks adopted in decision MC-1/2 to include types of action that could be taken to fulfil the continuing obligation to endeavour to identify stocks and sources as per paragraph 5 (a) of article 3 of the Convention, defined in paragraph 3 of decision MC-4/8 as an ongoing effort, for consideration by the Conference of the Parties at its sixth meeting;

(b) Support parties in better understanding the trade provisions, their interrelation with other articles of the Convention, and the use of trade forms adopted by the Conference of the parties, in particular with respect to imports from non-parties;³

(c) Work on awareness-raising activities related to provisions of the Convention on allowed uses and sources of mercury in order to assist parties to comply with article 3 requirements;⁴

(d) Broaden its cooperation with the secretariats of other multilateral environmental agreements, such as the secretariat of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the Stockholm Convention on Persistent Organic Pollutants and the secretariat of the Montreal Protocol on Substances that Deplete the Ozone Layer, to strengthen the implementation of article 3 provisions.

¹ This paragraph has been prepared by the secretariat on the basis of relevant recommendations included in the report on the work of the Implementation and Compliance Committee (UNEP/MC/COP.5/14).

² See note 1.

³ See note 1.

⁴ See note 1.