

**Question for written answer E-003944/2019
to the Commission**

Rule 138

Marisa Matias, José Gusmão

Subject: Portuguese imports of asbestos-containing materials

Asbestos is a natural fibre derived from six different types of mineral and has been shown to have carcinogenic effects when it is inhaled by people who, either occasionally or on a regular basis, are exposed to it.

Since 1 January 2005, the use and marketing of asbestos and/or asbestos-containing materials in the European Union has been banned by Directive 1999/77/EC and Directive 2003/18/EC, as transposed into Portuguese national law by Decree-Law No 101/2005 of 23 June 2005 and Decree-Law No 266/2007 of 24 July 2007.

Despite this ban, Portugal has recently imported an alarming quantity of hazardous materials – these totalled more than 50 tonnes in 2016 and 2017 – including asbestos-containing materials and waste containing asbestos to be put into landfill.

Given the undeniable dangers of asbestos to public health and the clear violation of existing legislation on the marketing of asbestos and/or asbestos-containing products, what measures will the Commission take in order to ensure that Portugal complies with the legislation in force and how will it monitor such compliance?

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E-003944/2019
E-003948/2019
Answer given by Mr Breton
on behalf of the European Commission
(25.2.2020)

The manufacture, placing on the market and use of asbestos fibres and of articles and mixtures containing such fibres added intentionally¹ is prohibited pursuant to entry 6 of Annex XVII to the REACH Regulation², which repealed and replaced Directive 1999/77/EC referred to by the Honourable Members, in 2009. Directive 2009/148/EC³, which replaced Directive 2003/18/EC referred to by the Honourable Members, lays down provisions regarding the protection of workers against risks to their health arising from exposure to asbestos at work.

The Commission is not aware of the recent imports by Portugal referred to by the Honourable Members. Import of asbestos-containing waste is not in breach of the REACH Regulation, since waste is not a substance, mixture or article within the meaning of REACH. The import of hazardous waste into EU can occur in line with the EU law⁴ and must undergo environmentally sound treatment, including disposal, in accordance with the applicable rules on hazardous waste and landfilling of waste.

Buildings are not articles within the meaning of the REACH prohibition on asbestos and the REACH Regulation does thus not require the removal of asbestos already incorporated in buildings before 1 January 2005. Where the owner does take the decision to remove asbestos from (public) buildings or to demolish these buildings, Directive 1987/217/EEC on the prevention and reduction of environmental pollution by asbestos requires Member States to take necessary measures to ensure that these activities do not cause significant asbestos environmental pollution with a view to protect human health and the environment in general.

¹ Imports of materials containing asbestos fibres are only in breach of the REACH Regulation if the asbestos fibres were added intentionally to those materials.

² Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals, OJ L 396, 30.12.2006, p. 1.

³ Directive 2009/148/EC of the European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to asbestos at work, OJ L 330, 16.12.2009, p. 28.

⁴ Regulation (EC) No. 1013/2006 on Shipment of Waste. OJ L190, 12.7.2006.