

**ACPO**  
**Associação de Combate aos POPs**  
**Associação de Consciência à Prevenção Ocupacional**  
**CGC: 00.034.558/0001-98**

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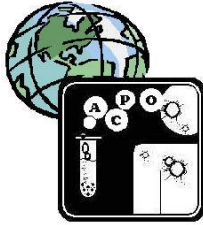
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***REF: 060910\_CE\_Letter\_to\_Commissioners\_Mercury\_Export\_Ban***



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**Santos, SP, Brazil, 10 September 2006**

Dear Commissioner,

**Environmental and Health NGOs Call for Immediate Adoption of Regulation Proposal on EU Mercury Export Ban and Storage of Surplus Mercury**

The above-mentioned environmental and health NGOs welcome the Commission's preparatory work on a legislative instrument for an EU mercury export ban and the storage of surplus mercury, following the EU Strategy on Mercury (28/1/2005), and the conclusions of Environment Ministers on the strategy (24/6/2005). However, the Commission's proposed regulation has now been delayed for several months, during which time another 200 tonnes of mercury will have been exported by European suppliers to developing countries. We wish to express our deep concern over this delay and reiterate our call for a robust regulation, which must be adopted urgently.

The Commission should urgently present a proposal to ban mercury exports and regulate safe storage for several reasons:

It is well known that mercury does not respect national or regional boundaries, travelling far and wide through the atmosphere, contaminating European and global food supplies alike at levels posing a major risk to human health, wildlife and the environment. It is therefore clear that, since current measures are not adequate sufficiently to reduce contamination from mercury, further actions must be taken. Furthermore, there is virtually no remaining use of mercury for which there are not viable and tested alternatives.

The Commission's EU Extended Impact Assessment reveals that some **3-15 million people in Europe have mercury levels around the recommended limit** and many of them have levels ten times as high, which are known to bring serious neurodevelopmental threats. Although the EU assessment does not calculate the costs of such contamination, a recent study<sup>1</sup> estimates that between 300,000-600,000 babies born each year in the US suffer from impaired neurological development which is due directly to methyl mercury exposure, and which costs the economy an estimated US\$8.7 billion a year in lost earnings.

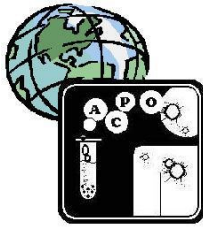
We therefore urge you to take account of the following vital issues:-

**1. The need for an EU export ban is immediate and clear, as confirmed respectively by the conclusions and resolution of Environment Ministers in June 2005 and the European Parliament in March 2006.**

A strong and clear EU position is essential to reinforce the global actions so importantly included in this Community Strategy. It must send a clear message to the world that mercury emissions, supply and demand should be reduced to a minimum, as swiftly as possible. In the interim, measures must be introduced to protect the health of people who are most at risk, such as women of childbearing age and children.

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<sup>1</sup> Mount Sinai study: Public health and economic consequences of Methyl Mercury Toxicity to the Developing Brain, February 28, 2005  
<http://ehp.niehs.nih.gov/members/2005/7743/7743.pdf>



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Europe must make urgent progress with the necessary legislation, given that time will be needed to prepare for the export ban and storage requirements, and critical global meetings will occur over the next six months to discuss similar measures. The EU has a responsibility to act decisively for the following reasons:

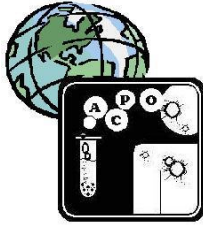
- The EU is the world's largest mercury exporter. Most mercury goes to developing countries where it is often haphazardly used and released, contaminating workers and their families, local communities and global food supplies. The EU's leadership in resolving global mercury problems is therefore an economic, health, environmental and moral imperative.
- Strong EU leadership will not only encourage other countries to reduce mercury consumption. It will also encourage multilateral and global trade agreements, which are clearly 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 specified in the EU strategy document, would significantly reduce the disproportionate impact of mercury contamination in the developing world caused by abundant mercury supplies, inadequate resources to adopt or enforce existing regulations and, with few exceptions, little or no incentive to upgrade outdated technologies.
- Banning mercury exports will help reduce demand for mercury by increasing prices (eg in artisanal and small-scale gold mining) and thus encouraging more efficient use and reduced releases, with no adverse economic impact.<sup>2,3</sup>
- The risk of new mercury production coming onto the market (claimed by some) will not materialise given the limited ability of the few remaining mercury-producing countries to expand their output<sup>4</sup>, for technical and political reasons.
- Adopting an EU mercury export ban is in line with the 23/9 UNEP decision, paragraphs 25 b and c.
- For all of the above reasons, the EU advocated the EU mercury export ban at the 23<sup>rd</sup> Governing Council (GC) of UNEP, in Nairobi in February 2005. It would be extremely counterproductive if the EU is now perceived as back-peddalling. The EU must be prepared to send a strong message at the international meetings planned for this autumn - the Intergovernmental Forum for Chemical Safety (IFCS) side event on Heavy Metals (23 September, in Budapest) and the Commission's International Mercury Conference – Reducing Supply and Demand (26-27 October, in Brussels) - and in preparation for the 24<sup>th</sup> UNEP GC (February 2007) where an even better opportunity will be presented to achieve its global mercury policy objectives.
- The **proposed ban on exports of EU mercury should be implemented as soon as possible, preferably by 2008<sup>5</sup>, but certainly no later than 1 January 2011**. The European Parliament's resolution (March 2006) asking for implementation by 2010 is instructive in this regard.

<sup>2</sup> Veiga MM, PA Maxson, LD Hylander, "Origin and consumption of mercury in small-scale gold mining." *Journal of Cleaner Production* 14 (2006) 436-447, Elsevier..

<sup>3</sup> COM (2005) 20 final - Extended Impact Assessment, on the Community Strategy on Mercury, pg. 26

<sup>4</sup> COM (2005) 20 final - Extended Impact Assessment, on the Community Strategy on Mercury, pg. 25-26 and <http://www.mem-algeria.org>.

<sup>5</sup> As originally proposed in earlier Commission drafts but also by the Luxembourg Presidency <http://register.consilium.eu.int/pdf/en/05/st07/st07986.en05.pdf>



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**2. A trade tracking system should be put in place, to record all imports and exports of metallic mercury and mercury compounds between Member States and between the EU and external countries where trade is unrestricted.**

Given that better data on mercury flows within and outside Europe are needed immediately (also acknowledged by the 23<sup>rd</sup> UNEP Governing Council) the necessary provisions for tracking and reporting on the movements of mercury and mercury compounds should be urgently set up. The movement of mercury within industry should also be recorded and reported to the Commission, before and after the effective date of the export ban.

**3. The scope of the export ban must cover metallic mercury, mercury compounds and mercury-containing products, which are, or will soon be, subject to use and marketing restrictions within the EU.**

Allowing the continued export of mercury compounds would create a loophole. EU traders could simply produce or trade mercury compounds for export, which comprise some of the largest global mercury uses. Thus an EU export ban would have a much reduced effect on global mercury trade or its consumption. For example, a recent report prepared for the EU indicates the mercury compound 'calomel' is generated in significant quantities in the EU, most commonly in emission control systems at metal smelters. Calomel can readily be processed into commodity mercury at locations outside the EU, thus the ability and experience needed to process and trade calomel for this purpose already exists<sup>6</sup>. Our information also indicates that converting the liquid metal to a mercury compound, and then converting it back to elemental mercury once it has left the EU, would cost about US\$200 per flask. At the current market price of some \$600 per flask, unscrupulous traders could further abuse the 'mercury compound loophole', and still make money (Only recently the price of mercury was just \$200 per flask).

Mercury-containing products are increasingly regulated in the EU and elsewhere around the world. It is no longer morally acceptable that the EU should export mercury-containing products that are regulated in the EU to other countries where they may not yet be regulated.

**4. The EU should consider prohibiting imports of mercury and mercury compounds.**

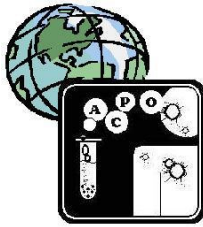
To better protect the EU's environment and health, and to manage effectively the supply and demand of mercury, a potential import ban of metallic mercury and mercury compounds ought to be investigated further<sup>7</sup>.

**5. The storage of decommissioned mercury from the chlor-alkali industry must be started as soon as possible, in continuously-monitored secure sites, which are located where immediate intervention can take place if necessary.**

To ensure the safe storage of surplus mercury, regardless of the means, the following measures must be included in the relevant instrument: continuous monitoring, minimum safety standards, regular and transparent reporting, advance planning and projections, assurance to deliver, and

<sup>6</sup> Concorde East/West, Mercury Flows and Safe Storage of Surplus Mercury, August 2006, pp. 30-31.

<sup>7</sup> With respect to the purely legal question of confronting trade obstacles, we note the very recent promulgation of Council Regulation No. 1236/2005, restricting trade in products used for torture and other inhuman punishment. We specifically note the import prohibition of equipment that can only be used for capital punishment, torture, or other similar purposes in Article 4 of this regulation. This import prohibition suggests the EU can undertake very targeted import bans where it is necessary to implement important EU policies.



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penalties for failure. A framework of minimum conditions for storing surplus mercury should be established, based on the above-mentioned proposals. Passage of the legislation is needed as soon as possible to facilitate the planning process, because the details of where and how much storage will occur, requires substantial time to resolve. In addition, similar discussions will be initiated on a global scale following the UNEP Governing Council meeting in February 2007.

**6. A prior review of the status of mercury in the EU must be scheduled, possibly including issues not covered by the proposed regulation, based on our earlier suggestions. The review should take place well ahead of the export ban date.**

A prior review must be held at least one year before the effective date of the export ban. Assuming the trade tracking system is in place, the review will determine whether issues not included in the draft regulation ought to be reconsidered. Another important function of the review will be to provide baseline information needed for comparative purposes at the subsequent formal review. Without these data, the formal review has no way of demonstrating the market's detailed evolution. The formal review would then serve little purpose regarding the key question of the mercury export ban's market impact.

In conclusion, let us reiterate our appreciation for this Commission initiative. A strong EU position recognises the EU's responsibility for its share of the problems. Ensuring an EU mercury export ban is also a pragmatic acknowledgement that there is little point in simply reducing mercury demand within the EU, only for unwanted mercury to be exported to the developing world under far less stringent controls, released, and ultimately returned to Europe's atmosphere and the fish we eat.

The value of a strong EU commitment to tackling mercury problems on the global stage must not 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.

Yours sincerely,

Marcio Antonio Mariano da Silva  
Director President

Jeffer Castelo Branco  
Director of Environmental Health

