EEB comments on Restriction Proposal for Phenyl Hg compounds

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1. It is unclear why the restriction is proposed for the particular set of phenyl-mercury compounds. I am concerned that we could have a succession of separate proposals for restrictions on mercury compounds with a propensity to form methyl-Hg, when a more effective and efficient strategy may arise from a more comprehensive treatment. [Perhaps this needs to be done ahead of dossier submission, so is too late for the current restriction proposal. However, it remains relevant for future dossier submissions.]

2. It appears that the dossier does not address all uses of the phenyl-Hg compounds under consideration, noting comments by others about use in (e.g.) cosmetics. We are concerned not only about the risks that this may involve, but also that a piece-meal treatment of chemicals may reduce the efficiency and effectiveness of the REACH legislation, e.g. requiring a series of restrictions to be worked on when one would do.

3. A clear justification for the limit value of 0.01% Hg by weight is necessary. We assume that it links to a particular analytical method, in which case it would be useful to know why that is preferred over others with possibly different detection limits. Perhaps agreement is needed on ways of standardizing the reporting of limit value setting in restriction dossiers in order to improve consistency.

4. In places (e.g. Table B5.30) it is implied that DNEL and DMEL are equivalent terms. However, establishment of a 'minimal-effect' level implies a judgment on what constitutes 'minimal'. For example, risks may appear low, but this on its own is no indication of the outcome of the comparison of costs and benefits. 'DMEL' therefore entails some socio-econo-political judgement and it is nto clear how RAC can reach this without SEAC input.

5. It is unclear whether organotins are considered as a technically viable alternative. If so, there should be more detailed consideration of the risks associated with their use.

6. In section F2.1 we are told that: "*It is assumed that any reductions in MCPUE systems under the baseline scenario relate to those MCPUE systems where it is "relatively easy" to substitute with an alternative mercury free system. It is thought that around 30% of MCPUE systems available in 2007 (i.e. 75 systems) would be difficult to replace. It is considered reasonable to assume that any reductions in the absence of a restriction would relate to those MCPUE systems where it is easier and*

less costly to switch to an alternative. Therefore, it is assumed that the most difficult systems (totalling 75) will be last to be replaced." This leads to a question of what constitutes a 'difficult' system, and to what extent substitution has already occurred in such systems, noting the behavioural dynamics of environmental controls in various industries, where companies vary greatly in their willingness to adopt difference practices.

7. Section F2.2 deals with 'sunk costs'. From a social perspective these are not relevant – money spent cannot be unspent.

8. Treatment of effects does not appear to have been done in a comprehensive way. Noting the statement: "*The risk characterisation for consumers indicates that phenylmercury acetate release from articles in the indoor environment may cause adverse health effects to consumers*" leaves open questions about the exposure of workers in production and transportation of the chemicals, and manufacturing and installation of the flooring. Although it may not be possible to quantify these effects they are still relevant to the proposal – even if it is considered for any reason that these risks are negligible, it would be useful to be told. Also, where reference is made to the results of Rice and Hammitt, comment should be provided that they did not considered ecological benefits at all and that quantification of the benefits through reducing IQ loss deals only with effects on earnings.

9. It is hard to understand Table F6. In particular, why the benefit/kg changes from scenario 1 to scenario 2 if there is (as stated) no discounting. More significantly, though, the principal of direct adoption of estimates from other studies is of questionable value without consideration of the way that these estimates were derived, and whether the methods and assumptions used are consistent with those followed elsewhere in the dossier (e.g. on risk assessment) and in the available guidance.