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REPORT

on the proposal for a directive of the European Parliament and of the Council amending Council Directive 76/769/EEC relating to restrictions on the marketing of certain measuring devices containing mercury (COM(2006)0069 – C6-0064/2006 – 2006/0018(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: María Sornosa Martínez

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- *** Assent procedure
majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

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

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	5
EXPLANATORY STATEMENT	10
PROCEDURE.....	12

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council amending Council Directive 76/769/EEC relating to restrictions on the marketing of certain measuring devices containing mercury
(COM(2006)0069 – C6-0064/2006 – 2006/0018(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2006)0069)¹,
 - having regard to Article 251(2) and Article 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0064/2006),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety (A6-0287/2006),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1 RECITAL 3 A (new)

(3a) With a view to minimising releases of mercury to the environment, restrictive measures should also be taken after a transition period for the remaining measuring devices not intended for the general public when safer mercury-free alternatives are available.

¹ OJ C ... / Not yet published in OJ.

Justification

Alternatives to mercury are emerging in almost all measuring devices not intended for the general public. There should be a mechanism to also replace such mercury-containing devices when safer alternatives are available.

Amendment 2 RECITAL 4 A (new)

(4a) Exemptions may be authorised in cases where alternative solutions are not yet available, as well as in the rare case of the maintenance of traditional barometers, museum collections and industrial heritage.

Justification

In line with Community strategy concerning mercury, approved by Parliament, and as it has been established that in some cases completely reliable substitutes do not yet exist, exemptions of this type should be allowed on condition of careful monitoring and authorisation.

Amendment 3 RECITAL 7 A (new)

(7a) The Commission should take measures in the short term to ensure that all products (not just electrical and electronic equipment) containing mercury and currently circulating in society are collected separately and safely treated.

Justification

In line with Community strategy concerning mercury, approved by Parliament, there is a need for products containing mercury to be safely collected and stored as swiftly as possible in order to guarantee total protection of the environment and human health.

Amendment 4 RECITAL 7 B (new)

(7b) The Commission should take measures in the short term to ensure that all products (not just electrical and electronic equipment) containing mercury that fall under the exemption categories are

correctly labelled.

Justification

In line with Community strategy concerning mercury, approved by Parliament, there is a need for products containing mercury to be correctly labelled as mercury containing in order to encourage proper handling.

Amendment 5

ANNEX

Annex I, point 19a, right column, subparagraph 1 a (new) (Directive 76/769/EEC)

By way of derogation, points (1) and (2) shall not apply to:

- (a) antique barometers and scientific instruments intended for sale or trade in the international antiques market;***
- (b) the production of traditional barometers using small quantities of mercury in carefully controlled and licensed environments.***

Justification

Restrictions in this area would hamper academic study and restrict the opportunity for museums and private collectors to acquire and exhibit such instruments. These objects are often highly significant in the context of Europe's scientific and cultural history and they are widely admired and collected throughout the world.

Furthermore a small number of professional companies in the EU produce traditional measuring instrumentation using small quantities of mercury and this use should continue to be permitted in carefully controlled and licensed environments.

As these instruments are highly sought after, they are unlikely to be broken up and disposed of in landfill sites adding to the problem of mercury pollution

Amendment 6

ANNEX

Annex I, point 19a, right column, point (2 a) (new) (Directive 76/769/EEC)

(2a) in other measuring devices not intended for sale to the general public after ... *

Manufacturers may request a derogation from point 2a before ... **. A derogation shall be granted for essential uses for a

limited period of time, to be set on a case-by-case basis, if manufacturers can prove that they have undertaken every effort to develop safer alternatives or alternative processes, and that safer alternatives or alternative processes are still not available.

** Three years after entry into force of this Directive.*

*** Eighteen months after entry into force of this Directive.*

Justification

Alternatives to mercury are emerging in almost all measuring devices not intended for the general public. There should be a mechanism to also replace such mercury-containing devices when safer alternatives are available.

Amendment 7

ANNEX

Annex I, point 19a, right column, point (2 b) (new) (Directive 76/769/EEC)

(2b) in all measuring and control equipment for consumer and professional use (especially households, healthcare facilities and schools), allowing time-limited exemptions where safer and economically feasible alternatives, producing an equivalent level of precision and reliability, are not yet available.

Justification

In line with Community strategy concerning mercury, approved by Parliament, there is a need for a phasing out of mercury containing measuring devices and the restrictions should be extended to professional equipment products containing mercury. Exemptions can however be granted if there is valid scientific proof that no safer economically viable substitutes, with the same precision and reliability exist.

Amendment 8

ANNEX

Annex I, point 19a, right column, point (2 c) (new) (Directive 76/769/EEC)

(2c) in sphygmomanometers (excepting strain gauges in healthcare) containing mercury for both consumer and healthcare use.

Justification

Sphygmomanometers are used widely in hospitals, in private medical practices, etc. Of all mercury instrumentation used in health care, sphygmomanometers represent the largest mass of mercury per device (approximately 100 g/unit). Several Member state have already successfully restricted the use of mercury containing sphygmomanometers.

EXPLANATORY STATEMENT

Background and objective of the proposal

On 28 January 2005, the Commission adopted a Communication on the Community Strategy concerning mercury which proposed measures to protect human health and the environment from the release of mercury based on a life-cycle analysis taking into account production, use, waste treatment and emissions.

In order to reduce the demand for mercury for use in products and speed up the substitution of mercury, it would be appropriate to introduce Community level marketing restrictions on mercury-containing measuring and control equipment for consumer use and, with some exemptions, in the healthcare sector.

Some measuring devices, such as medical and room thermometers, barometers, blood pressure gauges and manometers fall outside the scope of Directive 2002/95/EC on restrictions on hazardous substances.

The objective of the Directive is to introduce harmonised provisions with regard to mercury that impose restrictions on measuring devices and thus, by preventing considerable amounts of mercury entering the waste stream, to contribute to a high level of protection of the environment and human health, whilst preserving the internal market, as required by Article 95 of the Treaty.

General context

Mercury and its compounds are, as the European Commission notes, highly toxic to humans, ecosystems and wildlife. Initially seen as an acute and local problem, mercury pollution is now understood to be global, diffuse and chronic. Mercury is persistent and can change in the environment into methylmercury, which is its most toxic form. Exposure to methylmercury occurs mostly via food. Methylmercury collects and concentrates in the aquatic food chain in particular, making populations with a high intake of fish and seafood particularly vulnerable (especially in the coastal areas of the Mediterranean). Direct exposure to mercury via the inhalation of vapour and absorption through the skin is also a health risk.

According to the Commission, the information available shows that 80-90% of all mercury used in measuring and control devices is used in medical (fever) thermometers and other thermometers for household use. Although use of mercury is declining, the quantities remain significant: 33 tons of mercury is estimated to be used for measuring and control devices per year in the EU, and on an annual basis some 25-30 tonnes of mercury enter the cycle via thermometers alone.

As regards a potential blanket ban on the use of mercury in all devices, it should be emphasised that the experts the Commission consulted came to the conclusion that hospitals need a high level of accuracy to treat life-threatening conditions such as hypertension, arrhythmia and pre-eclampsia. Mercury sphygmomanometers provide the appropriate level of

accuracy and reliability to ensure patient safety. The same level of reliability is not yet achievable by other types of blood pressure monitors.

Given that mercury sphygmomanometers will be needed for the foreseeable future for testing and calibrating other blood pressure manometers, the situation should be reviewed if and when evidence shows that non-mercury sphygmomanometers are suitable not only for the measurement of blood pressure trends, but also for the diagnosis and treatment of hypertension and for clinical trials.

The restrictions on medical thermometers and other measuring devices intended for consumer use cover the majority of mercury uses and emissions from this product group. The other specialised uses in science and industry either lack reliable alternatives or are very expensive.

Rapporteur's recommendation

Your rapporteur considers it very appropriate to introduce Community-level marketing restrictions on certain types of non-electrical and non-electronic measuring and control devices which contain mercury. Such restrictions would:

- generate benefits for the environment and, in the long term, for human health, by preventing mercury from entering the waste stream;
- apply to measuring devices intended for sale to the general public and in a specific area of the healthcare sector;
- limit the marketing of new measuring devices.

It should be borne in mind that the European Parliament resolution on the Community strategy concerning mercury (2005/2050(INI)), adopted on 14 March 2006, calls for exemptions to be authorised in cases where alternative solutions are not yet available, and in the rare case of the maintenance of traditional barometers, museum collections and industrial heritage.

Your rapporteur recommends that these exemptions be included in the scope of the Directive, on condition of careful monitoring and authorisation.

The resolution also called on the Commission to adopt short term measures to ensure that all products (and not just electrical and electronic equipment) containing mercury and currently circulating in society are collected separately and safely treated. Your rapporteur fully supports that approach.

In short, your rapporteur recommends that an agreement be reached at first reading, to enable the Directive to enter into effect as swiftly as possible, thereby reducing industrial demand for mercury and speeding up its substitution with other materials that are not damaging to human health or the environment.

PROCEDURE

Title	Proposal for a directive of the European Parliament and of the Council amending Council Directive 76/769/EEC relating to restrictions on the marketing of certain measuring devices containing mercury				
References	COM(2006)0069 – C6 0064/2006 – 2006/0018(COD)				
Date submitted to Parliament	21.2.2006				
Committee responsible Date announced in plenary	ENVI 14.3.2006				
Committee(s) asked for opinion(s) Date announced in plenary	ITRE 14.3.2006	IMCO 14.3.2006			
Not delivering opinion(s) Date of decision	ITRE 4.7.2006	IMCO 18.4.2006			
Enhanced cooperation Date announced in plenary					
Rapporteur(s) Date appointed	María Sornosa Martínez 25.4.2006				
Discussed in committee	6.7.2006	13.9.2006			
Date adopted	13.9.2006				
Result of final vote	+	44			
	–	0			
	0	0			
Members present for the final vote	Adamos Adamou, Georgs Andrejevs, John Bowis, Frieda Brepoels, Martin Callanan, Dorette Corbey, Chris Davies, Avril Doyle, Mojca Drčar Murko, Edite Estrela, Anne Ferreira, Matthias Groote, Françoise Grossetête, Cristina Gutiérrez-Cortines, Gyula Hegyi, Caroline Jackson, Dan Jørgensen, Christa Klab, Eija-Riitta Korhola, Urszula Krupa, Aldis Kušķis, Peter Liese, Jules Maaten, Linda McAvan, Marios Matsakis, Riitta Myller, Péter Olajos, Dimitrios Papadimoulis, Vittorio Prodi, Dagmar Roth-Behrendt, Guido Sacconi, Karin Scheele, Jonas Sjöstedt, Bogusław Sonik, María Sornosa Martínez, Antonios Trakatellis, Thomas Ulmer, Anja Weisgerber				
Substitute(s) present for the final vote	Hélène Goudin, Rebecca Harms, Jutta D. Haug, Miroslav Mikolášik, Bart Staes, Thomas Wise				
Substitute(s) under Rule 178(2) present for the final vote					
Date tabled	19.9.2006				
Comments (available in one language only)					