



17 March 2017

Chemicals Management and Standards  
Department of Environment and Energy  
GPO Box 787  
CANBERRA ACT 2601

Via email: [minamata@environment.gov.au](mailto:minamata@environment.gov.au)

Dear Sir/Madam

The Minerals Council of Australia (MCA) appreciates the opportunity to provide a submission on the Regulation Impact Statement (RIS) - Exposure Draft for the ratification of the Minamata Convention.

The MCA is the peak industry organisation representing Australia's exploration, mining and minerals processing industry, nationally and internationally, in its contribution to sustainable development and society. The MCA's strategic objective is to advocate public policy and operational practice for a world-class industry that is safe, profitable, innovative, and environmentally and socially responsible attuned to its communities' needs and expectations.

MCA member companies are committed to continuous improvement in the management of the direct and indirect impacts of mining activities on the health of the workforce, the environment, and the communities in which the industry operates.

The MCA generally supports Australian the Regulation Impact Statement's (RIS) recommended approach to ratification of the Minamata Convention. However, in implementing the Convention, the Government should give due consideration to existing regulatory arrangements to avoid the creation of unnecessary regulatory burden.

As provided previously, implementation planning should be inclusive of the minerals sector (coal and non-ferrous smelting industries) and provide sufficient time and flexibility for the development of appropriate 'fit-for-purpose' management responses. Further information, including specific comments are provided below.

## **Implementation of the Convention**

### ***Recognising and reconciling existing regulations/management frameworks***

The MCA considers a transparent and harmonised approach should be taken in the implementation of commitments under the Convention. In this context, the MCA considers a nationally consistent framework is preferable to ad-hoc amendments to existing Commonwealth and State legislation and controls.

The minerals sector is already subject to a range of regulation relevant to many aspects of the convention, including waste, storage, transport and emissions to air, land and water. Accordingly, the

MCA considers the commitments under the convention, including the development of a national plan should reconcile with existing environmental and transport regulation. As a starting point and prior to the development of a national 'plan', the MCA recommends that existing management arrangements, including regulation should be mapped against commitments under the convention. This will reveal the existing level of alignment, identify potential gaps and opportunities for further phase down of mercury and avoid duplication.

Commitments under the convention will also need to be reconciled with the proposed industrial chemicals environmental risk management standard.<sup>1</sup> For example, agricultural chemicals are excluded from the risk management standard (explanatory document p.12), yet Minamata Convention ratification Option 4 makes specific provisions for phase down of mercury containing pesticides. Furthermore, restrictions under the new standard may impact on the fulfilment of commitments under the convention (e.g. see storage and disposal issues below).

## **Specific comments**

### **Industrial sources – atmospheric emissions**

#### ***Defining 'new' sources for the application of BAT and BEP***

The convention requires the application Best Available Techniques (BAT) and Best Environmental Practices (BEP) for 'new' facilities in line with the definition provided under Article 2 of the Convention.

The MCA considers it will be important to ensure this provision is not narrowly or rigidly interpreted. Specifically, there is unlikely to be a single 'best technique' or technology for all circumstances. Rather, the use of BAT and BEP should be fit-for-purpose, adapted to meet the specific needs of an operation and not cost prohibitive. Accordingly, companies are best placed for determining the most appropriate BAT and BEP, based on the currently in draft guidance documents, and justifying their alignment with the requirements of the Convention.<sup>2</sup>

How a 'new' facility is defined will be critical to the roll out of BAT and BEP requires further consideration. What will be considered a 'substantial' modification is unclear. In some sectors, equipment may be transferred between operations (existing or new). It is unsure how these circumstances would be specifically captured under the definitions.

#### ***Existing sources and emission control measures***

The RIS (pp.29-30) discusses the range of options to reduce industrial emissions for existing sources. The MCA considers ongoing consultation with industry will be required to fully understand the implications of each of the possible management measures for coal and non-ferrous smelting industries. At this stage, it is difficult to comment on all of the measures without detail on how each may operate in practice.

Without this detail, the MCA can only makes the following general observations:

- A quantified goal for controlling and, where feasible, reducing emissions is not an end in itself. Instead its success relies upon the implementation of specific control measures for individual sources.
- BAT and BEP requirement for existing operations was not considered in the cost-benefit analysis. Accordingly, the application of these technologies may be cost prohibitive and/or inappropriate for many existing operations.

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<sup>1</sup> Department of Environment and Energy, [Draft national standard for environmental risk management of industrial chemicals](#), Canberra, November 2016.

<sup>2</sup> Minamata Convention on Mercury, [Draft BAT and BEP guidance](#), United Nations Environment Program, viewed 10 March 2017.

- The cost-benefit analysis suggests emission limit values may be a lower cost approach however an analysis has not yet been undertaken. While the MCA considers the approach aligns with existing regulatory controls, further consideration will be needed in its design. The imposition of limits can come at significant cost to industry and may not result in commensurate reductions in mercury emissions.
- A risk-based approach should be adopted. Mercury emission reduction efforts should focus on sources and methods that maximise complementary benefits and can be delivered at least cost to the affected industry. Management measures should also avoid targeting operations due to be closed in the near term.

### ***Management and disposal of by-product mercury waste***

Processes designed to reduce atmospheric emissions may result in the production of a mercury waste by-product, which in turn requires safe storage/disposal. There are currently limited safe storage/disposal options in Australia for mercury waste. Accordingly, domestic disposal options or the ability to use international service providers will be central to the reduction of industrial emissions of mercury. The MCA considers a nationally coordinated approach will be needed to address the issue of disposal.

### ***Emissions from other sources***

While a regulatory approach is suggested for industrial point sources, it is unclear how other emitters will be 'encouraged' to phase in emission reductions. Furthermore, the national pollutant inventory does not capture these emissions.

The MCA would welcome the opportunity to discuss any of the above comments further. Should you have any questions regarding this submission, please do not hesitate to contact me on 02 6233 0600 or [chris.mccombe@minerals.org.au](mailto:chris.mccombe@minerals.org.au).

Yours sincerely



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