

ROADMAP			
TITLE OF THE INITIATIVE	Ratification and Implementation of the Minamata Convention on Mercury		
LEAD DG – RESPONSIBLE UNIT	DG ENVIRONMENT – UNIT C.4	DATE OF ROADMAP	09/2015
<p>This indicative roadmap is provided for information purposes only and is subject to change. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content and structure.</p>			

A. Context and problem definition

- (1) What is the political context of the initiative?
- (2) How does it relate to past and possible future initiatives, and to other EU policies?
- (3) What ex-post analysis of existing policy has been carried out? What results are relevant for this initiative?

(1) The Commission adopted a [Community Strategy Concerning Mercury](#) ('Mercury Strategy') in 2005 setting out 20 actions to reduce mercury levels in the environment and associated human exposure. It was endorsed by both the European Parliament and the Council. In implementing the Mercury Strategy, the [Mercury Export Ban Regulation](#) was adopted in 2008, which bans the exports of metallic mercury from the EU and has provisions for the safe storage of metallic mercury. The Mercury Strategy was reviewed in [2010](#).

Mercury can be transported across continents through the air and has since long been recognised as a pollutant of global concern. This means that impact on EU's environment as well as the exposure of people living in the Union cannot be reduced to an acceptable level through domestic policies alone. Co-ordinated international action is therefore needed to address the mercury problem in a globally effective manner. In fact, the Mercury Strategy focussed seven of its actions on supporting and promoting international activities.

The EU supported the opening of negotiations on an international agreement on mercury. The Governing Council of UNEP decided in February 2009 to launch negotiations. The negotiation process came to a successful conclusion in January 2013 and the "[Minamata Convention on Mercury](#)" was adopted at a Diplomatic Conference in Japan in October 2013. The EU has signed the Minamata Convention along with 26 Member States and intends to ratify it as soon as possible.

(2) The EU has already in place a comprehensive body of mercury-related legislation, regulating trade in mercury, marketing restrictions for products containing mercury, waste aspects, water quality aspects, and emissions and releases from large point sources. Additionally, EU law sets maximum levels of mercury in food¹ and prohibits the use of mercury in pesticides². The Minamata Convention largely includes measures similar to or identical with already existing EU legislation.

(3) The review of the Mercury Strategy in 2010 led to a [Communication](#) by the Commission, endorsed by the European Parliament and the Council. It concluded that, given the global aspect of the mercury problem, internal EU legislation alone could not guarantee effective protection of the European citizen and identified the negotiation of a global legally binding instrument on mercury as priority for further EU action. The ratification of the Minamata Convention is thus part of the implementation of the Mercury Strategy and is therefore embedded into an existing policy context.

¹ [Commission Regulation \(EC\) No 1881/2006](#) of 19 December 2006 setting maximum levels for certain contaminants in foodstuffs

² [Commission Regulation \(EC\) No 149/2008](#) of 29 January 2008 amending Regulation (EC) No 396/2005 of the European Parliament and of the Council by establishing Annexes II, III and IV setting maximum residue levels for products covered by Annex I thereto

What are the main problems which this initiative will address?
<p>Exposure to high levels of mercury can cause harm to the brain, lungs, kidneys and immune system of people of all ages. Human exposure through eating of contaminated fish is due to the increased levels of mercury in the environment.</p> <p>The EU has already taken action to tackle the problem by reducing mercury emissions and use domestically. However, the global character of the mercury problem means that the EU cannot provide sufficient protection to its citizen on its own, as exposure of EU citizens to mercury is due, to a great extent, to emissions originating in other parts of the world. Hence, the EU actively supported the international negotiations for a global treaty on mercury and signed the Minamata Convention on Mercury that seeks to address the mercury problem at the global level.</p> <p>In order to ensure the quick implementation of the Convention, the EU itself needs to ratify it as soon as possible (leading by example, and allowing MS to ratify it), and therefore to make sure its <i>acquis</i> allows for this ratification. By becoming Party at an early stage, the EU would have a strong voice at the first Conference of the Parties, where important implementing decisions will be taken.</p>
Who will be affected by it?
<p>Member States, importers and exporters of mercury and/or mercury containing products, manufacturers of products containing mercury, industries using or emitting mercury, waste handlers and recyclers. Producers of alternative products replacing those containing mercury may also be concerned. The impact will be assessed in more detail after the finalisation of the Impact Assessment study already initiated by the Commission, including on whether and to what extent SMEs will be affected.</p>
Is EU action justified on grounds of subsidiarity? Why can Member States not achieve the objectives of the proposed action sufficiently by themselves? Can the EU achieve the objectives better?
<p>Mercury in its elemental form can be transported across regions and continents through the air. Therefore, individual actions by Member States alone cannot address the problem and action at the EU level is warranted. In fact, depending on the location, only 20-60% of the mercury deposited on the European territory originates from European emissions, which represent ca. 5% of global emissions. The transboundary component of mercury pollution is thus very significant and requires not only national or EU action, but rather global action.</p> <p>The Minamata Convention addresses environmental issues that are covered extensively by EU legislation with an important focus on trade and marketing-related measures. Nevertheless, the EU needs to adapt its <i>acquis</i> to align it with its international obligations.</p>

B. Objectives of the initiative

What are the main policy objectives?
<p>The overall objective of this initiative is to enable the minimisation of mercury pollution by activating the international action complementing the already existing EU action, with the aim of reducing as far as possible the global emissions and circulation of mercury and its built-up in the food chain. This requires an early ratification of the Minamata Convention on Mercury.</p> <p>The EU will seek to ratify the Minamata Convention as soon as possible, by making adaptations to the EU <i>acquis</i> as necessary.</p>
Do the objectives imply developing EU policy in new areas?
<p>The Community Strategy Concerning Mercury is a well-established and comprehensive EU policy in this area, and the ratification of the Minamata Convention does not require developing EU policy in new areas.</p>

C. Options

- (1) What are the policy options (including exemptions/adapted regimes e.g. for SMEs) being considered?
- (2) What legislative or 'soft law' instruments could be considered?
- (3) How do the options respect the proportionality principle?

- (1) The provisions of the Minamata Convention not covered by the *acquis* are formulated in a legally binding way ("Parties shall ..."); hence the only option to ensure compliance with these provisions is to adapt EU legislation accordingly. When amending EU legislation, better regulation principles will be applied, e.g. simplification of existing reporting requirements will be considered.
- (2) The main regulatory policy instruments presently considered are (i) the revision of the Mercury Export Ban Regulation as it already contains trade rules and storage provisions, (ii) adapting or complementing certain pieces of EU legislation that regulate the use of mercury in certain products and processes.
- (3) Only legislative options will enable compliance with legally-binding provisions of international law such as the Minamata Convention. Given the importance of the EU *acquis* already existing in the area of mercury, only limited updates of the *acquis* will be necessary and therefore proportionality is not expected to be a major issue. Nevertheless, the proportionality of the proposed options will be examined as part of the impact assessment.

D. Initial assessment of impacts

What are the benefits and costs of each of the policy options?

Benefits for human health are considered important. The envisaged action implements an internationally agreed set of measures that is expected to reduce mercury levels in the environment and human exposure significantly over the long term. Action at a world-wide scale brings more environmental and health benefits, both globally and for the EU, than any initiative limited to the EU region could bring.

Incremental costs are expected to be low, given the EU measures already in place and the limited legislative adjustments needed for the EU to conform to the Minamata Convention.

The entry into force of the Convention and its implementation will install globally a legal regime inspired by EU law. This will contribute levelling the playing field for mercury using or emitting activities and facilitate the access of innovative EU businesses to global markets.

Could any or all of the options have significant impacts on (i) simplification, (ii) administrative burden and (iii) on relations with other countries, (iv) implementation arrangements? And (v) could any be difficult to transpose for certain Member States?

No significant administrative burden or transposition difficulties are expected as this initiative would largely relate to already existing requirements. As trade restrictions are covered by the Minamata Convention and additionally the major EU trading partners have also signed it, no significant impact on relations with third countries is expected. The reporting obligations imposed by the Mercury Export Ban Regulation on industries will be reviewed in view of the expected phase out of the concerned activities and the opportunity will be used for additional simplification on the basis of the experience so far.

- (1) Will an IA be carried out for this initiative and/or possible follow-up initiatives?
- (2) When will the IA work start?
- (3) When will you set up the IA Steering Group and how often will it meet?
- (4) What DGs will be invited?

- (1) An impact assessment will be conducted, including also a complementary assessment of the Mercury Export Ban Regulation, although it is a relatively "young" legislation that entered into effect only in March 2011.
- (2) A contract has been commissioned in 2013 to collect information for an impact assessment. The work has been concluded and the [final report](#) is available on the Commission's mercury webpages. It is complemented by an [assessment of mercury export restrictions](#) that has been finalised in June 2015.
- (3) The IA Steering Group (IASG) was created in December 2013 and has met twice in 2014 and two more times in 2015.
- (4) The steering group includes SG, SJ, ECFIN, GROW, EMPL, ENER, CLIMA, TAXUD, SANTE, TRADE and DEVCO.

- (1) Is any option likely to have impacts on the EU budget above € 5m?
- (2) If so, will this IA serve also as an ex-ante evaluation, as required by the Financial Regulation? If not, provide information about the timing of the ex-ante evaluation.

None of the provisions of the Minamata Convention requiring an update of EU law would have impacts on the EU budget above €5m.

E. Evidence base, planning of further work and consultation

- (1) What information and data are already available? Will existing IA and evaluation work be used?
- (2) What further information needs to be gathered, how will this be done (e.g. internally or by an external contractor), and by when?
- (3) What is the timing for the procurement process & the contract for any external contracts that you are planning (e.g. for analytical studies, information gathering, etc.)?
- (4) Is any particular communication or information activity foreseen? If so, what, and by when?

(1) A number of relevant reports are available. An indicative list is provided here below:

- [Ratification of the Minamata Convention by the EU - Complementary Assessment of the Mercury Export Ban](#), carried out by COWI for the European Commission (June 2015).
- [Study on EU Implementation of the Minamata Convention on Mercury](#) carried out by ICF for the European Commission (March 2015).
- [Options for reducing mercury use in products and applications and the fate of mercury already circulating in society](#) carried out by COWI for the European Commission in 2008.
- [Requirements for facilities and acceptance criteria for the disposal of metallic mercury](#) carried out by BIPRO for the European Commission in 2010.
- [Review of the Community Strategy concerning mercury](#) carried out by Bio Intelligence Service for the European Commission in 2010.

Additional information is available on the Commission [mercury webpage](#).

- (2) Two service contracts that have been used to collect information for an impact assessment were concluded in 2015.
- (3) An initial screening and assessment of impacts has been undertaken through a study that has been contracted in September 2013 and concluded in March 2015. A second study on a complementary assessment of the Mercury Export Ban Regulation was concluded in June 2015 and will feed into the impact assessment work.
- (4) A separate section on the ratification of the Minamata Convention is maintained on the Commission [mercury webpage](#).

Which stakeholders & experts have been or will be consulted, how, and at what stage?

Member States, NGOs and industry concerned were consulted at a stakeholder meeting organised in Brussels on 7 July 2014 that addressed the need to update EU law to enable EU to ratify the Minamata Convention. A broader online public consultation was run from 14 August 2014 till 14 November 2014 through “*Your voice in Europe*” webpage. In the framework of the complementary assessment of the Mercury Export Ban Regulation, stakeholders concerned have also been consulted and their input will be used in simplifying and clarifying certain provisions. For dental amalgam, the opinions of two Scientific Committees ([SCHER](#) and [SCENIHR](#)) were adopted in 2014 and 2015 respectively – separate stakeholders’ consultations (including a public hearing) were organised in 2014 on this issue.