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Observations on draft motions for resolutions

Objection pursuant to Rule 112(2), (3) and (4)(c): Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards lead in gunshot in or around wetlands

ENVI/9/04446

- Consideration of motion for a resolution, tabled by Alexander Bernhuber (EPP), Ondřej Knotek (Renew), Andrey Slabakov (ECR)
- Consideration of motion for a resolution, tabled by Marco Dreosto (ID)

This note has been prepared to identify and clarify evident factual errors in the resolutions above.

Alexander Bernhuber, Ondřej Knotek, Andrey Slabakov

B, C, H The Ramsar definition¹ is used to identify wetlands whereas the process to designate wetlands of international importance – called Ramsar sites – is a separate step under the Convention². These paragraphs of the draft resolution mix up Ramsar wetlands and Ramsar sites.

Each Contracting Party shall designate suitable wetlands within its territory for inclusion in a List of Wetlands of International Importance. The definition of wetlands is used to set up a collection of territory out of which the contracting parties can define sites.

The purpose of the Ramsar definition is to have a definition that allows contracting parties to identify wetlands. The purpose clearly is to identify wetlands and any action following that in terms of protection is only done in the step where wetlands of international importance are identified. The Commission, in its communication 'wise use of wetlands'³ also uses the Ramsar definition to define wetlands.

E,J,K,L,P Article 1 of the Ramsar Convention states that "*wetlands are areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres*".

Hence, as defined by the Convention, wetlands include a wide variety of inland habitats such as marshes, peat-lands, floodplains, rivers and lakes, and coastal areas such as saltmarshes, mangroves, intertidal mudflats and seagrass beds, and also coral reefs and other marine areas no deeper than six metres at low tide, as well as human-made wetlands such as dams, reservoirs, rice paddies and wastewater treatment ponds and lagoons (Ramsar, 2016 p.9)⁴.

¹ https://www.ramsar.org/sites/default/files/documents/library/current_convention_text_e.pdf

² https://www.ramsar.org/sites/default/files/documents/library/ramsarsites_criteria_eng.pdf

³ *Wise use and conservation of wetlands. Communication from the Commission to the Council and the European Parliament. COM (95) 189 final, 29 May 1995*

⁴ Ramsar (2016) An introduction to the Ramsar Convention on Wetlands, 5th Edition

https://www.ramsar.org/sites/default/files/documents/library/handbook1_5ed_introductiontoconvention_e.pdf

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In addition, to support the implementation of the definition, Ramsar has adopted a 'Classification of Wetland Types', which includes 42 types of wetland grouped into three categories:

- Marine and Coastal Wetlands;
- Inland Wetlands; and
- Human Made Wetlands (Ramsar, 2016 p. 45).

Puddles are not an explicitly defined wetland type, although 'seasonal/intermittent freshwater marshes/pools' are part of the classification.

F Under REACH, it is possible to limit uses of substances and mixtures by consumers. There are already several examples of restrictions that impact use by consumers rather than other REACH actors:

- Entry 16/17 - lead carbonate/sulphates in paint (*shall not be placed on the market, **or used (emphasis added)**, as substances or in mixtures, where the substance or mixture is intended for use as paint*)
- Entry 18/19 - mercury and arsenic compounds (*shall not be placed on the market, **or used (emphasis added)**, as substances or in mixtures, where the substance or mixture is intended for use: (a) to prevent the fouling by micro-organisms, plants or animals of the hulls of boats, cages, floats, nets and any other appliances or equipment used for fish or shellfish farming....etc*)
- Entries 28-30 - Carcinogenic, Mutagenic, Reprotoxic substances in consumer mixtures - (*shall not be placed on the market, **or used (emphasis added)**, as substances [...] or in mixtures for supply to the general public. Packaging of such substances shall be visibly, legibly and indelibly marked '**restricted to professional uses**'*). This example is similar to the scenario in the proposed restriction where lead gunshot may be placed on the market legally (i.e. for use outside of wetlands) but shall not be used by consumers inside a wetland.
- Entry 46 - nonylphenol and nonylphenol ethoxylates - (*shall not be placed on the market, **or used (emphasis added)**, as substances or in mixtures for the following purposes: ...(2) domestic cleaning*)

V ECHA's assessment, supported by SEAC, demonstrated beyond doubt that safe alternatives exist, are widely available and can be used in most - if not all - shotguns manufactured after 1970 without safety issues.

See RAC/SEAC opinion⁵ page 53

On availability:

The Dossier Submitter identified nine European manufacturers of gunshot. All have production lines of lead-free shotgun cartridges, including a production line of steel gunshot with varied selections of gauges and loads. They all have branches in most European countries and can easily provide their products in any Member State. In addition to this, North American manufacturers export lead-free ammunition to Europe.

On safety:

⁵ <https://echa.europa.eu/documents/10162/07e05943-ee0a-20e1-2946-9c656499c8f8>

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Standard or superior/magnum-proofed shotguns can fire standard steel and other alternative gunshot cartridges. To fire high performance steel cartridges, the gun is recommended (by the CIP²⁹) to be subject to the "Steel Shot" proof, which is a more rigorous test of the gun's ability to handle the pressures and shot hardness of steel/steel-like gunshot cartridges. The majority of shotguns that are currently used can be expected to be standard-proofed as this standard was already introduced in the 1970s.

In a recent announcement, five major shooting organisations in the UK, including the Countryside Alliance and BASC, stated⁶ that they commit to voluntarily stop using lead shot by 2025 in consideration of wildlife, the environment and to ensure a market for healthy game products, at home and abroad. Many of ECHA's findings in relation to availability of alternatives and their safe use have been confirmed by the guidance issued by BASC⁷, the Gun Trade association⁸ etc. supporting this voluntary action.

- W The assessment that was undertaken assumes that all those possessing a gun at home have it for the purpose of legal hunting. The costs assessment was based on numbers of hunters per Member State, which was assumed to include hunting farmers. The cost assessment included different elements, including price differences in alternatives and the potential to modify or replace shotguns.
- X This statement is incorrect. The exact rules⁹ of the ISSF (rule 9.4.3.1, c) require that pellets must be made of lead, lead alloy or of any other ISSF approved material. As such, there is no material barrier for competitive shooting using alternative gunshot materials, but an approval of the material by the ISSF is required.
- AB Elements of this statement are incorrect. ECHA's proposal included a restriction on the possession of lead gunshot in wetlands.

Dreosto

- A The statement of the resolution is factually incorrect. The request of the Commission¹⁰ to ECHA referred to 'the need for harmonisation [of the regulation] of the use of lead in shot in wetlands' – as such, the request was not limited to an assessment of use in hunting only.
- D Elements of this statement are incorrect. ECHA's proposal, which was supported by RAC and SEAC, referred to the 'full' Ramsar definition of a wetland. It was added in the proposal on the recommendation of RAC. From correspondence with the Croatian authorities, ECHA understands that the full Ramsar definition is used to define wetlands under the Croatian legislation governing the use of lead shot in/over wetlands.
- G,H In an email to MEP's (15 September 202) FITASC claims that 400-600 out of 3000 sites are impacted by this. This questions the definition of 'usually' in

⁶ <https://basc.org.uk/lead/>

⁷ <https://basc.org.uk/lead/guide-to-using-non-lead-shot/>

⁸ <https://gtaltd.co.uk/news/lead-alternatives/60>

⁹ https://www.issf-sports.org/theissf/rules_and_regulations/shotgun_rules.ashx

¹⁰

https://echa.europa.eu/documents/10162/13641/rest_lead_shot_pvc_tattoo_formaldehyde_request_redacted_en.pdf/f8fb716f-6174-4329-623c-69d8805a2b0d

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this section of the resolution.

- I The claim of the resolution that hunting could become 'prohibitively' expensive is not based on evidence. ECHA has demonstrated that the additional cost for an individual hunter is a fraction of the average hunting budget and far less than €100 for most hunters. This is discussed on pages 52 and 66 of the RAC/SEAC opinion:

Page 52:

...recent data on the market price of gunshot cartridges indicate that on average there may be no significant difference in price between lead and steel gunshot (Background Document E.3.1.4.).

Page 66:

Based on the cost estimates presented in the Background Document, it can be expected that the additional cost to an average hunter for purchasing non-lead gunshot ammunition will be in the range of €0 (best case) to €66 (worst case) per year. This corresponds to 0 to 2.2 % of the average annual hunting budget of a European hunter.

- J The statement suggests that steel shot could not be used for sport shooting or would be more expensive, both of which is not supported by ECHA's analysis of the availability and price of steel shot. In fact, the cost of lead and steel shot are broadly comparable. ECHA provided an estimate of the potential costs for replacing incompatible shotguns for wetland hunting (though not for sport shooting), which was supported by SEAC.

It cannot be repeated often enough that modern shotguns, used in both hunting and sports shooting, can – without any modifications – be used safely to fire steel shot.

- K Steel is considered a safe alternative even on soil. Steel is one of the few non-toxic shots allowed in the US, where to be considered as non-toxic requires extensive in-depth testing of the shooting material. The US assessment protocol takes into account a number of endpoints, including:

- a summary of the data on the acute and chronic toxicity of metals or compounds in the scrap or in the scrap coating;
- information on environmental behaviour and transport;
- data showing that the material is not toxic to selected invertebrates and fish. These procedures are subject to environmental testing regulations developed under the supervision of the US Toxic Substances Control Act (15 USC 2601 ff.); and
- a justification and citation of relevant data on whether the uptake of scrap or scrap material by invertebrates, fish, amphibians, reptiles or mammals gives rise to concern.

Processes that may trigger soil acidification are many, including acid rains and microorganism metabolism. Soil modifications could be implemented by the operators of shooting ranges to control soil acidification as a result of the use of steel gunshot.

- L While included as an element of the assessment of costs, the testing and modification of shotguns is likely to be required only in a minority of cases as most modern shotguns are already capable of safely firing (standard proof)

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steel shot. The most common modification to a shotgun would be the widening of barrel choke and this does not require re-proofing of the shotgun barrel. The use of lead shot in wetlands currently constitutes about 8-10% of all shooting with lead in the EU. The majority of lead shot is used in sport shooting and in hunting in terrestrial environments. That said, current stocks are still valuable for years to come.

The presence of proof houses (the 'infrastructure referred to in this part of the resolution) is not a necessary condition for the implementation of a regulation on lead shot. Implementation of the AEWa agreement in non-CIP EU member states (where no proof house is located) such as in e.g. Denmark, The Netherlands but also Norway and Sweden showcase this.

- M The statement that steel gunshot is prohibited on many shooting grounds is not, to our knowledge, factually correct. Clay target shooting with lead in Denmark, the Netherlands, Sweden and Norway is forbidden, but some sites in these countries allow the use of lead shot solely for the purpose of training for international events. Again, as stated above, there is no material barrier for competitive shooting using alternative gunshot materials.
- Q This is an unsubstantiated misrepresentation of the exposure of hunters to lead in game meat. As ECHA will demonstrate in the upcoming dossier, hunters may actually be exposed to lead levels that exceed EFSA's safe limit by orders of magnitude.