

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

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The committee adopted the report drafted by Dimitrios **PAPADIMOULIS** (GUE/NGL, UK), and made some amendments to the proposal for a regulation on the banning of exports and the safe storage of metallic mercury. It made adjustments concerning the date of the export ban, the scope of the mercury ban, and included the import of mercury in the prohibition. Further changes relate to a safe storage solution for surplus mercury; and the establishment of a trade tracking system.

The main amendments made in committee were as follows: -

- whilst the Commission's proposal related to an export ban on metallic mercury, Parliament stated that the **export and import** of metallic mercury, cinnabar ore and mercury compounds with a mercury concentration above 5% weight by weight will be prohibited;
- the export ban will take effect from 1 December 2010 (rather than 1 July 2011) and the import ban from 1 July 2010. Member States should meet their own mercury requirements from recovery from waste and raw products. Furthermore, a new Article states that the export of mercury-containing products banned from sale or distribution within the EU shall be prohibited from 1 January 2010;
- Member States must ensure that metallic mercury that is no longer used in the chlor-alkali industry or is extracted from cinnabar ore, mercury recovered from the cleaning of natural gas and mercury recovered as a by-product from non-ferrous mining and smelting operations shall be transported and stored, and eventually disposed of within the Community, in a way that is safe for human health and the environment, in appropriate facilities that qualify for that purpose, accompanied by a safety assessment and the relevant permit, pursuant to the Regulation;
- prior to any other alternative, consideration must be given to the possibility of using Almadén for the safe storage of the existing metallic mercury stocks or metallic mercury sub-produced by industry all over Europe, but not mercury containing articles that have become waste, thus making use of the infrastructures, local manpower and technological expertise existing there;
- the Commission shall undertake a revision of the safety assessment referred to in Decision 2003/33/EC to ensure that the particular risks of temporary storage of metallic mercury arising from the nature and long-term behaviour of the metallic mercury and its containment are covered. This revision shall be completed six months before the entry into force of the export ban;
- during the temporary storage, responsibility shall lie with the owner of the storage facility. Member States are requested to set up a fund to ensure that financial resources are in place for the safe final disposal of mercury. The fund will be created on the basis of a financial contribution by the chlor-alkali industry and other mercury using industries, such as, the natural gas and non-ferrous industry, proportional to the amount of mercury sent for temporary storage. When the mercury is to be sent for final disposal, Member States shall assume the administrative and financial responsibility;

- the companies concerned in the chloralkali industry, and in the industry sectors that gain mercury from the cleaning of natural gas or as a by-product from nonferrous mining and smelting operations, shall send sets of certain prescribed data related to the decommissioning of mercury in a given year to the Commission and the competent authorities of the Member States concerned;
- the Commission must organise an initial exchange of information between Member States and the relevant stakeholders by 30 June 2010, and this exchange must, *inter alia*, analyse the results of the consideration given to Almadén as the site for the safe storage of existing metallic mercury stocks or metallic mercury subproduced by European industry;
- Member States will draw up a register of buyers, sellers and traders of mercury, cinnabar ore and mercury compounds, and collect relevant information. They must inform the Commission on the application and market effects of this Regulation in their respective territory every two years, within six months from the end of the period covered. The Commission shall publish the information in a concise report within one year from the submission by the Member States. The first set of information shall cover the years 2007 - 2008 and shall be submitted to the Commission by 30 June 2009, and made public by 30 June 2010. The committee felt that such a **tracking system** will ensure transparency of the trade, and allow developments that run contrary to the intention and effectiveness of the ban to be easily assessed by the Commission and stakeholders;
- Member States are required to lay down the rules on penalties applicable to infringements of the provisions of the Regulation;
- the Commission and the Member States shall promote and facilitate awareness and ensure public availability of information on the export ban on metallic mercury, cinnabar ore and mercury compounds, as well as the safe storage of metallic mercury;
- the Commission shall submit a report to the European Parliament and the Council by 30 June 2012 at the latest. It must report by 31 December 2009 at the latest on progress in multilateral activities and negotiations on mercury;
- lastly, the committee felt that using a double legal base, i.e. Articles 133 and 175(1) of the Treaty, was not justified, since the measure is motivated by the objectives of protecting human health and the environment, and accordingly, it retained only Article 175(1) as the legal base.