

Committee for Socio-economic Analysis (SEAC)

Response to comments on the SEAC draft opinion on the Annex XV dossier proposing restrictions on five phenylmercury compounds

ECHA/SEAC/RES-O-0000001362-83-03/S2

SUBSTANCE NAME	IUPAC NAME	EC NUMBER	CAS NUMBER
Phenylmercury acetate	Phenylmercury acetate	200-532-5	62-38-4
Phenylmercury propionate	Phenylmercury propionate	203-094-3	103-27-5
Phenylmercury 2-ethylhexanoate	Phenylmercury 2-ethylhexanoate	236-326-7	13302-00-6
Phenylmercury octanoate	Phenylmercury octanoate	-	13864-38-5
Phenylmercury neodecanoate	Phenylmercury neodecanoate	247-783-7	26545-49-3

15 September 2011

Substances:

Phenylmercury acetate, EC number: **200-532-5** CAS number: **62-38-4**

Phenylmercury propionate, EC number: **203-094-3** CAS number: **103-27-5**

Phenylmercury 2-ethylhexanoate, EC number: **236-326-7** CAS number: **13302-00-6**

Phenylmercuric octanoate, CAS number: **13864-38-5**

Phenylmercury neodecanoate, EC number: **247-783-7** CAS number: **26545-49-3**

Comments and response to comments on SEAC draft opinion on Annex XV restriction dossier proposing restriction on **5 phenylmercury compounds**

Annex XV report submitted by Norway 15 June 2010.

Public consultation on SEAC draft opinion started on 17 June 2011.

Ref	Date Country/Org./MSCA	Comment	Response
64	2011/08/12 Belgium / International NGO	<p>The European Trade Union Confederation (ETUC) supports the restriction on the manufacture, placing on the market and use of the five phenylmercury compounds under consideration. However, ETUC would favor a three year implementation period (as proposed in the RAC opinion adopted on 10 June 2011) instead of the five years proposed in the SEAC draft opinion. A shorter implementation period with a total ban within a 3-year delay would increase the avoided mercury emissions and optimize the efficiency of the restriction.</p> <p>ETUC is also of the opinion that it is extremely important that other measures are considered as soon as possible to verify and control that other organomercury compounds are not used as alternative to the five phenylmercury compounds under consideration. This important consideration (highlighted in the RAC opinion) is missing in the SEAC draft opinion and should be integrated in its final opinion.</p>	<p>Thank you for your comments and your support.</p> <p>The implementation period has intensively been discussed between the dossier submitter, ECHA, RAC and SEAC members and RAC and SEAC (Co-) rapporteurs. Several consultations were performed in which industry clearly stated that a 5-years-phase out period is needed in order to adequately prepare for substitution of all applications. We agree that a shorter time frame would increase the risk reduction capacity but it would be less proportionate and simple to implement because necessary alternatives are not expected to be available earlier for about 30 % of the applications. A shorter phase-out period might lead to higher costs and potentially unforeseen consequences with the end uses in which PU systems are applied. Moreover, in choosing a shorter phase-out period it is more likely that the five restricted phenylmercury compounds will be replaced by the “easiest” available alternatives, which might be other phenylmercury compounds. We acknowledge that verification on the actual period of substitution is very complicated from a technical point of view. However, based on the information in the dossier, the intensive discussions that took place over the last year between the dossier submitter, ECHA and the committees and the information gained through consultation, SEAC agreed upon a 5-year phase out period as the most appropriate way forward.</p> <p>As far as the second part of your comment is concerned, we agree that it is important to recognise that the restriction could become ineffective in</p>

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			case the 5 phenylmercury compounds were to be replaced by other organomercury compounds. It is not true that this consideration is missing in the SEAC draft opinion. SEAC accepts this statement made by RAC and moreover, supports the recommendation of RAC stating that necessary measures for verifying and controlling that other organomercury compounds are not used as alternatives to the restricted substances should be considered. You can find the argumentation in section " <i>Effectiveness in reducing the identified risks, proportionality to the risks</i> " on page 5 and 6 of the SEAC draft opinion.
62	2011/07/29 United Kingdom /International NGO	EEB would like to thank SEAC for their work on this restriction dossier and for the account taken of several of our earlier comments. We consider it appropriate that, in its opinion, SEAC accepts the following statement made by RAC (page 3 of the RAC opinion): "RAC considers that if the five substances mentioned above were to be replaced by other organomercury compounds this restriction could become ineffective. Therefore, in addition to the conditions mentioned above, RAC recommends considering necessary measures for verifying and controlling that other organomercury compounds are not used as alternative to the restricted substances."	Thank you for your comments. SEAC indeed accepts the statement made by RAC that the restriction might become ineffective in case the 5 substances were to be replaced by other organomercury compounds. Moreover, SEAC supports the recommendation of RAC stating that necessary measures for verifying and controlling that other organomercury compounds are not used as alternatives to the restricted substances should be considered. Thank you for your agreement. The disparity between RAC and SEAC as far as the phase-out period is concerned arises from different information needs in the committees. We agree that a shorter time frame would increase the risk reduction capacity and we therefore understand the recommendation made by

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		<p>We note disparity between RAC and SEAC in the timing of the requirements of the restriction following entry into force, RAC preferring 3 years and SEAC 5 years. At issue is the time taken for replacement of these compounds in situations defined as ‘difficult to replace’. RAC and SEAC have both spent some time considering this issue. We believe that RAC’s position on 3 years respects the industry concern that 5 years would be required to create acceptable substitutes to organomercury compounds in difficult to replace applications for the following reasons:</p> <ul style="list-style-type: none"> • The original dossier was put out to public consultation on 24th September 2010, almost a year ago. Industry’s comments about the need for 5 years were presumably made some time (months?) before then. • More time will pass before the restriction is formally adopted. • Put together, we will be about 2 years into the 5 year period originally requested by the industry by the time that the restriction enters into force. SEAC’s proposal of a 5 year delay AFTER entry into force appears, in practical terms, to give the industry 2 years more to adapt to the Restriction than it originally asked for. 	<p>RAC. But a shorter phase-out period would be less proportionate and simple to implement because necessary alternatives are not expected to be available earlier for about 30 % of the applications. This might lead to higher costs and potentially unforeseen consequences with the end uses in which PU systems are applied. Moreover, in choosing a shorter phase-out period it is more likely that the five restricted phenylmercury compounds will be replaced by the “easiest” available alternatives, which might be other phenylmercury compounds. Industry reported in several consultations the need for a phase-out period of 3 – 5 years. The consultation by the dossier submitter was undertaken under the assumption that industry takes into consideration 1 or 2 years delay for a restriction to be adopted. We acknowledge that verification on the actual period of substitution is very complicated from a technical point of view. However, based on the information in the dossier, the intensive discussions that took place over the last year between the dossier submitter, ECHA and the committees and the information gained through consultation, SEAC agreed upon a 5-year phase out period as the most appropriate way forward.</p>