Upstream meeting RSB – ENV (co-lead GROW) Revision of EU legislation on hazard classification, labelling and packaging of chemicals (CLP)

6 October 2021

The purpose of RSB upstream meetings is for report authors and Board members to informally discuss questions concerning how to prepare the best possible report on the issue at hand. Board members give their advice in a personal capacity and advice is not binding for the subsequent Board meeting.

List of participants:

ENV: Kestutis SADAUSKAS, [redacted]

GROW: Kristin SCHREIBER, [redacted]

JRC: [redacted]

RSB: Veronica GAFFEY, Dorota DENNING, Michael GREMMINGER, James MORRISON, Bernard NAUDTS, [redacted]

SG: [redacted]

Presentation by DG GROW

DG GROW and DG ENV presented the context, main problems and objectives, the possible actions foreseen together with the process of the impact assessment (IA) and its evidence base.

This initiative is one of the first deliverables emerging from the Chemicals Strategy for Sustainability. The DGs explained that CLP is a horizontal legislation and a main piece of upstream chemical legislation together with REACH. Several downstream legislations (e.g. on cosmetics or toys) will make use of the changes proposed in this revision, e.g. if new hazard classes are introduced.

Submission of the impact assessment report to the RSB is planned for 30 March 2022.

Points raised in the discussion

Context

- The IA needs to differentiate between the political context emerging from the Chemicals Strategy and the available evidence of the problems, which the initiative aims to tackle. The impact assessment should be based on robust evidence.

- The interrelationship of the different pieces of upstream and downstream legislation and their respective roles should be well described in the IA report.
- The report should be very clear on the correlation and links of this proposal with REACH and other legislation and initiatives, including on digital services. The correlation of this proposal with the initiative on digital labelling and simplification (for CLP, fertilisers and detergents) should be spelled out.

Problem definition

- The report should provide robust evidence showing that consumers demand more comprehensive chemical information and, as there is incomplete information, this impacts their consumer behaviour (as stated in the intervention logic).

Policy options

- The baseline should not be presented as a policy option and should be seen as dynamic evolution of the current situation. It could, for example, already include possible non-regulatory measures, currently conceived as option 2. The baseline should cover all existing and proposed legislation at the time of finalising the impact assessment.
- Options should bring out clearly what choices have to be made and what alternatives are available.
- The currently presented option 3 may need to be unbundled. Options can be designed per problem area and integrated in packages which can contain regulatory and non-regulatory measures. Options should address all problems identified.
- The simplification and burden reduction potential should be thoroughly assessed, given the REFIT nature of the initiative.

Analysis and impacts

- The impact analysis should assess unavoidable impacts (costs and benefits) on downstream legislation following the proposed changes in the CLP. If discretion is possible in the revision of downstream legislation, this should be clearly indicated.
- The report should assess how the changes in the CLP legislation will impact industry and sales and if this will lead to less or more use of hazardous substances. How will the success look like? (a decrease in demand for products with high health and environmental hazard?)
- The impact of changing a label on consumer behaviour should be assessed.
- The impact on international competitiveness should be assessed, in particular when EU rules deviate from internationally agreed standards. When international standards are followed, this should be justified.
- Specific attention should be drawn on impacts for SMEs and possible ways to mitigate these impacts.
- The administrative burden should be analysed quantitatively with a view to the one-in-one-out approach.

JRC comments

JRC [redacted] acknowledges that it is possible that JRC is already supporting this file. It made the following comments in view of future monitoring and evaluation.

1. How success would look like. The Inception Impact Assessment (IIA) states that the CLP Regulation aims to ensure both a well-functioning single market for chemicals and a high level of protection of human health and of the environment. In particular, the initiative plan to use instruments on the areas:
    a) new classification of hazards with safety thresholds,
    b) labelling of products,
    c) provisions for online sales,
    d) reporting obligations on importers and downstream users,
    e) reduction of unnecessary administrative costs.

    It would be important to define indicators of success for each of these specific areas of intervention. This is relevant both to compare merits of options in the IA, as well as for the planning of future monitoring and evaluation.
2. Measuring success.
    i. Health effects:
        - The IIA expects positive impacts on working conditions of workers or self-employed. Is it foreseen to monitor health-at-work indicators of workers in the specific sectors affected by the change in regulation, taken from national registries (such as health-at-work insurance institutions)?
        - Could this type of data be used also for evaluation, using health indicators for sectors not exposed to the change in legislation as comparison group, always using a baseline before the policy change? The same source could be used to trace health indictors for both groups.
        - The IIA expects positive effects on public health costs. Is it foreseen to monitor incidence of specific diseases associated with some chemical (like endocrine disruptors)? Is the same going to be done for public costs associated with its treatment?

    ii. Effects on firms and on markets:
        - How are compliance costs (including simplification from digitalization and other specific actions) going to be measured in the monitoring and evaluation phase? Is a specific survey foreseen? Could one retrieve some of the data from balance sheets?
        - Is it foreseen to monitor the overall effects on firm outcomes in the exposed sectors?
        - What are the expected effects of the specific provisions on online sales? Is it foreseen to monitor the share of online purchases and of via traditional sources with respect to the total? What are the data sources? How will observed changes be attributed to the policy change?

- Better classification of hazards and their classification may induce better consumer awareness and possibly the substitution of the purchases of hazardous substances with less harmful ones. Is this going to be monitored? Are data from (online) purchases going to be collected for monitoring and evaluation? Data may be collected via surveys or via access to supermarket scanner data. Is this foreseen?

iii. Effects on environment:

- Is any monitoring of changes in the environment foreseen?
- Could existing recurrent data collections be used to monitor these foreseen environmental changes?
- Is there a plan to estimate effects on the environment in the evaluation phase? Is there an associated data-plan?

3. A joint monitoring and evaluation plan. These initiatives are related to other initiatives in the Green Deal. The administrative cost for a joint monitoring and evaluation plan with some of these other initiatives may imply synergies and cost-savings. Enough information should however be collected to distinguish the specific contribution of the present initiative. A side effect of a joint monitoring and evaluation plan would be to see how different related initiatives are working, reinforcing each other or otherwise.

JRC [redacted] would be happy to discuss and give further input if useful.

It also recalled the following piece of information:

Models used in support to Commission Impact Assessments (IA) should be made available in MIDAS, the Modelling Inventory of the Commission, at the time of publication of the IA report. If there is a plan to use simulation models, please contact the Competence Centre on Modelling at EU-MIDAS@ec.europa.eu to insert in MIDAS the description of the model as well as of its contribution to the IA. Models already used on behalf of the Commission are already included in the system; in this case, the information can be easily retrieved and updated if needed. Please note that the model descriptions included in MIDAS allow to easily generate the information required for Annex 4 of the IA report.