

GENERAL COMMENTS OF THE CHEMICAL INDUSTRY ON THE REVIEW OF THE CURRENT REGIME FOR THE ASSESSMENT OF HORIZONTAL COOPERATION AGREEMENTS

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Cefic, the European Chemical Industry Council, is the Brussels based organisation representing directly or indirectly 27,000 companies located in Europe and their respective national federations in all Member States and other European countries accounting for 30% of the world production of chemicals.

Cefic appreciates that the Commission / DG Competition starts well on time its review of the R&D, and Specialisation Block Exemptions, together with the Guidelines on Horizontal Cooperation Agreements which expire end 2010, and welcomes the opening of the consultation process for which we offer the following comments :

- Given the general nature of the Questionnaire we will only provide at this stage of the consultation process general comments of orientation and expect that the Commission will soon organise an in-depth consultation.
- When the three revised documents have been used by the Cefic's members, the Guidelines on Horizontal Cooperation Agreements are often commented as being very useful, in particular because of their "non straight-jacket effect" and the room left for interpretation, while examples could guide into the process. As a consequence, any improvement to be brought to the scheme formed by these three documents under review would be appreciated by companies. This could be in terms of consistency, simplification and additional examples reflecting concrete situations in various sectors, as well as a further development of the analytical framework. The definition of safe harbours or at least to have concrete elements to ensure that contemplated horizontal activities are in compliance with competition law rules is certainly an advantage for companies which is to be maintained and reinforced.
- The three documents under review were issued at a time when Modernisation was not yet introduced, before the coming into force of Regulation 1/2003 and when it was still possible to request individual exemptions from the Commission. Times have changed and companies have to perform nowadays a "reinforced a priori compliance check". Thereby, we would welcome if for the second step of the consultation the proposal from the Commission for the scheme would be drafted taking into account the new features introduced by and after Modernisation.
- We would also appreciate if the Commission could open the dialogue on reviewing the market shares used in those three documents under revision.
- Another area of attention could also be sub-contracting for which the "old" sub-contracting Notice is still much used by our members.

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