



POSITION PAPER

Cross-industry recommendations for better regulation in chemicals management

18 March 2015

The undersigned organisations represent industry sectors that provide enabling technologies which contribute strongly to competitiveness, growth and jobs in the EU economy. We welcome the new European Commission's emphasis on strengthening Europe's competitiveness and President Juncker's first priority, "to put policies that create **growth and jobs** at the centre of the policy agenda of the [...] Commission". Establishing the right regulatory environment and promoting a favourable climate for entrepreneurship is certainly a matter of priority for businesses, both for major companies and for small and medium-sized enterprises (SMEs). Our organisations are very supportive of the **Better Regulation policy** in general and the REFIT exercise in particular, which ensure that the principle of proportionality, which is at the heart of the Commission's work, is respected.

To contribute to this policy drive, we would like to make suggestions for **regulatory fitness, introducing greater efficiency and proportionality in the field of chemicals management**. This would contribute to maintaining the competitiveness of European businesses in a wide range of strategic sectors while **fully meeting health and safety objectives**.

In recent years there has been growing concern about the effectiveness of applying the EU chemical regulation REACH's Authorisation scheme to **substances that are exclusively handled in the workplace**. In fact, the REACH Authorisation procedure has been considered for such substances despite the fact that there were no identified risks outside the workplace that would require further risk management measures. We believe that the authorisation should not be considered as the preferred option when **potential risks can be more effectively addressed by workplace-specific legislation**.

Such legislation, in our view, better addresses potential risks at the workplace as it also ensures the safety of employees working with intermediates (which fall outside the scope of REACH Authorisation). Opting for **REACH Authorisation would not add any layer of protection** where safety can already be established by applying occupational health and safety legislation, and by establishing a protective EU-wide occupational exposure limit (OEL). Furthermore, REACH Authorisation is significantly **more costly than compliance with protective workplace legislation**, given the costs for preparing the extremely complex application process and application fees. REACH Authorisation aims to increase the push towards substitution of substances. However, the replacement of carcinogens and mutagens and of hazardous substances is already foreseen, if feasible, under existing workplace legislation. Furthermore, for many concerned uses, neither suitable alternative substances nor technologies are expected to become economically and technically viable.

In the cases described above, REACH Authorisation could have a severe impact on the economies of Member States and put jobs at risk. Overregulation or disproportionate regulatory requirements can be very impactful on the **competitiveness** of EU businesses by threatening the continuity of supply, affecting their long-term investment security and possibly forcing them out of business or to relocate outside the EU. This would *inter alia* have impacts on production sites, Research and Development and the recycling sector, hence leading to unfortunate leakage

of skilled jobs, know-how and innovative investments outside Europe. Relocation is particularly likely where the regulated substance is not present in the produced goods and can therefore not be regulated upon import into the EU.

Furthermore, **concerned substances are often indispensable** enablers for key technologies, such as advanced materials, advanced production technologies and biotechnology, necessary **for major EU policies, including environmental objectives** (they for example contribute to the reduction of greenhouse gas emissions, clean air, renewable energy production and storage technology). It is of major importance for the EU to ensure that these primary policy objectives are fully taken into account in choosing the appropriate Risk Management Option. We would like to call for such a holistic approach, which would in our opinion be in line with the Commission's objective to overcome portfolio frontiers.

Referring to the Commission's Roadmap on Substances of Very High Concern, we would like to stress that **Risk Management Option Assessments (RMOAs)** are rightly aimed at identifying the best regulatory option to manage the risk "*either in REACH [...] or outside of REACH*". RMOAs carried out by Member States have already indicated that OELs do represent an **adequate and effective alternative risk management option**.

- We would **highly appreciate your support** for the choice of **protective EU-wide OELs** as the most adequate and effective risk management option where there is an identified need for further regulatory measures to address a potential risk which is limited to the workplace. We would also value your support in ensuring that in the described cases **no additional regulatory measures** (e.g. REACH Authorisation, Restriction or Candidate Listing) are applied to substances. This solution can directly be applied to those substances which are currently under consideration for risk management.
- In order **to ensure regulatory consistency and efficiency for future cases**, we would recommend the swift setting and/or reviewing of EU-wide OELs, so that once an RMOA identifies potential risks limited to the workplace, the most effective and proportionate risk management option – i.e. the setting of a protective EU-wide OEL – can be readily applied. This may well require further **strengthening the capacities for setting OELs**. Resources for the process of setting OELs could be increased and the process for setting OELs simplified. Furthermore, the legal basis for such action by the Commission already exists. You may therefore consider an **exemption** from authorisation under Article 58(2) of REACH to be applied to cases where the protective EU-wide OEL is put in place.

We look forward to cooperating with the Commission and other public authorities on this subject, as a positive move for ensuring the safe use of substances as well as Europe's competitiveness and employment.

Signatory organisations

European and global associations and platforms

ACEA – European Automobile Manufacturers' Association
ADCA Taskforce
AmCham EU
BeST – Beryllium Science and Technology Association
Cadmium Consortium
CDI – Cobalt Development Institute
CerameUnie – The European Ceramic Industry Association
CETS – European Committee for Surface Treatment
ChemLeg PharmaNet
CPME – Committee of PET Manufacturers in Europe
EAA – European Aluminium Association
EBA – European Borates Association
ECFIA – Representing the High Temperature Insulation Wool Industry
ECGA – European Carbon and Graphite Association
ECMA – European Catalyst Manufacturers Association
EDMA – European Diagnostic Manufacturers Association
EPMF – European Precious Metals Federation
Eucomed
EUROBAT
EUROFER
Eurometaux
Euromines
FEPA - Federation of European Producers of Abrasives products
Frit consortium
ICdA – International Cadmium Association
IIMA – International Iron Metallics Association
Ipconsortium
Lead REACH Consortium
Nickel Institute
PRE – The European Refractories Producers Federation
RECHARGE – European Association for Advanced Rechargeable Batteries

National associations

SEA – Surface Engineering Association
WVM – Wirtschaftsvereinigung Metalle (German Metals Trade Association)
ZVO – Zentralverband Oberflächentechnik e.V. (Central Association of Surface Technology)

Corporations

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