

AmCham EU comments on the Oeko Institut consultation regarding RoHS substances prioritisation

Executive summary

The American Chamber of Commerce to the European Union (AmCham EU) promotes and is committed to a coherent and balanced approach to environmental legislation, based on sound science and the better regulation approach. The development of a RoHS methodology should create predictable regulatory environment favouring investment and innovation.

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AmCham EU speaks for American companies committed to Europe on trade, investment and competitiveness issues. It aims to ensure a growth-orientated business and investment climate in Europe. AmCham EU facilitates the resolution of transatlantic issues that impact business and plays a role in creating better understanding of EU and US positions on business matters. Aggregate US investment in Europe totalled €1.9 trillion in 2012 and directly supports more than 4.2 million jobs in Europe.

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The American Chamber of Commerce to the European Union (AmCham EU) speaks for European companies of American parentage that invest in Europe are committed to a coherent and balanced approach to environmental legislation, based on sound science and the better regulation approach.

The RoHS Directive impacts many of our members, especially in terms of product design, sourcing, supply chain management and market access. The development of a RoHS methodology for identification and assessment of substances in view of potential restrictions is very important. This methodology should create predictable regulatory environment favouring investment and innovation.

AmCham EU would like to express its concerns with the RoHS substance prioritisation process. The Oeko Institut is currently working on substance prioritisation that is based on the 24 priority substances identified by the Austrian Environment Agency (Umweltbundesamt). A longer list of over 70 substances is also published on the Oeko Institut's consultation webpage.

As a matter of principle, we strongly believe that the assessment of specific substances should not be performed before the RoHS substance methodology has been finalised and agreed.

With regard to the inventory of substances as potential candidates for RoHS restriction, we would like to stress that the RoHS substance scope should be reviewed periodically (every four years) and that only a realistic number of proposals for restriction should be considered at once due to the impact on industry.

In this context, a large working list is inappropriate and could have a 'black listing' effect. The list should be limited to the substances that are explicitly under consideration for identification and assessment. In our view it is extremely important to involve stakeholders in a transparent and constructive way from the beginning of the process, giving them the possibility to provide input and comments on the substances identified for further assessment for potential restriction under RoHS.

Many of the substances identified as priority for assessment are substances of very high concern (SVHC) included in the candidate list and some of them are listed in REACH Authorisation Annex XIV. Special attention should be paid to the further regulatory developments related to these substances under REACH and their interaction with RoHS.

To avoid inconsistency and make efficient use of the analysis generated under REACH, a potential RoHS assessment should take into consideration the information submitted in the context of the REACH authorisation procedure and the opinions of ECHA's Risk Assessment and Socio-Economic Analysis Committees (RAC and SEAC).

The current regulatory context offers an ideal opportunity for real coordination between RoHS and REACH. The substances currently identified under RoHS to be of highest priority (DEHP, DBP, HBCDD) are also subject to authorisation. The applications for authorisation include uses in EEE and one of them focuses specifically on the end of life phase. This information is currently assessed by RAC and SEAC and opinions will be delivered in the coming months. We strongly recommend that the information generated in the context of the authorisation process under REACH, and the analysis of RAC and SEAC, are taken into consideration before a decision is made on these substances in the context of RoHS. Other substances listed are currently under an in-depth RMO analysis (e.g.: nickel compounds) and it is premature to anticipate the outcome of this analysis by listing these substances on the inventory.