

To the members of the REACH Committee

Dear Madam, Dear Sir,

We write to you in relation to the draft implementing decision issued by the European Commission granting authorisation of some uses of lead sulfochromate yellow and of lead chromate molybdate sulfate red, to be discussed at the REACH Committee meeting 6-7 July.

We are deeply concerned about the conclusions and recommendations in this draft decision, and observe that it does not take the opinion of many members of the REACH Committee into account, as expressed at its meeting on 3 – 4 February this year.

Therefore, we now call on each member of the REACH Committee to reject this draft decision, and would like to highlight some important reasons why.

The draft decision does not follow good practice and disregards that alternatives are clearly available

It is the responsibility of the applicant to provide evidence for the lack of suitable alternatives. Clearly, the applicant has not done so in the process leading up to this decision, and it is alarming that the European Commission still recommends granting the authorisation.

The draft decision acknowledges the difficulties in fully ascertaining the lack of technically feasible alternatives for the entire scope of uses covered by the application and that alternatives are already available for specific uses, such as road markings. In addition, information about alternatives for the broader scope of uses has been submitted by several European producers, and EU Member States such as Sweden have submitted information about how the two substances were replaced with safer alternatives decades ago. Hence, there is strong evidence that suitable alternatives are available for the broad range of articles that the application includes.

It is therefore surprising that instead of demanding further evidence on the lack of alternatives, the Commission only proposes an obligation of the applicant to submit a report by 31 December 2017 with this information, with no consequences specified if this report shows that alternatives are available.

A decision should not be made on this authorization before the applicant has clearly shown that there are no suitable alternatives for each of the intended uses, as the REACH procedures calls for.

The risks are high and the benefits low

REACH clearly states in article 60(4) that authorisation may only be granted if it is shown that socio-economic benefits outweigh the risk to human health or the environment. Lead sulfochromate yellow and of lead chromate molybdate sulfate red are non-threshold toxicants that constitute a hazard throughout their life cycle. Not only is there an over reliance on protective equipment during production in the draft decision (as also mentioned by RAC as a weak point of their assessment), it does not consider the risk during later stages of their life-cycle such as re-application, renovation or disposal. In a green circular economy, as is the goal for the EU, non-degradable toxic substances should not be introduced if alternatives are available.

Paint manufacturers and the plastics industry in the EU have worked to phase out lead from all their products since their listing in Annex XIV or before. Therefore, there is little or no benefit to the industry based in the EU countries of authorizing use of these substances. On the contrary, such a decision would disfavour the manufacturers who moved early to substitute these harmful substances for safer alternatives.

All things combined, the socio-economic benefits are not greater than the drawbacks.

The draft decision would create an unacceptable precedent for REACH, and harm the global movement to eliminate lead paint

Two of the pillars of REACH are the precautionary principle and the substitution principle, and the intention is to create a company-driven substitution so that the worst chemicals can be phased out as soon as there are alternatives that are technically and financially viable. This approach has proven successful in regards to these two hazardous substances, where EU-based industry stakeholders have in a cost-effective way gone through a substitution process and in this way increased the market for safer alternatives. The precedent this draft decision would create is a market where the company slowest to replace hazardous substances would benefit. This would undermine the whole REACH procedure.

This decision would also harm the global movement to eliminate lead paint until 2020 and would not be in line with the goals of the Global Alliance to Eliminate Lead Paint (GAELP). Although the draft decision quotes the business plan of GAELP, and thereby acknowledges its importance, the decision blatantly disregards the Alliance's broad objective "...to achieve the phase-out of the manufacture and sale of paints containing lead and to eliminate eventually the risks that such paints pose". In addition, it ignores the ICCM4 resolution where more than 120 governments unanimously agreed that they "Welcome the efforts of the Global Alliance to Eliminate Lead Paint to achieve its goal to phase out lead in paint by 2020".

Finally, agreement to this draft decision will send a disastrous message to the rest of the world struggling to enact meaningful restrictions on lead paint and prevent childhood lead poisoning, where countries like the Philippines and Nepal set examples for developing countries and countries in transition by banning the use of lead in all paints. The inability to do so in the EU will instead send the message that this is not possible even for highly

industrialized countries. If the EU wants to keep its reputation as a leader in chemical safety policies, then this draft decision cannot go forward.

Yours sincerely,
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On the behalf of:
IPEN – A toxics free future
ChemSec – the International Chemical Secretariat

In view of the public interest in this matter, we intend to make this letter publicly available.