



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL  
ENVIRONMENT  
Directorate A – Green Economy  
ENV.A.3 - Chemicals

## **Request for an ECHA opinion**

### **Background**

- 1) Article 3(3) of Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (the "BPR") entitles Member States to request the Commission to take a decision as to whether a specific product is a biocidal product, a treated article or neither.
- 2) Pursuant to that Article, the Netherlands requested a decision from the Commission as to whether a polymeric binder placed on the market for use by the paint manufacturing industry to confer anti-microbial properties to finished paint film surfaces, in order to protect these surfaces from fouling by micro-organisms, is a biocidal product or not.
- 3) The company placing the polymeric binder on the market is claiming, taking into account the fact that the modified surface of the paint is responsible for mechanically destroying bacteria or fungi touching it, that the technology acts by mechanical action and would therefore not meet the definition of a biocidal product as provided in Article 3(1)(a) of the BPR.
- 4) However, as pointed out by the Netherlands in the arguments forwarded to the Commission services, on a molecular level, every action can be regarded as physical or mechanical. On the other hand, it is more relevant that the quaternary ammonium compound added to the polymeric binder seems to be essential to achieve the desired effect on the surface of the paints incorporating this polymeric binder.
- 5) The request from the Netherlands was discussed on the occasion of the 54<sup>th</sup> meeting of representatives of Member States Competent Authorities for the implementation of Regulation 528/2012 concerning the making available on the market and use of biocidal products.
- 6) However, in view of the fact that the technology was a new one, no clear conclusions could be reached regarding the mode of action of this technology and whether it involved or not an active substance in the meaning of Article 3(1)(c) of the BPR, the Chairman concluded that the matter should be referred to ECHA for an opinion.
- 7) What should thus be clarified is the exact purpose for which a substance like a quaternary ammonium compound is covalently bound in the polymeric binder and to which extent and how this would contribute to the biocidal properties of paints incorporating the polymeric binder.

- 8) In that respect, it is important to note, as explained by the company placing the polymeric binder on the market, the required surface (cationic) modification can (1) also be obtained using other substances and (2) the substance used is chemically bound to the polymer and therefore no longer exists on its own in the polymeric binder.

### **Terms of reference**

Taking into consideration this background information and the supporting documents provided in annex, pursuant to Article 75(1)(g) of the Regulation (EU) No 528/2012, ECHA is requested to formulate an opinion on the following questions:

1. With regard to the polymeric binder, does it contribute to the anti-microbial properties of paints in which it may be incorporated?
2. If so, do these properties result from the action of an active substance in the meaning of Article 3(1)(c) of the BPR?
3. If so, what is the identity of that active substance?

In case further information should be provided concerning the supporting documents, ECHA is invited to request this information directly from AM technology.

### **Deadline**

30 April 2014.

### **Supporting documents**

See Annex.