

The Copper Consortium offers, to non-members, Letters of Access to each of its Joint Dossiers on terms set out in this Agreement. The Joint Submission for Copper was successfully submitted to ECHA in September 2010.

AGREEMENT AND LETTER OF ACCESS

Whereas:

- (1) Regulation 1907/2006/EC (the "Regulation") provides that any manufacturer or importer of a substance, either on its own or in one or more preparation(s), in quantities of one tonne or more per year shall submit a registration ("registration") of such substance to the European Chemicals Agency, subject to definitions and conditions prescribed by the Regulation;
- (2) a Consortium (the "Copper Consortium").of interested parties ("Members of the Copper Consortium") was constituted by agreement on 1st November, 2007 for the purposes of the Joint Submission of a registration of the substance Copper ("Copper") in accordance with the Regulation;
- (3) the Copper Consortium holds rights to data, studies, summaries, study waiving arguments, testing proposals and assessment (a compilation of knowledge hereinafter called the "Dossier");
- (4) the Dossier may¹ be necessary to meet the requirements of the registration of Copper in accordance with the Regulation or to meet the criteria for exemption from registration in accordance with the Regulation;
- (5) guidance on data-sharing issued by the European Chemicals Agency in relation to the Regulation states that "parties sharing data must make "every effort to ensure that the costs of sharing the information are determined in a fair, transparent and non-discriminatory way" (Article 27(3) and 30.1)";
- (6) the fee structure set out in this Agreement takes account of this requirement and recognises the investment made by members of ECI and related organisations in the development of the Dossier;
- (7) the Substance Information Exchange Forum ("the SIEF") (as defined in the Regulation) for Copper, established by the process set out in the Regulation, has or has been deemed to have appointed Aurubis AG of Hovestrassse 50, 20539 Hamburg, a Member of the Copper Consortium, as Lead Registrant (as defined in the Regulation) for the Joint Submission of a registration of Copper;
- (8) on creation of the Joint Submission by the Lead Registrant, a security token will be issued by ECHA to the Lead Registrant to be shared with other participants in the Joint Submission;
- (9) the Lead Registrant intends to submit as part of its Joint Submission dossier a Chemical Safety Report ("CSR"). This includes exposure scenarios for a list of identified uses of copper. This list is published on the website of ECI and its existence has been notified to the members of the SIEF. The CSR will also contain an agreed Classification and Labelling.
- (10) the Copper Consortium has appointed the European Copper Institute of Avenue de Tervueren 168, Bte 10, B1150 Brussels Belgium ("ECI") to act as Secretariat to the Consortium and has duly authorised ECI to act on its behalf on all matters relating to this Agreement, including its signature on behalf of the Copper Consortium.

¹ The use of the word "may" recognises that any legal entity is able to provide its own dossier to support its own registration.

ECI, on behalf of the Copper Consortium

and

[Applicant] with registered office located at [] the "Applicant"

AGREE AS FOLLOWS:

1. In consideration of the payment of the fee calculated in accordance with Clause 4 of this Agreement by the Applicant to ECI, the Copper Consortium shall grant to the Applicant, either
 - by Letter of Access in the terms set out in the Annex 2 to this Agreement, a copy of the CSR, access to a valid security token granted by ECHA to the Lead Registrant for Copper, the right to participate in the Joint Submission and the right to refer to the Dossier for the sole purpose of supporting the Applicant's registration of Copper in accordance with the Regulation

or

 - by Letter of Access in the terms set out in Annex 3 to this Agreement, a copy of the CSR to be used for the sole purpose of assisting in satisfying the requirements for the exemption of registration provided by Article 2.7d) of the Regulation and of meeting any relevant requirements laid down by Articles 31 or 32 of the Regulation
2. Using the template in Annex 1, the Applicant shall declare to ECI within five working days of the signature of this Agreement:
 - a. which Letter of Access (Annex 2 or Annex 3) is applied for
 - b. the names of all legal entities falling under the control of the Applicant ("Affiliates") to which the rights conferred by the Letter of Access shall apply.
 - c. the average annual tonnage of Copper produced in or imported into the EU by the Applicant (including those of Affiliates) in the three calendar years prior to the date of signature of this Agreement (the "tonnage").
3. If the Applicant is an Only Representative ("OR"), as defined in the Regulation, acting on behalf of a legal entity which is a non-EU producer and/or importer of Copper, the Applicant shall complete:
 - a. the requirement of Clause 2a in respect of the legal entity which the Applicant is representing: the Applicant shall disclose the name of the legal entity represented by the Applicant and names of all legal entities falling under its control ("Affiliates") on whose behalf the Applicant seeks the rights conferred by the Letter of Access; and
 - b. the requirements of Clause 2b in relation to the production and/or import tonnage of said legal entity and its Affiliates.
 - c. where the Applicant is an OR, the rights afforded to the Applicant and to ECI and the duties to be undertaken by the Applicant and ECI shall apply as if the legal entity represented by the OR were itself the Applicant. For the purposes of Clauses 8 and 9, the legal entity represented by an OR shall not be treated as a third party, but shall itself be bound by the requirements of Clause 9.
4. On receipt of the information referred to in Clause 2 ECI will issue an invoice to the Applicant for the fee.

For Applicants which on the date of signature² of this Agreement are not members of the European Copper Institute or of the International Copper Association the fee shall be as follows:

² The precise terms of membership are as contained in Appendix 3, Clauses 4.1.1 and 4.1.2

for Applicants producing or importing a tonnage of $\geq 1,000$ tonnes, the fee shall be 1.83 €/T, subject to a minimum of € 37,000.

for Applicants producing or importing a tonnage of ≥ 100 tonnes and $< 1,000$ tonnes, the fee shall be € 15,000.

for Applicants producing or importing a tonnage < 100 tonnes, the fee shall be € 5,000.

For Applicants which on the date of signature of this Agreement are members of the European Copper Institute or of the International Copper Association, the fee shall be as follows:

for Applicants producing or importing a tonnage of $\geq 1,000$ tonnes, the fee shall be 0.23 €/T, subject to a minimum of € 28,000.

for Applicants producing or importing a tonnage of ≥ 100 tonnes and $< 1,000$ tonnes, the fee shall be € 12,000.

for Applicants producing or importing a tonnage < 100 tonnes, the fee shall be € 4,000.

5. The Applicant confirms that, by receiving a copy of the CSR submitted by the Lead Registrant, it has been notified by ECI of the list of identified uses of Copper and associated exposure scenarios and agrees with the stated Classification and Labelling. ECI shall not be required to provide to the Applicant any information related to a process, use or exposure not covered by this list.
6. The appropriate Letter of Access shall be issued by ECI to the Applicant on receipt of the payment of the fee. The Applicant shall confirm its receipt in writing to ECI.
7. The Letter of Access shall be valid indefinitely³.
8. Nothing in this Agreement shall give the Applicant or the Affiliates the right to:
 - a. receive a copy of the complete Dossier;
 - b. inspect or view the complete Dossier, except in so far as the information is published in accordance with Article 119 of the Regulation (for clarity, under Whereas (9), an Applicant receives a copy of the CSR submitted by the Lead Registrant)
 - c. assign, transfer or grant to any third party the rights conferred by this Agreement and by the Letter of Access

without the express written permission of ECI on behalf of the Copper Consortium.

9. Save as required by the Regulation, the Applicant shall not disclose to any third party any information contained in or derived as a result of this Agreement.
10. Nothing in this Agreement shall be construed as giving the Applicant or its Affiliates any property rights whatsoever in the Dossier or any licence or permit to use the information for any purpose other than that specified in this Agreement.
11. Except as required by the Regulation nothing in this Agreement shall be construed as requiring the Copper Consortium or any of the Members of the Copper Consortium including the Lead Registrant to undertake or contribute to the undertaking of, directly or indirectly, any of the obligations imposed by the Regulation on the Applicant.
12. The Copper Consortium or any of its Members including the Lead Registrant or any of its duly authorised agents and representatives shall not be liable to the Applicant in any way whatsoever for any loss or damage arising out of compliance or of non-compliance with the requirements of the Regulation whether arising out of the use of the Dossier or not.

³ REACH requires the Joint Dossier to be a living document to be updated as new information and/or end uses are identified.

13. ECI shall keep confidential any data such as production or import tonnage disclosed by the Applicant to it for the purposes of this Agreement, and shall not disclose to any of the Members of the Copper Consortium or to any other party such data or any information from which such data can be calculated.
14. In the event of any material breach of this Agreement by the Applicant ECI may cancel any rights granted to the Applicant by this Agreement and by the letter of Access issued to the Applicant. In such circumstances, the Applicant shall not be entitled to a refund of any part of the fee paid by the Applicant to ECI.
15. Any and all disputes which may arise between the parties in connection with this Agreement shall be settled by an amicable effort on the part of both parties. In the absence of such, this Agreement is governed by and all disputes arising under or in connection with this Agreement shall be resolved in accordance with the laws of Belgium.

Signed

For the Consortium

Duly authorised to sign on behalf of the Copper Consortium

For the Applicant

Duly authorised to sign on behalf of the Applicant

Date

STRICTLY CONFIDENTIAL TO ECI SECRETARIAT

ANNEX TO LETTER OF ACCESS APPLICATION

Declaration and Signature of Applicant (1/2)

The undersigned provides this annex to the signed Letter of Access agreement.

<u>Date</u>	
<u>Name of Applicant</u> ⁴	
<u>Corporate address</u>	
<u>Represented by Name & Title</u>	
<u>VAT number (in EU)</u>	
<u>Affiliates Represented</u> <u>Company Name, Address and Local Contact Person, incl. telephone and email</u> <u>List all Affiliates - using separate page(s) as required</u>	
<u>Signature(s)</u>	
<u>Name(s)</u>	
<u>Title(s)</u>	

⁴ If the Applicant is a non-EU based company, the identity of its Only Representative (the EU based legal entity authorised to carry out the REACH Registration with ECHA) is to be identified in the Affiliates Represented section.

If the Applicant is an Only Representative, the name of the non-EU based producer or importer it is representing is to be identified in the Affiliates Represented section.

STRICTLY CONFIDENTIAL TO ECI SECRETARIAT

Declaration and Signature of Applicant Member (2/2)

Material scopes are listed on the REACH website of the European Copper Institute
<http://www.eurocopper.org/copper/reach.html>

Annex required (see Agreement Clause 1) -- Annex 2/Annex 3 (delete as appropriate)

Substance	Tonnage
Sub-Group A	
Copper	
Sub-Group B	
Intermediate 1	
Intermediate 2	
Intermediate 5	
Intermediate 6	
Intermediate 7	
Intermediate 8	
Intermediate 10	
Intermediate 11	
Intermediate 12	
Intermediate 13	
Intermediate 14	
Intermediate 15	
Sub-Group C	
Copper Slags Product	

The tonnages on which the fees for Letters of Access are based are the averages of the three years prior to the date of formal registration (within REACH IT). As an example, for LoAs to dossiers required by the end of November 2010, the tonnages are the averages of 2007, 2008 and 2009.

Where the Applicant is an EU based producer/importer, the tonnage shall be the total of EU production plus imports into the EU for all Affiliates within the Applicant's company.

Where the Applicant is an Only Representative, the tonnage shall be the total imports into the EU for all Affiliates of the non-EU legal entity appointing the OR.

For Letter of Access Applicants Intending to Proceed with Registration

To the Applicant:

Letter of Access to the Joint Submission Dossier for Copper

Pursuant to the Agreement dated [date] between the Copper Consortium and [Applicant] (the "Agreement") the Copper Consortium hereby grants to the Applicant the right to participate in the Joint Submission of the registration of Copper and the right to refer to the Dossier for the sole purpose of supporting the Applicant's registration of Copper in accordance with the Regulation, subject to the terms of the Agreement.

Terms used in this letter shall be construed by reference to the Agreement.

In order to facilitate participation in the Joint Submission of the registration, the Applicant is hereby provided with a copy of the Chemical Safety Report submitted by the Lead Registrant.

The Applicant is also given the following access information:

- Joint Submission name: JSCopperA1
- Valid security token number issued by ECHA to the Lead Registrant
 - *Token number*

The right conferred by this Letter of Access shall be without termination.

Signed:

John Schonenberger
Chief Executive
European Copper Institute

Duly authorised by the Copper Consortium

For LoA Applicants seeking to qualify for Exemption under Article 2.7d

To the Applicant:

Letter of Access to the Chemical Safety Report for Copper

Pursuant to the Agreement dated [date] between the Copper Consortium and [Applicant] (the "Agreement") the Copper Consortium hereby grants to the Applicant rights to the information which may be necessary to satisfy the requirements for exemption from the Registration of Copper under Article 2.7 d of the Regulation and for the communication of any information on Copper in accordance with Articles 31 and 32 of the Regulation.

The Applicant is hereby provided with a copy of the Chemical Safety Report (CSR) submitted by the Lead Registrant for Copper. The CSR contains information on Classification & Labelling, Exposure Scenarios and Guidance on Safe Use.

Terms used in this letter shall be construed by reference to the Agreement.

The rights conferred by this Letter of Access shall be without termination.

Signed:

John Schonenberger
Chief Executive
European Copper Institute

Duly authorised by the Copper Consortium