

Commission Implementing Decision (EU) 2017/2287 of 8 December 2017 specifying the forms to be used in relation to the import of mercury and of certain mixtures of mercury pursuant to Regulation (EU) 2017/852 of the European Parliament and of the Council on mercury (notified under document C(2017) 8190) (Text with EEA relevance)

COMMISSION IMPLEMENTING DECISION (EU) 2017/2287

of 8 December 2017

specifying the forms to be used in relation to the import of mercury and of certain mixtures of mercury pursuant to Regulation (EU) 2017/852 of the European Parliament and of the Council on mercury

(notified under document C(2017) 8190)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2017/852 of the European Parliament and of the Council of 17 May 2017 on mercury, and repealing Regulation (EC) No 1102/2008⁽¹⁾, and in particular Article 6 thereof,

Whereas:

- (1) In line with Article 3 of the Minamata Convention on Mercury ('the Minamata Convention')⁽²⁾, Article 4(1) of Regulation (EU) 2017/852 provides that mercury and certain mixtures of mercury may be imported into the customs territory of the Union, for purposes other than disposal as waste, only if the importing Member State has granted written consent to the import. Where the exporting country is not a party to the Minamata Convention, consent may only be granted if the exporting country has also provided certification that the mercury is not from primary mercury mining.
- (2) The forms for granting or denying such consent and for certifying that the mercury is not from primary mercury mining should be consistent with the forms set out in Decision UNEP/MC/COP.1/5⁽³⁾ adopted by the Conference of the Parties to the Minamata Convention at its first meeting and adjusted as necessary to take account of the requirements of Regulation (EU) 2017/852.
- (3) For consistency with the date of application of Regulation (EU) 2017/852, the application of this Decision should be deferred to 1 January 2018.
- (4) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 22 of Regulation (EU) 2017/852,

HAS ADOPTED THIS DECISION:

Article 1

[^{F11}] The form to be used by [^{F2}the competent authority] when granting or denying written consent pursuant to the second subparagraph of Article 4(1) of Regulation (EU) 2017/852 is set out in Annex I to this Decision. However, this Article does not apply in the case of ^{F3}... mercury, or a mixture of mercury, that qualifies as or is considered to be waste within the meaning of Directive 2008/98/EC ^{F4}....

[^{F52} In this Article and in Article 2, “competent authority” and “appropriate authority” have the same meanings as in points (12) and (13) (respectively) of Article 2(1) of Regulation (EU) 2017/852 of the European Parliament and of the Council on mercury, and repealing Regulation (EC) No 1102/2008.

3 In this Article and in Article 2, “Directive 2008/98/EC” means Directive 2008/98/EC as last amended by Directive (EU) 2018/851 and read in accordance with paragraphs 3 and 4.

4 Article 5 of Directive 2008/98/EC is to be read as if—

- a in paragraph 1, “Member States shall take appropriate measures to ensure that” were omitted;
- b after paragraph 1 there were inserted—

1A

Any decision as to whether a substance or object is a by-product must be made—

- a in accordance with any regulations setting out detailed criteria on the application of the conditions in paragraph 1 to specific substances or objects; and
- b having regard to any guidance published by the appropriate authority or the competent authority for the purposes of this Article.;
- c paragraphs 2 and 3 were omitted.

5 Article 6 of Directive 2008/98/EC is to be read as if—

- a in paragraph 1, “Member States shall take appropriate measures to ensure that” were omitted;
- b after paragraph 1 there were inserted—

1A

Any decision as to whether a substance or object has ceased to be waste must be made—

- a in accordance with any regulations or retained direct EU legislation setting out detailed criteria on the application of the conditions in paragraph 1 to specific types of waste; and
- b having regard to any guidance published by the appropriate authority or the competent authority for the purposes of this Article.;
- c in paragraph 2—
 - i the first subparagraph were omitted;
 - ii in the second subparagraph, for “Those detailed criteria” there were substituted “Any detailed criteria set out in guidance as referred to in paragraph 1A”;
 - iii the third and fourth subparagraphs were omitted;
- d paragraph 3 were omitted;
- e in paragraph 4—
 - i in the first subparagraph—

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Decision (EU) 2017/2287. (See end of Document for details)

- aa in the first sentence, for the words from the beginning to “Member State”, there were substituted “Where criteria have not been set as referred to in paragraph 1A(a), the competent authority”;
- bb the second sentence were omitted;
- ii in the second subparagraph—
 - aa for “Member States” there were substituted “The appropriate authority”;
 - bb “by competent authorities” were omitted.]

Textual Amendments

- F1** Art. 1 renumbered as Art. 1(1) (31.12.2020) by The Control of Mercury (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1620), regs. 2(2), **34(2)**
- F2** Words in Art. 1(1) substituted (31.12.2020) by The Control of Mercury (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1620), regs. 2(2), **34(3)(a)**
- F3** Words in Art. 1(1) omitted (31.12.2020) by virtue of The Control of Mercury (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1620), regs. 2(2), **34(3)(b)(i)**
- F4** Words in Art. 1(1) omitted (31.12.2020) by virtue of The Control of Mercury (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1620), regs. 2(2), **34(3)(b)(ii)**
- F5** Art. 1(2)-(5) inserted (31.12.2020) by The Control of Mercury (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1620), regs. 2(2), **34(4)**

Article 2

[^{F6}The competent authority] may grant written consent pursuant to the second subparagraph of Article 4(1) of Regulation (EU) 2017/852 in the circumstances set out in point (b) of that subparagraph only if the certification required by that point is in the form set out in Annex II to this Decision. However, this Article does not apply in the case of ^{F7}... mercury, or a mixture of mercury, that qualifies as or is considered to be waste within the meaning of Directive 2008/98/EC.

Textual Amendments

- F6** Words in Art. 2 substituted (31.12.2020) by The Control of Mercury (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1620), regs. 2(2), **35(a)**
- F7** Words in Art. 2 omitted (31.12.2020) by virtue of The Control of Mercury (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1620), regs. 2(2), **35(b)**

^{F8} Article 3

Textual Amendments

- F8** Art. 3 omitted (31.12.2020) by virtue of The Control of Mercury (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1620), regs. 2(2), **36**

^{F9} Article 4

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Decision (EU) 2017/2287. (See end of Document for details)

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Textual Amendments

- F9** [Art. 4](#) omitted (31.12.2020) by virtue of [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **36**

Done at Brussels, 8 December 2017.

For the Commission

Karmenu VELLA

Member of the Commission

ANNEX I

**FORM FOR GRANTING OR DENYING WRITTEN CONSENT,
PURSUANT TO ARTICLE 4(1) OF REGULATION (EU) 2017/852, TO
THE IMPORT [^{F10}ETC.] OF MERCURY OR OF THE MIXTURES
OF MERCURY LISTED IN ANNEX I TO THAT REGULATION**

Textual Amendments

- F10** Word in [Annex 1](#) heading inserted (31.12.2020) by [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **37(2)**

FORM FOR GRANTING OR DENYING WRITTEN CONSENT, PURSUANT TO ARTICLE 4(1) OF REGULATION (EU) 2017/852 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON MERCURY, TO THE IMPORT [^{F11}ETC.] OF MERCURY OR OF THE MIXTURES OF MERCURY LISTED IN ANNEX I TO THAT REGULATION

[^{F12}Note: This form applies to the import into Great Britain of mercury and of mixtures of mercury with other substances, including alloys of mercury, with a mercury concentration of at least 95% by weight, as listed in Annex I to [Regulation \(EU\) 2017/852](#) on mercury ('mixtures of mercury'). This form also applies to the transport of such mercury and mixtures from Northern Ireland into Great Britain and from Great Britain into Northern Ireland. This form does not apply in the case of mercury, or a mixture of mercury, that qualifies as or is considered to be waste within the meaning of [Directive 2008/98/EC](#) on waste^{M1}.]

Textual Amendments

- F12** Words in [Annex 1](#) Form substituted (31.12.2020) by [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **37(5)**

Marginal Citations

- M1** In accordance with Article 4(2) of Regulation (EU) 2017/852, the import into [Great Britain] of mixtures of mercury other than those covered by this form and of mercury compounds for the purpose of mercury reclamation is prohibited. [Editorial note: words in Annex 1 footnote substituted (31.12.2020) by [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **37(15)**]

F13 ...

(4)

Textual Amendments

- F13** Original Annex 1 Form Section A omitted (31.12.2020) by virtue of [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **37(6)**

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Decision (EU) 2017/2287. (See end of Document for details)

[^{F14}Section A]:

Contact information to be provided by the exporting country

Name of designated national focal point or responsible government official:

Address:

Tel.:

Fax:

Email:

Textual Amendments

F14 Words in [Annex 1 Form](#) substituted (31.12.2020) by [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **37(7)**

[^{F15}Section B]:

Shipment information to be provided by the exporting country

- (i) Please indicate the intended total quantity of mercury, whether in pure form or in mixtures, to be shipped (kg)
- (ii) Please indicate the intended date(s) of shipment(s)
- (iii) Please indicate if the mercury, whether in pure form or in mixture, is from primary mercury mining:

If YES: Exporting country Party to the Minamata Convention: Please indicate if the mercury is from new or from existing primary mining within the meaning of Article 3(3) and (4) of the Minamata Convention.

If the exporting country is a non-Party, it has provided certification that the mercury is not from primary mercury mining.

- (iv) Please confirm that the mercury whether in pure form or in mixture is not from any of the three following sources⁽⁵⁾:
 - the chlor-alkali industry (e.g. decommissioning of chlor-alkali cells),
 - the cleaning of natural gas,
 - non-ferrous mining and smelting operations.

Textual Amendments

F15 Words in [Annex 1 Form](#) substituted (31.12.2020) by [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **37(8)**

[^{F16}Section C]:

Information to be provided by the [^{F17}competent authority]

What is the purpose of the import of the mercury whether in pure form or in mixtures? Please circle:

- (i) Environmentally sound interim storage in accordance with Article 7(3) of Regulation (EU) 2017/852

YES	NO
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If yes, please specify the intended use if known.

...

...

...

- (ii) Use allowed under [^{F18}the law of the relevant part of the United Kingdom]^{M2}:

YES

NO

If yes, please specify additional details about the intended use of the mercury whether in pure form or in mixture.

...

...

...

Textual Amendments

F18 Words in [Annex 1 Form](#) substituted (31.12.2020) by [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **37(10)(b)**

Marginal Citations

M2 In accordance with Article 4(3) of Regulation (EU) 2017/852, the import into [Great Britain] of mercury for use in artisanal and small-scale gold mining is prohibited. [Editorial note: words in Annex 1 footnote substituted (31.12.2020) by [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **37(15)**]

Textual Amendments

F16 Words in [Annex 1 Form](#) substituted (31.12.2020) by [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **37(9)**

F17 Words in [Annex 1 Form](#) substituted (31.12.2020) by [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **37(10)(a)**

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Decision (EU) 2017/2287. (See end of Document for details)

[^{F19}Section D]:

Shipping information

Importer

Name of business:

Address:

Tel.:

Fax:

Email:

Exporter

Name of business:

Address:

Tel.:

Fax:

Email:

.....

Textual Amendments

F19 Words in Annex 1 Form substituted (31.12.2020) by The Control of Mercury (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1620), regs. 2(2), 37(11)

[^{F20}Section E]:

Indication of consent by the [^{F21}competent authority]

Nature of consent, please circle:

GRANTED	DENIED
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Please use the space below to indicate any conditions, additional details or relevant information.

...

...

F22

...

.....

Textual Amendments

F22 Words in Annex 1 Form omitted (31.12.2020) by virtue of The Control of Mercury (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1620), regs. 2(2), 37(14)

Textual Amendments

- F20** Words in Annex 1 Form substituted (31.12.2020) by [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **37(12)**
- F21** Words in Annex 1 Form substituted (31.12.2020) by [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1620\)](#), regs. 2(2), **37(13)**

ANNEX II

FORM TO BE USED BY COUNTRIES THAT ARE NOT PARTIES TO THE MINAMATA CONVENTION ON MERCURY INTENDING TO EXPORT MERCURY, WHETHER IN PURE FORM OR IN MIXTURES, TO [F23 GREAT BRITAIN] FOR THE PROVISION OF CERTIFICATION ON THE SOURCE OF MERCURY

Textual Amendments

- F23** Words in Annex 2 heading substituted (2.12.2022) by [The Control of Mercury \(Amendment\) \(EU Exit\) Regulations 2022 \(S.I. 2022/1142\)](#), regs. 1, 2

FORM FOR CERTIFICATION OF THE SOURCE OF MERCURY, WHETHER IN PURE FORM OR IN MIXTURES, TO BE EXPORTED

Section A:

Shipment information to be provided by the exporting country

- (i) Please indicate the intended total quantity of mercury whether in pure form or in mixtures to be shipped
- (ii) Please indicate the intended date(s) of shipment(s)

Section B:

Shipping information

Importer

Name of business:

Address:

Tel.:

Fax:

Email:

Exporter

Name of business:

Address:

Changes to legislation: There are currently no known outstanding effects for the
Commission Implementing Decision (EU) 2017/2287. (See end of Document for details)

Tel.:

Fax:

Email:

Section C:

Certification

In accordance with Article 3(8) of the Minamata Convention on Mercury, my Government certify that the mercury included in the shipment described in this form is not from primary mercury mining

Please, provide supporting information on the source of the mercury to be exported

Signature of responsible government official and date:

- Name
- Title:
- Signature
- Date:

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Decision (EU) 2017/2287. (See end of Document for details)

- (1) OJ L 137, 24.5.2017, p. 1.
- (2) The Union ratified the Minamata Convention by means of Council Decision (EU) 2017/939 of 11 May 2017 on the conclusion on behalf of the European Union of the Minamata Convention on Mercury (OJ L 142, 2.6.2017, p. 4).
- (3) Decision UNEP/MC/COP.1/5 entitled ‘Guidance in relation to mercury supply sources and trade (article 3), particularly in regard to identification of stocks and sources of supply (paragraph 5 (a)) and forms and guidance for obtaining consent to import mercury (paragraphs 6 and 8)’ adopted on 24 September 2017.
- (4) The ‘designated national focal point’ refers to the national focal point designated under Article 17(4) of the Minamata Convention for the exchange of information under the Convention. This is expected to be the same as the ‘competent authority’ designated by the importing Member State under Article 17 of Regulation (EU) 2017/852 as the authority to which import requests under Article 4 should be addressed.
- (5) In accordance with Article 11 of Regulation (EU) 2017/852, mercury and mercury compounds, whether in pure form or in mixtures, from any of the three sources listed in the form shall be considered to be waste within the meaning of Directive 2008/98/EC and be disposed of without endangering human health or harming the environment, in accordance with that Directive.

Changes to legislation:

There are currently no known outstanding effects for the Commission Implementing Decision (EU) 2017/2287.