**Committee for Socio-economic Analysis (SEAC)**

**Response to comments on the SEAC draft**

**Opinion**

**on the Annex XV dossier proposing**

**restrictions on**

**Bis(pentabromophenyl) ether (DecaBDE)**

**EC number: 214-604-9**

**CAS number: 1163-19-5**

**10 September 2015**

Comments on the SEAC draft opinion and specific information requests

## Specific information requests

1. SEAC has concluded, in its last meeting in June 2015, that there is currently not enough evidence to support a derogation for the automotive sector. However, SEAC intends to revisit the derogation and consider relevant evidence submitted in this consultation.

In that context, do you have any information on uses of decaBDE in the automotive sector (e.g. cars, buses and trucks but also motorcycles, tractors, other types of vehicles…) that would substantiate the need for a derogation in the automotive sector? In your reply, please try to answer the following questions (where possible please differentiate between uses for new vehicles and for spare parts):

* 1. In which types of automotive vehicles and for which parts of these vehicles is decaBDE used?
  2. What are the tonnages of decaBDE used per year in vehicles and spare parts produced in the EU and outside of EU?
  3. What are the available alternative substances?
  4. Is substitution difficult for some specific types of vehicles or parts? Can you explain how substitution is linked to the functionality of the spare part and the vehicle in its entirety?
  5. By when will it be possible to completely substitute decaBDE and are there concrete plans to do so?
  6. Do you have information on the cost impact of a restriction on the automotive sector (both for the production of parts for new vehicles and for spare parts)? Please specify and justify the types of costs (e.g. substitution costs, testing costs, other).
  7. If a derogation is introduced for the automotive sector, including spare parts, what are the implications if the derogation is based on the type approval process (see below) or instead a time limited derogation of 5 years after entry into force (assumed to be in 2017)? Please justify you answer.

By way of derogation, paragraphs 1 and 2 shall not apply to manufacture, use and placing on the market:

* + 1. for automotive vehicles produced in accordance with a type approval certificate issued under Directive 2007/46/EC provided the application for such certificate was done before [date of entry into force]
    2. for spare/replacement parts for vehicles referred to in the above sub-paragraph
  1. For spare parts, is there a need for linking the application of the derogation to a type approval date?

1. Based on the available information and the response to the previous six month public consultation, no specific derogation is proposed for the recycling sector related to recycling of decaBDE-containing material as the current 0.1% concentration limit does not seem to have an impact on this.

In case you consider a derogation to be needed, please provide specific information on the potential impact of the restriction on the recycling sector. In your reply, please try to answer the following questions:

* 1. In which types of waste streams is decaBDE present and in which concentrations? What are the related total tonnages per year in the EU?
  2. Is it possible to differentiate decaBDE from other brominated components used as flame retardants? Which analytical method do you apply in recycling material to differentiate decaBDE and other brominated components?
  3. What would be the cost impact of the current restriction proposal on the recycling sector? Please specify the types of costs (e.g. cost for incineration or landfilling in comparison to recycling costs, other types of costs?) related to decaBDE.
  4. Would a different concentration limit reduce the cost impact mentioned in question c? (please propose possible value and provide reasoning).

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| **Ref.** | **Date/Name/Org.** | **Comments** |
| 196 | **Date/Time:** 2015/07/21 14:00  **Type:** Industry or trade association  **Org. type:**  Industry or trade association  **Org. name:**  ASD - Aerospace and Defence Industries of Europe  **Org. country:**  Belgium  **Company name confidential: False**  **Attachment:** | **Comments on the SEAC draft opinion:**  ASD notes that use of deca-BDE in safety related Aerospace applications (civil and defence combined) is low and in continued decline; estimated to be significantly less than 10 tonnes pa in Europe, and significantly less than 50 tonnes world-wide. However, substitution in all existing applications would be disproportionately difficult.    ASD requests that Paragraph 4 has a 4th sub-paragraph to cover defence aerospace applications not covered by the civil aviation design approval. It is suggested that the 4th sub-paragraph read “for a military aircraft of a design contracted before [date of entry into force]”.    In response to recent SEAC meeting minutes, ASD wishes to note that dependence upon REACH Article 2(3) defence exemptions to manage defence derogation would:  1. Substantially increase work load for industry for Member State authorities for no benefit  2. Create the possibility that derogations are different between member states, thereby creating barriers to trade.    Our letter to ECHA attached helps explain this point in more detail.  ASD provides for reference our parallel consultation response to UNEP on Deca-BDE restriction under the Stockholm convention. |
| **SEAC Rapporteurs response:**  Thank you for your comment and for raising this issue. We agree that the use of Article 2(3) will lead to additional administrative costs to industry as well as authorities and may hamper the functioning of the internal market for defense aerospace applications. Hence, including defense applications in the derogation for the aviation sector as proposed will make the restriction more efficient. We have revised the SEAC opinion accordingly. |
| 197 | **Date/Time:** 2015/08/07 19:14  **Type:** Company-Importer  **Org. type:**  Company-Importer  **Org. name:**  <removed>  **Org. country:**  Italy  **Company name confidential: True**  **Attachment:** | **Comments on the SEAC draft opinion:**  The main uses of Deca-BDE are in plastics and textiles. In plastics, it is used for electrical and electronic equipment such as personal computers and television sets; in the construction and building sector, it is used in cables, pipes and carpets; and in the transport sector, in automobiles and aircraft.  ABS and HIPS plastics are the two main polymer resins, which are used for electric and electronic uses. Deca-BDE is also used in electronic devices such as connectors, plugs and switches.  In textiles, Deca-BDE is used in various types of furniture in order to comply with fire safety standards in public places and with ever more stringent fire safety requirements for the home.  Imports of Deca-BDE in the EU were estimated in 2012 at 4,133 tonnes, while exports were estimated at 482 tonnes, thus assuming a consumption of 3651 tonnes (source: Eurostat) with main uses in electronic and PS.  The economic impact on <removed> can be very damaging. If our EU customers are no longer allowed to use Deca-BDE, they will cease to be able to compete in manufacturing outside the EU.  At this time, we are nowhere near an alternative, yet to be developed through research and development, for a feasible and economic substitute to Deca-BDE, without major and expensive changes in the production processes at literally thousands of companies which are currently using Deca-BDE.  The main alternative proposed in the “Annex XV proposal for a restriction” is Ethane-1,2-bis(pentabromophenyl) (EBP). Although this substance is used in the same material range and at a “similar” price (though 15% higher), Deca-BDE and EBP have very different technical characteristics. For example, they have a different melting point. Furthermore, Deca-BDE and EBP have a very different TGA (Thermogravimetric analysis). Indeed, Deca-BDE loses 10 % (mass) at 349 °C (515 °K) while EBP loses 10 % (mass) at 370 °C (643 °K) with a difference of 21 °C.  Moreover some measures have already been adopted in order to monitor and control Deca-BDE dispersion into the environment. VECAP is the Voluntary Emission Control Action Program, which aims to regulate exposure to the substance and emissions in the environment, through a series of actions like packaging emptying and wasting, spillages collecting, improving processes trying to minimize risks of exposure to employees and general population. These kind of actions could be strengthened and proposed to a larger and larger number of companies.    Bibliography  1) EPA - An Alternatives Assessment for the Flame Retardant Decabromodiphenyl Ether (Deca-BDE)  2) Washington State Department of Health - Polybrominated Diphenyl Ether (PBDE) Chemical Action Plan: Final Plan |
| **SEAC Rapporteurs response:**  Thank you for your comment and the information provided. As a response, we would like to refer to the Dossier Submitters and the RAC and SEAC responses given to the comments received during the Public Consultation of the Annex XV report. |
| 198 | **Date/Time:** 2015/08/10 17:26  **Type:** Industry or trade association  **Org. type:**  Industry or trade association  **Org. name:**  European Electronics Recyclers Association EERA  **Org. country:**  Netherlands  **Company name confidential: False**  **Attachment:**    **Attachment:**  **(Confidential)**  <removed>  **Privacy comment:**  This paper is only available as a payable document and we only got permission to send this as confidential paper with this EERA statement.  The paper can be obtained through: <http://www.sciencedirect.com/science/article/pii/S0048969715301017> at a cost of $42. | **Comments on the SEAC draft opinion:**  Notes and comments made on the SEAC report:  • The SEAC report (page 8, section in bold) suggests that additional study is required to understand the levels of decaBDE in waste streams from WEEE – see also EERA study 2009.  • The SEAC report concludes that there should be derogations for the aviation and automotive industries so they have time to transition over to alternatives. As the lifetime of durables is 5-15 years, it would seem that there should be derogations for substances in waste streams. These could be in the form of higher allowable levels that reduce over time to 1000 ppm. This could be concurrent with the studies on the DecaBDE content of waste streams. The proposed threshold for Post Consumer Recyclate is proposed to be 3000 ppm for the next 15 years.  • LCAs clearly show that recycling of plastics in ESR is superior to incineration in terms of energy, CO2 and even other environmental factors related to toxicity. Is staying below the current defined limits worth the extra environmental impact of reduced recycling rates?  • The SEAC report mentions that different limits lead to regulatory confusion, but are any regulations surrounding WEEE, ELV, etc. enforced anyway? See particularly agreement after long debates for EN 50625 TS standard for Brominated Flame Retardants.  • The report suggests replacement of decBDPE by EBP (i.e. Ethane, 1,2-Bis (pentabromophenyl), aka Saytex 8010). According to the ANNEX XV RESTRICTION REPORT: PROPOSAL FOR A RESTRICTION (page 12), EBP “is currently undergoing Substance Evaluation under REACH based on a concern that it may exhibit PBT/vPvB properties”. If EBP is allowed in products but restrictions on EBP are introduced later on, the recycling industry will have an additional burden.  • Information on “additional costs” beyond the replacement of decaBDE with EBP - currently, most global E&EE manufacturers do not use decaBDE because of the RoHS restriction on PBDEs. Therefore, the cost of substituting with EBP is not applicable other than historically. A small number of applications use EBP (e.g. some toner catridges), but most E&EE manufacturers avoid the use of any brominated flame retardants. This has resulted in the replacement of lower cost plastics such as ABS and HIPS (for which brominated FRs are the most effective flame retardants) with more expensive plastics such as PC/ABS and PPO. The plastics also use flame retarded with phosphate esters. While the current types used are not part of the ECHA lists, some types of phosphate esters have been phased out due to concerns about water toxicity. It is also difficult to recycle PC/ABS (compared with HIPS-FR grades).  • Page 21 (Table 3-6) of the “Consultant Report”  Since DecaBDE is ~10% of the composition of FR plastics, there were ~1 million tons of FR plastic containing DecaBDE produced in EU between 2000 and 2012. Burning this vs. recycling will add ~3 million tons of CO2 to the atmosphere.  • Page 58 of the “Consultant Report”  Norway treats waste containing >2500 ppm DecaBDE as hazardous waste so it must be handled by facilities accredited to handle hazardous waste – E-Waste plastic recycling plants generally do not have permits to handle hazardous wastes – hence all E-Waste plastics from Norway need to be incinerated – what a shame.  • Page 87 of the “Consultant Report”  Note that the X-ray and density separation processes mentioned as being used in Sweden (Stockholm Convention, 2012) don’t result in the removal of all PBDEs. XRT is not as effective for smaller particles, and the distinction between thin flakes containing Br from thick flakes without Br is not perfect. Furthermore, neither method is efficient when the level of Br is below about 50000 ppm in the plastic.  • Page 88-89 of the “Consultant Report”  Higher temperatures and scrubbing are required in the burning of plastics containing PBDEs. Low allowable limits of DecaBDE in waste streams or products means that aggressive separation to remove all BrFR will be required and that a larger amount of material must go through these special processes. While processes such as cement kilns allow for recovery of energy, the presence of other substances (e.g. heavy metals) in WEEE plastics streams means that in reality the DecaBDE containing streams must be incinerated in processes with less energy recovery (and at a higher cost for the recycler). If slightly higher levels of DecaBDE are allowed in plastics or plastic mixtures from WEEE, higher yields of recycled products can result. This means greater benefits in terms of CO2 emissions reductions (e.g. see the MBAPA LCA), and also helps the economics of plastic recyclers.  • Annex XV report section E.2.1.2 pg. 50  Limit of 0.1% for DecaBDE is appropriate for recycled content as this is what is used in RoHS, but expensive and slow. This adds cost to recycling, which is an economically fragile industry. Note also that if BrFR alternatives are allowed, then this testing will be ongoing and it’s possible that new restrictions on those BrFRs will be imposed once the data are in for the effects of those alternatives. The elemental procedure as agreed in the Cenelec recycling standard should continue be accepted as method even after the restriction of deca-BDE – it will anyway largely help to phase out this legacy substance over time.    • E1.1.1, page 322  Incineration is required for DecaBDE containing plastics. This essentially means that all BrFR containing plastics must be incinerated, as it is not feasible for recyclers to separate decaBDE plastics from other BFr containing plastics.  General final note:  Keep the threshold value for elemental Bromine (2000 ppm) set by the European recycling standard for electronic products as long as the plastics are in the waste phase.  Allow a threshold of 3000 ppm for deca-BDE in Post-Consumer Recycled (PCR) plastics for 15 years. |
| **Specific information 2:**  Question a. See attached EERA paper.  Question b. No, not without expensive analytics. The Cenelec recycling defines that only elemental Br needs to be measured (possible with simple handheld XRF equipment). If >2000 ppm Br is measured the plastics will need to be treated in a recycling plant that separates plastics with BFR's. If below the plastics are considered to be free of restricted BFR's.  Question c. Yes there would be a serious cost impact - see remarks and comments above. But not only a cost impact also an environmental impact - see paper LCA attached in confidential attachments.  Question d. EERA proposes a threshold of 3000 ppm deca-BDE for a transition period of 15 years for post consumer recycled (PCR) plastics for this legacy substance. Reasoning see comments and paper attached. |
| **SEAC Rapporteurs response:**  Thank you for your comment and the information provided, which has been very helpful to get a better picture of current recycling practices. Considering the details of the recycling process of WEEE waste you are referring to, it is difficult for us to assess how and to what extent a concentration limit of 0.1 % decaBDE in recycled plastics (in the product phase) would negatively affect the recycling sector. Please consider also our response to comment no. 205. |
| 199 | **Date/Time:** 2015/08/12 15:25  **Type:** Regional or local authority  **Org. type:**  Regional or local authority  **Org. name:**  European Defence Agency (EDA)  **Org. country:**  Belgium  **Company name confidential: False**  **Attachment:** | **Comments on the SEAC draft opinion:**  Defence industry (ASD REACH Working Group) has brought to EDA’s attention information on the ECHA consultation for a restriction proposal for substance (Bis(pentabromophenyl) ether (decabromodiphenyl ether) (DecaBDE), currently under examination by ECHA.  In its draft opinion SEAC proposed that there should be a derogation : the restriction shall not apply to manufacture, use and placing on the market for the production, maintenance, repair or modification of any aircraft (or article eligible for installation on an aircraft) with a civil aviation design approval (i.e. not covering military aircraft).  The ASD provided comments to the draft opinion (comment No. 1241) requesting that defence aerospace applications, not covered by civil aviation design approval, are covered too by the proposed derogation (both categories are impacted and there is no reason to distinguish). ASD suggested especially a new category for the derogation to be added to read “for a military aircraft of a design contracted before [date of entry into force]”.  The response by ECHA to the ASD comment was “Defence aerospace applications: Article 2(3) of the REACH regulation states that “Member States may allow for exemptions from this Regulation in specific cases for certain substances, on their own, in a mixture or in an article, where necessary in the interests of defence”. A specific derogation for defence aerospace applications would thus be redundant since such cases are already foreseen by a provision of REACH.”  Based on the response by ECHA to the comments/proposals from ASD/defence industry, it seems that there is a misconception on defence exemptions, which are seen as the only means to deal with REACH issues related to defence, thus leading ECHA when examining issues/substances that have an impact to both civil and defence applications/uses (as is the case in the specific consultation) to exempt the defence uses from the overall discussion and propose these to be dealt with under Article 2(3) of the REACH Regulation, i.e. through granting defence exemption(s).  It should be highlighted that Member States and defence industry share the view that defence exemptions constitute a temporary solution, not valid across the EU but only in the territory of the Member State that grants the defence exemption, while not ensuring that substances at stake will remain available on the market, in the long-term. Therefore, they are clearly seen not as a panacea, but to the contrary, as last resort solution for a highly strategic sector with specificities, such as defence.  This principle is clearly reflected in the EDA Code of Conduct on REACH Defence Exemptions recently adopted by EDA Member States, which foresees that the granting of defence exemptions should be considered only after the following alternative methods have been examined:  • complying with the requirements of the REACH Regulation;  • substitution of hazardous Substance(s) with more benign alternatives.  Based on the above mentioned, the EDA considered necessary to clarify the principles agreed by its Member States when using the defence exemptions, by submitting a letter to ECHA on the issue. This letter is attached also hereby (under Section IV). These principles are requested to be further disseminated within and taken into account by ECHA competent bodies (not only for this specific consultation, but in general).  Seeking common REACH compliant solutions on REACH issues impacting both civil and defence sectors should be aimed for whenever possible, as it would greatly benefit all stakeholders involved. |
| **SEAC Rapporteurs response:**  Thank you for your comment and the information provided. We take note of the EDA Code of Conduct on REACH defence Exemptions. We agree that with regard to the restriction proposal on decaBDE a common derogation for civil and military applications is most appropriate. Please consider also our response to comment no. 196. |
| 202 | **Date/Time:** 2015/08/12 17:29  **Type:** International NGO  **Org. type:**  International NGO  **Org. name:**  European Environmental Bureau (EEB)  **Org. country:**  Belgium  **Company name confidential: False** | **Comments on the SEAC draft opinion:**  The EEB don't understand why ECHA gives a second chance to recycling industry to get a derogation. If no comments received in the previous consultation, derogation should not be considered. Although this question is not justified in our view and we had already submitted our comments during the previous public consultation in this matter, we would like to re-submit them as a reminder of the EEB's position. |
| **Specific information 2:**  In our view, the proposed restriction is the most effective risk management option to control exposure to deca BDE and recycling deca BDE shall not be exempted from the proposed restriction.  The EEB supports recycling materials as long as the final product doesn’t contain substances with unwanted properties. If recycled materials contain a substance of very high concern, the problem of continued emission in the environment would be perpetuated. The goal of reducing exposure to PBT substances (which is one of the main objectives of the REACH regulation) would not be met, as well as the EU 7th Environmental Action Programme’s goal for the non toxic environment and goals for hazardous substances and waste:  (viii) fully implementing Union waste legislation. Such implementation will include applying the waste hierarchy in accordance with the Waste Framework Directive and the effective use of market-based instruments and other measures to ensure that: (1) landfilling is limited to residual (i.e. non-recyclable and non-recoverable) waste, having regard to the postponements provided for in Article 5(2) of the Landfill Directive; (2) energy recovery is limited to non-recyclable materials, having regard to Article 4(2) of the Waste Framework Directive; (3) recycled waste is used as a major, reliable source of raw material for the Union, through the development of non-toxic material cycles; (4) hazardous waste is safely managed and its generation is reduced; (5) illegal waste shipments are eradicated, with the support of stringent monitoring; and (6) food waste is reduced. Reviews of existing product and waste legislation are carried out, including a review of the main targets of the relevant waste directives, informed by the Roadmap to a Resource Efficient Europe, so as to move towards a circular economy; and internal market barriers for environmentally-sound recycling activities in the Union are removed. Public information campaigns are required to build awareness and understanding of waste policy and to stimulate a change in behaviour;  Also, Director-General of the European Commission, Mr. Karl FALKENBERG stated at the European Parliament-ENVI committee that: "The new proposal, to be tabled this year, will address the problem of toxic materials inhibiting recycling, with the goal of producing higher quality secondary raw materials. It will also seek to promote repair."  In order to develop non-toxic material cycles, toxic substances (especially substances of very high concern such as deca BDE has to be removed in production in the first place. Therefore, restriction under REACH Regulation is an important measure to take.  Moreover, the presence of SVHC substances (including deca BDE) in materials to be recycled will make responsible recycling more expensive and difficult. If deca BDE is derogated for recycling, recyclers would face a serious problem when recycling materials that contain SVHCs since they would have to test the articles as they don’t want SVHCs in their final products and this is affecting their reputation and an exemption for restriction would cause a substantial economic impact that should be taken into consideration.  Finally, hazardous legacy is an obstacle to quality recycling needed for the circular economy. The EU needs to avoid re-injection in the economic cycle, even if to start with this may limit recyclability of contaminated material (that can then be burnt in specific incinerators from which heat recovery could be considered).  This is in line with prevention first (no more hazardous substances in materials), before recycling. |
| **SEAC Rapporteurs response:**  Thank you for your comment and the support. We take note of your position on recycling. The further information received on this issue confirms that the proposed restriction is not expected to negatively affect recycling activities. Please also refer to our response to your comment in the Public Consultation of the Annex XV report. |
| 203 | **Date/Time:** 2015/08/14 17:08  **Type:** Industry or trade association  **Org. type:**  Industry or trade association  **Org. name:**  AGORIA  **Org. country:**  Belgium  **Company name confidential: False** | **Comments on the SEAC draft opinion:**  ECHA proposes a restriction on decaBDE, a brominated flame retardant used in plastics and textiles  Amount currently used  Flame retardants, such as DecaBDE have been used historically by industry to meet various flammability standards. Heavy duty Commercial vehicles, Agricultural tractors and Non Road Mobile Machinery (construction, agricultural, municipal equipment, material handling…) have certain applications where flame retardance is critical to the safety of the equipment placed on the market and the people using it.  Due to the huge variety of product configurations and the possible presence of decaBDE in several materials (such as: polyethylene (PE), polypropylene (PP), adhesives, micro-fibre polyester, thermoplastic elastomers (TPS-SEBS), nylon, etc.) the number of components that may contain decaBDE is considerable: seatbelts, seat covers, cooling fans and hoses, electrical switches and housings, heat shrink tubings, fuel systems, isolations, sealing's etc.  Thousands of components need to be checked to inventory the presence of decaBDE in agricultural vehicles. Preliminary estimations restricted to a few models of commercial vehicles indicated the presence of decaBDE in more than 200 components. A similar estimation can be made for above mentioned machinery. To complete such an exercise for all products is complex and time-consuming.  Pending the collection of the data, a very rough estimation of the amount of decaBDE currently used can be made  For the professional sector with Heavy duty Commercial Vehicles (>16t), Agricultural Tractors and Non-Road Mobile Machineries (construction, agricultural, municipal equipment, material handling…) it can be estimated that on average the amount of decaBDE in professional products is in the range of 90 – 140 g/product.  Assuming the European annual market of Heavy duty Commercial Vehicles, Agricultural Tractors and Non- Road Mobile Machineries (only taking into account the figures for agricultural and construction equipment only) is approximately 600.000 units the total amount of decaBDE for the sector is in the range of 54 - 84 tonnes/years.  Feasible alternatives  It is expected that some of the solutions identified for the car application are suitable for professional application as well. The industries represented are committed to safety and to the protection of the environment. Substances such as decaBDE will be eliminated when suitable alternatives are available and validated.  However, there is a much higher level of complexity and variety in agricultural mobile machinery with much lower volumes that has to be taken into account. Also bearing in mind the very different type of functionalities and environmental conditions where such a products operate, it is not so easy to simply transfer solutions proven for the car to these products. Product development life cycles can range from 3-10 years tp product launch for the machinery listed above. Also given the lower volumes certain changes may simply not be economically viable.  As industry prepares to redesign with alternative materials, more components ill be made available to the market. However it will be several years before suitable alternatives can be found, tested and validated. Specifically, alternative components need to be re-validated taking into account the above-mentioned peculiar elements, the typical high life expectancy of these products and the high safety levels required.  Specific research in the development and validation phase has to be done in order to answer the question whether alternative solutions are technically and economically feasible for the machinery listed above.  Potential additional costs  Industries represented here have been working towards phasing out the use of hazardous substances and will continue to do so. Challenges arise from the complexity and variety of products placed on the market, the complexity and depth of the associated worldwide supply chains, and the long useful lifetime of the products after manufacture. So far, there is not yet enough knowledge on the cost connected with the replacement of the decaBDE in these industrial sectors. The inventory of components and the identification of the potential feasible solutions are fundamental elements of a valid cost estimation.  It can be foreseen that the costs will be significant considering the number of products, components and conditions of use, and in most of the cases for a small production volume. Therefore it will depend on each application and its volume whether the development and validation costs are justifiable. The small production volume could also be prohibitive for the small scale suppliers who need the return of investment to convert the production process.  Need for derogation  On the basis of the above reported scenario industry recommend ECHA to apply a derogation on the limitation of use of decaBDE.  This derogation should apply to all professional vehicles from Heavy duty Commercial Vehicles, Agricultural Tractors and Non-Road Mobile Machineries for a period of time needed to develop, validate and put in production the alternative component.  Then the derogation should be limited to the existing products portfolio for a period proportionate to the typical total system change-over (around 10 years). It will not be technically feasible and not economically wise to mandate the accelerated modification of products for which the investment has been done.  After the end of production of the products for which the derogation was applicable, the derogation should continue to apply for spare parts that need to remain available for the entire product lifetime. | |
| **SEAC Rapporteurs response:**  Thank you for your comment. After considering the information you have provided, we consider it to be plausible that a derogation for the use of decaBDE in spare parts is justified, because it will prevent additional costs of testing to comply with safety standards and ensure that vehicles are used over their whole life span. However, we come to the conclusion that your comment does not provide sufficient evidence to justify why a much longer transition period (e.g. 10 years) is needed to substitute decaBDE from the production of professional vehicles and machinery. In particular, it is not clear why the conditions of your sector fundamentally differ from applications of decaBDE in the aviation or automotive sectors. The annual volumes of decaBDE used you refer to are not small and the extended transition period you have requested is long. In our view a solid data basis on the costs to be expected due to the proposed restriction would be needed to justify such a derogation. This data basis has not been provided. Hence, we see no scope to include a corresponding proposal in the opinion of SEAC at this stage. | |
| 204 | **Date/Time:** 2015/08/14 17:17  **Type:** Industry or trade association  **Org. type:**  Industry or trade association  **Org. name:**  Association of Equipment Manufacturers  **Org. country:**  United States  **Company name confidential: False**  **Attachment:** | **Comments on the SEAC draft opinion:**  Flame retardants, such as decaBDE, have been used historically by industry to meet various flammability standards. The construction, agricultural, energy and mining industries have certain applications where flame retardance is critical to the safety of the equipment placed on the market and the people using it.  The construction, agricultural, energy and mining industries are committed both to safety, and to the protection of the environment, and harmful substances such as decaBDE will be eliminated when suitable alternatives are available and validated. This position is consistent with the aerospace trade associations on this issue. | |
| **SEAC Rapporteurs response:**  Thank you for your comment. After considering the information you have provided, we consider it to be plausible that a derogation for the use of decaBDE in spare parts could be justified, because it will prevent additional costs of testing to comply with safety standards and ensure that vehicles and machinery are used over their whole life span. With regard to an extended transition period for the manufacture of new products, you are stating that for the industries you are representing the same conditions apply as for the aerospace industry. In this respect, we would like to highlight that SEAC proposes a derogation only for aircrafts that have been type approved before the entry into force of the proposed restriction, not until 2020. Overall, we conclude that there is not enough evidence for SEAC to assess the consequences of the derogation you are requesting. | |
| 205 | **Date/Time:** 2015/08/15 12:17  **Type:** Company-Downstream user  **Org. type:**  Company-Downstream user  **Org. name:**  ARN Recycling BV  **Org. country:**  Netherlands  **Company name confidential: False**  **Attachment:** | **Comments on the SEAC draft opinion:**  There are two reasons why ARN requests that the threshold from recycled plastics and fibers from ELV residues is kept at a level of 3000 ppm bromine for all restricted brominated flame retardants (including Deca-BDE if this substance is to be restricted):  1) The fulfillment of the legal ELV targets (directive 2000/53/EC), especially the 85% reuse and recycling target. The plastics 1.1-1,3 and the fibers might contribute 5% to the 85% recycling target.  2) Additional restrictions at congener level would place an expensive burden on recyclers, because every batch of materials would have to be tested to identify small amounts of substances that might still be present. The test to measure compliance to such small levels of legacy additives become extremely expensive and complex and is driving up the costs and risks of doing business for material recyclers. | |
| **Specific information 2:**  Answers see attachment. | |
| **SEAC Rapporteurs response:**  Thank you for your comment and the information provided, which has been very helpful to get a better picture of current recycling practices. Considering the details of the recycling process of waste from ELV you are referring to, it is difficult for us to assess how and to what extent a concentration limit of 0.1 % decaBDE in recycled materials (in the product phase) would negatively affect the recycling sector. All separation and testing efforts described are triggered by already existing legislation or standards. Hence, it is not clear what significance of the additional negative impact of the proposed restriction on decaBDE would be. In order to propose a higher concentration limit for recycled materials SEAC will need evidence for any negative impact of the proposed concentration limit of 0.1 %. | |
| 206 | **Date/Time:** 2015/08/17 10:54  **Type:** Industry or trade association  **Org. type:**  Industry or trade association  **Org. name:**  CEMA  **Org. country:**  Belgium  **Company name confidential: False**  **Attachment:** | **Comments on the SEAC draft opinion:**  Amount currently used:  Flame retardants, such as DecaBDE have been used historically by industry to meet various flammability standards. Due to the huge variety of product configurations and the possible presence of decaBDE in several materials the number of components that may contain decaBDE is considerable: seatbelts, seat covers, cooling fans and hoses, electrical switches and housings, heat shrink tubings, fuel systems, isolations, sealing's etc.  Thousands of components need to be checked to inventory the presence of decaBDE in agricultural vehicles. Preliminary estimations restricted to a few models of commercial vehicles indicated the presence of decaBDE in more than 200 components. To complete such an exercise for all products is complex and time-consuming.  Pending the collection of the data a very rough estimation of the amount of decaBDE currently used can be done on the basis of the data collected by ACEA for cars. The average amount of decaBDE present in the cars in the year 2012 (after this date its presence declines as automotive Industry introduced decaBDE free alternatives) resulted to be 46,6 g/cars. Considering the European annual market of cars in 15 million the total amount of decaBDE is estimated in 706 tonnes/year.  To reflect the ACEA analysis on the Heavy duty Commercial Vehicles (>16t), Agricultural Tractors and Non-Road Mobile Machineries, it can be estimated that in average the amount of decaBDE in professional products can be 2-3 time larger than in cars: in the range of 90 – 140 g/product.  Assuming the European annual market of Heavy duty Commercial Vehicles, Agricultural Tractors and Non- Road Mobile Machineries (only taking into account the figures for agricultural and construction equipment only) is approximately 600.000 units the total amount of decaBDE for those sectors is in the range of 54 - 84 tonnes/years.  Feasible alternatives:  It is expected that some of the solutions identified for the car application are suitable for professional application as well. The industries represented are committed to safety and to the protection of the environment. Substances such as decaBDE will be eliminated when suitable alternatives are available and validated.  However, there is a much higher level of complexity and variety in agricultural mobile machinery with much lower volumes that has to be taken into account. Also bearing in mind the very different type of functionalities and environmental conditions where such a products operate, it is not so easy to simply transfer solutions proven for the car to these products. Product development life cycles can range from 3-10 years tp product launch for the machinery listed above. Also given the lower volumes certain changes may simply not be economically viable.  As industry prepares to redesign with alternative materials, more components will be made available to the market. However it will be several years before suitable alternatives can be found, tested and validated. Specifically, alternative components need to be re-validated taking into account the above-mentioned peculiar elements, the typical high life expectancy of these products and the high safety levels required.  Dedicated research in the development and validation phase has to be done in order to answer the question whether alternative solutions are technically and economically feasible for the machinery listed above.  Potential additional costs  Industries represented here have been working towards phasing out the use of hazardous substances and will continue to do so. Challenges arise from the complexity and variety of products placed on the market, the complexity and depth of the associated worldwide supply chains, and the long useful lifetime of the products after manufacture. So far, there is not yet enough knowledge on the cost connected with the replacement of the decaBDE in these industrial sectors. The inventory of components and the identification of the potential feasible solutions are fundamental elements of a valid cost estimation.  It can be foreseen that the costs will be significant considering the number of products, components and conditions of use, and in most of the cases for a small production volume. Therefore it will depend on each application and its volume whether the development and validation costs are justifiable. The small production volume could also be prohibitive for the small scale suppliers who need the return of investment to convert the production process.  For agricultural vehicles there is the implementation of the new framework Regulation 167/2013, starting in 2016, with more specific requirements on burning rate. The necessary solutions from manufacturers have already been prepared. It would be an additional cost, following a decaBDE restriction in the coming years, having to change these affected components again.  Need for derogation  On the basis of the above reported scenario industry recommend ECHA to apply a derogation on the limitation of use of decaBDE.  This derogation should apply to all professional vehicles from Heavy duty Commercial Vehicles, Agricultural Tractors and Non-Road Mobile Machineries for a period of time needed to develop, validate and put in production the alternative component.  Then the derogation should be limited to the existing products portfolio for a period proportionate to the typical total system change-over (around 10 years). It will not be technically feasible and not economically wise to mandate the accelerated modification of products for which the investment has been done.  After the end of production of the products for which the derogation was applicable, the derogation should continue to apply for spare parts that need to remain available for the entire product lifetime. | |
| **SEAC Rapporteurs response:**  Thank you for your comment. With regard to your request for a derogation for the use of decaBDE in professional vehicles, please refer to our response to comment no. 203. | |
| 207 | **Date/Time:** 2015/08/17 15:04  **Type:** Industry or trade association  **Org. type:**  Industry or trade association  **Org. name:**  <removed>  **Org. country:**  Belgium  **Company name confidential: True**  **Attachment:**  **(confidential)**  <removed>  **Privacy comment:**  The document is submitted as confidential according to article 4(2) of regulation (EC) No 1049/2001due to it containing information of a commercially sensitive nature. | **Comments on the SEAC draft opinion:**  The automotive industry is committed to phasing out the use of decaBDE in current production vehicles by July 1st, 2018, so a transitional period would be required if a restriction is published before this date.  This timescale is needed due to the number of affected parts and the validation required to move to suitable alternatives.  In order to ensure the current EU fleet can be repaired, a derogation for legacy service parts intended for vehicles produced before July 1st, 2018 will be required.  Without such a derogation, new materials in older applications cannot be fully evaluated and may present an unacceptable risk during substitution. | |
| **Specific information 1:**  a) Automotive vehicles covered by this declaration include cars, trucks, buses.  Applications containing decaBDE include (but are not limited to) – Seatbelts, Seat Covers, Cooling fans and hoses, Electrical switches and housings, Heat shrink tubings, Fuel Systems, engine covers, Tunnel insulations, Sealing applications, powertrain applications  b) Tonnages are difficult to answer accurately for our sector.  For serial production, <removed> members are already well into the process of substituting DecaBDE and will have completed this task by July 2018.  For spare parts, DecaBDE is still needed as there is not the opportunity to fully evaluate alternatives in all vehicle applications.  Accurate tonnages for DecaBDE are impossible to predict accurately for the following reasons:  - Supply Complexity - several thousand operators / SMEs are producing spare parts in very small volumes for thousands of vehicles that are no longer produced.  - There is no steady demand for individual spare parts containing DecaBDE (they are ordered when they are required).  - Accuracy and completeness of reported data from supply chain for legacy spare parts varies as they were designed before or during the early stages of our reporting activities.  Due to the latest information on <removed> members DecaBDE elimination activities being completed in July 2018 for current production (earlier than our initial information) , it is estimated that the annual tonnage sold in the EU for spare parts after this date will be between 0.5 - 5 tonnes.  For the North American vehicle market the situation is similar. The phase out of DecaBDE in current production is nearly completed. A derogation for the supply of spare parts insures that the vehicles in the field can be adequately repaired.  For the Asian vehicle market we do not have sufficient information.  c) Alternatives have to be assessed on a case by case basis to understand the most effective flame retardant for the application, including all interactions with surrounding materials, physical conditions etc (see presentation for more details). The most common alternatives for our applications are EBP and polymeric BFR.  d) Yes - Please see presentation.  e) There is no way to completely eliminate DecaBDE from legacy spare parts without jeopardising consumer safety for certain applications. Please see presentation for more details.  f) It costs between €20,000 - €150,000 for material testing to introduce a new material into automotive applications. These costs do not include any system / vehicle level validations. Vehicle validation costs can be kept to a minimum if we are able to introduce new materials in the development of a new vehicle (rather than current production changes) as these vehicle validations are part of the normal vehicle development process. Please see presentation for more information. | |
| **Specific information 2:**  g) An exemption linked to Type Approval is no longer required. <removed> members have committed to phase out DecaBDE for current production by July 2018.  h) A derogation for legacy spare parts is required and should be linked to the commitment date identified above, rather than a Type Approval date. Suggested wording for an automotive derogation would be:  By way of derogation, paragraphs 1 and 2 shall not apply to manufacture, use and placing on the market for vehicles produced before July 1st, 2018 and spare parts for these vehicles. | |
| **SEAC Rapporteurs response:**  Thank you for your comment and the information provided. We agree that a derogation for legacy spare parts is justified, because it will prevent additional costs of testing to comply with safety standards and ensure that vehicles are used over their whole life span and not rejected prematurely. With regard to the slightly extended transition period requested, we conclude that it is likely that this derogation on the whole will improve the cost-effectiveness of the restriction, taking into account that the overall tonnage covered is likely to be moderate and the data on the additional cost for testing. | |
| 208 | **Date/Time:** 2015/08/17 16:13  **Type:** Company-Downstream user  **Org. type:**  Company-Downstream user  **Org. name:**  <removed>  **Org. country:**  Italy  **Company name confidential: True**  **Attachment:**    **Attachment:**  **(confidential)**  <removed>  **Privacy comment:**  Competitors could use the provided information for adaptation of their own process. This would result in loss of competitiveness of our Company regarding quality of the final product as well as production efficiency and therefore harm our Company's market position.  Competitors could either copy the process and enter the market or might use the provided information for optimization of their own process. This would result in loss of competitiveness of our Company regarding quality of the final product as well as production efficiency and therefore harm our Company's market position.  Competitors could organise their shift system similarly and thus could try to encroach our Company's market when knowing details about its expansion plan. | **Comments on the SEAC draft opinion:**  SEAM/1177/REACH  Our Company uses DecaBDE as material for Flame Retardant production by a Third Party. This Third Party takes DecaBDE and other substances, soaks and impregnates our final goods strictly in closed loop. The final goods impregnated come back to us for final treatments and after we sell production.  Our Company operates in accordance with the requirements of the Integrated Environmental Authorization (AIA) issued by Region in compliance with Directive 2010/75/EC (IPPC). The authorization provides control plans on all operational and environmental aspects (emissions, waste, water treatment, underground, mass balances, etc.), and requires scheduled and unscheduled audits by the Supervisory Authorities (ARPA, etc.).  Until today, there have never been non-compliances.  Our Company uses DecaBDE since forty years and has never had any accident, injury or illness related to the handling and management of DecaBDE.Our Company has never had problems with stakeholders (e.g. Resident population, Trade Unions, Supervisory Authorities, etc.) and the production site is far from urban settlement.Our Company is certified according to :  - ISO14001 (Environmental Management System);SA8000 (Social Accountability);Standard GHG41 CMS (Carbon Neutrality);Oeko-Tex (Eco-compatibility of textile products in contact with skin);ISO9001 and ISO TS 16949 (Quality Management System);BS OHSAS18001 (Safety Management System).  Our Company uses DecaBDE because it is a very suitable substance for Flame Retardant and it has the technical features for production process.  Our Company's products are highly technological and sold throughout the world. The impossibility of using DecaBDE will cause the loss of a part of Flame Retardant textile market and will involve into conversion to other flame retardants material with higher costs due to research, tests, investments and a long phase (e.g. 2-3 years) of homologation with Customers.  As discussed above, our Company requires that DecaBDE will not be restricted now as Flame Retardant for Automotive sector. | |
| **Specific information 1:**  a) DecaBDE is used as upholstery in all kinds of vehicles and not only vehicles. Markets are Aviation, Fashion, Interior, Marine, Automotive, Electronic Goods, etc.). In Automotive Sector, we produce ultra microfiber for upholstery, cover etc. not properly parts or spare parts.  b) As order of magnitude, we use 120,000 ton of decaBDE per year.  c) DecaBDEthane and Phosphonated derivatives.;  d) Yes it is, please see this explanation below:  CUSTOMER QUALIFICATION (“HOMOLOGATION”)  D1. General  Customer qualification is required for 86% of the total production output and for it, whenever a change in product from Customers is planned, the new product must run through a Customer’s qualification phase. This is in order to make sure that new product meets all quality characteristics, the schedule production timeline and the production volume requested by Customer.  Depending on the sector, all or just a percentage of the Customers demand such a qualification. In Automotive industry, 100% of Customers require customer qualification. For example, Manufacturers of premium cars would not accept unqualified final good because otherwise they would risk their brand.  Our production has 80 different kinds of intermediate and quite 3500 customized products are formed depending on Customer’s requirements like mechanical properties but also colour differences. So, the production steps, are different for each of these products and each product has its own code. For Automotive sector, there are more than 1000 codes, mostly Flame Retardant application.  D2. Example timeline  D2.1. Input phase by Customer (car constructor) (3 -6 months).  Customer request a new product for seat application with higher mechanical resistance and increased colour resistance against UV-light. A business-schedule is worked out and our technical department opens a new project.  D2.2. Project phase (together, we and Customer) (6-24 months)  Marketing and Customer Innovation Department release a development plan to Customer.  Sample material was produced and prototype testing in the laboratory.  After laboratory tests, field tests (cold, hot, direct sunlight) are requested by Customer. Changes in material, e.g. colour changes, are examined afterwards. In case tests are not successful, the client goes back to us, we amend production and tests are run again with slightly changed materials/conditions. At the end of successful field tests, industrial scale production of each product can start.  D2.3. Homologation phase (6 months)  Customer approves the proposed product. Codification of the product starts, production route is defined. We (together with Customer) release the final product plan and set the technical purchase specifications. Costs and logistic conditions are defined.  Production phase can start several months after the end of homologation phase depending on the request, so delays in industrial scale production can appear.  D2.4. Production phase (total time for customer qualification of 1product 18-36 months, see above).  e)According on what explained above, if substitution process for DecaBDE Application starts now, it will take 3 years. We have already planned it and we have started since 1 year for many codes but it will take time.  f)Costs very high in general (testing, substitution, homologation) and difficult to estimate but we can assume 150 k€ as order of magnitude.  g)We think a time limit derogation of 5 years will be better.  h)-. | |
| **Specific information 2:**  Not applicable because our Company have got no activities on Recycling DecaBDE Sector. | |
| **SEAC Rapporteurs response:**  Thank you for your comment. The information you have provided does not substantiate why the substitution of decaBDE is not possible within the transition period proposed. Furthermore, your request for a longer transition period or even an exemption for the use of decaBDE in the automotive sector is in clear contrast to contributions received by other stakeholders indicating that technically and economically feasible alternatives to decaBDE are available, also for applications in the automotive sector. Hence, we see no reason to change the opinion of SEAC. | |
| 209 | **Date/Time:** 2015/08/17 16:57  **Type:** Industry or trade association  **Org. type:**  Industry or trade association  **Org. name:**  European Flame Retardants Association  **Org. country:**  Belgium  **Company name confidential: False** | **Comments on the SEAC draft opinion:**  EFRA supports the overall conclusion of the SEAC draft opinion that a 0.1% concentration limit is appropriate. This limit is in line with limits set for currently restricted substances including PBDEs under the EU RoHS Directive (2011/65/EU).  EFRA would like to note that a limit set any lower than 0.1% would make the accurate analysis of the substance in waste streams unnecessarily challenging and costly for the recycling industry to implement. | |
| **Specific information 2:**  EFRA would like to share the following data in relation to question 2a and 2b.  a.Flame retardants are applied in plastics contained in telecommunication devices, cars, computers, monitors, television sets, heating equipment and other consumer equipment, as well as – to a lesser extent – in office equipment. Only a small part of the plastics in household appliances is flame retarded. The share of flame-protected plastics (not only commercial Deca-BDE) in WEEE over all categories has been estimated to amount to about 25%. Flame retardants are also applied in textile back coatings used for furniture.  A study conducted in 2010 by EMPA for the WEEE Forum\* found that Deca-BDE was present in WEEE at concentrations close to or above 0.1% in almost all WEEE category samples. The highest concentrations were found in plastics from CRT monitors and from CRT TVs. Deca-BDE was found slightly above 0.1% in large household appliances (with the exception of cooling appliances).  When this study was published, the restriction of commercial Deca-BDE under RoHS had been in place for nearly 2 years, so it can reasonably be assumed that concentrations found in WEEE today are even lower.  Deca-BDE was also found in all other WEEE category samples (see concentrations based on a literature review below), except in plastics from the mixed samples of small household appliances and from flat screens, where the Deca-BDE concentrations were below the detection limit.  In terms of types of plastics, Deca-BDE is typically used in ABS and HIPS plastics (monitors and TV sets) as well as PP (large household appliances and in small appliances for high-temperature applications). According to the EMPA study, ABS is the main source for Deca-BDE in small household appliances and IT/telecommunications equipment, as well as in cooling & freezing appliances. CRT TVs and other consumer equipment seem to be the source for Deca-BDE in HIPS plastics. This being said in the experience of EFRA members ABS waste mainly used commercial Octa-BDE or TBBPA for the CRT monitors, where HIPS containing Deca-BDE was used for CRT TVs.  A literature review conducted by the same study also found that:  •In ABS, Deca-BDE might exceed 0.1% in large and small household appliances, IT and telecommunications equipment, heating equipment and consumer equipment.  •In HIPS, Deca-BDE may occur in concentrations above 0.1%, in particular in IT and telecommunications equipment and consumer equipment.  •In PP, Deca-BDE may occur in concentrations above 0.1% in WEEE  •In PA, Deca-BDE is expected to exceed 0.1% in large household appliances (with the exception of freezing and cooling appliances), small household appliances and IT and telecommunications equipment.  •In PS, Deca-BDE is expected to exceed 0.1% in CTR TV sets.  •In PE, Deca-BDE may occur in concentrations above 0.1% in PC/servers, notebooks, printers and copiers.  \*Reference: Wäger, P.; Schluep, M. and Müller, E. ‘RoHS substances in mixed plastics from Waste Electrical and Electronic Equipment - Final Report’ EMPA. 2010  b. There is currently no standard reliable and validated method for the identification of specific commercial flame retardants in plastic waste. The main method currently used for detecting brominated substances in articles, especially in plastics, is XRF (X-Ray Fluorescence) screening. However, it is important to note that XRF only identifies bromine and cannot detect a specific flame retardant. As a result this method is only appropriate for detecting levels of bromine in waste streams.  The detailed analysis of individual flame retardant substances is extremely costly, sophisticated and time consuming. It should be noted that the lower the limits, the higher the level of statistical uncertainty in the analysis, potentially raising an additional challenge for the value chain with respect to ensuring legal compliance.  EFRA understands from recycling organisations that due to this, lower limits would also make it difficult to reach the high recycling targets set in the EU waste legislation, such as 75% target for large household appliances. | |
| **SEAC Rapporteurs response:**  Thank you for your comment. The information provided supports the conclusion of SEAC that the proposed concentration limit is compatible with current practices and targets in WEEE recycling. | |
| 210 | **Date/Time:** 2015/08/17 17:08  **Type:** International NGO  **Org. type:**  International NGO  **Org. name:**  ChemSec  **Org. country:**  Sweden  **Company name confidential: False** | **Comments on the SEAC draft opinion:**  ChemSec welcomes a broad restriction of DecaBDE as has been suggested by SEAC. The date of entry into force should be set as strict as possible considering that the hazardous properties of the substance have been well-known for a long time. | |
| **SEAC Rapporteurs response:**  Thank you for your comment and support. | |
| 211 | **Date/Time:** 2015/08/17 23:18  **Type:** Company-Downstream user  **Org. type:**  Company-Downstream user  **Org. name:**  The Boeing Company  **Org. country:**  United States  **Company name confidential: False**  **Attachment:** | **Comments on the SEAC draft opinion:**  The Boeing Company (Boeing) is writing to share its views on the Draft Opinion of the Committee for Socio-Economic Analysis (SEAC) on the Annex XV dossier proposing restriction on Bis(pentabromophenyl) ether (DecaBDE) and to support the concerns raised by the European Defence Agency (EDA) and the AeroSpace and Defence Association of Europe (ASD) in their corresponding letters to you on 9 and 16 July respectively.  Although we welcome the mostly positive response to Boeing’s comments from the “dossier submitter”, we remain concerned about the potential impact of the proposed restriction on military and defense products. The SEAC Draft Opinion states that the defense aerospace applications are not to be included in the proposed derogations for DecaBDE by ECHA. Consequently, every affected entity would have to request a defense exemption in each EU Member State.  As we previously noted, these aircraft are subject to equally stringent transportation and airworthiness requirements. We acknowledge that military and defense products have the possibility of being granted an exemption by Member States in the interest of defense according to REACH Article 2 (3), but the process for granting these exemptions is still under development and not harmonized across all Member States.  Furthermore, a defense exemption granted by one Member State does not itself have automatic validity elsewhere in the EU. Consistency in embedding or management of defense exemption by Member States could not be guaranteed. Thus, a dossier and justification would need to be developed and approved individually in each Member State. Requiring the defense industry to rely on this process would result in a significantly higher administrative burden and related costs for these products.  Finally, the defense exemption process is considered by the Member States and the industry as a last resort solution for a highly strategic sector with specificities such as defense, requiring strong justification of necessity. The lack of European harmonization and the misconception of defense exemption as the only means to deal with REACH issues related to defense is also highlighted in the EDA Code of Conduct on REACH Defence Exemptions. | |
| **SEAC Rapporteurs response:**  Thank you for your comment. Please consider our responses to comment no. 196 and 199 on this issue. | |