EUROPEAN ENVIRONMENTAL BUREAU

EEB calls for an ambitious EU Mercury Regulation
ENVI - 1ST Reading Vote – 13th October 2016, Brussels
[Eck draft report]

Brussels, 7 October 2016

The European Environmental Bureau welcomes the release of the proposed European Commission regulation to implement the Minamata Convention on Mercury. However, we believe that the regulation should be strengthened, beyond the minimum requirements of the Convention, to ensure protection for human health and the environment, and as such confirm EU's leadership role. We therefore welcome the rapporteur's report and proposed amendments **(**Eck draft report, ENVI Committee). An ambitious regulation to reduce mercury pollution will also send a clear and unequivocal signal to the many other countries working toward the same objectives.

We therefore urge you to take account of the following issues[1] and our initial voting recommendation as below, and support the Eck draft Report, at the ENVI committee, on the 13 October 2016. Please note that Compromise amendments are under discussion and our recommendation will be adapted accordingly when these are finalised:

I. **The export of mercury-added products that are not allowed to be marketed in the EU, shall be prohibited (Art. 5 and Annex II)**

- This is necessary to avoid double standards and also to ensure that mercury-laden products are not reaching countries with less stringent regulations.
- Since alternatives exist, such a measure will promote mercury-free markets and drive prices down.
- The economic impact from banning the export of mercury-added products already restricted in the EU is estimated to be small or non-existent, as stated in the EU Impact Assessment. There is no evidence to suggest that there will be any economic advantage for industry to maintain different production lines to export products with higher mercury levels than what is allowed in the EU.
- Re-location of EU businesses is unlikely, considering that mercury use is decreasing and equivalent measures in other countries are being developed and soon be implemented. International markets such as India and China are following the lead of EU legislation.
- The European Parliament (March 2006) previously called for the export ban to include mercury compounds and mercury-added products that are or will soon be subject to EU marketing and use restrictions.

Please: SUPPORT AMs 180,182, 34, 35, 188, 314/315, 316, 83, 84, 317, 85, 318, 86, 87, 88, 319 and also 12, 119, 121,122, 14, 130 REJECT AMs 186, 129

II. The use of mercury in dentistry should be phased out by 2020; in the interim the mercury use in dentistry for children and pregnant women should be phased out by 2018 at the latest. (Art. 10)

- Mercury-free dental restorations are available, affordable, effective and preferred by most EU citizens.

[1] More details can be found in our position paper sent 4 July 2016 to the ENVI, http://www.zeromercury.org/index.php?option=com_phocadownload&view=file&id=213:eeb-proposals-to-ensure-a-robust-revised-eu-mercury-regulation-sent-to-envi&Itemid=15

- Phase out is the most cost-effective way to prevent dental mercury pollution as already demonstrated by several Members States (Sweden, Denmark, etc.) and also advised by the EC's independent consultant already since 2012;
- SCHER (2014) has confirmed that amalgam poses environmental risks – there is *a 'risk for secondary poisoning due to methylation'*, while SCENIHR(2015) recommended amalgam restrictions among other, for children and pregnant patients.
- Experts show that phasing out amalgam use will lower costs since amalgam is now recognized as "more expensive than most, possibly all, other fillings when including environmental costs." Furthermore another study co-released by the EEB concluded that an amalgam filling can cost up to $87 more than a composite filling after costs to the environment and society are taken into account.

Information on the technical advantages of mercury free dentistry can be found here.

Please: SUPPORT AMs 19, 48, 49, 50,51,52,53,142, 143,144,145, 147,148,210, 211, 212, 213, 215, 216, 217, 218, 219, 220,221, 222, 223, 224,225,226, 227,229, 232, 233 as well as 146, 149, 150, 214, 230, 231, 228

III. A comprehensive mercury use and trade tracking system needs to be developed, effectively implemented, and become publicly accessible. (Art. 15)

- It is absolutely necessary to gather and record information on use, exports and imports of elemental and compound mercury between MS, between the EU and external countries and also within the industry sector, in order to accurately monitor trade and assure compliance with the regulations
- Improved mercury use, production and trade data are also necessary to understand the current global mercury supply situation and trends over time, and to measure progress in reducing the global mercury supply.
- Improved data collection will also facilitate detection of illegal mercury trade through better accounting of the legal materials flow. Addressing illegal mercury trade will also be a critical component in reducing mercury use in artisanal and small scale gold mining (ASGM), and incidents like the illegal DELA mercury exports from Germany to Switzerland will more likely be avoided.
- Establishment of such a system would create a level playing field for mercury importers and traders, giving them an incentive to take responsibility for their commerce.

Please: SUPPORT AMs 295, 71, 296, 72/297, 298, 73, 74, 75, 76, 77, 305, 308, 5

IV. The use of mercury in industrial facilities located in the EU, where mercury is used as catalyst or electrode, should be prohibited as early as possible. (Art. 7 and Annex III)

- Mercury free processes for many industries have existed since the seventies in many cases (e.g. chlor-alkali, polyurethanes, VCM)
- Mercury free technologies are also commercially available for the production of sodium methylate and sodium ethylate.
- Since potassium methylate can also be produced commercially with mercury-free processes, and potassium ethylate can be produced with a mercury-free process at laboratory scale, more time can be allowed until a phase out of the mercury use in this sector, to ensure the availability of quantities and quality of these products – if indeed market demand remains.

Please: SUPPORT AMs- 191, 192, 89, 322, 323, 324, 90, 326, 327, 91, 332, 334, 330, 331, 333, 92, 336, 93, 342, 15, 131-136 REJECT: 340, 341

V. Mercury waste should be solidified before disposal in underground facilities. Temporary storage of mercury waste should be allowed for a short period of time (3-5 years maximum), in appropriate above ground facilities. (Articles 11, 12 and 13)

- Solidified mercury (e.g. mercury sulphide) does not exhibit relevant mercury vapour pressure, is practically insoluble, and provides for additional safety during handling and disposal.
- Fire risk of the solidified product is much less in underground facilities.
- EC independent study (BIPRO 2010[2]) recommended only underground storage for disposing solidified mercury waste, based on an economic and environmental assessment.
- There is little potential for retrieving solidified mercury from final underground disposal and putting it back on the market in liquid form.
- Conditions for environmentally safe disposal of solidified metallic mercury need to be established and should be stricter than those for temporary storage to minimise risks.
- The capacity for solidification of around 6000 tonnes of liquid mercury (expected from the decommissioning of the EU chlor-alkali facilities – latest by end 2017) is estimated to around 2000 tonnes per year(400 tns/y by Remondis, 600 tns/y by MAYASA, around 1000tns/y by Econ Industries).
- Given the relatively short period of temporary storage needed, mercury waste should be stored only in appropriate above ground facilities, under specific conditions.
- Information on the movement of waste containing mercury and their mercury content should also be required.

Please: SUPPORT AMs- 250, 251, 252, 254, 255, 257, 258, 259, 260, 262, 268, 269, 66, 68, 275, 280, 281, 69, 282, 283, 284, 285, 286,287, 288, 289, 151, 152, 155, 57, 58, 59, 248, 247, 29, 166, 167

REJECT: 272, 276, 279, 290, 156, 56, 61, 62, 63, 64, 65, 67

VI. The scope of the export ban should be expanded; Annex I should include three additional mercury compounds (Mercury(II) sulphate, mercury(II) nitrate and mercury sulphide) and waste containing mercury. (Art. 3 and Annex I)

- The US has recently also banned (June 2016) the export of these compounds, effective in 2020.
- The rationale – in line with the ban on exports of commodity mercury – is to ban the export of any compound from which elemental mercury may be recovered with relative ease.
- According to EU legislation, mercury-containing wastes can be exported with the consent of the receiving country only to OECD countries. The EU has the capacity to treat such waste and should avoid loopholes which can lead to 'illegal' liquid mercury export (e.g. mixed with soil/waste).

Please: SUPPORT AMs 30, 31, 80, 81, 82 REJECT 168, 169, 170, 184

VII. All permits for the largest point source emitters of mercury (i.e. Large Combustion Plants, Iron and Steel, Cement and Lime, Non-ferrous metals production) shall include conditions to ensure that mercury emissions to air and releases to water do not exceed specific emission limit values consistent with what is achieved by implementing best available standards (New Article)

[2] http://ec.europa.eu/environment/chemicals/mercury/pdf/bipro_study20100416.pdf

- The Commission proposal has not addressed the main emissions sources (e.g. 51% of all air emissions come from LCPs, 70% water emissions from Waste Water Treatment plants) based on the perception that the Industrial Emissions Directive would solve the issue due to ambitious Member State actions through permitting. Yet the framework allows generous deadlines, derogations and loopholes which will not ensure a level playing field for industry. Further, the IED does not contain dedicated ELVs for mercury for coal/lignite LCPs.
- It is critical to ensure permits are updated to require operators of the largest source contributors of mercury emissions to implement the effective controls set in the Best Available Techniques (BAT) EU Reference documents (BREFs). These define the emission ranges that can be achieved under technically and economically viable conditions based on performance data dating back prior to pre-2010 and accepted as such by industry, Member States and NGOs. For LCPs, meeting a level of 1µg/Nm³ will cost less than 1% of the overall generation cost for the operators but bring significant public benefits
- There is no duplication of regulation, given that BREFs leave considerable flexibility for implementation. Furthermore, the lenient BAT upper range (limits) corresponds to negotiated levels, not what BAT can achieve. More than 80% of coal and lignite plants could operate in accordance with business as usual, adhering to the 2010 situation if the upper BAT limit would be implemented. It is important to also note that the LCP BREF is not yet adopted and will not need to be enforced prior to mid 2021. In addition, some BREFs do not even cover mercury (e.g. Common waste water treatment for chemicals industry) or do not exist (Urban Waste Water Treatment Plants).

Please: SUPPORT AMs 26, 235, 236, 238, 239, 240, 241, 242,243, 234, 100, 25

VIII. The regulation should be based on Art. 192(1) with regard to the Treaty on the Functioning of the European Union and allow Member States to implement stricter measures, as early as appropriate (Citation)

- The proposed measure is driven by the objectives of protecting the environment and human health, not by commercial policy considerations. The legal basis should therefore refer to the environment and allow Member States to adopt more stringent measures (as per Art. 192 and 193 of the TFEU).

Please: SUPPORT Amendments 1, 94, 95, 124,126, 13, 123 REJECT Amendment 125

IX. Any country with artisanal small scale goldmining (ASGM) should develop a national action plan (NAP), which includes steps towards eventually phasing out mercury use in ASGM; commitments for technical assistance to help with the transition should be ensured. (Art. 9 and Annex IV)

Please: SUPPORT AMs 43, 44, 208, 209, 45, 46, 47, 17, 139, 18, 140, 101, 162

X. Consider prohibiting the import of mercury, mercury compounds and mixtures unless they are intended for environmentally safe disposal. (Art. 4)

- This in necessary to ensure that EU mercury supplies are reasonably balanced with EU demand, mandatory storage obligations and policies should encourage mercury recovery from wastes and products.
- It would also help better protect the EU waste/mercury recyclers by avoiding lower-cost mercury flooding the EU market.
- To gain the environmental benefits from such a ban, as less mercury would be entering the EU market.
- Such measures would also reduce EU and overall mercury demand, potentially speeding closure of existing primary mercury mines, with the various environmental benefits that this entails.

Please: SUPPORT AMs 33, 174, 179, 117, 118 REJECT AMs 32, 173, 175, 176, 177, 178, 11

XI. Contaminated sites should be identified, assessed and classified according to the degree of contamination and urgency of remediation. The polluter pays principle should apply; areas contaminated by mercury need to be further restored and brought to a reasonable condition in an environmentally sound manner. (New Article)

Please: SUPPORT AMs 54, 60, 4, 157, 21, 25

XII. An expert assessment should be undertaken, as a minimum, to determine the extent to which mercury can be appropriately eliminated from vaccines to better protect public health. (New element)

Please: SUPPORT Amendments 237, 187

XIII. Mercury emissions from crematoria should be further investigated, including relevant technologies or other effective approaches, for eventual control at EU level. Emission limit values or other adequate measures or techniques for this source should be proposed by the European Commission as soon as possible. (New element)

Please: SUPPORT AM 306

Furthermore we would **recommend:**

	SUPPORT	REJECT
New product and processes	**38, 194, 39, 196, 41, 198, 199, 200,201, 203, 42, 204, 205, 16, 137**	**195**
Review	**308, 78, 307**	
Entry into force (Art.20)	**79, 313**	
General	**2, 96, 97, 3, 98, 99, 103, 104, 105, 6, 107, 7, 8, 9/115, 112, 114, 10, 70**	

A strong EU position recognises the EU's responsibility for its share of the problem. Ensuring, among other, an EU export ban of mercury, mercury compounds and mercury-added products is also a pragmatic acknowledgement that there is little point in simply reducing mercury demand within the EU, while allowing unwanted mercury and mercury added products to be exported to the developing world under far less stringent controls. This would only result in much of the mercury released there, with the risk that it will ultimately return to Europe's atmosphere and eventually be taken up by the fish we eat.

The EU's leadership in resolving its share of global mercury problems is an economic, health, environmental and moral imperative. Strong EU leadership will encourage other countries to reduce mercury consumption, trade and pollution, as well as engage in multilateral and global trade agreements, which are clearly needed to significantly reduce mercury as a global pollutant.

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 the health risks to millions of EU citizens (and many more globally) that we cannot afford to miss.

Thank you for your kind consideration of our recommendations.

For further information, please contact:
Elena Lymberidi-Settimo, Project Manager 'Zero Mercury Campaign', European Environmental Bureau, T:+32 2 2891301, Elena.lymberidi@eeb.org