Intergovernmental negotiating committee
to prepare a global legally binding instrument
on mercury
Fourth session
Punta del Este, Uruguay, 27 June–2 July 2012
Agenda item 3
Preparation of a global legally binding instrument on mercury

Draft articles submitted by the legal group: artisanal and small-scale gold mining; contaminated sites; information exchange; public information, awareness and education; and research, development and monitoring

Note by the secretariat

The secretariat has the honour to circulate the draft articles submitted by the legal group concerning artisanal and small-scale gold mining; contaminated sites; information exchange; public information, awareness and education; and research, development and monitoring (see annex).
9. **Artisanal and small-scale gold mining**

1. The measures in this article and in Annex E 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 releases to the environment of mercury from, such mining and processing.

3. Each Party shall report to the Secretariat whether the artisanal and small-scale gold mining and processing in its territory is more than insignificant. If it determines at any time that it is more than insignificant, the Party shall:
   
   (a) Develop and implement a national action plan in accordance with Annex E;
   
   (b) Submit its national action plan to the Secretariat no later than three years after entry into force of the Convention for it; and
   
   (c) Thereafter, provide a review every three years of the progress made in meeting its obligations under Article 9 and include such reviews in the reports that it submits pursuant to Article 22.

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.

5. **OPTION 1:** No Party may allow the import or export of mercury or mercury compounds listed in Annex B for use in artisanal and small-scale gold mining and processing, except in accordance with an allowable-use exemption available under this article for which the Party is registered, as provided in Article 8. 

5. **OPTION 2:** No Party may allow the import or export of mercury or mercury compounds for use in artisanal and small-scale gold mining and processing, except if actions for eliminating the practices listed in paragraph 1 (b) of Annex E have been taken on the territory of the importing country and the imported mercury is destined to practices other than and having lesser environmental and health impacts than those listed in that paragraph.

---

1 Note: The legal group observed that the sentence limits the article and Annex E to processing in which mercury is used to extract gold from ore. To the extent that the intent is to cover other forms of processing, some editing will be required.

2 One representative expressed a need to reflect whether the degree of flexibility provided by this paragraph was sufficient for its domestic purposes.

3 Note: The legal group noted that it is unclear when this is to be reported, e.g. upon ratification or as part of reporting under article 22.

4 One representative voiced her concern regarding the determination of “more than insignificant” as given in this paragraph stating it required further clarification through, for example, inclusion of criteria to determine what was insignificant.

5 The contact group agreed to delete the last phrase in this sub-paragraph on the understanding that countries had the flexibility to include their national action plans on artisanal and small scale gold mining into any national implementation plan that might be developed under Article 21.

6 Note: The legal group noted that, depending upon the answer to its question in footnote 1, further editing may be required.
[5. OPTION 3: A Party or non-Party may submit a declaration to the Secretariat containing the following information:

a. A statement that it does not allow the use of mercury in artisanal and small-scale gold mining within its territory and also does not allow any imports of mercury for such use, and

b. The specific measures it has taken to implement these restrictions.

The Secretariat shall establish and maintain a registry of the Parties and non-Parties that make such a declaration.

Each Party shall not allow the export of mercury for use in artisanal and small-scale gold mining to the Parties and non-Parties on the registry.]

[6. The implementation of measures under this article and Annex E shall be subject to the provisions of the articles of this Convention on financial resources and technical and implementation assistance.]
Annex E

Artisanal and small-scale gold mining

National action plans

1. Each Party that is subject to the provisions of paragraph 3 of Article 9 shall include in its national action plan:

   (a) National objectives and reduction targets;
   (b) Actions to eliminate:
      (i) Whole ore amalgamation;
      (ii) Open burning of amalgam or processed amalgam;
      (iii) Burning of amalgam in residential areas; and
      (iv) Cyanide leaching in sediment, ore or tailings to which mercury has been added without first removing the mercury;
   (c) Steps to facilitate the formalization or regulation of the artisanal and small-scale gold mining sector;
   (d) Baseline estimates of the quantities of mercury used and the practices employed in artisanal and small-scale gold mining and processing within its territory;
   (e) Strategies for promoting the reduction of emissions and releases of, and exposure to, mercury in artisanal and small-scale gold mining and processing, including mercury-free methods;
   (f) Strategies for managing or preventing the [import and] diversion of mercury and mercury compounds for use in artisanal and small-scale gold mining and processing; 7
   (g) Strategies for involving stakeholders in the implementation and continuing development of the action plan;
   (h) A public health strategy on the exposure of artisanal and small-scale gold miners and their communities to mercury. Such a strategy should include, inter alia, the gathering of health data, training for health-care workers and awareness-raising through health facilities;
   (i) Strategies to prevent exposure of vulnerable populations, particularly children and women of child-bearing age, especially pregnant women, to mercury used in artisanal and small-scale gold mining;
   (j) Strategies for providing information to artisanal and small-scale gold miners and affected communities; and
   (k) A schedule for the implementation of the action plan.

2. Each Party may include in its national action plan additional strategies to achieve its objectives, including the use or introduction of standards for mercury-free artisanal and small-scale gold mining and market-based mechanisms or marketing tools.

---

7 Note: The legal group noted that, depending upon the answer to the question in footnote 1, further editing may be required.
14. Contaminated sites

1. Each Party shall endeavour to develop appropriate strategies for identifying and assessing sites contaminated by mercury or mercury compounds.

2. Any actions to reduce the risks posed by such sites shall be performed in an environmentally sound manner incorporating, where appropriate, an assessment of the risks to human health and the environment from the mercury or mercury compounds they contain.

3. The Conference of the Parties shall adopt guidance on managing contaminated sites that may include methods and approaches for:

   (a) Site identification and characterisation;
   (b) Engaging the public;
   (c) Human health and environmental risk assessments;
   (d) Options for managing the risks posed by contaminated sites;
   (e) Evaluation of benefits and costs; and
   (f) Validation of outcomes.

4. Parties are encouraged to cooperate in developing strategies and implementing activities for identifying, assessing, prioritizing, managing and, as appropriate, remediating contaminated sites [including through the provision of capacity-building, financial and technical assistance].
18. **Information exchange**

1. Each Party shall facilitate the exchange of:
   
   (a) Scientific, technical, economic and legal information concerning mercury and mercury compounds, including toxicological, ecotoxicological and safety information;
   
   (b) Information on the reduction or elimination of the production, use, trade, emissions and release of mercury and mercury compounds;
   
   (c) Information on technically and economically viable alternatives to:
      
      (i) mercury-added products;
      
      (ii) manufacturing processes in which mercury or mercury compounds are used; and
      
      (iii) activities and processes that emit or release mercury or mercury compounds;
   
   including information on the health and environmental risks and economic and social costs and benefits of such alternatives; and
   
   (d) Epidemiological information concerning health impacts associated with exposure to mercury and mercury compounds, in close cooperation with the World Health Organization and other relevant organizations, as appropriate.

2. Parties may exchange the information referred to in paragraph 1 directly, through the Secretariat, or in cooperation with other relevant secretariats such as those of existing chemicals and wastes conventions, as appropriate.

3. The Secretariat shall facilitate cooperation in the exchange of information referred to in this article, as well as with the secretariats of relevant multilateral environmental agreements and other international initiatives. Information shall include information from intergovernmental and non-governmental organisations with expertise in the area of mercury, and from national and international institutions with such expertise.

4. Each Party shall designate a national focal point for the exchange of information under this Convention, [including with regard to export notifications and the consent of importing Parties under paragraph 2 of Article 4 and paragraph 2 (b) of Article 6.]

5. For the purposes of this Convention, information on the health and safety of humans and the environment shall not be regarded as confidential [, subject to the national laws of each country]. Parties that exchange other information pursuant to this Convention shall protect any confidential information as mutually agreed.

19. **Public information, awareness and education**

1. Each Party shall, within its capabilities, promote and facilitate:

   (a) Provision to the public of available information on:
      
      (i) The health and environmental effects of mercury and mercury compounds;
      
      (ii) Alternatives to mercury and mercury compounds;
      
      (iii) Domestically produced products that contain mercury and domestic processes that use mercury, and activities under way or planned to reduce or eliminate the same:[11]
      
      (iv) The topics identified in paragraph 1 of Article 18;
      
      (v) The results of their research, development and monitoring activities under Article 20;[12] [and]

---

8 Note: The contact group noted that this issue will be resolved according to the discussions on trade issues elsewhere in the draft text.

9 Note: The contact group supports the deletion of this paragraph provided its content is reflected elsewhere in the draft text.

10 The Legal group notes that if this text is to be included further edits of a drafting nature will be required.

11 To be kept in brackets pending the discussion on products and processes.

12 Note: The paragraph remains bracketed by the contact group subject to the discussions of Article 20.
(vi) Activities to meet its obligations under this Convention;

(b) Education, training and public awareness related to the effects of exposure to mercury and mercury compounds on human health and the environment in collaboration with relevant intergovernmental and non-governmental organizations [and vulnerable populations/populations at risk], as appropriate.

2. Each Party shall use existing mechanisms or give consideration to the development of mechanisms, such as pollutant release and transfer registers where applicable, for the collection and dissemination of information on estimates of its annual quantities of mercury and mercury compounds that are released or disposed of through human activities.

20. Research, development and monitoring

Parties should, building on existing monitoring networks and research programmes, cooperate to develop and improve:

(a) Inventories of use, consumption, and anthropogenic emissions to air and releases to water and land of mercury and mercury compounds;

(b) Modelling and geographically representative monitoring of mercury levels in vulnerable populations and environmental media, including biotic media such as fish, marine mammals, sea turtles and birds, as well as collaboration in the collection and exchange of relevant and appropriate samples;

(c) Assessments of the impact of mercury and mercury compounds on human health and the environment, in addition to social, economic and cultural impacts, particularly in respect of vulnerable populations;

(d) Harmonized methodologies for the activities undertaken under subparagraphs (a), (b) and (c) above;

(e) Information on the environmental cycle, transport (including long-range transport and deposition), transformation and fate of mercury and mercury compounds in a range of ecosystems, taking appropriate account of the distinction between anthropogenic and natural releases of mercury and of remobilization of mercury from historic deposition;

[(f) Information on commerce and trade in mercury and mercury-added products; and]

(g) Information and research on the technical and economic availability of mercury-free products and processes and on best available techniques and best environmental practices to reduce and monitor releases of mercury and mercury compounds.

13 Note: The legal group wondered whether the terms “use” and “consumption” mean different things. The legal group also noted that the term “consumption” is also used in article 8.