



GREENPEACE



CHEMICAL REACTION



OPEN LETTER TO ENVIRONMENT MINISTERS FOR DISCUSSION ON DECA-BDE EXEMPTION - JUNE 24th COUNCIL.

Dear EU Environment Minister,

In light of the recent events surrounding the proposed decision by the Commission to remove the ban on Deca-BDE under the Restriction of Hazardous Substances Directive (RoHS) we urge you to speak out and vote against this Commission decision. Such action is needed in order to ensure a high level of protection for the environment and human health, and also to ensure that the Commission does not overstep its mandate. It should also be remembered that the Commission has come forward with this decision despite an *'unfavourable opinion'* delivered by the Technical Adaptation Committee to the RoHS Directive on 19th April.

At the 11th joint meeting of the Competent Authorities for the implementation of existing chemicals regulation held in Helsinki 16-17 June, the Member States reached consensus - calling upon the Commission to **reconsider the risk assessment of Deca-BDE** and to send it back to the Technical Committee for New and Existing Substances (TC NES). They concluded that the TC NES should re-evaluate the risk assessment in light of new worrying evidence associated with Deca-BDEs continued use. The cause for concern has been heightened by recent studies showing Deca-BDE's presence in breast milk¹ and showing Deca-BDE² breaks down into Nona and Octa-BDE, the latter of which has already been banned under the RoHS Directive because of its hazardous properties.

The Netherlands, in open session in Helsinki, asked the Commission to withdraw the exemption of Deca-BDE under the RoHS Directive until the TC NES committee has met this September. The Competent Authority actions suggest they have noted the Commission DG SANCO Scientific

¹ Lunder S. and Sharp R. (2003). Mothers' Milk. Record levels of toxic fire retardants found in American mothers' breast milk. Environmental Working Group. Available from: <http://www.ewg.org/reports/mothersmilk/es.php>.

² Gerecke AC, Hartmann PC, Heeb NV, Kohler H-PE, Giger W, Schmid P, Zennegg M, and Kohler M. 2005. Anaerobic degradation of decabromodiphenyl ether. Environ. Sci. and Technol.

Committee on Health and Environmental Risks (SCHER)³ opinion of this March: *“Emissions of Deca BDE to the environment may constitute serious problems in the future. If formation of lower brominated, bioaccumulating substances take place this process can go on for a very long time and there are no possibilities to stop it. The previous scientific committee (CSTEE) said that the uncertainties in the fate of DeBDE warrant risk reduction measures. Today there is further evidence for degradation of this substance to potentially harmful compounds and SCHER also strongly recommends further risk reduction (conclusion iii).”* (own emphasis added)

The additional risk assessment on the environmental impacts of Deca-BDE did not conclude that Deca-BDE causes no concern - instead it highlighted major concerns:

- “Widespread occurrence of the substance in top predators (birds) including Arctic regions;
- potential neurotoxic effects and uptake of the substance by mammals in laboratory studies; and
- possible formation of more toxic and accumulative products such as lower brominated diphenyl ether congeners and brominated dibenzofurans in the environment.”⁴

We welcome the call to withdraw this ‘*across-the-board*’ exemption of Deca-BDE by five EU Environment Ministers Belgium, Denmark, Finland, Portugal, Sweden and the Norwegian Minister in a letter sent to Commissioner Dimas and Council on 16th June.

However, we are very disturbed by the UK’s briefing for MEPs, circulated on the 24th May 2005, with the contact details of Steve Andrews of the DTI, which suggested that the proposed exemption of the ban on deca in the RoHS Directive was proportionate, given the lack of evidence of risk. We also do not agree with this briefing’s conclusion that the SCHER report should carry little weight in questioning the conclusions of the risk assessment, because much of it is based on unpublished data. The key study raising additional concerns, is indeed now published.²

We call on all Environment Ministers, including yourself, to ensure a vote against the decision in your deliberations on June 24th.

The European Parliament Committee for Environment, Public Health and Food Safety voted for a resolution on Tuesday (21st June) stating the Commission has overstepped its mandate and is breaking the law in bringing forward this decision which can only be made by a full proposal from the Commission to both the Parliament and Council. Members of the European Parliament ‘*call on the Council to oppose the proposal, should the Commission not amend it by withdrawing the part on DecaBDE.*’

³ EUROPEAN COMMISSION HEALTH & CONSUMER PROTECTION DIRECTORATE-GENERAL
Directorate C - Public Health and Risk Assessment C7 - Risk assessment SCIENTIFIC COMMITTEE ON
HEALTH AND ENVIRONMENTAL RISKS SCHER Opinion on Update of the risk assessment of bis
(pentabromophenyl) ether (decabromodiphenyl ether) Final Environmental Draft of May 2004 CAS Number;
1163-19-5 EINECS Number: 214-604-9 Adopted by the SCHER during the 4th plenary of 18 March 2005

⁴ Final draft R013_0405_env UPDATE OF THE RISK ASSESSMENT OF BIS(PENTABROMOPHENYL) ETHER
(DECABROMODIPHENYL ETHER) CAS Number: 1163-19-5 EINECS Number: 214-604-9 Final Environmental
Draft of May 2004. Rapporteur: United Kingdom Contact for the environmental section: Environment Agency,
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828 556 E-mail: ukesrenv@environment-agency.gov.uk NB this does not include Human Health Risk Assessment.

According to the RoHS directive, the Commission may amend the annex in comitology only on the basis of the (non-) availability of practicable and safer alternatives (Article 5(1)(b)). However, in the Commissions decision, the key considerations for the proposal are related to risk. However, even if there was no concern of risk, which the SCHER and now the Competent Authority appear unable to accept, this does not allow the Commission to amend the Annex in comitology.

The Commission can only amend the RoHS Directive via a full legislative proposal to Council and Parliament. We count on you to prevent the Commission from exceeding its mandate, which will lead to a weakening of the protection of the environment and EU citizens health.

Yours Sincerely



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