Commission Implementing Decision (EU) 2019/1752 of 25 February 2019 establishing questionnaires, as well as the format and frequency of reports to be prepared by the Member States in accordance with Regulation (EU) 2017/852 of the European Parliament and of the Council (notified under document C(2019) 1423) (Text with EEA relevance)

COMMISSION IMPLEMENTING DECISION (EU) 2019/1752

of 25 February 2019

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(notified under document C(2019) 1423)

(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 the second subparagraph of Article 18(2) thereof,

Whereas:

(1) Article 18(1) of Regulation (EU) 2017/852 requires Member States to provide to the Commission and make publicly available on the internet, by 1 January 2020 and at appropriate intervals thereafter, a report with information concerning the implementation of that Regulation, as well as certain other types of information listed in that provision.

(2) The questionnaires to be used by the Member States for reporting in accordance with Article 18(1) of Regulation (EU) 2017/852 should be drawn up in a way that helps the Commission report to the European Parliament and to the Council on the implementation and review of that Regulation pursuant to its Article 19(2). They should also allow the Union to fulfil its reporting obligation under Article 21 of the Minamata Convention on Mercury adopted in Kumamoto, Japan, on 10 October 2013 ('the Convention').

(3) Even though reporting questionnaires under Regulation (EU) 2017/852 must, in accordance with the second subparagraph of Article 18(2) of that Regulation, not duplicate reporting obligations of the Parties to the Convention as laid down in Decision MC-1/8 adopted by the Conference of the Parties to the Convention at its first meeting[(2)], it is appropriate that they address certain reporting items covered by Decision MC-1/8 in order to specify in more detail the information required so as to enable an effective assessment of the implementation of Regulation (EU) 2017/852.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Decision (EU) 2019/1752. (See end of Document for details)*

(4) Information on import of mercury and of mixtures of mercury with a mercury concentration of at least 95 % by weight should be reported annually given the high potential impact upon the environment and public health of mismanagement of mercury. However, in order to alleviate administrative burden, the obligation to provide such information should be waived where a Member State provides the Commission with a copy of the form(s) used to grant or deny written consent on import pursuant to the second subparagraph of Article 4(1) of Regulation (EU) 2017/852.

(5) Where information to be reported is related to geographically located entities, such as industrial installations and sites, the information should be reported in accordance with Directive 2007/2/EC of the European Parliament and of the Council[(3)].

(6) The questionnaires should address key provisions of Regulation (EU) 2017/852, including on the phasing-out of manufacturing processes involving the use of mercury or mercury compounds, artisanal and small-scale gold mining and processing activities and dental amalgam and should also require information on significant difficulties in implementing other provisions of that Regulation. Furthermore, they should require the provision of information on key performance indicators, including data on trade of mercury and on amounts of mercury stored or disposed.

(7) The measures provided for in this Decision are in accordance with the opinion of the committee established by Article 22(1) of Regulation (EU) 2017/852,

HAS ADOPTED THIS DECISION:

Article 1

1 For the purpose of reporting to the Commission on the implementation of Article 4 of Regulation (EU) 2017/852 in accordance with Article 18(1) of that Regulation, Member States shall use the questionnaire set out in Annex I to this Decision.

2 The information referred to in point 1.1 of Annex I shall be made available to the Commission by 31 January of each year (N) covering the reporting year N-1.

The information referred to in point 1.2 of Annex I shall be made available to the Commission by 30 September of each year (N) covering the reporting year N-1.

3 The information referred to in point 1.1 of Annex I shall not be required where a Member State provides the Commission with a copy of the form(s) used to grant or deny written consent on import pursuant to the second subparagraph of Article 4(1) of Regulation (EU) 2017/852 during the reporting year N-1. Member States shall make such copies available at the latest by 31 January of each year (N) covering the reporting year N-1, or they may choose to make them available at any time during the reporting period N-1.

Article 2

1 For the purpose of reporting to the Commission as required by Article 18(1) of Regulation (EU) 2017/852, with the exception of reporting on the implementation of Article 4 of that Regulation, Member States shall use the questionnaire set out in Annex II to this Decision.

2 The information set out in Annex II shall be made available to the Commission in accordance with the following timetable:

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Decision (EU) 2019/1752. (See end of Document for details)*

a the first report covering the reporting years 2017 and 2018 shall be made available by 1 January 2020 at the latest;

b the second report covering the reporting period 2019-2020 shall be made available by 30 September 2021 at the latest;

c the third report covering the reporting period 2021-2022 shall be made available by 30 September 2023 at the latest;

d the fourth report covering the reporting period 2023-2024 shall be made available by 30 September 2025 at the latest;

e the fifth report covering the reporting period 2025-2028 shall be made available by 30 September 2029 at the latest.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 25 February 2019.

For the Commission

Karmenu VELLA

Member of the Commission

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Decision (EU) 2019/1752. (See end of Document for details)*

ANNEX I

QuestionnaireInformation on import restrictions to be made available to the Commission by the Member States for the purpose of reporting on the implementation of Regulation (EU) 2017/852

Article 4

Import restrictions

1 Has the Member State granted written consent to import of mercury or mixtures of mercury for a use allowed in accordance with the second subparagraph of Article 4(1) of Regulation (EU) 2017/852?

ANNEX II

QuestionnaireInformation other than on import restrictions to be made available to the Commission by the Member States for the purpose of reporting on the implementation of Regulation (EU) 2017/852

Note 1: Where the reply to questions 1.2 and/or 2.1 is 'yes', information on related sub-questions 1.2(i) to (v) and/or 2.1(i) shall not be required where all the information is included in a report provided by the Member State in accordance with its reporting obligation established under Article 21 of the Minamata Convention and where the relevant report has been made available to the Commission in accordance with Article 18(3) of Regulation (EU) 2017/852.

Note 2: Responses to questions marked with an asterisk (*) are optional.

1. **Article 7(1) and (2) of Regulation (EU) 2017/852: Industrial activities**

1.1. Have the following manufacturing processes involving the use of mercury and mercury compounds been phased out by the dates referred to in Part I of Annex III to Regulation (EU) 2017/852?[7]

1.1.1. Production of vinyl chloride monomer (to be phased out by 1 January 2022 at the latest)

If no, provide the following information:

(i) Reasons(s) for the perpetuation of this manufacturing process after the phased-out date;

(ii) Measure(s) taken or planned to phase-out this manufacturing process and associated timetable.

1.1.2. Production of chlor-alkali (to be phased out by 11 December 2017 at the latest)

If no, provide the following information:

(i) Reasons(s) for the perpetuation of this manufacturing process after the phase-out date;

(ii) Measure(s) taken or planned to phase-out this manufacturing process and associated timetable.