Brussels, August 6, 2018

Industry committed to the safe use of its substances

Our trade associations represent the producers of diisocyanates and polyols as well as major downstream users of diisocyanates. As stated previously in several occasions, our organizations support the principle of a restriction for diisocyanates under the REACH Regulation as proposed by Germany in the autumn of 2016. We believe this restriction will support industry's efforts in protecting workers from exposure to diisocyanates and provide a minimum level playing field across Europe for the safe handling of such chemicals.

Our organizations also welcome the draft legal text proposed by the Risk Assessment Committee (RAC) and Socio Economic Assessment Committee (SEAC)[1]. However, assuming that the European Commission and Member States will consider this proposal when respectively drafting and examining the final legal text of the restriction, we would herewith like to submit a number of comments for further improvement.

We hope these comments will be considered constructively, to ensure that the final legal text can be implemented among the great variety of professional and industrial downstream users of diisocyanates.

1° Coherence between Paragraphs 8, 9 and Appendixes X and Y

A major comment is that the current wording of paragraphs 8 and 9 is not coherent with the requirements of Appendixes X and Y. The legal text of the compiled opinions of RAC and SEAC in its current form would result in workers having to get trained on applications that are actually not performed at their employer's. This cannot be the objective and we trust the European Commission and Member States will be as eager as industry to correct this.

The 2 amendments proposed in the annex below show that with limited changes to the wording of the legal text proposed by RAC and SEAC this can be corrected. For ease of comparison, the original text proposed by RAC and SEAC is in the left column and the proposed amendments are in the right column. Below each amendment is our justification for the proposed changes.

2° Identification of need for training of users of Diisocyanates

[1] Annex starting page 96 of the compiled version of the RAC and SEAC opinions prepared by the ECHA Secretariat and available at: https://echa.europa.eu/documents/10162/031517c3-f91b-b5c1-c4e3-75a1af25c00c

Germany's proposal for a restriction on diisocyanates was very clear on the relation between risk of exposure (dermal and inhalation) associated to typical activities performed by users of diisocyanates and training requirements, technical and organization measures of the proposed restriction. In particular, *Table 8-1: Generic uses and the corresponding "measures groups" – Industrial & professional*[2] allowed for the vast majority of users to determine very easily their obligations resulting from the proposed restriction. We would strongly encourage reintroducing this table into the final legal text to ensure that the training imposed by the restriction is aligned to the level of risk of the activity and the activity actually performed.

As we commented in the previous paragraph, the current version of the legal text as proposed in the compiled opinion of RAC and SEAC would create obligations which requires users of diisocyanates to be trained on activities not actually performed at their employer's, which would render the training ineffective. Also, reintroducing this clear table will allow for better enforcement of the restriction, since it largely reduces the scope for diverging interpretations of the restriction by individual operators.

3° Management Training

Germany had proposed a specific training for "management" in their initial proposal, which has now become the training for the trainers in the RAC and SEAC opinions. As reported in the text proposed by Germany (Appendix 13 " Training and Measures"), in this context management meant "persons with direct authority upon workers potentially exposed to diisocyanates as well as to qualified trainers in charge of training such workers. Such as for example site managers, shift leaders, plant managers or EHS staff."

While we understand that an exact definition of "management" may be difficult to introduce into a legal text, ***we would urge the European Commission and Member States to consider reintroducing the concept of a management training into the core of the restriction***. The reason for that is that "management" has a key role in taking decisions on protecting workers and safe handling of chemicals in companies, and as such will play a critical part in ensuring the success of the restriction.

Currently the legal text foresees that "trainers" (Part 1) need to be trained on issues such as "measuring devices and their limitations", "storage requirements" or "deposition and distribution", which are not covered in the others parts of training. This is the type of knowledge that "management" as defined above should also be familiar with, as well as the choice of PPE and its limitations since they will be the persons defining work procedures and making decisions on plant design, purchasing equipment and PPE for the rest of the workforce.

[2] Page 465 of the BAuA dossier proposal, under Appendix 8 Elements to be included into Appendix 13 Trainings, available at: https://echa.europa.eu/documents/10162/c0d193dc-ba37-533e-7adc-6dd7174e3581

4° Classroom training vs other methods of training

Industry would favour more flexibility in the choice of training format under the terms of the restriction. For intermediate training of workers (part 3 training), we would welcome if at least some modules of this training could be given in another format than classroom. On-line training tools are in constant development and allow in many industries to provide flexible learning and personalized assessment of comprehension of the training by each worker. This can therefore be an effective tool, which should not be discarded from the start in the text of the restriction.

5° Transition Period

In the latest version of the legal text, RAC and SEAC propose a transition period of 4 years after the date of entry into force of the restriction to allow downstream users to adapt to the terms of the restriction. While being thankful that the need for a transition is being recognized, industry believes a transition period of 6 years is needed. This may seem long but will be necessary for creating a training infrastructure and traini several million workers according to the terms of the restriction..

We would therefore urge the European Commission and Member States to go for a transition period of 6 years in the final legal text.

6° Appendix Y

We believe this Appendix should be deeply reworked, taking into account - as highlighted in our proposed amendment to paragraph 9 in the Annex below - that not all items listed in this Appendix can be applicable in all companies.

Industry is fully willing to engage with the European Commission and Member States to find suitable technical and organizational measures that should be in place among downstream users of diisocyanates. But the ambition to prescribe such technical and organizational measures as part of the legal text leads to over-simplification and possible discrepancies with national practices. Maybe the objective of this annex would be better served with comprehensive guidelines complementing the legal text.

As an example, there is a provision in the Appendix on the **quantities of diisocyanates stored**. The reality is that, depending on the diisocyanate they use, some industrial installations are classified as Seveso installations. Storage is designed according to the company's needs of various products and to the logistics linked to the delivery and supply of raw materials. Generally, industrial companies require environmental permits to operate (and IPPC permits when they are Seveso installations). We do not believe it is the task of REACH inspectors to determine what the appropriate storage capacity of a plant should be as part of this restriction. We would however

understand that for non-industrial uses, regulators wish to minimize the amount of diisocyanates stored directly at the workplace to what is necessary for the operation to be performed.

Also some provisions would need to be reworked. There is a provision requiring that a.o **cured waste and cleaning solutions** be stored only in dedicated areas. Cured waste is an inert material and there is no reason for this restriction to prescribe how to deal with waste for which no risk of exposure exists. With regards to cleaning solutions and depending on the level of crisis to deal with, there is an obvious interest to have certain cleaning solutions next to the work area in order to properly deal with potential fails/leaks.

As for the offering of "**Biomonitoring options**", the RAC opinion clearly identifies the opportunities and limitations of Biomonitoring, notably with regards to peak exposure. In addition, Biomonitoring provides sensitive personal data and behavior based exposure information. In some countries, there may be legal limitations to offer, generate and store such kind of personal sensitive data. We therefore believe the choice of introducing Biomonitoring at the workplace should be left to employers, taking into account the specific risk of exposure linked to the activity performed.

There are several other suggestions that we could make on improving Annex Y. We urge the European Commission and Member States to use the commitment of industry to the safe handling of diisocyanates and to this restriction in order to discuss with us the right wording for this Annex, either as part of the legal text or as more detailed guidelines.

ANNEX – PROPOSED AMENDMENTS TO LEGAL TEXT PROPOSED BY RAC AND SEAC

Proposed Amendment 1:

Original Text of compiled RAC and SEAC Opinions	***Proposed amendments by Industry***
8. The content of the training according to paragraph 1c should cover: a) at least the aspects set out in part 2 of Appendix X; b) at least the additional aspects set out in part 3 of appendix X for the following uses: Handling open mixtures at ambient temp. (incl. foam tunnels); spraying in a ventilated booth; application by roller; application by brush; application by dipping and pouring; mechanical post treatment (e.g. cutting) of not fully cured articles which are not warm anymore; cleaning and waste; and any other uses with similar risk of exposure for the dermal and inhalation route. c) At least the additional aspects set out in part 4 of appendix X for the following uses: Handling incompletely cured articles (e.g. freshly cured, still warm); foundry applications; maintenance and repair that needs access to equipment; open handling of warm or hot formulations (> 45 °C); spraying in open air, with limited or only natural ventilation (includes large industry working halls) and spraying with high energy (e.g. foams, elastomers); and any other uses with similar risk of exposure for the dermal and inhalation route. Users performing various tasks shall complete the training for the highest requirements for his working tasks according to paragraph 8. The training should be carried out at least every 4 years.	8. The content of the training according to paragraph 1c should cover: a) at least the aspects set out in part 2 of Appendix X; b) at least the additional aspects set out in part 3 of appendix X for the following uses: Handling open mixtures and formulations at ambient temp. (incl. foam tunnels); spraying in a ventilated booth; application by roller; application by brush; application by dipping and pouring; mechanical post treatment (e.g. cutting) of not fully cured articles ~~***which are not warm anymore***~~; cleaning and waste; ***maintenance and repair*** and any other uses with similar risk of exposure for the dermal and inhalation route. c) At least the additional aspects set out in part 4 of appendix X for the following uses: ~~***Handling incompletely cured articles (e.g. freshly cured, still warm***~~); foundry applications~~***; maintenance and repair that needs access to equipment;***~~ open handling of warm or hot formulations (> 45 °C); spraying in open air~~,~~ with limited or only natural ventilation (includes large industry working halls) and spraying with high energy (e.g. foams, elastomers); and any other uses with similar risk of exposure for the dermal and inhalation route. Users performing various tasks shall complete the training for the highest requirements for his working tasks according to paragraph 8. The training should be carried out at least every 4 years.

Justification:

Under the original proposal for a restriction by Germany - the higher risk category (measure group 3/ part 4) covered only 3 items: i) open handling of warm or hot formulations (> 45C), ii) spraying in open air with limited or only natural ventilation and iii) spraying with high energy.

The combination of paragraph 8 and Appendix X as currently proposed by the RAC and SEAC would make workers performing activities such as "handling incompletely cured articles" or "maintenance and repair" subject to training on items such as "spraying in open air" (Part 4 of Annex X) that do not occur at their employer's. This is not logical.

The "intermediate training" of workers (Measure Group 2 / Part 3) has clearly been designed to address the risks linked to handling incompletely cured articles as well as maintenance and repair. Indeed, the headings "maintenance", "PPE and its limitations", "behaviour-based aspects" and "risk in relation to application process used" indicate that this training will cover all aspects relevant to workers handling incompletely cured articles (as well as maintenance since there is a specific training heading for that). On the contrary, the advanced training (Measure Group 3 / Part 4) will mainly cover items such as "spraying in open air" or "open handling of hot or warm formulations".

We therefore propose to revert back to the original ranking of activities as proposed by Germany, which was carefully drafted to both address the risk linked to different uses of diisocyanates and provide coherent training packages for workers in different branches of the industry.

Proposed Amendment 2:

Original Text of compiled RAC and SEAC Opinions	***Proposed amendments by Industry***
9. For any use of diisocyanates which is not exempted according to paragraph 1a or paragraph 3, the user shall ensure that exposure is minimized. Minimization in this context means at least that the conditions should include: a) The additional measures set out in part 2 of Appendix Y for the following uses: Handling open mixtures and formulations at ambient temp. (incl. foam tunnels); spraying in a ventilated booth; application by roller; application by brush; application	9. For any use of diisocyanates which is not exempted according to paragraph 1a or paragraph 3, the user shall ensure that exposure is minimized. Minimization in this context means at least that the conditions should include: a) The ***relevant*** additional measures set out in part 2 of Appendix Y for the following uses: Handling open mixtures and formulations at ambient temp. (incl. foam tunnels); spraying in a ventilated booth; application by roller; application by brush;

by dipping and pouring; mechanical post treatment (e.g. cutting) of not fully cured articles which are not warm anymore; cleaning and waste; foundry applications; and any other uses with similar risk of exposure for the dermal and inhalation route. b) The additional measures set out in part 3 of Appendix Y for the following uses : Handling incompletely cured articles (e.g. freshly cured, still warm); foundry applications; maintenance and repair that needs access to equipment; open handling of warm or hot formulations (> 45 °C); spraying in open air, with limited or only natural ventilation (includes large industry working halls) and spraying with high energy (e.g. foams, elastomers); and any other uses with similar risk of exposure for the dermal and inhalation route.	application by dipping and pouring; mechanical post treatment (e.g. cutting) of not fully cured articles ***~~which are not warm anymore~~***; cleaning and waste; ***maintenance and repair*** and any other uses with similar risk of exposure for the dermal and inhalation route. b) The ***relevant*** additional measures set out in part 3 of Appendix Y for the following uses : ***~~Handling incompletely cured articles (e.g. freshly cured, still warm);~~*** *foundry applications;* ***~~maintenance and repair that needs access to equipment;~~*** open handling of warm or hot formulations (> 45 °C); spraying in open air***~~,~~*** with limited or only natural ventilation (includes large industry working halls) and spraying with high energy (e.g. foams, elastomers); and any other uses with similar risk of exposure for the dermal and inhalation route. ***Whereby relevant additional measures refer to measures that are suited to the activity performed by the downstream users of diisocyanates (industrial or professional).***

Justification:

Similar comments as for amendment 1 are applicable. As all industrial companies perform “maintenance and repair activities that require access to equipment”, it is our understanding that all industrial users of diisocyanates would effectively have to comply with all technical and organizational measures listed in Appendix Y. If that is the intention, there is no need to make a difference in this Appendix according to assumed levels of risk. If the intention is to adapt requirements to the level of risk, which we understand is the case throughout this restriction proposal, we would there also urge regulators to go back to the initial proposal made by Germany, which also on that point was coherent and balanced.

Furthermore, not all items in Appendix Y are suited for both professional and industrial users. Paragraph 9 of the restriction should therefore mention that this Appendix is a list from which measures relevant to the actual activity performed need to be selected. If this is considered as not stringent enough, there can be a requirement introduced for downstream users to be able to demonstrate to local authorities

how they have deemed what is relevant for their activity and what not.

About Polyurethanes

Together with polyols, diisocyanates are the essential building blocks for the manufacturing of polyurethanes, a plastic material that exists in various forms. It can be tailored to be either rigid or flexible, and it is the material of choice for a broad range of end-user applications such as insulation (of buildings, refrigerators and freezers), adhesives, coatings, automotive parts, sportswear, bedding and furniture etc.Polyurethane is a very sustainable material, as it offers tangible solutions for challenges like climate change and energy efficiency, and its durable and lightweight characteristics can enhance resource efficiency.

About the industry

The polyurethane industry contributes approx. € 230 bn to the European economy. Over 2 million jobs depend on polyurethanes across 420,000 companies in Europe, over 85% of them SMEs.

About the associations

ALIPA *is the European aliphatic isocyanate producers Association*
CEPE *is the voice of paint, printing ink and artist`s colours in Europe*
EFCC *is the voice of construction chemicals in Brussels*
Euromoulders *is the European Association of Manufacturers of moulded Polyurethane parts for the Automotive Industry*
Europur *is the European Association of Manufacturers of flexible Polyurethane foam blocks Manufacturers*
FEICA *is the Association of the European Adhesive & Sealant Industry*
FSK *is the Specialist Association of Foamed Plastics and Polyurethanes*
ISOPA *is the European Diisocyanate and Polyol Producers Association*
PDA *is the Polyurea Development Association Europe*
PU Europe *is the single European voice for the polyurethane (PUR/PIR) insulation industry*