

Joint Industry Statement on Revised manual (draft) methodology to identify and assess substances for possible restriction under the RoHS Directive

21 December 2018

We, the undersigned associations, welcome the opportunity to comment on the revised manual (draft) methodology to identify and assess substances for possible restriction under the RoHS Directive. In our consultation response, we have focussed on various general comments and some of our associations also separately submitted individual, more specific, comments and recommendations.

We hope our comments are useful and will be taken into consideration. We remain committed to engage further in the upcoming discussions and are at the disposal of the Öko Institute, European Commission and Member States for any further contributions.

Our general comments

Article 6(1) criteria

As also specified in the Pack 15 project description, the updated methodology shall not include or imply provisions other than those listed in Article 6 of RoHS 2. Article 6(1) clearly sets out the four criteria that shall be taken into account by the European Commission when reviewing and amending Annex II. It is not sufficient to consider only one criterion out of the four listed but all four should be considered in order to prioritise substances. It is important that this is clearly reflected in the methodology.

Coherence with other legislation

In line with the Better Regulation agenda, we appreciate that the methodology seeks to ensure coherence with other chemicals legislation, in particular REACH. Coherence between legislation will help avoid duplications. It is however important to keep in mind the differences between the pieces of legislation in terms of their scope and objectives. In this context, it should be clearly stated that RoHS deals with the restriction of the use of hazardous substances in electrical and electronic equipment (EEE). Whilst we appreciate the coherence with other regulations, we consider it premature to transfer requirements of other laws e.g. the Waste Framework Directive into RoHS, and change the methodology based on presumptions from ongoing policy discussions such as the CPW interface.

Nanomaterials

RoHS 2 predates the 2011 European Commission Recommendation on the definition of a nanomaterial, which is currently being revised. The description of a nanomaterial in the draft methodology does not align with the EU Nanomaterial definition and should be adapted. The draft methodology should apply a consistent assessment process on the substances, regardless of the size and structure. If there is no sufficient data demonstrating that a nanomaterial meets the RoHS Directive Article 6(1)(a-d) criteria, it should not be recommended for prioritisation in assessment and restriction.

Substance grouping

Whilst we appreciate the focus for looking at grouping of substances on a case-by-case basis, there needs to be a balance between avoiding regrettable substitution and restricting substances which do not pose a risk. Substances can be grouped for assessment only if they have similar structure, common physico-chemical properties, equivalent hazard behaviours and toxicological effects and pathways, etc. Taking into account the Better Regulation agenda, determination of substance grouping should be aligned with internationally recognised existing guidance. As such, it is key that the OECD guidance¹ and ECHA guidance² are being referenced and the electrical and electronic industry is consulted on any grouping. It cannot be “assumed that members shall have similar classifications as this is often the rationale for group restriction, where one member may constitute a substitute for another” without scientific evidence.

Substance restriction process

The substance assessment and restriction process must be consistent and robust. The process of “the Commission may decide to prioritise substances for assessment that were not specified with the highest priority or with any priority for that matter” should be avoided. The substance restriction process should respect Article 191 of the Treaty on the Functioning of the EU (TFEU), and therefore risk assessment and socio-economic impact analysis should be conducted in accordance with ECHA’s guidance³.

¹ OECD: Guidance on Grouping of Chemicals, Second Edition, ENV/JM/MONO(2014)4 <https://www.oecd-ilibrary.org/docserver/9789264274679-en.pdf?expires=1544451331&id=id&accname=guest&checksum=E1441AB98A4EF515DA990819C630ABBA>

² ECHA: Guidance on information requirements and chemical safety assessment Chapter R.6: QSARs and grouping of chemicals https://echa.europa.eu/documents/10162/13632/information_requirements_r6_en.pdf/77f49f81-b76d-40ab-8513-4f3a533b6ac9

³ Guidance for the preparation of an Annex XV dossier for restrictions

https://www.echa.europa.eu/documents/10162/23036412/restriction_en.pdf/d48a00bf-cd8d-4575-8acc-c1bbe9f9c3f6

Guidance on Socio-Economic Analysis – Authorisation:

https://www.echa.europa.eu/documents/10162/23036412/sea_authorisation_en.pdf/aadf96ec-fbfa-4bc7-9740-a3f6ceb68e6e

Guidance on Socio-Economic Analysis – Restrictions:

https://www.echa.europa.eu/documents/10162/23036412/sea_restrictions_en.pdf/2d7c8e06-b5dd-40fc-b646-3467b5082a9d

Manufacturing chemicals / intermediates

RoHS deals with the restriction of the use of hazardous substances in electrical and electronic equipment (EEE). It does not deal with chemicals used in manufacturing process that are not used in EEE. It does not add any value to take into account the manufacturing chemicals in the methodology, nor does it address any risk arising from the manufacturing process. The requirements for chemicals used in manufacturing have already been covered by REACH and CLP.

Substance inventory

The substance inventory contains over 800 substances and polymers which are used in EEE products. A lot of common substances (e.g. copper, gold, silver) and polymers (e.g. PS, PU, LC-Polymer) are listed, which are not considered as hazardous. It does not add much value to create such inventory of all substances used in EEE. Instead, the inventory should only list the hazardous substances used in EEE.



About the signatories:

About DIGITALEUROPE

DIGITALEUROPE represents the digital technology industry in Europe. Our members include some of the world's largest IT, telecoms and consumer electronics companies and national associations from every part of Europe. DIGITALEUROPE wants European businesses and citizens to benefit fully from digital technologies and for Europe to grow, attract and sustain the world's best digital technology companies. DIGITALEUROPE ensures industry participation in the development and implementation of EU policies.

DIGITALEUROPE's members include in total over 35,000 ICT Companies in Europe represented by 66 Corporate Members and 40 National Trade Associations from across Europe. Our website provides further information on our recent news and activities: <http://www.digitaleurope.org>

About ESIA

The European Semiconductor Industry Association (ESIA) is the voice of the Semiconductor Industry in Europe. Its mission is to represent and promote the common interests of the Europe-based semiconductor industry towards the European Institutions and stakeholders in order to ensure a sustainable business environment and foster its global competitiveness. As a provider of key enabling technologies the industry creates innovative solutions for industrial development, contributing to economic growth and responding to major societal challenges. Being ranked as the most R&D intensive sector by the European Commission, the European Semiconductor ecosystem supports approx. 200.000 jobs directly and up to 1.000.000 induced jobs in systems, applications and services in Europe. Overall, micro- and nano-electronics enable the generation of at least 10% of GDP in Europe and the world. ESIA is an industry association under the EECA umbrella. EECA is registered in the EU Transparency Registry: 22092908193-23. <https://www.eusemiconductors.eu/esia/home>

About IPC

As a global industry-driven organization, IPC has more than 4.800 member companies, of which the majority are small and medium sized enterprises. IPC represents all facets of the electronic industry including design, printed board manufacturing and electronics assembly and test. By being the hub of knowledge in the electronics industry, IPC provides standards, training and certification, market research, education and public policy advocacy to help member companies achieve their goals. <http://www.ipc.org/>

About ITI

ITI is the global voice of the tech sector. We advocate for public policies that advance innovation, open markets, and enable the transformational economic, societal, and commercial opportunities that our companies are creating. Our members represent the entire spectrum of technology: from internet companies, to hardware and networking equipment manufacturers, to software developers. ITI's diverse membership and expert staff provide a broad perspective and intelligent insight in confronting the



implications and opportunities of policy activities around the world. Visit <http://www.itic.org/> to learn more. Follow us on Twitter for the latest ITI news [@ITI_TechTweets](https://twitter.com/ITI_TechTweets).

About JBCE

Founded in 1999, the Japan Business Council in Europe (JBCE) is a leading European organisation representing the interests of over 80 multinational companies of Japanese parentage active in Europe. Our members operate across a wide range of sectors, including information and communication technology, electronics, chemicals, automotive, machinery, wholesale trade, precision instruments, pharmaceutical, railway, textiles and glass products. <http://www.jbce.org>

About KEA

Korea Electronics Association, initially Electronic Industries Association of Korea (EIAK), was established in 1976. The Government of Korea (Ministry of Commerce, Industry and Energy) designated EIAK as electronics industry promotion organization in the same year. EIAK merged with the Korea Electric Appliances Manufacturing Association in 1980 and changed its name to Korea Electronics Association in 1996. KEA represents more than 1,300 Korean electronics companies and its main purpose is to promote the electronics and IT industries of Korea, to revitalize policy recommendations aimed at establishing the dynamic industrial environments and to contribute to the sound growth and development of the national economy. <http://www.gokea.org>

About SEMI

SEMI is the global electronics manufacturing industry association. SEMI connects over 2,000 member companies and 1.3 million professionals worldwide to advance the technology and business of electronics manufacturing. SEMI members are responsible for the innovations in materials, design, equipment, software, devices, and services that enable smarter, faster, more powerful, and more affordable electronic products. <https://www.semi.org/en>

About ZVEI

The ZVEI - German Electrical and Electronic Manufacturers' Association promotes the industry's joint economic, technological and environmental policy interests on a national, European and global level. The ZVEI represents more than 1,600 companies, mostly SMEs. The industry has round about 868,000 employees in Germany plus 736,000 employees all over the world. In 2017 the turnover was Euro 191 billion. The electrical and electronics industry is the most innovative industry sector in Germany. One-third of the industry's sales are based on new products. The industry spends Euro 17.2 billion in R&D every year, Euro 6.1 billion in investments and Euro 2 billion in training and further training. Every third innovation in Germany's manufacturing sector stems from solutions of this industry.

<https://www.zvei.org/>