



EUROPEAN

POLICY BRIEF



MINING GOLD AND MERCURY POLLUTION IN THE GUIANA SHIELD: A CASE STUDY ON THE ROLE OF THE EU IN FIGHTING ENVIRONMENTAL CRIME

Policy Implications for the EU

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OVERVIEW OF CASE STUDY

This case study identifies mercury pollution as a serious and growing threat to global environmental security and the health of the community of life. It details this threat in the biologically important Guiana Shield ecoregion located in the North East Amazon, bordering the Caribbean, where it is caused by wide-spread informal gold mining. In relation to this, the European Union's relevant legal arrangements, lacunae and dilemmas are summarised from a criminal law perspective. Subsequently, conclusions are drawn and policy implications for the EU are suggested.

Mercury has long been noted as a highly toxic, non-biodegradable substance and thus a threat to human and environmental health if allowed to enter the environment. The problem is becoming acute in the Guiana Shield eco-region, located in the North East of the Amazon, bordering the Caribbean and of global ecological and cultural significance because of its forests regulating the climate, its fresh water reserves, unique biodiversity and the cultural diversity of its indigenous communities. **As a by-product of the large so-called artisanal and small-scale gold mining sector (ASGM) taking place throughout the region, elevated mercury levels have been found in all environmental compartments around the mining sites and beyond, transported over large distances by air and water.**

In the Minamata Convention of 2013 on Mercury, all emissions of mercury to the environment are banned, except for those occurring in ASGM sector, where only steps or action plans are required to reduce emissions without clear timelines imposed. The continued entering of mercury into the environment presents a great threat to present and future generations – creating a moral and a legal dilemma. The EU, when it becomes a Party to the Convention, should, together with the Member States, do its utmost to remedy this situation. This includes a strict implementation of its own Regulation – Regulation No 1102/2008 of the European Parliament and the Council on the banning of exports of metallic mercury and certain mercury compounds and mixtures and the safe storage of metallic mercury of 22 October 2008 – currently under review to ban the exports of mercury and mercury compounds and to stimulate the application of criminal law in case the Regulation is

violated. Also the EU and its Member States as the largest development cooperation collectivity in the world should assist countries with a significant ASGM sector to effectively reduce and stop mercury emissions.

The case study is qualitative descriptive to the extent that relevant official documents were studied and an interview on the violation of the ban to export mercury with one of the competent inspectors was held.

POLICY IMPLICATIONS AND RECOMMENDATIONS FOR THE EU

The risk to humans and nature from exposure to mercury will inexorably increase – including EU citizens. For the EU there are three policy implications following from this deficiency.

The first one is insisting at coming negotiations on the implementation of the Convention that time lines are given and that existing methods of preventing mercury from entering the environment, e.g. the use of retorts to recycle are made obligatory and that countries who refuse to do this are subject to whatever sanctions which are legally possible. The Minamata Convention may have to be amended in this respect.

The second one is that the EU undertakes everything it can to prevent mercury coming from sources within the EU to fall in the hands of the ASGM sector. Regulation 1102/2008 fully banning any export of mercury or mercury compounds to third countries in principle is the right instrument. However, it remains to be seen how effectively the Member States are carrying out the regulation and to what extent they are willing to criminalise violations of the ban. As the Regulation is currently still under review, this study will have to be adjusted once the review is available.

The third implication lies outside the strictly legal and is grounded in the fact that the EU and its Member States together form the largest collectivity in the world for development cooperation, and in that capacity should assist the countries with significant ASGM sectors to develop operational plans – including initiatives for certification to reduce and in the end eliminate mercury releases as soon as possible, out of self-interest and for future generations.

ABOUT EFFACE CASE STUDIES ON ENVIRONMENTAL CRIME

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"European Union Action to Fight Environmental Crime" (EFFACE) is a 40-month research project involving eleven European research institutions and think tanks. EFFACE assesses the impacts of environmental crime as well as effective and feasible policy options for combating it from an interdisciplinary perspective, with a focus on the EU. Project results include several case studies on the causes, actors and victims of different types of environmental crime as well as policy options and recommendations. For more information see <http://www.efface.eu> or contact: envcrime@ecologic.eu

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