



DG ENVIRONMENT

Florika Fink-Hooijer
Director-General DG ENV

Meeting Silvie Nicol, Executive Vice-President, Henkel
Peter Boris Schmitt, Corporate Directive and Head of the EU office,
Public Affairs and Governance Relations, Henkel

(13 October, 9h30-10h15)

BRIEFING NOTE

Scene setter / Context:

Ms. Nicol requested the meeting to talk about the implementation of the Chemicals Strategy and Henkel's contributions to the Green Deal Agenda, particularly on the Circular Economy challenges. They may want to mention the revision of the eco-design and the development of digital product passports, as well as the packaging directive, recycling and the presence of legacy substances. (Henkel has specific programmes on decontamination and recycled content for packaging).

Henkel is one of the 32 members of the High Level Roundtable on the Chemicals Strategy, represented by Ms. Nicol. She made the following points at the Roundtable: "need for coherence of regulatory measures within the Green Deal ambition, ensuring that all measures logically fit together and create mutual benefit. Implementing the Chemicals Strategy is in the centre of the debate." She wants clarification of "key conceptual elements" before regulatory action is initiated, as well as "critical assessment of regulatory activities". The key conceptual elements are probably the generic risk assessment, essential use and safe and sustainable by design. Also of interest/concern to Henkel are the new hazard classifications in the CLP Regulation for endocrine disruptors.

At the Roundtable Ms. Nicol also said that current chemicals legislation is fit for purpose and the safe use of chemicals is a reality. (In other words, no need for change). She further said that industry competitiveness will depend on market-based incentives to deliver on the Green Deal objectives (rather than prescriptive regulatory framework). Innovation needs a market to move away from its R&D status, so it is vital to connect the chemicals industry and consumers' expectations. Consumer demand will influence investment needs for products. Henkel businesses include beauty care, laundry and home care, and adhesives.

Main contact person:
Telephone number:
Directorate/Unit:

ENV B2

Lines to take

[Chemicals Strategy for Sustainability]

- Congratulations to Henkel for being a member of the High Level Roundtable. There were many applications for 32 seats (of which 10 for industry associations/companies), and we needed to find a balance between the different interest groups.
- The Roundtable was established to provide input to the Commission and to help the Commission meeting the objectives in the Chemicals Strategy for Sustainability and we very much welcome the contributions that members are starting to make. Members are also ambassadors within their circle of influence of the CSS and they are expected to actively contribute to the discussions – the next meeting on 25 November will focus on enforcement.
- Henkel has underlined the need for coherence of regulatory measures within the Green Deal. We realise that industry is faced with what Cefic often calls the “double twin transition” of implementing the Chemicals Strategy for Sustainability, the Circular Economy, climate neutrality and digitalisation.
- We applaud Henkel’s efforts toward the safe use of chemicals – this is of primary importance, however, looking towards 2030 and 2050 we need to stress the importance of safe and sustainable in the domain of chemicals and products (for which we will be defining criteria).
- The Commission has made progress on launching the revisions of the CLP and REACH regulations needed to achieve the objectives under the Strategy. We have also started preparatory work such as studies on the key concepts of essential use and safe and sustainable by design. Obviously the stakeholders will be included in public

consultations and workshops when the work on the criteria will take shape.

[Improved interface between waste & chemical legislation (Clean material cycles)]

- The Commission is committed to increase the uptake of secondary raw materials and to promote clean material cycles. This is best achieved, in the first place, by avoiding the use of substances of concern, especially those of very high concern. **The Commission will continue using REACH and product legislation to promote the substitution, or when this is not possible minimisation, of substances of concern.**
- With regard to substances of concern present in recycled materials, REACH imposes certain restrictions (e.g. CMRs in textiles, polycyclic aromatic hydrocarbons in plastic and rubber, lead and cadmium in PVC). These restrictions apply regardless of whether the product is made with recycled or virgin material. However, different limits for hazardous substances have temporarily and exceptionally been allowed in recycled material, when this results in an overall better environment and societal outcome. **Our goal is that primary and secondary raw materials are subject to the same rules, and that these different limits are only allowed in very exceptional cases after individual assessment.**
- The Circular Economy Action Plan and the Chemicals Strategy for Sustainability also address other issues of incoherence between products, chemical and waste legislation. They define actions to improve the tracking of substances of concern in products until they

become waste and to **better sort and decontaminate such waste**, with the aim of ensuring a well-functioning market that is based on **safe, toxic-free recovered materials**.

[Contribution B1]

On the Sustainable Product Initiative (SPI) and the Ecodesign Directive

- The SPI is the flagship of the new Circular Economy Action Plan. It will ensure that sustainable products, services and business models become the norm. Durability, reusability, upgradability, reparability, recycled content and recyclability will be promoted as well as increasing their energy and resource efficiency.
- This initiative should expand the scope of the Ecodesign Directive to a wide range of products, potentially including services, and to new types of sustainability and information requirements to better cover the life cycle of products, circularity and possibly social aspects while also addressing identified weaknesses of the current Directive.
- Additional measures could be included to address elements of SPI that would not fit with the new Ecodesign legislation. When developing the requirements, and with the objective of ensuring methodological coherence at EU level, the initiative would build on existing approaches including the Environment Footprint methods.
- The Sustainable Product Initiative (SPI) will therefore build on the current **Ecodesign Directive** to set mandatory sustainability, functional and information requirements on products, through implementing acts which may be product specific (for instance, Commission Regulations on Computers, Washing machines or Lighting) or horizontal (for instance, Commission Regulation on Standby).
- The SPI will support **circular business model such as sharing or product as a service**.

- In line with the CEAP, priority is being given to key value chains (electronics, batteries and cars, textile, packaging, plastics, construction and buildings), high-impact intermediary products (cement, steel and chemicals) and furniture. The initiative would not cover food and feed products.

On the Digital Product Passport

- The DPP has a huge potential to increase the information flows along value chains and it is a very visible project for external stakeholders.
- The DPP can make an important contribution to the transition to a more circular EU since it will contribute to establish a “Right to Repair” (through for example access to information on spare parts, repair instructions and information on previous repairs), and will facilitate product upgrading (including software), remanufacturing, component recovery and reuse, and ultimately, high quality recycling.
- The DPP can also be an important instrument for our Zero Pollution Strategy since it can include information about the substances of concern included in the product.
- The DPP has also potential to support new business models associated with a circular approach.
- In the SPI Impact Assessment support study, a specific task will assess the impacts of the introduction of the DPP concept.
- A DPP stakeholder workshop took place on 29/04/2021 and raised a lot of interest from stakeholders (180 stakeholders attended) and we got very good and constructive feedback.
- The Digital Europe Programme (DEP) has launched a call for a Coordination and Support Action to support the development of DPP in the key value chains of batteries, electronics, and one or more key value chains indicated in the CEAP.

- In the next LIFE Programme call for proposals we will also foresee support to the implementation, transfer and/or uptake of the Digital product passports that allow data to be linked to individual products and accessed along value chains to maximise value retention and enable circular business models.
- The objective is to introduce the DPP as a horizontal instrument through the SPI initiative possibly followed by implementing measures as necessary.

[revision of the Packaging and Packaging Waste Directive]

- The European packaging legislation is also being strengthened. In short, the Packaging and Packaging Waste Directive (PPWD) aims at ensuring a **high level of environmental protection and preserving the functioning of the internal market**. It covers **all types of packaging**, harmonising the conditions for packaging to be allowed on the EU market (e.g. what we call the Essential Requirements) and waste management measures related to packaging.
- While the Packaging Directive underwent a major review in 2018, together with other fundamental pieces of EU waste legislation, we continue to move forward as driven by the Green Deal to improve packaging circularity and sustainability. The latest revision set ambitious recycling targets and a common framework for extended producer responsibility. But today the **Green Deal** calls on the Commission to ensure that all packaging is “*reusable or recyclable by 2030 in an economically viable manner*” and to address over-packaging and waste generation. Similarly, **CEAP 2.0** focuses on **waste prevention** and **ecodesign** to improve the circularity of packaging. Under the **CEAP**, “*less waste for more value*” for

packaging means that packaging should circulate in the economy for as long as possible and keeps a value instead of seeing it as waste after the first use.

- Thus, we are engaged in the **revision** of the **PPW Directive**. Firstly, by stimulating reuse and packaging waste prevention with new targets. In brief, the packaging waste hierarchy is first to prevent packaging waste when possible and second to incentivise reusable packaging. The waste that will be ultimately generated from reusable packaging must be recycled as high quality. This will enable using recyclates to limit the use of virgin resources. The review of the Directive will therefore come-up with at a legal proposal that will link design and end-of-life of packaging.
- With regard to the **main proposals under discussion** for the upcoming review, let me present four key points:
 - Firstly, we plan to establish a definition of recyclable packaging. It will be technology and material neutral and linked to the Design for Recycling approach and a procedure to assess recyclability.
 - Secondly, we will reinforce the essential requirements for packaging to ensure that they give clear preference for solutions higher up in the waste hierarchy, and are better implementable.
 - Thirdly, we will set mandatory targets, especially on recycled content and on waste prevention including reuse : on recycled content, we aim to stimulate the market of recycled materials where this is needed, in particular for plastics, and to reduce resource use. On waste prevention and reuse, we are looking at a general waste prevention target as well as at a target to be achieved by reusable packaging only. We are considering ways

to mandate certain packaging applications as reusable, in particular some formats of transport packaging.

- Fourthly, we will propose a clear mandate for more harmonized labelling to enable for separate packaging waste collection. This work will be linked to the on-going work on the harmonisation of the separate waste collection in EU, which is looking also at harmonizing some aspects of the Deposit and Return Schemes (DRS). The new CEAP mandates the Commission to propose an harmonized model for the separate collection and labelling to facilitate the collection. The work has started this year in cooperation with JRC and will result in the revision of the Waste Framework Directive in 2023.

- **Considering the process of review**, we are still in the impact assessment stage. We envisage adoption of the legislative proposal by the Commission in mid-2022. Extensive consultations with all stakeholders, including a broad public consultation have been and are feeding into this process.

Defensives points/O&A

[Improved interface between waste & chemical legislation (Clean material cycles)]

[End of Waste Criteria]

Some actors complain that turning waste into secondary raw materials come with a premium price due to obligations stemming from REACH and others.

It is absolutely critical that what leaves the waste regime can be **safely used and managed under the applicable product legislation**. Otherwise, circular economy would be compromised. This **does not mean that all recovered materials are non-hazardous**, as this is not the case, for instance of many regenerated solvents (which are also hazardous as primary materials). For that reason, REACH rules, and all other relevant product legislation, **must apply** as necessary to safeguard a safe transition of the waste into the product markets. It is also a guarantee for recyclers of secondary raw materials and ultimately for consumers.

[Chemical recycling]

What is the Commission opinion on chemical recycling? Will it support it?

The Commission notes with interest the new developments on this field. Chemical recycling shows **promising signs** for the future in some sectors, but a number of environmental aspects remain to be addressed. However, its current level of development makes **difficult to consider it as an alternative to mechanical recycling**, but it could constitute a good complement in some areas.

We want to be clear as to what counts as ‘recycling’. Under the Waste Framework Directive, **transforming waste into fuels is energy recovery, not recycling**. We do not expect any change on this. Transforming waste into products, materials and substances such as chemicals, plastics or lubricants is recycling.

We are confident that open and transparent collaboration will be the best way to progress towards capturing the benefits of chemical recycling without compromising on overall environmental impacts. We would welcome reliable data on industrial-scale chemical recycling processes that would feed into a **comprehensive environmental assessment** such as Life Cycle Assessment.

An important environmental issue to address is the energy consumption. A life-cycle approach needs to be followed in order to consider all the possible benefits and risks of different chemical recycling processes, including climate impacts. Finally, the results of pilot projects still need to be expanded to have a representative picture of the possibilities of this technology.

The Commission will continue supporting innovation through its research programmes, including Horizon 2020 and the upcoming Horizon Europe, including life-cycle analysis.

[Clean materials cycles]

What is the Commission doing to improve the traceability of hazardous substances through the value chain?

The Commission already identified the problem of lack of information on substances of concern in products and, ultimately, in waste, in its Communication on the interface between chemicals, product and waste legislation of 2018.

The Commission concluded a **feasibility study** in 2020 on the use of information systems to enable the flow of information on the presence of substances of concern in materials along their whole supply chain, for use by consumers and recyclers.

In January 2021 suppliers of articles containing substances of very high concern above a certain concentration have to notify certain information about the nature, content and location of the substance in the product, and about the product itself, to a centralised European database created and maintained by the European Chemicals Agency.

This so-called **SCIP database**, together with further developments envisaged under the Sustainable Products Initiative, such as the development of a “product passport” constitute the foundation of a **future information infrastructure** to ensure that **only sustainable products can be placed on the market**, supporting consumer “right-to-know”, reparability, preparation for re-use and processes leading to high-quality recycling.

[packaging revision]

Why is the Commission looking at ways to reduce the packaging waste generation? The recycling technologies and packaging materials are constantly improving and packaging cannot be reduced unless we reduce consumption as well. From the life cycle perspective, it is still better to have more packaging, than more food waste or wasted goods.

- The current levels of packaging waste generation are not sustainable from the resource, climate and environmental perspective.
- There are multiple drivers that are pushing the generation of packaging up: the growth of our population and smaller households, the sustained economic growth and affluence, convenience in our consumption (catering, pre-prepared foods, e-commerce, sizeable portions for convenient consumption). These drivers are not likely to change without regulatory action.
- On the other hand, we should not consider that the continued growth in packaging waste generated is a fatality.
- We have to find ways to decouple our consumption of goods from the generation of packaging waste and I know you support this vision.
- An important share of the packaging that is currently put on the market cannot be recycled cost-effectively, and ends up incinerated or landfilled.
- This proportion has increased in the recent years; in packaging design, the trend was towards packaging formats, which are light in weight, but which are not being recycled (e.g. multilayer flexible composite packaging such as pouches replacing cans or glass as food packaging on the supermarket shelves).
- In some cases, the solution could be in switching to reusable packaging and different business and delivery models: this can make a significant contribution to reducing

dependence on single use, disposable packaging, thus contributing to reducing packaging waste generated.

- In other cases, retailers and brands could explore the possibilities of not using packaging at all. A certain proportion of our food could easily be sold without packaging.
- The second important change that needs to happen is that packaging needs to be designed in a way that takes the end of life into account – i.e., that supports cost-effective recycling including collection and sorting.
- The Commission is committed to ensure that, by 2030, all packaging in the EU market is reusable or recyclable in an economically viable manner, and to consider other measures beyond the revision of the essential requirements for packaging. They should focus on reducing packaging waste and unnecessary packaging, driving design for reuse, and - where goods can be handled safely without packaging - measures promoting the sale of consumer goods without packaging. The CEAP also mandates the Commission to consider restrictions on the use of some packaging materials for certain applications, and to propose mandatory requirements for recycled content and waste reduction measures for packaging.
- I believe that we will be able to find the right policy mix to halt the continued growth of packaging waste without disruptive effect on our economy and consumption.

Why does the Commission want to define design for recycling guidelines in the context of the revision of the packaging legislation? Similarly, why do we need to look at recycled plastics in the context of the revision of the essential requirements for packaging?

Industry has already pledged via the Circular Plastic Alliance (CPA) the use of 10 million tonnes of recycled plastics in their products by 2025 and developed design for recycling guidelines.

As regards plastics, these guidelines will be turned into industry standards under the work of the Circular Plastic Alliance (CPA).

- This is a valid point and as part of the current impact assessment support study, we are specifically looking at the impact of voluntary commitments and initiatives and their potential at solving the packaging “problem”.
- We are also working very closely with DG GROW and CPA in order to ensure that we are fully aligned.
- That being said, voluntary industry standards may not be sufficiently ambitious and as we know – the civil society, Member States and NGOs are currently not involved with the work of the CPA.
- Furthermore, the work of CPA is centred on the objective of ensuring that by 2025, 10 mio tonnes of recycled plastics finds its way back into the economy – not necessarily back into packaging. Their work is centred on several priority products, with high potential for inclusion of plastic recycled content. For these products, the recycling standards and other standards will indeed be developed and turned into CEN standards and we fully support and take account of this work. This, however, does not solve the recyclability for all plastic packaging formats and for packaging made of other materials.

- In addition, the EU cannot fully rely on voluntary actions as a certain regulatory frame is required, in particular to give a clear definition of reusable and recyclable packaging.

Background information

The Sustainable Products Initiative

The Sustainable Products Initiative (SPI) aims to make sustainable products the norm in the EU, by defining sustainability principles and requirements on the placing of products on the market. The initiative should expand the scope of the Ecodesign Directive to a wide range of products, potentially including services, and to new types of sustainability and information requirements to better cover the life cycle of products, circularity and possibly social aspects while also addressing identified weaknesses of the current Directive. Additional measures could be included to address elements of SPI that would not fit with the new Ecodesign legislation. When developing the requirements, and with the objective of ensuring methodological coherence at EU level, the initiative would build on existing approaches including the EF methods.

The Sustainable Product Initiative (SPI) will therefore build on the current **Ecodesign Directive** to set mandatory sustainability, functional and information requirements on products, through implementing acts which may be product specific (for instance, Commission Regulations on Computers, Washing machines or Lighting) or horizontal (for instance, Commission Regulation on Standby). SPI may add other types of requirements and complementary regulatory approaches, including but not limited to:

- **Sustainability principles:** applicable to all (or a large number of) products (via the new Eco-design rules and/or other instruments), and having the aim of guiding broader policy and legislative developments in the future. These overarching principles would be intended to reflect, at a level higher than specific product requirements, the key pillars of what constitutes a sustainable design, production and management of products, while remaining fully complementary with the more detailed requirements that will be set under the new Ecodesign framework foreseen under SPI.
- Requirements to cover the **whole value chain** of products, not only the design per se: for example, on the origin of materials, production processes, spare parts or handling at the end-of-life.
- Support and incentives for **circular business models:** could be addressed in particular if the scope of SPI covers those services linked with a product. In addition, sharing or leasing services, for example, could be facilitated if the requirements on durability or reparability take account of the specific conditions in which products are used in these services.

In line with CEAP, priority is being given to key value chains (electronics, batteries and cars, textile, packaging, plastics, construction and buildings), high-impact intermediary products (cement, steel and chemicals) and furniture. The initiative would not cover food and feed products.

The SPI is prepared jointly by ENV, GROW and ENER, and in close collaboration with CNECT on the DPP. The development of the DPP will also include data governance and management aspects linked to that of the European dataspace for Smart Circular Applications. The Digital Europe Programme (DEP) will support a Coordination and Support Action as of mid-2022 to define DPP in the key value chains of batteries, electronics, and one or more key value chains indicated in the CEAP. Pilots related to dataspace for manufacturing will also be supported by the DEP as of the end of 2022.

The Sustainable Product Initiative would not address aspects related to the reliability of voluntary environmental claims made by companies (going beyond the mandatory information requirements).

Product passport

Digital technologies have revolutionised the possibilities for generating, storing, accessing and using product-related information.

The possibility to tag and identify products, means that such useful information can be linked to individual products, down to the level of the individual components and materials.

Both the European Green Deal¹ and the New Circular Economy Action Plan (CEAP)² identify the digital product passport (DPP) as a way to contribute to an effective product policy.

The Sustainable Products Initiative (SPI), foreseen in the new Circular Economy Action Plan (CEAP), announces the establishment of a digital product passport gathering data on a product and its value chain.

In the context of SPI, regulatory requirements would set the information to be included and rules on its production, verification, storage, and access

The DPP will help to increase the information flows along the value chain. It shall contribute to perform appropriate and efficient value-retaining and value-recovering actions, by avoiding the costly, lengthy and error-prone recovery of lost information that currently impedes them.

For both public and private agents, and for the individual consumer, the digital product passport should help to make informed sustainable decisions.

The DPP will give access along the value chain to information and data on products' environmental characteristics (from the origin of materials to environmental performance, durability, reparability, chemicals of concern, handling at the end of life etc.), with differentiated access to consumers, businesses and compliance authorities.

At the same time, the DPP will facilitate market surveillance of products, and access to all available information regarding the compliance of the product with the applicable EU legislation.

The DPP has to be harmonised at EU level and ultimately at global level to support the EU Single Market, providing consistent information about products, across the value chain and borders, to business, customers and authorities.

The EC is already working in the preparation of this initiative. The involved DGs are sharing information, consulting stakeholders and preparing strategic documents.

In the SPI Impact Assessment support study (running until December 2021), a specific task will assess the impacts of the introduction of the digital product passport concept and also foresees stakeholder consultations.

A DPP stakeholder workshop took place 29/04/2020. 180 stakeholders attended. Stakeholders in favour that deployment of DPP should be gradual, focus initially on a few priority products or product groups and become more ambitious over time. Concerning which type of organisation should be involved in setting up and keeping up the Digital Product Passport the majority of

¹ COM(2019) 640 final

² COM(2020) 98 final

stakeholders defended that it should be the EU (69%). Asked if the DPP should rely on open and global standards or proprietary technologies almost all stakeholders think that DPP should rely on open and global standards (96%). Most of the stakeholders agreed on the need to create a decentralised data system. Stakeholders considered confidentiality as a key issue, with some stakeholders thinking that data should be completely available by default while others think that this would threaten intellectual property of companies. A majority was in favour of a mixed approach.

In the next LIFE Program call we will also foresee support to the implementation, transfer and/or uptake of the Digital product passports that allow data to be linked to individual products and accessed along value chains to maximise value retention and enable circular business models.

The objective is to introduce the DPP as a horizontal instrument through the SPI initiative.

Packaging and Packaging Waste Directive (94/62/EC, ‘PPWD’)

The revised Packaging and Packaging Waste Directive states:

"By 31 December 2020, the Commission shall examine the feasibility of reinforcing the essential requirements with a view to, inter alia, improving design for re-use and promoting high quality recycling, as well as strengthening their enforcement. To this end, the Commission shall submit a report to the European Parliament and the Council, accompanied, if appropriate, by a legislative proposal."

The Plastics Strategy included the action: “Preparatory work for future revision of the Packaging and packaging Waste Directive: work on new harmonised rules to ensure that by 2030 **all plastics packaging** placed on the market can be reused or recycled in a cost-effective manner”.

The **European Green Deal** has repeated the Commission’s intention to develop requirements for packaging to ensure that **all packaging** in the EU market **is reusable or recyclable in an economically viable manner by 2030**. It also states that targets and measures for tackling **over-packaging and packaging waste generation** will require new legislation.

The new **Circular Economy Action Plan (CEAP)** further specified these commitments and added that in addition to the revision of the essential requirements, “the Commission will consider other measures, with a focus on:

- reducing (over)packaging and packaging waste, including by setting targets and other waste prevention measures;
- driving design for re-use and recyclability of packaging, including considering restrictions on the use of some packaging materials for certain applications, in particular where alternative reusable products or systems are possible or consumer goods can be handled safely without packaging;
- considering reducing the complexity of packaging materials, including the number of materials and polymers used.”

A preliminary study to support the review of the essential requirements was published in February 2020. Stakeholders were consulted extensively and four stakeholder workshops were held.

In February 2020, the Commission launched a **broader Impact Assessment Support Study**, which will last until **October 2021**. An addendum to the study covering recycled content measures/targets and GPP measures was signed in August.

3 workshops with stakeholders were held so far: two on waste prevention measures and on one on the recycled content. A workshop with MS on waste prevention also took place followed by a questionnaire. An online public consultation lasted from 30 until 6 January 2021. We received more than 600 replies including 70 position papers. More workshops took place and will take place in June according to this planning:

- 15/06: compostable packaging;
- 16/06: recyclability (morning)
- 17/06: GPP, enforcement, hazardous substances (afternoon)
- 18/06: recycled content in packaging
- 23/06: waste prevention
- 24/06: reuse
- 30/06: workshop with the Member States

The study is assessing options for clarifying the conditions for packaging to be put on the EU market and aligning them with the waste hierarchy and circular economy objectives. It will contain also measures to reduce (over)packaging and packaging waste generation; stimulate reuse; increase the uptake of recycled content in packaging, and assess mandatory GPP criteria for packaging. One of the key aspects of the study is to define recyclable packaging and ways to assess it.

