

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

The form to be used by Member States 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 imports of mercury, or a mixture of mercury, that qualifies as or is considered to be waste within the meaning of Directive 2008/98/EC of the European Parliament and of the Council ⁽⁴⁾.

Article 2

Member States 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 imports of mercury, or a mixture of mercury, that qualifies as or is considered to be waste within the meaning of Directive 2008/98/EC.

⁽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⁾ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

Article 3

This Decision shall apply from 1 January 2018.

Article 4

This Decision is addressed to the Member States.

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 OF MERCURY OR OF THE MIXTURES OF MERCURY LISTED IN ANNEX I TO THAT REGULATION

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 OF MERCURY OR OF THE MIXTURES OF MERCURY LISTED IN ANNEX I TO THAT REGULATION

Note: This form applies to the import into the European Union 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 does not apply in the case of imports 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 ⁽¹⁾.

Section A: Contact information to be provided by the importing Member State

Name of the designated national focal point ⁽²⁾:

Address:

Tel.:

Fax:

Email:

Section B: Contact information to be provided by the exporting country

Name of designated national focal point or responsible government official:

Address:

Tel.:

Fax:

Email:

Section C: 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 ⁽³⁾:

- the chlor-alkali industry (e.g. decommissioning of chlor-alkali cells),
- the cleaning of natural gas,
- non-ferrous mining and smelting operations.

Section D: Information to be provided by the importing Member State

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

If yes, please specify the intended use if known.

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(ii) Use allowed under Union and national legislation ⁽⁴⁾: YES NO

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

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Section E: Shipping information

Importer

Name of business:

Address:

Tel.:

Fax:

Email:

Exporter

Name of business:

Address:

Tel.:

Fax:

Email:

Section F: Indication of consent by the importing Member State

Nature of consent, please circle:

GRANTED

DENIED

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

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Signature of the importing Member State designated competent authorities and date

— Name

— Title:

— Signature:

— Date:

⁽¹⁾ In accordance with Article 4(2) of Regulation (EU) 2017/852, the import into the Union of mixtures of mercury other than those covered by this form and of mercury compounds for the purpose of mercury reclamation is prohibited.

⁽²⁾ 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.

⁽³⁾ 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.

⁽⁴⁾ In accordance with Article 4(3) of Regulation (EU) 2017/852, the import into the Union of mercury for use in artisanal and small-scale gold mining is prohibited.

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 A MEMBER STATE FOR THE PROVISION OF CERTIFICATION ON THE SOURCE OF MERCURY

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:

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:
