Basic information

2006/0018(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Restrictions on the marketing of certain measuring devices containing mercury **Subject** 3.40.11 Precision engineering, optics, photography, medical 3.70.13 Dangerous substances, toxic and radioactive wastes (storage, transport) 4.60.04.02 Consumer security	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ENVI Environment, Public Health and Food Safety	SORNOSA MARTÍNEZ María (PSE)	25/04/2006

Former committee responsible	Former rapporteur	Appointed
ENVI Environment, Public Health and Food Safety	SORNOSA MARTÍNEZ María (PSE)	25/04/2006

Former committee for opinion	Former rapporteur for opinion	Appointed
ITRE Industry, Research and Energy	The committee decided not to give an opinion.	
IMCO Internal Market and Consumer Protection	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Justice and Home Affairs (JHA)	2794	2007-04-19

European Commission

Commission DG	Commissioner
Internal Market, Industry, Entrepreneurship and SMEs	VERHEUGEN Günter

Key events

Date	Event	Reference	Summary
21/02/2006	Legislative proposal published	COM(2006)0069	Summary
14/03/2006	Committee referral announced in Parliament, 1st reading		
13/09/2006	Vote in committee, 1st reading		Summary
19/09/2006	Committee report tabled for plenary, 1st reading	A6-0287/2006	
14/11/2006	Decision by Parliament, 1st reading	T6-0483/2006	Summary
14/11/2006	Results of vote in Parliament		
19/04/2007	Council position published	05665/1/2007	Summary
26/04/2007	Committee referral announced in Parliament, 2nd reading		
05/06/2007	Vote in committee, 2nd reading		Summary
08/06/2007	Committee recommendation tabled for plenary, 2nd reading	A6-0218/2007	
09/07/2007	Debate in Parliament		
10/07/2007	Decision by Parliament, 2nd reading	T6-0319/2007	Summary
10/07/2007	Results of vote in Parliament		
25/09/2007	Final act signed		
25/09/2007	End of procedure in Parliament		
03/10/2007	Final act published in Official Journal		

Technical information

Procedure reference	2006/0018(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	EC Treaty (after Amsterdam) EC 095
Stage reached in procedure	Procedure completed
Committee dossier	ENVI/6/46455

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE374.273	20/06/2006	
Amendments tabled in committee		PE376.454	14/07/2006	
Committee report tabled for plenary, 1st reading/single reading		A6-0287/2006	19/09/2006	

Text adopted by Parliament, 1st reading/single reading		T6-0483/2006	14/11/2006	Summary
Amendments tabled in committee		PE388.702	14/05/2007	
Committee recommendation tabled for plenary, 2nd reading		A6-0218/2007	08/06/2007	
Text adopted by Parliament, 2nd reading		T6-0319/2007	10/07/2007	Summary

Council of the EU

Document type	Reference	Date	Summary
Council statement on its position	07897/2007	17/04/2007	
Council position	05665/1/2007	19/04/2007	Summary
Draft final act	03642/2007/LEX	25/09/2007	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2006)0069	21/02/2006	Summary
Document attached to the procedure	SEC(2006)0194	21/02/2006	Summary
Commission response to text adopted in plenary	SP(2007)0054	11/01/2007	
Commission communication on Council's position	COM(2007)0205	20/04/2007	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1163/2006	13/09/2006	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Directive 2007/0051
OJ L 257 03.10.2007, p. 0013 Summary

Restrictions on the marketing of certain measuring devices containing mercury

2006/0018(COD) - 25/09/2007 - Final act

PURPOSE: i) to prohibit the use of fever thermometers and other measuring devices containing mercury and ii) to harmonise laws in the field of measuring and control devices.

LEGISLATIVE ACT: Directive 2007/51/EC of the European Parliament and of the Council amending Council Directive 76/769/EEC relating to restrictions on the marketing of certain measuring devices containing mercury.

BACKGROUND: preventing mercury from entering the waste steam will have enormous benefits for the environment and, in the long terms, human health. In 2005 the Commission released a Communication on a Community mercury strategy in which all uses of mercury were considered. The Communication concluded that certain non-electrical or non-electronic measuring and control equipment containing mercury should be restricted from sale across the EU. Immediate restrictive measures should cover only those measuring devices that are intended for sale to the general public and concerns, in particular, all fever thermometers.

Also, it has been drawn to the Commission's attention that a number of disparities exist between the laws or administrative measures adopted by Member States as regards restrictions on mercury in various measuring and control devices. This had led to the creation of trade barriers and a distortion of competition across the Community.

CONTENT: the purpose of this amending Directive, therefore, is twofold.

Firstly, to ban the use of:

- fever thermometers; and
- other measuring devices intended for sale to the general public (e.g. manometers, barometers, sphygmomanometers, thermometers other than fever thermometers),

by prohibiting their sale in the EU.

The restriction does not apply to:

- measuring devices more than 50 years old; or
- barometers (for decorative purposes).

The continued use of barometers containing mercury for decorative purposes will only apply until 3 October 2009. Mercury barometers that are manufactured by a few small specialist enterprises and which are sold mostly for decorative purposes may have a longer phasing period to allow manufacturers to adapt their business and to move over to the production of mercury-free barometers.

In line with concerns expressed by some EU Member States the Commission will carry out a review on sphygmomanometers in health care and to assess whether safer, more reliable, alternatives exist that are both technically and economically feasible. The restrictions will only apply to the placing on the market of new measuring devices – it will not apply to devices that are already in use or sold second hand.

The second purpose of this Directive is to approximate the laws of the Member States in the field of measuring and control devices by introducing harmonised provision regarding those products containing mercury. Not only will this ensure a high level of human health and environmental protection, it will also help preserve the internal market. To enact this provision, Council Directive 76/769/EEC has been amended accordingly.

ENTRY INTO FORCE: 3 October 2007.

TRANSPOSITION: 3 October 2008.

APPLY: 3 April 2009.

Restrictions on the marketing of certain measuring devices containing mercury

2006/0018(COD) - 19/04/2007 - Council position

The common position reflects partially the Opinion of the European Parliament at first reading. It differs mainly from the Opinion as it contains a two-year transition period for barometers, which in the Opinion may instead be unlimited in time.

The Council does not believe that a permanent derogation for mercury barometers is justified taking into account inter alia that they contain a significant amount of mercury and that safer alternatives exist. Also, the Council believes that banning also sphygmomanometers for healthcare use may be premature, because of the current lack of information on reliable safer mercury-free alternatives. The common position states therefore that the Commission should carry out a review of the available alternatives.

New elements are contained in the common position as compared with the Commission proposal:

- the need not to restrict import of antique and/or cultural goods containing mercury;

- the two-year transition period for barometers;

- the need to review the availability of reliable safer alternative to sphygmomanometers;

- encouraging Member States to draw up their own correlation tables between this Directive and the corresponding measures.

The Annex introduces two exemptions from the ban: a permanent one for antique (i.e. more than fifty years old) measuring devices and another one for barometers, until two years after entry into force of the Directive.

Sweden and Denmark voted against the common position as they consider that adequate alternatives for mercury containing sphygmomanometers in the healthcare sector are available and their marketing should be banned.

Restrictions on the marketing of certain measuring devices containing mercury

2006/0018(COD) - 14/11/2006 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by María **SORNOSA MARTÍNEZ** (PES, ES) by 582 votes in favour to 17 against and 21 abstentions,and made some amendments to the Commission's proposal:

- immediate restrictive measures should cover all fever thermometers as well as other measuring devices intended for sale to the general public (e.g. manometers, barometers, sphygmomanometers, thermometers other than fever thermometers);

- they should cover other measuring devices not intended for sale to the general public after three years. However, a derogation may be granted for essential uses for a limited period of time, to be set on a case-by-case basis, if manufacturers can prove that they have undertaken every effort to develop safer alternatives or alternative processes, and that safer alternatives or alternative processes are still not available;

- restrictive measures will also apply to sphygmomanometers (excepting strain gauges in healthcare) containing mercury for both consumer and healthcare use;

- the restriction on measuring devices intended for sale to the general public will not apply to measuring devices that are more than 50 years old or to barometers.

Within two years, the Commission shall carry out a review of the availability of reliable safer alternatives that are technically and economically feasible, for mercury-containing sphygmomanometers and other measuring devices in healthcare and in other professional and industrial uses. On the basis of this review or as soon as new information on reliable safer alternatives for phygmomanometers and other measuring devices containing mercury becomes available, the Commission shall present a legislative proposal to extend the restrictions to sphygmomanometers and other measuring devices in healthcare, and other professional and industrial uses, so that mercury in measuring devices is phased out whenever technically and economically feasible.

Restrictions on the marketing of certain measuring devices containing mercury

2006/0018(COD) - 21/02/2006 - Legislative proposal

PURPOSE: to amend Directive 76/769/EC on restrictions relating to measuring devices containing mercury.

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

CONTENT: the objective of the proposal is to provide a high level of protection of the environment and human health, whilst preserving the internal market. It intends to do so by harmonising provisions relating to the use of mercury in measuring devices. Measuring equipment is the largest mercury-using product group in the EU not yet covered by Community legislation and here refers mostly to household goods such as, fever and room thermometers, barometers, blood pressure gauges and manometers – in other words non-electrical measuring devices.

Mercury and its compounds are highly toxic to humans, eco-systems and wildlife. Of the 3 600 tons used globally per year, the EU will demand 300 tons. The most significant use is dental amalgam – which is covered in different EU legislative acts. However, the main mercury product group not yet covered by Community legislation is non-electrical measuring and control equipment. An estimated 33 tons of mercury is estimated to be used for measuring and control devices per year in the EU and on an annual basis some 25-30 tons of mercury enters the cycle via thermometers alone. Although professional use of mercury in measuring devices is carefully controlled it has proved to be extremely difficult to keep used measuring devices for consumers use out of the waste stream. Some Member States complain that the mercury derived from measuring products is responsible for the foremost source of mercury in surface water.

In terms of cost, the economic impact of the proposed restriction is expected to be small. The number of EU producers is negligible illustrated by the fact that no sectoral organisation exists on a European or Member State level. Similarly, the social impact is expected to be limited to potential job losses with the producers – but again the overall impact on EU employment would be limited and would need to be weighed up against the number of benefits foreseen. The most significant predicted benefit being a reduction of mercury in the municipal waste stream leading to a reduction of emissions from landfill and incineration.

Lastly, the proposed Directive is considered a short-term measure and is limited to restricting the placing on the market of new measuring devices. It does not apply to devices that are already in use or which are sold second hand. A further study will be conducted by the Commission into figures showing that the amount of mercury in existing household equipment is greater than the amount represented by sales of new equipment. In the medium to longer term, any remaining use is likely to be subject to authorisation under the proposed REACH Regulation.

Restrictions on the marketing of certain measuring devices containing mercury

2006/0018(COD) - 10/07/2007 - Text adopted by Parliament, 2nd reading

The European Parliament adopted a resolution drafted by Maria Sornosa **MARTINEZ** (PES, ES) and approved the common position.

Restrictions on the marketing of certain measuring devices containing mercury

2006/0018(COD) - 20/04/2007 - Commission communication on Council's position

The Commission can support the Council’s common position. The common position is in line with the compromise that was reached in informal discussions between the Council, the Rapporteur of the European Parliament and the Commission, which did, however, not find a majority in the European Parliament.

The common position includes all of the European Parliament’s amendments that could be accepted by the Commission. These are: amendments which were accepted by the Commission in full as they improve the clarity of the recitals, (ii) amendments which call on the Commission to review the availability of alternatives for mercury sphygmomanometers and other measuring devices in industrial and professional uses with a view to extending the restrictions and (iii) amendments which permit the continued trade in “antique” measuring devices that contain mercury because such trade is limited in extent and does not pose a risk to human health or to the environment.

The common position incorporates changes to the original proposal which can be supported by the Commission.

Restrictions on the marketing of certain measuring devices containing mercury

2006/0018(COD) - 21/02/2006 - Document attached to the procedure

COMMISSION’S IMPACT ASSESSMENT

For further information regarding the context of this issue, please refer to the summary of the Commission’s proposal for a Directive of the European Parliament and of the Council amending Council Directive 76/769/EEC relating to restrictions on the marketing of certain measuring devices containing mercury – COM(2006)0069 final.

1- POLICY OPTIONS AND IMPACTS

For the non-electrical measuring equipment product group, two main policy options were examined in the Commission’s extended impact assessment.

1.1- Option 1: no additional action: under this option, no Community action is taken for the time being. Measures are left to Member States and to the private sector. A number of Member States already have national legislation in place banning or restricting various mercury-containing products. However, the scope of those restrictions varies. In addition, more recent studies show a progressive substitution of mercury in thermometers, barometers and blood pressure gauges, especially for use in private households.

1.2- Option 2: marketing and use restriction option: this option would prohibit the marketing of measuring and control devices by means of an amendment to Directive 76/769/EEC. The scope of a limitation under that directive must take into account the feasibility and proportionality of the risk management measure proposed. The information available to the Commission can be considered as sufficient to support a ban on all fever thermometers and other measuring devices for consumer uses. Specialist applications are excluded from the scope of this proposal. Adequate substitutes are not always available, and most specialist professional uses are outside the scope of most national legislation.

*CONCLUSION:***The Commission's preferred option is Option 2.** It was concluded that it would have direct and relatively predictable impact in the EU, thus preventing considerable amounts of mercury entering the waste stream. In this way, it would contribute to a high level of protection of the environment and human health, whilst preserving the internal market, as required by Article 95 of the Treaty.

IMPACTS

- The **economic impact** of the proposed restriction is expected to be small. For measuring devices used by private households, substitutes are available at similar prices. According to the information available, the number of remaining producers in the EU is limited to a small number of enterprises. This is also illustrated by the fact that no sectoral organisation exists on a European or Member State level. The negative impact on the producers has to be balanced against the avoided costs of removing mercury in waste management and of dealing with the impacts of emissions. The measure can be therefore regarded as cost efficient by comparison with some other measures already in place (e.g. restriction of mercury in batteries or in lighting). The impact will be neutral as far as trade is concerned. Some external suppliers would lose a market for their products although at the same time any external suppliers manufacturing mercury-free substitutes would find their market expanded.
- The expected **social impact** from the proposed restriction is largely limited to potential job losses with the producers that cannot switch to the production of substitutes. The comments received in the consultation process indicate that the negative effects on employment would be very limited.
- The main benefit of a restriction on the marketing of certain measuring devices would be a reduction of mercury in the municipal waste stream. There would also be benefits to the **healthcare** waste stream. The overall result would be to have more effective waste management and a reduction of emissions from landfill and incineration. The key long term benefit of reducing mercury emissions will be decreased levels of mercury in the **environment**. This, in turn, will lead to lower levels of human exposure to mercury including methylmercury in fish with resultant health benefits. The measure will also reduce the impacts of mercury in soils and on biodiversity. A reduction in the use of mercury containing measuring devices in households will, in addition, avoid mercury spills in dwellings. Although such spills rarely have a direct effect on human health, they are a source of exposure and of emissions which should be minimised.
- In view of the global and transboundary nature of the environmental and health impacts of mercury, this proposal would also support EU initiatives at international level to promote a global reduction of mercury use.

2- FOLLOW-UP

Following the implementation of the directive, the aim in the short term is to reduce the amount of mercury which is likely to be released to the environment by restricting the placing on the market of new measuring equipment.

As the amount of mercury in existing household equipment is greater than the amount represented by sales of new equipment, the Commission intends to undertake a further separate study on this issue (reference Action 10 of the Community Strategy concerning mercury – COM(2005)0020 final of 28 January 2005).