



Policy Paper

Guidelines for the Chemicals Policy in the legislative period 2024-2029 and the Chemicals Industry Package – September 2024

Introduction

The Chemical Industry faces the worst economic downturn in a decade at a point in time when investments are needed to achieve the transition for Europe to become climate neutral. Therefore, the **Antwerp Declaration** calls for a European Industrial Deal to complement the EU Green Deal, as urgent action is needed to restore the business case for investments in Europe.

In line with the ideas of the Antwerp Declaration, the strategic agenda of the **European Council** for 2024 to 2029 puts competitiveness as one of the three main priorities and recognises chemicals as a sensitive sector and a key technology of the future. Ursula von der Leyen announced in the political guidelines for the **European Commission** a European Prosperity Plan and envisages to build a Clean Industrial Deal and a more circular and resilient economy. Concretely, she wants to put forward “a **new chemicals industry package**, aiming to **simplify REACH.**”

The German paint and printing ink industry association (VdL) welcomes that the EU institutions acknowledge that action is needed for the EU and especially the chemical industry to **return to a path of sustainable economic growth** by putting competitiveness and prosperity high on the political agenda. VdL would like to contribute by proposing **ideas for measures under the chemicals industry package** that would be most urgently needed from the viewpoint of the paint, coatings and printing inks industry (hereafter referred to as “coatings”) and that can serve as guidelines for the chemicals policy in the next legislative period.

Where do we stand?

Companies in the coatings industry are faced with an **increasing number of ever more detailed regulations and reporting obligations**. Every year more resources need to be devoted to fulfil regulatory requirements.

In addition, many measures already implemented or envisaged in the Chemical Strategy for Sustainability have the effect of **reducing the raw material base**. For formulators, like the manufacturers of paints, coatings and inks, this means they are forced to **constantly reformulate** in order to substitute substances while attempting to safeguard the functionality of their products - a complex iterative and time-consuming process. This binds a significant part of the R&D resources that are no-longer available for the development of new products or the realisation of innovations. Moreover, it is foreseeable that if all measures are implemented as planned, despite all efforts, **functionalities including those needed for sustainable technologies will be lost**.

In sharp contrast to these developments, the **challenges of the transition** and the **demographic change** demand for a more **efficient use of resources**. However, instead of unleashing innovation to drive the transition, the Green Deal foresees a plethora of new requirements

and reporting obligations. It has been estimated that more than 40 laws with a direct impact on the chemical and pharmaceutical were presented in the previous mandate, which contain over 920 (!) implementation measures.

Even if the objective of the one or the other individual regulation may be justified, it adds up to an immense bureaucratic burden that is particularly unbearable for small and medium-sized companies and binds tremendous resources to constantly reformulating. This not only **inhibits the innovative strength** of the industry but **diminishes its ability to contribute to the transition** and **makes production in the EU increasingly unprofitable**.

In the end this will lead to falling short of the high ambitions of the Green Deal and more **production being transferred to non-EU countries**. A process that already has started and can only be stopped by **a fundamental and bold change in policy making**. Moreover, **a significant and timely decrease of unnecessary regulatory burdens**, especially in the chemical sector is needed - not with the aim to lower the EU's ambitions defined in the Green Deal, but to ensure the EU continues to have a strong industrial base and the resources to achieve them.

What should be done?

The **Antwerp Declaration** provides key high-level demands to achieve clarity, predictability, and confidence in Europe and its industrial policy which will not be repeated here. The focus of this policy paper is on chemical regulation and the needs of formulators such as the coatings industry. Thus, it can be seen as a sectorial concretization of the Antwerp Declaration and specific proposals for the **chemical industry package** from a downstream users' and formulators' perspective.

A new spirit of policy making

- **Focus on implementation:** With the high amount of implementing measures still being open in chemicals regulation and related areas (e.g. classification and labelling (CLP), eco-design (ESPR), and packaging and packaging waste (PPWR)), the current mandate should focus on the proper implementation of these measures. When this regulatory avalanche has been settled, its effect should be carefully analysed, before any new regulatory measures are envisaged.
- **Reviewing and reducing existing regulatory burdens:** The Commission, the Member States and also representatives of the European Parliament have often acknowledged that busting bureaucracy is needed. However, so far concrete actions are missing. A significant and concrete reduction is needed that noticeably decreases the actual workload of the companies. In addition, the aim should be not to introduce any new regulations with bureaucratic burdens or reporting obligations.
- **Take “better regulation” seriously:** Impact assessments need to be conducted more thoroughly and holistically, by involving all the relevant stakeholders - especially downstream industries, where a lot of the impact of chemical's policy takes effect. Even more importantly, impact assessment should be taken seriously, which means the result should be used to shape the regulation instead of conducting the impact assessment only because it is legally required, but after the decision has already been taken on a political level.
- **Address the competitiveness of the whole industry, instead of focussing on key technologies:** Recently, the focus has often been on key technologies

(semiconductors, batteries, ...) needed for the transition and perceived as key for the future. However, this falls short of the complexity of the transition, the relevant technology and the economic system. With its products, the coatings and printing ink industry sees itself as an enabler of the green transformation: coatings for wind turbines or corrosion protection for bridges are just two of many examples of how the green transformation can hardly succeed without our industry's products. However, our industry's products are often seen as 'traditional' - even in political circles. This assessment does not do justice to the importance the products of our industry sector. Hence, the competitiveness of the whole industry needs to be addressed.

- **Improve the interface between the scientific and the political sphere:** Usually chemicals' legislation involves a scientific opinion, typically provided by ECHA's expert bodies, followed by the political process. It is important that these two spheres interact properly. While it is paramount that the legislation is based on the scientific opinion of the experts, it is also important that in the political deliberation all other relevant aspects (e.g. social and economic impacts) are considered. Recent examples show that conclusions drawn by scientific expert bodies are adopted without any further deliberation and translated into legislation.

Safeguard functionality and unleash innovation for the transition

- **Chemical legislation needs to take the functionality of chemical products into account:** There will be no green transition without paints, coatings and inks with specific functionalities. However, a broad variety of chemicals and their availability are essential prerequisites for the functionality and further innovation. This needs to be kept in mind when implementing the open delegated acts and should be one of the guiding principles together with consumer safety and environmental protection for any future regulatory actions in this sector.
- **Tailored risk-based approaches instead of general bans:** The required functionality or reactivity of chemical substances for certain uses and processes are often directly linked with their hazardous properties. For instance, reactive coatings are needed for many sustainable technologies, e.g. to quickly form a durable film also under the harsh condition of an offshore wind park. Therefore, risk management measures are needed, based on the concepts of risk assessment and focus on safe use throughout the entire lifecycle, instead of simplistic hazard-based bans.
- **Keep the scope of the different regulations separated:** In the last mandate, there has been an increasing tendency to address chemical related issues in different pieces of legislation under different contexts (e.g. PPWR, ESPR, Taxonomy, CSRD,...). This creates an entangled and highly complex patchwork of different pieces of legislation, which makes compliance and enforcement very difficult. It also creates difficulties in assessing the impacts and can hence lead to unintended side effects. In addition, it is likely to happen that requirements for the same issue in different pieces for legislation contradict each other. We therefore highly recommend keeping the scope of different regulatory fields clearly defined and separated.

Recommendations for specific regulations

REACH

- **Reevaluate the need for a full revision:** With REACH the EU has the most ambitious chemicals regulation in the world, which has led to the most advanced knowledge base on chemicals globally and sets the highest standards. In fact, it has been copied by many other countries. REACH has a very complete set of tools to regulate chemicals, which can be used to address any relevant issue in this area. Hence, in our view a full revision is not justified.
- **Conduct a thorough impact assessment:** REACH is highly complex and, since chemicals are at the beginning of virtually all supply chains, small changes can have massive effects. Hence, the Commission should carefully assess the procedural way to propose and deal with potential REACH developments. Changes via secondary legislation or guidance are preferred over a full opening of the legal text. REACH already includes far-reaching mandates for secondary legislation.
- **New concepts need to be based on a scientific consensus:** The Commission has always been committed to basing its regulations on scientific evidence. However, after the publication of the Chemical Strategy for Sustainability many of the proposed concepts have received harsh criticism from scientist from the German Federal Institute for Risk Assessment (BfR), academia and the German Society of Toxicology.¹ Especially the deviation from the risk-based approach to a more hazard-based regime. As in any complex topic, it is to be expected that there will be a debate in the scientific community, but it is to our knowledge unprecedented that so many renowned experts from academia and the very competent authorities in charge of the relevant regulations have openly criticised a strategy from the Commission in such a fundamental manner. These criticism needs to be taken into account if any of the concepts as outlined in the CSS should be rediscussed under the new mandate.

ESPR

- **Implement economically viable provisions:** The implementation of the Ecodesign Regulation (ESPR) and the digital product passport should only contain economically viable requirements for SMEs. Comprehensive impact assessments are necessary. Targeted support services should facilitate implementation.
- **Start with realistic data requirements:** Whilst it is clear that footprint data for raw materials are becoming increasingly important, the data currently available to downstream users are limited. A lot of effort is put in improving the data base, together with the raw material suppliers, but the generation of missing data needs time. The ESPR should reflect this situation and should therefore start with realistic requirements.

¹ <https://doi.org/10.1007/s00204-021-03091-3>
<https://doi.org/10.1007/s00204-021-03125-w>
https://toxikologie.eu/wp-content/uploads/2021/12/2021-EU_Chemikalienstrategie.pdf
<https://doi.org/10.1007/s00204-022-03227-z>
<https://doi.org/10.1016/j.yrtph.2023.105356>

PPWR

- **Consider the entire product life cycle and all stakeholders** The circular economy is based on looking at the entire product life cycle and should therefore involve all stakeholders who have to play their part and share responsibility. This applies to the design phase, but also to the optimisation of recycling processes and efficient collection and sorting. Concepts like “deinking” should be taken into account in the relevant legislation to improve the recyclability of printed plastic packaging.
- **Defining realistic goals:** Reuse quotas of 100 % for the same application must be avoided, as they are technically impossible.
- **Using clear definitions:** The use of newly introduced and undefined concepts such as “sales packaging used for transport of products” must be avoided.

CLP:

- **Setting practicable requirements regarding font sizes:** The new provisions cause an immense amount of unnecessary cost and effort for the industry. Since fewer languages fit on a label, there is not only a change in the design of the labels needed, but often the whole logistic chain needs to be rearranged, and larger storage facilities are needed. Since the labels were also readable before, the new provisions on font sizes should be reevaluated based on a proper impact assessment.
- **Defining realistic transition periods:** Contrary to a harmonized classification, where all stakeholders get the information at the same time, a change in self-classification starts at the raw material suppliers and needs to work through the chain. This process takes a certain amount of time. In addition, very often a new classification demands for reformulation. Hence, realistic transition periods are needed.