COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 8.7.2008
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2006/0206 (COD)

OPINION OF THE COMMISSION

pursuant to Article 251(2), third subparagraph, point (c) of the EC Treaty, on the European Parliament's amendments to the Council's Common Position regarding the Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the banning of exports and the safe storage of metallic mercury

AMENDING THE PROPOSAL OF THE COMMISSION pursuant to Article 250(2) of the EC Treaty

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1. BACKGROUND

Procedure

On 26 October 2006 the Commission submitted a Proposal for a Regulation on the banning of exports and the safe storage of metallic mercury to the European Parliament and of the Council for adoption by co-decision procedure as laid down in Article 251 of the EC Treaty.

The European Economic and Social Committee delivered its opinion on 25 April 2007.

The European Parliament adopted its position in first reading on 20 June 2007.

The Council adopted its Common Position on 20 December 2007. The European Parliament adopted its position in second reading on 21 May 2008.

2. OBJECTIVE OF THE COMMISSION PROPOSAL

On 28 January 2005, the Commission adopted the Communication to the Council and the European Parliament on a Community Strategy Concerning Mercury, COM(2005)20 final.

Action 5 stipulates that "*as a pro-active contribution to a proposed globally organised effort to phase out primary production of mercury and to stop surpluses re-entering the market …, the Commission intends to propose an amendment to Regulation (EC) No. 304/2003 to phase out the export of mercury from the Community by 2011*."

Under Action 9, "*The Commission will take action to pursue the storage of mercury from the chlor-alkali industry, according to a timetable consistent with the intended phase-out of mercury exports by 2011. In the first instance the Commission will explore the scope for an agreement with industry*."

On 24 June 2005, the Council adopted its Conclusions on the Mercury Strategy. It welcomed the Commission Communication and underlined "*the importance of the proposal to phase out the export of mercury from the Community*". It also invited the Commission "*to take action as soon as possible … to present appropriate proposals*" on the issue of the "*phasing out of the export of mercury from the Community and action to pursue the safe storage or disposal of mercury inter alia from the chlor-alkali industry to a timescale consistent with the intended phase out of mercury exports*".

On 14 March 2006, the European Parliament adopted a Resolution welcoming the Strategy, underlining *"the significance of the Commission's pro-active proposal to phase out the export of metallic mercury … from the Community"* and asking the Commission *"to take action ensuring that all mercury coming from the chlor-alkali industry is safely stored"*.

The present Proposal for a Regulation of the European Parliament and the Council aims therefore at implementing actions 5 and 9 of the Strategy by banning the export of metallic mercury from the Community as well as ensuring that this mercury does not re-enter the market and is safely stored. The fundamental purpose is to limit further additions to the "global pool" of mercury already released.

3. COMMISSION COMMENTS

3.1 General

At its Plenary Session of 21 May 2008, the European Parliament adopted a compromise package consisting of 22 amendments which had been agreed with the Council in view of reaching a second reading agreement.

These amendments concern essentially

– the scope of the export ban (extended to two mercury compounds and mixtures with a high mercury content, in order to prevent circumventing the export ban on metallic mercury)

– the date of the entry into effect of the export ban (15 March 2011 instead of 1 July 2011)

– the link of an information exchange and a report on safe disposal (solidification) options to the adoption of specific acceptance criteria under comitology,

– extended reporting requirements and

– an enhanced revision clause.

The Commission accepts all these amendments as they are in line with the overall purpose and the general characteristics of the Proposal.

3.2 Amended Proposal

Pursuant to Article 250(2) of the EC Treaty, the Commission amends its Proposal as set out above.