

Chemical strategy for sustainability: enforcement and trade

The Chemicals strategy for sustainability was adopted on 14 October 2020. The strategy presents an ambitious vision and objectives to move towards safe and sustainable chemicals and a toxic-free environment. It is built on two key pillars:

- *boosting innovation and competitiveness to make safe and sustainable chemicals the EU norm and global standard;*
- *moving towards a more preventive legal framework to reduce the impact of hazardous chemicals on people and the environment.*

CEFIC supports the vision and objectives of the chemicals strategy for sustainability, in particular the intention to strengthen enforcement of EU chemicals legislation, ensure a level playing field for the industry and support innovation for safe and sustainable chemicals. However, CEFIC has been critical on the number of legislative proposals announced in the strategy to strengthen the protection of health and the environment from the most harmful chemicals. They consider that a better balance should be struck between simply banning chemicals based on their hazardous properties and enabling the technology solutions for the future, and that the strategy is not specific enough on how innovation and the industrial transition will be supported.

CEFIC considers that the strategy lacks connection to the real-world geopolitical context and that it is a missed opportunity for delivering on the European Green Deal as a growth strategy. Its ultimate fear is that an uncoordinated policy combined with weak enforcement risks outsourcing the Green Deal technology solutions to other parts of the world.

Main messages

- The chemicals strategy sets out an ambitious regulatory agenda. The Commission wants to reinforce the regulatory framework on chemicals but also to support the EU chemicals industry and its value chain in this important transition.
- A stronger enforcement of EU rules by national inspectors ('*market surveillance*') is a key concern for the Commission. The new market surveillance regulation 2019/1020¹ is expected to be a game-changer. National authorities will have stronger powers to ensure effective market surveillance of products subject to EU harmonisation legislation sold offline and online, within their territory. It will enter into force on 16 July 2021.
- In addition, we need to step up implementation and enforcement of European chemicals legislation to ensure compliance as well as a level playing field for the EU chemicals industry. Currently, almost 30 % of the alerts on dangerous products on the market involve risks due to chemicals with almost 90 % of those products coming from outside the EU. Imports and online sales are particularly problematic.
- The chemicals strategy proposes a number of measures to ensure better controls by authorities, including by using digital tools. The Commission will, among other things, propose a new system to audit the enforcement systems of the Member States, target known areas where non-compliance causes high-risk, and make proposals to further strengthen the principle of '*no data, no market*'.
- Commission services are currently discussing how to implement the different actions on enforcement.

¹ Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011

Defensives

How does the Commission intend to ensure a level playing field for the European chemicals industry?

- First, by better enforcement at our borders to make sure that EU businesses compliant with EU rules do not suffer disadvantages compared to imports.
- Second, by applying the same high environmental and health standards for all articles, whether they are imported, exported or produced for domestic use. To achieve this, the Commission intends to, among other things, reform the REACH (Regulation on Registration, Evaluation, Authorisation and Restriction of Chemicals) authorisation system for chemicals. It has proven effective in achieving progressive substitution of substances of very high concern but at a high cost to EU businesses as it only applies to uses in the EU.
- Third, by providing financial support measures to businesses for example via the Single Market programme, Member State investments in projects facilitating the green and digital transition, and the Commission's financial instruments for research and development programmes.

How does the Commission reconcile moving towards a more hazard-based system to regulate chemicals with World Trade Organization-principles, which are risk-based?

- The strategy foresees an increased protection of consumers and vulnerable groups by not allowing the most hazardous chemicals in consumer products or childcare articles. This is a generic approach to risk, which recognises that exposure to chemicals in consumer products cannot be easily controlled and better avoided altogether.
- Already today, the EU chemicals legislation is based on both hazard and risk and consistent with World Trade Organization rules. For instance, we do not allow chemicals that we know cause cancer or that are toxic for our reproductive system in consumer products/mixtures. The proposed extension to other critical hazards such as endocrine disruption to further protect consumers and children is no different.
- However, we do not exclude that there will be concerns raised by trading partners in the World Trade Organization.

What is your view about the proposed ban on export of chemicals and articles that are restricted for use in the EU?

- Currently, most EU legislation (including REACH and pesticides) allows manufacturing of products forbidden for use in the EU on EU territory, for export to other countries.
- However, we need to show more coherence and not put the health or the environment of others, outside the EU, at risk with products that we do not want to use in the EU for health and environmental concerns.
- The chemicals strategy is the occasion to show that we do not only want to strengthen controls of what we import in the EU, but also make sure that what we export is safe. This is very much in line with the European Green Deal commitment to lead the way on health and environmental standards globally.

How do you plan to address implementation, enforcement and compliance issues?

- We are already working together with Member States, the European Chemicals Agency (ECHA) and stakeholders to address key issues with the implementation of the current legal framework.
- Member States are responsible for implementation and enforcement of the EU legislation. We are supporting the national authorities on enforcement issues, such as border controls by customs authorities. The Commission is also interested in looking into how digital technologies could improve enforcement.

Background

European Green Deal

The European Green Deal includes a zero pollution ambition. The chemicals strategy for sustainability is the first deliverable. It will be followed by a zero pollution action plan for water, air and soil in 2021.

Chemicals Strategy for Sustainability

The chemicals strategy aims at better protecting citizens and the environment against hazardous chemicals, encouraging innovation for the development of safe alternatives and increasing global competitiveness of the EU chemicals industry.

In order to increase protection of health and the environment, the Commission proposes to ban the most harmful substances from consumer products. Also very persistent chemicals, such as the group PFAS (perfluoroalkyl chemicals), known as “forever chemicals” are proposed to be banned. EU laws will be strengthened to ensure that substances of concern are only allowed if their use is necessary for health, safety or is critical for the functioning of society and if there are no acceptable alternatives.

The strategy also aims to boost innovation, promote competitiveness and increase the EU's strategic autonomy. It will promote chemicals, materials and products that are safe and sustainable by design. It will also promote and support the development of green and smart technologies and innovative business models to enable the transition towards low-carbon and low environmental impact manufacturing processes in the chemicals sector.

The strategy will promote the EU's resilience of supply of chemicals used in essential applications for society through EU funding and investment mechanisms. It will establish and update a research and innovation agenda for chemicals, to fill knowledge gaps on the impacts of chemicals, and foster multidisciplinary research and digital innovations for advanced tools, methods and models, also to reduce animal testing.

The EU regulatory framework for hazard and risk assessment and management of chemicals is comprehensive and complex. A ‘*one substance, one assessment*’ process will be introduced to reduce the burden for all actors, enable more consistent and faster decision-making.

The enforcement of chemicals legislation will be stepped up by strengthening the principles of ‘*no data, no market*’, carrying out audits in Member States, and setting up uniform conditions and frequency of checks for certain products. The implementation of the new market surveillance regulation in 2021 as well as measures to reinforce the EU Customs Union will strengthen enforcement within the EU and at the external borders.

EU chemicals industry

Chemical manufacturing is the fourth largest industry in the EU and 59% of chemicals produced are directly supplied to other sectors, including health, construction, automotive, electronics, textiles.

Global sales of chemicals were EUR 3 347 billion in 2018, and is expected to double by 2030. However, the EU's global sales share is on the decline. With a forecast of moving from second to third position by 2030, being overtaken by the United States while China remains number one and on the rise.

EU chemicals industry: facts and figures 2018 (Source: CEFIC)

Turnover	EUR 565 billion
Direct jobs	1.2 million
Number of companies	26 600
Capital spending	EUR 21 billion
R&D investment	EUR 10 billion

Global sales share	16.9%
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Chemicals will be a key enabler for the European Green Deal as they are the building blocks of low-carbon, zero pollution and energy- and resource-efficient technologies, materials and products. Increased investment and innovative capacity of the chemicals industry to provide safe and sustainable chemicals will be vital to offer new solutions and support both the green and the digital transitions.

The new market surveillance regulation

Regulation 2019/1020 on market surveillance and compliance of products updates the enforcement framework for the 70 EU legislative acts that are included in its Annex. This covers essentially all EU legislation with safety, environmental or other public interest requirements that affect the design and labelling of non-food products.

The new regulation aims to modernise market surveillance by:

- preventing non-compliances by providing information to and working with businesses;
- providing more effective enforcement tools to address online sales;
- improved cooperation, between Member States, between market surveillance and customs authorities, and through an EU product compliance network.

The Regulation also provides for the designation of EU testing facilities that could receive funds from the EU budget. These will be public facilities that all market surveillance authorities can access with the aim to remove obstacles, leading to increased testing. The Commission is analysing in which sectors there is most need for this.

Most of the Regulation will start to apply on 16 July 2021. However, the EU Product Compliance Network (including financing) will be operational already in January 2021.

The Single Market programme and market surveillance

One of the objectives of the EU's Single Market programme for the years 2021 to 2027 is to improve the functioning of the internal market and strengthen the competitiveness of EU enterprises, including small and medium enterprises.

The programme brings together activities currently financed under six different programmes with a total budget of EUR 4.2 billion. Funding will be used to support a stronger focus on market surveillance. The indicative budget is EUR 105 million.

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Chemical strategy for sustainability – Sectoral European Green Deal for chemicals

CEFIC has called for a sectoral European Green Deal for chemicals to help fulfil the enabling role of Europe's chemical industry. It has generally been supporting the European Green Deal and in particular, the objectives related to a circular economy and climate neutrality. However, CEFIC has been more critical of the Green Deal's zero pollution ambition for a toxic-free environment. Their position is that Europe's chemical industry will be key to build the solutions needed for climate neutrality (e.g. for insulation panels, wind turbines, electric batteries) and that it needs support in order to decarbonise its own production processes.

Main messages

- The chemicals strategy for sustainability calls for a transition to chemicals that are safe and sustainable by design and across their lifecycle.
- This strategy addresses key gaps to innovation and competitiveness in the EU's chemicals policy, for example inadequate lack of predictability, insufficient information on chemicals, lack of funding for innovative solutions and lack of skilled workforce.
- The strategy puts in place regulatory and non-regulatory measures to boost innovation and strengthen the EU legal framework for the transition to safe and sustainable chemicals, including by mobilising funding and investments for research and their commercialisation and uptake.
- Research and innovation funding, such as the Innovation fund, cohesion funds and recovery instruments will fully support the transition to safe and sustainable chemicals.
- In July 2020, the first call for proposals of EUR 1 billion was launched and the chemical industry submitted many proposals. They are currently being evaluated, and project proponents will be informed in spring. Also, a special call for small-scale projects with capital costs between EUR 2.5 and EUR 7.5 million is currently open until 10 March.
- We also put in place several measures to strengthen knowledge on chemicals for all actors, simplify EU's regulatory processes and establish better controls of the chemicals and products which enter the EU market, in order to ensure a level playing field.
- The adoption of the strategy is just the beginning of the process. I count on your full support to implement the strategy and deliver fully its ambition and objectives.

Defensives

We have suggested to broaden the chemical strategy and decarbonisation strategies into a sectoral green deal for our industry, covering the full transformation our sector and customers will need to go through in the next decades. That means, next to further strengthening and simplifying the legal frameworks a holistic and thorough impact assessment of all affected value chains for the Chemicals strategy for sustainability. Challenge is that the Green deal momentum may require companies / sectors to obtain a collective understanding on strategic directions and gather relevant data which is not possible or very difficult under current competition rules. The same questioning occur for data for Chemicals strategy for sustainability impact assessments. How this could be facilitated? Will there be an overall impact assessment on the sector?

- We want to help industry in this massive transformation and support innovative solutions.

- The Commission is attached to the respect of the Better Regulation principles, and will assess in detail the possible impacts of relevant legislative proposals announced in the chemical strategy. We have already been able to rely on extensive evaluations of our legal framework on chemicals.
- We also believe it is important to guarantee coherence and synergies during the implementation of the Strategy and its various actions. A High Level Roundtable will be set up, involving key stakeholders.
- The Roundtable will help monitor the implementation of the Strategy and make sure synergies are exploited and coherence is ensured.
- In parallel key performance indicators will be developed.

The chemicals strategy for sustainability presents opportunities but also far-reaching challenges. This is recognised by the provision in the strategy for a high-level round table to advise the Commission. We warmly welcome this idea and would aim to be an active participant at CEO level. The target start date is February 2021. In view of the urgency and importance, can you advise how this round table will be set up by the targeted date and how we can help? Will you take a role as well as we very much depend on a safe competition environment as well?

- We very much welcome your support and availability to support the strategy and the high-level roundtable.
- The strategy addresses all aspects of chemicals, from industrial innovation to protection of the environment and human health. To implement it, we need all stakeholders to actively participate.
- This is why we have announced a high-level roundtable with representatives from industry, science and the civil society to fine-tune our actions and realise the strategy's objectives in dialogue with all actors and stakeholders concerned. We are currently starting the process to define the participation and the mission of the roundtable, and we plan to launch a call for participation before end-March 2021.
- We hope to be able to have the first meeting at the beginning of spring 2021.

How is the strategy supporting innovation and competitiveness?

- This strategy addresses key gaps to innovation and competitiveness in the EU's chemicals policy, for example lack of predictability, insufficient information on chemicals, lack of funding for innovative solutions and lack of skilled workforce.
- With the strategy, we first establish a long-term vision which will ensure regulatory predictability and secure long-term investments, which will enable the EU industry to reap the first-mover advantage.
- Research and innovation funding, such as the Innovation fund, cohesion funds and recovery instruments will fully support the transition to safe and sustainable chemicals.
- We also put in place several measures to strengthen knowledge on chemicals for all actors, simplify EU's regulatory processes and establish better controls of the chemicals and products which enter the EU market, in order to ensure a level playing field.

Open strategic autonomy

- The COVID-19 pandemic has demonstrated that manufacturing and supply chains have become increasingly complex and globalised. The EU must strengthen its open strategic autonomy, the resilience of value chains and diversify sustainable sourcing for those chemicals that are crucial for us.

Chemicals – even the most hazardous ones – will be key to reach the Green Deal objectives, how will you guarantee that those can still be used?

- The concept of “essential uses” guarantees that there are no obstacles to substances to be used in applications with an important societal value (e.g. health protection including protective equipment, or technologies for climate neutrality), but also that we push towards making use of safer alternatives when those exist.
- The purpose of defining criteria for essential uses is not to define generally that a technological product or that the general use of chemicals is essential or not. It is the use of a chemical in a specific application and the specific feature it provides that defines whether it is essential or not.
- The concept is already defined under the Montreal Protocol on Substances that Deplete the Ozone Layer of 26 August 1987. We will build on that to define it further and apply it in chemical legislation, starting with REACH. The involvement of stakeholders and the sharing of expertise will be key.

How does the strategy contribute to climate neutrality?

- The strategy promotes, firstly, the production and use of chemicals for applications which are essential for society, including for climate neutrality and energy/resource efficiency.
- Secondly, as we know that the chemical sector is one of the most energy-intensive industries, the strategy announces a set of actions and incentives to promote the green transition of the sector and of its value chain.
- Thirdly, as the main objective of the strategy is to push for chemicals which are safe and sustainable along their life cycle, we will assess how to best introduce information requirements under REACH on the overall environmental footprint of chemicals, including on emissions of greenhouse gases.

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Industry alliances

CEFIC supports the European Hydrogen Alliance Industry roundtable and new Hydrogen IPCEI, and Batteries, where they are a member of the European Battery Alliance. They are engaged in project and consortia to develop batteries, hydrogen pyrolysis, E-crackers and several projects on chemical recycling.

Defensives

The Commission is encouraging the creation of Alliances prompting new ways to collectively develop and innovate. The chemical strategy applies to many more sectors than ours – all our customers are impacted. Key consumer goods and automotive companies will be key for example. How best can we safely work together? Via innovation platforms with value chains? Can you help us with a framework or is this just DG RTD? We are interested in your expectations on our lead in hydrogen, batteries and low-carbon industry alliances. Could you share some views how we can cooperate within the framework of competition policy?

- The Commission is currently defining the framework for all the actions related to innovation and the industrial transition to safe and sustainable chemicals, to ensure coherence and effectiveness.
- We will also update our industrial strategy during the first half of this year, in light of the effects of the COVID-19 crisis and make sure there are no unnecessary overlapping.
- We agree that the transition to safe and sustainable chemicals should be undertaken not only by the chemicals industry but also by its value chain, and inter-sectorial cooperation will be key.
- Thus, our approach is based on **industrial ecosystems**, i.e. taking into account all players in a value chain, from large to small companies, from training and research institutions to suppliers.
- Industrial **alliances** are an important tool. They help look at all value chain steps to identify technology needs, investment opportunities, or regulatory barriers. Such value chain cooperation is especially important for the green transition and the circular economy.
- We are aware that the constituency of CEFIC has and is been very involved in different initiatives (hydrogen, plastics, batteries). This is very important and we look forward to continue this cooperation.
- Important progress is already being achieved in the scope of the circular plastics alliance.

Low-carbon alliance

- The development of an alliance on low-carbon has been considered to help the energy-intensive industry ecosystem on its way for the transition towards a climate-neutral and circular EU economy by 2050.
- The energy-intensive industries are discussing the type of instrument would be the most suitable to promote their need for joint action among the stakeholders in the energy-intensive industries ecosystem.
- Potential coordinated investments in low-carbon industries could also take place via an IPCEI.

Hydrogen alliance

- As you well know, the European clean hydrogen alliance provides a platform where the chemicals industry can develop cooperation along the whole hydrogen value chain and exchange on future plans on hydrogen production and consumption in various applications.
- The alliance will deliver a project pipeline to implement on the 2030 objectives of the EU Hydrogen Strategy. While all projects need to comply with State aid rules, the IPCEI projects are subject to individual assessment by the Commission.

Background

Energy-intensive industries

Energy-intensive industries (EIs), embedded in many strategic value chains, make up more than half of the energy consumption of the EU industry. EIs produce goods and materials that enable reduction of emissions in other sectors of the economy, including transport, construction and power generation. Given the long investment cycles for these industries, meeting the 2050 targets requires fast action.

The high-level group on energy-intensive Industries, advising the Commission on policies relevant to energy-intensive industries since 2015, developed a masterplan with recommendations to build the policy framework needed to manage this transition while keeping our industry competitive. The masterplan presents an integrated policy framework with recommendations to ensure that these industries can contribute to Europe's 2050 climate-neutrality ambitions. It outlines actions that could provide the right market signals to attract new investments in Europe, help companies implement cost-effective pathways towards climate-neutrality and seize new business opportunities in Europe and abroad. The masterplan also focuses on the need to ensure a just transition and considers the need to equip workers with new skills and help communities dependent on these industries to manage the transition.

Low-carbon industries alliance

Its objective is to bring together players in the energy-intensive industries' ecosystem, committed to working towards climate-neutrality and circularity by 2050, in order to facilitate large projects to deploy breakthrough technologies in the EU, help remove barriers to innovation and improve policy coherence.

Planning of this alliance has started with steel, chemicals and cement, as already identified in the work of the strategic forum on low-CO₂ industries' strategic value chain. These sectors already have sectoral roadmaps, potential breakthrough technologies, close sectoral integration, a relatively small number of production sites (<30 for steel, around 40 crackers for chemicals and just over 200 for cement), and their products play a role in most industrial ecosystems. The alliance would be open for other players in the ecosystem to join (including civil society, trade unions, regions), based on their expression of interest to foster the alliance's objectives. The steel, chemicals and cement sectors see a need for IPCEIs and will involve Member States closely. AT has shown interest to promote an IPCEI on low-carbon industries, the discussions are still preliminary.

The industry is suggesting that working level arrangements for the alliance would be managed by them and the Commission would involve other stakeholders through the high-level group on energy-intensive industries. The lead industries would create or nominate a legal entity and hire a manager to lead the work. Political leadership from the Commissioner will be essential, possibly through regular steering board meetings with a core group of CEOs. We understand that Commissioner Gabriel is interested in being involved in this alliance, given the close link to the Horizon Europe partnerships on clean steel and on climate-neutral and circular industry.

The industry associations presented their ideas on the Alliance at the HLG Sherpas' meeting on 3 July to Member States and other stakeholders. The aim has been to finalise the development work by the end of 2020. However, GROW has signalled to the three

industrial associations leading the development work, that the process is lacking inclusion of other stakeholders, is too much focused on IPCEI and further clarity is needed to the governance of the alliance. On 19 November 2020, the three industry associations presented an updated plan, but the issues with inclusiveness remain. **In practice, resetting the development work is necessary. Estimation on the launch of this alliance will be confirmed at a later stage.**

Clean hydrogen alliance

The six thematic roundtables of the European clean hydrogen alliance will elaborate a project pipeline that delivers on the 2030 objectives of the EU hydrogen strategy and strengthens the EU dimension and industrial capacities. Some of these hydrogen projects will require public investments from a number of Member States to be viable.

The co-chair of the industry roundtable of the Alliance is SSAB, one of the three companies that collaborate in the HYBRIT project, which aims to be the first steel company in the world to produce fossil-free steel.

In preparation of large collaborative multi-country projects, several Member States have launched national calls for expression of interest for a hydrogen Important Project of Common European Interest (IPCEI).

In December 2020, 22 Member States and Norway signed a manifesto for the development of a European clean hydrogen value chain, recognising the importance of promoting cross-border collaboration and of working on large-scale joint investment projects in order to support the development and deployment of hydrogen technologies and systems. Industrial applications of hydrogen are explicitly mentioned in the scope.

Replacing fossil energy (incl. coal) by hydrogen generated with renewable energy enables significant decarbonisation of the sector.

The first pilot plants using renewable and/or low-carbon hydrogen are currently being set up will make it possible to refine the processes.

At current price levels, replacing coal with hydrogen would drive up the price of a ton of steel by about one third. This gap will likely narrow in the coming years, and could disappear by 2030, if carbon and carbon-emission pricing drive up the cost for fossil production at the same time as larger markets for low-emission products develop.

The value chain for hydrogen needs to be built at the same time with the steel making capacities, so that sufficient quantities of renewable and low-carbon hydrogen will be available at an affordable cost. This requires significant expansion of renewables capacities and potentially also imports of renewable and low-carbon hydrogen.

Circular Plastics Alliance (CPA) – including chemical recycling

Design for recycling: work plan adopted

- **22 priority product categories** that the CPA commits to make recyclable. A few more will be added in early 2021.
- Product teams (operational, industry experts) for each priority product. 8 product teams in the packaging sector.

While the achievement of the 10 million tonnes target can only be “proven” in 2025, there are **essential milestones towards the 10 million tonnes** in 2021:

- **the quantification of the untapped potential** in recycling, collection & sorting of plastic waste (report to publish in early 2021): this is the CPA “roadmap towards the 10 million tonnes”;
- **the mapping of the investment needs**, also due in early 2021;
- **the update of the pledges / voluntary commitments** to use more recycled plastics – DG GROW intends to assess the progress made in spring 2021.

A **competition compliance programme has been established** so that the CPA is in full compliance with EU and national rules on competition (approved by DG COMP).

The consensus in the CPA is that **chemical recycling complements mechanical recycling** (e.g. focus on waste that is not suitable for mechanical recycling).

CEFIC leads this part of the work of the CPA.

Chemical recycling will require efforts by the value chains as much as mechanical recycling. This is about re-designing the value chains, from product design to collection and sorting of waste, to integration of the secondary raw materials back into new products (and finding customers). This is where the CPA plays a strategic role.

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