Brussels, 12 March 2013

Industry's view on the Roadmap on Substances of Very High Concern

The first industry experiences with the authorisation process are that this process is not just limited to manufacturers and/or importers. Downstream users also clearly play a much more important role than ever anticipated. It is in the authorisation process that the complexity of REACH is becoming increasingly evident across the entire supply chain. Experience so far with entering substances on the Candidate List and afterwards prioritising for Authorisation by inclusion in Annex XIV, have shown an underestimation of the complexity of the supply chain and demonstrate unforeseen impacts right down to the end of the supply chain, including recycling.

Therefore industry - here above represented - covering the interest of manufacturers, distributors, immediate downstream users and down to the ultimate end-users, do see the need to have a roadmap on Substances of Very High Concern. This would be a first step towards a harmonised approach that is used by Member States and the Commission to identify relevant potential substances for the Candidate List. A transparent and predictable process is needed to avoid issues such as supply chain disruption, and would be consistent with one of the primary aims of REACH and of authorisation, which is to ensure the efficient functioning of the internal market.

Industry strongly believes that a Risk Management Options (RMO) analysis is crucial for handling potential Substances of Very High Concern. **This RMO analysis should always take place *before* a substance is proposed to be placed on the Candidate List.**

Given the current black-list effect of this list, Member States and the Commission should consider whether authorisation is indeed the most appropriate risk management option. For example, in some cases restriction would seem to be more appropriate to deal with the risks identified, while in other cases risk management measures already applied under REACH and other EU legislation are providing efficient control.
In addition, other Commission initiatives such as key enabling technologies and the green economy should also be taken into consideration in the process.

However industry strongly disagrees with the proposal that stakeholder consultation is not consistently foreseen during the RMO analysis. Experience has shown that an effective RMO analysis is only possible in consultation with industry along the entire supply chain.

Industry believes that its contribution is essential in order to avoid decisions that risk having major and unpredicted consequences in the entire supply chain. These are clearly not always known, as has already been shown by some experiences in the authorisation process. **It is fundamentally unfair that, depending on which country is proposing a substance, industry will or will not have the possibility to contribute its knowledge of the supply chain during the RMO analysis process.** Such an approach leads to a different treatment of different substances and industry sectors. The result of the regulatory process will be less balanced regarding the REACH objectives of strengthening the competitiveness of the EU industry and a well-functioning internal market. Therefore industry urges the Commission to include in its roadmap the recommendation of an early interaction with industry in all cases.

Industry considers this roadmap discussion as a beginning and not the end of the exercise. There are many issues that are clearly not resolved yet and they will require further reflection and discussion, for example, how to raise awareness in complex supply chains with many SMEs within the short deadlines given by the legislation? The issues of exemptions for authorisation and uses regulated in other legislations also require more clarity. In addition, the interpretation of equivalent concern is clearly not the same in all Member States and needs further harmonisation. Industry is willing to contribute to these discussions which aim to develop clear and consistent processes that respect the fundamental objectives of REACH.

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