Commission Delegated Regulation (EU) 2018/172 of 28 November 2017 amending Annexes I and V to Regulation (EU) No 649/2012 of the European Parliament and of the Council concerning the export and import of hazardous chemicals (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2018/172

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amending Annexes I and V to Regulation (EU) No 649/2012 of the European Parliament and of the Council concerning the export and import of hazardous chemicals

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals[(1)], and in particular Article 23(4) thereof,

Whereas:

(1) Regulation (EU) No 649/2012 implements the Rotterdam Convention on the Prior Informed Consent Procedure for certain hazardous chemicals and pesticides in international trade ('Rotterdam Convention'), signed on 11 September 1998 and approved, on behalf of the European Community, by Council Decision 2003/106/EC[(2)].

(2) The substance 3-decen-2-one has not been approved in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council[(3)], with the effect that that substance is banned for use as a pesticide and thus should be added to the lists of chemicals contained in Parts 1 and 2 of Annex I to Regulation (EU) No 649/2012.

(3) No application for renewal of the approval of the active substance carbendazim was submitted in accordance with Regulation (EC) No 1107/2009, with the effect that carbendazim is banned for use as a pesticide in the group of plant protection products and thus should be added to the list of chemicals contained in Part 1 of Annex I to Regulation (EU) No 649/2012.

(4) No application for renewal of the approval of the active substance tepraloxydim was submitted in accordance with Regulation (EC) No 1107/2009, with the effect that tepraloxydim is banned for use as a pesticide and thus should be added to the lists of chemicals contained in Parts 1 and 2 of Annex I to Regulation (EU) No 649/2012.

(5) The substances cybutryne and triclosan have not been approved for use in biocidal products in accordance with Regulation (EU) No 528/2012 of the European Parliament and of the Council[(4)], with the effect that those substances are banned for use as a

pesticide and thus should be added to the lists of chemicals contained in Parts 1 and 2 of Annex I to Regulation (EU) No 649/2012.

(6) The substance triflumuron has not been approved for use in biocidal products in accordance with Regulation (EU) No 528/2012, with the effect that that substance is banned for use in the sub-category 'other pesticide including biocides' and thus should be added to the list of chemicals contained in Part 1 of Annex I to Regulation (EU) No 649/2012.

(7) The substances 5-tert-butyl-2,4,6-trinitro-m-xylene, benzyl butyl phthalate, diisobutyl phthalate, diarsenic pentaoxide and tris (2-chloroethyl) phosphate are listed in Annex XIV to Regulation (EC) No 1907/2006 of the European Parliament and of the Council[(5)] since they have been identified as substances of very high concern. Consequently, those substances are subject to authorisation. Since no authorisations were granted, those substances are severely restricted for industrial use. Therefore, those substances should be added to Parts 1 and 2 of Annex I to Regulation (EU) No 649/2012.

(8) At its seventh meeting held from 4 to 15 May 2015, the Conference of the Parties to the Rotterdam Convention decided to include methamidophos in Annex III to that Convention, with the effect that that chemical became subject to the prior informed consent procedure under that Convention. The Conference of the Parties also decided to delete the existing entry in Annex III for 'methamidophos (soluble liquid formulations of the substance that exceed 600 g active ingredient/l)'. Those changes should thus be reflected in the lists of chemicals contained in Parts 1 and 3 of Annex I to Regulation (EU) No 649/2012.

(9) At its seventh meeting held from 4 to 15 May 2015, the Conference of the Parties to the Stockholm Convention on Persistent Organic Pollutants ('Stockholm Convention'), which was approved by Council Decision 2006/507/EC[(6)], decided to include the substances hexachlorobutadiene and polychlorinated naphthalenes in Annex A to that Convention. Those substances are listed in Part B of Annex I to Regulation (EC) No 850/2004 of the European Parliament and of the Council[(7)] and thus should be added to Part 1 of Annex V to Regulation (EU) No 649/2012 in order to implement the Stockholm Convention.

(10) By Commission Regulation (EU) 2016/293[(8)], the chemical hexabromocyclododecane (HBCDD) was added to Part A of Annex I to Regulation (EC) No 850/2004 following the decision taken at the sixth meeting of the Conference of the Parties to the Stockholm Convention, held from 28 April to 10 May 2013, to list that chemical in Part 1 of Annex A to that Convention. Consequently, that chemical should be added to Part 1 of Annex V to Regulation (EU) No 649/2012.

(11) The Stockholm Convention allows recycling of articles that contain or may contain tetra- and pentabromodiphenyl ether or hexa- and heptabromodiphenyl ether, and the use and final disposal of articles manufactured from recycled materials that contain those substances provided that steps are taken to prevent exports of such articles that contain levels or concentrations of those substances exceeding those permitted for the sale, use, import or manufacture of those articles within the territory of the respective Party. In order to implement that obligation in the Union, articles containing

concentrations of those substances at or above 0,1 % by weight when produced partially or fully from recycled materials or materials from waste prepared for re-use should be prohibited for export by adding them to Part 1 of Annex V to Regulation (EU) No 649/2012.

(12) Regulation (EU) No 649/2012 should therefore be amended accordingly.

(13) It is appropriate to provide for a reasonable period of time for all interested parties to take the measures necessary to comply with this Regulation and for Member States to take the measures necessary for its implementation,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 649/2012 is amended as follows:

(1) Annex I is amended in accordance with Annex I to this Regulation;

(2) Annex V is amended in accordance with Annex II to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 April 2018.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 November 2017.

For the Commission

The President

Jean-Claude JUNCKER

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2018/172. (See end of Document for details)*

ANNEX I

Annex I to Regulation (EU) No 649/2012 is amended as follows:

(1) Part 1 is amended as follows:

(a) the entry for methamidophos is replaced by the following entry:

Chemical	CAS No	Einecs No	CN code (***)	Subcategory	Use (*) limitation (**)	Countries for which no notification is required
‘Methamidophos (+)	10265-92-6	233-606-0	ex 2930 80 00	p(1)	b’;	

(b) the entry for methamidophos (soluble liquid formulations of the substance that exceed 600 g active ingredient/l) is deleted;

(c) the following entries are added:

Chemical	CAS No	Einecs No	CN code (***)	Subcategory	Use (*) limitation (**)	Countries for which no notification is required
‘3-decen-2-one (+)	10519-33-2	234-059-0	ex 2914 19 90	p(1)	b	
5-tert-butyl-2,4,6-trinitro-m-xylene (+)	81-15-2	201-329-4	ex 2904 20 00	i(1) - i(2)	sr	
Benzyl butyl phthalate (+)	85-68-7	201-622-7	ex 2917 34 00	i(1) - i(2)	sr	
Carbendazim	10605-21-7	234-232-0	ex 2933 99 80	p(1)	b	
Cybutryne (+)	28159-98-0	248-872-3	ex 2933 69 80	p(2)	b	