



**BRAZILIAN INSTITUTE OF THE ENVIRONMENT AND RENEWABLE NATURAL RESOURCES
COORDINATION OF WASTE AND EMISSIONS CONTROL**

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Technical Opinion number 41/2022-Corem/CGQua/Diqua

Case Number: 02001.017713/2022-41

Interested party: Ministry of Foreign Affairs

SUBJECT: Information Intended for the Secretariat of Minamata Convention on Mercury

Considerations submitted to the Secretariat of Minamata Convention on Mercury regarding the consultation on the interest of States parties to provide information on different topics of that agreement, now addressed in the intersessional process.

Dear Coordinator of COREM,

I. Introduction

This Technical Opinion aims to provide a response to DAI Orders (13021715), IQUA (13025004) and CGQUA (13036558), which, in view of the demands presented by Official Letter number 09213.000018/2022-00 (13021089), of the Environmental Policy and Sustainability Division (DIPAS/MRE), which retransmitted the Letter (13021155), request eventual comments on:

- (i) mercury emissions (until July 15th, 2022); and
- (ii) mercury waste limit (July 15th).

II. Technical Analysis

1. Initially, it becomes urgent to clarify that the expression "Mercury releases" should be understood as "mercury releases", the concept focuses on the mercury emission in soil and water, being the object of attention of Article 9 of the Minamata Convention on Mercury, which we make available in its full content below:

Article 9

Releases

1. This Article deals with the control and, where feasible, the reduction of mercury and mercury compounds releases, generally referred to as “total mercury”, in soils and water from relevant point sources not addressed in other provisions of this Convention.
2. For the purposes of this Article:
 - (a) “Releases” mean the mercury or mercury compounds releases in soils and water;
 - (b) “Relevant source” means a point source of anthropogenic release, identified by the Party and not addressed in other provisions of this Convention;
 - (c) “New source” means any relevant source whose construction or substantial modification is initiated at least one year after the date of entry into force of this Convention for the interested party;
 - (d) “Substantial modification” means the modification of a relevant source that results in a significant increase in releases, except for any change in releases resulting from the recovery of a by-product. It will be up to the Party to decide whether or not the modification is substantial;
 - (e) “Existing source” means any relevant source other than a new source;
 - (f) “Release limit value” means a concentration limit, mass or emission rate of mercury or mercury compounds, generally referred to as “total mercury”, released from a specific source.
3. Each Party shall, within a maximum period of three years after the date of entry into force of the Convention and regularly after that date, identify categories of relevant specific sources.
4. A Party with relevant sources should take steps to control releases and may prepare a national plan establishing the measures to be taken for both, as well as the desired aims, objectives and results. Any plan shall be submitted to the Conference of the Parties within four years of the date of entry into force of the Convention for that Party. If implementation plan is developed in accordance with Article 20, the Party may include in it the plan prepared in accordance with this paragraph.
5. The measures should include one or more of the following items, as appropriate:
 - (a) Releases limit values to control and, where feasible, reduce the releases of relevant sources;
 - (b) The use of available best techniques and environmental best practices to control releases from relevant sources;
 - (c) A multi-pollutant control strategy that results in co-benefits for the control of mercury releases;
 - (d) Alternative measures to reduce the releases from relevant sources.
6. Each Party shall establish, as soon as practicable but within a maximum of five years after the entry into force of the Convention for itself, an inventory of relevant source releases, which shall be maintained thereafter.
7. The Conference of the Parties shall, as soon as possible, adopt guidelines on:
 - (a) Best available techniques and best environmental practices, taking into account any difference between new and existing sources, and the need to minimize cross-effects among different means; and
 - (b) The methodology for preparing release inventories.
8. Each Party shall include information on the implementation of this Article in its reports presented in accordance with Article 21, especially information on the measures taken in accordance with paragraphs 3 to 6 and the effectiveness of these measures

2. Based on the issues foreseen in the text of the aforementioned Article, it is important to emphasize that Brazil, so far, does not have an inventory of mercury release sources for soil and water or any other instrument capable of identifying the various categories of specific sources relevant to paragraph 3 of Article 9 of Minamata Convention.

3. However, at least for general purposes, Brazil already has limit parameters regarding

mercury for the release of effluents, it is certain that the deliberate release of mercury (or any other pollutant) into the soil is not permitted, whereas the criteria for best available techniques and best environmental practices (BAT/BEP) to avoid unintentional releases are somewhat implicit and guaranteed by the system of requiring environmental studies prior to the operation of the potentially polluting enterprise.

4. Therefore, it should be noted that Resolution CONAMA number 430/2011, which deals with effluent release conditions and standards, is the basic standard and establishes that effluents from any polluting source can only be released directly into the receiving body if they have a maximum mercury content of 0.01 mg/l (one hundredth of milligram per liter).

5. Article 5th of the same Resolution 430/2011 provides, as an enhancement to the content of the previous paragraph, that the release of effluents cannot give to the receiving water body quality characteristics in disagreement with its legal framework parameters.

6. On the issue of **mercury waste limits**, we remind that during the Conference of the Parties, the discussion of mercury limits took place on the proposal for a single value of 25 ppm for the definition of section c) of Article 11 - Mercury wastes, the text of the Convention, which reads:

*"2. For the purposes of this Convention, mercury waste means substances or objects: (...)
(c) Contaminated with mercury or mercury compounds"*

7. In the Brazilian national legislation, the management of mercury waste is not based solely on a single pre-determined limit. The establishment of limits for the management of mercury wastes should be based on the environmentally appropriate destination to be given to the waste. Examples of this can be found in the following CONAMA Resolutions:

I- Number 316 of 2002: not to surpass 8 mg/Nm³ of gaseous emissions;

II- Number 358, of 2005: Wastes from Group B , section b) containing or contaminated with heavy metals, including mercury: final disposal in landfill of hazardous waste - Class I (Category D5 of Annex IV-A - Basel Convention);

III- Number 420, 2009: presence in soils:

a) agricultural soil: 12 mg/kg;

b) residential area soil: 36 mg/kg;

c) industrial area soil: 70 mg/kg.

IV- Number 498 of 2020: possibility of use as biosolids:

a) biosolids Class 1: 17 mg/kg

b) biosolids Class 2: 57 mg/kg

V- Number 499, of 2020: 0.05 mg/Nm³ for gas emission in clinker furnaces.

8. Therefore, the solution would be to determine a larger scope of limits, between 1 and 50 ppm, with the limit of 25 ppm as a core value, as follows:

$1 \text{ ppm} \leq 25 \text{ ppm} < 50 \text{ ppm}$

9. From this scope, the limits should be determined for each type of destination intended to give to mercury-contaminated wastes. Such discussions may occur in the intersessional discussions of the technical group of experts and representatives of other countries Party.

10. We also emphasize that the waste standards of Minamata Convention was

based on the pillars of (a) environmentally sound management and disposition based on the provisions of the Basel Convention and on parameters to be set out in an additional Annex to be developed in the future by the Conference of the Parties; (b) recovery, recycling or re-use only for uses permitted by the Convention or environmentally sound provision; (c) sealing to the Parties also signatory to the Basel Convention on the Transboundary Transport of mercury wastes, subject to the purpose of an environmentally appropriate final provision.

11. In addition, it is important to confirm that Brazil is a signatory to the Basel Convention and that it has already been duly internalized by Brazilian law, which was promulgated by Decree number 875/1993 and amended to its Annex I and the adoption of Annexes VIII and IX promulgated by Decree number 4.581/2003.

12. That is the Opinion. Subject to approval by higher authority.

Yours faithfully,

(electronically signed)

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Document signed electronically by **Ana CRISTINA SOARES LINHARES, Environmental Analyst**, on 07/18/2022, at 06:08 p.m., according to the standard time of Brasilia, on the basis of Article 6, § 1st, [Decree number 8.539, of October 8th, 2015](#).



Document signed electronically by **GILBERTO WERNECK DE CAPISTRANO FILHO, Environmental Analyst**, on 07/18/2022, at 06:11 p.m., according to the standard time of Brasilia, on the basis of Article 6, § 1st, [Decree number 8.539, of October 8th, 2015](#).



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