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EUROPEAN COMMISSION
DIRECTORATE-GENERAL
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Directorate C - Quality of Life
**ENV.C.4 – Industrial Emissions & Safety**

Brussels,
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**Subject: Hg notification and export**

Dear Mr Fisher,

I thank you for your letter dated 23 February 2017 in which you enquire about the legal regime applicable under Union law to the export of mercury waste from the Union to non-EU countries[1].

The export of metallic mercury, whether or not qualifying as waste[2], from one Member State to a non-EU country is prohibited since 15 March 2011 in accordance with Article 1, paragraph 1 of Regulation No (EC) 1102/2008 of 28 October 2008 on the banning of exports of metallic mercury and certain mercury compounds and mixtures and the safe storage of metallic mercury[3]. Indeed, this provision does not distinguish between metallic mercury as non-waste and metallic mercury as waste.

Such a prohibition is also included in the new mercury regulation which is expected to be formally approved by the European Parliament in the course of its Plenary meeting on 13-16 March[4] and subsequently endorsed by the Council and published in May in the Official Journal of the EU. Its Article 3, paragraph 1 specifies that the export outside the

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1 Letter registered under the following registration No: ARES Ares(2017)1053963 and Ares(2017)987488

2 "Waste" is defined in Art.3(1) of Directive 2008/98/EC on waste as any substance or object which the holder discards or intends or is required to discard, OJ L 312, 22.11.2008.

3 OJ L 304, 14.11.2008.

4 http://www.europarl.europa.eu/plenary/en/texts-submitted.html

Union of metallic mercury, irrespectively of whether it is waste or non-waste, continues to be prohibited.

Article 2 (*Definitions*) of the new mercury regulation defines "mercury" as metallic mercury and "mercury waste" as metallic mercury qualifying as waste.

It follows from the above that Member States may under no circumstances issue authorisations for the export of metallic mercury whether it is waste or non-waste from the EU to non-EU countries.

I hope that this responds to your questions.

Yours Sincerely,

Aneta Willems
Head of Unit