



Guide and Checklist for Phasing Out Mercury-added Products Under the Minamata Convention on Mercury



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An international non-profit Association
The EEB is a member of Accountable Now
EC register for interest representatives:
Identification number 06/ 98511314-27

December 2017

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This guide and checklist have been produced under the EEB/ZMWG project entitled: “Contributing to the preparation/implementation of the Minamata Convention on Mercury, with a focus on developing strategies for phasing out mercury-added products and on reducing mercury use in Artisanal and Small Scale Gold Mining through development of National Action Plans.” July 2014-December 2017.

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Funded by:



- The ‘Capacity Building related to Multilateral Environmental Agreements in Africa, Caribbean and Pacific countries’ Programme, Phase 2, of the European Union, via the Food and Agricultural Organization of the United Nations.
- The LIFE programme of the European Union

INTRODUCTION

The Minamata Convention on Mercury represents a major milestone in global efforts to reduce the adverse impacts of mercury. Under Article 4 of the Convention, Parties are not allowed to manufacture, import or export a prescribed list of mercury-added products after 2020, unless a Party registers for an extension of time under Article 6 of the Convention.¹ The covered list of products is provided in Part I of Annex A of the Convention. In addition, Parties must discourage the manufacture and sales of new types of mercury-added products.

This guide provides a simplified list of steps governments may take in preparing to undertake the Convention Article 4 obligations. It is intended to facilitate the implementation of the legal, institutional, and practical components of a mercury product phase out strategy, including those that may be performed as part of Minamata Initial Assessments (MIAs). The guide should be used in conjunction with the Convention text, and related materials providing additional details regarding Convention obligations.² For easy reference, the checklist of steps by itself is reproduced at the end of the guide. Also provided are resources related to various checklist items in the guide.

Countries may wish to consider the following checklist when undertaking their Minamata Initial Assessment (MIA) or other planning activities to meet Article 4 Convention obligations:





1. Development and Implementation of a Stakeholder Engagement Strategy

- **Identify relevant ministries and stakeholders, and form a structure to facilitate project input and coordination, such as a Products Advisory Committee (PAC)**
- **Determine roles, responsibilities, timeline, etc. for moving forward between the ministries with jurisdiction over relevant Article 4 obligations**

In many countries, the authority for regulating the products specified under Annex A may be divided among various agencies or ministries. For example, some of the products are medical devices (i.e., thermometers, blood pressure cuffs) and cosmetics, and thus may fall within the jurisdiction of the Health Ministry. Other products are biocides and pesticides, and may fall within the jurisdiction of the Agriculture Ministry. And customs/trade officials will inevitably be involved with enforcing product trade restrictions. Even where legal authorities are not divided, various Ministries may have concerns about the timing of mercury product phase-outs within their purview. Similarly, the product manufacturers/importers, and the users of these products, may provide important information regarding the current situation and how the phase-outs can best be conducted. Accordingly, it is important that all the relevant agencies and stakeholders are identified early in the process, and a coordination structure is developed.

Once the coordination structure is established, clear lines of responsibility will be needed among the various ministries to move the process forward. There will need to be a lead agency on products generally, and a clear division of responsibilities for each of the product categories where multiple agencies are involved. This is an opportunity to resolve existing areas of ambiguity regarding products regulation, and to establish an efficient and effective government-wide framework for implementing the Convention Article 4 obligations. These decisions will also facilitate how to fill in gaps in legal authorities identified (see discussion below).

- **Hold PAC inception meeting, identify significant implementation issues and data needs, set project goals, specify the sequence and timing of project milestones, and establish mechanisms for conducting outreach and obtaining input as project progresses**
- **Secure financial, technical and informational cooperation as needed from relevant agencies/ organizations and stakeholders**

After the ministries have organized themselves, the planning process itself must be organized. This process includes issue identification, activities to be undertaken to address these issues and conduct the situation assessment (see discussion below), and a timeline and process for moving forward. The timeline should bear in mind two important dates. The first date is the end of 2020, when the phase-out dates in Annex A become effective, absent an extension of time obtained under Article 6 of the Convention. The second date is 90 days after depositing the ratification instrument for joining the Convention. This date is the deadline applicable to governments becoming Parties to the Convention after it entered into force on August 16, 2017, for obtaining the extensions of time under Article 6.³ For each of the products covered in Part I of Annex A, governments must either be ready to implement the phase-out obligations by the end of 2020 or have submitted a timely registration for an extension of time.⁴

It may prove useful to organize the process into sectoral groups where the product categories have different lead ministries, and/or stakeholders (producers, traders, users) are product or sector-specific.

Developing countries may need financial assistance to perform this work. Assistance is available from the GEF, particularly as part of MIA development.⁵ Other assistance opportunities, depending upon the activity, may be provided under the Specific International Programme (SIP) created under Article 13 of the Convention and formally established at COP 1, the Special Programme to support institutional strengthening at the national level under all the chemical conventions,⁶ and bilateral aid from donor countries.

- **Facilitate stakeholder review and input on significant project work products**

The timeline and process for moving forward should facilitate the active participation from relevant stakeholder groups and civil society, consistent with Article 18 of the Convention. For some product categories, such as cosmetics, awareness raising activities may be needed to inform consumers about adverse health impacts and the availability of alternatives, and civil society input and assistance may be particularly helpful in designing and implementing those activities.





2. Situation Assessment

- **Conduct inventories of mercury-added product manufacture and trade, or otherwise obtain available data on manufacture and trade, as needed**

To understand the magnitude of the task ahead, governments will require information on the mercury products covered in Annex A currently produced or traded in the country. Trade data may contribute some of this information, but for many of the products, the trade data will not differentiate between mercury and non-mercury units, thus the data may be of limited value. Other sources of information may include the importers, manufacturers, or principal users of the products, and estimations based upon population and use patterns. UN Environment (formerly UNEP) has developed a toolkit which may assist in this regard (see resources below). Significantly, precise data are not necessarily required for planning purposes. Instead, this is about understanding the scale of production and trade, and prioritizing products and issues for further attention.

- **Assess availability of mercury-free or Convention compliant products/ devices by 2020**

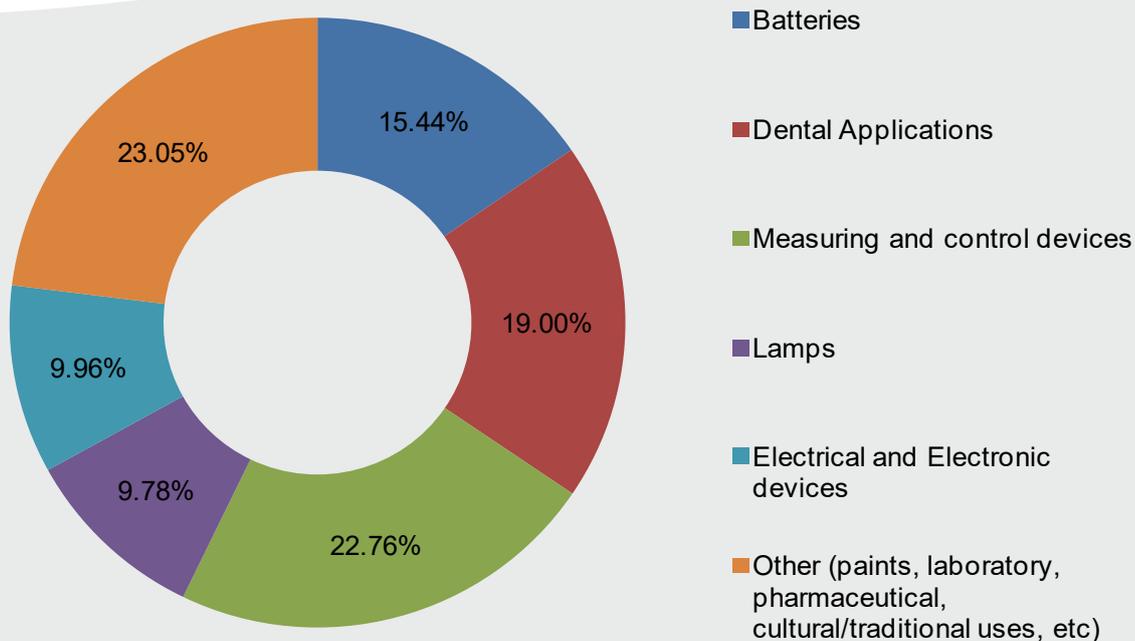
The need for an extension of time for compliance with the phase-out requirements will depend in large part on the availability of Convention compliant products in the country before the end of 2020. Where the mercury products are produced locally, this assessment may relate to the earliest or optimal time frame for converting to Convention compliant manufacturing processes. For most governments in the developing world, the mercury products are largely imported, and thus this evaluation will involve the global or regional availability of Convention compliant products, and the transition time that may be required by users of these products within the country. For example, in the case of medical devices, there may be a transition needed to ensure medical personnel are adequately trained to use and maintain the mercury free models. The resource materials identified in this guide include materials developed by UN Environment and WHO to assist in the transition to mercury free medical devices.

- **Assess existing institutional capacity to support mercury-added product phase-out activities, in areas such as information reporting and data platforms, product testing and compliance evaluation, trade monitoring, training of relevant officials, and enforcement**

Effective implementation of the product phase-out obligations may require laboratory and technology capacity to test products. Laboratories should meet applicable quality control standards. The specific measurement equipment needed may depend upon the methods selected for measuring mercury concentrations in targeted products for enforcement purposes (see discussion below). To facilitate rapid product testing in the field or at borders, governments may consider using XRF devices to measure mercury levels.⁷ Trade monitoring and enforcement should involve training of relevant officials, and may be facilitated by the development of trade codes and reporting requirements aimed at mercury units within product categories. Information platforms should be shared among the relevant agencies, including information on the availability of Convention compliant products. The role of local government officials should also be considered when identifying institutional capacity needs.

- **Conduct legal gaps analysis for addressing mercury-added products**

In addition to institutional capacity needs, legal authority needs must also be identified. This kind of legal gaps analysis is frequently performed as part of a MIA, and involves a comparison of the legal authorities needed to implement the Minamata Convention versus the authorities currently in place. NRDC prepared a checklist and guide to the legal authorities needed to implement all aspects of the Convention, including Article 4, available in three languages.⁸ The English version is listed in the resources section below.



3. Address Other Capacity Building and Strengthening Needs

- **Identify target populations for strategy implementation and improve hazard and risk communication initiatives**

As discussed above, the products phase-out activities may benefit from awareness raising activities, both for consumers unaware of the risks associated with mercury products and for stakeholders directly engaged in the transition to Convention compliant products. For example, women using skin lightening creams may benefit from outreach efforts to discourage the purchase of mercury-added cosmetics, particularly in informal market settings.⁹ And the transition to mercury free medical devices may benefit from outreach and training of medical personnel on the mercury-free alternative devices. Building capacities to develop and implement such awareness activities may be considered part of the product phase-out effort.

- **Improve occupational health and safety standards and practices for handling mercury**

The planning process for product phase-outs presents a good opportunity to review the applicable worker safety requirements for handling mercury, particularly as applied to Convention compliant products that will still contain mercury, products for which an extension of time is sought under Article 6, and waste handling associated with mercury products coming out of service. Article 16 of the Convention encourages Parties to promote programmes on occupational exposure to mercury and mercury compounds.

- **Establish method for determining mercury levels in products, calibration, validation, etc.**

Where Annex A of the Convention identifies products to be phased-out based upon their mercury concentration (batteries, lamps, cosmetics), governments may need to specify how those concentrations will be determined for enforcement purposes. Similarly, the remainder of the products where the phase-out applies to all “intentionally added” mercury, governments may need to specify a level or concentration of mercury indicative of “intentionally added” for the products, versus unintentional trace amounts. When developing this technical framework for enforcement, governments may wish to consult with international organizations or academics engaged in similar product testing.¹⁰

- **Promote reduction in illegal transboundary trade in mercury-added products**

The phase-out of the legal trade of mercury-added products may lead to increased illegal trade of at least some of these products, particularly products illegally or informally produced in some regions such as skin lightening creams. Fortunately, mercury products are not the first or only commodities where governments face this challenge under international treaties. Wildlife and ozone depleting substances are two examples of commodities where governments are coordinating activities aimed at curbing illegal smuggling. International organizations are involved in organizing and managing these coordination activities, and may be a useful starting point for strategic development.¹¹



Key Project Deliverables

In this portion of the guide, to facilitate the management of the overall effort, we identify the work products that should result from completion of the previously identified activities.

o Definition of roles and responsibilities of relevant ministries in the implementation of Article 4 obligations

This work product would reflect the results of the early planning activities, and clearly delineate lead agencies for each of the products and associated activities, and overall planning and management

o Identification of gaps in legal authorities and a path forward for the development of new legal authorities as needed, reflecting the alignment of implementation responsibilities for each of the relevant ministries

The legal gaps analysis discussed above should identify areas where new authorities are needed to meet Convention Article 4 obligations. Reflecting the allocation of roles and responsibilities, new authorities should be developed to enable timely Article 4 implementation.

o Determination regarding whether and for which product(s) registration for an exemption under Article 6 of the Convention is needed

A timely decision is needed as to whether a government will seek an extension of time beyond 2020 for one or more products listed in Annex A. If the decision is made to seek an exemption, a timely submission to the Convention Secretariat is also required.

- o Identification of priorities for filling institutional gaps and capacity needs, and sources of potential technical and financial support available to fill the gaps**
- o Identification of target populations for outreach initiatives related to priority products of concern in the country**

Key decisions must be made regarding which products are priorities for the government when identifying capacity needs. Prioritization may be particularly important where financial and technical assistance is sought from available financial assistance mechanisms. The priorities may reflect potential risks to affected populations, and/or challenges in making the necessary transitions. In either case, outreach strategies to affected populations may be part of the capacity needs identified for the targeted priority categories. Financial assistance opportunities should be identified and pursued. Governments may consider the participation of NGOs and civil society in project proposals and implementation.

o Improvement of occupational health and safety standards and practices for handling mercury, as needed

Where opportunities for improving worker safety have been identified, updated standards (and associated training) should be developed and operationalized.

Checklist for Phasing Out Mercury-added Products Under the Minamata Convention on Mercury

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- o Determine roles, responsibilities, timeline, etc. for moving forward between the ministries with jurisdiction over relevant Article 4 obligations
- o Hold PAC inception meeting, identify significant implementation issues and data needs, set project goals, specify the sequence and timing of project milestones, and establish mechanisms for conducting outreach and obtaining input as project progresses
- o Secure financial, technical and informational cooperation as needed from relevant agencies/organizations and stakeholders
- o Facilitate stakeholder review and input on significant project work products.

2. Situation assessment

- o Conduct inventories of mercury-added product manufacture and trade, or otherwise obtain available data on manufacture and trade, as needed
- o Assess availability of mercury-free or Convention compliant products/devices by 2020
- o Assess existing institutional capacity to support mercury-added product phase-out activities, in areas such as information reporting and data platforms, product testing and compliance evaluation, trade monitoring, training of relevant officials, and enforcement
- o Conduct legal gaps analysis for addressing mercury-added products.

3. Address Other Capacity Building and Strengthening Needs

- o Identify target populations for strategy implementation and improve hazard and risk communication initiatives
- o Improve occupational health and safety standards and practices for handling mercury
- o Establish method for determining mercury levels in products, calibration, validation, etc.
- o Promote reduction in illegal transboundary trade in mercury-added products.

Key Project Deliverables

- Definition of roles and responsibilities of relevant ministries in the implementation of Article 4 obligations
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- Determination regarding whether and for which product(s) registration for an exemption under Article 6 of the Convention is needed
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Resources

Minamata Convention on Mercury Website - <http://www.mercuryconvention.org>

UNEP Global Mercury Partnership – Mercury Reduction in Products - <http://web.unep.org/chemicalsandwaste/global-mercury-partnership/mercury-reduction-products>

UNEP -Toolkit for identification and quantification of mercury releases - <http://web.unep.org/chemicalsandwaste/what-we-do/technology-and-metals/mercury/toolkit-identification-and-quantification-mercury-releases>

ZMWG –Projects focusing on phasing out mercury added products webpage - http://www.zeromercury.org/index.php?option=com_content&view=article&id=319%3Ainternational-eebzmwg-supported-projects&catid=36%3Ageneral&Itemid=110

NRDC – Minamata Convention on Mercury Resources Website - <https://www.nrdc.org/resources/minamata-convention-mercury-contents-guidance-and-resources>

NRDC – Guide to Checklist of Minamata Convention on Mercury obligations which may require new legal authority - <https://www.nrdc.org/sites/default/files/guide-checklist-minamata-obligations.pdf>

NEWMOA- Mercury added product factsheets - <http://www.newmoa.org/prevention/mercury/imerc/factsheets/>

2015 Step-by-step Guidance on Phasing Out Mercury Thermometers and Sphygmomanometers, WHO - http://www.who.int/ipcs/assessment/public_health/WHOGuidanceReportonMercury2015.pdf?ua=1

Mauritius National Action Plan on Mercury (2015–2020), Ministry of the Environment and Sustainable Development, February 2014, supported by SAICM, UNEP and UNDP- <http://africainstitute.info/download/mauritius-national-action-plan-on-mercury/>

Restrictions on products containing mercury, EC - http://ec.europa.eu/environment/chemicals/mercury/restriction_en.htm

References

1. The Convention text may be found at <http://www.mercuryconvention.org/Convention/tabid/3426/language/en-US/Default.aspx> Part II of Annex A specifies the mercury use reduction measures applicable to dental amalgam, from which governments may select two or more. Given the wide range of possible activities under Part II, this guide is primarily directed at Part I of Annex A.
2. See e.g., <http://www.nrdc.org/international/files/minamata-convention-on-mercury-manual.pdf> for a detailed guide to the Convention text, and <http://www.mercuryconvention.org/Portals/11/documents/Awareness%20raising/UNEP%20PPT/Overview%20of%20the%20Minamata%20Convention%20on%20Mercury%20EN.pdf> , a presentation on the Convention prepared by UNEP.
3. For the initial Parties to the Convention, this deadline passed when the Convention entered into force on August 16, 2017.
4. The format for registering an exemption and thereby obtaining an extension of time can be found at: <http://www.mercuryconvention.org/Implementationsupport/Formsandguidance/tabid/5527/language/en-US/Default.aspx> Once submitted, the registrations are posted online at <http://www.mercuryconvention.org/Countries/Exemptions/tabid/5967/language/en-US/Default.aspx>
5. See <https://www.thegef.org/sites/default/files/documents/GEF%20Report%20to%20COP%201%20of%20Minamata%20Convention%20July%2026%20for%20GEF%20Council%20decis....pdf>
6. See http://unepmercurycop1.mediafrontier.ch/wp-content/uploads/2017/08/1_INF4_special_programme.pdf
7. See e.g., <http://www.journalhealthpollution.org/doi/pdf/10.5696/2156-9614-2.3.21?code=bsie-site>.
8. See <https://www.nrdc.org/resources/minamata-convention-mercury-contents-guidance-and-resources>
9. See <https://www.fda.gov/ForConsumers/ConsumerUpdates/ucm294849.htm> ; http://www.who.int/ipcs/assessment/public_health/mercury_flyer.pdf
10. See e.g., <http://united4efficiency.org/wp-content/uploads/2016/09/Compact-Fluorescent-Lamps-Check-Test-Results-and-Analysis-Report.pdf>
11. See e.g. <http://www.greencustoms.org/> ; <https://eia-international.org/our-work>.



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