

New Circular Economy Action Plan HWE position - Consultation on the Roadmap

Better environment for better health is key to reach a zero pollution ambition for a toxic free environment. The EU benefits from some of the highest environmental standards. Together with the EU decision makers, we should continue on this track to find the right balance between economic competitiveness and a high protective environmental framework. "Living well, within the limits of our planet" paved our legislative way these last years. Today, we have to integrate even more health concerns at the heart of our environmental policy making, as both are interdependent.

As federation representing the hazardous waste treatment operators on the whole chain of hazardous waste, from collection to final treatment, we (HWE) are convinced that implementation of some key principles through an integrative and consistent approach will serve our shared objective to promote non toxic material cycles and preserve the high level of protection of human health and the environment within the European Union.

To this end, we would advocate the following recommendations:

1. To ensure adequate **implementation of the current legislation** in a harmonised way within the EU Member States.
2. To **define substances of concern (SoC)** and adopt an approach by **grouping** in their assessment, in the view of developing the EU market for secondary raw materials and address the issue of insufficient information regarding the presence or not in the recycled materials.
3. To keep **separate classifications** for products and waste to preserve their respective challenges. If a risk based approach is relevant for products, the classification should take into account intrinsic properties of the waste - hazard based approach - when it comes to the waste stage, as the final destination of the waste is never known for sure.
4. To **trace the waste** and ensure a **decontamination** step to contribute to clean material cycles. Separate the waste streams the most upstream in the chain should also be considered by the EU decision makers.

1. We need adequate and harmonised implementation of the legislation

"Any rule, is only effective if it is implemented properly in practice" (CWP 2019 - COM(2018) 800 final). The EU hazardous waste legislation must be properly enforced into Member States to guarantee safe management of hazardous waste and level playing fields between member States and waste actors, and to identify breaches that undermine the EU law. Member States, competent authorities and stakeholders should always guarantee a strict and regulated framework for hazardous waste to secure the future of industry and avoid dispersion of pollutants.

2. We call for an extensive definition of substances of concern

Substances that could be harmful for health and the environment are much more numerous than the ones currently restricted in the REACH regulation so far. The precautionary principle urges to address

the issue of substances of concern (SoC) in an extensive way by first encompassing all the substances for which a level has been set in the legislation: that includes substances identified within CLP regulation 1272/2008 on the classification, labelling and packaging of substances and mixtures; POP regulation 2019/1021 on persistent organic pollutants; or product specific legislation, but also to introduce new hazards as the specific hazard of endocrine disruptor. This latter will also need a single integrated definition across the different pieces of EU sectoral legislation. Because similar substances are likely to present similar threats, substances should be assessed by grouping, instead of substance by substance. Finally, other types of hazards on waste, microplastics and nanomaterials have to be defined and integrated in the legislative package.

3. We advocate to keep separate classification between products and waste

Classification is a key step whose rules should remain distinctive between products and waste. In the case of a product, when the scenario of exposure according to a use can be assessed, the risk based approach is common and sufficient. But the challenges are radically different for waste as one can never be sure of its final destination. Because of this uncertainty, waste should be classified on hazard based approach which only takes into consideration the intrinsic properties of the waste to ensure that it will be oriented towards the most appropriate treatment. A classification of waste based on a risk approach would fail to encompass all possible downstream routes and exposure scenarios.

In the case of material recovery operation on a waste containing substances of concern, a risk based assessment could be applied at the level of the management chain of the waste when it happens in a closed loop or in a controlled loop ensuring that the recovered material will end up in a permitted use. Consequently, a waste, even hazardous could be treated under conditions proportionate to the risks.

4. We favor traceability and decontamination to reach clean material cycles

Keeping trace of information regarding the composition, and properties of the waste throughout the whole value chain (from the product to the waste operator) is crucial to guarantee the waste will be correctly handled. In this regard, the SCIP database (information on Substances of Concern in articles as such or in complex objects (Products) currently developed by ECHA (the European Chemicals Agency) in accordance with the revised waste framework directive will present a valuable tool to identify and track substances of concern in the products that become waste for the waste management operators.

Combined with the principle of decontamination, also introduced in the waste framework directive 2018/851 (article 10.5), it will for sure enhance high quality recycling, give trust in the secondary raw materials (SRM) and boost the SRM markets. Everything that could be toxic in the material cycles should not come back in the recycling loop. The objective is not to reach zero contaminants, but to ensure prior to recycling or recovery, that hazardous substances or pollutants (substances of concern) contained in both non hazardous and hazardous waste beyond the regulated thresholds in the different legislations are extracted and disposed of in an environmentally sound way, in accordance with the regulation.

Let us keep in mind that decontamination, high quality recycling and material recovery unavoidably generate non-recyclable residues which hence need to be environmentally sound disposed of. Keeping the contaminants in the recycled materials is incompatible with a non toxic environment



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policy and non-toxic material cycles. That's the reason why we should not oppose recycling and disposal but combine these two kinds of waste treatment.

There is no place for low-cost recycling that would be detrimental for health, economy and sound resource management. Recycling markets can only be sustainable if we can ensure confidence in the recycled materials. EU legislator should assess the right balance between quantity and quality of recycling to prevent that some streams, especially if they have been mixed before the recycling, are likely to contain substances of concern and should not be recycled without a prior decontamination step, prioritising surveillance on plastics, WEEE, deconstruction waste and transport engines (cars, ships, trains, aircrafts). The EU legislator should thus ensure that this principle introduced in the revised waste framework directive is properly enforced.

EU and Member States should also ensure that the same rules apply between virgin and secondary raw materials. For sure, recycling should under no circumstances become a pretext to re-incorporate substances of concern within the recycling chain. Same rules should also apply between the EU article's system and imported articles' system to avoid annihilating the whole efforts undertaken by the EU to handle the substances of concern.

To conclude, we could quote the Commission in its Findings of the Fitness Check of the most relevant chemicals legislation (excluding REACH) and identified challenges, gaps and weaknesses ([COM\(2019\) 264 final](#)):

“Lack of knowledge about substances in articles is increasingly concerning as the EU is in the process of shifting towards a more circular economy. While steps have been taken regarding traceability of hazardous chemicals in waste and recycled material streams, the shift towards a more circular economy will require that, instead of looking at the potential risks posed by hazardous chemicals during one and unique ‘life’ based on a linear ‘take-make-dispose’ approach, the risk assessment may need to take into account the potential of such hazardous chemicals to re-enter the loop via recycling. The way hazard and risk assessments are carried out may need to be adapted accordingly, given the increasing consumer awareness and demand for sustainable and more circular products.”

HAZARDOUS WASTE EUROPE (HWE), established in April 2011, represents more than 160 hazardous waste treatment installations in Europe operating a wide variety of processes with a total capacity of 4,6 million tons per year. HWE aims at promoting high quality treatments of hazardous waste, environment and human health protection and safety of workers in the legislation.