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*Committee on the Environment, Public Health and Food Safety*

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## AMENDMENTS 25-81

### Draft report

(PE 384.513v01-00)

**Dimitrios Papadimoulis**

The banning of exports and the safe storage of metallic mercury

Proposal for a regulation (COM(2006)0636 – C6-0363/2006 – 2006/0206(COD))

Text proposed by the Commission

Amendments by Parliament

Amendment by Dimitrios Papadimoulis + Carl Schlyter

### Amendment 25

#### Title

Proposal for a Regulation of the European Parliament and the Council on the banning of exports and the safe storage of metallic mercury

Proposal for a Regulation of the European Parliament and the Council on the banning of exports and the safe storage of metallic mercury, ***cinnabar ore, mercury compounds and certain mercury-containing products***

Or. en

#### *Justification*

*Only the already prohibited products are banned from export (Papadimoulis)*

*Consequent to the changes to Article 1 by the same author as well as the rapporteur (Schlyter)*

Amendment by Gyula Hegyi

Amendment 26

Title

Proposal for a Regulation of the European Parliament and the Council on the banning of exports and the safe storage of metallic mercury

Proposal for a Regulation of the European Parliament and the Council on the banning of exports and the safe storage of metallic mercury, ***cinnabar ore, calomel and certain mercury-containing products***

Or. en

*Justification*

*Consequent to the amendment to article 1.*

Amendment by Carl Schlyter

Amendment 27

Citation 1

Having regard to the Treaty establishing the European Community, and in particular ***Articles 133 and 175(1)*** thereof,

Having regard to the Treaty establishing the European Community, and in particular ***Article 175(1)*** thereof,

Or. en

*Justification*

*A double legal basis is not justified. According to the ECJ's case-law, a double legal basis should only be used if, exceptionally, it is demonstrated that the act simultaneously pursues several objectives without one being secondary and indirect in relation to the other. That is not the case here as the Commission itself states in the explanatory memorandum that the measure is motivated by the objectives of protecting human health and the environment (Art. 175 EC), and not by commercial policy considerations (Art. 133 EC).*

Amendment by Urszula Krupa

Amendment 28

Recital 1

(1) Mercury releases are recognised as a global threat that warrants action at national, regional and global level.

(1) Mercury releases are recognised as a global threat that warrants action at ***local***, national, regional and global level.

*Justification*

*Mercury releases and the threat they represent have an effect not just at the macro level but also, and in particular, at the micro level. Local authorities are a vital link in the waste management system, given that, in practice, it is they who bear the responsibility for ensuring safe storage of waste, including hazardous waste such as mercury (see Directive 75/442/EEC on waste and Directive 91/689/EEC on hazardous waste).*

Amendment by Pilar Ayuso

Amendment 29  
Recital 3 a (new)

***(3a) The European Parliament and the Council recognised the environmental and social problems arising from the closure of the mercury mines in the district of Almadén (Spain) and considered it advisable to adopt adequate compensation measures in order to allow the area affected to find viable solutions for the local environment, employment and economic activity. Furthermore, in its resolution of 14 March 2006 on the Community strategy concerning mercury<sup>1</sup>, the European Parliament took the view that the mines in Almadén would be a good site for the safe storage of metallic mercury.***

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<sup>1</sup> OJ C 291 E, 30.11.2006, p. 128.

Or. es

*Justification*

*To include a reference to Almadén, a long-established producer of mercury in the European Union, and the resolution adopted by Parliament on the overall assessment of the Community strategy concerning mercury.*

Amendment by Gyula Hegyi

Amendment 30  
Recital 4

(4) The export of metallic mercury from the Community should be banned in order to significantly reduce the global mercury supply.

(4) The export of metallic mercury, ***cinnabar ore and calomel*** from the Community should be banned in order to significantly reduce the global mercury supply.

Or. en

*Justification*

*Consequent to the amendment to article 1.*

Amendment by Gyula Hegyi

Amendment 31  
Recital 4 a (new)

***(4a) The import of metallic mercury, cinnabar ore and calomel should be banned in order to ensure better protection for human health and the environment in the European Union.***

Or. en

*Justification*

*The import of the mercury should be banned to minimise the quantity of mercury in Europe and to encourage the recovery from waste and raw products.*

Amendment by Dimitrios Papadimoulis

Amendment 32  
Recital 4 a (new)

***(4a) For the same reason, the export of mercury-containing products already, or about to be, prohibited from being placed on the market in the European Union should also be banned.***

Or. en

### *Justification*

*Prohibited is more correct in the sense that something can be regulated without being prohibited.*

Amendment by Carl Schlyter

Amendment 33

Recital 6

(6) In order to provide for possibilities of safe storage of mercury no longer used in the chlor-alkali industry, it is appropriate to derogate from point (a) of Article 5(3) of Council Directive 1999/31/EC of 26 April on the landfill of waste for certain types of landfill, and to declare the criteria of section 2.4 of the Annex to Council Decision 2003/33/EC of 19 December 2002 establishing criteria and procedures for the acceptance of waste at landfills pursuant to Article 16 of and Annex II to Directive 1999/31/EC inapplicable for **non-underground** storage.

(6) **PARCOM (Convention for the Prevention of Marine Pollution from Land-Based Sources) Decision 90/3 agreed to the objective of phasing out mercury cell chlor-alkali plants completely by 2010.** In order to provide for possibilities of safe **temporary** storage of mercury no longer used in the chlor-alkali industry **prior to final disposal in solidified form**, it is appropriate to derogate from point (a) of Article 5(3) of Council Directive 1999/31/EC of 26 April on the landfill of waste for certain types of landfill, and to declare the criteria of section 2.4 of the Annex to Council Decision 2003/33/EC of 19 December 2002 establishing criteria and procedures for the acceptance of waste at landfills pursuant to Article 16 of and Annex II to Directive 1999/31/EC inapplicable for **above-ground, retrievable** storage.

Or. en

### *Justification*

*Mercury cells in the chlor-alkali industry represent by far the biggest stocks of mercury in the EU. It is therefore important to put the phase-out of mercury cells in the chlor-alkali industry into the context of PARCOM Decision 90/3.*

*Metallic mercury is liquid. It should be clarified that storage of liquid mercury can only be accepted on a temporary basis. Its final disposal should only occur in solidified form. Commercial processes to solidify metallic mercury are being developed and are expected to be available in a few years time.*

Amendment by Carl Schlyter

Amendment 34  
Recital 6 a (new)

***(6a) In order to protect human health and the environment, mercury should not be finally disposed of in liquid form.***

Or. en

*Justification*

*The safety assessment for underground storage pursuant to Decision 2003/33/EC clearly stipulates that for acceptance of waste "containers and cavity lining should not be taken into account when assessing the long-term risk of waste deposits because of their limited lifetime". As such, it becomes clear that final disposal of metallic mercury in liquid form is unacceptable. For reasons of clarity, this should be clearly stipulated in this regulation. Commercial processes to solidify metallic mercury are being developed and are expected to be available in a few years time.*

Amendment by Carl Schlyter

Amendment 35  
Recital 7

(7) In order to ensure storage that is safe for human health and the environment, the safety assessment required under Decision 2003/33/EC for underground storage should ***be complemented by specific requirements and should also*** be made applicable to ***non-underground*** storage.

(7) In order to ensure ***temporary*** storage that is safe for human health and the environment, the safety assessment required under Decision 2003/33/EC for underground storage should be made applicable to ***above-ground, retrievable*** storage.

Or. en

*Justification*

*Amendment in line with the modification of Article 3 by the same author. Storage of liquid mercury in mines creates the risk to become de facto final disposal. This would not be acceptable and against the safety provisions of the landfill directive. Storage should only be temporary and only occur above-ground in a retrievable manner.*

Amendment by Carl Schlyter

Amendment 36  
Recital 7 a (new)

***(7a) The chlor-alkali industry should send all relevant data related to the decommissioning of mercury cells in their plants to the European Commission and the competent authorities of the Member States concerned to facilitate enforcement of the Regulation. The industry sectors that gain mercury from the cleaning of natural gas or as a by-product from non-ferrous mining and smelting operations should also provide relevant data to the European Commission and the competent authorities of the Member States concerned. The Commission should make this information publicly available.***

Or. en

*Justification*

*The chlor-alkali industry committed voluntarily to provide data on the decommissioning of mercury cells to the European Commission. However, this data is crucial for ensuring enforcement of the regulation and should therefore be included in this regulation. The same should apply to the other industry sectors that gain mercury. The data should be provided to the European Commission and to the competent authorities of the Member States concerned, and should be publicly available in accordance with the regulation on access to in environmental matters for Community institutions.*

Amendment by Carl Schlyter

Amendment 37  
Recital 8

(8) It is appropriate to organise an exchange of information in order to assess the potential need for supplementary measures related to export **and** storage of mercury, without prejudice to the competition rules of the Treaty, in particular Article 81.

(8) It is appropriate to organise an exchange of information **with all stakeholders** in order to assess the potential need for supplementary measures related to **import, export, temporary storage and final disposal** of mercury, **its compounds and mercury-containing products**, without prejudice to the competition rules of the Treaty, in

*Justification*

*All stakeholders should participate in the exchange of information with regard to the potential need for supplementary measures. This should also include import and final disposal of mercury as well as provisions about mercury compounds and products containing mercury.*

Amendment by Carl Schlyter

Amendment 38

Recital 9

(9) Member States should submit information on permits issued for storage facilities as well as on the application and the market effects of the instrument, in order to allow for an assessment of the instrument in due time.

(9) Member States should submit information on permits issued for **temporary** storage facilities as well as on the application and the market effects of the instrument, in order to allow for an assessment of the instrument in due time.

*Justification*

*It should be specified that storage of mercury may only be temporary.*

Amendment by Carl Schlyter

Amendment 39

Recital 12

(12) The Regulation ***contains a trade-related element as well as elements*** motivated by ***environmental policy*** considerations. ***Article 1 is trade-related and therefore based on Article 133 of the Treaty, whereas the other Articles are based on Article 175(1).***

(12) The Regulation ***is*** motivated by considerations ***to protect human health and the environment.***

### *Justification*

*A double legal basis is not justified. Firstly, the Commission itself states that the measure is motivated by the objectives of protecting human health and the environment (Art. 175), and not by commercial policy considerations (Art. 133). Secondly, the reference to the recent judgement of the ECJ concerning the Rotterdam Convention to defend the double legal basis is inappropriate. The Rotterdam Convention establishes a trading regime - this regulation establishes a trading ban, which is a very different matter.*

### Amendment by Urszula Krupa

#### Amendment 40

#### Recital 12

(12) The Regulation contains a trade-related element as well as elements motivated by environmental policy considerations. Article 1 is trade-related and therefore based on Article 133 of the Treaty, whereas the other Articles are based on Article 175(1).

(12) The Regulation contains a trade-related element as well as elements motivated by environmental policy **and health protection** considerations. Article 1 is trade-related and therefore based on Article 133 of the Treaty, whereas the other Articles are based on Article 175(1).

Or. pl

### *Justification*

*Health protection policy is of equal importance to environmental policy in this Regulation.*

### Amendment by Carl Schlyter

#### Amendment 41

#### Recital 13

(13) The objective of reducing exposure to mercury by means of an export ban and a storage obligation cannot be sufficiently achieved by the Member States, given the impact on the movement of goods and the functioning of the common market as well as the trans-boundary nature of mercury pollution and can therefore only be achieved at Community level. The Community may therefore adopt measures in accordance with the principle of subsidiarity as set out in

(13) The objective of reducing exposure to mercury by means of an export ban and a **temporary storage obligation prior to final disposal in solidified form** cannot be sufficiently achieved by the Member States, given the impact on the movement of goods and the functioning of the common market as well as the trans-boundary nature of mercury pollution and can therefore only be achieved at Community level. The Community may therefore adopt measures

Article 5 of the Treaty. 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 this objective,

in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. 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 this objective,

Or. en

*Justification*

*Metallic mercury is liquid. It should be clarified that storage of liquid mercury can only be accepted on a temporary basis. Its final disposal should only occur in solidified form. Commercial processes to solidify metallic mercury are being developed and are expected to be available in a few years time.*

Amendment by Thomas Ulmer

Amendment 42  
Article 1

The export of metallic mercury (Hg, CAS RN 7439-97-6) from the Community shall be prohibited from **1 July 2011**.

The export of metallic mercury (Hg, CAS RN 7439-97-6) from the Community shall be prohibited from **1 January 2008**.

Or. de

*Justification*

*The longer the delay in introducing the ban, the more mercury can be exported.*

Amendment by Carl Schlyter

Amendment 43  
Article 1

The export of metallic mercury (Hg, CAS RN 7439-97-6) from the Community shall be prohibited from 1 July **2011**.

The export of metallic mercury (Hg, CAS RN 7439-97-6), ***cinnabar ore and mercury compounds with a mercury concentration above 5% weight by weight (w/w)*** from the Community shall be prohibited from 1 July **2008**.

Or. en

### *Justification*

*Mercury and its compounds are highly toxic to humans and animals. Mercury compounds with a mercury concentration above 5% as well as cinnabar ore should also be included in the ban to avoid indirect exports of mercury.*

*The biggest stocks of mercury are in the chlor-alkali industry. Pursuant to PARCOM Decision 90/3, mercury cells in that sector are to be phased by 2010. To wait with the export ban until 2011 is almost cynical, as it would allow all mercury decommissioned before that date to be exported, all too often with devastating consequences in third countries (e.g. open gold mining).*

Amendment by Dan Jørgensen, Åsa Westlund

#### Amendment 44 Article 1

The export of metallic mercury ( Hg, CAS RN 7439-97-6 ) from the Community shall be prohibited from 1 July **2011**.

The export of metallic mercury (Hg, CAS RN 7439-97-6), ***cinnabar ore and mercury compounds with a mercury content exceeding 1% (w/w)*** from the Community shall be prohibited from 1 July **2008**.

Or. en

### *Justification*

*The legislation should also contain export ban of cinnabar ore and mercury compounds. Mercury is one of the most dangerous metallic elements. And as the EU is the world's largest exporter of mercury, the ban should enter into force as soon as possible, at latest 1 July 2008.*

Amendment by Gyula Hegyi

#### Amendment 45 Article 1

The export of metallic mercury (Hg, CAS RN 7439-97-6) from the Community shall be prohibited from **1 July 2011**.

The export of metallic mercury (Hg, CAS RN 7439-97-6), ***cinnabar ore and calomel (CAS RN 10112-91-1)*** from the Community shall be prohibited from **1 July 2010**.

Or. en

*Justification*

*In order to lower the export of mercury, the mineral of the mercury, the cinnabar ore export should also be banned. The conversion of metallic mercury into calomel is cheap and easily feasible, calomel can readily be processed into metallic mercury at locations outside the EU, therefore the export of calomel should also be banned.*

*European Parliament resolution on the Community strategy concerning mercury (2005/2050(INI)) adopted in March 2006 requested export ban from 2010.*

Amendment by Marios Matsakis

Amendment 46

Article 1

The export of metallic mercury (Hg, CAS RN 7439-97-6) from the Community shall be prohibited from **1 July 2011**.

The export of metallic mercury (Hg, CAS RN 7439-97-6), ***cinnabar ore and mercury compounds*** from the Community shall be prohibited from **1 January 2010**.

Or. en

Amendment by Dan Jørgensen, Åsa Westlund

Amendment 47

Article 1 a (new)

***The export of mercury-containing products that may not be placed on the market within the EU shall be prohibited from 1 July 2008.***

Or. en

Amendment by Dimitrios Papadimoulis

Amendment 48

Article 1 a (new)

***The export of mercury-containing products that may not be placed on the market within the European Union shall be prohibited from 1 January 2009.***

*Justification*

*Same formulation as in the Measuring equipment Directive.*

Amendment by Marios Matsakis

Amendment 49  
Article 1 a (new)

***The export of mercury-containing products banned from sale or distribution within the European Union shall be prohibited from 1 January 2010.***

Or. en

Amendment by Carl Schlyter

Amendment 50  
Article 1 a (new)

***The import into the Community of metallic mercury (Hg, CAS RN 7439-97-6), cinnabar ore and mercury compounds with a mercury concentration above 5% weight by weight (w/w) shall be prohibited from 1 July 2008.***

Or. en

*Justification*

*The export ban should be complemented by a similar import ban applicable at the same time.*

Amendment by Marios Matsakis

Amendment 51  
Article 1 b (new)

***The import into the Community of metallic mercury (Hg, CAS RN 7439-97-6), cinnabar ore and mercury compounds shall***

*be prohibited from 1 January 2010.*

Or. en

Amendment by Gyula Hegyi

Amendment 52  
Article 1 a (new)

*The import into the Community of metallic mercury (Hg, CAS RN 7439-97-6), cinnabar ore and calomel (CAS RN 10112-91-1) shall be prohibited from 1 July 2010.*

*Member States should supply their own mercury demands from recovery from wastes and raw products.*

Or. en

*Justification*

*Mercury import ban will ensure that EU mercury demands will be supplied from mercury recovery from wastes and raw products.*

Amendment by Carl Schlyter

Amendment 53  
Article 2

From the date set out in Article 1, metallic mercury that is no longer used in the chlor-alkali industry, mercury **gained** from the cleaning of natural gas and mercury **gained** as a by-product from non-ferrous mining and smelting operations shall be stored, in the quality and concentration in a way that is safe for human health and the environment.

From the date set out in Article 1, metallic mercury that is no longer used in the chlor-alkali industry **or is extracted from cinnabar ore**, mercury **recovered** from the cleaning of natural gas and mercury **recovered** as a by-product from non-ferrous mining and smelting operations shall be stored **temporarily, prior to its final disposal in solidified form**, in the quality and concentration in a way that is safe for human health and the environment.

Or. en

### *Justification*

*Significant amounts of cinnabar ore have already been extracted, but not yet processed further. To prevent the addition of further mercury to the market by the extraction of mercury from its ore, the storage obligation should be extended to such mercury.*

*Metallic mercury is liquid. It should be clarified that storage of liquid mercury can only be accepted on a temporary basis. Its final disposal should only occur in solidified form. Commercial processes to solidify metallic mercury are being developed and are expected to be available in a few years time.*

Amendment by Dan Jørgensen, Åsa Westlund

### Amendment 54 Article 2

From the date set out in Article 1, metallic mercury that is no longer used in the chlor-alkali industry, mercury from the cleaning of natural gas and mercury as a by-product from non-ferrous mining and smelting operations shall be stored, ***in the quality and concentration*** in a way that is safe for human health and the environment.

From the date set out in Article 1, ***Member States shall ensure that*** metallic mercury that is no longer used in the chlor-alkali industry ***or is extracted from cinnabar ore,*** mercury ***recovered*** from the cleaning of natural gas and mercury ***recovered*** as a by-product from non-ferrous mining and smelting operations shall be stored, ***and eventually disposed within the Community*** in a way that is safe for human health and the environment, ***in appropriate facilities that qualify therefore, accompanied by a safety assessment and the relevant permit, pursuant to this Regulation.***

Or. en

### *Justification*

*The technology for safe disposal of liquid mercury is not commercially available yet. We would therefore consider that storage of the liquid mercury should only be temporary for the moment. As soon as the technology is available, the temporarily stored metallic mercury will have to be eventually disposed safely within the Community.*

Amendment by Pilar Ayuso

### Amendment 55 Article 2

From the date set out in Article 1, metallic mercury that is no longer used in the chlor-alkali industry, mercury *gained* from the cleaning of natural gas and mercury *gained* as a by-product from non-ferrous mining and smelting operations *shall be* stored, in the quality and concentration in a way that is safe for human health and the environment.

From the date set out in Article 1, *Member States shall ensure that* metallic mercury that is no longer used in the chlor-alkali industry *or is extracted from cinnabar ore*, mercury *recovered* from the cleaning of natural gas and mercury *recovered* as a by-product from non-ferrous mining and smelting operations *is* stored, in the quality and concentration in a way that is safe for human health and the environment, *in appropriate facilities that qualify therefor, accompanied by a safety assessment and the relevant permit, pursuant to this Regulation.*

*Prior to any other alternative, consideration should be given to the possibility of designating a centralised site for the safe storage of existing metallic mercury stocks or metallic mercury sub-produced by European industry.*

Or. es

#### *Justification*

*Complies with the approach approved by Parliament in its resolution of 14 March 2006 on the Community strategy concerning mercury.*

#### Amendment by Urszula Krupa

##### Amendment 56 Article 2

From the date set out in Article 1, metallic mercury that is no longer used in the chlor-alkali industry, mercury gained from the cleaning of natural gas and mercury gained as a by-product from non-ferrous mining and smelting operations shall be stored, in the quality and concentration in a way that is safe for human health and the environment.

From the date set out in Article 1, metallic mercury that is no longer used in the chlor-alkali industry, mercury gained from the cleaning of natural gas and mercury gained as a by-product from non-ferrous mining and smelting operations shall be *transported and* stored, in the quality and concentration in a way that is safe for human health and the environment.

Or. pl

*Justification*

*In many cases, both storage and transport with appropriate safety precautions are an integral part of operations in the chlor-alkali, mining and smelting industries, one of whose objectives is to minimise the adverse impact of mercury on the environment and human health.*

Amendment by María Sornosa Martínez, Miguel Angel Martínez Martínez

Amendment 57

Article 2, paragraph 1 a (new)

***Prior to any other alternative, consideration should be given to the possibility of using Almadén for the safe storage of the existing metallic mercury stocks or metallic mercury sub-produced by industry all over Europe but not mercury-containing articles that have become waste, thus making use of the infrastructures, local manpower and technological expertise existing there.***

Or. es

*Justification*

*Mercury must be stored safely in compliance with the rules of safe long-term environmental management. Parliament itself has already pointed out, in its resolution on the Community strategy concerning mercury, that 'consideration should be given to the possibility of using Almadén for the safe storage of the existing metallic mercury stocks or metallic mercury sub-produced by industry all over Europe but not mercury-containing articles that have become waste, thus making use of the infrastructures, local manpower and technological expertise existing there'.*

Amendment by Carl Schlyter

Amendment 58

Article 2 a (new)

***Final disposal of mercury in liquid form shall be prohibited.***

Or. en

### *Justification*

*The safety assessment for underground storage pursuant to Decision 2003/33/EC clearly stipulates for that for acceptance of waste "containers and cavity lining should not be taken into account when assessing the long-term risk of waste deposits because of their limited lifetime". As such, it becomes clear that final disposal of metallic mercury in liquid form is unacceptable. For reasons of clarity, this should be clearly stipulated in this regulation. Commercial processes to solidify metallic mercury are being developed and are expected to be available in a few years time.*

Amendment by Carl Schlyter

#### Amendment 59

Article 3, paragraph 1, subparagraph 1

1. By derogation *to* point (a) of Article 5(3) of Directive 1999/31/EC metallic mercury that is considered as waste **may** be stored in appropriate containment in ***either of the following***:

***(a) an underground salt mine adapted for waste disposal;***

***(b) a facility*** exclusively dedicated to and equipped for the temporary storage of metallic mercury prior to its final disposal.

1. By derogation *from* point (a) of Article 5(3) of Directive 1999/31/EC metallic mercury that is considered as waste **shall** be stored ***temporarily*** in appropriate containment in

***(a) delete***

***above-ground facilities*** exclusively dedicated to and equipped for the temporary storage of metallic mercury ***in a retrievable form*** prior to its final disposal ***in solidified form***.

Or. en

### *Justification*

*It is unclear from the proposal whether the Commission seeks to allow for storage of metallic mercury in underground salt mines or for its final disposal therein. All too often, storage in mines becomes de facto permanent. Out of sight, out of mind! However, final disposal of liquid mercury in mines would not be acceptable and is in clear contradiction to Decision 2003/33/EC, which specifies that for acceptance of waste in underground storage "containers and cavity lining should not be taken into account when assessing the long-term risk of waste deposits because of their limited lifetime".*

Amendment by Martin Callanan

#### Amendment 60

Article 3, paragraph 1, point (a)

(a) an underground *salt mine* adapted for waste disposal;

(a) an underground *facility* adapted for waste disposal *of mercury*;

Or. en

*Justification*

*Storage of waste mercury in a salt mine may not be feasible, but other sites such as anhydrite or mercury mines may be available and appropriate; more flexibility is needed to allow for these options.*

Amendment by Martin Callanan

Amendment 61

Article 3, paragraph 1, point (b) a (new)

***(ba) an installation permitted under the Integrated Pollution and Control (IPPC) Directive (96/61/EC) for the production of chlorine (section 4.2(a) of Annex I to that Directive) and equipped, as a part of that permitted installation, for the temporary storage of metallic mercury pending its final disposal.***

Or. en

*Justification*

*Chlor-alkali plants will need to be able store mercury on site until completion of their conversion to non-mercury production, whilst ensuring decommissioned tanks are mercury-free and to top up the continuing mercury cells. Further, if suitable underground sites prove unavailable, the only other feasible option will be to store the waste mercury above-ground, at a facility subject to control under the Integrated Pollution and Control (IPPC) Directive (96/61/EC), but there are issues as to how long the mercury could remain there. An additional derogation is therefore needed, to allow waste mercury to be stored at another type of dedicated facility for more than a year.*

Amendment by Carl Schlyter

Amendment 62

Article 3, paragraph 2

2. By derogation to point (a) of Article 11(1) of Regulation (EC) No 1013/2006 of the

2. By derogation to point (a) of Article 11(1) of Regulation (EC) No 1013/2006 of the

European Parliament and of the Council the competent authorities for destination and dispatch may not raise objections to shipments of metallic mercury that is considered as waste based on grounds that the planned shipment *or disposal* would not be in accordance with measures taken to implement the principles of proximity, priority for recovery and self-sufficiency.

European Parliament and of the Council the competent authorities for destination and dispatch may not raise objections to shipments of metallic mercury that is considered as waste ***and that is destined for temporary storage*** based on grounds that the planned shipment would not be in accordance with measures taken to implement the principles of proximity, priority for recovery and self-sufficiency.

Or. en

*Justification*

*Metallic mercury should only be finally disposed of in solidified form. Processes for such solidification will only be available in a few years time. Until such processes are available, shipments of metallic mercury may only occur for purposes of temporary storage.*

Amendment by Carl Schlyter

Amendment 63  
Article 4, paragraph 1

***1. The safety assessment to be carried out in accordance with Decision 2003/33/EC for storage in an underground salt mine adapted for waste storage shall cover in particular the additional risks arising from the nature and long-term behaviour of the metallic mercury and its containment.***

***Delete***

Or. en

*Justification*

*All too often, storage in underground mines becomes permanent. Out of sight, out of mind! However, final disposal of liquid mercury in mines would not be acceptable and in clear contradiction to Decision 2003/33/EC, which specifies that for acceptance of waste in underground storage "containers and cavity lining should not be taken into account when assessing the long-term risk of waste deposits because of their limited lifetime". In light of the prohibition of such final disposal, there is no need to adapt the safety assessment of Decision 2003/33/EC.*

Amendment by Carl Schlyter

Amendment 64  
Article 4, paragraph 2

2. A safety assessment ensuring a level of environmental protection equivalent to the level ensured by Decision 2003/33/EC shall be carried out and submitted to the competent authority for the temporary storage in *a* facility exclusively dedicated to and equipped for the storage of metallic mercury.

2. A safety assessment ensuring a level of environmental protection equivalent to the level ensured by Decision 2003/33/EC shall be carried out and submitted to the competent authority for the temporary storage in ***an above-ground*** facility exclusively dedicated to and equipped for the ***temporary*** storage of metallic mercury ***in a retrievable form***.

Or. en

*Justification*

*It should be clearly specified that temporary storage of metallic mercury has to occur above ground in a retrievable form, to allow for its later final disposal following solidification.*

Amendment by Urszula Krupa

Amendment 65  
Article 4, paragraph 2

2. A safety assessment ensuring a level of environmental protection equivalent to the level ensured by Decision 2003/33/EC shall be carried out and submitted to the competent authority for the temporary storage in a facility exclusively dedicated to and equipped for the storage of metallic mercury.

2. A safety assessment ensuring a level of ***health protection and*** environmental protection equivalent to the level ensured by Decision 2003/33/EC shall be carried out and submitted to the competent authority for the temporary storage in a facility exclusively dedicated to and equipped for the storage of metallic mercury.

Or. pl

*Justification*

*Health protection policy is of equal importance to environmental policy in this Regulation. The safety assessment should therefore also cover mercury's impact on health.*

Amendment by Carl Schlyter

Amendment 66  
Article 4, paragraph 3

3. The permit referred to in Articles 8 and 9 of Directive 1999/31/EC for **the underground salt mine or** the facility exclusively dedicated to and equipped for the temporary storage of metallic mercury shall include requirements for regular visual inspections of the containers and the installation of appropriate vapour detection equipment to detect any leak.

3. The permit referred to in Articles 8 and 9 of Directive 1999/31/EC for the **above-ground** facility exclusively dedicated to and equipped for the temporary storage of metallic mercury shall include requirements for regular visual inspections of the containers and the installation of appropriate vapour detection equipment to detect any leak. **Mercury shall be retrievable for safe final disposal.**

Or. en

*Justification*

*Temporary storage of metallic mercury should not take place in underground salt mines. It should only take place in dedicated facilities above ground in a retrievable form, to allow for its later final disposal following solidification.*

Amendment by Pilar Ayuso

Amendment 67  
Article 4, paragraph 3

3. The permit referred to in Articles 8 and 9 of Directive 1999/31/EC for the underground salt mine or the facility exclusively dedicated to and equipped for the temporary storage of metallic mercury shall include requirements for **regular visual inspections of** the containers and the installation of appropriate vapour detection equipment to detect any leak.

3. The permit referred to in Articles 8 and 9 of Directive 1999/31/EC for the underground salt mine or the facility exclusively dedicated to and equipped for the temporary storage of metallic mercury shall include requirements for **on-going visual and analytical checks on** the containers and the installation of appropriate vapour detection equipment to detect any leak.

Or. es

*Justification*

*The checks on storage facilities must be on-going. Regular checks are not an acceptable*

option.

Amendment by Pilar Ayuso

Amendment 68  
Article 4 a (new)

**Article 4a**

***During the temporary storage, responsibility will remain with the owner of the storage facility. Member States are requested to set up a fund to ensure that financial resources are in place for the maintenance of the provisional storage and the safe final disposal of mercury. The fund will be created on the basis of a financial contribution by the chlor-alkali industry proportional to the amount of mercury sent for temporary storage. Industries sending for storage metallic mercury recovered as a by-product from the cleaning of natural gas and mercury recovered from waste or as a by-product from non-ferrous mining and smelting operations shall also make proportional contributions to this fund. When the mercury is to be sent to final disposal pursuant to Article 5, Member States shall assume the administrative and financial responsibility for disposal.***

Or. es

*Justification*

*Complies with the approach approved by Parliament in its resolution of 14 March 2006 on the Community strategy concerning mercury.*

Amendment by Carl Schlyter

Amendment 69  
Article 4 a (new)

**Article 4a**

***During temporary storage, responsibility***

***for safe storage shall remain with the owner of the storage facility. Member States shall set up a fund to ensure that financial resources are in place for the safe final disposal of mercury. The fund shall be entirely created on the basis of fees by the chlor-alkali industry proportional to the amount of mercury sent for temporary storage. When the mercury is to be sent to final disposal in solidified form, Member States shall assume the administrative responsibility of disposal.***

Or. en

*Justification*

*In line with the polluter pays principle, the financial responsibility of the safe final disposal should lie with the producers of the mercury waste.*

Amendment by Carl Schlyter

Amendment 70  
Article 4 b (new)

***Article 4b***

***1. The companies concerned in the chlor-alkali industry shall send the following data related to the decommissioning of mercury in a given year to the European Commission and the competent authorities of the Member States concerned:***

- ***best estimate of total amount of mercury still in use,***
- ***amount of mercury recovered upon closure or reconversion of chlor-alkali plants,***
- ***amount sent to individual temporary storage facilities,***
- ***location and contact details for all storage facilities,***
- ***transfers to other chlor-alkali plants in the European Union for the operation of continuing cells,***
- ***amount temporarily stored under the responsibility of the original owner for***

*the operation of continuing cells.*

**2. The companies concerned in the industry sectors that gain mercury from the cleaning of natural gas or as a by-product from non-ferrous mining and smelting operations shall provide the following data related to mercury gained in a given year to the European Commission and the competent authorities of the Member States concerned:**

- *amount of mercury gained,*
- *amount sent to individual temporary storage facilities,*
- *location and contact details for all storage facilities.*

**3. The companies concerned shall send the data referred to in paragraphs 1 and 2, as applicable, for the first time by 31 May of ...\*, and thereafter each year before 31 May of that year.**

**4. The Commission shall make the information in paragraph 3 publicly available in accordance with Regulation (EC) No 1367/2006.**

**\* the year after entry into force of this Regulation.**

Or. en

#### *Justification*

*The chlor-alkali industry committed voluntarily to provide data on the decommissioning of mercury cells to the European Commission. However, this data is crucial for ensuring enforcement of the regulation and should therefore be included in this regulation. The same should apply to the other industry sectors that gain mercury. The data should be provided to the European Commission and to the competent authorities of the Member States concerned, and should be publicly available in accordance with the regulation on access to in environmental matters for Community institutions.*

Amendment by Pilar Ayuso

Amendment 71

Article 5

The Commission shall organise an exchange of information between Member States and

The Commission shall organise an exchange of information between Member States and

the *industries* concerned.

That exchange of information shall in particular examine the *potential* need for extending *the export ban to mercury compounds and products containing mercury, for extending* the storage obligation to metallic mercury from other sources and for time limits concerning storage in *a* facility specifically dedicated to and equipped for the temporary storage of metallic mercury.

the *stakeholders* concerned *by 30 June 2010*.

That exchange of information shall in particular examine the need for extending the storage obligation to metallic mercury from other sources and for time limits concerning storage in *an underground mine or an above-ground* facility specifically dedicated to and equipped for the temporary storage of metallic mercury.

*The exchange of information shall analyse the results of the consideration given to Almadén as the site for the safe storage of existing metallic mercury stocks or metallic mercury sub-produced by European industry in accordance with Article 2 of this Regulation.*

Or. es

#### *Justification*

*Complies with the approach approved by Parliament in its resolution of 14 March 2006 on the Community strategy concerning mercury.*

Amendment by Carl Schlyter

#### Amendment 72 Article 5

The Commission shall organise *an* exchange of information between Member States and the *industries concerned*.

That exchange of information shall in particular examine the *potential* need for extending the export ban to mercury compounds *and products containing mercury*, for extending the storage obligation to metallic mercury from other

The Commission shall organise *a regular* exchange of information between Member States and the *relevant stakeholders*. *The exchange of information should take place at least once per year. The first exchange of information shall take place before 30 June 2009.*

That exchange of information shall in particular examine the need for extending the export ban to mercury compounds *with a mercury concentration below 5% weight by weight (w/w)*, for extending the *temporary* storage obligation to metallic mercury from

sources **and** for time limits concerning storage in **a** facility specifically dedicated to and equipped for the temporary storage of metallic mercury.

other sources, for time limits concerning storage in **an above-ground** facility specifically dedicated to and equipped for the temporary storage of metallic mercury **in a retrievable form, and for adequate final disposal of mercury in solidified form.**

Or. en

*Justification*

*It should be clarified that the exchange of information is a continuous process. It should look primarily at the issues not yet addressed by this regulation.*

Amendment by María Sornosa Martínez, Miguel Angel Martínez Martínez

Amendment 73  
Article 5, paragraph 2 a (new)

***The exchange shall analyse the results of the consideration given to Almadén as the site for the safe storage of existing metallic mercury stocks or metallic mercury sub-produced by European industry in accordance with Article 2 of this Regulation.***

Or. es

*Justification*

*Durante la preparación de la Estrategia comunitaria sobre el mercurio, y especialmente durante su debate en el Parlamento, se acordó examinar la posibilidad de designar Almadén para el almacenamiento seguro de las reservas existentes de mercurio metálico o del mercurio metálico secundario resultante de la industria europea - nunea de productos con mercurio que hayan pasado a ser residuos -, aprovechando así las infraestructuras, la mano de obra y los conocimientos técnicos existentes in situ; Con esta enmienda se pretende dar cumplimiento del acuerdo alcanzado y que el Parlamento conozca las opciones ventajas e inconvenientes de ubicar el almacenamiento de mercurio en Almadén.*

Amendment by Dimitrios Papadimoulis

Amendment 74  
Article 5 a (new)

*Every year starting from<sup>1</sup> Member States shall provide the Commission all relevant information in relation to decommissioned mercury, and in particular:*

*a) estimate of the total amount of mercury still in use;*

*b) amount of mercury recovered upon closure or reconversion of chlor-alkali plants;*

*c) amount of mercury sent to the individual storage facilities;*

*d) location and contact details for all storage facilities;*

*e) transfers of mercury to other chlor-alkali plants in the European Union for the operation of continuing cells;*

*f) amount of mercury temporarily stored under the responsibility of the original owner for the operation of continuing cells.*

*<sup>1</sup> one year after entry into force of this regulation.*

Or. en

#### *Justification*

*It is important that this information is provided to the European Commission, to ensure monitoring of the regulation and the safe storage of mercury. The section of the voluntary commitment from the chlor-alkali industry relating to provision of information to the Commission is included in the regulation itself. The voluntary agreement is, therefore, no longer necessary.*

Amendment by Gyula Hegyi

Amendment 75  
Article 6, paragraph 2

2. Member States shall, **by 30 November 2014 at the latest**, inform the Commission on the application and market effects of this Regulation in their respective territory. Member States shall, upon request from the Commission, submit that information earlier

2. Member States shall, **by 30 November 2012 at the latest, present to the Commission detailed information on their mercury, cinnabar ore and calomel use and trade. They shall** inform the Commission on the application and market effects of this

than the date set out in the first subparagraph.

Regulation in their respective territory. ***The Commission shall publish the information in a concise report within one year from the submission by the Member States.*** Member States shall, upon request from the Commission, submit that information earlier than the date set out in the first subparagraph.

Or. en

*Justification*

*Within the ban it is necessary to provide information as soon as possible to all stakeholders on the process of the ban.*

Amendment by Thomas Ulmer

Amendment 76  
Article 6, paragraph 2

2. Member States shall, by ***30 November 2014*** at the latest, inform the Commission on the application and market effects of this Regulation in their respective territory. Member States shall, upon request from the Commission, submit that information earlier than the date set out in the first subparagraph.

2. Member States shall, by ***31 December 2011*** at the latest, inform the Commission on the application and market effects of this Regulation in their respective territory. Member States shall, upon request from the Commission, submit that information earlier than the date set out in the first subparagraph.

Or. de

*Justification*

*In line with the earlier amendment, the deadline for submitting the information should be brought forward.*

Amendment by Dan Jørgensen, Åsa Westlund

Amendment 77  
Article 6, paragraph 2

2. Member States shall, by ***30 November 2014*** at the latest, inform the Commission on the application and market effects of this

2. Member States shall, by ***30 November 2011*** at the latest, inform the Commission on the application and market effects of this

Regulation in their respective territory.  
Member States shall, upon request from the Commission, submit that information earlier than the date set out in the first subparagraph.

Regulation in their respective territory.  
Member States shall, upon request from the Commission, submit that information earlier than the date set out in the first subparagraph.

Or. en

*Justification*

*If the export ban can enter into force as early as 2008, there is no reason to wait with the obligations of Member States to inform the Commission.*

Amendment by Carl Schlyter

Amendment 78  
Article 6, paragraph 3

3. The information referred to in paragraph 2 shall at least contain data on the following:

***(a) volumes, prices, originating country and destination country as well as the intended use of metallic mercury entering or leaving the Community;***

(b) volumes, prices, originating country and destination country as well as the intended use of metallic mercury traded cross-border within the Community.

3. The information referred to in paragraph 2 shall at least contain data on the following:

***delete***

(b) volumes, prices, originating country and destination country as well as the intended use of metallic mercury, ***cinnabar ore and mercury compounds with a mercury concentration above 5% weight by weight (w/w)*** traded cross-border within the Community.

Or. en

*Justification*

*Point 3a: Correction of a technical error in the Commission proposal: in light of the proposed ban of exports of metallic mercury, it does not make sense to require Member States to report on metallic mercury leaving the Community. Similarly, if the amendments for an import ban as proposed inter alia by the rapporteur are adopted, there is no need for any reporting on metallic mercury entering the Community.*

*Point 3b: Extension of the scope of the reporting in line with the extension of the scope of the export ban.*

Amendment by Gyula Hegyi

Amendment 79  
Article 6, paragraph 3

3. The information referred to in paragraph 2 shall at least contain data on the following:

(a) volumes, prices, originating country and destination country as well as the intended use of metallic mercury entering or leaving the Community;

(b) volumes, prices, originating country and destination country as well as the intended use of metallic mercury traded cross-border within the Community.

3. The information referred to in paragraph 2 shall at least contain data on the following:

(a) volumes, prices, originating country and destination country as well as the intended use of metallic mercury, ***cinnabar ore and calomel*** entering or leaving the Community;

(b) volumes, prices, originating country and destination country as well as the intended use of metallic mercury, ***cinnabar ore and calomel*** traded cross-border within the Community.

Or. en

*Justification*

*Consequent to the amendment to article 1.*

Amendment by Dan Jørgensen, Åsa Westlund

Amendment 80  
Article 6, paragraph 3, point (b)

b) volumes, prices originating country and destination country as well as the intended use of metallic mercury traded cross-border within the community.

b) volumes, prices originating country and destination country as well as the intended use of metallic mercury ***cinnabar ore and mercury compounds with a mercury content exceeding 1% (w/w)*** traded cross-border within the community.

Or. en

*Justification*

*The legislation should also contain export ban of cinnabar ore and mercury compounds.*

Amendment 81

Article 7, paragraph 2 a (new)

***2a. Six months before the ban on exports comes into force in accordance with Article 1 of this Regulation, the Commission shall evaluate the effectiveness and impact of the compensation measures undertaken in order to allow the area affected by the closure of mercury mines to achieve viable economic and social alternatives.***

Or. es

*Justification*

*El texto de la Estrategia comunitaria sobre el mercurio COM(2005)0020 ya dejaba de manifiesto que: “La Comisión es sabedora de la importancia histórica, económica y social de la producción y el comercio de mercurio en Almadén, que se remontan a la época romana. Asimismo, la Comisión respalda firmemente la concesión de ayudas para desarrollar nuevas zonas de actividades y empleo”.*

*En el mismo sentido se expresa la Resolución adoptada por el Parlamento Europeo el pasado 14 de marzo de 2006 sobre la estrategia comunitaria sobre el mercurio que reconocía el sacrificio que, como consecuencia de esta estrategia, realiza la Comarca de Almadén y recomendaba a la Comisión “que se adopten medidas adecuadas de compensación, debidamente financiadas por la Comisión, a fin de permitir que la comarca afectada por el cierre de las minas de mercurio encuentre soluciones alternativas viables desde los puntos de vista económico y social”.*