

Addressed to:

Head of Unit D3 - Resource Efficiency, Secretariat General of the European Commission

Brussels, 31 May 2018

Industry Statement on the Harmonized Classification of Titanium Dioxide (TiO₂)

Dear

We would like to inform you of the intention by the Directorates-General GROW and Environment to classify Titanium Dioxide as 'suspected of causing cancer through the inhalation route'. This will set a precedent with many significant impacts. As major downstream users of TiO₂, a potential labelling of most of our products or raw materials will entail strong consumer uncertainty and reservation, followed by commercial losses with impacts on growth and job security for our millions of employees, mostly at SME's.

Following the RAC opinion of 14 September 2017, the relevant units consider tabling a proposal to update the Annex VI of Regulation (EC) No 1272/2008 as early as June 2018. According to the lead units, the legislative planning foresees a discussion at REACH Committee on the 13 June and a vote in September 2018.

Before tabling the proposal, we would welcome the consideration of our concerns and the acknowledgement of our proposals to first have an impact assessment on the classification or a risk management option analysis and the finalisation of the REACH substance evaluation on Titanium Dioxide. Please take into account the full-day CARACAL meeting on 23 April 2018, where several Member States including Germany questioned the classification of Titanium Dioxide and the continuation of the process as a whole.

According to the interinstitutional agreement of 13 April 2016 on Better Law-Making, the European Commission will carry out an impact assessment for secondary legislation which is expected to have significant economic, environmental or social impacts. A classification of Titanium Dioxide will have significant impacts on all three dimensions, which have not yet been considered at all. It is furthermore important to note that a classification will stand against the objective of (EC) No 1272/2008 and other EU initiatives like the EU Circular Economy. Therefore, we call for an impact assessment on the expected classification proposal or a risk management option analysis.

The proposed classification is merely based on a non-substance specific dust effect. If a dust effect were to be included into (EC) No 1272/2008, the scope of what is classified and labelled will be massively extended with an automatic domino effect on other legislations. Such precedent lays the foundation for a classification of potentially hundreds of other poorly soluble substances. A labelling of all Titanium Dioxide-containing products alone will lead to label fatigue, to the detriment of consumer protection and against the intention of the regulation to properly inform on hazard. Regulation (EC) No 1272/2008 could fail.

Following a classification, many materials containing more than one percent of Titanium



Dioxide would be considered as hazardous waste. This would become reality for a large variety of materials, including paints, inks, plastics, coated articles and construction products. In contrast to the EU Circular Economy, the aim of a high recyclability rate could not be achieved any more for those products. Since TiO_2 has the highest opacity among white pigments, the environmental footprint of paints containing TiO_2 substitutes will be much higher, as they require at least 3-4 extra layers of paint.

In addition, we would like to point to the importance of having a feedback period of 4 weeks on the draft measure. Currently, the relevant units are considering different derogations to fix the consequences of a classification. Until now, no enforceable entry or exemption has been proposed which would avoid inappropriate classification of mixtures. To our knowledge, the classification of dusts has never been discussed in Europe. With this dossier it is the right time to have a proper consideration before creating a precedent.

For all of these reasons, we call on you to apply the better regulation principles and to pursue a fundamental policy discussion that has started with the Member States – in particular to assess whether Regulation (EC) No 1272/2008 is the right regulatory instrument to address the concerns at stake, if any – before moving ahead with a classification of this individual substance on the grounds of a generic effect.

Finally, we would like to point to the ongoing REACH substance evaluation of Titanium Dioxide by France. We propose to first finish this parallel process, before considering any classification in order to ensure regulatory quality and alignment.

We thank you for taking time to consider this important matter. We would welcome the opportunity to discuss our proposals at your convenience.

Yours sincerely,

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