



Environment and Health NGOs urge for strong and clear Council conclusions for action towards phasing out releases and uses of mercury

Brussels 26 May 2005

Dear Minister,

With this letter we¹ would like to underline the significance of a strong Environmental Council Decision, foreseen for the 24 June 2005, with respect to the Community Strategy on Mercury, as presented by the European Commission in January 2005.

It is well known that mercury has no respect for national or regional boundaries, travelling long distances through the atmosphere, and contaminating both the European and global food supplies at levels posing a significant risk to human health. It is therefore clear that, since present measures are not adequate to sufficiently reduce the risks from mercury, further actions must be undertaken.

Considering that, to our knowledge, different opinions exist among the Member states, on the proposed EU mercury export ban, we would like to draw your attention to the importance of this action, as a first priority.

The importance of an EU export ban on mercury was further underlined and explained in an earlier letter addressed to your National representatives in Brussels².

Strong and clear Council conclusions feed directly into the global dimension of this Community Strategy, which needs to send a clear message to the world community that mercury emissions, supply and demand should be reduced to a minimum, as rapidly as possible.

¹Environmental NGOS include

The **European Environmental Bureau, (EEB)**, www.eeb.org, is a federation of more than 140 environmental citizens' organisations based in all EU Member States and most Accession Countries, as well as in a few neighbouring countries. These organisations range from local and national, to European and international. The aim of the EEB is to protect and improve the environment of Europe and to enable the citizens of Europe to play their part in achieving that goal.

The **Ban Mercury Working Group**, www.ban.org/Ban-Hg-Wg/, is an international coalition of 27 public interest non-governmental organisations from around the world formed initially in 2002 by 2 US based NGOs, the Basel Action Network (www.ban.org) and the Mercury Policy Project (www.Mercurypolicy.org). working to end pollution from the toxic metal -- Mercury.

European Public Health Alliance Environment Network (EEN), <http://www.env-health.org/> is an international non-governmental organisation advocating environmental protection as a means to improving health and well-being. Member groups and organisations represent health, environment, women, health professionals and others. The group has a diverse membership, 29 members with 5 international organisations, 10 European networks and 14 national/local organisations, including non-governmental organisations, professional bodies representative of doctors and nurses, academic institutions and other not-for-profit organisations.

Health Care Without Harm Europe (HCWH), www.noharm.org, is an international coalition of hospitals and health care systems, medical and nursing professionals, community groups, health-affected constituencies, labour unions, environmental and religious organisations. HCWH is dedicated to transforming the health care industry worldwide, without compromising patient safety or care, so that it is ecologically sustainable and no longer a source of harm to public health and the environment.

And with the support of NGOs from the USA (Natural Resources Defence Council), India (Toxics Link), China (Global Village of Beijing), Brazil (Association for Combats against the POPS).

² http://www.eeb.org/activities/mercury/050511%20FINAL_EU_ENV_Working_Group_Letter_Mercury.pdf

With this in mind, we call upon you, to give priority and ensure that the following points become part of the Council conclusions on the Community strategy on Mercury:

- 1. UNDERLINE that the proposed ban of EU mercury exports should be implemented as soon as possible, preferably by 2008³, but certainly not later than 2011, and INVITE the Commission to take the necessary action to achieve this as soon as possible**

The EU is the world's largest mercury exporter, and most of this mercury goes to the developing world; government trade documents clearly show this⁴. From 2001 to 2003, EU countries exported more than 3,000 tonnes of mercury – some 30% of global consumption⁵ – to non-OECD countries. As the world's primary mercury exporting region, EU leadership in dealing with global mercury problems is an economic and moral imperative. Strong EU leadership will not only encourage other countries to reduce mercury consumption; it will also encourage further global trade agreements, needed to significantly reduce the role of mercury as a global pollutant in the international economy. An EU export ban, coupled with other international actions as specified in the EU strategy document, will significantly reduce the disproportionate impacts of mercury exposure in the developing world caused by abundant mercury supplies, inadequate resources to enforce existing regulations and virtually no incentive to upgrade outdated technologies.

This prohibition on mercury exports will contribute to decreasing demand for mercury due to an eventual price rise. For many low-technology uses such as small-scale gold mining, higher prices have been demonstrated to encourage direct reductions in mercury uses and releases.⁶ The GEF/UNDP/UNIDO Global Mercury Project, which has worked with small-scale gold miners for many years, has strongly advocated an EU export ban as an effective way to reducing mercury demand in small-scale gold mining⁷.

Opponents of an export ban argue that new production of mercury might be triggered to fill in any gap in market demand. Besides ignoring a range of EU initiatives proposed to help curb mercury demand, this argument lacks merit since it ignores the limited ability, for both technical and political reasons, of mercury-producing countries to expand their output⁸. Moreover, any argument against the export ban ignores the political pressure to decrease, not increase, production that has already impacted on Spain, and will face other producing countries once the EU formally endorses the export ban. Indeed, the pressure has already begun, since shortly following the release of the EU Strategy, the UNEP Governing Council adopted a resolution in February 2005 calling upon governments and others to curb the primary production of mercury and the introduction into commerce of excess mercury supplies. This same resolution also requests UNEP staff to prepare a report on the global trade in mercury so that further options addressing this trade can be considered at the 2007 Governing Council meeting. Consistent with these UNEP Governing Council resolutions and the proposed EU export ban, we urge EU countries to initiate bilateral discussions on this issue with Algeria and Kyrgyzstan as soon as possible.

³ as originally proposed in earlier Commission drafts but also by the Luxemburg Presidency
<http://register.consilium.eu.int/pdf/en/05/st07/st07986.en05.pdf>

⁴ See UN statistics at <http://unstats.un.org/unsd/comtrade/> and Eurostat statistics at <http://europa.eu.int/comm/eurostat/> "external trade."

⁵ COM (2005) 20 final - Extended Impact Assessment, on the Community Strategy on Mercury.

⁶ Veiga MM, Maxson PA, Hylander L, "Origin of mercury in artisanal gold mining." Paper accepted 12 August 2004 for publication in 2005 in the *Journal of Cleaner Production* (Elsevier).

⁷ COM (2005) 20 final - Extended Impact Assessment, on the Community Strategy on Mercury, pg. 26

⁸ COM (2005) 20 final - Extended Impact Assessment, on the Community Strategy on Mercury, pg. 25-26 and <http://www.mem-algeria.org>.

2. UNDERLINE that the temporary storage of decommissioned mercury from the chlor-alkali industry should be pursued and INVITE the Commission to take relevant action as soon as possible.

As an integral part of the EU strategy to simultaneously address global supply of and demand for mercury, temporary storage of decommissioned mercury from the chlor-alkali industry should be investigated immediately and implemented in the near future. The need for such storage is not disputed by the industry association Euro Chlor, which has already begun to study the options available. Much of the estimated 12.000 tonnes of mercury in the EU mercury-cell chlor-alkali plants destined for decommissioning over the next 15 years will not be needed to meet shrinking global demand. Furthermore, the pursuit of temporary storage must incorporate the ultimate intention of permanent retirement. Otherwise this measure will only delay the use, releases and impacts of the surplus mercury, not prevent it. Storage areas must be secure sites, continuously monitored and located where intervention can take place immediately if necessary. Storage of this surplus mercury (and over time, mercury from other sources such as recycled products) builds upon the recent decision by the United States Department of Defense to store rather than sell its own 4,400 tonnes of excess mercury.

Furthermore, we call upon you to consider some other points relevant to the actions needed in order to reduce as much as possible releases and uses of mercury in the EU, in line with the objectives of the Commission strategy on mercury.

3. UNDERLINE the importance of introducing, as a minimum action, Emission Limit Values for mercury from all relevant activities under the IPPC Directive or in a separate legislative instrument, and INVITE the Commission to take action as soon as possible.

Emissions from coal-fired power plants are particularly important, and the largest source of combustion related emissions. Although implementation of existing instruments such as directive 2001/80/EC to reduce sulphur dioxide will bring some reductions to mercury emissions, particularly elemental mercury (with a lifetime in the atmosphere of up to one year), which can travel globally, will still be released to the environment contributing to the global pollution. Developments with regard to mercury emission limit values should be taken on board as soon as they emerge from any EU or international fora, such as the Protocol on Heavy Metals under the Long-Range Transboundary Air Pollution (LRTAP) Convention. Emissions from coal-fired power plants (as well as from small-scale coal combustion facilities) are particularly important, and the largest source of combustion related emissions. To that end, it is important to introduce mercury emission control measures for power plants, considering that various control options already exist, such as abatement techniques, use of low-mercury coal, coal cleaning or switching to a cleaner fuel.

Emissions of mercury from small-scale coal combustion facilities should also be set, since the cumulative effect of mercury emissions from these installations contributes substantially to the overall level of emissions. Furthermore, mercury emissions from crematoria should be controlled at EU level. Legislation is already in place in Denmark, the Netherlands, Germany and the UK, and should be harmonised before more Member States adopt their own legislation. The relevant OSPAR recommendation covers only 12 out of the 25 Member states and no sanctions are foreseen in case of no-implementation.

- 4. UNDERLINE the importance to restrict the marketing and use of mercury in all measuring and control equipment for consumer and professional use (especially in households, healthcare facilities and schools), allowing for some exemptions where adequate alternatives are not yet available, and INVITE the Commission to take action thereof.**

Substituting mercury in these product categories is the only effective way of addressing inevitable emissions from their use and disposal. Mandatory measures are essential to offer the greatest protection and have been widely used to addressing the marketing and use of hazardous chemicals in products (e.g. 76/769, 2002/95). A general ban with exemptions should be pursued, considering currently many Member States asked for such an approach. Sweden, Denmark and The Netherlands have all reported on their own experiences implementing such restrictions, while viable, price-competitive and less hazardous alternatives are available for nearly all of these applications. Such an approach will also serve to better identify the uses of mercury, even in highly specialized applications, and considering that the dangers from mercury use have already been identified, further research and development could be triggered for its replacement with adequate alternatives.

Existing Directives dealing with mercury containing products should be revised to delete exemptions for mercury uses. For example, the exemption in the RoHS Directive for mercury thermostats is unsupportable given the wide variety of functionally equivalent or superior non-mercury alternatives available. Wherever derogations still apply, these should be for a limited period, to provide incentives for research & development, and encourage industries to shift to alternative substances and techniques. In a similar way, a restriction of the use of mercury in dental amalgams should be evaluated and pursued, given that viable non-mercury alternatives exist.

- 5. UNDERLINE the necessity to introducing separate collection and treatment measures for all mercury containing products already circulating in society and INVITE the Commission to take relevant action as soon as possible.**

As demand is declining, the mercury recuperated from those products/wastes should be stored permanently in an environmentally safe way, and in any case not be returned to the marketplace. In the same way, waste dental amalgams need to be better controlled in light of their ongoing contribution to mercury emissions, mainly to water. Similar measures should be considered for the mercury produced as a by-product during other processes including the production of other metals such as zinc and refining of natural gas.

- 6. UNDERLINE the importance of the EU in supporting and promoting International Action and INVITE the Commission to take necessary initiatives as soon as possible.**

The European Community and the Member States need to send a clear message to the international community that measures should be taken as fast as possible to control mercury emissions, demand and supply globally, in order to reduce risks significantly, starting with activities aimed at curbing primary mining and storing excess mercury from decommissioning chlor-alkali plants. Most of the global mercury demand, encouraged by cheap and available mercury supplies, arises from the use of technologies or processes in the developing world that are already illegal or being phased out in the EU and most OECD countries.

7. UNDERLINE the importance to pursue measures against exposure and improve understanding and INVITE the Commission to take action as soon as possible.

It is important that, given the bioaccumulative and biomagnifying properties of mercury, stricter controls are introduced with respect to food quality. At the same time however, informing, educating and alerting the sensitive groups of the population on this issue is necessary. As recommended by the European Food Safety Authority it is essential that the exposures to Mercury of these sensitive populations are effectively monitored.

In conclusion, we wish to reiterate our appreciation for this European Commission initiative. Strong and clear Council conclusions are not only a recognition of the EU responsibility for its share of the problems. Furthermore, ensuring an EU mercury export ban is a pragmatic realisation that there is little point in reducing mercury demand simply within the EU, only to export the unwanted mercury to the developing world where it will be used under far less stringent controls, released, and ultimately be transported back into the EU atmosphere and wind-up in the fish EU citizens consume.

The value of a strong EU commitment to addressing mercury problems on the global stage cannot be underestimated. This is a straightforward opportunity to reduce health risks to millions of EU citizens, and many more globally, that we cannot afford to miss.

Thank you in advance for your interest and support,

Yours sincerely,

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