

# EXPLANATORY MEMORANDUM ON THE MINAMATA CONVENTION ON MERCURY

## Title of Treaty

Minamata Convention on Mercury

Command Paper Number: 9538

## Subject Matter

This explanatory memorandum refers to the proposed ratification by the United Kingdom of the Minamata Convention on Mercury. The Convention is an international treaty designed to protect human health and the environment from anthropogenic emissions and releases of mercury and mercury compounds. It aims to achieve this goal by imposing restrictions on the production, trade in, and use of mercury and mercury-added products worldwide.

Mercury is a substance that produces significant adverse neurological and other health effects and there are particular concerns about its harmful effects on unborn children and infants. In 2001, the United Nations Environment Programme Governing Council (UNEP) undertook a global assessment of mercury and its compounds which included, information on the chemistry and health effects, sources, long-range transport, and prevention and control technologies relating to mercury. In 2003, the UNEP Governing Council considered this assessment and found that there was sufficient evidence of significant global adverse impacts from mercury and its compounds to warrant further international action. In 2009, the UNEP Governing Council decided on the need for further action on mercury, including the preparation of a global legally binding instrument. In January 2013, the intergovernmental negotiating committee concluded its fifth session by agreeing on the text of the Minamata Convention on Mercury. The text was adopted by the Conference of Plenipotentiaries on 10 October 2013. The UK was very active during the Convention negotiations; fully supporting its objectives and signed the Convention in October 2013. The measures in the Convention were negotiated largely on the basis that the measures already existed within the European Union (EU).

The Convention currently has over 128 signatories. 84 countries have ratified the Convention and it entered into force on 16 August 2017. It is anticipated that coordinated implementation of the obligations of the Convention will lead to an overall reduction in mercury levels in the environment over time, thus meeting the objective of the Convention to protect human health and the environment.

The EU and each of its Member States are signatories to the Convention in their own right and each will need to ratify the Convention individually. The EU and 13 Member States have ratified the Convention since May 2017.

## **Ministerial Responsibility**

The Secretary of State for Environment, Food and Rural Affairs had primary responsibility in the Convention negotiations. Responsibility for meeting the Convention requirements lies with the Secretary of State for Environment, Food and Rural Affairs, Scottish Ministers, Welsh Ministers and Northern Ireland Executive Ministers. The Secretary of State for Health and the Secretary of State for Health's counterparts in the devolved administrations have responsibility for meeting the Convention requirements in relation to the use of dental amalgam.

The Secretary of State for Foreign and Commonwealth Affairs has overall responsibility for the conclusion and implementation of treaty obligations and responsibility for their application in Overseas Territories.

## **Policy Considerations**

### **(i) General**

Mercury can be released naturally from volcanic activity and rock weathering but is also released from a range of anthropogenic sources, including: energy production (in particular, from coal combustion); industrial processes (such as cement production, metallurgical processes, and processes using mercury as a catalyst) and waste management (in particular, incineration).

Once released into air or water, mercury can travel over long distances and mercury pollution is therefore a global issue. The release of mercury into the environment is problematic for a number of reasons: it does not break down easily and once deposited in soil or sediments it may change its chemical form and become methylmercury. Methylmercury is not readily eliminated from organisms and so accumulates at each step in the food chain, magnifying particularly in aquatic food chains from bacteria, to plankton, through macroinvertebrates, to herbivorous fish and to fish-eating fish. This exposure of fish to sub-lethal mercury concentrations can lead to a wide variety of physiological, reproductive and biochemical abnormalities.

The World Health Organization (WHO) lists mercury among the 'ten chemicals of major public health concern'. Mercury may produce harmful effects on the central nervous system, thyroid, kidneys, lungs, immune system, eyes, gums and skin. Human exposure occurs mainly through the consumption of seafood containing methylmercury and through inhalation of elemental mercury vapours released from industrial processes or artisanal and small-scale gold mining.

Although all humans are exposed to mercury to some degree, some groups are at a higher risk, in particular foetuses, breast-fed babies and infants exposed through seafood consumption, either directly or through their mother, and people who are chronically exposed to high levels of mercury, for instance due to subsistence fishing or work.

The Minamata Convention contains a number of legal requirements, most notably:

- Restrictions on new primary mercury mining and phases out existing primary mercury mining.
- Requirements on Parties to 'endeavour to identify' mercury stocks.
- Controls on disposal of excess mercury from decommissioned chlor-alkali plants.
- Restrictions on mercury exports and imports.
- Prohibitions on the manufacture, import and export of certain mercury-added products.
- Requirement on the phase-down of the use of dental amalgam.
- Prevents the incorporation of mercury-added products in assembled products.
- Discourages the manufacture and distribution of new mercury-added products.
- Prohibits mercury use in certain manufacturing processes and restricts mercury use in others.
- Requirements on Parties to reduce or eliminate emissions from artisanal and small-scale gold mining ("ASGM") and to develop an action plan if applicable.
- Requires mercury emission and release control measures for certain industrial activities.
- Requires the establishment of an emissions and releases inventory.
- Requires measures to ensure interim storage of mercury and mercury compounds and of mercury waste is undertaken in an environmentally sound manner.

Most of these requirements were already met by EU legislation at the time the UK signed the Convention. However, a small number of legislative gaps needed to be filled to enable the EU and its Member States to ratify the Convention. The European Commission addressed these legislative gaps through Regulation (EU) 2017/852 on Mercury issued in May 2017.

## **(ii) Financial**

Once the UK has ratified the Convention there will be an annual contribution to the General Trust Fund of the Minamata Convention, covering the work and cost of the secretariat. The estimated pro-rata UK assessed contribution for 2018 is £139,500, based on the UK depositing its instrument of ratification in January, with an estimated contribution for 2019 of £186,000 – subject to budget negotiations next year.

In addition, the Minamata Convention invites developed country parties to contribute, within their capabilities, to a financial mechanism to help developing country Parties and Parties with economies in transition achieve their commitments under the Convention. The financial mechanism for the Minamata Convention includes:

- (a) The Global Environment Facility Trust Fund (GEF); and
- (b) A Specific International Programme to support country-driven capacity building and technical assistance.

The GEF is financed by developed countries, mainly the G7, with some contributions from developing countries and countries with economies in transition, through 4-yearly replenishments. We are currently in the GEF6 replenishment which has a total budget of \$4.3bn of which the UK (Department for International Development (DFID) and Department for Environment, Food and Rural Affairs (DEFRA)) is contributing £210m for the period 2014- 2018 (£52.5m per annum). Negotiations for the GEF7 2018-2022 replenishment are currently underway.

Defra has also pledged an additional £108,000 to the Specific International Programme to help capacity building and technical assistance. These contributions qualify as official development assistance and be met from the UK's existing legislative commitment to spend 0.7% of Gross National Income on development assistance.

### **(iii) Reservations and Declarations**

There are no reservations or declarations involved in the UK's ratification of the Convention.

### **(iv) Implementation**

Regulation (EU) 2017/852 was adopted by Member States to fill gaps in existing EU mercury legislation and enable ratification of the Minamata Convention. The Regulation will fully apply from 1 January 2018.

The EU Regulation is directly applicable in UK law but domestic legislation is required in order to designate authorities for the enforcement of its provisions. The Defra Secretary of State, in agreement with Ministers in the devolved administrations, have decided to introduce a single set of UK-wide regulations. This approach to implementation is intended to make the legislation as effective, simple to understand and easy to comply with, as possible. A consultation seeking the views of stakeholders' on the Government's proposed approach to implementing the EU Regulation was launched on the 23 October 2017 and will run for 4 weeks. The Government anticipates laying the UK implementing legislation in December 2017 to come into force on the 1 January 2018.

The Government intends, subject to parliamentary approval, to incorporate EU law into UK law, where appropriate, following our exit from the EU. This would mean that following the UK's exit from the EU there would continue to be legislation in the UK to enable the Minamata Convention obligations to be met.

**(v) Consultations**

UK industry, environmental stakeholders and the devolved administrations were kept informed of the Minamata Convention negotiations and are broadly supportive of the outcome which brings significant global environmental benefits. Industry and environmental groups took part as observers during the negotiations and expressed their views to the negotiators from the UK and other countries. The Overseas Territories and Crown Dependencies were also informed of the negotiations and have been consulted about their own ratification, which is a decision for the Governments of those territories and dependencies.



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