

European Commission (Directorate-General Secretariat General, Directorate-General for Environment, Directorate B)

Att: Mr Pascal LEARDINI, Mr Kestutis SADAUSKAS, Ms Sarah NELEN, Ms Bettina LORZ, Ms Karolina ZAZVORKOVA

Oeko-Institut

Att: Mr Carl-Otto GENSCH, Ms Yifaat BARON, Mr Otmar DEUBZER, Ms Katja MOCH, and Mr Christian CLEMM

Ecorys

Att: Mr Carlo DELLA LIBERA, Ms Amélie GIRARD

7 November 2019

Subject: Comments on RoHS Substance Inventory (and related RoHS restriction methodology)

Dear authorities and experts involved in the development of a RoHS restriction methodology and Inventory,

Dear authorities and experts involved in the RoHS Review,

We write to you on behalf of several industry associations representing companies involved in different stages of the electronic and electrical equipment (EEE) supply chain, including manufacturers and importers of substances, producers of spare parts and recyclers.

The signatory associations and their members are committed to the protection of health and the environment. We are also committed to address the requirements of Article 6 of the RoHS Directive in a transparent and robust fashion.

Following the release of the latest Substance Inventory and final restriction methodology (both dated 26 September 2019) prepared by Oeko Institut, we are concerned about how the methodology was applied to produce the Inventory, since it prioritised in Group I chemicals which are not hazardous under CLP and/or not present in EEE. This raises serious questions on the adequacy of the methodology overall and the adequacy of its implementation.

In the spirit of transparency and evidence-based policy making, we would highly appreciate responses to the comments made in our letters dated 21 December 2018 and 10 May 2019, and in particular to those listed in Annex 1 below. Furthermore, we highly recommend that the restriction assessment under RoHS be discussed under the RoHS Review.

We remain available for any questions or comments you may have and look forward to hearing from you as soon as possible.

Yours sincerely,

- *Roger Coelho*, Policy Director, American Chamber of Commerce to the EU (AmCham EU)
- *Paolo Falcioni*, Director General, Home Appliance Europe (APPLiA)
- *Kevin Bradley*, Secretary General, International Bromine Council (BSEF)
- *Sylvie Lemoine*, Executive Director Product Stewardship, European Chemical Industry Council (Cefic)
- *Dr Simon Cook*, Vice President – Global Regulation, Cobalt Institute
- *Chris Slijkhuis*, Board Member and Senior Advisor, European Electronics Recyclers Association (EERA)
- *Geoffroy Tillieux*, Director of the Technical Department, European Plastics Converters (EuPC)
- *Violaine Verougstraete*, EHS Director, Non-Ferrous Metals Association (Eurometaux)
- *Caroline Braibant*, Secretary-General, International Antimony Association (i2a)
- *Eva Model*, General Manager, Minor Metals Trade Association (MMTA)
- *Veronique Steukers*, Director Health & Environment, Public Policy, Nickel Institute
- *Leonor Garcia*, Director Public Affairs, PlasticsEurope
- *Meglana Mihova*, Test & Measurement Coalition
- *Maurits Bruggink*, Beryllium Science & Technology Association (BeST)
- *Ourania Georgoutsakou*, Secretary General, Lighting Europe

Annex 1

Comments on the RoHS methodology and Substance Inventory

(Versions 26 September 2019)

- 1. The methodology is not addressed to any specific stakeholder involved in the RoHS restriction process.** The document should clarify that the methodology is addressed to authorities who are entitled to propose a restriction under RoHS (cf. Preface of ECHA Guidance for the preparation of an Annex XV dossier for REACH restrictions).
- 2. The methodology needs to be neutral.** Inappropriate references to specific substances remain in Table A-2 and A-3. Anonymous substance names should be referenced instead; this is the only way to avoid stigmatising chemicals that remain to be assessed.
- 3. The methodology should refer to hazardous substances present (not “used”) in EEE.** References to ‘used in EEE’ should be removed. The substance inventory should list only hazardous substances according to EU harmonised classifications (CLH) and should prioritise only those confirmed as present in EEE. Only substances **present** in EEE are covered by the scope of the legislation, and by extension to its related methodology and Inventory.
- 4. The methodology references unofficial lists of substances.** Lists of substances developed by non-governmental organisations (eg. SIN list), on which authorities have no control in terms of scientific quality and appropriateness, should not be referenced in the methodology. Instead, the methodology should be limited to regulatory lists of substances for which substance screening and assessment has been conducted by EU Member States, such as the list of Substances of Very High Concern (Candidate list).
- 5. To ensure circularity, the methodology should consider the impact of a restriction on the end-of-life treatment and recycling of products.** Waste sorting practices are influenced by, and sometimes defined around, specific chemicals contained in the waste which provide e.g. a given density on the basis of which waste can be sorted out and recycled safely, or a chemical affinity enabling to ‘capture’ certain chemicals for further processing. Substitutes that may appear to be safer can in some cases prevent efficient sorting and recycling, which would be incompatible with circularity, resource efficiency and sustainability principles. The chemical affinity between certain substances, in particular metals, maximises the recycling potential and needs to be considered in any restriction assessment. Changes to the recycling feed may affect the efficiency of the recovery of certain metals which will be ‘carried and extracted’ by metals bounded or diluted in in metals/alloys.
- 6. The compilation of the Substance Inventory lacks transparency and robustness.** The outcome of the substance-specific priority pre-assessment, used to justify the addition and prioritisation of each substance in the Inventory, is not available to stakeholders. Neither are the sources, contents or conclusions made on every criterion in the methodology for every listed substance available for review. The content of the Inventory can therefore not be validated or discussed/completed as foreseen in the consultation. In addition, we fail to understand why the Inventory prioritizes in Group I chemicals which are not hazardous under CLP and/or not present in EEE and/or not recommended for a restriction following the recent Pack 15 assessment reports. This means the methodology is misaligned with both the scope and purpose of the RoHS Directive itself.

7. **The nature and purpose of the quantities to be reported in the Inventory are not clear.**
The current template requests data on EU production or import. These do not necessarily match quantities present in EEE or in WEEE managed in the EU. Clarity is needed about how this information will be used in the prioritisation pre-assessment and in subsequent phases of the restriction methodology.