



## **IPEN Quick Views for the Mercury Treaty COP 3**

**November 2019**

**The following summarises IPEN positions on key issues that will arise at COP 3 in November 2019 and tracks the work timetable of the COP. Detailed policy briefs are available where indicated.**

**Effectiveness Evaluation (EE) - Article 22. Agenda item 5 (Meeting docs MC/COP.3/14 and MC/COP.3.INF/15).**

- An intersessional expert group has been developing a framework for global mercury monitoring across a range of environmental media to measure the effectiveness of the treaty in reducing mercury pollution over time. IPEN and a number of parties have emphasised the need to include freshwater systems in any monitoring program and not just sea water. It will be important to ensure that freshwater monitoring remains in the monitoring framework as some parties have previously opposed it and it is currently excluded from the monitoring framework. The current draft decision seeks to adopt the proposed monitoring framework for effectiveness evaluation (EE), establish a dedicated EE Committee at COP 4 and a Monitoring Group to produce a report for the EE Committee. The first evaluation of global mercury pollution is to be prepared ahead of COP 5 under the current timetable.

**Review of Annex A (Mercury-added products) and Annex B (Processes using mercury) - Article 4 and 5 (Meeting doc MC/COP.3/4). See also [IPEN Policy Brief no. 3](#).**

- The COP is required to review Annexes A and B respectively no later than five years after the date of entry into force of the Convention. A draft decision at COP 3 will propose to establish an ad hoc group of experts made up of 20 Party representatives. 10 observers can be nominated from NGOs and other organisations. This group will review Annex A and B and consider any submissions from Parties to change the Annexes. They will also prepare a report on the effectiveness to date of Parties taking action on mercury products and processes. The expert group will report its findings at COP 4.
- The African Region is proposing to move dental amalgam from Part II to Part I of Annex A, which would move dental amalgam from a long term 'phase-down' to a short term 'phase-out' by 2020. IPEN supports the establishment of the expert committee, the review process and the African regional proposal. IPEN also supports adding fire gilding to Annex B.

**Harmonisation of commodity codes to track mercury-added products (Meeting doc MC/COP.3/5 MC/COP.3/INF/12).**

- This item relates to the difficulties in tracking international trade in mercury-added products because of the lack of global commodity code numbers that differentiate between a given product that does or does not have mercury added. A report has been prepared by the Secretariat on 4 approaches that can be taken to amend The Harmonized Commodity Description and Coding System. IPEN supports a rapid amendment to the codes to help identify mercury-added products in global trade. The full report at INF 12 will be presented for consideration only at COP 3.

**Mercury waste thresholds. Article 11 (Meeting doc MC/COP.3/7). See also [IPEN Policy Brief no. 2](#).**

- This is a very important item on the agenda as the establishment of threshold values will define what is and what is not mercury waste. It may not be agreed at COP 3 but it will be debated. For *wastes contaminated with mercury* (the largest type of mercury waste by volume including soils, sediments, industrial wastes etc.) the waste expert group has recommended a total concentration approach and rejected a leaching test approach. IPEN supports this approach as leaching tests generally predetermine that the waste will be sent to landfills or other land-based disposal mechanisms such as tailing ponds.
- IPEN supports a threshold value of 1 mg/kg to define waste contaminated with mercury. A value of 25 mg/kg has been suggested as an option in the draft decision of Meeting doc MC/COP.3/7. This value was raised at the expert meeting by one member *but was not supported or endorsed by any other member of the expert group*. This value is too high and should not have been proposed in the draft decision. If 25 mg/kg is adopted it will allow very large quantities of mercury waste to escape treatment and be used in ways that can lead to further contamination such as agricultural application and construction. Delegates must be made aware that 25mg/kg was never supported by the waste expert group.
- It is proposed that all elemental mercury retired from the commodity market or otherwise not permitted for allowed uses should be deemed 'mercury waste' without a threshold. IPEN supports this as long as mercury below 95% purity (a standard measure of elemental mercury) is classified as 'waste contaminated with mercury' to prevent confiscated mercury of lower purity (such as from illegal shipments) escaping the 'mercury waste' definition and subsequent disposal requirements on a legal technicality.
- It is proposed that all mercury-added products will be deemed mercury waste at their end-of-life phase without requiring a threshold. IPEN supports that position and also supports mandatory labelling of products, if they contain mercury, for identification purposes.

**Releases. Article 9 (Meeting doc MC/COP.3/6).**

- IPEN continues to support the development of comprehensive methods to identify and reduce mercury releases. The inventory development process is very slow and is required to address releases from *point sources not addressed in other provisions of this Convention*. An expert group has been tasked with identifying releases from point sources that are not covered under other provisions. The main issue remaining is how to address wastewater contaminated with mercury. Other sources not addressed elsewhere that were identified by the expert group include;

**Releases to land and water from:**

- **primary mercury mines up to 15 years from entry into force;**
- **the manufacturing of products not listed in Annex A, however, including products that contain mercury below the concentration limits listed in Annex A;**
- **dental practices that do not promote best environmental practices;**
- **manufacturing processes not listed in Annex B;**
- **the point source categories listed in Annex D which require BAT/BEP for emissions but not BAT/BEP for releases;**

- **waste rock, overburden and tailings from mining other than primary mercury mining.**
- COP 3 is being asked to approve *“a road map and structure for the development of draft guidance on methodologies for preparing inventories ... including a list of any significant anthropogenic point source of release categories not addressed in provisions of the Convention other than article 9”*, developed by the expert group. If this is agreed, then the expert group is *“to develop draft guidance on standardized and known methodologies for preparing inventories for the sources in that list.”* This draft guidance may perhaps be adopted at COP 4 in late 2021. Any actual reporting using finalised inventory methodologies could be up to five years away. IPEN supports the finalisation of guidance on release inventories as an actual tool for use by Parties at COP 4 (2021) at the latest. This requires a much shorter road map and timeline for completion of this important task.

**Financial mechanism: GEF, SIP (meeting doc MC/COP.3/9 and 3/10, MC/COP.3/INF/2 and 3).**

- To date GEF has funded 111 countries to develop Minamata initial assessments (MIAs) and 35 countries’ AGSM national action plans. \$206 million has been allocated to the mercury treaty under GEF-7 for enabling activities and for implementation projects and programmes. The GEF Gold program is spending \$180 million over 5 years and aims to reduce mercury use in ASGM in 8 strategic countries. COP 3 will decide if it needs to provide additional guidance as input to the GEF-8 replenishment.
- The Specific International Program (SIP) is a 10-year funded programme (with a possible 7-year extension) issuing grants to parties of between \$50,000 and \$250,000 for ‘first stage’ capacity building projects that can later be scaled up by GEF funding. No co-finance is required for SIP grants. In the first round 5 projects were funded and the second round of project applications is currently underway. These will be reported at COP 3. Donors have provided SIP with \$2,414,413 for the second round. The SIP board believe it is premature to have input to the financial review process of the mercury treaty at this stage.

**Financial mechanism: Review, ICC, capacity building (Meeting doc MC/COP.3/11, MC/COP.3/13 and MC/COP.3/INF/9 and MC/COP.3/INF/10).**

- Financial mechanism review: At COP 2 the Secretariat was requested to compile information on the adequacy of the financial mechanism. GEF and the SIP Board submitted material which is compiled in meeting doc 11 and which will be presented for consideration at COP 3. A draft decision invites the COP to prepare terms of reference for a second review to be considered at COP 4.
- The 15 Member Implementation and Compliance Committee (ICC) has met once since COP 1. COP 3 is required to re-elect 10 of its members for one term and 5 new members for two terms. The ICC has developed terms of reference for its operation and a template for Parties to report on compliance issues, both of which will be presented to COP 3 for adoption. The committee will meet again in Geneva in the first quarter of 2021.
- Capacity building: at COP 2 it was recognized that existing regional, subregional and national centres were providing capacity building support and projects. The COP asked for a compilation of information on these activities. The Intergovernmental Network on Chemicals and Waste for Latin America and the Caribbean as well as the government of Japan provided information. The Secretariat recommends that the COP consider the reports, the challenges and experiences and continue to review this issue at future COPs as more information

becomes available from reporting by parties relevant to article 21.

**Contaminated Sites (Meeting doc MC/COP.3/8 and MC/COP.3/INF/12), see also [IPEN Policy Brief no. 1](#).**

- IPEN had input to the guidance through the intersessional period and supports its adoption at COP 3. IPEN's contribution on remediation of indoor mercury contamination was not included in the guidance but has been included as supporting information in INF 12. It is proposed that, if adopted, the guidance would be subject to future reviews and IPEN would support the inclusion of further ASGM-specific remediation data in future versions of the guidance, especially where amalgam processing contaminates residential and commercial buildings (gold buyer shops etc) with mercury and must be decontaminated.

**Open Burning (Meeting doc MC/COP.3/17 and MC/COP.3/INF/16).**

- The issue of mercury emissions from open burning has struggled to get the attention it deserves on the treaty agenda. The Secretariat has requested that parties submit data on the issue but very few have responded. Japan is conducting some studies in this area. IPEN supports the establishment by the COP of an *ad hoc working group* to examine the issue and make recommendations on emissions and releases from open burning as well as improved waste management practices to address mercury in open burning. IPEN supports additional funding and capacity building to be directed toward source separation and environmentally sound management of waste in those regions where open burning is a significant issue.

***Items not addressed on the COP 3 agenda:***

**The 3 major gaps that weaken the treaty: Oil and gas, coal and ASGM**

- Oil and gas escape most regulation under the treaty. Despite being a significant source of emissions, releases and elemental mercury supply, there are no legal requirements for BAT/BEP on facilities to control emissions and releases. Currently it is also possible for elemental mercury recovered from oil and gas to be sold for ASGM use. The treaty should be amended to cover these loopholes by adding oil and gas production to Annex D and banning mercury recovered from oil and gas production from use in ASGM.
- Existing coal fired power stations have no legal obligations to implement BAT/BEP emission reductions and there is no limit on the number of new coal-fired power plants using BAT/BEP controls. Potentially thousands of new plants could be constructed with their overall emissions swamping pollution cuts from BAT/BEP measures. BAT/BEP requirements should apply to existing plants and a cap on the number of new plants should be implemented.
- ASGM should not be an allowable use of mercury and a rapid transition to a ban on mercury in ASGM should take place, with a full ban by 2025.

**Mercury supply sources and trade (Article 3)**

- This remains a key issue for IPEN and should be a priority issue for parties seeking to eliminate mercury use. IPEN maintains its call for individual parties to take the initiative, go beyond compliance with the treaty and *ban all imports and exports of mercury*. As long as the trade continues for 'allowable' uses, mercury will continue to be diverted to ASGM, resulting in huge costs to ASGM countries from health impacts and future contaminated sites remediation. Parties should plan to implement arrangements to allow for a small domestic supply of mercury to be replenished from recovery and recycling for the few essential uses of mercury that countries may have, if any.