

EuRIC Reaction to the Inception Impact Assessment on the revision of EU legislation on registration, evaluation, authorisation and restriction of chemicals (REACH)

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The European Recycling Industries' Confederation (EuRIC) welcomes the Inception Impact Assessment on the revision of EU legislation on registration, evaluation, authorisation and restriction of chemicals (REACH) and its main objective to transition towards a clean Circular Economy. Bridging the various phases of products' life cycle in relation to chemicals to achieve safe products and non-toxic material cycles, including through substitution, is of paramount importance to support a safe circular economy, given the lasting problems posed by legacy substances at recycling stage, regardless of the separation and sorting technologies used for material recovery purposes and streams at stake (WEEE, packaging, ELVs, tyres, textiles, batteries, etc.).

EuRIC finds the problem the above initiative aims to tackle very relevant not only for downstream users of chemicals but also for companies who recycle – a large number of small, medium and large enterprises scattered across the EU whose role in the Circular Economy journey is considered of an utmost importance.

Thus, the **top priorities identified by EuRIC** – which will further ameliorate the aforementioned legislative framework - **are the following:**

- ❖ As it has already been stated in the Inception Impact Assessment (IIA), even though REACH is considered to be the most advanced knowledge base globally there are still gaps in knowledge of many substances. Once the aforementioned gaps in knowledge are filled, and of course depending on the findings, this could lead to restriction of substances contained in products that are already in the EU market. This as a consequence brings a lot of uncertainty to the recycling industry who will then have to make sure that -once the above-mentioned products reach end-of life - these substances are eliminated from the materials coming from recycling (plastics, metals, textiles, paper etc.).

Furthermore, as the number of restricted substances is increasing, manufacturers have to come up with alternative ones which might be equally harmful both from an environmental and human standpoint. Besides the risks related to human health and the environment, it should be noted that in several occasions the technology to separate and sort these new substances is not yet available to recyclers (not ready for use).

- ➔ Thus, **EuRIC is of the strong opinion that early -and strict - screening of the substances meant to be used in products is of paramount importance** if we wish to really achieve a clean Circular Economy. In EuRIC's view before a substance is put on the market has to be checked via intelligent screening – a process already under consideration by ECHA - in order to evaluate if the chemical used, has similar characteristics with an already restricted one and include an assessment of whether or not it is easy to separate at end-of-life stage based on BAT.

- ❖ With regard to the complexity and sufficiency of the evaluation of registration dossiers and substances, EuRIC agrees with what stated in the IIA and sees the strong need for improvement. EuRIC believes that the REACH legislation should be amended in order to **make it easier to apply end-of-waste criteria/classify products containing recycled content** and hence fulfil the needs of a circular economy – which is currently not the case. This is strongly linked and connected with the materials coming from recycling and the intention of the EU to increase the share of recycled content in new products. In that regard, **EuRIC asks ECHA for the process to be simplified, especially when a substance has already been studied for several years** while it agrees, for the above-mentioned process, to remain strict for new substances placed on the market.

- ❖ With regard to the fact that control and enforcement is not equally effective in all Member States, EuRIC would like to reiterate **that EU-wide harmonized end-of waste criteria for all Member States should also be the aim of this revision**. This is of an utmost importance for Europe and its targets to close the loop of materials in different waste streams. Harmonised end-of-waste criteria can promote for certain waste streams the development of the recycling sector, a sector which is at the heart of the EU’s new Circular Economy Action plan, by encouraging investments and discouraging other less favourable waste management options which could pose a threat to both human health and the environment. Finally, EuRIC would also like to highlight that end-of-waste criteria could also improve the management risks under waste shipment rules by excluding low risk materials coming from recycling from waste shipment controls.

Besides the common end-of-waste criteria for every State within the EU, **EuRIC would also like to propose the creation of a separate category for secondary raw materials**. This category will be suitable for use in the production process of different materials/products. Regarding the identification of contaminants coming from this product category, that could have a negative impact on the society as a whole, this could be done via a risk assessment.

- ❖ EuRIC would also like to express its concerns on the application of **REACH article 2(7) d. which states that the substances which shall be exempted from Titles II, V and VI are:**

‘substances, on their own, in preparations or in articles, which have been registered in accordance with Title II and which are recovered in the Community if:

- i. the substance that results from the recovery process is the same as the substance that has been registered in accordance with Title II; and*
- ii. the information required by Articles 31 or 32 relating to the substance that has been registered in accordance with Title II is available to the establishment undertaking the recovery.’*

More specifically, EuRIC believes that the **‘which are recovered in the community’** wording of the aforementioned article does not take into consideration Circular Economy and hence it needs to be further clarified.

EuRIC would like to highlight that the above-mentioned article is important to facilitate recycling, because it exempts from REACH registration substances “which are recovered” in the EU if “the substance that results from the recovery process is the same as the substance that has been registered”. Recovery often takes place in small, distributed sites owned by

organisations not accustomed to chemical regulations (e.g., local authorities for sewage works) and hence REACH Registration of each producer and site would be a significant obstacle to recycling, both in terms of cost (registration fee) and of administrative burden.

However, the exoneration from Registration means that there is currently no obligation to share costs for the REACH dossier preparation, management and updates, leading to difficulties in ensuring dossier updates for some recovered substances, and free-riders if one recovery operator funds the dossier and update but others do not.

Thus, in order for the roadmap to facilitate circularity under REACH, EuRIC would like to propose to;

- **clarify the definition of a “recovered” substance under art 2(7)d to ensure that different routes for recycling are clearly covered.** Some clarification is currently provided in the ECHA Guidance where it is stated that *“in order to benefit from the exemption in Article 2(7)(d) of REACH, it is sufficient that a registration was filed for the substance by any registrant. This registrant does not have to be part of the supply chain leading to the waste generation”*. **Clarification in the REACH regulation would undoubtedly avoid legal uncertainty for operators.**
- **specify that the obligations for data sharing and cost sharing applicable to REACH registration also apply to producers of “recovered” substances under art. 2(7) d.** In order to enable implementation and enforcement of this, a system of declaration for all producers of recovered substances could be established. **This would also facilitate compliance of all producers with the requirements contained in Article 2(7)(d)(ii).**
- ❖ As a final point, EuRIC would like to stress that, in general, all information on REACH is only available to those who have financed the registration process. As the recycling industry plays a key role in phasing out substances of very high concern, **EuRIC strongly recommends that all information that is of importance for recycling purposes and hence for recyclers, should be available and free of charge to everyone.**