Opinion of the European Economic and Social Committee on the 'Review of the Community Strategy Concerning Mercury'

COM(2010) 723 final

(2011/C 132/14)

Rapporteur: **Ms LE NOUAIL MARLIÈRE**

On 7 December 2010 the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Review of the Community Strategy Concerning Mercury

COM(2010) 723 final.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 28 February 2011.

At its 470th plenary session, held on 15 and 16 March (meeting of 15 March), the European Economic and Social Committee adopted the following opinion by 173 votes to 6 with 12 abstentions.

1. **Conclusions**

The implementation of the 2005 Mercury Strategy is in an advanced stage, having delivered on almost all actions and will certainly be continued and reinforced.

1.1 Supporting the Council Conclusions on the issue [1], the EESC however recommends to the Commission, to the Member States and the Social Partners:

a) to recognise the need and importance that the EU should keep its advanced position at the global level by actively taking further commitments to reduce mercury use, supply and emissions;

b) to consider that an overall objective should go hand in hand with a comprehensive reduction, derogations being granted for situations that might require them (specific technical or financial difficulties), instead of basing the approach on applying separate restrictions to each product and application and to each stage in mercury's life-cycle;

c) to continue and enhance support for the implementation of projects in developing countries and countries with economies in transition, concurrently with the work of the intergovernmental negotiating committee, as part of the international work in the areas mentioned under UNEP GC decision 25/5, paragraph 34;

d) to conclude that mercury use in the chlor-alkali sector should come to an end and requests the Commission to present a proposal by 1 January-2012, for *legally binding measures including a sunset date* for the use of mercury in the sector *as soon as possible* and before 2020;

e) to draw the attention that specific measures should be taken with respect to mercury emissions from industrial sources and invites the Commission to adopt rapidly Best Available Technique (BAT) conclusions as well as BAT Associated Emission Limits for all relevant to mercury industrial processes, in view of supporting the implementation of the newly adopted Industrial Emissions Directive;

f) to assess the possibilities for restricting the use of mercury in button cell batteries and to propose restrictions in their placing on the market by *1 July 2012*;

g) to further assess the possibility for a mercury phase out in the use of mercury in dentistry by *1 July 2012*, considering all available studies and developments as well as availability of alternatives;

h) to take measures to ensure that highly efficient amalgam separators are installed in all dental clinics in the EU;

i) to investigate the use of mercury in vaccines, the existing alternatives and the extend to which mercury can be appropriately eliminated from such a use to better protect public health, by 31 December 2012;

j) to take action to carry out a first testing programme for methyl-mercury in fish and update the EU-wide risk communication as appropriate, by 31 December 2012;

[1] Council Conclusions on the Review of the Community Strategy Concerning Mercury adopted on 14 March 2011 (7774/11).

k) to take action to further raise awareness and increase knowledge on the fact that energy efficient lamps contain mercury and should be separately and safely collected avoiding physical breakage;

l) to push forward guarantees for eliminating mercury residues in waste;

m) to see emissions from cremations and from small combustion plants to be covered by Community legislation;

n) to increase the appropriate steps to ensure the health of all workers potentially coming into contact with mercury;

o) to implement measures, in such a framework, related to the potential impact on jobs, making it possible to mitigate the effects of industrial change, applying to all employees regardless of their qualifications;

p) to take measures to ensure separate safe collection of products containing mercury which is not currently requested by law and to undertake large scale information campaigns to acknowledge users and consumers of the specific volatile and toxic nature of the mercury element.

2. **Introduction**

2.1 Mercury and most of its compounds are considered to be highly toxic substances that are harmful to biodiversity, ecosystems and human health. Mercury is also a bioaccumulative substance, which means that it can accumulate in organisms and cross the different stages of the food chain. Mercury also evaporates at ambient temperatures and can be converted to methylmercury, which is its most common, but also its most toxic form. Mercury is therefore a persistent substance, which can spread over considerable distances, in water, soil and air or in organisms ([2]).

2.2 The origin of anthropogenic mercury releases is linked to its various applications, such as its use in certain products and production processes, and atmospheric emissions or accidental releases; the main users of mercury are chlor-alkali plants, the chemical polymers industry and dental amalgam manufacturers, accounting for 86 % of annual volumes.

2.3 The mercury emissions to air from thermal power stations and other combustion installations, mainly coal combustion plants represent over 50 % of the total mercury emissions ([3]) from industrial sources.

Origin of potential anthropogenic mercury releases

a) Use in products

— Measuring devices

— Dental amalgam

— Fluorescent lighting tubes, energy-efficient light bulbs

— Batteries

— Switches

— Vaccines (thiomersal, or thimerosal)

b) Use in production processes

— As a catalyst for polymers and polyurethane

— Chlor-alkali manufacturing

— Gold mining

c) Atmospheric emissions

— Power stations (coal-fired)

— Cremation (ingested mercury and dental amalgam)

— Non-recycled and incinerated waste (containing mercury)

d) Accidental releases

— Industrial leaks (in processing, storage, etc.)

3. **General comments**

3.1 Globally, the United Nations Environment Programme commissioned a study in 2001 on the presence and impact of mercury, which concluded that the evidence of significantly adverse effects was sufficient to warrant international action ([4]). In February 2009, world governments at the UNEP Governing Council decided to develop a legally binding treaty on mercury by 2013.

3.2 In December 2002, the Commission presented a report to the Council on mercury from the chlor-alkali industry; further to that report, the Council asked the Commission to take a broader look at the issue and present a 'coherent strategy (…) containing measures to protect human health and the environment from the release of mercury based on a life-cycle approach, taking into account production, use, waste treatment and emissions'.

([2]) UNEP Chemicals, Global Mercury Assessment, December 2002-2010.

([3]) http://prtr.ec.europa.eu/PollutantReleases.aspx.

([4]) UNEP – Chemicals, Global Mercury Assessment, December 2002.

3.3 On the basis of these approaches, the Community Strategy Concerning Mercury was adopted by the Commission on 28 January 2005. Its key aim was to *'reduce mercury levels in the environment and human exposure, especially from methylmercury in fish'* ([5]).

3.4 This strategy has six strands (and 20 priority actions), with the aim of:

— reducing mercury emissions,

— reducing the circulation of mercury in society by reducing supply and demand,

— resolving the long-term fate of mercury surpluses and reservoirs (in products still in use or in storage),

— protecting against mercury exposure,

— improving understanding of the mercury problem and its solutions,

— supporting and promoting international action on mercury.

3.5 This strategy contained an assessment and review clause for 2010: The Commission sent the Council and Parliament the present review of the Community strategy concerning mercury on 7 December 2010.

3.6 In tandem, the ECHA tabled proposals to extend restrictions on measuring equipment containing mercury and intended for professional or industrial use ([6]) under the review clause contained in the REACH regulation. A public consultation was held on 24 September 2010, and the opinions of the relevant committees under the REACH regulation are due to be presented to the Commission in September 2011.

3.7 Two EESC opinions published on these developments have supported the Commission's active commitment to reduce mercury production and use, in the EU and throughout the world, and guarantee its safe storage, and its aim of fully eliminating mercury in certain measuring devices ([7]).

3.8 The EESC's opinions have, however, urged the Commission to 'implement the other elements of its mercury strategy as soon as possible, and to develop measures to further reduce the use of mercury in processes and products within Europe, and to ensure that mercury in waste streams is disposed of safely'), while calling on the Commission to ensure that professional and industrial users of measuring devices containing mercury are required to comply with the objective of not releasing mercury into the environment.

3.9 The exhaustive assessment carried out in 2010 ([8]) and supporting documents from the different parties concerned ([9]) have highlighted the genuine progress made on implementing the Community strategy concerning mercury and the EU's major contribution to supporting international initiatives and negotiations for a legally binding treaty under UNEP.

4. **Specific comments**

4.1 The Community strategy concerning mercury, uses a number of more general legal instruments (the RoHS ([10]), REACH, the Framework Directive on Water and the IPPC Directive, in particular), in some places adapting these tools to the aim of reducing mercury throughout the EU:

— Best Available Techniques reference documents (BAT - 'BREF') and adoption of the new Industrial Emissions Directive (IED), has updated and recast seven directives, including the IPPC, strengthening the role of BATs (with compliance mandatory from 2012 onwards for new installations and from 2016 for existing installations);

— Directive 2006/66/EC on batteries and accumulators and on battery and accumulator waste, reduced the maximum level authorised in comparison to the previous directive from 1991.

4.2 Implementing this strategy has also generated its own tools and rules, which have made the European Union a world leader in mercury reduction:

— a ban on exports of metallic mercury and certain mercury compounds and mixtures, and mandatory safe storage of metallic mercury (Regulation (EC) 1102/2008, 22 October 2008), to enter into force in March 2011;

— Directive restricting the sale of measuring devices containing mercury to the general public (such devices may not be placed on the market unless a derogation has been granted; this mainly concerns porosimeters), adopted on 25 September 2007, now appended to Annex XVII of the REACH regulation (Entry 18a). The process of extending the ban to cover professional uses (industrial, medical, etc.) is now under way.

([5]) COM(2005) 20 final.
([6]) European Chemicals Agency - Annex XV Restriction Report, June 2010.
([7]) OJ C 168, 20.7.2007, p. 44 – OJ C 318, 23.12.2006, p. 115.
([8]) http://mercury.biois.com (p. 74).
([9]) ZMWG (Zero Mercury Working Group) www.zeromercury.org/+ EEB (European Environment Bureau) www.eeb.org.
([10]) Directive 2002/95/EC - Restriction on the use of certain hazardous substances in electrical and electronic equipment.

Lastly, Euro Chlor is working on phasing out the use of mercury in the chlor-alkali industry by 2020 through a voluntary agreement.

4.3 The EESC underlines the importance at the time of the review of the Regulation (EU) 1102/2008 to extend the export ban to cover also other mercury compounds and products containing mercury and the safe storage of metallic and/or solidified mercury as relevant.

4.4 The EESC emphasises the following points:

— The DG ENV Expert BIO-IS 2010 study ([11]) proposed the strategy's key aim to be an overall goal of protecting 'human health and the environment from the release of mercury and its compounds by minimising and, where feasible, ultimately eliminating anthropogenic mercury releases to air, water and land'.

— Moreover, there is now an opportunity to make further progress on the overall aim of reducing mercury use, in that most products and applications have mercury-free (and economically viable) alternatives and also because most companies manufacturing products containing mercury also produce alternative products, which makes it possible:

  — to lessen the economic and social impact (in terms of jobs) of a major reduction in mercury use,

  — to increase EU position at innovative and economic level (technology advance),

  — to consolidate its position in the international and global discussion including RIO+20 and the EU Commission initiative for the external dimension of the European environmental policy.

Brussels, 15 March 2011.

The President
of the European Economic and Social Committee
Staffan NILSSON

([11]) http://mercury.biois.com (p. 74).