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COM(2013) 325 final

2013/0168 (NLE)

Proposal for a

**COUNCIL DECISION**

**on the signing, on behalf of the European Union, of the Minamata Convention on  
Mercury**

## EXPLANATORY MEMORANDUM

Mercury and most of its compounds are highly toxic to humans, ecosystems and wildlife. This chemical element has therefore been recognised as a substance of global concern by the United Nations Environmental Programme (UNEP) since 2003<sup>1</sup> and is, at EU level, subject to a comprehensive set of control measures under the Community Strategy Concerning Mercury (“the Strategy”) adopted in 2005<sup>2</sup>.

Based on the policy approach defined in the Strategy, the EU has asked since 2005 for the negotiation of a global, legally binding instrument on mercury under the auspices of UNEP. Mercury is persistent and mercury emissions into the air are subject to long-range atmospheric transport, deposition all over the world and accumulation in the food chain, in particular in fish. Measures limited to the geographical area of the EU alone are therefore not sufficient to tackle the global mercury problem.

The agreed overall EU position (Council Conclusions of December 2008) called for a comprehensive mercury instrument, covering actions to reduce the supply of mercury; reduce the demand for mercury in products and processes; reduce international trade in mercury; reduce atmospheric emissions of mercury; achieve environmentally sound management of mercury-containing wastes; find environmentally sound storage solutions for mercury; address remediation of existing contaminated sites; and, increase knowledge. The Council stressed the importance of continuing to participate actively in negotiations on all elements of the future global mercury convention in its Conclusions of June 2012.

By Decision of the Governing Council GC 25/5 in February 2009, UNEP installed an Intergovernmental Negotiating Committee (INC) and gave it a similarly broad mandate for a comprehensive global legally binding instrument on mercury.

Based on this mandate, five INCs were held: INC-1 in Stockholm in June 2010, INC-2 in the town of Chiba, Japan, in January 2011, INC-3 in Nairobi, Kenya, in November 2011, INC-4 from 27 June to 2 July 2012 in Punta del Este, Uruguay, and finally INC-5 in Geneva from 13 to 18 January 2013.

On 14 December 2010, the Council authorised the Commission to participate, on behalf of the EU, as regards matters falling within the Union's competence and in respect of which the Union has adopted rules, in the negotiations on a legally binding instrument on mercury, in consultation with a special committee of representatives of Member States, and in accordance with the negotiating directives set out in the Addendum to this authorisation.

INC-5 came to closure as planned by agreeing to the text of a comprehensive global legally binding instrument to tackle mercury, as the Minamata Convention on Mercury, thereby fulfilling the mandate given by UNEP GC Decision 25/5 to conclude the negotiation process prior to the 27<sup>th</sup> Regular Session of the UNEP Governing Council (Nairobi, 18-22 February 2013).

The Union was a key driver for the conduct of this negotiating process and took an active part in the outcome which is within the limits of the negotiating directives addressed to the Commission.

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<sup>1</sup> UNEP Governing Council Decision 23/9

<sup>2</sup> COM(2005)20 final, 28.1.2005; revised by COM(2010)723 final, 7.12.2010

The 27<sup>th</sup> session of the UNEP Governing Council welcomed the completion of the negotiation process and requested the Executive Director to convene a conference of plenipotentiaries for the purpose of adopting the convention and of opening it for signature.

The new convention on mercury will be opened for signature at a Diplomatic Conference to be held in Kumamoto (Japan), 7-11 October 2013. It will be named "Minamata Convention on Mercury", after the town near Kumamoto where the worst ever case of mercury pollution took place in the years 1950.

The content of the convention on mercury is in line with the overall EU position, as agreed by Council in 2008 and confirmed in 2012.

In view of the above, it is appropriate for a representative of the European Union to sign, subject to subsequent conclusions, the Minamata Convention on Mercury.

Proposal for a

## **COUNCIL DECISION**

### **on the signing, on behalf of the European Union, of the Minamata Convention on Mercury**

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(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Mercury and its compounds are highly toxic for the health of humans, animals and plants and is subject to regulation within the EU designed to protect human health and the environment.
- (2) The Governing Council of the United Nations Environmental Programme (UNEP) requested in 2009 the Executive Director to convene an intergovernmental negotiating committee with the mandate to prepare a global legally binding instrument on mercury, with the goal of completing its work prior to the twenty-seventh regular session of the Governing Council in 2013.
- (3) In December 2010, the Council authorised the Commission to participate, on behalf of the Union, as regards matters falling within the Union's competence and in respect of which the Union has adopted rules, in the negotiations on a legally binding instrument on mercury, in accordance with the negotiating directives set out in the Addendum to this authorisation.
- (4) The negotiation process was successfully completed, as initially planned, at the fifth session of the intergovernmental negotiating committee that took place in Geneva from 13 to 18 January 2013.
- (5) The Union was a key driver for the conduct of this negotiating process and took an active part in the outcome which is within the limits of the negotiating directives addressed to the Commission.
- (6) The Council, in its 3233rd session on 21 March 2013, welcomed the outcome of the negotiation process.
- (7) The global legally binding instrument on mercury will be opened for signature at a Diplomatic Conference taking place in Kumamoto (Japan) from 7 to 11 October 2013, as the Minamata Convention on Mercury.
- (8) Therefore, the Convention should be signed on behalf of the Union, subject to its conclusion at a later date,

HAS ADOPTED THIS DECISION:

*Article 1*

The signing of the Minamata Convention on Mercury is hereby approved on behalf of the Union, subject to the conclusion of the said Convention.

The text of the Convention to be signed is attached to this Decision.

*Article 2*

The Council Secretariat General shall establish the instrument of full powers to sign the Convention, subject to its conclusion, for the person indicated by the negotiator of the Convention.

*Article 3*

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

Done at Brussels,

*For the Council  
The President*

**ANNEX**

*(text of the Minamata Convention on Mercury)*