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NOTE

From: General Secretariat of the Council
To: Delegations

Subject: Fifth meeting of the Conference of the Parties (COP5) to the Minamata Convention on Mercury (Geneva, Switzerland, 30 October - 3 November 2023)
- Information from Presidency and the Commission

Delegations will find in the Annex an information note from the Presidency and the Commission on the above subject, to be dealt with under "Any other business" at the Council (Environment) meeting on 18 December 2023.

**Fifth meeting of the Conference of the Parties (COP5) to the Minamata Convention on
Mercury
(Geneva, Switzerland, 30 Oct. – 3 Nov. 2023)**

- Information from Presidency and the Commission -

Summary

COP5 concluded successfully by adopting decisions which are on most issues in line with the EU position. The 115 of the 147 Parties attending the Conference of the Parties adopted by consensus 18 decisions, resolving unfinished business from the fourth meeting of the Conference of the Parties (COP4) and setting the way for strengthening the implementation of the Convention and making progress towards making mercury history. Notably the COP agreed on a single value for a mercury waste threshold after seven years of negotiations. Furthermore, phase-out dates for mercury-added products (including mercury-containing lamps) and processes using mercury (including polyurethane) were agreed, all of which were in line with the ambitious phase-out dates supported by the EU. Unfortunately, no agreement was reached on phasing out the production and trade of dental amalgam, but the item will be considered at COP6 in 2025.

Details of the outcomes

The major successes of COP5 include the adoption of the following ***amendments to Annexes A and B*** to the Convention listing mercury-added products that are subject to a prohibition of manufacture, import and export at given phase-out dates and manufacturing processes, as well as addressing the use of dental amalgam:

- Adding five mercury-containing lamp categories as well as batteries, switches and relays and cosmetics to ***Part I of Annex A***.

- Although supported by most delegations, including the EU, no consensus could be reached regarding the establishment of a phase-out date for **dental amalgam** due to firm obstruction by USA, UK and Canada. Hence, the entry on dental amalgam including its phase-out date remains bracketed and shall be reconsidered at COP6 (November 2025).
- Parties agreed to complement **Part II of Annex A** with legally-binding requirements for Parties to submit a national action plan or a report based on available information with respect to progress they have made or are making to phase down or phase out dental amalgam every four years as part of national reporting. Those requirements are fully in line with the EU acquis.
- Regarding the African Region's proposal to address the online sale and supply of illegal mercury-containing **cosmetics**, the COP decided to include guidance on the implementation of the prohibition on mercury-containing cosmetics in the decision by tasking the Minamata Secretariat with collecting relevant information on challenges Parties face and compiling these challenges in view of discussing possible future implementation measures at COP6.
- The COP decided to add the **Polyurethane** manufacturing processes using mercury as catalysts in **Part I of Annex B** with a phase-out date of 2025.
- The COP also decided to establish that mercury-free processes for sodium or potassium methylate or ethylate production have become technically and economically feasible. This means that Parties must cease to use mercury in **sodium or potassium methylate or ethylate production** in five years (2028). Unfortunately, the COP was not able to agree to a phase out of the production of **vinyl chloride monomer**, with China (a major producer of vinyl chloride monome) arguing that mercury-free alternatives are not yet available. The COP therefore requested the Minamata Secretariat to collect information from Parties and other relevant stakeholders on mercury-free alternatives to vinyl chloride monome production to be presented at COP6 (2025).

Regarding the establishment of a *threshold for contaminated mercury waste*, this Decision represents a significant step aiming at resolving the stalemate during COP3 and COP4. The adopted COP decision on mercury waste thresholds provides as follows:

- To establish 15 mg/kg total concentration of mercury as the threshold for wastes falling under subparagraph 2 (c) of article 11 of the Minamata Convention
- By way of compromise, the COP also adopted an opt-out clause for Parties who have implemented other measures to classify mercury containing waste (e.g. Chile, Canada, USA, Argentina, Japan) applying for example a leachate concentration as opposed to a total mercury concentration.
- Setting out a preparatory process for implementing the remaining unfinished business under Article 11(3)(a) which is to develop an Annex containing requirements for managing mercury wastes in an environmentally sound manner, taking into account the guidelines developed under the Basel Convention. The EU will need to decide if it wants to table such a proposal for such an annex at least six months before COP6.

Regarding the *effectiveness evaluation* some difficulty in reaching consensus was due to Iran tabling a request at COP for an excessive number of members per UN region who would be sitting in the Effectiveness Evaluation Group. Iran asked for eight members per UN Region, as compared to only two members per UN Region sitting in the Effectiveness Evaluation Group established under the Stockholm Convention. In plenary, Parties proposed four as a compromise, but Iran was not willing to go below six. The COP reached agreement on the list of indicators to be used in the effectiveness evaluation process, on the finalisation of the first effectiveness evaluation cycle which will be at COP7 (2029) and a compromise on five members per UN region who will be sitting in the Effectiveness Evaluation Group with an understanding that the group will work online between COP5 and COP6 and the number of members will be re-evaluated at the end of the first effectiveness evaluation cycle.

Regarding the ***budget***, the General Trust Fund of the Minamata Convention on Mercury approved the budget for the general trust fund for the biennium 2024-2025 of 8 401 554 United States dollars which consists of an increase of 6.1% and allows the small Secretariat to implement its core tasks.

Other COP5 decisions provide for inter alia the following:

- Adopting guidance on best available techniques and best environmental practices to control releases of mercury from relevant sources in Plenary sessions and without a need for dedicated sessions.
- Addressing more effectively artisanal and small-scale gold mining
- Promoting better participation of indigenous people and local communities in the work of the Convention
- Developing a study of the global supply, production, trade and use of mercury compounds
- Requesting the Secretariat to support Parties in better understanding trade provisions of the Convention,
- Making a contribution of the Minamata Convention to the Kunming-Montreal Global Biodiversity Framework by proposing an indicator based on mercury,
- Giving guidance to the Convention's Financial Mechanisms (the Global Environmental Facility and the Specific International Programme)
- The Convention's Implementation and Compliance Committee,
- International cooperation and coordination,
- Promoting Gender mainstreaming.