

## Explanatory Statement 21 of 2022

### 2022 Amendment to Annex A of the Minamata Convention on Mercury

#### Practical and legal effect

1. The minor treaty action is the deemed acceptance by Australia of amendments to Annex A of the *Minamata Convention on Mercury* (the Convention).
2. Mercury pollution is a significant threat to human health and the environment globally. As a Party to the Minamata Convention, Australia is obliged to give effect to coordinated, multilateral actions to manage and reduce mercury pollution as agreed by consensus through the Conference of the Parties to the Convention.
3. At the Fourth Conference of the Parties (COP4, held 21-25 March 2022), a decision was adopted by consensus to amend Part I and Part II of Annex A of the Convention.
4. Additional mercury-added products were listed in Annex A, Part I. These new listings in Annex A, Part I will prohibit the manufacture, import and export of the following products from 31 December 2025:
  - a) compact fluorescent lamps with an integrated ballast for general lighting purposes that are  $\leq 30$  watts with a mercury content not exceeding 5 mg per lamp burner;
  - b) cold cathode fluorescent lamps and external electrode fluorescent lamps of all lengths for electronic displays not already phased out;
  - c) strain gauges used in plethysmographs;
  - d) melt pressure transducers, melt pressure transmitters and melt pressure sensors, except those installed in large-scale equipment or those used for high precision measurement, where no suitable mercury-free alternative is available;
  - e) mercury vacuum pumps;
  - f) tyre balancers and wheel weights;
  - g) photographic film and paper; and
  - h) propellant for satellites and spacecraft.
5. Under the Convention, there are specific exclusions relating to the product listings in Annex A, Part I:
  - a) Products essential for civil protection and military use
  - b) Products for research, calibration of instrumentation, for use as reference standard
  - c) Where no feasible mercury-free alternative for replacement is available, switches and relays, cold cathode fluorescent lamps and external electrode fluorescent lamps (CCFL and EEFL) for electronic displays, and measuring devices
  - d) Products used in traditional or religious practices and
  - e) Vaccines containing thiomersal as preservatives.
6. The practical, legal and financial impact of Australia complying with the new product listings to Annex A, Part I of the treaty are negligible.
  - a) The *Recycling and Waste Reduction (Mandatory Product Stewardship – Mercury-added Products) Rules 2021* already impose controls on mercury-added products listed in Annex A of the Convention, as in force from time to time. The Office of

International Law has advised that legislative amendments will not be required to bring effect to the treaty action.

- b) Mercury uses in the listed products are old practices that have been superseded by newer technologies. There is one small-medium enterprise in Queensland that manufactures mercury-added tyre balancing devices. The company have been advised to consider transitioning their business to alternative technologies in advance of the phase-out date of 31 December 2025.
  - c) The amendments are expected to be adopted by a significant number of Australia's trading partners.
  - d) Relevant industry sectors that may be impacted by the treaty action were consulted prior to negotiations on the product listings at COP4.
7. The amendments made to Annex A, Part II will strengthen the control of mercury used in dental procedures. In addition to existing obligations to phase-down dental amalgam under the Convention, Parties will also be required to:
    - a) exclude or not allow, by taking measures as appropriate, the use of mercury in bulk form by dental practitioners; and
    - b) exclude or not allow, by taking measures as appropriate, or recommend against the use of dental amalgam for the dental treatment of deciduous teeth, of patients under 15 years, and of pregnant and breastfeeding women, except when considered necessary by the dental practitioner based on the needs of the patient.
  8. The practical, legal and financial impact of Australia complying with the new obligations relating to dental amalgam in Annex A, Part II of the treaty are negligible.
  9. The Dental Board of Australia has released a draft Position Statement for the dental sector that outlines expectations on dental practitioners with respect to practicing in compliance with the Minamata Convention. This draft Position Statement was endorsed, in principle, by the Australian Government Department of Health, the Therapeutic Goods Administration, the National Dental Directors Group, the Australian Dental Association and the Australian Dental and Oral Health Therapists' Association. The Position Statement is due to be finalised in November 2022 following a period of targeted consultation.
  10. The Dental Board of Australia is established under the *Health Practitioner Regulation National Law* (National Law), as in force in each state and territory. Its functions include developing or approving standards, codes and guidelines for the health profession. The Dental Board is also responsible for regulating dental practitioners in Australia under the National Registration and Accreditation Scheme. It uses a range of mechanisms to inform the industry of appropriate practices, including formal position statements.
  11. The new obligations are not substantially different to current practice in Australia. Consultation with regulatory authorities and dental sector peak bodies has confirmed that dental practitioners are already in compliance with the two new obligations under Annex A, Part II; bulk form mercury has not been available for use by dental practitioners in Australia for some time, and practitioners always use clinical judgement when determining whether to use dental amalgam in a patient.

12. Taking into account existing practices, and the role of the Dental Board of Australia in outlining expectations for dental practitioners, the Office of International Law has advised that there is no requirement under international law to take legislative action to implement Australia's obligations arising from the amendments, and that a formal Position Statement from the Dental Board of Australia is sufficient.
13. The Office of Best Practice Regulation has advised the Annex A amendments are unlikely to have a more than minor regulatory impact, as key industries are on track to comply with the amendments (OBPR22-03345).

#### **Nature and timing of proposed treaty matter**

14. In accordance with Article 27 of the Convention, any Party that is unable to accept these amendments must notify the United Nations Depository, in writing, within 12 months from the date of the communication of the adoption by the Depository. The communication from the Depository was dated 6 July 2022.
15. On expiry of that 12 month period, being 6 July 2023, the amendments will enter into force for all Parties that have not submitted a notification of non-acceptance.
16. The restrictions to new mercury-added products listed in Annex A, Part I will take effect from 31 December 2025, ensuring sufficient time for affected industries to transition to readily available non-mercury alternative products.
17. Australia is not proposing to lodge a notification of non-acceptance. Accordingly, the amendment will enter into force for Australia on 6 July 2023.

#### **Reasons for Australia to take the proposed action relating to the treaty matter**

18. The treaty action is consistent with Australia's strong commitment to the Convention and to international cooperation on protecting human health and the environment from hazardous chemicals such as mercury.
19. With over 135 Parties to the Convention, the global impetus to prevent further harm from mercury pollution is clear. Collective global action under the Minamata Convention is the most effective means of protecting Australians from the harmful effects of mercury pollution. Without effective and coordinated global action, Australia, like other countries, faces risks to the health and resilience of our natural systems such as our water resources and fisheries, and the health and wellbeing of our people, with consequent economic costs.

#### **Implementing Legislation**

20. No legislative changes are needed to implement the proposed treaty action.



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**Conference of the Parties to the  
Minamata Convention on Mercury  
Fourth meeting**

Online, 1–5 November 2021 and Bali, Indonesia,  
21–25 March 2022

**Decision adopted by the fourth meeting of the Conference of the  
Parties to the Minamata Convention on Mercury****MC-4/3: Review and amendment of annexes A and B to the  
Minamata Convention on Mercury**

*The Conference of the Parties,*

*Noting* that that paragraph 8 of article 4 and paragraph 10 of article 5 of the Minamata Convention on Mercury provide that, no later than five years after the date of entry into force of the Convention, the Conference of the Parties are to review annex A and annex B and may consider amendments to those annexes in accordance with article 27,

*Recalling* that the Conference of the Parties, in its decision MC-3/1, established the ad hoc group of experts on the review of annexes A and B, requested the secretariat to collect relevant information and submit a report on the work of the ad hoc group of experts and a compilation of relevant information to the Conference of the Parties,

*Recalling also* that the Conference of the Parties, in its decision MC-3/2, requested the secretariat to present the compilation of information on dental amalgam for consideration by the Conference of the Parties,

*Recognizing* the efforts of the parties and other stakeholders in providing information pursuant to decisions MC-3/1 and MC-3/2,

*Appreciating* the work of the secretariat and of the ad hoc group of experts in making the information relevant to the review of annexes A and B available to the Conference of the Parties,

*Having considered* the information submitted pursuant to decisions MC-3/1 and MC-3/2,

*Having also considered* the three proposals for amendment to those annexes submitted by the European Union; by Botswana, Burkina Faso and Madagascar on behalf of the group of African States; and by Canada, Norway and Switzerland; respectively,

1. *Decides* to amend part I of annex A to the Convention as set out in the following table;<sup>1</sup>

<i>Mercury-added products</i>	<i>Date after which the manufacture, import or export of the product shall not be allowed (phase-out date)</i>
Batteries, except for button zinc silver oxide batteries with a mercury content < 2% and button zinc air batteries with a mercury content < 2%	2020
Switches and relays, except very high accuracy capacitance and loss measurement bridges and high frequency radio frequency switches and relays in monitoring and control instruments with a maximum mercury content of 20 mg per bridge, switch or relay	2020
Compact fluorescent lamps (CFLs) for general lighting purposes that are ≤ 30 watts with a mercury content exceeding 5 mg per lamp burner	2020
Compact fluorescent lamps with an integrated ballast (CFL.i) for general lighting purposes that are ≤ 30 watts with a mercury content not exceeding 5 mg per lamp burner	2025
Linear fluorescent lamps (LFLs) for general lighting purposes: (a) Triband phosphor < 60 watts with a mercury content exceeding 5 mg per lamp; (b) Halophosphate phosphor ≤ 40 watts with a mercury content exceeding 10 mg per lamp	2020
High pressure mercury vapour lamps (HPMV) for general lighting purposes	2020
Mercury in cold cathode fluorescent lamps and external electrode fluorescent lamps (CCFL and EEFL) for electronic displays: (a) short length (≤ 500 mm) with mercury content exceeding 3.5 mg per lamp (b) medium length (> 500 mm and ≤ 1,500 mm) with mercury content exceeding 5 mg per lamp (c) long length (> 1,500 mm) with mercury content exceeding 13 mg per lamp	2020
Cold cathode fluorescent lamps (CCFL) and external electrode fluorescent lamps (EEFL) of all lengths for electronic displays, not included in the listing directly above	2025
Cosmetics (with mercury content above 1ppm), including skin lightening soaps and creams, and not including eye area cosmetics where mercury is used as a preservative and no effective and safe substitute preservatives are available <sup>1/</sup>	2020
Pesticides, biocides and topical antiseptics	2020
The following non-electronic measuring devices except non-electronic measuring devices installed in large-scale equipment or those used for high precision measurement, where no suitable mercury-free alternative is available: (a) barometers; (b) hygrometers; (c) manometers; (d) thermometers; (e) sphygmomanometers.	2020

<sup>1</sup> Added entries are shown in grey shade.

<sup>1/</sup> The intention is not to cover cosmetics, soaps or creams with trace contaminants of mercury.

<i>Mercury-added products</i>	<i>Date after which the manufacture, import or export of the product shall not be allowed (phase-out date)</i>
Strain gauges to be used in plethysmographs;	2025
The following electrical and electronic measuring devices, except those installed in large-scale equipment or those used for high precision measurement, where no suitable mercury-free alternative is available: (a) Melt pressure transducers, melt pressure transmitters and melt pressure sensors	2025
Mercury vacuum pumps	2025
Tyre balancers and wheel weights	2025
Photographic film and paper	2025
Propellant for satellites and spacecraft	2025

2. *Decides* to amend part II of annex A to the Convention as set out in the following table;<sup>2</sup>

<i>Mercury-added products</i>	<i>Provisions</i>
Dental amalgam	<p>Measures to be taken by a Party to phase down the use of dental amalgam shall take into account the Party's domestic circumstances and relevant international guidance and shall include two or more of the measures from the following list:</p> <ul style="list-style-type: none"> <li>(i) Setting national objectives aiming at dental caries prevention and health promotion, thereby minimizing the need for dental restoration;</li> <li>(ii) Setting national objectives aiming at minimizing its use;</li> <li>(iii) Promoting the use of cost-effective and clinically effective mercury-free alternatives for dental restoration;</li> <li>(iv) Promoting research and development of quality mercury-free materials for dental restoration;</li> <li>(v) Encouraging representative professional organizations and dental schools to educate and train dental professionals and students on the use of mercury-free dental restoration alternatives and on promoting best management practices;</li> <li>(vi) Discouraging insurance policies and programmes that favour dental amalgam use over mercury-free dental restoration;</li> <li>(vii) Encouraging insurance policies and programmes that favour the use of quality alternatives to dental amalgam for dental restoration;</li> <li>(viii) Restricting the use of dental amalgam to its encapsulated form;</li> <li>(ix) Promoting the use of best environmental practices in dental facilities to reduce releases of mercury and mercury compounds to water and land.</li> </ul> <p>In addition, Parties shall:</p> <ul style="list-style-type: none"> <li>(i) Exclude or not allow, by taking measures as appropriate, the use of mercury in bulk form by dental practitioners;</li> <li>(ii) Exclude or not allow, by taking measures as appropriate, or recommend against the use of dental amalgam for the dental treatment of deciduous teeth, of patients under 15 years and of pregnant and breastfeeding women, except when considered necessary by the dental practitioner based on the needs of the patient.</li> </ul>

3. *Notes* that each product entry in paragraphs 1 and 2 above is a separate amendment for the purposes of entry into force under article 27 of the Convention;

<sup>2</sup> The added measures are shown in grey shade.

4. *Requests* the secretariat to draft a revised reporting format under article 21 to collect information on the measures taken related to the provisions that were added by the present amendment, for consideration by the Conference of the Parties at its fifth meeting;

5. *Decides* to consider at its fifth meeting the following phase-out dates for annex A, part I;

<i>Mercury-added products</i>	<i>Date after which the manufacture, import or export of the product shall not be allowed (phase-out date)</i>
Button zinc silver oxide batteries with a mercury content < 2% and button zinc air batteries with a mercury content < 2%	[2025] [2029]
Very high accuracy capacitance and loss measurement bridges and high frequency radio frequency switches and relays in monitoring and control instruments with a maximum mercury content of 20 mg per bridge switch or relay [except those used for research and development purposes]	[2025]
Linear fluorescent lamps (LFLs) for general lighting purposes: (a) Halophosphate phosphor $\leq$ 40 watts with a mercury content not exceeding 10 mg per lamp (b) Halophosphate phosphor > 40 watts	[2025] [2027] [2030]
Linear fluorescent lamps (LFLs) for general lighting purposes: (a) Triband phosphor < 60 watts with a mercury content not exceeding 5 mg/lamp	[2027] [2030]

6. *Also decides* to further consider adding the production of polyurethane using mercury-containing catalysts to part I of annex B at its fifth meeting;

7. *Requests* the secretariat to compile information on the availability and technical and economic feasibility of mercury-free alternatives in the production of polyurethane using mercury-containing catalysts and to submit it to the Conference of the Parties at its fifth meeting to facilitate its consideration of the matter described in paragraph 6 of the present decision;

8. *Also requests the* secretariat to prepare, for consideration by the Conference of the Parties at its fifth meeting, a short report on the technical and economic feasibility of mercury-free alternatives for the two processes (vinyl chloride monomer, and sodium or potassium methylate or ethylate) listed in annex B, part II, that refer to the Conference of the Parties establishing such feasibility, and, in so doing, to first identify those parties that have reported the use of those two processes in their national reports under article 21, and then request information from those parties regarding whether they continue to use those two processes, whether either is scheduled to be phased out nationally, and to what extent mercury-free alternatives are technically and economically feasible.

9. *Decides* that, if necessary, the secretariat may request other parties and stakeholders to provide additional information.



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**Conference of the Parties to the  
Minamata Convention on Mercury  
Fourth meeting**

Online, 1–5 November 2021 and Bali, Indonesia,  
21–25 March 2022

**Annex A to the Minamata Convention on Mercury, as amended  
by the Conference of the Parties at its fourth meeting**

**Annex A<sup>1</sup>**

**Mercury-added products**

The following products are excluded from this Annex:

- (a) Products essential for civil protection and military uses;
- (b) Products for research, calibration of instrumentation, for use as reference standard;
- (c) Where no feasible mercury-free alternative for replacement is available, switches and relays, cold cathode fluorescent lamps and external electrode fluorescent lamps (CCFL and EEFL) for electronic displays, and measuring devices;
- (d) Products used in traditional or religious practices; and
- (e) Vaccines containing thiomersal as preservatives.

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<sup>1</sup> Annex A, as amended by decision MC-4/3: Review and amendment of annexes A and B to the Minamata Convention on Mercury. Added entries are shown in grey shade.



**Part I: Products subject to Article 4, paragraph 1**

	<i>Date after which the manufacture, import or export of the product shall not be allowed (Phase-out date)</i>
<i>Mercury-added Products</i>	
Batteries, except for button zinc silver oxide batteries with a mercury content < 2% and button zinc air batteries with a mercury content < 2%	2020
Switches and relays, except very high accuracy capacitance and loss measurement bridges and high frequency radio frequency switches and relays in monitoring and control instruments with a maximum mercury content of 20 mg per bridge, switch or relay	2020
Compact fluorescent lamps (CFLs) for general lighting purposes that are ≤ 30 watts with a mercury content exceeding 5 mg per lamp burner	2020
Compact fluorescent lamps with an integrated ballast (CFL.i) for general lighting purposes that are ≤ 30 watts with a mercury content not exceeding 5 mg per lamp burner	2025
Linear fluorescent lamps (LFLs) for general lighting purposes: (a) Triband phosphor < 60 watts with a mercury content exceeding 5 mg per lamp; (b) Halophosphate phosphor ≤ 40 watts with a mercury content exceeding 10 mg per lamp	2020
High pressure mercury vapour lamps (HPMV) for general lighting purposes	2020
Mercury in cold cathode fluorescent lamps and external electrode fluorescent lamps (CCFL and EEFL) for electronic displays: (a) short length (≤ 500 mm) with mercury content exceeding 3.5 mg per lamp (b) medium length (> 500 mm and ≤ 1 500 mm) with mercury content exceeding 5 mg per lamp (c) long length (> 1 500 mm) with mercury content exceeding 13 mg per lamp	2020
Cold cathode fluorescent lamps (CCFL) and external electrode fluorescent lamps (EEFL) of all lengths for electronic displays, not included in the listing directly above	2025
Cosmetics (with mercury content above 1ppm), including skin lightening soaps and creams, and not including eye area cosmetics where mercury is used as a preservative and no effective and safe substitute preservatives are available <sup>1/</sup>	2020
Pesticides, biocides and topical antiseptics	2020
The following non-electronic measuring devices except non-electronic measuring devices installed in large-scale equipment or those used for high precision measurement, where no suitable mercury-free alternative is available: (a) barometers; (b) hygrometers; (c) manometers; (d) thermometers; (e) sphygmomanometers.	2020
Strain gauges to be used in plethysmographs;	2025
The following electrical and electronic measuring devices except those installed in large-scale equipment or those used for high precision measurement, where no suitable mercury free alternative is available: (a) Melt pressure transducers, melt pressure transmitters and melt pressure sensors	2025
Mercury vacuum pumps	2025
Tyre balancers and wheel weights	2025
Photographic film and paper	2025
Propellant for satellites and spacecraft	2025

<sup>1/</sup> The intention is not to cover cosmetics, soaps or creams with trace contaminants of mercury.

**Part II: Products subject to Article 4, paragraph 3**

<i>Mercury-added products</i>	<i>Provisions</i>
Dental amalgam	<p>Measures to be taken by a Party to phase down the use of dental amalgam shall take into account the Party's domestic circumstances and relevant international guidance and shall include two or more of the measures from the following list:</p> <ul style="list-style-type: none"> <li>(i) Setting national objectives aiming at dental caries prevention and health promotion, thereby minimizing the need for dental restoration;</li> <li>(ii) Setting national objectives aiming at minimizing its use;</li> <li>(iii) Promoting the use of cost-effective and clinically effective mercury-free alternatives for dental restoration;</li> <li>(iv) Promoting research and development of quality mercury-free materials for dental restoration;</li> <li>(v) Encouraging representative professional organizations and dental schools to educate and train dental professionals and students on the use of mercury-free dental restoration alternatives and on promoting best management practices;</li> <li>(vi) Discouraging insurance policies, and programmes that favour dental amalgam use over mercury-free dental restoration;</li> <li>(vii) Encouraging insurance policies and programmes that favour the use of quality alternatives to dental amalgam for dental restoration;</li> <li>(viii) Restricting the use of dental amalgam to its encapsulated form;</li> <li>(ix) Promoting the use of best environmental practices in dental facilities to reduce releases of mercury and mercury compounds to water and land.</li> </ul> <p>In addition, Parties shall:</p> <ul style="list-style-type: none"> <li>(i) Exclude or not allow, by taking measures as appropriate, the use of mercury in bulk form by dental practitioners;</li> <li>(ii) Exclude or not allow, by taking measures as appropriate, or recommend against the use of dental amalgam for the dental treatment of deciduous teeth, of patients under 15 years and of pregnant and breastfeeding women, except when considered necessary by the dental practitioner based on the needs of the patient.</li> </ul>