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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

**on the exercise of the power to adopt delegated acts conferred to the Commission
pursuant to Regulation (EU) 2017/852 on mercury**

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1. INTRODUCTION

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 ('Mercury Regulation')¹ establishes measures concerning the use, storage and trade in mercury, mercury compounds and mercury mixtures; the manufacture, use and trade in mercury-added products; the phasing-out of manufacturing processes using mercury or mercury compounds; and the management of mercury waste. In doing so, the Mercury Regulation, together with other instruments of EU law, implements the Minamata Convention on Mercury.

Articles 13(2) and 20 of the Mercury Regulation empower the Commission to adopt delegated acts (i) to extend the period of time during which Member States are allowed to temporarily store in landfills mercury in liquid form pending final disposal and (ii) to amend Annexes I to IV to the Regulation in order to align them with relevant decisions adopted by the Conference of the Parties to the Minamata Convention on Mercury ('Minamata COP').

2. LEGAL BASIS

This report is required under Article 21(2) of the Mercury Regulation.

Pursuant to this provision, the power to adopt delegated acts is conferred on the Commission for a period of five years from 13 June 2017, which shall be automatically extended for periods of an identical duration, unless the European Parliament or the Council revokes it in accordance with Article 21(3) of the Mercury Regulation. In accordance with Article 21(2) of the Mercury Regulation, the Commission is required to prepare a report in respect of the delegation of power at the latest nine months before the end of the five-year period. Accordingly, the Commission is required to issue the first report on 13 September 2021 at the latest covering the 13 June 2017 - 12 June 2022 five-year period.

Since the delegation of power was not revoked under Article 21(3) of the Mercury Regulation, this report covers the first five-year period in accordance with Article 21(2) of that Regulation.

3. EXERCISE OF THE DELEGATION

The exercise of the empowerment was deemed necessary for complementing or adapting several provisions foreseen by the Mercury Regulation.

Whilst Article 13(1) of the Mercury Regulation allows Member States to store temporarily mercury in liquid form in landfills (as a derogation to Article 5(3) of Directive 1999/31/EC on landfills²) pending final disposal up to 31 December 2022, the Commission has not received to date any information regarding the need to extend this period. Therefore, the

¹ OJ L 137, 24.5.2017, p.1

² OJ L 182, 16.7.1999, p.1

Commission has not yet adopted any delegated act to prolong this period up to 31 December 2025 in accordance with Article 13(2) of the Mercury Regulation.

Annex I to the Mercury Regulation lists mercury compounds and mixtures of mercury prohibited from being exported and subject to specific rules on interim storage. Annex II to that Regulation lists mercury-added products prohibited from being exported, imported and manufactured together with associated phase-out dates, whilst Annex III lists manufacturing processes using mercury and/or mercury compounds that must be phased-out at a given date. Annex IV to the Mercury Regulation lays down requirements on the content of national plans on artisanal and small-scale gold mining and processing where mercury amalgamation is used to extract gold from ore. Considering that the Minamata COP has not yet enacted any decisions that would require the alignment of above-mentioned Annexes I to IV to the Mercury Regulation, the Commission did not need to adopt delegated acts that would align those Annexes to concerned decisions from the Minamata COP.

4. CONCLUSION

The Commission has, over the past five years, not exercised the delegated powers conferred to it under Regulation (EU) 2017/852. It invites the European Parliament and the Council to take note of this report.