



## 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

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\* Please note that this date corresponds to the drafting of the position paper, while further partners have been added in the meantime to the list of signatory organisations featured at the end of this paper.

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  
CAEF – European Foundry Association  
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  
UEAPME – European Association of Craft, Small and Medium-Sized Enterprises  
UNIFE – The European Rail Industry

### *National associations*

BVKI – Bundesverband Keramische Industrie e.V. (German Association of the Ceramic Industry)  
FIM – Fédération des Industries Mécaniques (French Federation of Mechanical Engineering Industries)  
SEA – Surface Engineering Association  
WKÖ – Wirtschaftskammer Österreich (Austrian Federal Economic Chamber)  
WVM – Wirtschaftsvereinigung Metalle (German Metals Trade Association)  
ZVO – Zentralverband Oberflächentechnik e.V. (Central Association of Surface Technology)

### *Corporations*

Colorobbia  
DALIC  
Esmalglass itaca  
Ferro  
Smalticeram  
Vernis