

Dangerous substances, metallic mercury: banning of exports, safe storage

2006/0206(COD) - 20/12/2007 - Council position

The common position incorporates a number of the European Parliament's first-reading amendments, either verbatim, in part or in spirit. In particular, it provides for a broad review of needs for a future possible extension of the scope of the Regulation and introduces additional safety requirements for the disposal of metallic mercury. It also includes a number of other changes clarifying the text and the application of relevant EC legislation. In brief, the following changes have been made:

Mercury export ban - scope and review:

The scope of the Regulation and the date of the export ban (as set out in Article 1) corresponds with provisions proposed by the Commission in its initial proposal. The common position partially reflects amendments proposed by Parliament in that it provides for a review, the aim of which is the future possible extension of the scope for mercury compounds, products containing mercury, import ban of mercury, mercury compounds and products containing mercury.

Disposal obligations:

Article 2 of the initial proposal states that metallic mercury, from the three most important mining in the Community, will need to be disposed of in accordance with Directive 2006/12/EC on waste. As such the Council has decided not to accept three Amendments (24, 31 and 6) given that there is no justification for prioritising one particular option when it comes to the storage of metallic mercury.

Conditions of metallic mercury disposal:

Article 3 of the common position extends the storage options for metallic mercury that qualifies as waste for deep, underground, hard rock formations. This extension includes both temporary and permanent solutions. Additional safety requirements for the storage of metallic mercury are also included. The Council agrees with the Commission that, under certain conditions, the permanent storage of metallic mercury is a safe disposal option. At the same time, however, the Council agrees that research activities on safe disposal options for metallic mercury should be reviewed.

Amendment 41 was not accepted by the Council since it weakens the safety requirements for storage of metallic mercury. Pursuant to Article 2(g) of Directive 1999/31/EC on the landfill of waste, storage of waste for disposal for a period of less than one year is not considered as landfill of waste. There is therefore no prohibition on the temporary storage of metallic mercury in liquid form as waste up to a period of one year, including in installations for the production of chlorine, which are subject to the provisions of Directive 96/61/EC (IPPC). The IPPC Directive governs the environmental permit for a facility and is not sufficient to ensure the safety requirements for the storage of metallic mercury.

Reporting and sanctions

Amendments that concerned: i) a special fund for mercury storage, ii) extending and tightening Member States', companies' and the Commission's reporting obligations, and iii) awareness raising in Member States have not been accepted. This is because the Council considers the Parliamentary proposed provisions are both disproportionate and are likely to increase bureaucracy unnecessarily. Amendments concerning applicable infringement penalties, on the other hand, have been accepted in full by the Council.

To conclude, the Council believes that the common position represents a balanced package that respects the Regulation's objectives and it looks forward to constructive discussions with the European Parliament with a view to the early adoption of the Regulation.