

Response of the European Copper Institute to the Inception Impact Assessment (IIA) on the Revision of REACH

Introduction

The European Copper Institute is representing the copper industry in Europe. The copper industry in Europe is a leader in circularity and in supplying green technologies while being fully supportive of the REACH Regulation in ensuring a high level of protection of human health and the environment. ECI welcomes the opportunity to participate in the public consultation on the Inception Impact Assessment for the Revision of REACH.

We are hereby expressing our support for the response to the IIA as provided by Eurometaux, and that outlined a generic vision for the future of the REACH Regulation, how it can better embrace sustainability aspects such as circularity, climate and environmental footprints to effectively contribute to the objectives of the Green Deal. In this document, we are iterating and providing our initial thoughts on a series of points that are of particular impact to the copper sector and its value chain.

Information requirements on environmental footprint

The introduction of information requirements on the environmental footprint in REACH should be carefully assessed for its appropriateness as regards the intended ambitions for REACH on the protection of the environment. The further use of such information should be considered and clarified in that context.

Also, such information requirements should reflect the overall environmental footprint as accurately as possible, meaning the impact of a service provided by a substance during its whole lifecycle. This should therefore cover relevant footprint aspects of manufacturing, the full use phase of the substance, while accounting for the gains made during recycling; all this expressed for the longevity of the service provided.

- We recommend to carefully assess the introduction of environmental footprint information in REACH as regards the intended ambitions for REACH versus other legislations and initiatives (Climate Transition, Circularity, Safe and Sustainable by Design concept)
- We recommend the use of the full life cycle of a substance - from cradle to cradle – is needed to evaluate the environmental footprint of substances in order to avoid information requirement on single indicators or parts of the life cycle of a given substance.

Combined exposure

Options will be analysed for addressing risks of exposure to several substances by the introduction of one or more Mixture Assessment Factors (MAFs). When introduced, MAFs should be proportional, targeted, and based on a sound scientific knowledge and, in addition, should allow for specific evidence-based refinement. Importantly, how will the integration into the existing framework of assessment factors under REACH be considered?

Impact assessment work of adopting default MAFs has already begun, both from the regulators side and industry. In this regard, we welcome the recognition for metals specificities in the Terms of Reference of the dedicated preliminary impact study on this issue and we hope that the conclusions of this study will feed into the impact assessment underpinning the REACH revision.

- A MAF default should (only) be used to set aside substances for which no further demonstration of the risk of unintentional mixtures exposure is required. Hence, allowing pragmatic refinement schemes for other substances and providing realistic time frames to proof those.
- Refinement approaches should be science-based, balanced and pragmatic to remain suitable and relevant to the overall aim, i.e., prevent combination effects. We question how the MAF can be integrated into the existing assessment framework under REACH.
- Neither should the approach duplicate existing functional approaches such as under worker protection legislations or the Water Framework Directive.

Reforming the restriction and authorisation processes

We believe that such proposals must be reviewed in a holistic way, addressing the improvement of the Risk Management system in general. In that context, the role of a proper and well conducted Risk Management Option analysis (RMOA) prior to risk management regulatory action should be emphasized. RMOAs have shown to be very efficient, cost-effective, and less time consuming overall.

The implementation of the Green Deal further requires attention for other pillars like impact on climate or circularity, complementary to the demonstration of the safe use of chemicals during manufacturing, importing and use. Such considerations should be included in a more holistic integrated manner when defining the most optimal risk management option.

Regarding the proposed extension of the generic approach to risk management, a selection on basis of the presence of chemicals being ‘most hazardous’ is not considering at all the level of risk, contrary to Article 68 of REACH that mentions ‘unacceptable risk’. The mere presence of a (most) harmful metal does not systematically imply a risk. Regulating chemicals on the basis of their hazard only, is overly simplistic and risks removing chemicals from the EU market that have high societal, environmental and economic benefits. Chemicals should be regulated on the basis of sound science reflecting both hazard and exposure, the overall aim being the demonstration of safe use.

Finally, the IIA mentions the potential for the ‘essential use’ concept (EUC) applied to the restriction process. Recent debates in CARACAL expert group have shown the complexity of introducing such a concept and the need for further detailed work and discussion. In our view there are still many fundamental questions and issues relating to the EUC that need to be debated openly and clarified, including an assessment of the added value and benefits, the consequences (e.g., on innovation, EU competitiveness), and the concept’s legal basis. We would support the Council’s position to develop an EUC ‘framework’ rather than strict criteria. Nevertheless, we believe that there are other more efficient ways to deal with the need for societal exemptions of risk management of consumer goods. Such exemptions can be assessed and included during the RMOA phase when the scope of the restriction is defined. Overall, the EUC needs to be properly addressed in the impact assessment underpinning the revision of REACH, in accordance with the Better Regulation principles.

- Before risk management measures are decided upon, Regulators shall be tasked to develop a holistic RMOA. On that basis the RMOA could suggest specific use and exposure risk management measures that make optimal use of the available regulatory risk management options under REACH and beyond. This assessment should purely be driven by efficiency, effectiveness and less burdensome implementation of the risk management measures.
- We reject the hazard-based approach proposed by the CSS for deciding on risk management measures. Additional hazard-based categorisations will lead to blacklisting effects in the market, preventing the use of these substances for innovation. These consequences should be considered in the impact assessment for the proposed approaches.
- The introduction of an essential use concept should be properly assessed. We would consider that exemptions for societal reasons are considered at the RMOA phase when scoping the restriction, as a more efficient way of working.
- As per our previous remarks on choosing the appropriate risk management measure, restrictions shall take into account the objectives of the Green Deal (climate change mitigation and circularity).

ECI is the voice of the International Copper Association (ICA) in Europe. The [International Copper Association](#), with its 35 members, represents a majority of the world's primary copper producers, and some of the largest mid-stream smelters/refiners, and 10 of the world's largest copper fabricators. It aims to bring together the global copper industry to develop and defend markets for copper and to make a positive contribution to society's sustainable development goals.

Transparency Register: 04134171823-87

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