



POSITION PAPER

Recommendations by an EU-wide cross-industry initiative for better regulation in chemicals management

16 November 2015¹

Executive summary:

- Better regulation in chemicals management requires identification, implementation and enforcement of the most effective risk management option, tailored to tackle a specific risk.
- When authorities identify a risk, but find that it is limited to the workplace, then workplace-specific legislation offers the most targeted, effective and proportionate regulatory risk management approach.
- Adding Candidate Listing and REACH Authorisation will not improve workers' protection; it may instead have a negative impact on, or even prevent, the achievement of key environmental and other policy objectives.
- The co-signatories of this paper submit a concrete set of proposals aimed at achieving better regulation when managing chemicals in the workplace.

¹ Please note that this paper constitutes a revisited version of an earlier position paper, which is complemented with more comprehensive subject-specific reports. The general message transmitted by the original paper remains unchanged in the current version.

The undersigned organisations represent industry sectors and technologies which contribute strongly to competitiveness, economic growth and jobs in the European Union (EU). Indeed, we manufacture and/or use substances which are often indispensable enablers for key technologies, such as advanced materials, innovative production technologies and biotechnology, necessary for major EU policies, including environmental and health objectives.

Collectively, our organisations are very supportive of the **Better Regulation policy**² in general, and the regulatory fitness and performance (REFIT) programme³ in particular. In this Position Paper, we provide a concrete case on how better regulation can be applied in the field of chemicals management.

While REACH is rightly established as the regulatory pillar of EU chemicals management and has contributed to unrivalled data collection about the use and effects of substances, our organisations believe that REACH Candidate Listing and Authorisation should not be considered as the preferred option **when potential risks from a substance have found to be limited to the workplace and can be more effectively addressed by workplace-specific legislation**. Referring to the Commission's Roadmap on Substances of Very High Concern (SVHC Roadmap), 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*"⁴.

In our view, workplace legislation:

- More holistically addresses potential risks at the workplace by also covering uses which are not in scope of REACH Authorisation;
- Prescribes the principle of substitution for hazardous substances; and
- Directs investment towards enhanced protection of workers, instead of allocating these resources to the preparation of complex applications and the payment of application fees – and is in this respect more cost-efficient than REACH Authorisation.

Adding REACH Authorisation on top of workplace legislation would **not add any layer of protection** for workers and would instead, *inter alia* have detrimental impacts on the competitiveness of production sites, Research and Development, the recycling sector, etc.

Our organisations would therefore like to call for a tailor-made and targeted use of REACH Authorisation for relevant substances. It should not be applied to cases where it would duplicate other existing legislation when that already offers a more effective and proportionate risk management option.

We propose that the European Commission and Member States:

- i) recognise workplace legislation including EU-wide Occupational Exposure Limits (OELs) as the most effective risk management option for substances where there is a need to address a risk limited to the workplace;
- ii) review how to strengthen EU capacities for the swifter setting and/or review of EU-wide OELs;
- iii) proceed to set EU-wide OELs for substances, where a risk is identified at the workplace; and
- iv) ensure that in the described cases no additional and unnecessary regulatory measures (e.g. Candidate Listing, Authorisation) are applied, i.e.:
 - a. when the identified risk for all uses of a substance can be more effectively addressed by workplace legislation, the substance should not be included in the Candidate List⁵; and

² The Commission's "Better regulation" policy is intended at designing EU policies and laws so that they achieve their objectives at minimum cost. http://ec.europa.eu/smart-regulation/index_en.htm

³ The REFIT programme is aimed at making EU law simpler and reducing regulatory costs. http://ec.europa.eu/smart-regulation/refit/index_en.htm

⁴ Roadmap on Substances of Very High Concern, 5 February 2013: <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%205867%202013%20INIT>

⁵ In the event of a substance that has already been included in the Candidate List but meets the criteria established in this position paper, it should not be prioritised for Authorisation.

- b. when the identified risk for some uses of a substance can be more effectively addressed by workplace legislation, those uses should be exempted from REACH Authorisation pursuant to Article 58(2) of the REACH Regulation.

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

Annex:

- *Annex 1: List of signatory organisations*

About the CII

The Cross-Industry Initiative (CII) was set up between December 2014 and March 2015 as a loose coalition aimed at streamlining chemicals management. It currently comprises over 50 organisations: sectoral associations at EU and national level, as well as companies. Please find more information on our website (www.cii-reach-osh.eu) or contact us by email (info@cii-reach-osh.eu).

For further details about our policy recommendations, you can refer to the complementing documents:

1. Flowcharts: Our proposal – an application of the principles of the Commission's SVHC Roadmap
2. Detailed proposal and responses to questions raised on workplace legislation
3. Setting indicative and binding OELs / Outlook on a possible revision of OSH

Annex 1: List of signatory organisations

European and global associations and platforms

ACEA – European Automobile Manufacturers’ Association
 ADCA Taskforce
 AmCham EU
 BeST – Beryllium Science and Technology Association
 BSEF – The International Bromine Council
 Cadmium Consortium
 CAEF – European Foundry Association
 CECOF - The European Committee of Industrial Furnace and Heating Equipment Associations
 CEMBUREAU – The European Cement Association
 CEPE – European Council of the Paint, Printing Ink and Artists’ Colours Industry
 CerameUnie – The European Ceramic Industry Association
 CETS – European Committee for Surface Treatment
 CheMi – European Platform for Chemicals Using Manufacturing Industries
 ChemLeg PharmaNet
 CIRFS – European Man-made Fibres Association
 Cobalt Institute
 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
 EPMF – European Precious Metals Federation
 ETRMA – European Tyre & Rubber Manufacturers’ Association
 Euroalliages – Association of European Ferro-alloy Producers
 EUROBAT
 EUROFER
 Eurometaux
 Euromines
 FEPA – Federation of European Producers of Abrasives products
 Frit consortium
 Glass Alliance Europe
 I2a – International Antimony Association
 ICdA – International Cadmium Association
 IIMA – International Iron Metallics Association
 IMAT – Innovative Materials for Sustainable High-Tech Electronics, Photonics and Related Industries
 Ipconsortium
 Lead REACH Consortium
 MedTech Europe
 Nickel Institute
 PRE – The European Refractories Producers Federation
 RECHARGE – European Association for Advanced Rechargeable Batteries
 UEAPME – European Association of Craft, Small and Medium-Sized Enterprises
 UNIFE – The European Rail Industry

National associations

A3M – Alliance des Minerais, Minéraux et Métaux (French Ores, Minerals and Metals Association)
 ASSOGALVANICA – Associazione Italiana Industrie Galvaniche (Italian Plating Industry Association)
 BCF – British Coatings Federation
 BVKI – Bundesverband Keramische Industrie e.V. (German Association of the Ceramic Industry)
 ION – Vereniging Industrieel Oppervlaktebehandelend Nederland (Dutch Association for Industrial Surface Treatment)
 NFA – Non-Ferrous Alliance
 SEA – Surface Engineering Association
 VDA – Verband der Automobilindustrie (German Automotive Industry Association)
 VDFFI – Verband der Deutschen Feuerfest-Industrie e.V. (German Association of the Refractory Industry)
 VdL – German Paint and Printing Ink Association
 VDS – Verband Deutscher Schleifmittelwerke e.V. (German Abrasives Association)
 WKÖ – Wirtschaftskammer Österreich (Austrian Federal Economic Chamber)
 WVMetalle – Wirtschaftsvereinigung Metalle (German Metals Trade Association)
 ZVO – Zentralverband Oberflächentechnik e.V. (Central Association of Surface Technology)

Corporations

Colorobbia

DALIC

Esmalglass itaca

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Smalticeram