

11 June 2018



**Classification of TiO₂ and mixtures containing TiO₂
(CA/43/2018 and CA/MS/48/2018)
for the 27th meeting of CARACAL on 12 June 2018**

We would like to take the opportunity to comment the latest Commission proposal for a classification of titanium dioxide as suspected carcinogen (Category 2) in the Annex VI of the CLP-Regulation. In our view the proposal is not suited to prevent the unwanted negative effects of a classification for the economy and consumers. In addition, the proposal would lead to significant uncertainty in practice. More importantly however, the Commission has failed so far to identify any benefit of a classification. Therefore we recommend cautiousness with regard to a potential classification. **We consider the questions raised by the UK and Slovenia (CA/MS/48/2018) as relevant and recommend discussing them in further detail.**

The Commission's proposal (CA/43/2018) intends to find a way to classify titanium dioxide as suspected carcinogen on the one hand and on the other hand to avoid the unwanted consequences because of the numerous legal references of other areas to such classification. The suggestion to include a limiting note raises the fundamental problem that the CLP-regulation is generally not suited to deal with exemptions because the question whether the classification applies or not would be handed downstream and thereby multiply. In addition, it would be nearly impossible for downstream users (e.g. in the waste industry) to assess whether a certain substance or mixture in powder form contains "1% or more of particles with diameter 10 µm containing titanium dioxide".

However, the question remains what benefit such a problematic classification would bring: The Commission rightly states that "*the risk for consumers is negligible given the very high levels of exposure that would be required, which are unrealistic under normal and foreseeable conditions.*" The Commission also acknowledges that the current OSH legislation effectively prevents workers from being exposed to high levels of (titanium dioxide) dust. Protection against dust and general particle effects is primarily an occupational safety issue. In Germany and most EU Member States, corresponding dust limits to protect against dust exposure are therefore established at the workplace. In addition, dust exposure limits could be regulated uniformly at EU level via Directive 98/24/EC on health and safety at work – if a need for harmonization is identified.

According to the Commission the only open question remains "*what are the risks for professionals not covered by OSH [Occupational Safety and Health] legislation (e.g., the self-employed)*". Before advancing with the classification we recommend to clarify this point.

In this context we would like to remind of the fact that also an indicative occupational exposure limit value (IOELV) has to be implemented by Member States according to Directive 98/24/EC on health and safety at work. Any deviation requires an appropriate justification. It is therefore not correct that only binding limit values based on a Cat. 1A or 1B classification (Directive 2004/37/EC) have legal effects (see 3.3. of the minutes of the meeting of 23 April 2018). In addition, it is also possible under Directive 98/24/EC to lay down so called binding occupational exposure limit values.

In summary, we have strong concerns with regard to the need for a classification of titanium dioxide and the concrete proposal itself. Such proposal would be neither proportionate nor appropriate.

Attached you will find the current position papers of BDI and VCI.

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