

319 gives us new tools to address the impacts of drought and climate change. It also sets the stage for cooperation between our two countries for many years to come,” said Drusina.

Mexican Commissioner Roberto Salmon highlighted the importance of this agreement by emphasizing that it constitutes a historic event, which, by using the 1944 Water Treaty as its basis, enables work to build toward the future in order to guarantee sustainability in the region and in particular future water supply for Mexican communities. He highlighted that this agreement provides the foundation for future unprecedented negotiations to benefit Colorado River basin residents in both countries.⁵

United States Supports New Multilateral Convention to Limit Mercury Discharges

In January 2013, the United States joined over 140 other countries in adopting the Minamata Convention on Mercury,¹ a multilateral convention aimed at limiting releases of mercury, a highly toxic heavy metal, into the environment.² According to a UN press release:

Over 140 governments meeting at a United Nations forum in Geneva have agreed to a global, legally-binding treaty to address mercury, a notorious heavy metal with significant health and environmental effects.

The Minamata Convention on Mercury—named after a city in Japan where serious health damage occurred as a result of mercury pollution in the mid-20th century—provides controls and reductions across a range of products, processes and industries where mercury is used, released or emitted.

These range from medical equipment such as thermometers and energy-saving light bulbs to the mining, cement and coal-fired power sectors, according to a news release issued today by the UN Environment Programme (UNEP), which convened the negotiations.

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The treaty, which has been four years in negotiation and which will be open for signature at a special meeting in Japan in October, also addresses the direct mining of mercury, export and import of the metal and safe storage of waste mercury.

Pinpointing populations at risk, boosting medical care and better training of health care professionals in identifying and treating mercury-related effects will also form part of the new agreement.

UNEP noted that mercury and its various compounds have a range of serious health impacts, including brain and neurological damage especially among the young. Others include kidney damage and damage to the digestive system. Victims can suffer memory loss and language impairment alongside many other well-documented problems.

⁵ International Boundary and Water Commission, United States and Mexico, Press Release, Commission Signs Colorado River Agreement (Nov. 20, 2012), at http://www.ibwc.state.gov/Files/Press_Release_112012.pdf.

¹ John Heilprin, *More Than 140 Nations Adopt Treaty to Cut Mercury Emissions*, WASH. POST, Jan. 20, 2013, at A5.

² As of the date of this writing (late February 2013), the text of the new convention is not yet available on the UNEP website. A brief preliminary analysis of the convention's major provisions by Massachusetts Institute of Technology graduate students is available online at <http://mercurypolicy.scripts.mit.edu/blog/?tag=minamata-convention>.

Among the provisions of the treaty, governments have agreed on a range of mercury-containing products whose production, export and import will be banned by 2020. These include batteries, except for “button cell” batteries used in implantable medical devices; switches and relays; certain types of compact fluorescent lamps (CFLs); mercury in cold cathode fluorescent lamps and external electrode fluorescent lamps; and soaps and cosmetics.

Certain kinds of non-electronic medical devices such as thermometers and blood pressure devices are also included for phase-out by 2020.

Governments also approved exceptions for some large measuring devices where currently there are no mercury-free alternatives. In addition, vaccines where mercury is used as a preservative have been excluded³ from the treaty as have products used in religious or traditional activities.⁴

During the January negotiations, the U.S. delegation stressed the need for the new instrument to address mercury emissions into the air.

Mr. Chair, I'd like to take a moment to speak to what we see as a significant environmental challenge here—and the largest global source of mercury pollution to be addressed under this Convention—air emissions.

If this Convention is to achieve our shared objective, all parties must reduce emissions of mercury from a set of defined sources. At past [Intergovernmental Negotiating Committees], some have proposed that air emissions be addressed only through voluntary measures. Those proposals seem to reflect two concerns. The first is the need for flexibility in implementation. We believe there is a way to balance clear obligations to reduce emissions with provisions that are inherently flexible in their implementation. We made some progress at INC-4 in this regard. There we worked with other delegations to capture the inherent flexibility of best available techniques (BAT), and we are convinced that here we can build on that foundation to achieve an agreement with clear obligations on air emissions this week with the needed element of flexibility in their implementation.

The second concern is the perception that any obligations with respect to air emission of mercury are somehow inconsistent with development goals, particularly the needs of countries to supply energy to their citizens. Let me be very clear—we recognize the need for continued growth and development, including the use of coal for power generation. The United States does not advocate an obligation that would require any Party to stop burning coal. But this draft convention does not present a choice between environment and development. Rather, the issue here is whether development will take place sustainably, in a way that protects human health and the environment from mercury pollution. We believe that this convention has no more important purpose than to meet this objective.⁵

³ [Editor's note: Prior to the January 2013 negotiations, some leading international health authorities urged that the new convention not ban use of thimerosal, a mercury compound used in many developing countries to prevent contamination in multi-dose vaccine vials. However, some advocacy groups unsuccessfully urged a ban on the substance. Sabrina Tavernise, *Vaccine Rule Is Said to Hurt Health Efforts*, N.Y. TIMES, Dec. 17, 2012, at A4.]

⁴ UN News Centre Press Release, Governments at UN Forum Agree on Legally-Binding Treaty to Curb Mercury Pollution (Jan. 19, 2013), at <http://www.un.org/apps/news/story.asp?NewsID=43963&Cr=mercury&Cr1=#>.

⁵ U.S. Dep't of State Press Release, Remarks at the Opening of the Fifth Session of the United Nations Environment Programme's Intergovernmental Negotiating Committee to Prepare a Legally Binding Instrument on Mercury (Jan. 13, 2013), at <http://www.state.gov/e/oes/rls/remarks/2013/203045.htm>.

The U.S. Department of State's Bureau of Oceans and International Environmental and Scientific Affairs applauded the outcome.

The United States is pleased to have worked with more than one hundred and forty other governments to adopt an historic agreement on mercury that will help protect not only the health of the U.S. public, but human health and the environment all over the world. Mercury warrants global attention due to its long-range atmospheric transport, its persistence in the environment, and its significant negative effect on human health and the environment. Mercury exposure is a major public health threat, particularly for children and women of childbearing age. Mercury can damage or impair the functioning of nerve tissue and even permanently damage the brain, kidneys, and developing fetus. According to most estimates, global sources contribute at least 70 percent of total U.S. mercury deposition.

The agreement, known as the Minamata Convention on Mercury, calls for the reduction of mercury emissions to the air and a decrease in the use of mercury in products and industrial processes. It will help reduce the supply of mercury by, among other things, ending primary mercury mining. The Convention will ensure environmentally sound storage of mercury and disposal of waste. The agreement also calls on governments to address the use of mercury in small-scale gold mining, which uses and releases large amounts of mercury.

"We are very pleased with the outcome of these negotiations. Transboundary air emissions are a significant global challenge that no single country can solve on its own," said Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs Kerri-Ann Jones. "This agreement is an enormous success that will allow us to work together in coming years with countries around the world to make a meaningful difference in addressing mercury pollution."

The Minamata Convention negotiations ended in Geneva, Switzerland, on January 19, following four years of negotiation efforts. The convention will be open for signature at a Diplomatic Conference in Japan in October. The name of the convention pays respect to Minamata, the Japanese city that experienced severe mercury pollution in the mid-20th century. Many local citizens of Minamata suffered from a neurological syndrome caused by mercury poisoning, which became known as Minamata disease, from consuming contaminated fish and shellfish from Minamata Bay.⁶

Following signature at the October 2013 diplomatic conference, the new convention will presumably require submission to the U.S. Senate for advice and consent.

INTERNATIONAL TELECOMMUNICATIONS AND ECONOMIC LAW

United States Rejects International Telecommunications Union Conference Outcome, Fearing Interference with Internet Freedom

In December 2012, the International Telecommunications Union (ITU) convened the World Conference on International Telecommunications (WCIT) in Dubai to update the International Telecommunications Regulations (ITRs).¹ As described by the ITU, the ITRs "serve as the binding global treaty designed to facilitate international interconnection and

⁶ U.S. Dep't of State Press Release, *The United States Applauds the Adoption of the First Global Agreement to Reduce Mercury Pollution* (Jan. 31, 2013), at <http://www.state.gov/e/oes/rls/pr/2013/203651.htm>.

¹ Eric Pfanner, *Integrity of Internet Is Crux of Global Conference*, N.Y. TIMES, Nov. 28, 2012, at B2.