European Drinking Water

Notes from 3rd Roundtable Meeting

on Construction Products in Contact with Drinking-water

Held on 19th January 2017 at TEPPFA, Brussels

1. Klaus Ockenfeld opened the meeting, welcomed everyone and thanked TEPPFA for hosting the meeting. Introductions were made. Attendees list is attached to these notes.

2. **Article 10 – State of Play of the revision** - **Tobias Biermann** reported under 4 topics (presentation handout will be circulated with these notes):
   (i) The **REFIT evaluation** of the Drinking-water Directive has been concluded in December 2016, and its revision included in the Commission Work Programme for 2017. It is anticipated that a proposal for its revision will be issued by the end of 2017. Relevant to this meeting, one of the conclusions is that Article 10 permits too much flexibility to MSs. In terms of effectiveness, there was a high compliance (99%) with the parametric values, but in terms of efficiency, Article 10 presents a burden to industry and an obstacle to the internal market. In terms of coherence, Article 10 has shown compliance with control of lead level stipulated in Annex I, but it conflicts in that Annex I contains very few substances which may be leached from drinking-water installations. There was no evidence that drinking-water quality is better in the 4MS than other MSs without the same standards. Odour and flavour were identified as issues for the consumer – particularly from plastic pipes. The reason is that taste and odour issues can be identified by consumers, while other contaminants can not.
   (ii) The **Materials Study** (UBA Austria/WRc), which was reported on by Iain Naismith at the previous meeting, is nearing completion. It reviews the situation "on the market". There is no evidence that a MS refuses a product. Large components are not an issue – smaller products contribute to taste and odour and microbial growth- with confusion about the 3-method standard for EMG. The main issue identified in this study is the burden to industry. However, the methodology to assess impact on human health seems not to be adequate as a relation was made to Annex I and waterborn diseases and not to the exposure of humans to a variety of substances.
   (iii) Draft **Impact Assessment Study** – is expected to be published in the next few weeks with a "route forward". It will include a health indicator addressing people potentially at risk. There is communication with DG Growth and DG SANTE. Food contact materials are currently under review.
   (iv) **Next steps** Materials study and draft impact assessment proposal to be published shortly. WHO study by Summer. Impact assessment by Summer together with a DWD proposal by Autumn/Winter.

   There was discussion about the low risk reported by the materials study. Bertil Jönsson asked whether risk to children was included and Guy Franklin raised consumer awareness of issues such as pesticides. Tobias Biermann replied that details of exact causes were not part of the study. Birgit Mendel stated that consumers won't be aware of detail – some countries disinfect, others do not and it's potentially dangerous to assume parity. She asks the critical question: Is absence of carcinogenic DBP, for which DWD requests minimisation, not a better drinking water quality than with DBP? Thomas Rapp added that other considerations need to be considered – such as sampling procedure (e.g. lead results after pre-flushing), awareness of contamination other than T&O, analytical complexities. He added that market observations have revealed a significant number of pipes in non-compliance with drinking water regulations. Jelka Appelman supported these remarks.

Lack of evidence of product rejection was raised with the conclusion that industry currently (reluctantly) complies with the different requirements such as different positive lists. Guy Franklin added that positive lists are the "least bad" option. Bertil Jönsson suggested that the basis should be within the CPR to which Manfred Fuchs replied that the requirements for drinking water in the DWD requires testing in accordance with the CPR. Oliver Loebel asked which products are included – for example, pumps are not construction products. Manfred Fuchs replied that anyone can request a standard through CEN but it may not necessarily be CE marked.
Tobias Biermann mentioned the internal impact assessment to be conducted. Jelka Appelman asked whether the burden for Member States will be taken into account. With the absence of a European system It benefits mutual recognition when MS refer to and accept 4MS assessments. A European system however would lead to share of work to be done and efficient use of capacity and budgets.
Tobias Biermann concluded by adding that DG Environment is open to suggestions for a replacement for Article 10.

3. **CPR – What are the next steps? – Manfred Fuchs**
   Manfred Fuchs stated that M/136 has been formally withdrawn. Test methods (supporting standards) have been developed but harmonised product standards have not, as the mandate was too imprecise. The current proposal is to split the task into parts to enable incremental progress where the issues are less complex. The first step is to categorise under materials (organic, metallic, cementitious) and focus on the material in contact with water – not necessarily the "main material".
   He had sent out a proposal last year, anticipating responses by early January with a meeting end of January, and (disappointingly) only the 4MS had responded. He is looking for a model standard approach starting with products that are already standardised.
   When considering which products are included and which are not, he suggested the concept of clusters on a step by step basis. Tony Frost asked what is the definition of a construction product to which Manfred Fuchs replied that it is defined in the CPR but it is not precise. It does not include the treatment works (but after the last point of treatment). He is open to ideas about how to define what is a construction product.
   Thomas Rapp raised the "backbone" under the DWD suggesting that materials could be listed by product, e.g. banning the use of lead, and how the positive lists would be managed. Manfred Fuchs replied that the mandate(s) will essentially be an instruction to CEN for the harmonised product standards. Guy Franklin added that there is experience for positive lists under REACH, BPR and EFSA but all are encountering difficulties.
   Bertil Jönsson questioned whether the positive list needs to be mandatory to which Manfred Fuchs replied that only if the Commission is defining a list of substances/materials in a legal act, they would be binding for all EU Member States. Currently, only the AoC level 1+ is fixed and will be required in the DoC.

   An adhoc-group of the TC 164 is preparing a "Model standard" to help the European Commission to develop a new Mandate 136. Further information will be presented later separately.

4. **4MS - Initiative – State of play – Birgit Mendel & Thomas Rapp** – copy of the presentation will accompany these notes.
   Thomas Rapp opened with metallic materials which, based on a composition list, has been implemented in Germany and the Netherlands but progress in France and UK unclear. The 4MS approach for metals is an alternative to the general banning of lead in copper alloys as in the US. Since last year's meeting some additional materials have been considered in the 4MS composition list. It is under discussion to set requirements for chromium/nickel plated products.
   He then covered organic materials for which a positive list of the starting substances is being developed. The assessment of organic materials is based on the starting substances, as the chemistry of the final product is too complex to analyse when the starting substances are not known. For the inclusion of starting substances in the positive list the toxicity of the starting substances and of its reaction and degradation products are assessed. The 4MS group started with a combined list in which all starting substances accepted in one of the 4MS are included. Progressively these substances will be transferred into the core list when MS will have prepared opinions according to the EFSA principles. Lack of toxicological data on historically used substances

is presenting difficulties. Industry help is needed for providing the required toxicity studies. The 4MS tried to identify substances which are no longer used. These substances will be published soon in a list of substances to be deleted. Industry will have time to check this list and to provide evidence that these substances are still used.
TOC, migration and conversion factors have been agreed. For EMG, Germany and the Netherlands accept the equivalence of either the volumetric or the ATP method and acceptance criteria, with the manufacturer to decide which is used.
For cementitious materials, a common evaluation procedure and combined substances list has been agreed. The combined list is to merged into a positive list and then implementation.

Birgit Mendel covered "open issues": minor/assembled products – which requirements are necessary – T&O, EMG, etc. and how to test assembled products. A new subgroup has been set up for this purpose with first meeting end of February/early March. Under AoC (now AVCP) issues being addressed are information, sampling, testing, auditing, etc. Under "recognition", which will not necessarily be mutual, AoC level1+, national standards, notified regulations, disinfection process, etc. They are close to legally defining conditions.

Jelka Appelman added that the recognition document will give an overview for possibilities for recognition of test results and assessments between the 4MS on basis of the current national situation with regard to implementation of common approaches. This will be a living document which will be updated regularly. Thomas Rapp added that, because market surveillance is difficult, level 1+ is essential – particularly for complex organics. Knut Sauerbier added that it needs to be effective with DoCs down the supply chain. Manfred Fuchs emphasised the issue of market surveillance and that it is covered in the CPR – 1+ is needed.

Regarding the 4MS request for assistance from industry with the positive list, EDW had suggested that data may be available from the national notified bodies. Sabine Lindner asked what had happened with that suggestion. Some data has been obtained from the Dutch and French notified bodies but there is a legality issue over approaching others.

5. **EDW Update – Volker Meyer** - copy of the presentation will accompany these notes.
Volker Meyer outlined the background, mission and structure of the EDW. It now is comprised of 29 members. The strategy is to engage with the 4MS, DG Growth, DG Environment and possibly EU Parliament. He summarised the issues that lack of a common certification process causes to industry and the consumer. A dedicated website is under preparation and will be on line at the beginning of February.

Knut Sauerbier summarised the EDW proposed certification scheme for plastics and silicone products used in drinking water applications. It is based on the Portuguese notification which is perceived to be a reflection of the current position of the 4MS. A copy of the proposed scheme will be circulated with these notes together with Knut Sauerbier's presentation. It will also be widely circulated to DG Environment, Growth, Sante, 4MS, etc. A scheme for elastomers is being prepared based on the plastics scheme and EDW will continue with metals and cementitious

6. **MaiD Project** – Oliver Rod outlined the background of the MaiD project which includes Denmark, Finland Norway and Sweden. Under a Steering Group there is an Authority Group and Industry Group. It embraces some 40 organisations with 20 to 25 industry members. It started in 2014 and is due to finish in March 2017. Finland and Norway authorities are revising their rules for construction products. Sweden has prepared a revised document (not a government proposal) based on the 4MS. The report from the MaiD project will contain a survey of water type/quality and a position paper. It will cover issues such as 1 product test, corrosion, health, etc. It includes the water works.

7. **Mutual recognition – DG Growth Review – Florina-Andreea Pantazi**
Ms Pantazi outlined the principle of the mutual recognition regulation EC No 764/2008: every product lawfully marketed in one Member State should be acceptable for another. The regulation covers procedural

aspects such as contact points in each MS and every MS should notify the Commission if it wants to prevent import of a product.

The results of the 2014 external evaluation of the regulation were not good. The principle is not being applied, MSs are in denial and the economic operator is reluctant because of associated costs. DG Growth is working on a new initiative to cover:

(i) Lack of awareness by economic operators and authorities of the obligation
(ii) Procedural guarantee – how to challenge national authorities with a fast track approach engaging with the Commission – third party
(iii) Source of advice on harmonised procedures and proportionality
(iv) Demonstrate product is validly marketed in local market

DG Growth is working on evaluation and impact assessment process proposal is expected for June 2017. Birgit Mendel raised the issue of Article 10 which calls for minimum contamination by materials of construction. Ms Pantazi answered that the need is to define how the law is being applied in the particular case. Knut Sauerbier raised this should be taken into consideration for the revision of article 10 of the DWD. Ms Pantazi added that information needed will be costs, loss of time, what communication has been held with the relevant MS. On request by Birgit Mendel Ms Pantanzi confirmed, that if there are no fully harmonised rules for products in contact with drinking waterthen they should be treated as non harmonised for those aspects lef outside the scope of the harmonisation legislation. Oliver Loebel stressed that water suppliers must guarantee the quality of the water at the tap and must therefore rely on the quality of products in contact with DW.

8. **Draft programme for the 3rd Symposium** on Materials and Products in Contact with Drinking-water (18th May 2017) was circulated. It was agreed that an introduction and conclusion summary should be included.

9. **Next roundtable meeting** – 28th September 2017

Attendees:

Klaus Ockenfeld	Copper Alliance
Pietro Mariotti	Geberit
Volker Meyer	Figawa
Knut Sauerbier	Brita
Bertil Jönsson	Boverket
Oliver Rod	Swerea
Guy Franklin	DWI
Oliver Loebel	Eureau
Wennemar Cramer	Vewin
Manfred Fuchs	DG Growth
Tobias Biermann	DE Environment
Sabine Lindner	Plastics Europe
Christina Christopoulas	BDEW
Tony Frost	EWTA
Thomas Rapp	UBA
Birgit Mendel	BMG
Jelka Appelman	MinIenM
Dirkjan van den Berg	Kiwa
Florina-Andreea Pantazi	DG Growth