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Meeting of the Group of Technical Experts on

Waste Thresholds to be Established Pursuant to

Paragraph 2 of Article 11 of the Convention

Minamata Convention on Mercury

Osaka, Japan, 27-29 May 2019

Compilation of comments on the clarification and refinement of the coverage of each of the three categories of mercury waste listed in paragraph 2 of article 11[[1]](#footnote-2)

1. Members and observers of the group of technical experts on mercury waste thresholds and other experts involved in the work of the group provided their comments on the matters mandated by the Conference of the Parties in its decision MC-2/2. This document provides a compilation of comments on the clarification and refinement of the coverage of each of the three categories of mercury waste listed in paragraph 2 of article 11. This document has been prepared on the basis of the earlier document UNEP/MC/COP.2/6, which had included comments from experts submitted in preparation for the second meeting of the Conference of the Parties in November 2018. Therefore, the comments submitted by the experts during this commenting round are indicated as such in this document.

 I. Clarification and refinement of the coverage of each of the three categories of mercury waste listed in paragraph 2 of article 11

1. Article 11 of the Minamata Convention on Mercury defines mercury wastes as substances or objects:
	* 1. Consisting of mercury or mercury compounds;
		2. Containing mercury or mercury compounds; or
		3. Contaminated with mercury or mercury compounds.
2. A number of experts stressed the need for further clarification of these terms. One expert, referring to discussions in the intergovernmental negotiating committee, proposed the following definitions for further discussion:
	* 1. Consisting of mercury or mercury compounds: the significant compound of the waste is mercury or a mercury compound. (“significant” could be defined by a range of concentration, e.g., 0.1–100 per cent);
		2. Containing mercury or mercury compounds: mercury or mercury compounds were added intentionally to the original material which is a waste now;
		3. Contaminated with mercury or mercury compounds: mercury or mercury compounds were not added intentionally to the original material which is a waste now.
3. In the submissions from the experts in March 2019, one expert suggested to avoid the use of “significant” which is an ambiguous terminology. The expert indicated that wastes consisting of mercury or mercury compounds are implicit as waste while a minimum threshold is necessary to identify wastes containing and contaminated with mercury or mercury compounds. On the other hand, other expert indicated that a threshold concentration for the category (a) should equate to community grade mercury (e.g.>95%). Another expert pointed out the importance of hazardous characteristics based on Annex III of the Basel Convention, such as H13: possibility, by any means, after disposal, of releasing another material, e.g., leachate, which possesses any of the characteristics listed in Annex III.
4. In the submissions from the experts in March 2019, one expert suggested to add text, “and consist of most industrial waste and wastewater from processes that use mercury or mercury compounds including contaminated soils” to above-description of (c).
5. Another expert preferred to include some flexibility so that all mercury waste could be identified in a practical way, and without dedicating resources to assigning a waste that was clearly subject to paragraph 2 of article 11 to a particular category. According to this expert:
	* 1. Waste consisting of mercury or mercury compounds is regarded as relatively pure mercury, or technical grade commercial mercury chemicals, or otherwise high-mercury concentration wastes;
		2. Waste containing mercury or mercury compounds is generally considered to identify discarded or spent mercury-added devices or products;
		3. Waste contaminated with mercury or mercury compounds would be an “all other” category and consist of most industrial waste and wastewater from processes that use mercury or mercury compounds in some way.

In the submissions from the experts in March 2019, one expert pointed out the difficulty to legally enforce the term “relatively pure”. One of the ideas would be clear labelling of all articles containing mercury. One expert raised one matter that the change of the definition from mercury waste to waste after mercury in waste is removed. One expert suggested to remove “devices” from the above-description of “spent mercury-added devices” because “products” covers all devices. In terms of the explanation for the category (c), two experts indicated the concerns to use the term of “all other category” which does not define any mercury waste, and to use “all other category” if an indicative list is used. Another expert said that the category (c) should effectively catch all mercury waste that are not included the category (a) and (b) and then thresholds would be necessary for the category (c).

1. The technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with mercury or mercury compounds under the Basel Convention (UNEP/CHW.12/5/Add.8/Rev.1) cover the following categories of mercury waste:

A: Wastes consisting of mercury or mercury compounds (e.g., excess mercury from the decommissioning of chlor-alkali facilities, mercury recovered from wastes containing mercury or mercury compounds or wastes contaminated with mercury or mercury compounds or surplus stock of mercury or mercury compounds designated as waste);

B: Wastes containing mercury or mercury compounds;

B1: Wastes of mercury-added products[[2]](#footnote-3) that easily release mercury into the environment, including when they are broken (e.g., mercury thermometers, fluorescent lamps);

B2: Wastes of mercury-added products other than those listed in B1 (e.g., batteries);

B3: Wastes containing mercury or mercury compounds that result from the treatment of mercury wastes listed as A, B1, B2 or C;

C: Wastes contaminated with mercury or mercury compounds (e.g., residues[[3]](#footnote-4) generated from mining processes, industrial processes or waste treatment processes).

1. With regard to the above-description A, one expert indicated the importance of elemental mercury. Elemental mercury can either be as a commodity or a waste depending on the designation assigned to it due to national or international policy setting. The expert indicated that mercury should be designated waste if the origin of the mercury is from a source that cannot be traded such as chlor alkali surplus or new primary mines. Because of the definition of mercury under the convention, the expert suggested that waste consisting of mercury should be defined as waste with a concentration of 95% and higher mercury. Also, the expert said that any waste containing <95% mercury should be designated as ‘waste contaminated with mercury’ so that there are is no loopholes based on concentration thresholds.
2. A number of experts raised questions on the category B3. The common question is that the category B3 should be included in the category C, and the category B3 would be removed.

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1. This document has not been formally edited. [↑](#footnote-ref-2)
2. “Mercury-added product” means a product or product component that contains mercury or a mercury compound that was intentionally added (see art. 2 (f) of the Minamata Convention). [↑](#footnote-ref-3)
3. One expert commented that the word “residue” should be clarified. [↑](#footnote-ref-4)