



GREENPEACE



Environment and Health NGOs urge for a strong Community Strategy on Mercury

Brussels, 30 November 2004

Dear Commissioner,

We^{1,2} would first like to congratulate you on taking up your new duties in the European Commission. Having already followed the process for some time, we feel it is useful to reiterate our positions on an issue we feel particularly strongly about, which is the range of EU and global problems related to mercury.

We would like to compliment the European Commission on its initiative to develop a comprehensive mercury reduction strategy at EU level. As described by the European Commission itself:

Mercury is highly toxic, causing damage to the nervous system at even relatively low levels of exposure. It is particularly harmful to the development of unborn children. It collects in human and animal bodies and can be concentrated through the food chain, especially in certain types of fish. In fact, the Commission's Directorate-General for Health and Consumer Protection has recommended that women who are breastfeeding or who are or might become pregnant, should limit their consumption of large predatory fish, such as swordfish, shark, marlin, pike and tuna.

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

¹Ban Mercury Working Group (Ban Hg-Wg) is an international coalition of 27 public interest non-governmental organizations from around the world formed in 2002 to reduce and eliminate mercury pollution, trade and exposure. The Mission of the Ban Hg-Wg is to act collectively in international forums and discussions to ensure that: -

- Use of mercury is phased out in both the South and the North and all mining must cease;
- Human and wildlife exposures to mercury are reduced to the greatest extent possible;
- Mercury releases from all sources are subject to continuing minimization, and ultimate elimination as feasible;
- World-wide mercury supply and demand must be reduced simultaneously, and commodity transactions and global trade in mercury must be monitored, reduced and eliminated;
- Long term storage facilities must be created and maintained to assure environmentally sound storage of existing quantities of mercury; and
- In the interim, low income, disadvantaged and indigenous populations must not become a dumping ground for surplus mercury, mercury-based technologies or mercury products and/or wastes, or otherwise disproportionately affected by mercury.

<http://www.ban.org/Ban-Hg-Wg>

² EEB, Greenpeace and EPHA-EEN have been closely co-operating with environment NGOs based in the USA - Mercury Policy Project, Natural Resources Defence Council, Basel Action Network.

Responding to a 2002 request from the Council of Ministers, the European Commission prepared an impressive draft Community Mercury Strategy that, if adopted and implemented, would lead to substantial reductions in worldwide mercury pollution and exposure. **The global dimension of this initiative needs especially to be underlined, with its clear message to the world community that mercury emissions, supply and demand should be reduced to a minimum, as rapidly as possible.** Reducing global mercury supply and demand is the cornerstone of this Strategy, which proposes that the EU take a leading role in addressing these problems. This is not only a recognition of the EU responsibility for its share of the problems, but also 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.

Now that this important draft Communication is on your agenda, we would like to share with you our primary concerns, and urge you to consider them, as the Community Mercury Strategy is finalised.

A. On the basis of European Commission and UNEP analysis, among others, the following proposals/actions should be the highest priorities in the Communication on the Community Mercury Strategy:

1. Pursue the temporary storage of decommissioned mercury from the chlor-alkali industry – This action, which is not opposed by industry association Euro Chlor, should be implemented in the near future. 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 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 Defence to store rather than sell its own unwanted 4,400 tonnes of excess mercury.

Action need not await the revision of the chlor-alkali BREF³ and certain measures may be taken immediately. Until then, mercury from the chlorine industry will continue to find its way onto the international market.

2. Prohibit the export of mercury from the EU. An amendment to Regulation 304/2003 should be brought as soon as possible, to include a ban on the export of mercury from the Community, as it is the case with cosmetics containing mercury. Such a prohibition should be implemented at the latest by 2008. As the world's primary mercury exporting region, EU leadership in this area is an economic and moral imperative, and will strongly encourage the global trade deliberations needed to significantly reduce the role of mercury in the global economy. This prohibition would ensure the other two supply-side activities described under points 1 and 3 are taken, and prevent the disproportionate impacts of mercury exposure in the developing world caused by the export of excess mercury and outdated technologies.

There has been some suggestion that this export prohibition may conflict with WTO rules. However, this is not an issue, considering that such prohibitions have already been put in place for purely environmental reasons in Sweden and Denmark, as well as at EU level in Regulation 304/2003 (export ban on cosmetics containing mercury, POPs). Furthermore, other countries such as Finland, The Netherlands, and Austria have supported such a ban.

3. Terminate virgin mercury mining at the Almadén mine in Spain. Relevant proposed action is a long overdue step in that direction. Like the mercury from decommissioned chlor-alkali facilities, this source of mercury will no longer be needed after a few years, especially if measures are taken to discourage market demand for mercury. Further, virgin mercury mining represents the most environmentally harmful source of mercury supply because of the magnitude of releases during the

³ Best Available Technique Reference Document, under the IPPC directive.

mining process and processing activities and because mercury mining adds to the total pool of mercury circulating in the economy, and potentially reaching the environment. By closing Almadén, the world's largest mercury mine, EU leadership in this area will focus global attention on the need for similar action at the other main mercury mines in Algeria and Kyrgyzstan.

It should also be noted that from the mid-1990s, substantial EU subsidies have been awarded to this region of Spain with the explicit intent of shifting the economy from mercury mining and trade towards more sustainable activities⁴. Unfortunately, not much has been done so far. It is therefore high time that firm commitments are taken from relevant authorities to avoid further unacceptable economic and environmental cost to Member States.

- 4. Restrict the marketing and use of mercury in measuring and control equipment.** The substitution of mercury in these product categories is the only effective way of addressing inevitable emissions from their use and disposal. It is therefore essential that the strategy address as fully as possible substitution of these uses. 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) Sweden, Denmark and The Netherlands have all reported on their own experiences implementing such restrictions, while viable and price-competitive alternatives are available for nearly all of these applications. The impact of this EU action, as well as similar activities in parts of the United States, will be felt globally as manufacturers expedite the transition to comparable or better non-mercury alternatives.

In a similar way, **the restriction of the use of mercury in dental amalgams** should be pursued, given that viable non-mercury alternatives exist.

In addition to the above, existing Directives dealing with mercury-containing products, such as the one on Batteries, the one on Restriction of Hazardous Substances from Electrical and Electronic equipment, and the one on End-of-life Vehicles, should be revised to delete exemptions for mercury uses. No more exemptions should be introduced, and 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. As one of its global actions, regarding the use of mercury in batteries, the EU should ask Member States to identify companies importing significant quantities of batteries from Asia, in various products or as stand-alone items, to ensure that their suppliers are complying with the EU standards. These efforts would encourage Asian manufacturers to join their more progressive competitors in shifting away from mercury oxide battery production, and at the same time enhance the competitive position of EU manufacturers – both in the EU and in Asia.

- 5. Support and Promote International Action.** All relevant actions are strongly supported by environmental and health NGOs. 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. The Strategy correctly observes that 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. In particular, battery production, mercury cell chlor-alkali production, and small-scale gold mining account for about 75% of global mercury demand, with China and India accounting for about half of the total global demand. Given the huge and immediate reductions that can be achieved by shifting to non-mercury based battery production and chlor-alkali technologies already widely employed in the EU and elsewhere, targeted international technical and other assistance cannot but produce dramatic results.

⁴ 'Mercury flows in Europe and the World: The impact of decommissioned chlor-alkali plants', Concorde East/West sprl report for the DG ENV(p.7)

B. The following proposed actions of the draft Communication should certainly be retained, and preferably also be strengthened.

Managing mercury releases into the environment is another very important issue. To that end, an integrated approach is specifically important as mercury circulates through the whole environment. As a result, limit values for air emissions should not result in additional mercury emissions to water and soil.

- 6. Introduce, as a minimum action, Emission Limit Values for mercury from all relevant activities** - including the chlor-alkali sector and secondary steel production - under the IPPC Directive or in a separate legislative instrument. Considering that many BREFs are still under development, industrial activities with mercury emissions should already be included in the discussions of the relevant working groups, and emission limits should be set where possible.

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. Their applicability does not need to wait for a review of the Mercury Strategy. Considering the bioaccumulative effects of mercury, action cannot wait!

It is unfortunate that the newly adopted Directive related to arsenic, cadmium, mercury, nickel and PAHs in ambient air, does not include air quality limit values for mercury. Research in the area of mercury emissions, transport, deposition, transformation and bioaccumulation should in any case continue, and Member States should be obliged to join existing international networks monitoring gaseous mercury in ambient air and mercury in precipitation (i.e. wet deposition). Work done under the Heavy Metals Protocol of the LRTAP Convention should be taken into consideration.

Emissions from coal-fired power plants 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.

Emission limit values and measures for the control of 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. As above, all ongoing work should be required to incorporate guidelines or limit values for mercury emissions. The LCP and IPPC Directives should either be extended to cover mercury emissions from coal combustion power plants below 50MW_{th} and residential coal combustion, or a separate legislative instrument should be developed.

Emissions of mercury from crematoria should be controlled at EU level. Legislation is already in place in Denmark, the Netherlands and Germany, and should be harmonised before more Member States adopt their own legislation. Crematoria could in fact be regulated under the same instrument as the smaller combustion plants, etc.

- 7. Introduce separate collection and treatment measures for all mercury containing products already circulating in society.** 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 this way there will be more knowledge on the cycle of mercury in products where mercury ends up, and the supply will decrease at the same time. Proposed relevant measures need to be taken immediately. Better labelling of products containing mercury will also facilitate separate collection.

In the same way, waste dental amalgams need to be better controlled in light of their ongoing contribution to mercury emissions, mainly to water. Relevant proposed action, can be the beginning of a stricter control. At a minimum, interpretation of the Waste Framework Directive to require amalgam separators in dental practices should be highlighted in the Mercury Strategy, and

mercury-laden solid wastes from dental offices should be managed appropriately as hazardous wastes so that they are not combusted in medical or municipal waste incinerators.

Similar measures should be considered for the mercury produced as a by-product during other processes including the production of other metals such a zinc and refining of natural gas.

- 8. Pursue measures against exposure and improve understanding.** 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 awareness of the potential dangers should be raised to all vulnerable populations. Education and training of health care professionals is also needed, which would be a vital part of any strategy to reduce exposure of vulnerable populations. To that end, relevant EU funded projects should be encouraged. So, while Member States must be encouraged to give advice, the EU has a co-ordinating role, as well as an active role to play in raising awareness and therefore giving EU added value to protecting EU citizen's health.

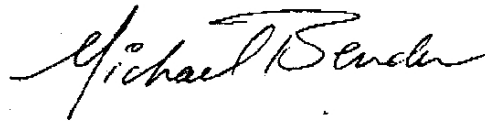
In conclusion, we wish to reiterate our appreciation for this European Commission initiative. Once again, the value of a strong EU commitment to addressing mercury problems on the global stage cannot be underestimated. Both the EU and the UN will miss a golden opportunity if concrete actions are not identified in advance of the upcoming UNEP Governing Council Meeting in February 2005, whose agenda includes a possible global instrument on mercury. A strong EU strategy is needed to kick-off a UNEP global instrument, and a UNEP global instrument would greatly help the implementation of the EU mercury strategy, especially its focus on reducing world-wide mercury supply (i.e., phase-out mercury mining, store excess mercury supplies) and demand (end unnecessary and obsolete uses). 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.

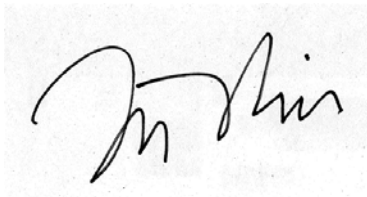
Yours sincerely,



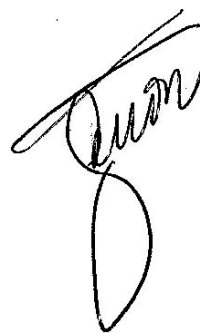
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