



Precious Metals  
Consortium

Precious Metals & Rhenium Consortium

# Management Committee Meeting

17 January 2017, 10:00 – 12:00 | Conference call



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# Welcome and introduction

# Confidentiality and competition law

DO	DON'T
<u>Application of competition law</u>	
Art. 101 and 102 TFEU may be applicable to the conclusion of any preliminary agreement and activities of any preliminary phase.	Don't assume that conflicts with competition law are excluded simply by the fact that the Agreement complies with the provisions of the REACH Regulation.
<u>Consultation in Matters of Competition Law</u>	
Consult an in-house legal expert or the compliance officer of your company or an external lawyer whenever there are uncertainties respecting compliance with competition law. Stop all meetings/discussions which are not in compliance with these Compliance Guidelines until a legal expert has been involved.	Don't assume that these Compliance Guidelines deal with all competition law issues exhaustively. Basically, compliance with Art. 101 and 102 TFEU can be determined only on the basis of market impact in each individual case. These Compliance Guidelines may therefore be regarded only as a means of providing general conduct recommendations.
<u>Activities in any preliminary phase and at any other stage of operation of the Consortium</u>	
Restrict cooperation within the scope of the preliminary phase to the initially defined goals and purposes of the cooperation.	Pursuant to Art. 101 and 102 TFEU, activities which have the object of the effect of preventing, restricting and/or distorting competition are prohibited within the scope of this Agreement, including: <ul style="list-style-type: none"> <li>- Coming to agreement, including arrangements or collusions, about prices, markets and customers (see Art. 101 paragraph 1 a)-e) TFEU);</li> <li>- Joint boycotting of other companies;</li> <li>- The unjustified unequal treatment of trade partners;</li> <li>- The abusive exploitation of a dominating market position.</li> </ul>
<u>Exchange of Confidential Information</u>	
Involve a Trustee for the exchange of Confidential Information.	The exchange of Information concerning market behaviour and having the object or the effect of preventing, restricting and/or distorting competition is inadmissible; in particular, this relates to : <ul style="list-style-type: none"> <li>- Production capacities;</li> <li>- Productions or sales volumes;</li> <li>- Import volumes;</li> <li>- Market shares;</li> <li>- Price policy;</li> <li>- Distribution and marketing terms;</li> <li>- Marketing strategies;</li> <li>- Information regarding the relationship with suppliers.</li> </ul>
<u>Documentation on Cooperation</u>	
Keep minutes of all meetings which detail the subject of the meeting. In case of uncertainty, have the contents of the minutes reviewed by an external legal expert prior to sending them to all parties of the Agreement. Stop all meetings which are not in compliance with these Guidelines until a legal expert has been involved.	



# Tour de table, quorum and apologies

- **List of Participants**

- Francisco Boo, Metalor (Switzerland)
- Rudolf Eller, Heraeus (Germany)
- Guy Ethier, Umicore (Belgium)
- Jörn Mühlenfeld, Aurubis (Germany)
- Juha Parkinnen, Norilsk (Finland)
- Nissanka Rajapakse, Johnson Matthey (UK)
- Heinz-Günter Schenzel, C. Hafner (Germany)
- Holger Zitt, BASF (Germany)

- **Secretariat**

- France Capon (EPMF, Belgium)
- Audrey Rondepierre (EPMF, Belgium)

- **Extern**

- Patrice Corbiau, legal Counsel (K&L Gates, Belgium)

Quorum is reached



# Approval of agenda

- Welcome and Introduction
  - Confidentiality and Competition Law
  - Tour de table, quorum and apologies
  - Approval of the agenda
  - Approval of the minutes of previous conference call (21 November 2016)
- Election of the Chair and Vice-Chair
- Review of the data sharing issues
  - Data ownership of existing study
  - K-REACH
- Proposal related to Ag WFD project
- Collaboration with IPA and existing data sharing agreement
- Preparation of the meeting between EPMF Board and PMC Chairs
- A.O.B. and closure of the conference call
  - Next meeting: 15th March 2017, in Brussels

FOR APPROVAL



# Approval of minutes of previous conference call

- Management Committee meeting (21 November 2016)

Actions	Who?	When?	Status
Reflect the impact on the new membership on the members fees for 2017	AR	December 2016	DONE
Set up a system for data sharing outside the EU (agreement and cost sharing)	FC	Q1 2017	ONGOING
Update GA presentation and prepare a one-pager on potential prioritisation of silver under WFD (importance, budget implications etc.)	FC	December 2016	DONE
Organize a meeting/conference call with EPMF Board after the Assembly	FC	December 2016	DONE
Add a slide on expenses and forecast (until 2019)	AR	December 2016	DONE
Launch a doodle for the next Management Committee meeting	AR	December 2016	DONE

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# Election of the Chair and Co-Chair



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# Review of Data Sharing issues

# Data ownership of existing studies

- Following article 5.1.3. of the PMC agreement, “Rights to use (including to cite, or refer to) existing Information granted by the Consortium to third parties within the context of the REACH Regulation, for instance through a Letter of access, **shall be subject to prior written approval from, and appropriate compensation to the Member(s) who initially provided the Information to the Consortium**”
- LoA have already been sold for dossiers including data provided by 3rd parties (e.g.: silver dossiers) but no written agreement with the owners of these studies have been found.
- Two cases:
  - PMC members – signature of a letter allowing sub-licensing of the studies used in the dossiers
  - Non-PMC members – need to negotiate on a case-by-case basis but aiming to get a sub-licensing right

FOR APPROVAL



# K-REACH - background

- Based on the 1<sup>st</sup> priority list of substances to be registered by 1<sup>st</sup> July 2018, data sharing requests are expected for:
  - Potassium dicyanoargentate (CAS: 506-61-6)
  - Silver cyanide (CAS: 506-64-9)
  - Silver nitrate (CAS: 7761-88-8)

**N.B.:** end of December 2016, the Korean Ministry of Environment proposed to amend K-REACH imposing a mandatory registration of ALL existing chemicals above 1 tonne per year. This should be preceded by a pre-registration due by end of 2018. This does not impact the July 2018 deadline but confirms that other data from PMC can be requested in the future.



# K-REACH - background

Requests received so far:

Company	Substances	Requested data	Comments
Korea Chemicals Management Association	Potassium dicyanoaurate (PGC, CAS No. 13967-50-5) Potassium dicyanoargentate (CAS No. 506-61-6)	Water solubility Melting/Freezing point Density Particle size analysis Acute toxicity-oral/inhalation Ames test, bacterial reverse mutation assay Skin irritation/corrosion Skin sensitization Acute toxicity on fish Acute toxicity on preferred species daphnia	Potassium dicyanoaurate is not in the priority list.
Korea Chemicals Management Association	Silver nitrate (7761-88-8) Silver cyanide (506-64-9)	Water solubility Melting/Freezing point Boiling point Vapor pressure Octanol/water partitioning coefficient Density particle size analysis Acute toxicity-oral Ames test (bacterial reverse mutation assay) Skin irritation/corrosion Skin sensitization Acute toxicity on fish Ready biodegradability Acute toxicity on preferred species Daphnia	
Nam & Nam International Co., Ltd./NAM & NAM Europe GmbH	Dihydrogen hexahydroxyplatinate, compound with 2-aminoethanol (1:2) (EC No. 268-717-3/CAS No. 68133-90-4)	Water solubility Melting/freezing point Boiling point Vapor pressure Partition coefficient Density Granulometry Acute toxicity (oral) Ames Skin irritation Skin sensitization Acute toxicity (fish) Ready biodegradability Acute toxicity (Invertebrates)	Dihydrogen hexahydroxyplatinate, compound with 2-aminoethanol (1:2) is not in the priority list.



# K-REACH – data sharing proposal

Key questions to be addressed by the Management Committee to set the data sharing process with Korea:

- Do we prefer to sell LtU to individual co-registrants of a substance or to the Lead Registrant/Consortia-like structures representatives?
  - For sake of efficiency, **the Secretariat recommends to favour the negotiation and the selling of the data to a consortium.** To ensure fair data sharing costs, we should take into account the number of co-registrants and the potential for the Cs to sub-license the data (in the context of LoA) – some draft agreements allowing this are available.
- Do we prefer to sell comprehensive data set or each study individually?
  - For sake of efficiency, **the Secretariat recommends to favour the selling of a comprehensive data set** to avoid unnecessary administrative burden and organize this based on the tonnage band and K-REACH related requirements. If 3<sup>rd</sup> party refuses the proposal, an assessment of the added value for PMC of a pick and choose approach versus administrative burdens will be required.



# K-REACH – data sharing proposal

- Do we intend to provide support on read-across approach followed and on metals specific issues in general?
  - If this is an important issue, due to the PMC internal deadline for REACH 2018, it is difficult to provide such a type of support. **The Secretariat recommends to provide when needed RAAF documents to explain our read-across approach and to join forces with the other consortia when needed to ensure the application of the metals methodology.**
- How do we plan to estimate the LtU fee?
  - Based on the exchanges with the other consortia, **the Secretariat recommends to take into account the costs related to the studies (lab, consultants and HR internal resources) and some administrative fees for the K-REACH data sharing (e.g. 10% of the total costs).** All the other costs included in the PMC WP (e.g. exposure scenarios, uses identification etc.) cannot be taken into account except if explicitly required. For the cost sharing, it is suggested to follow the same approach than in the PMC and EU LoA and apply different factors depending on the requirements.
- **N.B.:** NIER (The National Institute of Environmental Research in Korea) has published indicative prices for the different studies required. It would be recommended to compare these recommendations with the PMC costs.

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# K-REACH – next steps

- **January 2017:** discussion and agreement by the Management Committee on the key principles for data sharing outside the EU
- **February 2017:** preparation of the cost sharing proposals and agreements and approval by the Management Committee
- **March 2017:** negotiation with the partners in Korea





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# Proposal related to Ag WFD Project

# Legal proposal

- Principle: amend the PMC agreement based on the existing purpose and scope of the consortium to avoid to modify it immediately.
- Suggested amendments:
  - P. 5: add under article 2: “Granted that the Water Framework Directive 2000/60/EC (“WFD”) is backed up by REACH and granted that the Core Data generated under REACH shall also be used under the WFD and in the derivation of an Environmental Quality Standard (“EQS”), the Parties to the Consortium Agreement agreed to extend the scope of the Consortium to WFD compliance to the extent it could potentially require updates of the Registration Dossier of silver and compounds.”
  - P. 8: add under 4.1.1.2: “All members of the Silver Sub-Assembly shall be entitled to become member, on a voluntary basis, of a twelfth Sub-Assembly dedicated to silver EQS (the “Silver EQS Sub-Assembly”) which will be principally, but not exclusively, dedicated to the potential prioritization of silver under the WFD.”
  - Relevant amendments concerning the new number of the sub-Assemblies and the related article
  - P. 40: Working Structure – do we need a specific WG? The Secretariat recommends to use the current Ag WG to keep it simple.
  - P. 54: Cost Sharing formula – add “as regards to the project related to Silver EQS, all applicable costs will be equally shared by the Members of the silver EQS Sub-Assembly”.

RECOMMENDATION TO  
TO THE ASSEMBLY?



## Next steps

- **January 2017:** Send proposal to the Assembly for approval by written procedure
- **February 2017:** Send to the Members of the Silver EQS sub-Assembly the proposed budget and companies fees for approval by written procedure





# Collaboration with IPA and existing data sharing

# Existing data sharing agreement

- Parties:
  - PMC c/o EPMF
  - Science Task Force (STF) IPA
- Scope and purpose:
  - PMC will grant STF IPA access to and use of confidential information, data and/or studies on PGMs to enable STF IPA to address scientific and technical challenges and gaps related to the proposals made by US EPA, EU SCOEL and other similar regulatory initiatives
  - STF IPA will grant PMC access to and use of confidential information, data and/or studies on PGMs to enable PMC to fulfill all REACH and CLP requirements application to PGMs.
- Identified issues:
  - Unclearity regarding the use of the data by STF members who are not a members of PMC for regulatory compliance (e.g.: K-REACH)
  - No sub-licensing rights: issue for LoA
  - Based on annex 1, PMC is supposed to grant access to ALL REACH data (equivalent to 8,3 millions €). IPA is supposed to grant access to 10 studies/projects (cf. contract p. 8) but the value is not known and this data has not been used in REACH dossiers. Is it a fair deal?



# Proposal: new data sharing agreement

- Focus on collaboration with the IPA Secretariat to provide necessary scientific information for **advocacy** in the regulatory fields in the IPA mandate
- Allow co-sponsorship of studies
- Stop to grant to STF members access to all REACH data on the basis of a potential exchange of studies to ensure compliance with data sharing rules under REACH and avoid the use of REACH data by STF IPA members who are not PMC members.

RECOMMENDATION?





# Preparation of the meeting between EPMF Board and PMC Chairs

# Background

- The Joint Research Centre (JRC), together with the Sub-Group on Review (SG-R), is currently conducting a review of the Priority Substances (PS) list under the Water Framework Directive (WFD).
- Silver ranked high and has been put forward by JRC as a potential candidate and is now at risk of prioritisation and Environmental Quality Standard (EQS) derivation at EU level.
- Outcome of EPMF Board meeting: EPMF can cover 10% of the required budget for 2017 while PMC could cover 90% of this budget.
- PMC Management Committee disagreed with this proposal and requested a discussion at Assembly level.

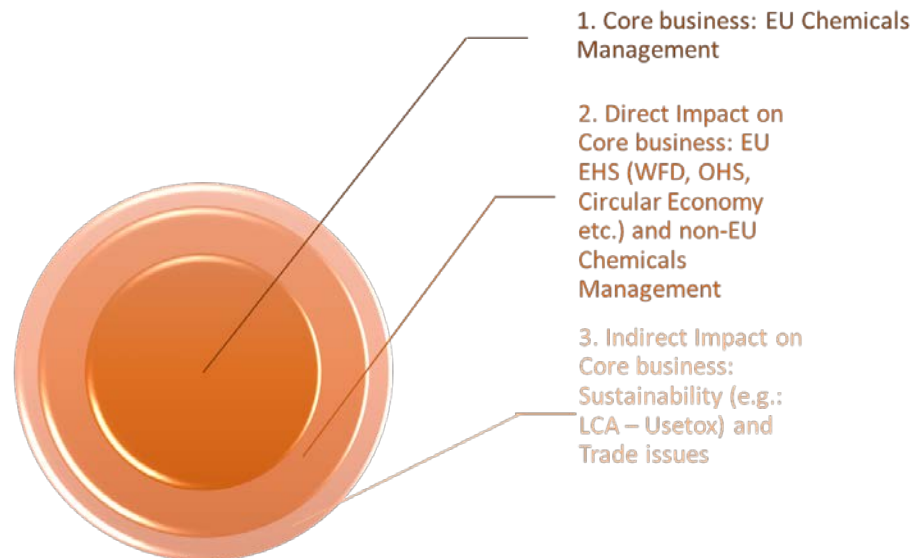
GA requested that a meeting is organised between PMC chairs  
and EPMF board



# Meeting between PMC Chairs and EPMF Board: 9/02/2017

- Objectives:
  - Discuss the PMC proposal regarding the management of the silver EQS project
  - Discuss the future of PMC based on the mandate approved by the GA in December 2016

RECOMMENDATION?





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**A.O.B.**

# Next meetings

- 15 March 2017, Brussels





# THANK YOU

[www.epmf.be](http://www.epmf.be) | [info@epmf.be](mailto:info@epmf.be)

Avenue de Broqueville 12, B-1150 Brussels  
+32 (0)2 761 01 00