

Brussels, 15 December 2014

RE: ECHA technical support to ‘Strategy to review the chemical BREFs’

Dear Ms Nina CROMNIER,
Dear Ms Christel MUSSET, Dear Mr Jack DE BRUIJN,

At the 23rd Forum of the Industrial Emissions Directive (IED) the European Commission presented the working document on the “Reconsideration of the ‘Strategy to review the chemical BREF’s”¹.

The IED lays down rules on integrated prevention and control of pollution arising from industrial activities. Same as REACH, this policy tool aims to achieve a *high level of protection of the environment*, whilst it focuses on prevention of negative impacts from substances in the manufacturing and use stage throughout the life cycle of large scale industrial activities. The environmental performance benchmarks for those industrial activities are laid down in the Best Available Techniques Reference Documents (so called BREFs) which are periodically reviewed.

The current chemicals BREF strategy was set up in 2007, at the time the REACH Regulation entered into force but prior to deadlines for providing key registration data on the high volume (and certain hazardous) chemicals used and produced in the EU. For this reason the prioritization strategy needs a thorough update in light of new information generated through the REACH registration dossiers and other actions promoting the substitution of substances of very high concern (SVHC).

We would like ECHA to provide technical and scientific support in the reconsideration of the strategy on the chemicals BREFs and overall considerations linked to chemicals of concern used or produced in the other industrial activities covered by the IED (other BREFs).

Proposed actions for endorsement at the 36th ECHA-MB meeting:

- a) ECHA will screen REACH registration data for chemicals produced by / used in IED Annex I activities;
- b) ECHA will screen which substances of concern are used and/or produced in IED Annex I installations²;
- c) ECHA would provide in its assessment on those substances of concern:
 - i) whether they are used in industrial processes (intermediates) or produced as end products and whether grouping of substances could be made (by functional use);
 - ii) provide indication of volumes (production) and (uses) for the respective IED activities.
- d) ECHA will present results on a dedicated workshop / at the next IED Forum (tbc Q2 2015).

The above request could be integrated as a clarification of the Activity 3 of the 2015 Workprogramme and the associated Budget under Agenda point 8.2.³

The technical support provided by ECHA will enable a better framing of the strategy under discussion, an informed screening of chemicals of relevance and prioritisation for further actions under limited resources under the industrial pollution prevention at source policy framework. ECHA is best placed to provide this valuable contribution in accordance to Article 77(1) of REACH.

Best regards,

Christian Schaible
Senior Policy Officer on Industrial Production

CC: Geert Dancet (ECHA), Christel Musset (ECHA), Jack De Bruijn (ECHA), Björn Hansen (DG ENV), Chris Allen (DG ENV), Serge Roudier (Head of the EIPPCB)

¹ Directive 2010/75/EU on industrial emissions (IPPC Recast). This document is available on [CIRCAB](#)/ IED Art 13 Forum/6th Forum meeting 24th September 2014 / Chemicals BREFs

² Annex II provides a shortlist of those substances and industrial activities for concerned

³ Some suggested amendments are attached in Annex I

Annex I

Annex III Proposed amendment / link to the Workprogramme 2015

Depending on the views of the ECHA-MB there may be a need to amend the ECHA 2015 Workprogramme in order to cover the requested task. Certain provisions suggest however that this is not necessary, but a clarification would be welcome on whether the same understanding is made by the ECHA-MB.

The conclusions with the specific request to ECHA could be reported in the minutes (option a).

An alternative approach (option b) would be to insert some provision in the Annex to the 2015 ECHA Work programme (MB/48/2014) before its adoption as a specification to the activities covered under section 3 e.g. 3.1 and 3.4 of the Procurement plan (Annex2 of AP 8.2_2).

Option a): Minutes will clarify that the tasks pursuant to this request are covered in the following provisions:

- The strategic objective 2 is substance screening, where the emphasis is on identifying chemicals of concern using ECHA's internal and external databases. The second and third areas are the processes of substance evaluation and regulatory risk management where the focus is on mobilizing Member States and the desired outcomes of regulatory actions. A common screening approach "*is expected to support Member States in selecting substances to be evaluated in view of more effective risk management at EU level*".

These objectives fits well with the tasks requested for the BREF work, which could be regarded as a tool for substitution of hazardous chemicals or other RMO.

- The strategic objective 3 is for ECHA to serve as a hub for building scientific and regulatory capacity of the Member States, European institutions and other actors.

The IPPC Bureau does not have access to the relevant registration information to do the screening. ECHA is well placed to provide this technical and fine tuned assessment through its databases.

Option b) proposed amendments to the 2015 Workprogramme / specification of the Procurement plan (Activity 3)

In page 26 "Links to other EU legislation" insert the following :

In addition, ECHA will further explore options on how to support the effective use of REACH data by industrial end users to comply with their obligations under other legislation, such as the Industrial Emissions Directive, workers', environmental and product legislation and vice versa. **ECHA will provide technical input for addressing chemicals of concern through the Best Available Techniques Reference Documents, in particular the reconsideration of the strategy on the chemicals BREFs.**

Annex II

Shortlist of Substances for screening and Industrial Activities concerned

Background:

The Industrial Emissions Directive 2010/75/EU of 24 November 2010 requires special attention to substances of concern through various provisions, based on an “intrinsic hazard approach”:

- Annex II (Air) point 12 and Annex II (Water) point 4, 5, and 13 (PHS/PS), referring to substances of concern based on intrinsic hazard properties (similar to REACH Art 57).
- Article 14(1) (a) provides that permits have to set measures (such as Emission Limit Values) for ‘**polluting substances listed in Annex II, and for other polluting substances, which are likely to be emitted from the installation concerned in significant quantities, having regard to their nature and their potential to transfer pollution from one medium to another;**’
- Annex III point 2 provides that BAT have to require “*the use of less hazardous substances*”
- Annex III point 2 provides that BAT have to meet the “*need to prevent or reduce to a minimum the overall impact of the emissions on the environment and the risks to it*”

Efforts undertaken by Member States, ECHA, NGOs and industry to promote substitution of chemicals of concern have to be supported through the BREFs, which currently focus on the emissions (to air) from the installation and less on impacts of chemicals used in the process (intermediates) or manufactured. A stronger synergy with REACH related activities is desired.

Focus for ECHA should be made in particular in those areas where the REACH Regulation will not deliver (use as intermediates or for export), nano-like substances, or where the BREF could promote policy objectives on substitution e.g. candidate SVHC not yet subject to authorization or where the substances of concern are not otherwise restricted.

Best Available Techniques “*means the most effective and advanced stage in the development of activities and their methods of operation which indicates the practical suitability of particular techniques for providing the basis for emission limit values and other permit conditions designed to prevent and, where that is not practicable, to reduce emissions and the impact on the environment as a whole*”. Thus they should set the “state of the art” of operation beyond binding minimum standards, as set under the EU chemicals legislation. An essential criterion of BAT is the *use of less hazardous substances* (substitution objective) and to prevent *negative impacts to the environment* arising from an industrial activity (inputs/processes/outputs).

Substances for screening:

1. Annex II of the IED provides a list of substances of concern to be screened, those included the following chemicals / groups: VOCs, Metals, fine particulate matter, Asbestos, Chlorine, Fluorine, Arsenic, Cyanides, PCCD/F, Organohalogens, organophosphorous compounds, organotin, Biocides and plant protection products,
2. Annex II of the IED makes a specific link to “substances of concern”:
 - a) substances identified in Annex X and the watchlist of the Water Framework Directive,
 - b) candidate list SVHC or CoRAP (substances under evaluation),
 - c) any substance covered in the 2020 Roadmap on Substances of Very High Concern (SVHC),
 - d) substances under Annex VI for CLP,
 - e) substances of concern identified by the ECHA experts groups on PBTs, EDCs, and nanomaterials,
3. Substances which contribute to eutrophication (e.g. nitrates and phosphates),
4. Substances which have an unfavourable influence on the oxygen balance.

Substances under point 1 and 2 are of high priority and should be screened by ECHA.

Industrial activities for screening

The ECHA database allows a filter of results for specific industrial sectors or end uses i.e. Sectors of Use category (SU) and descriptor list for Process categories (PROC) through the PROC codes for uses in industrial processes. The filtering should enable an indication where the chemicals are used and for what functional purpose for the industrial activity in question.

The screening should cover all the industrial activities covered under the IED, which are listed in Annex I. Priority should be given to industrial sectors where BREFs are currently under review / the Chemical industry sectors or for which the BREFs review will start in 2015/2016.

The most relevant search filters should be applied to show a breakdown of results by product category, sector of use and process category for the industrial activity concerned. A further presentation of results in accordance to the Environmental Release Categories 1-7 and 12 can further be made.

The table below is indicative, more detailed information on the scope of the BREFs is found here <http://eippcb.jrc.ec.europa.eu/reference/>

NOTE: the scope of the BREFs is agreed at the Kick Off Meeting and cannot be more restrictive than Annex I of the IED.

| IED Annex I Name | Product category PC (indicative) | Sector of Use SU (indicative) | Process PROC (indicative) | Category |
|---|--|----------------------------------|------------------------------|----------|
| Ferrous Metals Processing | 1, 7, 14, 15, 19, 20, 24, 25, 36, 38 | 14, 15 | All? | |
| Food Drinks and Milk | 3, 4, 8, 16, 19, 20, 36, 37 | 4, 10 | 1-3? | |
| Intensive Rearing of Pigs and Poultry | 3, 8, 20, 29, 37 | 1 | 1-3? | |
| Large Combustion Plants | 2, 13, 16, 19, 20, 37, 40 | 23 | ? | |
| Large Volume Organic Chemical Industry | ? | 8, 9 +? | ? | |
| Management of Tailings and Wasterock in Mining Activities | ? | 2a | ? | |
| Surface Treatment of Metals and Plastics | 1, 9a, 9b, 14, 15, 19, 24, 25, 31, | 12? | ? | |
| Surface Treatment using Organic Solvents | 1, 9a, 9b, 14, 15, 19, 24, 25, 31, 35? | 8? | ? | |
| Waste Incineration | 2, 3, 16, 19, 20, 37, 40 | 23 | ? | |
| Waste Treatment | 1, 2, 3, 20, 37, 40 | ? | ? | |
| Wood and Wood Products Preservation with Chemicals | 1, 8, 9a, 9b, 15, 26, 31, | 1, 6a, 8, 9 | ? | |
| Textiles Industry | 1, 9a, 18, 23, 34, 37 | 5 | ? | |
| Chemicals BREFs (upcoming review) | | | | |
| Large Volume Inorganic Chemicals – Ammonia, Acids and Fertilisers | 11, 12, 19, 20? | 8,? | ? | |
| Large Volume Inorganic Chemicals – Solids and others Industry | 19, ? | 8, 11, ? | ? | |
| Manufacture of Organic Fine Chemicals | 19, ? | 9 | ? | |
| Production of Polymers | 19, 32, ? | 8, 11, 12, 16, ? | ? | |
| Production of Specialty Inorganic Chemicals | 19, ? | 8? | ? | |
| Low Priority | | | | |
| Smitheries and Foundries Industry | 7 | 14 | ? | |
| Slaughterhouses and Animals By-Products Industries | 8, 20, 23, 28, 35, 37 | 1, 4? | ? | |