

Brussels, 05/06/2009

**Cefic position paper on the  
Review of the  
European List of Waste  
Final report by Okopol dd November 2008**

Cefic, European Chemical Industry Council represents national federations and companies with around 29,000 large, medium and small companies in Europe, which employ about 2 million people and account for more than 30% of world chemicals production.

Cefic examined the Final Report of the Review of the European List of Waste by Ökopol, dating from November 2008. The European chemical industry is largely committed to the use of the European List of Waste (LoW) as specified in the Commission Decision 2000/532/EC. No specific problems came across with exception of designating waste as hazardous in the List of Waste, in an absolute entry without any threshold<sup>1</sup>. Cefic supports the intention of the European Commission to revise the system with the purpose of simplifying and modernizing waste legislation. The envisaged alignment with the globally harmonized system for substances and mixtures is appreciated in this sense. Cefic however opposes to drastic changes of the system in especially on the structure for the List of Waste, because this can have far reaching impacts a.o. on training of staff, change in waste management procedures, ... A drastic change of the LoW is combined with a lot of bureaucratic activities like change of all waste permits and waste documents. That means that most permits of plants and all waste documents have to be revised. These bureaucratic activities have to be minimized because there is no benefit for the environment seen.

In the following, some points of particular concern are raised. Given the extent of the document, Cefic is not in a position to give more detailed comments, but we remain available for further exchange of view.

**The new List of Waste document should be self explaining and simple**

- On numerous occasions in the report, a suggestion for guidance documents is formulated. The European Chemical Industry argues that the List of Waste has to declare the objectives in a way that is understandable and self explaining; after all the purpose of the revision was a simplified waste legislation. Cefic further warns that European Guidance documents can still lead to different practices in the Member States, and the risk exists that these interpretations will be counterproductive for a European wide implementation of the List of Waste objectives. The risk exists further that Guidance documents are interpreted in a very rigorous way, leaving no room for the flexibility that is required to maintain a good operational regime.

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<sup>1</sup> For these wastes there is no threshold level below which the waste can be considered as non-hazardous waste. In cases of recovery, you would be required to remove/transform every last molecule, something which can never be ensured. Consequently absolute (\*) hazardous wastes can never be classified as anything else but hazardous waste, even after treatment. Designation as an absolute (\*) hazardous waste on the LoW effectively means therefore that waste must be either incinerated or sent to a hazardous waste landfill.

### **The link between the List of Waste and the chemicals legislation**

- The EU implemented the Globally Harmonized System “GHS” as a regulation (CLP regulation). This implies that there exists a need to link the waste legislation – the H-criteria – with the appropriate correspondence in the CLP Regulation. Cefic states that simply changing a system of classification should not affect the final outcome of the classification process. On other words, moving to a new process of assigning a label should not change waste from being non-hazardous under the existing system to hazardous under the new system. An existing waste should only change from non-hazardous to hazardous if it is clear that the waste represents a hazard that is not being adequately controlled by the existing classification system.
- Of the scenarios proposed to put this into practice, Scenario 2 is seen as an acceptable solution, Scenario 3 is opposed because it is too complex and the investment in classification is unreasonably high with no environmental benefit. Waste stream are essentially different from mixtures and solutions in a sense that these streams are not homogeneous, their life-cycles are very different and any concern on exposure scenarios is dealt with by people with an expertise in waste management.
  - o Scenario 2, described in Volume II, proposes to match the H-criteria with the hazard classes and hazard categories of the CLP regulation. This approach is acceptable for Cefic. For those H-criteria that cannot be matched with hazard classes and categories in the CLP regulation new definitions have been proposed (see next point).
  - o From the correlation table between GHS terminology and the Risk Phrases that it will replace (Table 1 in volume II) it appears that direct application of GHS terms would result in more wastes being classified as hazardous as is currently the case. Cefic asks for a further analysis to assess the impact of the change in the table on the volume of waste being classified as hazardous, and whether this is justified.
  - o Scenario 3, described in Volume III, proposes to replace the existing system of H-criteria by a direct link to the CLP regulation. Wastes are treated in this scenario like mixtures in chemicals legislation. This approach is not acceptable for Cefic.
- The Ökopoll report proposes new definitions for H 9, H 12 and H15. The criterion H 14 has been further operationalised with a focus on biotests. Cefic emphasizes that the new definitions should be changed in a way that for the characterization purposes, simple analytical method can also be used. If biotests are foreseen (like for H 14), we propose an in between “fit for purpose” check to see whether such testing is necessary because biotests for streams with a continuously changing composition might not be the best way to proceed.
- Waste which contain POPs is already regulated; there should be no further or additional regulation in the List of Waste.
- The mirror entries are necessary to differentiate between hazardous and non hazardous waste and should not be minimized as proposed. The waste producer is responsible for the right classification.

### **The structure of the List of Waste**

- In Volume III different scenarios for changes are discussed. Cefic is not supportive of the discussed scenarios and finds them too complex, very difficult and heavy to use in real life operations and requiring too much efforts to implement the change. Moreover, the information that is looked for by

- introducing the new coding is information that is already provide in more detail on the Transfer document that has to be prepared every time waste is moved.
- Scenario 1 assigns a waste code based on as far as 8 (!) individual descriptors, not all 8 compulsory. This is considered a too big change to the current system, having large consequences on the actual management system, without bringing additional benefits. For that reason this scenario is rejected.
  - Scenario 2 groups a number of individual measures, comprising revision of codes to describe the origin of waste independently, and assigning the remaining digits to general waste types. Again, this system is negatively perceived, because it requires essential changes to the current system without a clear benefit.
- Cefic considers that the 99-digits remain necessary; this numbers remain to be present as a last resort, as no list will ever be able to cover all possible waste streams. Regarding the introduction of 98-digits, for the reason that dangerous waste would be hidden in the 99-digits, is not seen as a good argument.
  - Cefic further disagrees with the opinion of Okopol that not much information on the “99 codes” is available. In the transfer paperwork, detailed description of all aspects of the waste itself and its origin need to be reported, and this information need to be kept for 5 years. Cefic suggests exploring this valuable source of information. This would allow deciding if new numbers would be necessary to introduce so that only essential numbers are added to the existing list.
  - Cefic would also like to see the option to opt out from “an absolute entry” if the waste does not show hazardous characteristics also applied to those codes that did not have a mirror code is the previous list.

### **Impact assessments are needed before deciding on the proposed measures**

- Okopol suggests how the new terminology could be applied, but do not quantify how many wastes would be affected and therefore neither the cost of these proposals nor their environmental benefit can be estimated. As mentioned above, any change to existing limit values should be driven by legitimate concerns that the current system is not providing adequate environmental protection, not simply by changing a classification procedure, as real changes have real impacts, both financial and on the suitability of methods for waste management.
- On the same line, Cefic would also like to stress that it will be examined how the additional burden placed upon the Producer to supply the additional detailed codification would be offset by reducing the amount of work required by the Producer in other areas – for example reducing the amount of detailed information required to be entered on other forms or reporting. Cefic raises the question why not set up a new system to capture the existing data rather than propose a totally new system.

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