



2016/0023(COD)

15.6.2016

*****I**

DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council on mercury, and repealing Regulation (EC) No 1102/2008 (COM(2016)0039 – C8-0021/2016 – 2016/0023(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Stefan Eck

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council on mercury, and repealing Regulation (EC) No 1102/2008 (COM(2016)0039 – C8-0021/2016 – 2016/0023(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0039),
 - having regard to Article 294(2) and Articles 192(1) and 207 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0021/2016),
 - having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis,
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 25 May 2016¹,
 - having regard to the opinion of the Committee of the Regions of ...²,
 - having regard to Rules 59 and 39 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinion of the Committee on International Trade (A8-0000/2016),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ Not yet published in the Official Journal.

² Not yet published in the Official Journal.

Amendment 1

Proposal for a regulation

Citation 1

Text proposed by the Commission

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) **and Article 207** thereof,

Amendment

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Or. en

Amendment 2

Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) 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.***

Amendment

(1) 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. ***Mercury exposure at high levels can harm the brain, heart, kidneys, lungs, and immune system of people of all ages. High levels of methylmercury in the bloodstream of unborn babies and young children can harm the developing nervous system, making children less able to think and learn and potentially reducing their IQ. The United Nations Environment Programme (UNEP) and the World Health Organization (WHO) list mercury among the "ten chemicals of major public health concern". Measures and conditions for the use of mercury should therefore be introduced.***

Or. en

Justification

see US EPA 2014 and http://www.who.int/ipcs/assessment/public_health/chemicals_phc/en/

Amendment 3

Proposal for a regulation

Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) 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 70 % of the mercury contaminated sites are concentrated in industrial regions of Europe and North America; therefore action at local, regional, national and international levels is required.

Or. en

Amendment 4

Proposal for a regulation

Recital 2

Text proposed by the Commission

Amendment

(2) Most mercury emissions and associated exposure risks result from anthropogenic activities, including primary mercury mining and processing, the use of mercury in products, industrial processes and artisanal and small-scale gold mining ("ASGM") and mercury emissions originating in particular from coal combustion and the management of mercury waste.

(2) Most mercury emissions and associated exposure risks result from anthropogenic activities, including primary mercury mining and processing, the use of mercury in products, industrial processes and artisanal and small-scale gold mining ("ASGM"), ***contaminated sites*** and mercury emissions originating in particular from coal combustion and the management of mercury waste.

Or. en

Amendment 5

Proposal for a regulation Recital 3 a (new)

Text proposed by the Commission

Amendment

(a) *The European Pollutant Release and Transfer Register (E-PRTR) established by Regulation (EC) No 166/2006 of the European Parliament and of the Council^{1a} aims to provide competent authorities, policymakers, scientists and the general public with a coherent and Union-wide industrial release and transfers database that also covers mercury. Users are given access to information on releases and transfers from industrial facilities in their neighbourhood or country, which can be compared with other facilities all over the Union. Such access to data has the potential to ensure a real participation of citizens in environmental matters. The E-PRTR contributes to greater transparency and that already existing tracking tool for pollutants should be extended to mercury waste flows, in order to minimise the risk of fraud and to improve the control of mercury transfers in waste.*

^{1a} *Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register and amending Council Directives 91/689/EEC and 96/61/EC (OJ L 033, 4.2.2006, p.1).*

Or. en

Justification

The use of the E-PRTR will minimise the risk of fraud and will contribute to the overall picture that we expect to achieve from our request on an EU-wide inventory.

Amendment 6

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) Significant progress has been achieved in the Union in the past 10 years in the field of mercury management following the adoption of the Strategy and of a wide range of measures concerning mercury emissions, supply, demand and use and the management of mercury surplus and stocks.

Amendment

(5) Significant progress has been achieved in the Union in the past 10 years in the field of mercury management following the adoption of the Strategy and of a wide range of measures concerning mercury emissions, supply, demand and use and the management of mercury surplus and stocks. ***Nonetheless further action is required as currently the demand of the market for mercury is estimated at 260-400 t/y and even after the foreseen phase-out of the use of mercury in the chlor-alkali industry by 2017 the projected demand for mercury in 2025-2030 is estimated at 40-220 t/y.***

Or. en

Justification

See Commission staff working document SWD, impact assessment accompanying this proposal 2016 final p.26/ 186.

Amendment 7

Proposal for a regulation

Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) In order to reflect the current scientific understanding of risks from methylmercury, the Commission should evaluate the current health-based intakes and should establish new mercury health benchmarks, when undertaking the review of this Regulation.

Or. en

Amendment 8

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) Swift ratification of the Convention by the Union and its Member States will encourage major global mercury users and emitters, that are signatories of the Convention, to ratify and implement it.

Amendment

(8) Swift ratification of the Convention by the Union and its Member States will encourage major global mercury users and emitters that are signatories of the Convention, to ratify and implement it.
Further action undertaken by the Union, going beyond the Convention requirements, would lead the way, as it was the case with Regulation (EC) No. 1102/2008, for mercury-free products and processes.

Or. en

Amendment 9

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) As Union legislation already transposes many of the obligations of the Convention, this Regulation should ***only*** lay down provisions that complement the Union acquis and that are needed to ensure its full alignment with the Convention and, accordingly, to enable the Union and its Member States to ratify and implement it.

Amendment

(9) As Union legislation already transposes many of the obligations of the Convention, this Regulation should lay down provisions that complement the Union acquis and that are needed to ensure its full alignment with the Convention and, accordingly, to enable the Union and its Member States to ratify and implement it.

Or. en

Amendment 10

Proposal for a regulation

Recital 9 a (new)

(9a) The Member States are considered to be the developed countries under the Minamata Convention, and the Union is not only advanced with its legislation but also in possession of alternative available technologies; therefore, the Union should adopt as many of the options and measures proposed and provided by the Minamata Convention in order to set an ambitious direction for all the other Parties to the Minamata Convention.

Or. en

Amendment 11

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) The mercury export ban set out in Regulation (EC) No 1102/2008 of the European Parliament and of the Council³⁹ should be **complemented by restrictions on the import of mercury depending on the source, the intended use and the place of origin of mercury**. The national authorities designated in accordance with Regulation (EU) No 649/2012 of the European Parliament and of the Council⁴⁰ should perform the administrative functions linked to the implementation of such **restrictions**.

³⁹ Regulation (EC) No 1102/2008 of the European Parliament and of the Council of 22 October 2008 on the banning of exports of metallic mercury and certain mercury compounds and mixtures and the safe storage of metallic mercury (OJ L 304, 14.11.2008, p. 75).

⁴⁰ Regulation (EU) No 649/2012 of the European Parliament and of the Council of

Amendment

(10) The mercury export ban set out in Regulation (EC) No 1102/2008 of the European Parliament and of the Council³⁹ should be **implemented together with a full import ban**. The national authorities designated in accordance with Regulation (EU) No 649/2012 of the European Parliament and of the Council⁴⁰ should perform the administrative functions linked to the implementation of such **measures**.

³⁹ Regulation (EC) No 1102/2008 of the European Parliament and of the Council of 22 October 2008 on the banning of exports of metallic mercury and certain mercury compounds and mixtures and the safe storage of metallic mercury (OJ L 304, 14.11.2008, p. 75).

⁴⁰ Regulation (EU) No 649/2012 of the European Parliament and of the Council of

4 July 2012 concerning the export and import of hazardous chemicals (OJ L 201, 27.7.2012, p. 60).

4 July 2012 concerning the export and import of hazardous chemicals (OJ L 201, 27.7.2012, p. 60).

Or. en

Amendment 12

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) The export, import and manufacturing of ***a range of*** mercury-added products ***accounting for a significant share of the use of mercury and mercury compounds within the Union and globally should*** be prohibited.

Amendment

(11) The export, import and manufacturing of mercury-added products ***should be phased-out with an ultimate short-term target that all products containing intentionally added mercury should*** be prohibited.

Or. en

Amendment 13

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) This Regulation should ***therefore*** have ***a twofold legal basis***, Articles 192(1) ***and 207*** of the TFEU, as it seeks to protect both the environment and human health ***and to ensure uniformity in respect of its trade aspects through the export and import prohibition and restrictions affecting mercury, mercury compounds and mercury-added products.***

Amendment

(12) This Regulation should have ***Article*** 192(1) of the TFEU ***as a legal basis***, as it seeks to protect both the environment and human health.

Or. en

Justification

The legal basis should reflect the main objective of the legislation and of the Minamata

Convention, which is the protection of human health and the environment and does not comprise trade issues as a primary target.

Amendment 14

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) This Regulation ***applies*** without prejudice to the provisions of the applicable Union acquis that set stricter requirements for such products, including in terms of their maximum content of mercury.

Amendment

(13) This Regulation ***should apply to the export, import and manufacturing of products containing mercury*** without prejudice to the provisions of the applicable Union acquis that set stricter requirements for such products, including in terms of their maximum content of mercury ***in order to avoid double standards for the products that are available in the Union in relation to the products that are produced for export.***

Or. en

Justification

To export products to third countries that are not allowed in the internal market on health and environmental grounds is against the spirit of the MC. Moreover, many third countries still do not have the legislation in place and the capacities that would allow them to treat the hazardous waste generated by those products.

Amendment 15

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) In the absence of relevant available mercury-free production processes, ***operating conditions for the production of sodium or potassium methylate or ethylate involving the use of mercury should be set.***

Amendment

(14) ***The production of alcoholates involving the use of mercury as an electrolyte should be phased out.*** In the absence of relevant available mercury-free production processes ***for*** potassium methylate or ethylate, ***the deadline for their phasing out should be longer.***

Justification

There are mercury free processes available for the production of sodium methylate and ethylate used by the same companies producing these alcoholates using mercury.

Amendment 16**Proposal for a regulation****Recital 15***Text proposed by the Commission*

(15) The manufacturing and placing on the market of new mercury-added products and the establishment of new mercury-based manufacturing processes would increase the use of mercury and of mercury compounds and mercury emissions within the Union. Such new activities should therefore be prohibited unless an assessment demonstrates that these uses would provide significant *environmental and health* benefits and that no technically *and economically* feasible mercury-free alternatives providing such benefits are available.

Amendment

(15) The manufacturing and placing on the market of new mercury-added products and the establishment of new mercury-based manufacturing processes would increase the use of mercury and of mercury compounds and mercury emissions within the Union. Such new activities should therefore be prohibited unless an assessment demonstrates that these uses would provide significant health benefits and that no technically feasible mercury-free alternatives providing such benefits are available.

Or. en

Justification

It is hard to imagine what kind of environmental benefits could such a toxic substance provide, that would offset the environmental harm that it creates. Only for the sake of health benefits for new products or processes, should this exceptional provision be allowed.

Amendment 17**Proposal for a regulation****Recital 16***Text proposed by the Commission*

(16) The use of mercury and mercury compounds in ASGM accounts for a

Amendment

(16) The use of mercury and mercury compounds in ASGM accounts for a

significant share of mercury use and emissions worldwide, and should therefore be regulated.

significant share of mercury use and emissions worldwide *with devastating effects both for the local communities and globally*, and should therefore be *prohibited in the Union and regulated at international level. It is estimated that small-scale gold mining is practiced in 77 countries with about 20 million people worldwide directly engaged and another 85 to 90 million people indirectly dependent upon it. Globally, small-scale miners produce between 20 percent and 30 percent of all gold that is mined - approximately 500 to 800 metric tons of gold per year. Therefore, the Union should encourage, within the framework of the Minamata Convention, all other Parties to the Convention to monitor closely through accurate and strict reporting of export/import the trade of the surplus mercury intended for use in ASGM and track mercury transfers in wastes.*

Or. en

Justification

see <http://www.unep.org/PDF/PressReleases/GlobalMercuryAssessment2013.pdf>.

Amendment 18

Proposal for a regulation Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) When attempting to develop solutions to mercury use in ASGM, policies in the Union and in the Member States should recognise the role that poverty plays and the lack of options available to many of those who take part in that activity. Developing economic alternatives, removing mercury from ASGM activities and protecting communities from the criminal structures

involved in ASGM are objectives that should be pursued concurrently to reduce the human and environmental impacts of ASGM. To help with this transition, the development of a national action plan at Member state level, by the Member States, with planned mercury reductions tied to an intensive commitment of technical assistance to miners, should become a crucial step towards that objective. As a result, the Union should firmly commit to provide such assistance to the other Minamata Convention Parties. Moreover, the Union should take the necessary steps to initiate the promotion of a certification for mercury-free extracted gold.

Or. en

Justification

In order to reduce mercury demand in the sector worldwide many steps should be undertaken both for promotion of alternatives and the shrinking of the market for gold produced with this process. Like in the case of the Kimberly-process for diamonds, consumers in the EU should be sensitised to the production of gold and should have a choice of buying mercury free gold.

Amendment 19

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) The use of dental amalgam in an encapsulated form and the implementation of amalgam separators ***should be made mandatory to protect dental practitioners and patients from mercury exposure and to ensure that resulting mercury waste are not released into the environment, but are collected and subjected to sound waste management. Given the size of the undertakings from the dentistry sector concerned by this change, it is appropriate to provide sufficient time to adapt to the new provision.***

Amendment

(17) The use of dental amalgam in an encapsulated form and the implementation of amalgam separators ***are already widespread in the European Union. These measures in addition to the collection and sound management of dental amalgam and amalgam waste are considered as sufficient, but they fail to address the problem of perpetual demand of mercury in the Union and the negative impact on the environment. To protect dental practitioners, patients and the environment from mercury exposure, the use of dental amalgam should be phased***

out, as it is already the case in several Union countries.

Or. en

Amendment 20

Proposal for a regulation Recital 18

Text proposed by the Commission

(18) *Most of the criteria established in Council Directive 1999/31/EC⁴¹ for the temporary storage of mercury waste should apply to the permanent storage of mercury waste in underground storage facilities.* The applicability of some of those criteria should depend on the specific characteristics of each underground storage facility, as determined by the competent authorities of the Member States in charge of the implementation of Directive 1999/31/EC.

⁴¹ Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182 of 16.7.1999, p. 1).

Amendment

(18) *Due to the hazardous properties of mercury, its high market value and its compact volume that make it very attractive for black market procurement, the criteria for temporary storage should be the same as for permanent storage. Exceptionally and only for a period of less than 12 months, temporary storage should be allowed based on the criteria established in Council Directive 1999/31/EC⁴¹.* The applicability of some of those criteria should depend on the specific characteristics of each underground storage facility, as determined by the competent authorities of the Member States in charge of the implementation of Directive 1999/31/EC.

⁴¹ Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182 of 16.7.1999, p. 1).

Or. en

Amendment 21

Proposal for a regulation Recital 18 a (new)

Text proposed by the Commission

Amendment

(18a) Contaminated sites contribute to

re-mobilization and re-emissions and releases of mercury to air, soil and water. In the absence of comprehensive information about abandoned contaminated sites, the development of an inventory and guidelines for the management of all contaminated sites in Union is necessary. In order to allow for that development, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of laying down the methods and approaches for the ecologically sustainable management and remediation of sites contaminated by mercury or mercury compounds.

Or. en

Justification

At many locations, mercury waste from coal ash, mining tailings, waste incineration and non-ferrous metals processing are directly released into local soils, water bodies, and ground water, which leads to mercury-contaminated sites. Sites on which mercury is intentionally used in manufacturing can also become contaminated through poor handling procedures for mercury. The ability of mercury to volatilize at room temperature means that mercury contaminated sites cause local impacts as well as contributing to the overall global load of atmospheric mercury contamination.

Amendment 22

Proposal for a regulation Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) In order to allow for adaptation to the latest innovation and technological progress, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of prohibiting or allowing new products and processes using mercury.

Or. en

Amendment 23

Proposal for a regulation Recital 20

Text proposed by the Commission

Amendment

(20) In order to ensure uniform conditions for the implementation of this Regulation with regard to prohibiting or allowing new mercury using products and processes and reporting obligations, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and the Council⁴².

deleted

⁴² Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Or. en

Amendment 24

Proposal for a regulation Recital 23

Text proposed by the Commission

Amendment

(23) In order to allow for the competent authorities of the Member States and the economic operators concerned by this Regulation *sufficient time* to adapt to the new regime lays down by this Regulation, it should apply *from 1 January 2018*.

(23) In order to allow for the competent authorities of the Member States and the economic operators concerned by this Regulation to adapt to the new regime lays down by this Regulation, it should apply *after 20 days of the entry into force of this Regulation*.

Or. en

Amendment 25

Proposal for a regulation

Recital 24

Text proposed by the Commission

(24) Since the objective of this Regulation, namely to ensure a high level of protection of human health and the environment from mercury, by means of a mercury and mercury-added product export and import prohibition, of restrictions on mercury use in manufacturing processes, products, ASGM and dental amalgam and of obligations applicable to mercury waste, cannot be sufficiently achieved by Member States, but can rather, by reason of the transboundary nature of mercury pollution and the nature of the measures to be taken, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

Amendment

(24) Since the objective of this Regulation, namely to ensure a high level of protection of human health and the environment from mercury, by means of a mercury and mercury-added product export and import prohibition, of restrictions on mercury use in manufacturing processes, products, ASGM and dental amalgam and of obligations applicable to mercury waste, ***emissions and contaminated sites***, cannot be sufficiently achieved by Member States, but can rather, by reason of the transboundary nature of mercury pollution and the nature of the measures to be taken, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective. ***Moreover, this Regulation should be used horizontally within the Union's legislation as a tool to achieve its objectives,***

Or. en

Amendment 26

Proposal for a regulation

Article 1 – paragraph 1

Text proposed by the Commission

This Regulation establishes measures and conditions concerning the trade,

Amendment

This Regulation 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.

manufacture, use and interim storage of mercury, mercury compounds, mixtures, mercury-added products, *emissions and releases* and the management of mercury waste *in order to ensure a high level of protection of human and animal health and the environment from mercury. Where appropriate, Member States may apply stricter requirements than those laid down in this Regulation.*

Or. en

Amendment 27

Proposal for a regulation

Article 2 – paragraph 1 – point 3

Text proposed by the Commission

3. 'mercury waste' means *mercury that qualifies as* waste, in accordance with Article 3(1), of Directive 2008/98/EC of the European Parliament and of the Council⁴³;

⁴³ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312 of 22.11.2008, p. 3).

Amendment

3. 'mercury waste' means waste, in accordance with Article 3(1), of Directive 2008/98/EC of the European Parliament and of the Council⁴³:

(a) *consisting of mercury or mercury compounds; or*

(b) *containing mercury or mercury compounds; or*

(c) *contaminated with mercury or mercury compounds;*

(d) *all mercury not used anymore in a product or process, whether or not that qualifies as waste in accordance with the Minamata Convention and Article 3(1), of Directive 2008/98/EC;*

⁴³ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312 of 22.11.2008, p. 3).

Or. en

Justification

Terminology as defined by the Basel Technical guidelines and Minamata Convention.

Amendment 28

Proposal for a regulation

Article 2 – paragraph 1 – point 6 a (new)

Text proposed by the Commission

Amendment

6a. *'interim storage' means the storage of mercury or mercury compounds not defined as waste, but intended to be used in a short term for industrial processes;*

Or. en

Amendment 29

Proposal for a regulation

Article 2 – paragraph 1 – point 6 b (new)

Text proposed by the Commission

Amendment

6b. *'temporary storage' means the storage of mercury or mercury compounds, defined as waste before it is stored permanently.*

Or. en

Amendment 30

Proposal for a regulation

Article 3 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

The export of mercury and of the mercury compounds and *of* mixtures listed in Annex I shall be prohibited.

The export of mercury and of the mercury compounds and mixtures listed in Annex I, *of mercury-added products listed in Annex II and of mercury waste* shall be

prohibited.

Or. en

Justification

As mercury waste is traded as a commodity, it is necessary to name it in the context of exports.

Amendment 31

Proposal for a regulation

Article 3 – paragraph 2

Text proposed by the Commission

2. The export of mixtures of mercury **not listed in Annex I** for the purposes of recovering the mercury shall be prohibited.

Amendment

2. The export of **all** mixtures of mercury for the purposes of recovering the mercury shall be prohibited.

Or. en

Justification

The EU should not contribute to mercury trade flows. The intentional use should be avoided and certainly not exported, especially to countries that do not have the legislation, the technology and the financial means to treat and expose it.

Amendment 32

Proposal for a regulation

Article 4 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The import of mercury and of mixtures listed in Annex I **for uses other than** disposal as waste shall be prohibited.

Amendment

The import of mercury and of **mercury** mixtures **for compounds** listed in Annex I **and their** disposal as waste shall be prohibited.

Or. en

Justification

The peak of mercury waste expected from the stop of activities in the chlor-alkali industry will

create a high demand for treatment in Europe. It is doubtful whether the European capacities are sufficient, so importing extra mercury waste that might endanger the sound management of this waste. Additionally, when transporting hazardous waste of high economic value for long distances, there is a high risk for the environment and risk for diversion of mercury to unwanted uses. Moreover, it is definitely not advisable to store all possible quantities in Europe and third countries that do not have the legislation and the financial means, will not be able to finance the transport, the treatment and the disposal of their waste in Europe According to the Minamata convention the Developed countries Parties have the obligation to cooperate and exchange best practices and share knowledge. The EU should help create the conditions, so that treatment and disposal of mercury as a waste is done on a regional level within their continents. It might be even financially more interesting to transfer knowledge and technology than hazardous waste from other continents.

Amendment 33

Proposal for a regulation

Article 4 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

By way of derogation from the first subparagraph, import shall be allowed in any of the following circumstances:

deleted

- the exporting country is a Party to the Convention and the exported mercury is not from primary mercury mining as set out in Article 3(3) and (4), of that Convention;

- the exporting country not being a Party to the Convention has provided certification that the mercury is not from primary mercury mining and not from the chlor-alkali industry, and the importing Member State has granted its written consent to the import.

Or. en

Justification

There should be a general EU import prohibition of metallic mercury in line with the opinion of a vast majority of stakeholders. Such a ban would send a strong message that use of mercury is not needed nor wanted. It creates less administrative burden and is easier to implement - better regulation. It gives incentives for an EU market of recycled mercury and thus more waste containing mercury will be collected and treated. The mercury originating from recycling activities with the EU could meet the demand for dental amalgam if that

product was to be used further, while the production of mercury containing lamps will most likely be substantially reduced in coming years. There would thus be no need for import of mercury in the EU. As this will be a non-discriminatory measure designed to protect human health and the environment, it would be possible to defend under WTO-rules.

Amendment 34

Proposal for a regulation

Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The Commission is empowered to adopt delegated acts in accordance with Article 17, by 1 January 2018, laying down a list of all mercury-added products imported, exported or manufactured in the Union not listed in Annex II, by amending that Annex.

Or. en

Justification

All mercury-added products should be clearly identified and regulated, e.g. inorganic fertilisers.

Amendment 35

Proposal for a regulation

Article 5 – paragraph 2 – indent 2

Text proposed by the Commission

Amendment

- products for research, ***calibration of instrumentation***, for use as reference standard.

- products for research, for use as reference standard.

Or. en

Justification

In the EU there are alternatives and the current EU legislation does not foresee any exemption.

Amendment 36

Proposal for a regulation Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. *The Commission shall adopt delegated acts, in accordance with Article 17, specifying the forms to be used for the application of Articles 3 and 4.*

Or. en

Amendment 37

Proposal for a regulation Article 5 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. *Based on the list established pursuant to paragraph 1a, the Commission may present legislative proposals in order to prohibit the manufacturing, import and export of those products by 1 January 2020. The Commission may also present legislative proposals in order to regulate all mercury-added products that are not regulated in the Union.*

Or. en

Amendment 38

Proposal for a regulation Article 8 – paragraph 1

Text proposed by the Commission

Amendment

1. The manufacture and placing on the market of mercury-added products not covered by any *known* use prior to **1 January 2018** shall be prohibited.

1. The manufacture and placing on the market of mercury-added products not covered by any *approved* use prior to **the entry into force of this Regulation** shall be

prohibited.

Or. en

Justification

The Minamata Convention was adopted in 2013, therefore the Parties were informed about the ambitious approach for health and environment. Having a date in the future as the deadline might incentivise manufacturers to put new products on the market before that date. As the term “known use” is open to interpretation, the proposed replacement specifies the scope.

Amendment 39

Proposal for a regulation

Article 8 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Manufacturing processes involving the use of mercury and/or mercury compounds that did not exist prior to **1 January 2018** shall be prohibited.

Amendment

Manufacturing processes involving the use of mercury and/or mercury compounds that did not exist prior to **10 October 2016** shall be prohibited.

Or. en

Justification

The Minamata Convention was adopted on 10 October 2013, therefore the Parties are informed about the ambitious approach for health and environment. Having a date in the future as the deadline might incentivise manufacturers to step up their efforts for testing and using new manufacturing processes. This proposal came in 2016, so in order to avoid any loopholes, the situation for operators should be clear in order not to invest in any new mercury-processes.

Amendment 40

Proposal for a regulation

Article 8 – paragraph 2 – subparagraph 2

Text proposed by the Commission

This paragraph shall not apply to processes manufacturing and/or using mercury-added products others than those falling under

Amendment

This paragraph shall not apply to processes manufacturing and/or using mercury-added products others than those falling under paragraph 1, **without prejudice to the**

paragraph 1.

obligation laid down in Article 7.

Or. en

Amendment 41

Proposal for a regulation

Article 8 – paragraph 3 – introductory part

Text proposed by the Commission

3. By way of derogation from paragraphs 1 and 2, *where* an economic operator intends to manufacture and/or place on the market a new mercury-added product or to operate a new manufacturing process, the operator shall notify the competent authorities of the Member State concerned and provide them, with the following:

Amendment

3. By way of derogation from paragraphs 1 and 2, ***and only when a new mercury-added product or new manufacturing process would provide significant health benefits and that no technically feasible mercury-free alternatives providing such benefits are available***, an economic operator intends to manufacture and/or place on the market a new mercury-added product or to operate a new manufacturing process, the operator shall notify the competent authorities of the Member State concerned and provide them, with the following:

Or. en

Justification

It is hard to imagine what kind of environmental benefits could such a toxic substance provide, that would offset the environmental harm that creates. Only for the sake of health benefits for new products or processes, should this exceptional provision be allowed.

Amendment 42

Proposal for a regulation

Article 8 – paragraph 4 – subparagraph 1

Text proposed by the Commission

Upon notification by the Member State concerned, the Commission shall verify in particular whether it has been demonstrated that the new mercury-added product or new manufacturing process would provide

Amendment

Upon notification by the Member State concerned, the Commission shall verify in particular whether it has been demonstrated that the new mercury-added product or new manufacturing process would provide

significant *environmental and* health benefits and that no technically *and economically* feasible mercury-free alternatives providing such benefits are available.

significant health benefits and that no technically feasible mercury-free alternatives providing such benefits are available.

Or. en

Amendment 43

Proposal for a regulation

Article 9 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

Member States on the territory of which *more than insignificant* artisanal and small-scale gold mining and processing activities are carried out shall:

Member States on the territory of which artisanal and small-scale gold mining and processing activities are carried out shall:

Or. en

Amendment 44

Proposal for a regulation

Article 9 – paragraph 1 – indent 1

Text proposed by the Commission

Amendment

- *take steps to reduce, and where feasible eliminate*, the use of mercury and mercury compounds in, and the emissions and releases to the environment of mercury from, such mining and processing;

- *prohibit* the use of mercury and mercury compounds in, and the emissions and releases to the environment of mercury from, such mining and processing;

Or. en

Amendment 45

Proposal for a regulation

Article 9 – paragraph 1 – indent 2

Text proposed by the Commission

- develop and implement a national plan in accordance with Annex IV.

Amendment

- develop and implement a national plan in accordance with Annex IV ***accompanying the prohibition process.***

Or. en

Amendment 46

Proposal for a regulation

Article 9 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The Commission shall encourage the other Parties to the Minamata Convention to create a worldwide tracking tool similar to the E-PRTR, so that mercury use for ASGM purposes is tracked.

Or. en

Justification

As mercury trade eludes international controls and the EU plays a significant role in the trading of the substances, this register, which works already well for other toxic substances, would be useful to also track the mercury flows and therefore minimize the risk of fraud.

Amendment 47

Proposal for a regulation

Article 9 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

The Commission shall promote the implementation of a certification for mercury-free extracted gold among the other Parties of the Convention in order to sensitise consumers worldwide.

Or. en

Amendment 48

Proposal for a regulation Article 10 – paragraph 1

Text proposed by the Commission

1. From 1 January **2019** onwards dental amalgam shall only be used in an encapsulated form.

Amendment

1. From 1 January **2018** onwards dental amalgam shall only be used in an encapsulated form.

Or. en

Amendment 49

Proposal for a regulation Article 10 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. From 1 July 2017 onwards, dental amalgam in any form shall not be used for the treatment of pregnant and breastfeeding women and the primary teeth of children.

Or. en

Amendment 50

Proposal for a regulation Article 10 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. The use of dental amalgam shall be phased-out by 31 December 2021.

Or. en

Amendment 51

Proposal for a regulation Article 10 – paragraph 2

Text proposed by the Commission

2. From 1 January **2019** onwards dental facilities shall be equipped with amalgam separators aimed at retaining and collecting amalgam particles. Those separators shall be maintained as required to ensure a high level of retention.

Amendment

2. From 1 January **2018** onwards dental facilities shall be equipped with amalgam separators aimed at retaining and collecting amalgam particles. Those separators shall be maintained as required to ensure a high level of retention.

Or. en

Justification

The opinion of the scientific committee SCENIHR advising the Commission issued in April 2015 recommended that for primary teeth and for pregnant patients, alternative materials to amalgam should be the first choice.

http://ec.europa.eu/health/scientific_committees/emerging/docs/scenihr_o_046.pdf

Amendment 52

Proposal for a regulation

Article 10 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Within two years of the entry into force of the Regulation, the Member States shall set out their national action plans on the implementation of the phase-out of dental amalgams under paragraphs 1a and 1b and communicate them to the Commission. A national plan on the implementation of the phase out shall be accompanied by the setting of national objectives for oral health.

Or. en

Amendment 53

Proposal for a regulation

Article 10 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. By way of derogation from paragraphs 1a and 1b, the use of dental amalgam shall continue to be allowed only when it is strictly necessary for duly justified patient-related health reasons (e.g. in the case of allergies).

Or. en

Justification

This proposal refers to the 2012 Commission study prepared by BIOIS Intelligence Services which recommended banning the use of mercury in dentistry: http://ec.europa.eu/environment/chemicals/mercury/pdf/final_report_110712.pdf. This study also clearly states that cremation represents a significant contribution to mercury air emissions that is part of the life cycle of dental amalgam, which will not be tackled by the use of encapsulated amalgam and separators. Furthermore, the result of the public consultation showed a clear majority for the phase-out of dental amalgam (85.41%). With current demand estimated at 75t/y, dental amalgam is expected to become the largest mercury use in the EU. The measures such as the use of encapsulated amalgam and the use of separators are already largely implemented in most EU Member States and failed to produce a reduction in amalgam use. In terms of scientific based evidence for proven health risks caused by dental amalgam, it is strongly referred to the precautionary principle, which should apply in this case.

Amendment 54

Proposal for a regulation Chapter 4 – title

Text proposed by the Commission

Amendment

Storage and disposal of mercury waste

Storage and disposal of mercury waste **and contaminated sites**

Or. en

Justification

According to the article 12 par.3 of the Minamata Convention, the Parties shall take action to tackle the problem deriving by the mercury contaminated sites. In EU law, there is no provision that requires Member States to establish a register of “abandoned” contaminated sites and to clean-up such sites. Only article 22 of Directive 2010/75/EU on industrial emissions (IED) includes provisions on soil protection applicable to major industrial plants,

e.g. chlor-alkali installations (which are the main users of mercury in EU industry) as well as VCM production and alcoholates production plants but this does not include other kind of industries that stopped processing mercury or are not operational anymore.

Amendment 55

Proposal for a regulation

Article 11 – paragraph 1 – introductory part

Text proposed by the Commission

Without prejudice to Commission Decision 2000/532/EC⁴⁴, **the following** shall be considered as waste and be disposed of without endangering human health or harming the environment in accordance with Directive 2008/98/EC:

⁴⁴ Commission Decision 2000/532/EC of 3 May 2000 replacing Decision 94/3/EC establishing a list of wastes pursuant to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste (OJ L 226, 6.9.2000, p. 3).

Amendment

Without prejudice to Commission Decision 2000/532/EC⁴⁴ **and the definition of mercury waste in point 3 of Article 2(1) of this Regulation, the following** shall be considered as waste and be disposed of without endangering human **and animal** health or harming the environment in accordance with Directive 2008/98/EC:

⁴⁴ Commission Decision 2000/532/EC of 3 May 2000 replacing Decision 94/3/EC establishing a list of wastes pursuant to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste (OJ L 226, 6.9.2000, p. 3).

Or. en

Justification

The waste as defined in Article 1 reflects the Minamata Convention and the Basel technical Guidelines. Based on this definition, waste from pesticides, sewage sludge, e-waste is also covered and will be treated appropriately and helps diminish negative impacts on health.

Amendment 56

Proposal for a regulation

Article 12 – title

Text proposed by the Commission

Amendment

Reporting on mercury waste **from large sources**

Reporting on mercury waste

Or. en

Justification

The measure for the reporting shall not be the size of the source but the size of the emissions and releases. The transfer of waste should also be included as well as the transfer of waste from the contaminated sites.

Amendment 57

Proposal for a regulation Article 12 – paragraph 1

Text proposed by the Commission

Amendment

1. The companies operating within the industry sectors referred to in points (a), (b) and (c) of Article 11 shall send each year by 31 May to the competent authorities of the Member States concerned data related to the total amount of mercury waste stored in each installation and sent to individual temporary or permanent storage facilities as well as the location and contact details of those facilities.

1. The companies operating within the industry sectors referred to in points (a), (b) and (c) of Article 11 shall send each year by 31 May to the competent authorities of the Member States concerned data related to the total amount of mercury waste **and mercury content of** waste stored in each installation and sent to individual temporary or permanent storage facilities as well as the location and contact details of those facilities.

Or. en

Amendment 58

Proposal for a regulation Article 12 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. By 31 December 2017, the Commission shall ensure that the E-PRTP includes information on waste transfers. Each facility and managing

authority of the contaminated sites, shall communicate on a yearly basis:

- *the amount of mercury waste and its mercury content, if the threshold of total mercury and its compounds in waste produced exceeds 5 kg/ year in an accumulative basis;*
- *information about the transfers of this waste (amount, content, destination and date).*

Or. en

Amendment 59

Proposal for a regulation

Article 12 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. *Member states shall ensure that the reports and information that are to be included in the E-PRTR on the basis of paragraph 3a, are available to the public.*

Or. en

Justification

Higher transparency and public participation in environmental decision-making is required by the UNECE (United Nations Economic Commission for Europe) PRTR Protocol to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. The EU may take inspiration from the Global Mercury Observation System (GMOS) project that builds on existing national and regional monitoring networks to create a coordinated global system for monitoring mercury, including a large network of ground-based monitoring stations.

http://cordis.europa.eu/project/rcn/97330_en.html Moreover, current mercury inventories neglect the contribution of areas contaminated with mercury from historical accumulation, which surround mines or production plants associated with mercury production or use. The authority which shall manage the remediation of abandoned sites shall report the transfers if they exceed 5kg/year.

Amendment 60

Proposal for a regulation Article 12 a (new)

Text proposed by the Commission

Amendment

Article 12a

Contaminated Sites

1. By 30 June 2018, the Commission shall adopt delegated acts, in accordance with Article 17, supplementing this Regulation by laying down methods and approaches for the ecologically sustainable management and remediation of sites contaminated by mercury or mercury compounds, which shall include:

- (a) identification of Sites and their characterisation;**
- (b) engagement of the public;**
- (c) assessment of human health and environmental risk;**
- (d) decontamination measures;**
- (e) evaluation of outcomes.**

2. By 1 January 2020 the Member States shall adopt and submit their national plans, adopting the measures referred to in paragraph 1.

3. Based on the national action plans submitted by the Member States, the Commission shall set up an inventory of contaminated sites that shall be publicly available including on the internet.

Or. en

Justification

The Minamata Convention Article 12, paragraph 3, requires that the Conference of the Parties adopt guidance on managing contaminated sites that may include methods and approaches notably for: site identification and characterization; engaging the public; human health and environmental risk assessments; options for managing the risks posed by the contaminated sites. EU guidance may focus on sustainable remediation, which moves beyond risk assessment that incorporates principles of ecological sustainability such as the

precautionary principle and the polluter pays and is based on best available techniques and best environmental practices protecting the health of people in proximity to the site and preventing further releases of mercury during the remediation phase. The contribution of contaminated sites to air, soil and water pollution must not be neglected.

Amendment 61

Proposal for a regulation

Article 13 – paragraph 1 – introductory part

Text proposed by the Commission

1. By way of derogation from *point (a) of Article 5(3) of Directive 1999/31/EC*, mercury waste may be stored *in one of* the following ways:

Amendment

1. By way of derogation from *paragraph 1* mercury waste may be stored *temporarily under* the following *conditions*:

Or. en

Amendment 62

Proposal for a regulation

Article 13 – paragraph 1 – point a

Text proposed by the Commission

(a) *temporarily stored* for more than one year *or permanently stored in salt mines that are adapted for the disposal of mercury, or in deep underground hard rock formations providing a level of safety and confinement equivalent to that of those salt mines*;

Amendment

(a) for *less* than one year;

Or. en

Amendment 63

Proposal for a regulation

Article 13 – paragraph 1 – point b

Text proposed by the Commission

(b) *temporarily stored in above-ground facilities dedicated to and*

Amendment

(b) *in solidified form*;

equipped for the temporary storage of mercury.

Or. en

Justification

The reversion of the solidified mercury is neither practically nor financially interesting, thus solidifying for permanent or temporary would ensure that this mercury will not reappear on the market. Mercury transformed into an inert solid will provide more environmental safety, even though a certain risk will always remain. From the beginning of 2017, a portable technology will be available, which will allow the solidification and stabilisation of mercury on the spot, allowing to limit the transport of the liquid mercury and consequently, the risks for unwanted leakage and intentional reversion.

Amendment 64

Proposal for a regulation

Article 13 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) accompanied by a plan for the permanent storage of waste, accompanied by a timeframe;

Or. en

Amendment 65

Proposal for a regulation

Article 13 – paragraph 1 – point b b (new)

Text proposed by the Commission

Amendment

(bb) in salt mines that are adapted for the disposal of mercury, or in deep underground hard rock formations providing a level of safety and confinement equivalent to that of those salt mines; or

Or. en

Amendment 66

Proposal for a regulation

Article 13 – paragraph 1 – point b c (new)

Text proposed by the Commission

Amendment

(bc) temporarily stored in above-ground facilities dedicated to and equipped for the temporary storage of mercury in the proximity either of the operator that solidified the waste or the operator where the permanent disposal will take place.

Or. en

Justification

There is an urgent need for a more stable and uniform regulatory framework which shall contribute to enhance the storage capacities in Europe.

Amendment 67

Proposal for a regulation

Article 13 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The import and export of mercury waste from and/to the Union shall be prohibited.

Or. en

Justification

The EU as a developed country Party of the Minamata Convention shall promote and facilitate the capacity building and technical assistance of developing countries. The EU shall help by knowledge transfer and building storage and solidification installations outside the territory of the EU to ensure a solid and effective environmentally sound treatment of mercury waste of third countries within their region.

Amendment 68

Proposal for a regulation

Article 13 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Permanent disposal of mercury waste shall only be allowed in solidified form, stored in underground facilities in an environmentally sound manner, as foreseen by the Technical Guidelines of the Basel Convention.

Or. en

Amendment 69

Proposal for a regulation

Article 13 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Any type of incineration including waste to energy plants utilising combustion, pyrolysis, gasification or plasma arc technology shall be prohibited, as it is incompatible with the environmentally sound management of mercury waste.

Or. en

Justification

Obligation in respect of the Basel Technical Guidelines. Any type of waste incineration would provoke mercury releases to air.

Amendment 70

Proposal for a regulation

Article 14 – paragraph 1

Text proposed by the Commission

Amendment

Member States shall lay down the rules on

Member States shall lay down the rules on

penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are applied. The penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission by *[xxx]* and shall notify it without delay of any subsequent amendment affecting them.

penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are applied. The penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission by *the date of application of this Regulation* and shall notify it without delay of any subsequent amendment affecting them.

Or. en

Justification

Environmental crime is a serious and growing problem that needs to be tackled at European level. Very often, environmental crimes have a cross border aspect. In the EU, environmental crime covers acts that breach environmental legislation and cause significant harm or risk to the environment and human health. The most known areas of environmental crime include the illegal emission or discharge of substances into air, water or soil or dumping of waste. The level of sanctions for specific environmental crimes differs greatly between Member States as well as between directives and regulations.

Amendment 71

Proposal for a regulation

Article 15 – paragraph 1 – point d

Text proposed by the Commission

(d) a list of individual stocks of mercury exceeding **50** metric tonnes, which are located in their territory and, **where Member States are made aware**, a list of sources of mercury supply generating annual stocks of mercury exceeding 10 metric tonnes.

Amendment

(d) a list of individual stocks **and sites** of mercury **or mercury compounds** exceeding **10** metric tonnes **cumulatively**, which are located in their territory and a list of sources of mercury supply generating annual stocks of mercury exceeding 10 metric tonnes;

Or. en

Amendment 72

Proposal for a regulation

Article 15 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) information on the mercury and mercury compounds used and produced in:

- **the by-product production from oil;**
- **the waste recycling facilities;**
- **the alcoholate, vinyl chloride monomer, and polyurethane production;**
- **the manufacturing of mercury added products;**

Or. en

Amendment 73

Proposal for a regulation

Article 15 – paragraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(db) the implementation measures relevant to article 8 of the Minamata Convention on emissions from all relevant sources including on the implementation of Best Available Techniques/Best Environmental Practices (BAT/BEP);

Or. en

Amendment 74

Proposal for a regulation

Article 15 – paragraph 1 – point d c (new)

Text proposed by the Commission

Amendment

(dc) total mercury emissions, mercury releases, and mercury transfers in wastes, and the level of their reduction at the state level listed by different sources in the

report.

Or. en

Amendment 75

Proposal for a regulation Article 15 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Information shall be provided by Member States to the Commission, in a public register to be developed by the Commission, on the amounts and location of disposed mercury waste, and the assurances that these have been managed in an environmentally sound manner.

The movement of mercury within the industrial sector and within Member States shall also be recorded by the Member States and reported to the Commission.

Or. en

Amendment 76

Proposal for a regulation Article 15 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

The Commission shall adopt ***decisions, by means of implementing acts, to provide*** a template for those questionnaires ***and*** to make an electronic reporting tool available to the Member States.

The Commission shall adopt ***delegated acts, in accordance with Article 17, supplementing this Regulation by laying down*** a template for those questionnaires ***in order*** to make an electronic reporting tool available to the Member States.

Or. en

Amendment 77

Proposal for a regulation Article 15 – paragraph 2 – subparagraph 4

Text proposed by the Commission

Amendment

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 18(2). *deleted*

Or. en

Justification

It is the Commission's responsibility under Article 17(1) of the Treaty on European Union to ensure that both the Treaty on European Union and the Treaty on the Functioning of the European Union as well as measures adopted pursuant to them are correctly applied. These legislative measures cover all environmental sectors.

Amendment 78

Proposal for a regulation Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15a

Review

The Commission shall, no later than 31 December 2022, carry out a review of this Regulation, inter alia in light of the developments on the Minamata Convention and the implementation of this Regulation. If appropriate, the review shall be accompanied by a legislative proposal amending this Regulation.

Or. en

Amendment 79

Proposal for a regulation Article 20 – paragraph 2

Text proposed by the Commission

Amendment

It shall apply from **1st January 2018**.

It shall apply from ***the date of its entry into force***.

Or. en

Justification

The new obligations of the Member States related to this Regulation are very limited and all phasing outs have a realistic deadline in the future. There is no reason to have a different date of application from the date of entry into force.

Amendment 80

Proposal for a regulation

Annex I – paragraph 1 - item 3 a (new)

Text proposed by the Commission

Amendment

Mercury (II) sulfate (HgSO₄, CAS RN 7783-35-9)

Or. en

Justification

Mercury compound included and regulated by the Minamata Convention (art.3)

Amendment 81

Proposal for a regulation

Annex I – paragraph 1 - item 3 b (new)

Text proposed by the Commission

Amendment

Mercury (II) nitrate (Hg(NO₃)₂, CAS RN 10045-94-0)

Or. en

Justification

Mercury compound included and regulated by the Minamata Convention (art.3)

Amendment 82

Proposal for a regulation

Annex I – paragraph 1 - item 3 c (new)

Text proposed by the Commission

Amendment

Mercury sulfide (HgS, CAS RN 1344-48-5)

Or. en

Justification

Mercury compound included and regulated by the Minamata Convention (art.3)

Amendment 83

Proposal for a regulation

Annex II – part A – paragraph 1

Text proposed by the Commission

Amendment

1. Batteries, ***except for button zinc silver oxide batteries with a mercury content < 2%, button zinc air batteries with a mercury content < 2%.***

1. Batteries ***or accumulators, whether or not incorporated in appliances, that contain more than 0,0005% of mercury by weight.***

Or. en

Justification

According to the batteries Directive (2006/66) the exception for button cell batteries expired in 15 October 2015. Therefore, all batteries and accumulators are under the same status. Moreover there is no reason for a different approach concerning the internal market and exports. For the industry, double standards would complicate the production process and undermine the innovation in the global market and therefore it is supportive of an export ban on all mercury added batteries.

Amendment 84

Proposal for a regulation Annex II – part A – paragraph 3

Text proposed by the Commission

3. Compact fluorescent lamps (CFLs) for general lighting purposes ***that are ≤ 30 watts with a mercury content exceeding 5 mg per lamp burner.***

Amendment

3. Compact fluorescent lamps (CFLs) for general lighting purposes ***within the limits established by Directive 2011/65/EU.***

Or. en

Justification

The limit values for mercury allowed should be the ones under EU RoHS Directive. There is no evidence of any economic advantage of keeping two production lines. Moreover, India and China are in the process of switching to EU or stricter limit values.

Amendment 85

Proposal for a regulation Annex II – part A – paragraph 4

Text proposed by the Commission

4. ***The following linear*** fluorescent lamps (LFLs) for general lighting purposes:

(a) ***Triband phosphor < 60 watts with a mercury content exceeding 5 mg per lamp;***

(b) ***Halophosphate phosphor ≤ 40 watts with a mercury content exceeding 10 mg per lamp.***

Amendment

4. ***Linear*** fluorescent lamps (LFLs) for general lighting purposes ***within the limits established by Directive 2011/65/EU.***

Or. en

Justification

The limit values on mercury allowed should be the ones under EU RoHS Directive. There is no evidence of any economic advantage of keeping two production lines. Moreover, India and

China are in the process of switching to EU or stricter limit values.

Amendment 86

Proposal for a regulation

Annex II – part A – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8a. Inorganic fertilisers

Or. en

Justification

Under Union law, Regulation (EC) 2003/2003 addresses currently the legal framework for fertilisers. In addition, the Commission adopted in March 2016 a Proposal for a Regulation on fertilisers setting harmonised maximum concentration limits for mercury in different types of organic and inorganic fertilisers. Even though in organic fertiliser one would expect higher amounts of contaminants from the leftovers of the animal processing, the Commission proposal is allowing higher limits for Mercury [(Hg) 2 mg/kg dry matter] for inorganic fertilisers. Inorganic fertilisers are generally produced on an industrial scale and especially the superphosphate class of fertilisers use phosphate rock as a main ingredient, which according to the EPA contains heavy metal contaminants, including mercury. It is therefore an absolute necessity that the EU demands proper treatment and lower contamination limits, so as to avoid this source of pollution to the soil. It is worth mentioning that the general public using organic or inorganic fertilisers to their soil is usually unaware that they might be contaminated with heavy metals.

Amendment 87

Proposal for a regulation

Annex II – part A – paragraph 9

Text proposed by the Commission

Amendment

9. The following non-electronic measuring devices ***where no suitable mercury-free alternative is available***:

- (a) barometers;
- (b) hygrometers;
- (c) manometers;
- (d) thermometers;

9. The following non-electronic measuring devices:

- (a) barometers;
- (b) hygrometers;
- (c) manometers;
- (d) thermometers ***and other non-***

(e) sphygmomanometers;

This entry does not cover the following measuring devices:

- (a) non-electronic measuring devices installed in large-scale equipment or those used for high precision measurement;
- (b) measuring devices more than 50 years old on 3 October 2007;
- (c) measuring devices, which are to be displayed in public exhibitions for cultural and historical purposes.

electrical thermometric applications;

(e) sphygmomanometers;

(ea) strain gauges to be used with plethysmographs;

(eb) tensiometers;

This entry does not cover the following measuring devices:

- (a) non-electronic measuring devices installed in large-scale equipment or those used for high precision measurement;
- (b) measuring devices more than 50 years old on 3 October 2007;
- (c) measuring devices, which are to be displayed in public exhibitions for cultural and historical purposes.

Or. en

Justification

Provisions according to the Regulation (EU) No 847/2012.

Amendment 88

**Proposal for a regulation
Annex II – part A – paragraph 9 a (new)**

Text proposed by the Commission

Amendment

9a. Mercury dental amalgam in encapsulated form, from 31 December 2021.

Or. en

Amendment 89

**Proposal for a regulation
Annex III – part 1 – point a**

Text proposed by the Commission

Amendment

(a) from 1 January **2019: acetaldehyde production**

(a) from 1 January **2018: where mercury is used as a catalyst**

Or. en

Justification

As clearly stated in Annex B Part I of the Minamata Convention, the acetaldehyde production in which mercury or mercury compounds are used as a catalyst shall be phased out by 2018. To comply with the MC, this proposal should not weaken its approach. The mercury process for vinyl chloride monomer production is not used in the EU Member States. For polyethanes, there are already five different organic mercury salts that will be prohibited by REACH Europe from the 10th October 2017.

Amendment 90

**Proposal for a regulation
Annex III – part 1 – point b**

Text proposed by the Commission

Amendment

(b) from **1 January 2019: vinyl chloride monomer production**

(b) from **11 December 2017: where mercury is used as an electrode**

Or. en

Justification

Elemental mercury is used as a fluid electrode in an electrolytic process used for production of chlorine and sodium hydroxide (NaOH) or potassium hydroxide (KOH) from salt brine. However, the chlor-alkali industry is already in the process of the phasing out of mercury technology: Under the Industrial Emissions Directive, the BAT conclusions (Best Available Technology) have become legally binding, implying that four years after publication of these BAT conclusions, this means before 11 December 2017, mercury based production technology must be ceased. Consequently, the European chlor-alkali producers using the mercury technology must convert or dismantle these production plants. Furthermore, the report "Conversion from Mercury to Alternative Technology in the Chlor-Alkali Industry" by UNEP showed that facilities using membrane technology have: greater energy efficiency; lower operating costs; lower environmental impact; high quality products. Furthermore, there are already mercury-free processes available and widely used for the production of sodium methylate and ethylate. This obligation will give legal certainty for future processes.

Amendment 91

Proposal for a regulation Annex III – part 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) Point (b) of part I shall apply for the production of potassium methylate and ethylate only from 1 January 2021.

Or. en

Justification

Mercury-free processes for the production of potassium methylate and ethylate already exist, but to ensure a full mercury-free supply, the European industry needs more time to adapt.

Amendment 92

Proposal for a regulation Annex III – part 2 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

The production of sodium or potassium methylate or ethylate shall be carried out in accordance with the following requirements:

The production of sodium or potassium methylate or ethylate shall be carried out in accordance with ***point (b) of part I and*** the following requirements:

Or. en

Justification

During the interim period until December 2017 for the sodium and until January 2021, these provisions should apply.

Amendment 93

Proposal for a regulation Annex III – part 2 – paragraph 2 – indent 2 a (new)

Text proposed by the Commission

Amendment

- Supporting research and development in respect of mercury-free

processes

Or. en

Justification

This obligation is established by the Minamata Convention as set out in Annex B.

EXPLANATORY STATEMENT

Mercury one of the world's top 10 pollutants

Scientific evidence incontestably proves the acute toxicity of Mercury, an element that can neither be destroyed nor disappear. With its immensely debilitating health impacts, mercury is among the world's top 10 worst pollutants.

According to the World Health Organisation (WHO), "there are no safe limits in respect to mercury". Thus, mercury emissions are the sort of problem that calls for ambitious and robust responses. But even with strong actions by governments, due to its bio accumulative properties, it would take decades for mercury pollution to be reduced in the global environment.

Since the industrial revolution, the amount of mercury near the surface of many of the world's oceans has tripled as the result of human polluting activities. Toxic to humans and marine life, mercury accumulates in our bodies over time as we are exposed to sources of it. Mercury emissions, which have no taste or smell, contaminate water and accumulate in fish.

Mercury can be widely dispersed across the globe when it is disposed into water and air, so even parts of the planet far from industrial sources can quickly suffer from elevated levels of the toxic material.

Exposure to mercury a widespread health problem

Mercury exposure is a widespread health problem and may have toxic effects on the nervous, digestive and immune systems, and on lungs, kidneys, skin and eyes. Even small amounts of mercury can interfere with the nervous system. In the past 20 years mercury has been identified as an environmental hazard linked to Alzheimer's disease, multiple sclerosis, kidney and brain damage.

Mercury can change in the environment into a more complex and harmful compound called methylmercury. The EFSA Scientific Committee in its opinion of 2015¹ estimated how many servings of fish/sea food per week one would need to reach the Tolerable Weekly Intake (TWI) of methylmercury, which is established as the intake of 1.3µg/kg bw/week. Calculating that the servings are reported as below 100g, EFSA came into conclusion that age groups exceeding the TWI at the fewest numbers of servings were children up to 10 years old and in few cases of other children, adolescents, women of childbearing age, adults and elderly, the TWI was reached after less than and around 1 serving per week. On the other side of the Atlantic, in the United States, 84 percent of fish sampled were not safe for consumption for more than one meal (of 170g) per month, under US regulation. Likewise, more than 82 percent of the people studied contained mercury exceeding current health advisory levels. Over 13% of the fish sampled worldwide would not be recommended for commercial sale by the WHO and the European Commission.²

¹ EFSA Journal 2015; 13(1):3982.

² Global Mercury Hotspots, Study by the Biodiversity Research Institute and IPEN; January 2013.

Methylmercury passes both the placental barrier and the blood-brain barrier, so it can inhibit children's mental development even before birth. And as the brain continues to develop also after birth, toddlers and children exposed to methylmercury above TWI on a regular basis should also be considered at risk for neurotoxic effect of methylmercury.

The Minamata Convention and the EU position

It is therefore obvious how urgent the need is for the ratification of the legally binding Minamata Convention on mercury, which will regulate the supply, trade and use of the substance and go even further. Under the terms of this Treaty, governments will be encouraged to take measures to manage the health impacts of mercury exposure.

The overall goal of international cooperation under the Minamata process is to protect human health and the global environment from the release of mercury and its compounds, by diminishing and ultimately eliminating global human-induced releases to air, water and land. EU Regulation 1102/2008 paved the way for this International Treaty, and the current amending Regulation should continue to do so. The EU belongs to the Developed Countries Party, so according to your Rapporteur, the action undertaken by the EU and its Member States shall not be limited to applying the Minamata obligations to all countries who signed it. The EU in many cases has already transposed its obligations into EU law; it is one of the regions where alternative technologies exist and according to EU legislation, Best Available Techniques in different processes should apply. Additionally, the EU is in a much more privileged position to export good practices, technology, know-how, mercury-free products and especially the message that the use of mercury is harmful for the people, for the animals and the environment.

Possible alternative solutions to limit the widespread exposure of mercury

Mercury is used, notably, in control equipment, products, industrial processes, in oral health as dental amalgam and in Artisanal, Small-scale Gold Mining (ASGM). Mercury can be produced by recycling waste materials; sometimes it is generated as a secondary product alongside the production of another material, such as zinc or tin or existing as a contaminant of fertilisers. Last but not least mercury can be released or emitted to air via contaminated sites, not in use any more but still major source of pollution if they haven't been decontaminated.

Since the entry into force of EU Regulation 1102/2008, the annual demand for mercury in the EU has fallen, but is still estimated at around 400 tonnes. Taking into consideration the bio-accumulative properties of mercury, the fact that "there are no safe limits in respect to mercury", that global use of mercury also remains high at about 3,600 tonnes per year and that pollution knows no borders, there is definitely room for further improvement. In this spirit, your rapporteur made his proposals, hoping that the Parliament gives the Commission a stronger mandate for further and more ambitious action in the future international negotiations.

Against this background your Rapporteur considers that it is of utmost importance that the EU takes determined action, so with his amendments he proposes to:

- A) Widen the scope of its mercury export ban by adding all products included in the

Minamata Convention and by prohibiting the export of mercury-added products not allowed to be marketed in the EU. It is against the spirit of the Convention that the EU exports products not allowed in the EU to countries that possess neither the technology nor the capacities to treat their waste. The cases of India and China, which recently adopted the EU standards and limits, are indicative of the role the EU can play;

- B) Phase-out mercury use in dentistry, initially by prohibiting its use for pregnant women and children patients, and after the phase out period, the dental amalgam should be allowed only in specific, very restricted cases;
- C) Prohibit the industrial use of mercury as catalysts or electrodes, especially as available mercury-free technologies exist, used in EU and other parts of the world. Their use would be an incentive for industry to innovate and export its paradigm in the long run;
- D) The Member States to identify and clean all mercury-contaminated sites. It is paramount that contaminated sites are firstly identified and taken care of in an environmental sound manner, in order to stop polluting the nature, fauna and flora, and exposed populations, often already suffering from the economic consequences of the closure of those industries;
- E) The EU to reinforce the rules on environmentally sound treatment of mercury waste. Europe has the technology to treat mercury in the best available and least risky way known to this day, i.e. by solidification. A technology that will allow the solidification technology to travel from plant to plant and to the mercury sources is expected to enter the market soon. Liquid mercury will not be transported anymore long distances, limiting in this way all eventual risks, e.g. for the environment, for employees, of mercury entering the black market, of any eventual accident etc. With strict waste management requirements, the EU will safeguard as soon as possible that the mercury will not enter the market again or pollute the environment with every minor accident. At the same time, this will encourage innovation within the EU and the transfer of knowledge to third countries, which are less advantaged with regard to technological innovation;
- F) Ban any new mercury manufacturing processes and new mercury-added products, starting retrospectively, so as not to create any loopholes for products and processes that did not exist during the Minamata negotiations and at the time of the Commission's proposal and therefore were not regulated;
- G) Establish a comprehensive mercury tracking and reporting system, as the obligation for reporting nowadays covers only very high values and does not include waste transfers, which would be a big blind spot of missing data with the end of the chlor-alkali mercury production;
- H) Encourage and implement at EU level the use of all alternative mercury-free products and best techniques available for processes and waste management;
- I) To Member States and the Commission to take the necessary steps to raise public awareness and to increase transparency on the uses, transfers and releases of mercury.

The world needs Europe to continue to play a leading role in the Minamata process by fully exploiting all the Convention's potential and by fully respecting prior commitments under pre-existing EU mercury legislation. Your Rapporteur considers that any minimalist approach vis-à-vis Minamata would be counterproductive as well as contrary to public interest. Your Rapporteur would like that the EP stands for healthier environment, safer food and better health for all citizens.