

**Minority position of the Czech Republic, Poland, Slovakia, Slovenia, Croatia and Romania on the inclusion of the boron compounds into 6<sup>th</sup> Recommendation as candidate substances for listing in Annex XIV of REACH**

The representatives on the Member State Committee for the countries named above do not agree with boron compounds recommendation for inclusion for Annex XIV of REACH:

**Justification:**

Boric acid is an important constituent part of the nuclear facility in nuclear power plants and its use is covered by the specific Community legislation determining conditions of safety necessary to eliminate hazards to the health and the environment (Directive 2014/87/Euratom, Art. 8a). Such conditions are also primary declared by the Convention on Nuclear Safety adopted on 17 June 1994, which in Article 1 of the Convention sets out its objectives as follows:

(ii) to establish and maintain effective defences in nuclear installations against potential radiological hazards in order to protect individuals, society and the environment from harmful effects of ionising radiation from such installations;

(iii) to prevent accidents with radiological consequences and to mitigate such consequences should they occur.

Therefore we consider that international and EU legal requirements regarding nuclear safety manage the environmental and health risks in this area of interest efficiently.

From the agriculture point of view, boron is an essential micronutrient for the plants and cannot be replaced by another element. Its deficit results in a decrease in yield and deterioration of plant quality. A wide range of multi-nutrients NPK fertilisers available on the market has an average borates concentration of from 0.01% to 1%, and single-nutrient boron fertilisers contain boron even in amounts greater than 10%.

Furthermore we would like to remark the current activities of EC on the better regulation field. As part of the better regulation package EC presented document SWD(2015) 110 final - Regulatory Fitness and Performance Programme (REFIT): State of Play and Outlook Accompanying the document Better Regulation for Better Results – An EU Agenda. The report presents that “The Commission is exploring whether and how some socio-economic elements could be taken into account before adding substances to the Authorisation list (Annex XIV). The Commission will analyse such information before presenting a proposal for amending Annex XIV to the REACH Committee and will adapt the frequency of amendments to this Annex.”

Some countries presented their preference to apply the exemption for the use of boron as a nutrient in the agriculture (AT, HR) or as a nuclear safety constituent part of nuclear power plants (RO). During the MSC-41 and MSC-42 discussions the possibility to apply the exemptions based on the Article 58(2) of REACH was identified as almost impossible. We consider that the provisions 58 (2) REACH is not functional, it can never be used in practice and therefore no exemption could be granted.

**For these reasons presented above we are of the opinion to exclude boron compounds from the 6<sup>th</sup> recommendation for inclusion into Annex XIV.**

We strongly invite the EC to analyse the practical application of Article 58(2) of REACH and other specific issues of authorisation process in compliance with the REFIT report and Better Regulation Package.