

Committee for Socio-economic Analysis (SEAC)

**Response to comments on the SEAC draft
Opinion
on the Annex XV dossier proposing
restrictions on
Cadmium and its compounds in Paints**

**Cadmium and its compounds in Paints
EC number: 231-152-8
CAS number: 7440-43-9**

25 November 2014

Substance:
Cadmium and its compounds in Paints
EC number: 231-152-8, -
CAS number: 7440-43-9, -

Comments and response to comments on SEAC draft opinion on
Annex XV restriction dossier proposing restriction on
Cadmium and its compounds in Paints
Annex XV report submitted by ECHA
Public consultation on SEAC draft opinion started on 16 September 2014

Comments on the SEAC draft opinion

Ref.	Date/Type/Country	Comments
118	<p>Date/Time: 2014/09/29 15:11</p> <p>Name confidential: False</p>	<p>Comment: I urge you not to restrict and ban the use of Cadmium paint in Europe. There is absolutely no substitute for the glory of these colours for artists. Used responsibly, these paints are safe, and their use by artists is not contributing a problem to the earth.</p> <p>SEAC Rapporteurs response There are two restrictions related to Cadmium (Cd) under considerations at ECHA: Cd in paints and Cd in artist paints. You provided your comment under Cd in paints which is focussed on anti-fouling paints for ships. In the public consultation on Cd in artists paints more than 600 comment were received, partly with similar content than yours. Therefore your input will be considered under the Cd in artists' paints restriction process.</p>
130	<p>Date/Time: 2014/11/12 17:45</p> <p>Type: Industry or trade association</p> <p>Country: Belgium</p> <p>Name confidential: False</p>	<p>Comment: Dear Sirs, EUROM1 is a European Federation committee of the national associations for manufacturers of optical lenses, frames and equipment for opticians. We represent 85 % of the European ophthalmic industry, employing about 60.000 people with a daily production of millions of consumer pieces. EUROM1 has a well-established international working group entitled Regulatory Matters for Frames that is comprised of nominated individual expert in the manufacture of these products, materials, processes and the related substances, and representing multiple countries. This group is charged with monitoring regulations that govern the optical trade, and is designed to address potential artificial increases in costs and inefficiencies in the market place, as well as to negotiate with state authorities in order to avoid damage to the optical business and degradation of goods and services to the public. EUROM1 experts are all trained and experienced technologists well able to understand the text of the dossier submitter. Our committee is alarmed by the comments of RAC&SEAC Rapporteurs. We believe we are following the prescribed procedure, trusting each of the boards in charge with their</p>

	<p>respective responsibility to fulfil their own role. If this is not the case we would be glad to submit our statements and reasoning directly to the European Commission as appropriate.</p> <p>If the dossier submitter needs to consider the question from the point of view of restriction, the roles and responsibilities of RAC&SEAC are not in complete agreement, hence they must look to the questions from differing perspectives; and it is not acceptable that the answers must be taken with full and unquestioning submission to the dossier submitter's opinion.</p> <p>We must highlight that the economic situation of European manufacturing companies is getting worse year by year, and there are an increasing cost of obligations in order to compete in the global economy. As a consequence of these trends, in 2013 122.6 million people in the EU were at risk of poverty or social exclusion [3] but this seems to be not relevant nor on the minds of some, despite instruction to evaluate the socio-economic impact of actions.</p> <p>We realize that technical argumentation of industries are considered as lobbying actions tout-court to be faced in contrast with the good intentions related to any restriction proposal.</p> <p>In this case, we kindly ask RAC&SEAC to consider these questions and provide detailed answers:</p> <ol style="list-style-type: none"> 1. Since the stakeholder consultation and literature review did not demonstrate that there would be a risk related to Cd in frames, why create administrative, enforcement and implementation (testing) costs that are disproportionate given that there is no indication of risk? 2. Did RAC consider that testing procedures of heavy metals involve consumption of chemicals that are themselves harmful for human health and environment? 3. Is SEAC aware that any restriction procedure is a cost unto itself for the industrial system, since this initiate business for many private consultants and attorneys that have established a legal approach to advise companies (mainly SME) on compliance with established regulations, while they themselves have only general and not specific technical competence to give businesses the support needed to develop best practices? 4. The justification of the proposed modification concern only anti-fouling paints for ships and other marine equipment which can contain cadmium as an impurity, as there is no evidence that other paints in the EU contain cadmium[2]; why should the restriction involve other paints? 5. Copper-based antifouling paints are not used for the surface treatments of spectacle frames and sunglasses thus there is no relation with the proposed restriction and no indication of any related risk for human health, or the environment, so why should manufacturers test for Cadmium in their varnishing products? 6. The varnish on the surface of a spectacle frames or a sunglass is at most 0,006 cm³: which environmental and health risk could be posed by possible impurities contained into that minute quantity? 7. Spectacle frames and sunglasses are Medical Devices and Personal Protection Equipment and therefore already undergo several special conformity assessment procedures to ensure that harmful substances e.g. heavy metals are excluded from contact by the patient including compliance with the
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		<p>SEAC Rapporteurs response</p> <p>SEAC is aware of the fact that a restriction of a substance could have impact on companies as well as on individuals. It is the task of SEAC to analyse and assess costs (e.g. for industry) and benefits (e.g. for environment or workers health). Such an analysis has been thoroughly performed within the present restriction process. It is not a new restriction, it is an amendment to an existing restriction. This amendment is clearly addressed to paints with Taric Codes 3208 and 3209. The use of such paints is already restricted in entry 23 of annex XVII (REACH). Therefore it is hardly conceivable that such paints are used by your member companies.</p>
116	<p>Date/Time: 2014/11/14 12:51</p> <p>Type: Industry or trade association</p>	<p>Comment: The International Cadmium Association (ICdA) hereby submits formal comments in the context of the public consultation on "SEAC draft opinion on an Annex XV dossier proposing Amendment to a restriction on Cadmium and its compounds – Paints". The amendment relates to entry 23 paragraph 2 of REACH Annex XVII covering cadmium in paints</p>

	<p>Country: Belgium</p> <p>Name confidential: False</p>	<p>(Taric codes 3208 and 3209).</p> <p>The SEAC draft opinion refers to the proposed measure as being the most appropriate measure to address the identified risk in terms of the proportionality of its socio-economic benefits to its socio-economic costs.</p> <p>However, none of the related documents, including the SEAC/RAC background document, demonstrate that there is a risk that must be controlled. The most that is stated in relation to risks in the SEAC draft opinion is that "the proposal further ensures that potential risks from cadmium impurities in recycled copper used as raw material for paints are covered." Un-demonstrated 'potential risks' are not sufficient to justify new restrictions.</p> <p>The lack of risks that need to be controlled is also demonstrated by the admission in the SEAC/RAC background document for this SEAC draft opinion that "the extension of the scope" and "the proposed concentration limit of 0,01% for cadmium in paints" are not expected to have any "impacts on the human health or the environment from cadmium releases. The Report also indicates explicitly that "based on information available, no direct benefits are expected."</p> <p>We refer to the comments posted by ICdA during the public consultation (closure 17/06/2014) on the Annex XV restriction report for the amendment to entry 23 paragraph 2 of REACH Annex XVII covering cadmium in paints, ICdA submits that the proposed amendment cannot proceed legally without considering nor quantifying any specific risk.</p> <p>ICdA regret the precedent setting of arbitrary amending an existing restriction outside the legal frame of the REACH regulation. Regarding Title VIII of the REACH Regulations, restrictions, or amendments to existing restrictions can only be adopted, in the presence of "a risk to human health or the environment that is not adequately controlled and needs to be addressed." Administrative reasons are not a legitimate basis.</p> <p>Besides the lack of legal basis for amending an existing Restriction without neither considering nor quantifying any specific risk, ICdA wants to stress its concern related to the amendment referring to 'Cadmium and its compounds (in paints)'.</p> <p>This title is misleading as of the restriction is dealing with Cd-based paints which is not the case. It concerns Copper based anti-fouling paints with Cd as potential impurity. This unclear title resulted as a consequence in a mix-up of comments in the public consultations of cadmium and its compounds (in paints) versus cadmium and its compounds (in artists paints).</p>
		<p>SEAC Rapporteurs response</p> <p>Dossier submitter provided additional information why a full risk assessment was not carried out in the present Annex XV Restriction report in Annex 1 of the latest version of the background document. The reasons are fully accepted by SEAC rapporteurs.</p>