

DECISION OF THE EEA JOINT COMMITTEE
No 158/2021

of 23 April 2021

amending Annex XX (Environment) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area (“the EEA Agreement”), and in particular Article 98 thereof,

Whereas:

- (1) Regulation (EU) 2017/852 of the European Parliament and of the Council of 17 May 2017 on mercury, and repealing Regulation (EC) No 1102/2008¹ is to be incorporated into the EEA Agreement.
- (2) The incorporation of Regulation (EU) 2017/852 shall be without prejudice to the fact that trade with third countries falls outside the scope of the EEA Agreement and thus the provisions of the Regulation prohibiting the export and import of mercury are not applicable to the EFTA States.
- (3) Regulation (EU) 2017/852 repeals Regulation (EC) No 1102/2008², which is incorporated into the EEA Agreement and which is consequently to be repealed under the EEA Agreement.
- (4) Annex XX to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

The text of point 22a (Regulation (EC) No 1102/2008 of the European Parliament and of the Council) of Annex XX to the EEA Agreement is replaced by the following:

‘**32017 R 0852**: 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 (OJ L 137, 24.5.2017, p. 1).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) In Article 2(6), the words “Article 28(2) TFEU” shall be replaced by the words “Article 8 of the EEA Agreement”.
- (b) In Article 2(6) and (7), the words “or the territories of the EFTA States” shall be inserted after the words “the customs territory of the Union”.
- (c) In Article 2(7), the words “other than the external Union transit procedure” shall not apply as regards the EFTA States.

¹ OJ L 137, 24.5.2017, p. 1.

² OJ L 304, 14.11.2008, p. 75.

- (d) The export and import restrictions in Articles 3, 4 and 5 shall not apply between the EU and the EFTA States. This is without prejudice to stricter export and import bans existing in an EFTA State at the time of the incorporation of this Regulation into the EEA Agreement. The EFTA States shall take effective measures to ensure that mercury is not exported from or imported to the EU via an EFTA State.
- (e) The following subparagraph shall be added in Article 8(4):
“When an economic operator has notified competent authorities in an EFTA State in accordance with paragraph 3 and the EFTA State considers that the criteria referred to in the first subparagraph of paragraph 6 are fulfilled, the EFTA State shall forward the notification to the Commission. The EFTA State concerned shall inform the Commission of cases in which it considers that the criteria referred to in the first subparagraph of paragraph 6 were not fulfilled”.
- (f) The following subparagraph shall be added in Article 8(6):
“Commission implementing acts, specifying whether a relevant new mercury-added product or new manufacturing process is authorised, are generally applicable and shall be incorporated into the EEA Agreement”.
- (g) In Article 10(1), the words “From 1 January 2019” shall, as regards the EFTA States, read “As from one year after the entry into force of Decision of the EEA Joint Committee No 158/2021 of 23 April 2021”.
- In Article 10(2), the words “From 1 July 2018” shall, as regards the EFTA States, read “As from six months after the entry into force of Decision of the EEA Joint Committee No 158/2021 of 23 April 2021”.
- In Article 10(3), the words “By 1 July 2019” shall, as regards the EFTA States, read “As from eighteen months after the entry into force of Decision of the EEA Joint Committee No 158/2021 of 23 April 2021”.
- In Article 10(4), the words “From 1 January 2019” shall, as regards the EFTA States, read “As from one year after the entry into force of Decision of the EEA Joint Committee No 158/2021 of 23 April 2021”.
- In Article 10(4)(a), the words “from 1 January 2018” shall, as regards the EFTA States, read “from the entry into force of Decision of the EEA Joint Committee No 158/2021 of 23 April 2021”.
- In Article 10(4)(b), the words “from 1 January 2021” shall, as regards the EFTA States, read “as from three years after the entry into force of Decision of the EEA Joint Committee No 158/2021 of 23 April 2021”.
- (h) In Article 18(1), the words “By 1 January 2020” shall, as regards the EFTA States, read “As from two years after the entry into force of Decision of the EEA Joint Committee No 158/2021 of 23 April 2021”.
- (i) Article 18(1)(b) shall not apply to the EFTA States.’

Article 2

The text of Regulation (EU) 2017/852 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 24 April 2021, provided that all the notifications under Article 103(1) of the EEA Agreement have been made*.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 23 April 2021.

*For the EEA Joint Committee
The President*

Clara Ganslandt

*The Secretaries
To the EEA Joint Committee*

Hege M. Hoff

Mikołaj Karłowski

* No constitutional requirements indicated.