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'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Draft Regulation of the European Parliament and of the Council on mercury, and repealing Regulation (EC) No 1102/2008
(First reading)
- Adoption of the legislative act
= Statements

Statement by the European Commission on comitology

The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5 § 4, subparagraph 2, point b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established by Article 5 § 4 recourse to subparagraph 2, point b), cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner and thus must be justified.

Statement by the European Commission on international cooperation on mercury

The Minamata convention and the new Mercury Regulation are major contributions to protecting citizens from mercury pollution globally and in the EU.

International cooperation should be sustained to ensure successful implementation of the Convention by all Parties and further strengthen its provisions.

The European Commission is therefore committed to supporting continued cooperation, in accordance with the Convention and subject to applicable EU policies, rules and procedures, inter alia undertaking work in the following areas:

- Narrowing the gap between EU law and the provisions of the Convention through the review clause of the list of prohibited mercury-added products;
- In the context of the provisions of the Convention on financing, capacity building and technology transfer, activities such as improving traceability of mercury trade and use, promoting certification of mercury-free artisanal and small-scale gold mining and mercury-free labels for gold, and increasing the capacity of developing countries including in the area of mercury waste management.

Statement by Belgium

Belgium expresses its concerns regarding the Regulation provisions on the permanent storage of mercury waste.

The new regulation states (article 13) that (liquid) mercury waste should be:

- Converted and solidified prior to permanent storage in above-ground facilities;
- Converted prior to permanent storage in under-ground facilities;

Belgium is convinced that conversion and solidification of mercury waste is of utmost importance prior to permanent storage in above- and underground facilities. This is indeed the only way for ensuring an adequate level of protection against environment contamination and preventing health damages.

Belgium considers that the Basel Mercury guidelines (UNEP/CHW.12/5/Add.8/Rev.1) should be used as technical basis for ensuring a level playing field at European and global level.

Belgium asks the European Commission to launch a thorough assessment of these provisions by an independent consortia of experts - qualified in engineering, waste landfill technologies, chemicals and geological sciences. The terms of references for this assessment, which should take into account the Basel guidelines and other relevant international standards, should be submitted without delay to the 'waste technical committee' (Committee for the Adaptation to Scientific and Technical Progress and Implementation of the Directives on Waste).
