

Roadmap “Analysis of the interface between chemicals, products and waste legislation and identification of policy options”

ETRMA, the European Tyre and Rubber Manufacturers’ Association, welcomes the possibility to comment on the EU Commissions’ roadmap regarding the interface between chemicals, products and waste legislation and identification of policy options.

The general framework to deal with the presence of substances of concern in recycled materials and in articles made thereof is REACH.

Exposure scenarios aim to support the safe use of substances. The scenarios include the conditions of safe use, (i.e. operational conditions and risk management measures) that have to be applied during manufacturing, industrial, professional and consumer use of these substances and during the service life of articles. Most importantly, an exposure scenario describes how the manufacturer or importer controls, or recommends downstream users to control, the exposure of humans and the environment to the substance in order to ensure its safe use.

Restrictions on substances of concern including articles made from recycled materials have been introduced by REACH.

The Roadmap identifies **four issues** that create obstacles for a smooth transition of recycled materials from waste to new products:

1. **Limited information is available about the presence of substances of concern in articles, waste streams and recycled materials**

The EU tyre industry knows which substances are used in tyre manufacturing (considered as “articles” under REACH Regulation). Information is available about the presence of substances of concern in tyres.

Considerable R&D investment has been spent by industry over the last 10 years to comply with REACH regulation obligations.

As regards information about waste streams and recycled materials, chemical producers are required to cover the waste life-cycle stage for identified uses of substances in the Exposure Scenarios. The use of a substance as a recovered substance does not have to be covered in the exposure scenario of the ‘original’ substance. ” **The availability of information to recyclers should be addressed in the REACH Guidance on Waste and Recovered substances.**

2. Presence of substances of concern in recycled materials and in articles made thereof

The concept of *de-toxifying waste material flows* starts from the **wrong assumption that hazard equals risk**. The presence of a chemical - even classified – in waste does not necessarily mean that the use of waste materials containing substances of concern will lead to exposure and that the exposure will be such as to create a risk for human health and the environment.

Methodologies to determine the overall costs and benefits for society of the use of recycled materials containing substances of concern do exist (for example, Socio-Economic analysis) and Lifecycle analysis provides a multi-criteria approach to assess the net environmental benefits of recycled materials.

An approach solely based on “chemical content” would mean stopping recycling immediately for many waste flows, with wide-ranging economic and social consequences for the recycling industry. This would lead to redirect those streams to other recovery routes such as incineration. To prevent unintended consequences, risk assessment should be recognized as the appropriate tool to assess the situation and the potential risks.

3. Uncertainties about how materials can cease to be waste and impact, which generates legal uncertainty for operators and authorities and creates difficulties in the application and enforcement of chemical and product legislation

In order to ensure the smooth functioning of the internal market across the Union, the Commission should urgently, as a general rule, **establish EU harmonised provisions related to the end-of-waste status**. Where criteria have not been set at a Union level, Member States have taken different approaches to establish detailed end-of-waste criteria. The consequence of this is different interpretations between Member States, leading to fragmentation of the internal market.

In the context of REACH restrictions, it is of paramount importance, for the efficiency of the regulatory measure, to have EU harmonised end-of-waste criteria including physical and chemical properties.

4. Difficulties in applying EU waste classification methodologies and impacts on the recyclability of materials

ETRMA recommends a **better alignment of the identification of hazardous wastes with the criteria of the Regulation (EC) No 1272/2008** on classification, labelling and packaging of substances and mixtures (the CLP Regulation). As regards rubber compounds, it is of paramount importance that Art. 12b of CLP (bio-availability principle) can be applied to both mixtures and waste classifications. This alignment should also concern HP14 (Ecotoxicity) criteria (see [ETRMA Position Paper](#)).

The **completion of the EU Commission guidance document on the definition and classification of hazardous waste** in the coming months will hopefully provide well-needed clarification on a very complex topic. ETRMA is keen to take part to the stakeholder consultation which will be organised by EU COM prior to the completion of the Guidance.

We are looking forward to the next steps and will actively contribute to any stakeholder consultation related to the above-mentioned Roadmap.