

Ref: MC/COP5/2023/53

Geneva, 27 April 2023

**Subject:** Proposal by Botswana and Burkina Faso, on behalf of the Africa region, to amend Part I and Part II of Annex A to the Minamata Convention on Mercury on cosmetics to be considered by the Conference of the Parties at its fifth meeting.

Dear Madam/Sir,

The purpose of this letter is to communicate to the Parties and the signatories to the Minamata Convention on Mercury the text of the amendment to Annex A to the Convention as proposed by Botswana and Burkina Faso on behalf of the Africa region.

*For Annex A: Part I, alternative text is proposed for current text*

*For Annex A: Part II, additional text is proposed for inclusion*

The proposal is put forward for consideration by the Conference of the Parties at its fifth meeting, which is scheduled to take place from 30 October to 3 November 2023 in Geneva, Switzerland. This letter is being sent in accordance with paragraph 2 of Article 26, which provides that the text of any proposed amendment to the Convention is to be communicated to the Parties by the Secretariat at least six months before the meeting at which it is proposed for adoption.

Kindly find enclosed to this letter the proposal to amend Annex A to the Convention as well as background information regarding the proposed amendment as submitted by Botswana and Burkina Faso, on behalf of the Africa region, in accordance with paragraph 7 of Article 4. The Secretariat will circulate the text of the proposal and background information translated in all UN official languages as soon as available.

To facilitate discussion at the fifth meeting of the Conference of the Parties, Parties may wish to share comments or questions regarding the amendment proposal with the representatives of the Africa region and the with Secretariat. Please send your comments by email to:

Secretariat of the Minamata Convention on Mercury

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Should you require additional information or clarification, please do not hesitate to contact the Secretariat.

Yours sincerely,

*Monika Stankiewicz*

Monika Stankiewicz  
Executive Secretary

To: National Focal Points for the Minamata Convention on Mercury  
Signatories to the Minamata Convention on Mercury

Cc: Governments through their official channels of communication to the UN Environment Programme  
Permanent Missions to the UN Environment Programme and to the UN in Geneva  
Depositary of the Convention, United Nations Office of Legal Affairs

Attn: Proposal by the Africa region to amend Part I and Part II of Annex A to the Minamata Convention on cosmetics at COP-5



## Proposal by the Africa region to amend Part I and Part II of Annex A to the Minamata Convention on cosmetics at COP-5

### CONTEXT

The proliferation, trade and sales of mercury added skin lightening products (SLPs) often continues unabated in local markets and increasingly, since the pandemic, through the internet. Internet sales of mercury added SLPs likely involves illegal activity by online platforms, decentralized third party sellers and producers hiding in the shadows. There is insufficient awareness of health risks from mercury added SLPs. Without national collaboration and a globally coordinated effort, on both supply and demand side, SLP trade and sales will persist into the foreseeable future long after all other Article 4 banned products are eventually eliminated.

#### **I. Proposal by the Africa region to amend Part I of Annex A to the Minamata Convention on Mercury**

The Africa region proposes to insert the following text in Part I of Annex A (deleting the 1ppm mercury threshold for cosmetics):

<b>Mercury-added products</b>	<b>Date after which the manufacture, import or export of the product shall not be allowed (phase-out date)</b>
Cosmetics, including skin lightening soaps and creams, and not including eye area cosmetics where mercury is used as a preservative and no effective and safe substitute preservatives are available	2025



## II. Proposal by the Africa region to amend Part II of Annex A to the Minamata Convention on Mercury

The Africa region proposes to insert the following text in Part II of Annex A:

Mercury-added Products	Provisions
<b>Cosmetics</b> including skin lightening soaps and creams, and not including eye area cosmetics where mercury is used as a preservative and no effective and safe substitute preservatives are available.	Measures to be taken by a Party to phase out the sale and offering of sale of mercury-added cosmetics from both local markets and online platforms shall include the following measures: <ul style="list-style-type: none"><li>i. Setting national objectives to phase out sales and offering of sales including, but not limited to carrying out two or more of the following:<ul style="list-style-type: none"><li>a. Developing and implementing strategies to discourage marketing, advertising and display;</li><li>b. Developing and publicizing advisories, detention and prohibited substances lists of mercury-added cosmetics;</li><li>c. Licensing and product ingredient approvals for manufacturing facilities for cosmetics and beauty products;</li><li>d. Engaging online platforms in developing and implementing product safety pledges.</li></ul></li><li>ii. Coordinating and collaborating on phase out initiatives inter-ministerially and bilaterally and/or regionally;</li><li>iii. Raising public awareness about the hazards of SLP use among physicians, dermatologists and beauty centers, as well as consumers and family members.</li></ul>

### **BACKGROUND**

Currently, the Minamata Convention bans the manufacture, import or export of cosmetics over 1ppm mercury. Despite known health risks (see below), mercury is often added to skin lightening products (SLPs) to “lighten” the skin, as it suppresses the production of melanin and also removes age spots, freckles, blemishes, and wrinkles. [CNN “White Lies”](#) series has covered many aspects of the issue<sup>1</sup> and a new Global Environment Facility (GEF) project entitled, *Eliminating mercury skin lightening products*, was launched during an inception workshop in mid-February, 2023.<sup>2</sup>

**HEALTH RISKS:** SLPs containing mercury have been shown to present significant health risks, especially to pregnant women and other sensitive populations. Mercury can readily enter the body via absorption through the skin, inhalation or orally. Regular use of mercury added SLPs reduces the skin’s resistance to bacterial and fungal infections and can lead to rashes, skin discoloration and blotching. Long-term exposure may also damage the eyes, lungs, kidneys, digestive, immune and nervous systems. For more information, see the World Health Organization SLP fact sheet.<sup>3</sup>

<sup>1</sup> [CNN As Equals Launches White lies: The Dangers of Skin Whitening](#)

<sup>2</sup> <https://www.thegef.org/projects-operations/projects/10810>

<sup>3</sup> [Mercury in skin lightening products \(who.int\)](#)



## **RATIONALE:**

**Annex A, Part I:** *It is proposed that the 1ppm mercury threshold for banning cosmetics is eliminated.*

By eliminating the 1ppm mercury threshold, Parties with limited capacity could utilize handheld devices (i.e. XRFs) to efficiently conduct market surveillance through inexpensive screening for mercury added SLPs. There are many countries that have no threshold limit in their regulations. For example, according to the EU Cosmetics Regulation<sup>4</sup>, cosmetic products shall not contain mercury and its compounds, except in special cases concerning eye area cosmetics.

**Annex A, Part II:** Mercury-added skin lightening products (SLPs) are still widely available in local markets and via internet sales. Therefore, additional steps need to be taken to curtail sales and offering of sales as well as to reinforce and complement existing measures.

i. *Setting national objectives to phase out sales and offering of sales including, but not limited to carrying out two or more of the following.*

a. *Developing and implementing strategies to discourage marketing, advertising and display.*

Several countries, including South Africa, Nigeria and India, have enacted policies discouraging advertising and displaying and promoting toxic SLPs. South African's policies have been particularly effective in keeping such ads from being aired on television.

The widespread use of SLPs – with or without mercury – is particularly concerning because they are a symbol of societies grappling with colorism. In fact, the World Health Organization (WHO) recommends “not to use skin lightening products as skin is beautiful and we should love it as it is”<sup>5</sup>.

b. *Developing and publicizing advisories, detention and prohibited substances lists of mercury-added cosmetics.*

Many national governments have developed prohibited substances lists, which they make available on their websites to facilitate removal and raise consumer awareness. State and local authorities often provide similar information.

c. *Licensing and product ingredient approvals for manufacturing facilities for cosmetics and beauty products*

Monitoring the industry is necessary to identify the manufacturers who may be breaking the law. Mercury is hardly ever listed in the ingredients list. Requiring licensing of products and product ingredient approvals could address this issue.

d. *Engaging online platforms in developing and implementing product safety pledges*

Since 2018, for example, the European Commission Product Safety Pledge<sup>6</sup> has established a voluntary commitment of online marketplaces to remove unsafe products including SLPs and 11 companies have signed the pledge. Among the 12 commitments, participants commit to 2-day product removals and report twice a year. Since then, Australia<sup>7</sup> and Korea<sup>8</sup> have established similar pledges.

ii. *Coordinating and collaborating on phase out initiatives inter-ministerially and bilaterally and/or regionally;*

Inter-ministerial coordination could help to better control the illicit trade of such products within a country. Beyond the national inter-ministerial cooperation, respective bilateral and/or regional cooperation is also important to curtail transboundary trade.

<sup>4</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02009R1223-20190813>

<sup>5</sup> <https://www.who.int/multi-media/details/mercury-in-skin-lightening-products>

<sup>6</sup> [https://commission.europa.eu/business-economy-euro/product-safety-and-requirements/product-safety/product-safety-pledge\\_en](https://commission.europa.eu/business-economy-euro/product-safety-and-requirements/product-safety/product-safety-pledge_en)

<sup>7</sup> <https://www.productsafety.gov.au/product-safety-laws/compliance/australian-product-safety-pledge>

<sup>8</sup> <https://www.kats.go.kr/en/content.do?cmsid=534>



- iii. *Raising public awareness about the hazards of SLP use among physicians, dermatologists and beauty centers as well as consumers and family members;*

Public awareness needs to be raised not only amongst consumers, but government authorities in order to effectively address different aspects of the SLP issue and conveyed to diverse audiences. To facilitate consumer awareness, it's important to educate health care professionals, including physicians and dermatologists, as well as other professionals such as beauty centers' workers.