Managing Mercury Trade for ASGM Under the Minamata Convention on Mercury

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# Requirements related to Trade and ASGM

<table>
<thead>
<tr>
<th>Trade Obligations under Article 3</th>
<th>ASGM Obligations under Article 7</th>
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<tbody>
<tr>
<td>➢ Restrictions on mercury sources permitted for use in ASGM</td>
<td>➢ Create NAP, including national objectives and reduction targets</td>
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<td>➢ Prior informed consent process</td>
<td>➢ Manage trade and prevent diversion to ASGM</td>
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<tr>
<td>➢ Trade permitted only for:</td>
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<tr>
<td>o “uses allowed” or</td>
<td></td>
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<tr>
<td>o environmentally sound interim storage</td>
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Criteria For Trade Related to ASGM

✓ Consistent with Convention and National/Local Law
✓ NOT from primary mining sources (e.g., Mexico)
✓ NOT from “excess” chlor-alkali sources [para 5(b)]
✓ Consistent with NAP obligations
  • NOTE: ASGM is only a “use allowed” if consistent with a country’s NAP, including national objectives and reduction targets
Why Licensing Systems?

- Not required by the Convention, BUT:
- Licensing provides advantages for Convention compliance:
  - Creates foundation of legal trade system, and a basis of enforcement against illegal trade
  - Makes PIC easier to implement
  - Makes Convention reporting easier
  - Countries can compare import/export license data gathered under PIC to spot problems
Building a Licensing System

- Legal framework - modification or new framework needed?
- Who is current responsible authority? Do you need a new one? Who will be PIC focal point under Article 17.4?
- Who else must be involved in decision-making (roles/responsibilities under ASGM NAP)?
Elements for Trade Control

<table>
<thead>
<tr>
<th>Elements</th>
<th>Rationale</th>
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<tbody>
<tr>
<td>Registration</td>
<td>• Useful to determine legitimacy and to get data from past years</td>
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<tr>
<td>Process</td>
<td></td>
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<tr>
<td>Shipment</td>
<td>• PIC procedure on shipment basis</td>
</tr>
<tr>
<td>License</td>
<td>• Criteria for decision-making</td>
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</table>
Interaction of Licensing and Prior Informed Consent

Importing Country

Exporting Country

Import Entity

Export Entity

Registration and Licensing

PIC Process

Commercial transaction

Registration and Licensing
Licensing Process Example: Mateo and Carolina

Mateo
Registered Exporter
- Applies for Export License

Mexico Licensing Authority
- Review; Criteria for Trade

Mexico Licensing Authority
- Seek Prior Informed Consent

Approve or deny export license

Carolina
Registered Importer
- Applies for Import License

Colombia Licensing Authority
- Review in context of NAP

Colombia Licensing Authority
- Provide or Deny PIC

Approve or deny import license
Illegal Trade Risk Assessment and Mitigation

**Assessment**
- Data Sources
- Magnitude of illegal trade
- Illegal trade hotspots and transportation routes
- Relationship to other illegal trade
- Methods of operation and concealment

**Mitigation**
- Set priorities for inspection/enforcement
- Successful prosecution of cases
- Evaluate results and modify as needed
Criminally prosecute offenders to the full extent of the law.

Proper evidence collection and preservation is key to convictions (physical and documentary)

Create deterrent effect by:

- Significant penalties (consider minimum fines or prison terms)
- Publicizing prosecution
Regional Cooperation Opportunities

- Model or common licensing systems or forms
- Enhanced PIC procedures and sharing to pinpoint and discourage illegal trade
- Illegal trade risk assessment and mitigation
- Customs training materials and workshops; sharing of information on smuggling critical
Regional and International Resources

- Formal and informal enforcement networks
- Interpol
- World Customs Organization (WCO) and its Regional International Liaison officers
- International Network for Environmental Compliance and Enforcement (INECE) [http://inece.org/topics/chemicals/](http://inece.org/topics/chemicals/)
- Regional enforcement networks (REN)
Resources

Convention requirements and approved trade consent forms
http://www.nrdc.org/international/ftoxic.asp

Elements of ODS import/export licensing systems
http://www.unep.fr/ozonaction/information/mmcfies/3197-e.pdf
Resources

E-learning module on illegal trade risk assessment (Chapter 3)

E-learning module on mechanisms for international collaboration (Chapter 6)
Resources

E-Learning Module for Customs Officers (CLICK ON FLYER FOR MORE INFORMATION)

UNEP OzonAction and the World Customs Organization are jointly developing an e-Learning course devoted to the enforcement of the Montreal Protocol, which regulates the international trade of ozone-depleting substances. This new module, which will be launched later in 2009, will be based on the contents of the updated UNEP Training Manual for Customs Officers and reflect WCO's expertise in developing and delivering online training to customs officers worldwide. This collaboration is being undertaken within the framework of an ongoing agreement between the two organizations to cooperate in capacity building of customs officers to facilitate legal trade in CDS and to fight illegal trade in these substances. This initiative is also under the auspices of the Green Customs Initiative, to which it is linked.

Enforcement Strategies for Combating the Illegal Trade in HCFCs and Methyl Bromide (2013)

This booklet provides guidance for establishing and implementing effective enforcement programs for preventing the illegal trade in HCFCs and methyl bromide. Drawing on lessons learned from earlier phase-outs, the booklet provides case studies, short examples and guidance from developed and developing countries. The booklet offers law enforcement officers numerous recommendations and highlights a variety of strategies, both simple and complex, that can be implemented with flexible approaches that maximize the efficient use of scarce human and financial resources.

Risk Assessment of Illegal Trade in HCFCs (2011)

The book provides guidance for assessing the risk of illegal trade in hydrochlorofluorocarbons (HCFCs). It is designed to assist governments in identifying the risks associated with illegal trade in HCFCs and to help them develop strategies to mitigate those risks.

Customs Training Materials
http://www.unep.org/ozonaction/Topics/Customs/tabid/6402/Default.aspx#CTM

Example of regional enforcement cooperation on illegal trade of chemicals and wastes
http://www.projectren.org/project_information.php