Council Decision (EU) 2019/2135 of 21 November 2019 on the position to be taken, on behalf of the European Union, at the third meeting of the Conference of the Parties to the Minamata Convention on Mercury, as regards the adoption of a Decision on the phasing-out of dental amalgam and amending Annex A to that Convention

COUNCIL DECISION (EU) 2019/2135

of 21 November 2019

on the position to be taken, on behalf of the European Union, at the third meeting of the Conference of the Parties to the Minamata Convention on Mercury, as regards the adoption of a Decision on the phasing-out of dental amalgam and amending Annex A to that Convention

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Minamata Convention on Mercury[(1)] ('the Convention') was concluded by the Union by means of Council Decision (EU) 2017/939[(2)] and entered into force on 16 August 2017.

(2) Pursuant to Decision MC-1/1 on Rules of Procedures adopted by the Conference of the Parties to the Convention at its first meeting, the Parties are to make every effort to reach agreement on all matters of substance by consensus.

(3) The Conference of the Parties to the Convention, during its third meeting on 25-29 November 2019 (COP3), is expected to adopt a Decision ('the proposed Decision') on the phasing-out of dental amalgam and amending Annex A to the Convention.

(4) It is appropriate to establish the position to be taken, on behalf of the Union, at COP3, as the proposed Decision, if adopted, will have legal effects since the Parties to the Convention will have to take measures to implement it at national or regional levels, or both.

(5) The proposed Decision provides for a prohibition, as from 2022, on the manufacture, import and export of dental amalgam when used for the treatment of deciduous teeth, and of teeth of children under the age of 15 and of pregnant or breastfeeding women. The proposed Decision envisages extending such prohibition, as from 2025, to the manufacture, import and export of dental amalgam for all other uses, except where no mercury-free alternatives are available. The proposed Decision provides for the amendment of Annex A to the Convention as a means to implement those prohibitions in the Convention.

Changes to legislation: *There are currently no known outstanding effects for the Council Decision (EU) 2019/2135. (See end of Document for details)*

(6) Article 10(2) of Regulation (EU) 2017/852 of the European Parliament and of the Council[3] on mercury prohibits, as from 1 July 2018, the use of dental amalgam in the Union for the treatment of deciduous teeth, and of teeth of children under the age of 15 and of pregnant or breastfeeding women, while Article 19 of that Regulation provides that the Commission will assess and report by 30 June 2020 to the European Parliament and to the Council on the feasibility of a phase-out in the Union of the use of dental amalgam in the long term, and preferably by 2030.

(7) In addition, Article 10(1), (4) and (6) of Regulation (EU) 2017/852 requires that dental amalgam be only used in the Union in pre-dosed encapsulated form, that dental facilities in which dental amalgam is used or dental amalgam fillings, or teeth containing such fillings, are removed be equipped with amalgam separators, and that dental practitioners ensure that their amalgam waste, including amalgam residues, particles and fillings, and teeth, or parts thereof, contaminated by dental amalgam, is handled and collected by an authorised waste management establishment or undertaking.

(8) The Union should only support the adoption of a Decision at COP3 that is consistent with the Union *acquis*. Accordingly, the proposed Decision should only be supported as far as its provisions on the phasing-out of the use of dental amalgam for the treatment of deciduous teeth, and of teeth of children under the age of 15 and of pregnant or breastfeeding women are concerned,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken, on behalf of the Union, in the third meeting of the Conference of the Parties to the Minamata Convention on Mercury (COP3) shall be to support the adoption of a Decision on the phasing-out of the use of dental amalgam that is consistent with the Union *acquis*.

Article 2

Refinement of the position referred to in Article 1, to the extent it is consistent with the Union *acquis*, may be agreed to, in the light of developments at COP3, by the representatives of the Union, in consultation with Member States during on-the-spot coordination meetings, without a further decision of the Council.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 21 November 2019.

For the Council

The President

H. KOSONEN