

Meeting with Cefic [REDACTED] and Cefic [REDACTED]  
Place TBC, 26 June 2023, 15:00-16:00

MINI BRIEFING NOTE (*Commission Internal*)

### Scene setter and context

Cefic requested a meeting with you after the publication of the Transition Pathway for the chemical industry in January 2023. Concerning REACH, we expect two points to be discussed:

- **REACH revision** (planned for adoption in Q4 2023). The REACH revision will imply significant costs for companies due to additional reporting requirements and more restrictions. For this reason, it has been opposed by some parts of the EU chemical industry, especially in Germany. At EU level, Cefic has been supportive but calling for a proportionate approach.
- **REACH restriction on PFAS** proposed by five national authorities, covering all PFAS and uses. Cefic is concerned about the broad scope of this ban, its impact on chemical companies and on key value chains. They are particularly worried about the possible ban of a sub-group of PFAS, fluoropolymers, which are used in key applications e.g. in lithium batteries.

### Objectives

- **REACH revision:** better understand the position of the EU chemical industry (national associations have presented contradicting messages).
- **PFAS restriction:** reassure industry that the Commission is committed to ensure consistency across policy objectives, namely, tackling PFAS pollution and achieving the green and digital transition.

### Key messages

#### **REACH revision**

- We heard your concerns regarding the **timing** of the REACH revision, but now we should discuss the content of the REACH revision.
- We are finalising the legal text of the REACH revision, trying to balance the **multiple objectives:** increase protection of human health and the environment, but also secure EU competitive advantages and innovation (by promoting sustainable chemicals) and simplify the regulatory process.
- We are working on six main changes in the REACH revision:

- Requesting **additional information requirements** during registration to identify more hazardous substances, like endocrine disruptors. It is key to strike a balance between more information versus additional animal tests and costs.
- Requesting first, the notification of all **polymers** and, later, registration of some groups of polymers. We are aware that this will be a big task for companies but also for the European Chemicals Agency, so we are working to find a proportionate approach.
- Introducing a **Mixture Allocation Factor** to take into account the co-exposure to different chemicals, but with some exemptions and a future review to consider possible scientific developments.
- Simplifying **authorisations** and extending the generic risk management approach for **restrictions**. The implementation of these restrictions will be done in a staggered way according to a work plan.
- Introducing the **essential use concept**, but complementary to the socio-economic analysis for the specific assessment of risk.
- Improving **enforcement and compliance** with REACH rules, especially for imported products.

### **PFAS**

- Pollution from PFAS (per- and polyfluoroalkyl substances) is a **serious human health and environmental concern**. At the same time, some PFAS are needed in critical applications, e.g. for the green and digital transition.
- Five national authorities have proposed under REACH a broad ban (with some derogations) on the use of PFAS. The Commission is waiting to receive the opinion of the scientific Committees of the European Chemicals Agency before proposing any legislative action under REACH.
- However, the Commission envisages that **derogations will be introduced for critical uses where no alternatives are currently available**, while considering the need to minimise emissions of PFAS for the derogated uses.
- The Commission will ensure consistency across different policy objectives, such as reduction of chemical pollution and the green and digital transition.

### ***Co-implementation – status quo***

- The co-implementation of the actions outlined in the Transition Pathway is key to achieve the digital and green transition of the European Chemical Industry and secure its competitiveness.
- The first co-implementation meeting took place on 6<sup>th</sup> March. We agreed with stakeholders to work immediately on high priority topics for the twin transition, such as addressing energy needs and circularity. We are already working on these topics through dedicated task forces.
- We plan to launch a call for transition initiatives this summer to allow businesses, public administrations, and other organisations make statements on what they are doing for a greener, climate-neutral, and more digital chemical industry.
- We encourage participation in the upcoming call for transition initiatives as it is fundamental to understanding whether the Chemical Industry is progressing towards its twin transition.
- The next co-implementation meeting is on 22<sup>nd</sup> June. The upcoming call for transition initiatives will be discussed during this meeting.
- A third meeting is planned at the beginning of December.
- In Q1 2024, we intend to publish an Annual Progress Report to outline what we have achieved and what needs to be done to make the twin transition a reality.

### ***Member States' role in the co-implementation and national transition plans***

- As outlined in the Pathway, Member States have a primary role to implement the actions required to transform the Chemical Industry. We welcome CEFIC's initiative to develop national transition plans as they can support the twin transition of the Chemical Industry at national level.
- We would like to continue our discussion with CEFIC to better understand how national plans are currently developed.

### Questions to the interlocutor?

- What is the state of play on CEFIC's initiative to develop national transition plans?
- what are the most critical changes in REACH for the EU chemical industry?
- How can we ensure that the EU chemical industry remains competitive on the global market?

### Defensives

***Q: In the current geopolitical and economic context, EU companies cannot afford additional legislative requirements if they want to remain competitive.***

**A:** The REACH revision will increase compliance costs for companies, but we are working to make the new requirements as balanced and targeted as possible to achieve an increased human health and environmental protection. EU companies can remain competitive by investing in sustainable and innovative solutions.

***Q: How will the REACH revision simplify and reduce burden on companies?***

**A:** Authorisations are one of the most complex procedures in REACH and have created a lot of legal uncertainty for EU companies. With the REACH revision we will make sure that the future authorisation system will be more manageable and faster.

***Q: Will the planned REACH revision disproportionately affect companies?***

**A:** We recognise that the REACH revision will increase compliance costs for companies, especially due to additional information requirements, notification and registration of polymers and more restrictions based on the generic risk management approach. At the same time, the REACH revision will bring business opportunities for sustainable alternatives.

***Q: How is the Commission ensuring that the registration of polymers take into account the peculiarity of these materials?***

**A:** We are aware that polymers are a special class of chemicals and registration will be challenging due to the large number of polymers. For this reason, we are discussing options for companies to notify all polymers and register some polymers in groups, ensuring a proportionate approach.

***Q: Will the generic risk management approach be disproportionately costly and disadvantage European companies?***

**A:** Restrictions based on the generic risk management approach will be implemented in a staggered way through a work plan, to ensure predictability and enough time to find alternatives. We will prioritise consumer uses and focus only on professional uses with exposure patterns similar to those of consumers. This is expected to alleviate impacts on companies.

**Q: *What will the Commission propose concerning the essential use concept?***

**A:** We are preparing a Communication that provides guiding elements on the implementation of the essential use concept across different pieces of legislation. When it comes to REACH, we are still discussing on how the concept will be applied. However, for the specific risk management, we envisage to make the essential use concept complementary to socio-economic analysis.

**Q: *How the essential use concept can help simplifying authorisations and restrictions?***

**A:** We expect that the essential use concept will help reaching quicker decisions on clear essential (e.g. lithium batteries) and non-essential (e.g. plating of lipstick case) uses.

**Q: *What will the Commission do to ensure proper enforcement of REACH?***

**A:** We plan to improve the tools for customs authorities to enforce REACH, e.g. by improving the access of customs authorities to chemicals databases. We also want to clarify responsibilities for compliance of products sold through online platforms such as Amazon. Finally, we plan to revoke registration numbers for dossiers that continue to be non-compliant.

**Q: *How are different workstreams of the Commission considered in the co-implementation process?***

**A:** We have already provided a roadmap with ongoing legislative initiatives for the Chemical Industry in the Transition Pathway. We will continue to consider different workstreams of the Commission on relevant legislative proposals in the co-implementation process. We intend to present and discuss regulatory updates for the Chemical Industry during the co-implementation meetings.

**Q: *What are the main challenges of the co-implementation?***

**A:** The Transition Pathway outlines an extremely broad set of actions (about 190) required for the twin transition of the chemical industry. These actions need to be undertaken not only short term but until 2050. Continuous collaboration and contributions from all stakeholders will be necessary to achieve the twin transition of the European Chemical Industry. We are

committed to ensure that all stakeholders, including industry, Member States' authorities, NGOs, academia and all interested parties are proactively participating in the discussions on the co-implementation. Particularly, we remark that the active involvement of Member States is fundamental to ensuring the effective implementation of the actions laid out in the Pathway over a long-time horizon.

## Background

### REACH revision

The REACH revision is planned in the Commission work programme for **Q4 2023**.

Some elements of the REACH revision are expected to lead to **significant costs for companies** (but also benefits in terms of increased human health and environmental protection):

- **Additional information requirements**, also on endocrine disruptors, during registration – the main issue is to balance the benefits in terms of additional information required with the costs for industry and additional animal testing.
- **New requirement to notify and register of groups of polymers** – we do not know exactly how many polymers are on the EU market (best estimate: about 200,000). Therefore, companies will need to first notify all polymers. On that basis, the European Chemicals Agency will define a methodology to group them. Registration will then need to be done in groups and only for polymers that are expected to be more hazardous. There is no agreement yet on how to do the registration step.
- Inclusion of a **Mixture Allocation Factor** to consider the combination effect of chemicals. A low value would be proposed initially, with some exemptions (e.g. applicable only to substances used above 1,000 tonnes per year) and with a review clause to reassess the situation, also in light of possible new scientific evidence.
- Extension of the Commission empowerment to restrict substances based on the **generic risk management approach**. Extension to 1) additional hazard classes (e.g. endocrine disruptors) and 2) to certain professional uses (in addition to consumer uses). The implementation of new restrictions will be done gradually and according to a work plan to provide predictability and give time to companies to adapt.

### **Cefic position on the REACH revision**

- **Additional information requirements:** Cefic calls for a proportionate approach and for more non-animal test methods (better for animal welfare and cheaper for companies).
- **Polymers:** Cefic calls for a workable and proportionate approach for registering polymers that targets only those that have properties associated with a higher likelihood of hazard in line with a globally accepted approach. They support a first notification step and registration in groups.
- **Mixture Allocation Factor:** Cefic expects that it will have an impact on the availability of chemicals and suggests having a review clause to ensure that evolving scientific evidence is taken into account.

- **Generic risk management approach:** Cefic supports a gradual implementation based on a work plan and prioritising consumer uses with a high likelihood of exposure. They call for a different approach to protect professional users, e.g. mandatory training and certification schemes.
- **Essential use concept:** Cefic considers that an essential use derogation process can result in faster decision-making process and higher predictability (for clearly non-essential uses), only if criteria are clearly defined and depending on how the procedure is implemented.

### **PFAS restriction**

PFAS are a group of thousands of mainly man-made chemicals that are extremely persistent in the environment. They are widely used for their unique properties, e.g., stability under intense heat, water and oil repellence, across many industry sectors. In January 2023, **five national authorities** from the Netherlands, Germany, Denmark, Sweden and Norway submitted to the European Chemicals Agency a **dossier to restrict PFAS under REACH**. The restriction dossier proposes to ban **all PFAS**, including the sub-category of fluoropolymers, with several time-limited derogations (6.5 or 13.5 years). Many consumer products (e.g., textiles, frying pans) but also critical applications in the digital (e.g. semiconductors) and energy/mobility sectors (e.g. solar panels, lithium batteries) are affected by this restriction.

The proposed restriction is currently assessed by the European Chemicals Agency's **Scientific Committees**. This guarantees an independent scientific assessment on the risk reduction, the availability of alternatives and socio-economic impacts of the restriction proposed. There are **two stakeholders' consultations** during this stage (the first 6-month consultation is ongoing until 25 September 2023). Based on the opinion of the Scientific Committees, the **Commission will consider an amendment to REACH to restrict PFAS**, taking into account the risks posed by the substances, the socio-economic impacts of the restriction and the availability of alternatives. The Commission proposal will be discussed with Member States in the REACH Committee. A decision on the PFAS restriction is not expected before 2025.

### **Cefic position on the PFAS restriction**

Cefic supports balanced regulatory measures on PFAS. Their main concern is that the restriction proposal will lead to **disruptions of value chains** and will eliminate key applications in batteries, semi-conductors, electric vehicles and renewable energy production. They are also worried that this restriction might **hinder investments** in these key applications in the EU, as manufacturers will not invest if they know they will miss key components in their value chains in the near future.

### **Transition Pathway for the Chemical Industry**

In the Updated 2021 Industrial Strategy, the Commission proposed a series of transition pathways to be co-developed with EU Member States, industry, and other stakeholders. These pathways identify the actions needed to achieve the twin transition and increased

resilience of industrial ecosystems.

In spring 2022, the Commission launched the co-development process for the Transition Pathway for the European Chemical Industry. The Transition Pathway document was published on 27 January 2023.

This document is structured on 8 chapters, so-called “building blocks”:

1. Sustainable Competitiveness
2. Investment and Funding
3. Research and Innovation
4. Regulation and Public Governance
5. Access to Energy and Feedstock
6. Infrastructure
7. Skills
8. Social Economy

The co-development process identified about 190 actions, needed for the twin transition and increased resilience of the chemical sector. Such actions are clustered in 26 topics. In turn, these topics are covered by the building blocks.

For each action the Transition Pathway indicates the timeframe (short, medium or long term) and the actor that should perform that action (EU, MS and industry).

Finally, the Transition Pathway provides a roadmap composed of:

- an action-oriented component focusing on actions needed to foster collaboration for innovation, increase clean energy supply and feedstock diversification in the chemical industry;
- a technology component, covering the key technological contributors to the transition pathway, such as electrification, hydrogen, biomass, waste, carbon capture and utilisation and carbon capture and storage.
- a regulatory component, collecting existing legislation and relevant research and innovation initiatives influencing the twin transition of the chemical industry.

### **Transition initiatives**

Transition initiatives are concrete actions undertaken by stakeholders (i.e. industry, NGOs or national authorities) to contribute to the green and digital transition and increased resilience of the Chemical Industry.

Transition initiatives should ideally include specific milestones and/or targets and a clear link to the topics or broader objectives of the Transition Pathway.

Transition initiatives may be new actions but also be ongoing actions, and do not create a legally binding obligation.



## **Task forces**

Following the first co-implementation meeting on 6<sup>th</sup> March, three task forces have been established to work on specific actions of the Transition Pathway.

The first task force focuses on:

- The development of KPIs and sustainable indicators to evaluate the twin transition.
- How to ensure the development and commercialisation of safe and sustainable chemical and materials.

The second task force analyses the energy and feedstock needs for the chemical sector. The task force is currently gathering information and quantitative data on the energy and feedstock needs for the Chemical Industry in 2030 and 2050. At a second stage, the task force will assess what infrastructure needs to be developed today to allow clean energy supply and replace fossil fuels.

The third task force focuses on how to improve waste management and circularity in the chemical sector.

It should be noted that the task forces have been established to accelerate the co-implementation of actions that stakeholders considered as high priority.

In parallel, the other actions of the Pathway will be discussed during the plenary meetings and will be considered in the call for transition initiatives.

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