

Brussels, January 2008

**FECC comments on the effectiveness of the implementation
of the Seveso Directive 96/82/EC in Europe**

Introduction

The European Association of Chemical Distributors (FECC) represents over 1,200 European chemical distributors to the EU Institutions. FECC Members – most of them SMEs - create value in the supply chain meeting the demands of over one million downstream users with a large range of products. FECC Members distribute and regularly import substances and preparations vital for the success of the European economy. FECC Members operate 236 Seveso sites.

FECC welcomes the Commission's intention to take into account the experiences from the operators in the upcoming review of the Seveso Directive. In this context, we would like to bring the following issues to the Commission's attention:

- The **scope** of the Seveso Directive should be reconsidered bearing in mind the intent of the Directive.
- The review should include a clarification on the criteria and how to use the **aggregation rule** in order to facilitate the compliance, in particular for SMEs
- The application of Seveso with regard to **CMR substances** also needs further clarification.
- The structure and updates of the **Safety Reports** need a simplification
- A simplification of the whole system for apparent "low risk" premises should also be considered
- FECC is concerned that the number of sites classified as Seveso may increase due to the adaptation of the European system of classification and labelling to the **GHS** criteria. Therefore FECC would like to request that a specific assessment of this impact is carried out
- The difference in thresholds for **flammable** substances should be clarified in the review
- There is a need for **harmonisation** and a level playing field so that companies are not penalised for operating in a certain country. In this context, the thresholds, the requirements, the dossiers for new installations and the controls by the authorities should be harmonised
- The review should carefully assess the **overlapping** with other regulations in order to avoid duplication of compliance requirements
- The review should define precise terms and concrete deadlines for the release of licenses by the authorities

FECC would like to urge the Commission to take the above into consideration in the upcoming review of the Seveso Directive. More detailed explanation is included below.



• **SCOPE**

Further to the recent Adaptations to Technical Progress (ATP) to the Dangerous Substances Directive (DSD) and Dangerous Preparations Directive (DPD), the number of substances and preparations in scope of the Seveso directive has enormously increased.

The following examples illustrate changes in the scope:

- *ZINC OXIDE* (powder): Further to the 29th ATP to the DSD, it became R50/53 (Thresholds LT: 100 & TT: 200 Tonnes). However, this substance is used in Cosmetics – Sun creams, as well as a Food and Feed additives.
- *BIOCIDES*: the 2nd ATP to the DPD (2006/8/EC) has dramatically reduced the thresholds to attribute R50 & 50/53 as shown in the table below

LC50 or EC50 value ("L(E)C50") of substance classified as N, R50-53 (mg/l)	Classification of the preparation		
	N, R50-53	N, R51-53	R52-53
0,1 < L(E)C50 ≤ 1	Cn ≥ 25 %	2,5 % ≤ Cn < 25 %	0,25 % ≤ Cn < 2,5 %
0,01 < L(E)C50 ≤ 0,1	Cn ≥ 2,5 %	0,25 % ≤ Cn < 2,5 %	0,025 % ≤ Cn < 0,25 %
0,001 < L(E)C50 ≤ 0,01	Cn ≥ 0,25 %	0,025 % ≤ Cn < 0,25 %	0,0025 % ≤ Cn < 0,025 %
0,0001 < L(E)C50 ≤ 0,001	Cn ≥ 0,025 %	0,0025 % ≤ Cn < 0,025 %	0,00025 % ≤ Cn < 0,0025 %
0,00001 < L(E)C50 ≤ 0,0001	Cn ≥ 0,0025 %	0,00025 % ≤ Cn < 0,0025 %	0,000025 % ≤ Cn < 0,00025 %

- *DILUTIONS*: the possibility of including dilutions within the regime has been increased:
 E.g. Chromium and Salts
 Undiluted - Thresholds 5 & 20 tonnes (LT, TT Respectively)
 Diluted <7% solution - Thresholds 50 & 200 tonnes (LT, TT Respectively)

• **COMPLEXITY**

The overall structure of thresholds and the aggregation rule are very complex and make it difficult to determine the corresponding obligations. The following example illustrates the complexity of the aggregation rule for methanol.

Methanol is a named substance in Part 2, but is also highly flammable (R11) and toxic (R24). If the volume of Methanol on site is less than the threshold volumes for part 2, it must be aggregated with other flammables and other toxics held on site. However, the Part 2 thresholds, assigned to Methanol, are to be used when aggregating with part 3 substances. (500 tonnes for low tier and 5000 tonnes for Top tier)

Part 2 Thresholds		Part 3 Thresholds			
		Toxic		Highly Flammable	
Low Tier	Top Tier	Low Tier	Top Tier	Low Tier	Top Tier
500	5000	50	200	5000	50000

Methanol would therefore have a lower impact on the toxic aggregation but an increased impact on the highly flammable calculation. 200 Tonnes would affect the calculation as below:

	Part 2		Part 3 Threshold Toxic		Part 3 Threshold Highly Flammable	
Low Tier	200	0.4	200	4.0	200	0.04
	500		50		5000	
Top Tier	200	0.04	200	1.0	200	0.004
	5000		200		50000	

Moreover, it is difficult to determine whether a substance is covered within the corresponding regulations at National level, especially when the property that incurs the application of Seveso is a secondary hazard.

- **BUREAUCRACY**

Compliance with the Seveso requirements is a very burdensome and expensive process, especially when there is an apparent low risk of a site causing a “major” incident. With the scope of the Seveso Directive changing regularly, due to ATP changes (see previous comment), sites are being faced with two options:

1. Comply with Seveso and bare the associated costs and paperwork; or
2. Reduce the levels of substance stored to below the threshold.

In some cases the change of classification is such that sites may enter straight into ‘top tier’, which requires the development of Safety reports, a very burdensome and resource intensive process that entails high financial expenditure and constant resources to maintain, so called “living document”.

- **IMPACT OF THE GLOBAL HARMONISED SYSTEM (GHS) ON SUBSTANCES AND MIXTURES**

The implementation of the upcoming Regulation on Classification, Labelling and Packaging will imply new changes in the classification criteria, which will impact the compliance with Seveso. The examples below illustrate some of these changes:

- Under GHS there are three categories of toxicity. If the Seveso Directive refers to the Categories 1, 2 and 3, many substances will be brought within the scope
- The limit for flammability has also increased (from 55 °C to 60 °C).The differences in terminology will increase confusion among companies E.g. Single dose TOST criteria
- During the transitional period, there will be two classification regimes: GHS criteria (CLP Regulation) and Dangerous Substances Directive 67/548, running in parallel for substances and mixtures.

- **FLAMMABILITY**

The intention of the legislators regarding the thresholds for R10 & R11 is unclear. The R10 & R11 Thresholds are set relatively high:

- 5,000 tonnes Low Tier
- 50,000 tonnes Top Tier

Whereas the R12 Thresholds are set relatively low:

- 10 tonnes Low Tier
- 50 tonnes Top Tier

- **MEMBER STATES' INTERPRETATIONS**

The different transpositions of the Seveso Directive in the various EU Member States add an extra level of complexity for companies, in particular for companies that operate in more than one MS. The countries often issue guidelines that cannot be used outside the original country creating confusion in companies that may want to apply them in other sites.

FECC Members have identified the following issues regarding the implementation in different countries:

- **PLANNING CONSENTS**
Conflicts between national authorities regarding planning permissions for alterations to sites and building new sites.
- **DELAYS**
In some countries, there may be a big delay in releasing/renewing the fire certificate from Fire Brigades.
- **CHARGES**
In some countries the charges levied for inspections etc by the Competent Authority in relation to the compliance with Seveso may be very high. For example in the UK, £117 per hour will be charged for:
 - Pre inspection preparation;
 - Actual inspection; and
 - Post inspection report writingThe charging also applies to the verification of the safety report for top tier sites.
- **DUAL AGENCIES**
The Safety and Environmental aspects of the Directive require two authorities to oversee the application in some countries.
- The removal of the requirement to combine the tonnages for 'toxic for the environment' to the category of 'toxic', as per annex Council Directive 2003/105/EC, has not been implemented in all the Member States. FECC Members with sites throughout Europe have reported difficulties due to the lack of a harmonised approach resulting in similar sites being excluded from the requirements in some countries but included in other countries.

• **LINKS WITH OTHER LEGISLATIONS**

Some of the requirements of the Seveso Directive overlap with the implementation of other pieces of legislation such as:

- *The IPPC Directive*
The Pollution prevention and control requirements placed on sites may conflict with safety requirements.
- *Transport Security (ADR 1.10 and ISPS)*
There are conflicts between security and safety regarding access and egress. There is also a great difference between the storage limits expected from the Seveso and the transportation in ADR, for example for arsenic trioxide (As₂O₃).
- *Site Security*
There are conflicts between security and safety requirements, particularly regarding access and egress.

FECC will be glad to provide more information on the issues above. Please contact:

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