

## **Strengthening the Scientific Basis of RoHS**

### **- Position Paper on the Proposed Recast of the EU RoHS Directive -**

#### **Introduction:**

The ongoing recast of the EU RoHS Directive provides a significant opportunity to bring an important piece of EU legislation up to date. When the original RoHS Directive was published in 2003, the EU focused on applying a sectoral approach to chemicals risk management. Since then, the EU institutions, industry and other stakeholders have agreed a comprehensive new chemicals policy under REACH. Now that REACH is in place, the recast RoHS should be based on the same principles if the EU's overall chemicals policy is to be consistent, while focusing on the prevention of environmental and health impacts at the waste management stage.

In this respect, while EBFRIP views the Commission's proposal as a constructive step towards coherence with REACH, we see further opportunities to strengthen the scientific basis of RoHS, as follows:

#### **RoHS Article 4(7) criteria:**

EBFRIP supports the introduction of a set of clear criteria under Article 4(7) so that the basis for restricting substances under RoHS under Annex IV is transparent and science-based and hence coherent with the approach adopted under REACH.

EBFRIP supports adding specific criteria to Article 4(7), including the need to assess alternatives.

EBFRIP supports allowing for exemptions from restrictions under RoHS if authorisation under REACH has been granted.

#### **RoHS Annex III:**

If a substance meets the Article 4(7) criteria for restriction under a recast RoHS, then it should be included in Annex IV. Similarly, if a substance does not meet the Article 4(7) criteria, it should not be included at all.

However, maintaining an Annex III, as a half-way house, undermines this legal certainty. EBFRIP accordingly supports the latest Presidency text published end December<sup>1</sup>, which seeks to remove Annex III and instead to refer to the four prioritized substances in a recital. That proposal provides a clear path to restriction under RoHS without compromising the clear Article 4(7) criteria and procedure.

This would mean that HBCD, the brominated flame retardant listed in the Commission's proposed Annex III, and a substance which has been classified as a Substance of Very High Concern recommended for inclusion in Annex XIV to REACH (authorization), will remain prioritized for review under the recital.

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<sup>1</sup> <http://register.consilium.europa.eu/pdf/en/09/st17/st17433-ad01.en09.pdf>