



Brussels, 10th December 2010

Environmental and Health NGOs [1] are deeply disappointed by the European Commission's decision not to propose new restrictions on mercury until a global treaty is signed, in the recently adopted revised EU Mercury Strategyⁱ.

“The revised EU Mercury strategy is practically an empty shell,” said Elena Lymberidi-Settimo, EEB Zero Mercury Project Coordinator. “Instead of showing global leadership with European examples and setting the pace, the Commission has decided to take the back seat. Mercury pollution will just continue to create a risk to human health, ecosystems and wildlife.”

Until now the EU has been playing a leading global role on eradicating mercury, with the 2005 EU Mercury Strategy as its flagship policy. This Strategy had been instrumental in building international support through the United Nations where world governments agreed to develop a legally binding treaty on mercury by 2013.

“European ‘wait and see’ approach may slow down developments towards a strong mercury treaty because many countries look to the EU for guidance on reducing mercury pollution” commented Anja Leetz, HCWH Europe Executive Director.

Instead of showing the way forward, the revised strategy leaves all mercury control to existing EU laws which have been shown to be insufficient, particularly with mercury emissions to air. The EU has lagged in the phase out of mercury use in the chlorine production sector, with 30

such plants still operating despite alternatives existing since the 1980s. [2]

The groups also highlight the fact that, considering the Strategy's aim is to '*reduce mercury levels in the environment and human exposure*', there should have at least been action on reducing emissions from coal combustion plants – the biggest sources of mercury emissions to air in Europe and globally.

“Installations continue emitting more than 20 tonnesⁱⁱ of mercury every year, therefore binding emission limits should be included in the new Industrial Emissions Directive (IED)”, said Christian Schaible, EEB Senior Policy officer for Industrial Policy.

The groups strongly doubt that the IED will crack down on these dangerous emissions since concrete pollution prevention measures depend on many different factors, particularly a strong Commission initiative, and will take at least seven years to deliver.

Member states and NGOs have called for immediate action on establishing a phase-out date for the use of mercury in the chlor-alkali industry, in dental amalgam, and in button cell batteries, and expanding the export ban to mercury-containing products which are prohibited on the EU market.

The health and environment groups were relatively pleased to see that the Commission will undertake some action on dental amalgams – namely a full lifecycle assessment. However, they feel direct phase-out actions could have been introduced, since safer alternatives are already available. The World Health Organisation has already supported a global phase downⁱⁱⁱ of mercury use in dental amalgams, and Sweden and Norway already have bans for this use.

“We urge the Council and European Parliament to send a strong message to the Commission and are calling for continued implementation of pending actions from the 2005 Strategy and to follow up actions identified in a recent Commission study^{iv}” said Lisette van Vliet, HEAL, Toxic Policy Advisor.

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Notes to the editor

Mercury is a global pollutant that travels long distances. Its most toxic form – methylmercury - accumulates in large predatory fish and is taken up in our bodies through eating fish, with the worst impacts on babies in utero and small children. For more information, see Zero Mercury Campaign, www.zeromercury.org and “Stay Healthy, Stop Mercury” <http://www.env-health.org/r/145>

[1] The European Environmental Bureau (EEB), www.eeb.org , is a federation of over 150 environmental citizens' organisations based in most EU Member States, most candidate and potential candidate countries as well as in a few neighbouring countries. EEB is the environmental voice of European citizens, standing for environmental justice, sustainable development and participatory democracy. We want the EU to ensure all people a healthy environment and rich biodiversity.

Health Care Without Harm Europe (HCWH-Europe), www.noharm.org , is the European branch of an international coalition of hospitals, medical professionals and environmental organisations working to transform the health care sector, 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. The coalition has offices in Arlington, Brussels, Buenos Aires and Manila with over 484 members in 53 countries.

Health and Environment Alliance (HEAL), www.env-healt.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 of 41 member groups (6 international organisations, 11 European networks and 24 national/local organizations) including non-governmental organisations, professional bodies representative of doctors, nurses and other healthcare workers, academic institutions and other not-for-profit organisations.

1 http://ec.europa.eu/environment/chemicals/mercury/pdf/com_2010_en.pdf

1 EEB snapshot report: The European Chlor-alkali industry: Is national implementation of the IPPC Directive contributing to mercury-free industry?, December 2008]

1 Best Available Techniques

1 See editors notes

¹From 2007 E-PRTR – European – Pollutant Release and Transfer Register, <http://prtr.ec.europa.eu/> 1 During the first Intergovernmental Negotiating committee, Stockholm, June 2010.

[2] The EU has lagged in the phase out of mercury-cell technology in the chlorine production sector, something on which the revised mercury strategy should have shown the way forward. There are still over 30 such plants operating in the EU, even though the industry voluntary agreement claims that the technology will be ‘mercury-free’ by 2020, and mercury free technology is widely available since the 80s. By contrast, there are only 4 are left in the US and India is phasing them out by 2012. A 2008 EEB report^{vi} showed that the relevant EU law, the Industrial Pollution Prevention and Control (IPPC) Directive is not helping to phase out mercury from mercury-cell chlor-alkali plants (MCCAP) since the BAT

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reference document (BREF) is not straightforwardly implemented.

The new Industrial Emissions Directive (IED),

<http://register.consilium.europa.eu/pdf/en/10/pe00/pe00031.en10.pdf> is not expected to bring anything new towards further regulating the sector- if there is not clear phase-out obligation, and it is uncertain whether this will be included in the revised BREF. The Large Combustion Plant BREF review has not even started yet, and there is not even a clear mandate to include mercury related measures. Even if potential BAT-AELs are adopted, these would only apply in the operating permits after 7 years at the earliest.

not only include technology but also design maintenance and decommissioning. 'Available' means that techniques need to be developed on a scale which allows implementation in the industry sector under economically and technically viable conditions (considering costs and advantages) "Best" means most effective in achieving a high general level of protection of the environment as a whole. For full

definition see Article 3.9 (IED directive).

BREFS: are reference documents which set out BAT agreed upon an information exchange between industry, Member States and the EEB. Currently there are 33 BREF and these are in average revised every 8 years. So far only one BREF has been revised, i.e. the Cement and Lime BREF. For more information please consult http://eippcb.jrc.ec.europa.eu/refere_nce/

BAT implementation - comitology:

An evaluation on implementation of the IPPC Directive found that half of the permits assessed were not demonstrably based on BAT set out in the BREF. In some cases significant differences between the permit conditions and the performance corresponding to BAT with a factor 2 up to 500 for certain pollutants were applied^[1]. This was because the status of the BREF where reference documents only, without legally binding value to the competent

authorities.

According to the IED (Article 13.7) the role of BAT and Bat associated emission levels (BATAEL) set out in a BREF would indeed be reinforced, but ONLY if these BAT conclusions would be formally adopted through a Comitology Decision. Only if this decision is taken on the BREF concerned, the permitting authority would need to set requirements in line with the BATAEL, and possible deviation would need to be justified.

Once a comitology decision is taken, this would trigger a permit re-evaluation and the operator would need to comply with (eventually) updated requirements within 4 years. Pending any comitology decision, the “business as usual” situation remains.

Relevant documents

EEB-HEAL letter to EU Env. Ministers for a robust revised EU mercury strategy, 11 October 2010

EEB comments on the BIO draft final report on the Review of the EU Mercury Strategy 16 July 2010

i http://ec.europa.eu/environment/chemicals/mercury/pdf/com_2010_en.pdf

ii From 2007 E-PRTR – European – Pollutant Release and Transfer Register, <http://prtr.ec.europa.eu/>

iii During the first Intergovernmental Negotiating committee, Stockholm, June 2010.

iv A study on the "Review of the Community Strategy Concerning Mercury" prepared for DG

ENV by Bio Intelligence Service S.A.S (October 2010)

v EEB snapshot report: The European Chlor-alkali industry: Is national implementation of the IPPC Directive contributing to mercury-free industry?, December 2008]

vi Best Available Techniques

BAT: Best Available Techniques means the most effective and advanced stage in development of activities in order to prevent /reduce emission and the impact on the environment as a whole. It does