

**Intergovernmental negotiating committee
to prepare a global legally binding instrument
on mercury**

Seventh session

Dead Sea, Jordan, 10–15 March 2016

Agenda item 3

**Work to prepare for the entry into force of the Minamata
Convention on Mercury and for the first meeting of the
Conference of the Parties to the Convention**

**Submission by the co-chairs of the contact group on technical
matters in relation to guidance on completing the forms
required under article 3 related to trade in mercury**

Note by the secretariat

The secretariat has the honour to transmit a submission by the co-chairs of the contact group on technical matters conveying the agreed outcome of the group on guidance on completing the forms required under article 3 related to trade in mercury (see annex). It is reproduced as submitted to the secretariat, without formal editing.

Annex

Guidance on completing the forms required under article 3 related to trade in mercury

Part I: Guidance on the use of forms A to D

A. Background

1. The present guidance has been developed to assist parties with regard to the forms required under article 3 of the Minamata Convention and the registers to be maintained by the secretariat in accordance with paragraphs 7 and 9 of article 3. It seeks to clarify the following matters:
 - (a) Scope of article 3, i.e., what is not covered, namely, mercury wastes (article 11) and products (article 4);
 - (b) Which forms should be used in which circumstances and considerations to take into account before issuing a consent;
 - (c) Information to be provided in each section of the forms;
 - (d) Role of the registers and how to use them;
 - (e) Where to obtain the forms;
 - (f) How to transmit the forms.
2. The forms are to be used for trade in mercury, which includes mixtures of mercury with other substances, including alloys of mercury, with a mercury concentration of at least 95 per cent by weight.
3. The forms are not to be used for trade in:
 - (a) Quantities of mercury to be used for laboratory-scale research or as a reference standard; or
 - (b) Naturally occurring trace quantities of mercury present in such products as non-mercury metals, ores, or mineral products, including coal, or products derived from these materials, and unintentional trace quantities in chemical products; or
 - (c) Mercury-added products; or
 - (d) Mercury wastes
4. Parties should consider the obligations under the Convention before giving consent for, or providing a general consent to, import mercury. Once the mercury has entered the territory of a party, the party has responsibilities under the Convention. In particular, parties should undertake measures so that the import is used only for an allowed use, stored in an environmentally sound manner, or disposed of in accordance with article 11.

B. Which forms should be used in which circumstances

5. This guidance addresses the following forms:
 - (a) Form for the provision of written consent by a party to the import of mercury (Form A);
 - (b) Form for the provision of written consent by a non-party to the import of mercury (Form B);
 - (c) Form for non-party certification of the source of mercury to be exported to a party (Form C) (to be used in conjunction with form A or form D, when required);
 - (d) Form for general notification of consent to import mercury (Form D);
6. Form A is to be completed by a party that consents to the import of mercury either from a party or from a non-party as set out in paragraphs 6 (a) and 8 of article 3. Under paragraph 6 (a) of article 3, each party “shall not allow the export of mercury except” to an importing party that has provided its written consent and only for a use allowed to the importing party under the Convention or for environmentally sound interim storage as set out in article 10. Under paragraph 8 of article 3, each party “shall not allow the import of mercury from a non-party to whom it will provide its written

consent unless the non-party has provided certification that the mercury is not from sources identified as not allowed under paragraph 3 or paragraph 5 (b)” of article 3. In both of these circumstances, form A may be used to provide the written consent for the importation of mercury. Form A is not necessary in cases where the importing party has provided a general notification of consent in accordance with paragraph 7 of article 3.

7. Form B is to be used by a non-party to provide to the exporting party its written consent to the import of mercury, as set out in paragraph 6 (b) of article 3. The form must be accompanied by certification demonstrating: that the non-party has measures in place to ensure the protection of human health and the environment and to ensure its compliance with the provisions of articles 10 and 11; that such mercury will be used only for a use allowed¹ to a party under the Convention or for environmentally sound storage as set out in article 10 of the Convention. Form B is not needed when a non-Party has submitted a general consent notification.

8. Form C is to be used by a non-party from which mercury is to be exported to a party to certify that the mercury is not from sources identified as not allowed under paragraph 3 or paragraph 5 (b) of article 3 of the Convention. Paragraph 3 refers to mercury sourced from primary mercury mining and paragraph 5 (b) refers to measures to be taken by a party when it determines that excess mercury from the decommissioning of chlor-alkali facilities is available to ensure that such mercury is disposed of in accordance with the guidelines for environmentally sound management referred to in paragraph 3 (a) of article 11, using operations that do not lead to recovery, recycling, reclamation, direct reuse or alternative uses. This form does not need to be used if the importing Party has chosen to apply paragraph 9 of article 3.

9. Form D is to be used by importing parties or non-parties who prefer, in accordance with paragraph 7 of article 3, to provide a general notification to the secretariat in lieu of the written consent to the exporting party required under paragraph 6 of article 3. The general notification must set out any terms and conditions under which the importing party or non-party provides its consent and may be revoked at any time by the party or non-party submitting it. The secretariat is to keep a public register of all such notifications.

C. What information is to be provided in each section

10. The forms have been laid out to be, as far as possible, self-explanatory in terms of the information to be supplied in each section; they also provide guidance regarding the information to be provided. The forms are set out in appendices A–D of the present guidance. The guidance is presented in a format that is intended to facilitate the completion of electronic and online versions of forms A–D.

D. Role of the registers and how to use them

11. Two registers are established under article 3. The first is the public register of all general notifications submitted to the secretariat by importing parties or non-parties as the written consent required by paragraph 6 of article 3. The second is the public register of notifications provided by parties who, having submitted general notifications of consent under paragraph 7 of article 3, have decided not to apply paragraph 8 of the article.

12. The register of general notifications is made publically available by the secretariat to allow exporting parties to consult it prior to initiating exports of mercury. It will also allow an exporting party to determine any terms and conditions that an importing party or non-party applies in granting its consent to import. As the notification serves as the written consent required by paragraph 6 of article 3, the inclusion of a party or non-party on the register means that the exporting party need not seek separate written consent for a specific import and may instead rely on the general consent indicated in the register, subject to any terms and conditions set by the importing country.

13. The register of notifications by parties that have decided not to apply paragraph 8 may be consulted by a non-party. The use of Form C is not required for export from a non-party to parties listed in this register.

F. Where to obtain the forms

14. The forms are available on the Minamata Convention website (www.mercuryconvention.org). In addition, copies of the forms will be sent electronically to all parties through the national focal points designated under article 17 of the Convention. Should the forms be amended or updated, the

¹ Paragraph (k) of article 2 of the Convention defines “use allowed” as “any use by a Party of mercury or mercury compounds consistent with this Convention, including, but not limited to, uses consistent with Articles 3, 4, 5, 6 and 7.”

new forms will also be provided to the national focal points. They will also be available upon request to the secretariat.

G. How to transmit the forms

15. The forms providing consent to import (Forms A and B), and the form providing non-party certification of the sources of mercury to be exported to a party (Form C) are to be transmitted directly between parties, using the contact information of the concerned parties' national focal points. It is recommended that the parties concerned provide the Secretariat with copies of these forms.

16. In accordance with paragraph 7 of article 3, the form for providing general notification of consent to the import of mercury (Form D) is to be provided to the secretariat.

Appendix A

FORM A

Form for the provision of written consent by a party to the import of mercury

(This form is not required by the Convention in cases where the importing party has provided a general notification of consent in accordance with article 3, paragraph 7)

Section A: Contact information to be provided by the importing party

Name of party:

Name of designated national focal point:

Address:

Tel:

Fax:

Email:

Section B: Contact information to be provided by the exporting party or non-party

Name of party or non-party:

Name of designated national focal point or responsible government official:

Address:

Tel:

Fax:

Email:

Guidance for Sections A and B

For a Party, the contact is the national focal point designated as per article 17. A Party may in some cases have a specific contact for purposes of trade in mercury. In both of these cases the contact information would be made publicly available by the Secretariat. If neither of the above is in place, communication will be effected through the Ministry of Foreign Affairs, for instance through its Permanent Mission in Geneva.

In the case of non-parties, it is their responsibility to determine who their responsible government officials will be.

Section C: Shipment information to be provided by the exporting country

Please indicate the approximate total quantity of mercury to be shipped:

Please indicate the approximate date of shipment:

Please indicate if the mercury is from primary mercury mining:

Please indicate if the mercury has been determined by the exporting party to be excess mercury from the decommissioning of chlor-alkali facilities:

(If the exporting country is a non-party, the importing party shall also request that Form C be completed)

Guidance

Information regarding the approximate total quantity of mercury to be shipped allows the importing country to make an informed decision about any shipment to which it is consenting, while the approximate date of shipping assists in any effort to track the shipment that the country may wish to undertake.

If the mercury is sourced from primary mercury mining it may not be used for artisanal and small-scale gold mining but it may be used, for a limited time as set out in paragraph 4 of article 3, for the manufacturing of mercury-added products in accordance with article 4 or in manufacturing processes in accordance with article 5. It may also be disposed of in accordance with article 11 using operations that do not lead to recovery, recycling, reclamation, direct reuse or alternative uses.

If the mercury has been determined by the exporting party to be excess mercury from the decommissioning of chlor-alkali facilities the party is to take measures to ensure that it is disposed of in accordance with the guidelines for environmentally sound management referred to in paragraph 3 (a) of article 11, using operations that do not lead to recovery, recycling, reclamation, direct reuse or alternative uses.

If the mercury is to be disposed of, the procedures for transboundary movements of waste set out in article 11(3)(c) of the Convention shall be followed. In such cases this form cannot be used.

When the exporting country is a non-party, the importing party shall not allow shipment where the mercury originates from one of these two sources, unless it has applied paragraph 9 of article 3.

Section D: Information to be provided by the importing party

What is the purpose of the import of the mercury? Please select YES or NO:

- i. Environmentally sound interim storage in accordance with article 10:

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

- ii. Use allowed to a party under the Convention: YES NO
 If yes please specify additional details about the intended use of the mercury.

Guidance

This information is to state the purpose of the import of mercury, in accordance with paragraph 6 (a) of article 3. An indication is to be given as to whether the imported mercury is intended for environmentally sound interim storage in accordance with article 10 or whether it is intended for a use allowed to a party under the convention. If the mercury is intended for interim storage, information on the intended use, if known, is to be provided. If the response to these questions is 'yes', then the importing party is asked to provide further details on the intended use. Please note that the source of the mercury may restrict the use allowed for the mercury under paragraph 4 and paragraph 5 (b) of article 3 (see box under Section C).

Before issuing consent, parties are to see whether appropriate arrangements are in place in accordance with the Convention

Section E: Shipping information, as appropriate

Importer

Name of business:

Address:

Tel:

Fax:

E-mail:

*Exporter**Name of business:**Address:**Tel:**Fax:**E-mail:***Guidance**

Shipping information should include details of both the importer and the exporter, including the name of the business, address, telephone, fax and e-mail contact information. This provides information to the focal point or responsible government official as to who may be contacted should there be any queries in relation to any shipment and also allows follow-up at the national level with regard to the shipment.

Section F: Indication of consent by the importing party*Has consent been granted? Please select GRANTED or DENIED:**GRANTED**DENIED**Please use the space below to indicate any conditions, additional details or relevant information.**Signature of importing party designated national focal point and date**Name:**Title:**Signature:**Date:***Guidance**

This should be the contact point as indicated in section A of this form.

Appendix B

FORM B

Form for the provision of written consent by a non-party to the import of mercury
(This form is not required by the Convention in cases where the importing non-party has provided a general notification of consent in accordance with article 3, paragraph 7)

Section A: Contact information to be provided by the party to the Convention

Name of party:

*Name of designated
national focal point:*

Address:

Tel:

Fax:

E-mail:

Guidance

For a party, the contact is the national focal point designated as per article 17. A party may in some cases have a specific contact for purposes of trade in mercury. In both of these cases the contact information would be made publicly available by the Secretariat. If neither of the above is in place, communication will be effected through the Ministry of Foreign Affairs, for instance through its Permanent Mission in Geneva.

Section B: Contact information to be provided by the non-party

Name of country:

Name and agency of government official:

Address:

Tel:

Fax:

Email:

Guidance

In the case of non-parties, it is their responsibility to determine who their responsible government officials will be.

Section C: Shipment information to be provided by the exporting party

Please indicate the approximate total quantity of mercury to be shipped:

Please indicate the approximate date of shipment:

Please indicate if the mercury is from primary mercury mining:

Please indicate if the mercury has been determined by the exporting party to be excess mercury from the decommissioning of chlor-alkali facilities:

Guidance

The information to be provided by the importing non-party on the use of the mercury to be imported is specified in paragraph 6 (b) of article 3. The first question above relates to paragraph 6 (b) (i), which requires an importing non-Party to provide certification that it has measures in place to ensure the protection of human health and the environment and to ensure compliance with articles 10 and 11 of the Convention. If such measures, including legislation, regulations or other measures, are in place, the non-party is required to provide appropriate documentation demonstrating that such is the case. The documentation should provide sufficient details to demonstrate the effectiveness of the measures.

The second question above seeks information as to the purpose of the import of mercury, in accordance with paragraph 6 (b) (ii) of article 3, i.e., whether it is intended for environmentally sound interim storage in accordance with article 10 or whether it is intended for a use allowed to a party under the convention. If the response is yes then the importing party is asked to provide further details on the intended use. Please note that the source of the mercury may restrict the use allowed for the mercury under paragraph 4 and paragraph 5 (b) of article 3 (see box under Section C).

Section E: Shipping information, as appropriate*Importer**Name of business:**Address:**Tel:**Fax:**Email:**Exporter**Name of business:**Address:**Tel:**Fax:**Email:***Guidance**

Shipping information should include details of both the importer and the exporter, including the name of the business, address, telephone, fax and e-mail contact information. This provides information to the focal point or responsible government official as to who may be contacted should there be any queries in relation to the shipment, and also allows follow-up at the national level with regard to the shipment.

Section F: Indication of consent by the importing non-party

Has consent been granted? Please select GRANTED or DENIED:

*GRANTED**DENIED*

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

Signature of importing non-party responsible government official and date

*Name:**Title:**Signature:**Date:***Guidance**

It is the responsibility of each country to determine who will serve as its responsible government official. This should be the same contact point as indicated in section B of this form.

Appendix C

FORM C***Form for non-party certification of the source of mercury to be exported to a party
To be used in conjunction with form A or form D, when required***

Article 3, paragraph 8, of the Convention provides that a party shall not allow the import of mercury from a non-party to whom it will provide its written consent unless the non-party has provided certification that the mercury is not from sources identified as not allowed under paragraph 3 or paragraph 5 (b), i.e., that it is not from primary mercury mining or mercury determined by the exporting non-party to be excess mercury from the decommissioning of chlor-alkali facilities.

Section A: Shipment information to be provided by the exporting non-party

Please indicate the approximate total quantity of mercury to be shipped:

Please indicate the approximate date of shipment:

Guidance

Information regarding the approximate total quantity of mercury to be shipped allows the importing country to make an informed decision about any shipments to which it is consenting, while the approximate date of shipping assists in any effort to track the shipment that the country may wish to undertake.

Section B: Shipping information, as appropriate***Importer***

Name of business:

Address:

Tel:

Fax:

Email:

Exporter

Name of business:

Address:

Tel:

Fax:

Email:

Guidance

Shipping information should include details of both the importer and the exporter, including the name of the business, address, telephone, fax and email contact information. This provides information to the focal point or responsible government official as to who may be contacted should there be any queries in relation to the shipment, and also allows follow-up at the national level with regard to the shipment.

Section C: Certification

In accordance with article 3, paragraph 8, of the Convention, my Government certifies that the mercury included in the shipment described in this form is not:

- (i) From primary mercury mining; or*
- (ii) Mercury determined by the exporting non-party to be excess mercury from the decommissioning of chlor-alkali facilities.*

Supporting information _____

Signature of responsible government official and date

Name:

Title:

Signature:

Date:

Guidance

This section sets out the requirement for the Government to provide certification that the mercury included in the shipment is not from sources identified as not allowed under paragraph 3 or paragraph 5 (b) of article 3, namely, primary mercury mining or mercury determined by the exporting non-party to be excess mercury from the decommissioning of chlor-alkali facilities. It allows the exporting non-party to provide supporting information in relation to the certification. The responsible government official must also sign and date the form. The form should be signed and certified by the same official who was identified in section B of Form A (contact information to be provided by the exporting non-party).

Appendix D

FORM D**Form for general notification of consent to import mercury**

Article 3, paragraph 7, of the Convention provides that an exporting party may rely on a general notification to the secretariat by the importing party or non-party as the written consent required by paragraph 6 of article 3. Such general notification shall set out any terms and conditions under which the importing party or non-party provides its consent. The secretariat maintains a public register of all such notifications.

A notification may be revoked at any time by the party or non-party. A party or non-party that revokes its notification should provide a written request to the secretariat to be removed from the public register of general notifications and indicate the effective date of the revocation.

Parties are reminded that provision or acceptance of a general notification according to paragraph 7 of article 3 addresses only the requirement for written consent for each shipment of mercury. It does not absolve parties of other obligations under the Convention, in particular under paragraphs 6 and 8 of article 3 (see form C).

Section A: Contact information for general notifications of consent

Name of party or non-party:

Name of designated national focal point
or name of government agency and official:

Address:

Tel:

Fax:

Email:

Guidance

For a party, the contact is the national focal point designated as per article 17. A party may in some cases have a specific contact for purposes of trade in mercury. In both of these cases the contact information would be made publicly available by the Secretariat. If neither of the above is in place, communication will be effected through the Ministry of Foreign Affairs, for instance through its Permanent Mission in Geneva.

In the case of non-parties, it is their responsibility to determine who their responsible government officials will be.

Section B: General notification of consent

My Government hereby provides a general notification of consent to imports of mercury. An exporting Party may rely on this general notification as the written consent required by article 3, paragraph 6, of the Convention.

Section C: Terms and conditions of general notifications

Please use the space below to specify any terms and conditions:

Guidance

This section provides an opportunity to specify any terms and conditions that an importing party may wish to specify in connection with a general notification. It is not intended that a party would specify a requirement for consent prior to import as a condition of a general notification, as a party could give consent using form A without submitting a general notification.

Section D: Certification by a non-party (this section is not applicable to parties)

In accordance with article 3, paragraph 6, of the Convention, my Government certifies that:

It has measures in place to ensure the protection of human health and the environment and to ensure its compliance with the provisions of articles 10 and 11 of the Convention. Please provide appropriate documentation demonstrating such measures. Such documentation may include procedures, legislation, regulations or other measures at the national level and shall provide sufficient detail to demonstrate the effectiveness of such measures; and

The imported mercury covered by this general notification of consent will be used only for a use allowed to a party under the Convention or for environmentally sound interim storage as set out in article 10 of the Convention.

For uses allowed under the Convention or for environmentally sound interim storage, please provide information if available about the intended use of the mercury.

Guidance

This section provides a certification by a non-party in relation to measures in place with regard to the protection of human health and the environment. Certification is required to demonstrate the existence of such measures, which may take the form of relevant procedures, legislation or regulations or other measures at the national level that have been put in place. The certification must provide sufficient detail to demonstrate the effectiveness of such measures. A statement that the mercury covered by the general notification of consent will only be used for a use allowed under the Convention is required, and additional information about the intended use of the mercury is also requested.

Signature of responsible government official and date

Name:

Title:

Signature:

Date:

Guidance

It is the responsibility of each non-party to determine who will serve as its responsible government official. This should be the same contact point as indicated in section A of this form.

Part II: Guidance on the use of form E

Guidance on completing the notification for the register of information supplied by parties choosing not to apply paragraph 8 of article 3 of the Minamata Convention on Mercury

Form E is to be used in the case where a party chooses to apply paragraph 9 of article 3.

FORM E

Notification for the register of information supplied by parties choosing not to apply paragraph 8 of article 3 of the Minamata Convention on Mercury

Name of party:

Comprehensive export restrictions in place:

Domestic measures in place to ensure environmentally sound management of imported mercury:

Mercury imports from non-parties:

Country of origin	Quantity imported

Note: if additional space is needed for any answer, please use additional pages.

Guidance

The notification for the register of information supplied by parties choosing not to apply paragraph 8 of article 3 of the Minamata Convention on Mercury requires that any such party, in accordance with paragraph 9 of article 3, provide details of the comprehensive restrictions on the export of mercury that it has in place, as well as the measures that it has in place to ensure the environmentally sound management of imported mercury. The form also provides for the party to provide information regarding mercury imported from non-parties, including the country of origin and the quantity imported. This information is maintained on a public register and is therefore accessible. All measures in place should be described in sufficient detail.