

## Executive Summary

1. The Minamata Convention on Mercury (“the Convention”) aims to protect human health and the environment from anthropogenic emissions and releases of mercury and mercury compounds. The People’s Republic of China (“China”) became a Party to the Convention on 31 August 2016. The Convention entered into force in China on 16 August 2017, and also applies to the Hong Kong Special Administrative Region (“the HKSAR”).
2. The Convention contains 35 Articles and among them are ten operational Articles which stipulate the obligations on controlling the entire life cycle of mercury from its supply, trade, use, storage, release and disposal. Among these operational Articles, there are obligations under some Articles as tabulated below that cannot be effectively fulfilled in Hong Kong currently as relevant local legislation is not available.

Article	Key Obligations
3(6) & (8)	Control import and export of mercury.
4(1)	Prohibit manufacture, import or export of some mercury-added products by a phase-out date.
5(2) & (3)	Prohibit or restrict the use of mercury or mercury compounds in some manufacturing processes.
10(2)	Control interim storage of mercury and mercury compounds.

3. To fulfil the HKSAR’s obligations under the Convention, the Government is planning to put in place a new piece of legislation. The present consultation aims to seek the views of the public, relevant trades and other stakeholders on the provisions of the new legislation.
4. For the control on import and export of mercury, it is proposed that a single licence approach resembling the waste permit under the Waste Disposal Ordinance (Cap. 354) be adopted. As the Convention stipulates that export of mercury is not allowed except for a use allowed under the Convention, the use of the imported mercury in Hong Kong will also be controlled under the new legislation.

5. Carriers / forwarders will be included under the definition of importer / exporter in the new legislation and they may also be held liable under the new legislation for any illegal import or export of mercury. Following the provisions of the Convention, exemption shall be provided for certain quantities of mercury and mercury compounds for use for laboratory-scale research or as a reference standard.
6. For the control on mercury-added products, the new legislation will prohibit the manufacture, import or export of those mercury-added products as listed in Part I of Annex A of the Convention by 31 December 2020. For robust control on mercury-added products, the supply and sale of the mercury-added products will also be prohibited after three years from the aforesaid phase-out date. Use of the listed mercury-added products is not an offence.
7. For the control on manufacturing processes using mercury or mercury compounds, as previous consultations have indicated that all the processes listed in Parts I and II of Annex B of the Convention do not exist in Hong Kong, the use of mercury or mercury compounds in these manufacturing processes (*as also listed in paragraphs 5.1 and 5.2*) will be prohibited on the date when the new legislation comes into effect.
8. The storage of mercury or mercury compounds will be controlled by a permit system. The storage permits will generally be valid for one year. There will be exemption for storage of certain quantities of mercury and mercury compounds to be used for laboratory-scale research or as a reference standard.
9. Penalty levels for offences under the various provisions of the new legislation are also proposed in this document. The key ones are tabulated below:

Convicted Offence	First Offence		Subsequent Offence	
	Maximum Fine	Imprisonment	Maximum Fine	Imprisonment
Import / export of scheduled chemicals without a valid permit	\$200,000	6 months	\$500,000	2 years
Failure to comply with a condition or conditions of the import / export permit	\$200,000	6 months	\$500,000	2 years
Use of imported scheduled chemicals not in accordance with the use specified in permit	\$200,000	6 months	\$500,000	2 years
Illegal manufacture, import, export, selling, supply, offer for sale or offer for supply of scheduled mercury-added products	\$200,000	6 months	\$500,000	2 years
Illegal use of scheduled chemicals in scheduled manufacturing processes	\$200,000	6 months	\$500,000	2 years
Storage of scheduled chemicals without a valid permit	\$200,000	6 months	\$500,000	2 years
Storage of scheduled chemicals while failing to comply with a condition of the permit	\$200,000	6 months	\$500,000	2 years

10. The Government welcomes comments on the new legislation. To facilitate readers to focus on the pertinent issues, we have prepared some questions as below for reference by readers:-

- (i) Do you agree to the proposal to adopt a single licence approach to control the import / export of mercury (as opposed to a dual licences approach) as set out in Chapter 3?
- (ii) Are the exemption quantities for import / export of mercury or mercury compounds to be used for laboratory-scale research or as a reference standard as proposed in Chapter 3 appropriate?

- (iii) Do you agree to the proposed grace period of three years for prohibition of sale or supply of mercury-added products after the phase-out date for prohibition of their manufacture, import or export as set out in Chapter 4?
  - (iv) Do you agree to the proposal to prohibit the use of mercury or mercury compounds in manufacturing processes on the date when the new legislation comes into effect as set out Chapter 5?
  - (v) Are the exemption quantities for storage of mercury or mercury compounds to be used for laboratory-scale research or as a reference standard as proposed in Chapter 6 appropriate?
  - (vi) Do you find the penalty levels as summarised in the table under paragraph 9 above appropriate?
11. Readers are welcome to provide their comments in response to the above questions or on other aspects of the new legislation. In case you do not agree to the proposals set out above and/or consider them inappropriate, please set out the reasons and your alternative suggestions, if any. Comments may be sent to the Environmental Protection Department by post, facsimile or email as detailed in paragraph 7.5 of this document by **5 October 2018**.

**Environment Bureau**  
**Environmental Protection Department**  
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