

## Contribution to industry stakeholder consultation on PAHs in consumer articles

26 April 2012

CHeMI has taken note of the Commission's communication of 23 April 2012, launching an industry consultation on the proposed REACH Restriction of PAHs in articles that could be used by consumers. Regarding the specifics of this proposal, we refer DG-ENTR to our Position Paper of 20 March 2012 (already shared in March 2012 and attached again), in which we present our serious concerns about and objection to this proposal, especially given the lack of rigorous scientific justification for the proposal. These concerns have not changed, and CHeMI would like to again strenuously object to the proposal and, especially, to the fact that the Commission appears to be progressing with the proposal despite its many shortcomings.

Further, CHeMI notes that **Section A.2.1.2.3** of the [Annex XV dossier](#) ("**Characterisation of risk(s)**") states that "*consumer exposure to category 1 or 2...CMR substances via consumer articles is by itself seen as a sufficient justification for restriction*" (**by means of the 68(2) "fast track" Restriction procedure**). This is true, but only for those substances for which Restrictions to consumer use are proposed by the Commission. This means that the Commission, as the responsible European Institution, should be convinced by the proposed Restriction, and must be fully able and willing to defend it. This includes being able to defend the proportionality of the measure, which is an element on which industry is now being asked to comment.

We would like to stress that under the "fast track" procedure, many of the important checks and balances under the normal Restriction process are by-passed in favour of the so-called "regulatory procedure with scrutiny" laid out in Article 5(a) of [Directive 1999/468/EC](#). Among other things, this means that the following mechanisms are by-passed through use of the fast-track procedure:

- **The Annex XV dossier itself** (ref. REACH Article 69): Currently the Commission proposal is based on the argumentations developed in the German dossier, which has been already commonly recognised to be scientifically weak.
- **Opinion by ECHA's Committee for Risk Assessment (RAC)**: Under the normal procedure, the RAC is responsible for evaluating whether the proposed Restriction is appropriate in reducing the claimed risks to human health and the environment. By-passing this key step by means of the fast-track procedure suggests an urgent need to proceed with a Restriction proposal, and the existence of clear evidence that the Restriction will result in the removal of the market of PAH-contaminated articles that could be used by consumers. The former point (urgency) has not been demonstrated, and the latter point (removal from the market) seems highly doubtful, especially for extra-EU imports. This means that the Commission, in leading the proposal, should not only be prepared to defend the proposal, but also to defend the urgency of the proposal.
- **Opinion by ECHA's Committee for Socio-Economic Analysis (SEAC)**: Under the normal procedure, the SEAC is responsible for evaluating the socio-economic impact of the proposed Restriction. We note that the Commission's consultation launched on 23 April 2012 does not explicitly invite industry to provide input on this crucial point.

# CheMI

## European Platform for Chemicals Using Manufacturing Industries

Again, by-passing this step of the process suggests a climate of urgency that the Commission should be able to establish and defend under the fast-track procedure.

Taken together, these elements suggest that the fast-track procedure is a special mechanism reserved by the Commission in order to respond to genuine emergencies posed by consumer exposure to certain substances. We firmly believe that the current proposed Restriction on PAHs in articles patently fails to establish such an emergency situation that warrants by-passing the important checks and balances of the normal Restriction process. If the Commission were to proceed with this proposed Restriction as currently proposed, it would set a very worrying precedent for the use of the fast-track procedure in the future.

As it stands, the current proposal for a Restriction on PAHs in articles that could come into contact with consumers is unacceptable. The climate of “urgency” that would warrant use of the Article 68(2) fast-track procedure has not been established at all. Taken together, these are unacceptable shortcomings that make the proposed Restriction patently disproportionate.

For positions on technical aspects related to PAHs, we refer to the positions of our individual members.

For further information on this position, please contact one of the following CheMI members:

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**CheMi is a platform for downstream users of chemicals in manufacturing industries.** It works as a channel for the downstream users in article producing industries to voice their concerns and aims at contributing to the successful implementation of REACH. CheMi was established in 2003. Its members are umbrella groups representing a variety of industries and comprising approximately 400.000 companies and 7 million employees: [AFERA](#) (self-adhesive tapes), [CEI-Bois](#) (woodworking), [CERAME-UNIE](#) (ceramics), [CITPA](#) (paper & board converting), [COTANCE](#) (leather), [ECMA](#) (carton makers), [EMPAC](#) (light metal packaging), [ETRMA](#) (rubber/tyres), [EURATEX](#) (textiles & clothing), [FPE](#) (flexible packaging), [FINAT](#) (self-adhesive tapes), [INTERGRAF](#) (printing), [TIE](#) (toys) and [UEA](#) (furniture).

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