

DECISIONS

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)

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.
- (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.

⁽¹⁾ OJ L 137, 24.5.2017, p. 1.

⁽²⁾ Decision MC-1/8 Timing and format of reporting by the parties, Report of the Conference of the Parties to the Minamata Convention on Mercury on the work of its first meeting (<http://www.mercuryconvention.org>).

- (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:

- (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.

⁽³⁾ Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p. 1).

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

ANNEX I

QUESTIONNAIRE

Information 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?

If yes, provide the following information:

1.1. Mercury and mixtures of mercury as non-waste ⁽¹⁾

- (i) Amount of mercury or mixtures of mercury imported,
- (ii) Intended use(s) of imported mercury or mixtures of mercury (t/y per intended use).

1.2. Mercury as waste

- (i) Amount of mercury waste imported;
- (ii) Intended disposal or recovery operation(s) (t/y per intended operation) ⁽²⁾.
 - In case of import intended for an interim disposal or recovery operation, provide information on the intended subsequent non-interim disposal or recovery operation(s) ⁽³⁾.
 - In case of import intended for recovery operation(s) other than interim recovery operations, provide information on the intended use of the material resulting from the non-interim recovery operation(s).

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⁽¹⁾ Information on question 1.1 shall not be required where the 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.

⁽²⁾ Information on the type(s) of disposal or recovery operation(s) is to be reported by means of the codes established in Sections A and B, respectively, of Annex IV to the Basel Convention of 22 March 1989 on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (OJ L 39, 16.2.1993, p. 3).

⁽³⁾ 'Interim disposal' and 'interim recovery' operations are as defined in Article 2 paragraphs 5 and 7, respectively, of Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ L 190, 12.7.2006, p. 1).

ANNEX II

QUESTIONNAIRE

Information 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? ⁽¹⁾

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.

1.1.3. Production of sodium or potassium methylate or ethylate (to be phased out by 1 January 2028 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.

1.1.4. Production of polyurethane (to be phased out by 1 January 2018 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.

1.2. Are there any installations in the territory of the Member State producing sodium or potassium methylate or ethylate making use of a manufacturing process involving the use of mercury and mercury compounds as referred to in Part II of Annex III to Regulation (EU) 2017/852?

If yes, provide for each installation concerned the following information:

- (i) Unique identifier that follows the requirements of Directive 2007/2/EC;
- (ii) Annual operational capacity of each installation (t/year) for the years 2017 and following;
- (iii) Whether mercury from primary mercury mining has been or is still used in each of the installations;

⁽¹⁾ Responses to and information on questions 1.1.1, 1.1.2, 1.1.3 and 1.1.4 are only due in the first report due after the relevant phase-out dates.

- (iv) For the year 2010, the level of direct and indirect release from each installation of mercury and of mercury compounds into air, water and land in terms of per unit production (to be expressed as kg of mercury and mercury compounds per kt of sodium or potassium methylate or ethylate produced);
- (v) For the year 2020 and following, the level of direct and indirect release from each installation of mercury and of mercury compounds into air, water and land in terms of per unit production (to be expressed as kg of mercury and mercury compounds per kt of sodium or potassium methylate or ethylate produced).

2. Article 9 of Regulation (EU) 2017/852: Artisanal and small-scale gold mining and processing

- 2.1. Has the Member State found evidence of more than isolated cases of use of mercury amalgamation to extract gold in its territory?

If yes, provide the following information:

- (i) Has the competent authority of the Member State developed and implemented a national plan on artisanal and small-scale gold mining and processing in accordance with Article 9(2) and Annex IV of Regulation (EU) 2017/852?
 - If yes, provide an internet link to the national plan on artisanal and small-scale gold mining and processing.
 - If no, provide information on the reason(s) for not having developed and implemented a national plan on artisanal and small-scale gold mining and processing and on the measures taken and/or planned to establish such a plan and an associated timetable.

3. Article 10 of Regulation (EU) 2017/852: Dental amalgam

- 3.1. Has the Member State faced important challenges in implementing Article 10 of Regulation (EU) 2017/852 on dental amalgam?

If yes, provide the following information:

- (i) Nature and scope of the challenges;
- (ii) Measure(s) taken and/or planned to address these challenges and associated timetable.

4. Article 12 of Regulation (EU) 2017/852: Reporting on large sources

- 4.1. In accordance with Article 18(1)(c) of Regulation (EU) 2017/852, provide the following summary of the information the economic operators have sent to the competent authorities of the Member State under Article 12 (1) and (2) of that Regulation:

- 4.1.1. List of installations concerned per type of large source referred to Article 11(a), (b) and (c) of Regulation (EU) 2017/852, and associated identifier:

- (i) Production of chlor-alkali:
 - List of installations;
 - Unique identifiers that follow the requirements of Directive 2007/2/EC.
- (ii) Cleaning of natural gas:
 - List of installations;
 - Unique identifiers that follow the requirements of Directive 2007/2/EC.
- (iii) Non-ferrous mining and smelting operations:
 - List of installations;
 - Unique identifiers that follow the requirements of Directive 2007/2/EC.

- 4.1.2. Total amount of mercury waste stored in each installation listed under question 4.1.1(i), (ii) and (iii) on 31 December of each reporting year within each reporting period, expressed in tonnes.
- 4.1.3. Total amount of mercury waste expressed in tonnes sent annually to the following waste facilities by each installation listed under question 4.1.1, for each year covered by the reporting period:
- (i) Total mercury waste sent to facilities undertaking the temporary storage of mercury waste;
 - (ii) Total mercury waste sent to facilities undertaking the conversion and, if applicable, the solidification of mercury waste;
 - (iii) Total mercury waste sent to facilities undertaking the permanent storage of mercury waste.
- 4.2. * Any other relevant information the Member State wishes to make available.
5. **Article 18(1)(d) and (e) of Regulation (EU) 2017/852: Other reporting required under Article 18 of Regulation (EU) 2017/852**
- 5.1. Provide the following information regarding mercury located in the territory of the Member State:
- (i) A list of sites where stocks of more than 50 metric tonnes of mercury other than mercury waste are located on 31 December of each reporting year, including the unique identifiers that follow the requirements of Directive 2007/2/EC.
 - (ii) Total amount of mercury other than mercury waste stored on 31 December of each reporting year at each site identified under (i), expressed in tonnes.
- 5.2. Provide the following information regarding mercury waste located in the territory of the Member State:
- (i) A list of sites where more than 50 metric tonnes of mercury waste is accumulated on 31 December of each reporting year, including the unique identifiers that follow the requirements of Directive 2007/2/EC;
 - (ii) Total amount of mercury waste accumulated on 31 December of each reporting year at each site identified under (i), expressed in tonnes.
- 5.3. Provide the following information if made available to the Member State:
- (i) A list of sources supplying more than 10 metric tonnes of mercury per year, including the unique identifiers that follow the requirements of Directive 2007/2/EC;
 - (ii) Total amount of mercury supplied on 31 December of each reporting year by each source identified under (i), expressed in tonnes.
6. **Final questions**
- 6.1. * Has the Member State faced other important challenges in implementing Regulation (EU) 2017/852?
If yes, provide the following information:
- (i) Explanation of the challenges faced;
 - (ii) Information on measures taken or planned to address the difficulties encountered and associated timetable.
- 6.2. * The Member State may share information on other implementation promotion initiatives undertaken or planned.
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