

## **CII FEEDBACK TO THE COMMISSION INCEPTION IMPACT ASSESSMENTS AHEAD OF THE REVISION OF THE CLP REGULATION**

June 2021

*The Cross-Industry Initiative (CII) welcomes the Commission Inception Impact Assessments for a revision of Regulation (EC) No 1907/2006 on the classification, labelling and packaging of chemical substances and mixtures (CLP).*

*The CII for better regulation on chemicals management was set up in 2015 as a coalition aimed at streamlining the management of chemicals. It currently comprises 64 organisations, including sectoral associations at the EU and national levels as well as companies. Our members represent manufacturers, downstream users of chemicals, large companies, and small and medium-sized enterprises. The remit of the CII exclusively targets cases in which the potential risks posed by chemicals are limited to the workplace environment. In light of this, we would like to provide our feedback to the Commission Inception Impact Assessment on the upcoming revisions of the CLP frameworks.*

### **CLP Limit Values and Occupational Safety and Health**

Over the years, the Classification, Labelling and Packaging of Substances and Mixtures (CLP) Regulation (EC) No 1272/2008 has been used for hazard classification of substances, and has contributed to protection of human health and the environment.

However, during the past years, we observed an increasing number of difficulties related to the process of harmonised classification (CLH). In particular, when a hazard classification has an immediate impact on the risk management under another legislation, regularly socio-economic impacts or feasibility assessments were not performed. In many cases the impact was significant and often unwanted in relation to other policy objectives.

In view of the above, the CII is concerned about the Commission's suggestion in the CLP roadmap to introduce the possibility of setting harmonised environmental and safety values for some substances based on CLP. The introduction of such limit values in CLP may lead to unintended consequences for the implementation of other legislation applicable to the chemicals sector, which could impact the effectiveness of the overall regulatory system for chemicals, as well as the industry's competitiveness. Therefore, before any limit values under the CLP have any impact on risk management, feasibility and socio-economic considerations need to be weighed.

For instance, such a new policy option could compromise a successful implementation of two occupational safety and health (OSH) directives: the Carcinogens and Mutagens Directive and the Chemical Agents Directive.

### **The limit values set under the CLP which are applicable to the workplace would circumvent the OELV setting process provided for in the OSH directives:**

In accordance with the Council Decision 2003/C218/01, Art. 2, the Advisory Committee on Safety and Health at Work assists the European Commission in the preparation, implementation and evaluation of all OSH measures, including the setting of OELVs. Therefore, effective functioning of worker protection is ensured by a tripartite engagement that includes social partners and the authorities (representing the enforcement partner). This process is well established and ensures that all necessary

social, technical, feasibility, and socio-economic experience is reflected and considered. Introducing limit values in the CLP would risk circumventing this tripartite engagement valued by social partners.

For the setting of OELVs, nowadays ECHA receives mandates from the Commission to carry out scientific evaluations that will underpin the limit values. Since scientific assessment is a prerequisite for OELV setting, the capacity and qualification to do this work in a qualitative way need to be ensured. Currently, the capacity is limited to a maximum of five scientific opinions and/or scoping studies for OELVs each year. This limitation cannot be by-passed by setting harmonised safety values in a CLP-process. A dedicated strategy is needed to increase the capacity for preparing qualitative scientific opinions. In addition, it should be recognised that OELVs are developed to protect worker's health taking into account reasonable and foreseeable working conditions compared to the scope, for example, of DNELs, which, by definition, are exposure levels derived in the context of rather theoretical exposure scenarios.

**The limit values set under the CLP would not be sufficient to protect workers from chemical risks:**

Within an occupational setting, substances generated during a production process and other agents present in the workplace (e.g., welding fumes) are highly relevant. OELVs for this material are not in the scope of the CLP. If, in addition to OSH legislation, occupational limit values are in practice also set by the CLP, the coherence of the legislation is lost. This presents risks of confusion, administrative burden, and legal uncertainty.

**Conclusion**

In light of the above, the CII does not recommend the introduction of the possibility to set harmonised limit values by CLP. In any case, it urges the Commission and Member States to assess whether such limit values set under the CLP would in any way pre-empt the necessary considerations in risk management (including feasibility and socio-economic considerations). This is essential to enable tailored and efficient protection of workers from chemical risks, while at the same time maintaining workplaces and the competitiveness of European industries.

*The CII was set up in 2014-2015 as a European coalition aimed at streamlining chemicals management. It is currently comprised of over 60 organisations, associations, manufacturers, as well as downstream users of chemicals, large companies and SMEs who stand for using the most effective tool to manage risks caused by chemicals. The CII activities particularly focus on exposure to chemicals in the workplace and the interface between the EU legislation on Occupational Health and Safety (OSH) and the general regulatory framework for Chemicals (REACH).*

*To know more about our position and our proposals, please consult our website [www.cii-reach-osh.eu](http://www.cii-reach-osh.eu) or contact us at [info@cii-reach-osh.eu](mailto:info@cii-reach-osh.eu).*