Mercury

2016/0023(COD) - 02/02/2016 - Legislative proposal

PURPOSE: to ensure a high level of protection of human health and the environment from mercury.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: mercury is a highly toxic substance which represents a global and major threat to human health, including by methylmercury in fish and seafood resources, the ecosystems and wildlife. Due to the transboundary nature of mercury pollution, between 40% and 80% of total mercury deposition in the Union originates from outside of the Union and therefore warrants action at local, regional, national and international levels.

The Union and 26 Member States have signed in Kumamoto on 11 October 2013 the **Minamata Convention on Mercury,** negotiated under the auspices of UNEP. The Convention addresses the whole life-cycle of mercury, from primary mercury mining to the management of mercury waste, with the objective to protect human health and the environment from anthropogenic emissions of mercury and mercury compounds to air, water and land.

Much of the Minamata Convention is already covered by Union legislation. Regulation (EC) No 1102/2008 sets an export prohibition on mercury and on several mercury compounds, qualifies mercury from certain sources as waste and establishes rules on the storage of mercury. The assessment of the Union acquis has identified a limited number of **regulatory gaps that need to be filled** in to ensure the full alignment of Union legislation with the Convention.

This proposal seeks to address those gaps, which concern the following issues:

- the import of mercury;
- the export of certain mercury-added products;
- the use of mercury in certain manufacturing processes;
- new mercury uses in products and manufacturing processes;
- mercury use in artisanal and small-scale gold mining (ASGM),
- mercury use in dental amalgam.

This proposal aims at **transposing into the Union acquis the provisions of the Minamata Convention** that are not yet covered by EU legal requirements in order to enable the Union and the Member States to ratify and implement that Convention.

IMPACT ASSESSMENT: the impact assessment concluded that the ratification and implementation of the Minamata Convention will provide the EU with significant environmental and human health benefits, mainly due to the expected reduction of mercury emissions originating in other parts of the world.

CONTENT: this proposal seeks to **replace Regulation (EC) No 1102/2008**. It establishes measures and conditions concerning the trade, manufacture, use and interim storage of mercury, mercury compounds, mixtures, mercury-added products and the management of mercury waste.

Trade and manufacturing restrictions concerning mercury: the proposal:

- **sets a prohibition on the export** from the Union of mercury, of several mercury compounds and of mixtures of mercury with other substances, save in respect of those mercury compounds that can still be exported when aimed at laboratory-scale research;
- **prohibits the import** into the Union of mercury when intended for artisanal and small-scale gold mining and puts up a conditional prohibition on the import into the Union of mercury and of mixtures when planned for other uses.
- sets a prohibition, which shall start on 1st January 2021, on the export, import and manufacturing of a range of **mercury-added products**;
- foresees the possible adoption of Commission Implementing Decisions specifying the **trade forms** to be used by the Member States' competent authorities to implement Articles 3 and 4, as a follow up of Decisions that will be adopted by the Conference of the parties of the Minamata Convention.

Restrictions on use and storage of mercury and mercury compounds: the proposal:

- prohibits the use of mercury and mercury compounds as **catalyst for the production of acetaldehyde and of vinyl chloride monomer** as from 1st January 2019;
- sets a **prohibition on the manufacturing and placing on the market of mercury-added products** not covered by any known use prior to the date of application of this proposal and on the implementation of manufacturing processes that did not exist prior to this date;
- provides that Member States where **artisanal and small-scale gold mining** (ASGM) activities occurs shall take steps to reduce, and where feasible eliminate, the use and emissions of mercury and mercury compounds resulting from such an activity and shall develop and implement a relevant national plan;
- requires that **dental amalgam** be used only in an encapsulated form and that dental facilities be equipped with amalgam separators to retain and collect mercury-containing amalgam residues, as from 1st January 2019.

Storage and disposal of mercury waste: the proposal:

- provides that mercury that is no longer used in the chlor-alkali industry or generated from the cleaning of natural gas or from non-ferrous metals mining and smelting or extracted from cinnabar ore qualifies as **waste that must be disposed of**; the companies operating these activities shall have to **provide annually to national competent authorities information** regarding notably the amount of mercury stored within each installation concerned and the amount of mercury sent to temporary or permanent mercury waste storage facilities;
- provides that mercury waste can be temporarily or permanently stored in underground storage facilities and temporarily stored in above-ground storage facilities and specifies, for that purpose what requirements established in Council Directive 1999/31/EC for the temporary storage of mercury waste are applicable to the permanent storage of mercury waste in underground storage facilities

Penalties and reports: the proposal lays down the provisions on penalties applicable to breaches of this proposal. It also provides for the obligation of the Member States to prepare, update and publish a report containing all relevant information on the implementation of this proposal.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.