

**For discussion on**  
25 May 2020

**LEGISLATIVE COUNCIL**  
**PANEL ON ENVIRONMENTAL AFFAIRS**

**Implementation of the Minamata Convention on Mercury in Hong Kong**

This paper seeks Members' views on our plan to implement the Minamata Convention on Mercury ("the Convention") in Hong Kong.

**BACKGROUND**

2. Mercury is a naturally occurring heavy metal which is highly toxic. Owing to its unique physical and chemical properties, mercury has been used in various products and processes for a very long time. Once released, mercury stays in the environment in various forms and can be transported in the atmosphere to places at a distance. It can be bioaccumulated in the ecosystems and poses a serious threat to human health and the environment.

3. Recognising its harmful effects, the United Nations Environment Programme developed the Convention, which is an international legally binding treaty<sup>1</sup> with the objective to protect human health and the environment from anthropogenic emissions and releases of mercury and mercury compounds. The People's Republic of China completed ratification of the Convention on 31 August 2016 and started to become one of the Parties to the Convention when it entered into force on 16 August 2017. Pursuant to Article 153 of the Basic Law<sup>2</sup>, the Central People's Government ("CPG") sought the views of the

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<sup>1</sup> The full text of the Convention can be downloaded from the link:  
<http://mercuryconvention.org/Portals/11/documents/Booklets/COP1%20version/Minamata-Convention-booklet-eng-full.pdf>

Government of the Hong Kong Special Administrative Region (“HKSAR”) and decided that the Convention would apply to Hong Kong.

4. The Convention contains provisions to impose restrictions and control on a range of activities, processes, industries and products where mercury is sourced, used, released or emitted. The Convention addresses direct mining of mercury and its export and import; use of mercury in mercury-added products and manufacturing processes; emissions to the atmosphere; releases to land and water; safe storage of mercury as well as disposal of mercury waste.

5. Some obligations under the Convention are enforceable under the existing administrative and regulatory frameworks or there is *de facto* compliance by the Government of HKSAR. These obligations are summarised at **Annex I**. However, there are four obligations of the Convention that are not enforceable under the existing regulatory or administrative frameworks of Hong Kong:-

- (1) to restrict import and export of mercury;
- (2) to prohibit the manufacture, import and export of mercury-added products required to be phased out by the Convention, prevent the incorporation into assembled products of the said mercury-added products, and discourage the manufacture and the distribution in commerce of mercury-added products not covered by any known use of mercury-added products prior to the date of entry into force of the Convention for it;
- (3) to phase out or restrict manufacturing processes in which mercury or mercury compounds are used; and
- (4) to store mercury and mercury compounds in an environmentally sound manner.

## THE PROPOSAL

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<sup>2</sup> Article 153 of the Basic Law stipulates that the application to the HKSAR of international agreements to which the People's Republic of China is or becomes a party shall be decided by the Central People's Government, in accordance with the circumstances and needs of the HKSAR, and after seeking the views of the Government of the HKSAR.

6. It is necessary to put in place new legislation, and/ or to amend existing legislation to fulfil the obligations as set out in paragraph 5 above. The Government commissioned a study in 2015 to consult the relevant trade associations and stakeholders on compliance with the requirements of the Convention. The study findings indicate that there is no business in Hong Kong that relies heavily on the use of mercury, and there are widely available mercury-free alternatives for most of the mercury-added products in the market. However, trading statistics show that international trading of mercury has been taking place in Hong Kong. As there is no mercury mining nor manufacturing industry requiring mercury in Hong Kong, most, if not all, of such trading activities involve re-export of mercury. Given that the spirit of the Convention is to minimise, if not eliminate, the international supply and trading of mercury, there is a need to impose statutory control on mercury trading activities in Hong Kong.

7. In order to regulate mercury trading as soon as possible for the purpose of implementing the Convention in Hong Kong, we propose a two-phase approach to introduce new regulation. Phase One involves the immediate control of import and export of mercury trading mentioned in paragraph 5(1) above, while Phase Two will introduce a new piece of legislation to deal with all obligations under the Convention.

#### *Phase One –Immediate Control of the Import and Export of Elemental Mercury Trading*

8. The Convention controls the import and export of mercury by establishing a prior written consent mechanism<sup>3</sup> between Parties, as well as between Parties and non-Parties. As mentioned above, though there is no business in Hong Kong that relies heavily on the use of mercury, and international trading of mercury has been taking place in Hong Kong. In order to control mercury trading as soon as possible, we propose to amend Part 1 of Schedule 1 to the Import and Export (General) Regulations (Cap. 60 sub. leg. A)

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<sup>3</sup> A written consent arrangement has been established under the Convention, under which export of mercury from a Party is not allowed unless the importing Party or non-Party has given consent.

(“IE(G)R”) by adding “Mercury (CAS No. 7439-97-6)”<sup>4</sup> to the list of scheduled articles for import into Hong Kong. We also propose to add “Mercury (CAS No. 7439-97-6)” to the list of scheduled articles in Part 1 of Schedule 2 to IE(G)R to restrict the export of mercury to “all places outside Hong Kong”. The relevant amendment order will be published in the Gazette, and is an amendment to subsidiary legislation subject to negative vetting by the Legislative Council (“LegCo”).

9. Under our proposed amendment to IE(G)R, “Mercury (CAS No. 7439-97-6)” as a scheduled article specified in Schedules 1 and 2 of IE(G)R is subject to the respective import and export licensing control. Import and Export licences will be administered by the Environmental Protection Department (“EPD”) and issued by the Director of Environmental Protection (“DEP”) under the delegated authority vested with by the Director-General of Trade and Industry under section 3(9) of the Import and Export Ordinance (Cap. 60). To comply with the requirements under the Convention, DEP will consider whether the use of the mercury will be allowed under the Convention, whether the mercury will be stored in an environmentally sound manner, (in the case of an import licence) whether the source of the mercury is allowed under the Convention, and (in the case of an export licence) whether the import of mercury is agreeable to the importing side. These factors for consideration will be stated in the application guidelines to be issued by EPD.

#### *Phase Two – Introduction of New legislation - The Proposed Mercury Control Ordinance*

10. To ensure full compliance with all obligations of the Convention, it is necessary to put in place a new piece of legislation to allow effective implementation of the Convention in a holistic manner. The new legislation, proposed to be named the Mercury Control Ordinance, will restrict import and export of mercury, prohibit the manufacture, import and export of mercury-added products required to be phased out by the Convention, phase out or restrict manufacturing processes in which mercury or mercury compounds are used, as well as restrict the storage of mercury and mercury compounds. As the

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<sup>4</sup> CAS Number is a unique numerical identifier assigned by the Chemical Abstracts Service to every chemical substance. It is a system accepted among the trade and industry universally for identification of chemicals.

Mercury Control Ordinance will control the import and export of mercury and provide the legal basis for a licensing regime, we will include in the Mercury Control Bill a consequential amendment to repeal “Mercury (CAS No. 7439-97-6)” as one of the specified articles in Schedules 1 and 2 to the IE(G)R when the Mercury Control Ordinance comes into operation, as there will be no need for any control under IE(G)R by then.

## **PUBLIC CONSULTATION**

11. To prepare for the implementation of the Convention in Hong Kong, the EPD conducted a series of consultations with members of the public and relevant trades and stakeholders in mid- to late 2018. The scope and the details of the regulatory approach, including the strategy of licensing control on the import and export of mercury, were set out in the consultation document issued by the EPD in August 2018. The consultation document can be downloaded from the link below : .

[https://www.epd.gov.hk/epd/sites/default/files/epd/english/resources\\_pub/policy/files/Mco\\_Annexes\\_Eng\\_v1.pdf](https://www.epd.gov.hk/epd/sites/default/files/epd/english/resources_pub/policy/files/Mco_Annexes_Eng_v1.pdf)

12. The consultation document was sent alongside a survey form to more than 500 stakeholders including major trade associations, relevant trade sectors, foreign chambers of commerce in Hong Kong, relevant professional institutions, academia and religious institutions, etc. A list of the different categories of stakeholders consulted is at **Annex II**. In parallel, EPD hosted a series of consultation meetings, including two public consultation fora and a number of dedicated consultation meetings with the major trade associations and specific trade sectors. The need to impose control on mercury trading to fulfil the requirements of the Convention was generally well received at the consultation forums, and respondents of the survey generally supported the Government to introduce statutory import and export control over mercury under a licensing framework.

13. The Government met with the major trade associations including the Hong Kong General Chamber of Commerce, the Chinese General Chamber of Commerce, the Chinese Manufacturers’ Association of Hong Kong, the Federation of Hong Kong Industries and the Hong Kong Chinese Importers’ &

Exporters' Association. Noting that the Convention is an international convention and that our major trading partners have become Parties to the Convention, the trade associations generally held the view that the legislative proposal, including the regulation of import and export of mercury under licensing control to align with the international practices, should not create any major burden on the trade.

14. The Government consulted the Advisory Council on the Environment at its meeting of 8 July 2019 on the implementation strategy and the legislative proposal for implementing the Convention in Hong Kong. The Council supported Government's proposal to establish statutory control on mercury trading in Hong Kong.

## **WAY FORWARD**

15. To allow early implementation of Phase One of our proposal, we plan to table in June 2020 the Import and Export (General) Regulations (Amendment of Schedules 1 and 2) Order 2020 at LegCo to impose control on the import and export of mercury before the new Mercury Control Ordinance can be enacted. Subject to the negative vetting procedure, the Import and Export (General) Regulations (Amendment of Schedules 1 and 2) Order 2020 will take effect in the second half of 2020. As for Phase Two of the legislative exercise to introduce the Mercury Control Bill which we are currently working on, we plan to consult the Panel in the 2020-21 legislative session.

**Environment Bureau**  
**Environmental Protection Department**  
**May 2020**

**List of Obligations under the Minamata Convention Enforceable under the Existing Administrative and Regulatory Frameworks in Hong Kong**

| <b>Obligations</b>  | <b>Existing Administrative and Regulatory Frameworks</b>   |
|---|--|
| (a) restrict mercury mining; and<br>(b) control use of mercury in artisanal and small-scale gold mining | <ul style="list-style-type: none"> <li>● All mines in Hong Kong are property of the Government.</li> <li>● The Mining Ordinance (Cap. 285) effectively controls all prospecting and mining activities in Hong Kong.</li> <li>● Based on mineral resources record, mercury has not been identified in Hong Kong, nor is there any reasonable prospect for gold mining.</li> </ul> |
| (c) phase down the use of dental amalgam  | <ul style="list-style-type: none"> <li>● The dental profession, the academia and the Government have agreed to take on board the recommended measures in the Convention to phase down the use of dental amalgam<sup>Note</sup>.</li> </ul>   |
| (d) control emissions of mercury and mercury compounds to the atmosphere                                | <ul style="list-style-type: none"> <li>● The Air Pollution Control Ordinance (Cap. 311), coupled with the use of best environmental practices by relevant sources, can effectively control mercury emissions from existing sources and new sources which fall within the source categories as listed in the Convention.</li> </ul>   |
| (e) control releases of mercury and mercury compounds to land   | <ul style="list-style-type: none"> <li>● The Water Pollution Control Ordinance (Cap. 358), which sets out the effluent standards for discharges to all types of</li> </ul>   |

Note The Convention requires Parties to take measures to phase down the use of dental amalgam, which shall include two or more of the measures listed by the Convention. A “Consensus Statement on the Minamata Convention on Mercury and Phase Down of Dental Amalgam in Hong Kong” was jointly promulgated by the Department of Health, the Dental Council of Hong Kong, the Faculty of Dentistry of the University of Hong Kong, the College of Dental Surgeons of Hong Kong and the Hong Kong Dental Association, which can be downloaded from the following link:- [https://www.dh.gov.hk/english/main/main\\_ds/files/consensus\\_statement.pdf](https://www.dh.gov.hk/english/main/main_ds/files/consensus_statement.pdf). The recommendations made under the Statement include three of the measures listed by the Convention.

| <b>Obligations</b>   | <b>Existing Administrative and Regulatory Frameworks</b>  |
|--|---|
| and water  | environmental waters, effectively controls releases of mercury and mercury compounds to water. The Waste Disposal Ordinance (Cap. 354) effectively controls the releases of mercury and mercury compounds on land, which are regarded as chemical wastes. |
| (f) manage mercury wastes in an environmentally sound manner | <ul style="list-style-type: none"> <li>● Mercury waste is categorised as chemical waste under the Waste Disposal Ordinance (Cap. 354), which effectively controls its import, export, transboundary movement and disposal.</li> </ul>                     |

**List of Major Categories of Stakeholders Consulted**

| <b>Category of Stakeholder Groups / Associations / Institutes</b>  |
|--|
| 1. Academia  |
| 2. Biocides in Painting and Coating Products   |
| 3. Building Materials  |
| 4. Chemical and Pharmaceutical Products  |
| 5. Chemical Waste Collectors   |
| 6. Chinese Medicine Trade and Practitioners  |
| 7. Construction  |
| 8. Consulate-General   |
| 9. Cosmetics   |
| 10. Electrical and Electronic Products and Related Services (Electronics and Telecommunication Equipment included) |
| 11. Existing and Expired Hazardous Chemicals Control Ordinance Permit Holders                                      |
| 12. Foreign Chambers of Commerce   |
| 13. Government Funded and Statutory Organisations  |
| 14. Laboratories   |
| 15. Local Chambers of Commerce   |
| 16. Machinery  |
| 17. Metals   |
| 18. Non-Government Organisations / Green Groups  |

| <b>Category of Stakeholder Groups / Associations / Institutes</b> |
|---|
| 19. Utility Services  |
| 20. Professional Bodies   |
| 21. Religion  |
| 22. Trade (Import and Export Trade included)                      |