



2023/2417

6.11.2023

COUNCIL DECISION (EU) 2023/2417

of 23 October 2023

on the position to be taken on behalf of the European Union at the fifth meeting of the Conference of the Parties to the Minamata Convention on Mercury as regards the adoption of a decision to amend Annexes A and B to that Convention

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Minamata Convention on Mercury (the 'Convention') was concluded by the Union by Council Decision (EU) 2017/939 ⁽¹⁾ and entered into force on 16 August 2017.
- (2) Pursuant to Decision MC-1/1 on Rules of Procedure, adopted by the Conference of the Parties to the Convention ('COP') at its first meeting on 24-29 September 2017, the Parties to the Convention (the 'Parties') are to make every effort to reach agreement on all matters of substance by consensus.
- (3) Pursuant to Articles 4(8) and (9) and 5(10) and (11) of the Convention, by 16 August 2022 the COP is to review Annexes A and B to the Convention and may consider amendments to those Annexes, taking into account proposals submitted by the Parties pursuant to Articles 4(7) and 5(9) of the Convention, the information made available by the Secretariat of the Convention pursuant to Articles 4(4) and 5(4) of the Convention, and the availability of technically and economically feasible mercury-free alternatives taking into account the associated environmental and human health risks and benefits.
- (4) On 30 April 2021, by Council Decision (EU) 2021/727 ⁽²⁾, the Union submitted to the Secretariat of the Convention a proposal to amend Annexes A and B to the Convention, in accordance with Articles 4(7) and 5(9) of the Convention. The Union's proposal to amend Annex A to the Convention aimed at extending its scope of application to additional mercury-added products with associated phase-out dates or mercury-regulating measures. The Union's proposal to amend Annex B to the Convention aimed at introducing a phase-out date for the production of polyurethane using mercury-containing catalysts.
- (5) At the second segment of its fourth meeting on 21-25 March 2022, the COP decided in its Decision MC-4/3 to include eight new mercury-added products in Part I of Annex A to the Convention.
- (6) However, for four mercury-added products no agreement was reached on phase-out dates. Decision MC-4/3 deferred the decision on those phase-out dates to the fifth meeting of the COP to be held from 30 October to 3 November 2023.
- (7) Decision MC-4/3 also deferred the decision on adding the production of polyurethane using mercury-containing catalysts to Part I of Annex B to the Convention to the fifth meeting of the COP.
- (8) New proposals for amending Annex A to the Convention have been submitted by the Africa Region in accordance with Article 4(7) of the Convention. The proposals concern mercury-containing lamps, dental amalgam and cosmetics, and propose new text for Parts I and II of Annex A to the Convention.

⁽¹⁾ Council Decision (EU) 2017/939 of 11 May 2017 on the conclusion on behalf of the European Union of the Minamata Convention on Mercury (OJ L 142, 2.6.2017, p. 4).

⁽²⁾ Council Decision (EU) 2021/727 of 29 April 2021 on the submission, on behalf of the European Union, of proposals to amend Annexes A and B to the Minamata Convention on Mercury, regarding mercury-added products and manufacturing processes in which mercury or mercury compounds are used (OJ L 155, 5.5.2021, p. 23).

- (9) The Union should support amendments to Annexes A and B to the Convention in so far as they would be consistent with the Union *acquis* or with the Union's submission contained in Decision (EU) 2021/727.
- (10) To the extent that they are referred to in the submission by the Africa Region, the Union should support amendments to Annex A to the Convention in so far as they cover lamps, dental amalgam and cosmetics.
- (11) At the fifth meeting of the COP, the Parties will consider the adoption of a decision to amend Annex A to the Convention.
- (12) It is appropriate to establish the position to be taken on the Union's behalf at the fifth meeting of the COP, as the proposed decision amending Annex A to the Convention, if adopted, will have legal effects, since the Parties will have to take measures to implement it at national or regional level,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf at the fifth meeting of the COP to the Minamata Convention on Mercury (the 'Convention') shall be to support the adoption of a decision to amend Annex A thereof which:

- is consistent with the Union *acquis*; or
- is consistent with Decision (EU) 2021/727; or
- aims at supporting a phase-out of mercury-containing lamp categories referred to by the Africa Region in its submission made in accordance with Article 4(7) of the Convention, and for which the requests for renewal of the exemptions on mercury use have been rejected, in accordance with Directive 2011/65/EU of the European Parliament and of the Council ⁽⁹⁾; or
- aims at supporting a phase-out of the use of dental amalgam.

Article 2

Refinement of the position referred to in Article 1 may be agreed to, in light of developments at the fifth meeting of the COP, by representatives of the Union, in consultation with Member States during on-the-spot coordination meetings, without further decision by the Council.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Luxembourg, 23 October 2023.

For the Council
The President
L. PLANAS PUCHADES

⁽⁹⁾ Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment (OJ L 174, 1.7.2011, p. 88).