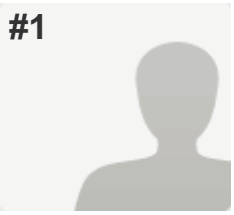

#1

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, May 20, 2016 11:24:42 AM
Last Modified: Thursday, May 26, 2016 3:28:38 PM
Time Spent: Over a day
IP Address:

PAGE 2: Part I – General Information about Respondents

Q1: Address	
Contact name	Nadia Vinck
Organisation/company	Euroalliages
Country	Belgium
Email Address	
Q2: If you have a Transparency Register ID number, please provide it below. If your organisation is not registered, you have the opportunity to register now by following this link. If your entity responds without being registered, the Commission will consider its input as that of an individual/private person and, as such, will publish it separately.	19153965510-75
Q3: Received contributions may be published on the Commission's website, with the identity of the contributor. Please state your preference with regard to the publication of your contribution. Please note that regardless of the option chosen, your contribution may be subject to a request for access to documents under Regulation 1049/2001 on public access to European Parliament, Council and Commission documents. In such cases, the request will be assessed against the conditions set out in the Regulation and in accordance with applicable data protection rules.	My contribution may be published under the name indicated; I declare that none of it is subject to copyright restrictions that prevent publication
Q4: We might need to contact you to clarify some of your answers. Please state your preference below:	I am available to be contacted
Q5: Please indicate whether you are replying to this questionnaire as:	An industry association
Q6: If a business or industry association, please indicate your field(s) of interest or activity(ies) - the letters in between brackets correspond to NACE codes [multiple choice]:	Manufacture of basic metals (C24)
Q7: For businesses, please indicate the size of your business:The definition of small and medium-sized enterprises depends on the staff headcount and either the annual turnover or the balance sheet of the company. Please consult the following website: http://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition/index_en.htm	Micro-enterprise (under 10 employees)

Q8: Please indicate the level at which your organisation is active:	EU

PAGE 3: Part II – General Questions

Q9: How important is it in your view that there is chemical and chemical-related legislation* at EU-level in order to achieve the following objectives? (1 = not important; 5= very important)*This comprises the chemical-related provisions in all legislation within the scope of this fitness check. It encompasses legislation governing hazard identification and classification, as well as risk management measures, including chemical-related aspects of legislation on worker safety, transport, environmental protection, chemicals controls and supporting legislation, excluding REACH. The full list of legislation can be found here.The internal market of the European Union (EU) is a single market in which the goods, services, capital and persons can move freely across borders. One of the key objectives of chemical and chemical-related legislation is to have a single market for chemical substances and mixtures, as well as products containing chemicals.**

Protecting human health	4
Protecting the environment	4
Ensuring a well-functioning internal market**	3
Stimulating competitiveness and innovation	1

Q10: Do you think the EU chemical and chemical-related legislation has been effective in achieving the following objectives? (1= not effective, 5= very effective). Please only consider chemical-related provisions in the legislation.

Protecting human health	3
Protecting the environment	3
Ensuring a well-functioning internal market	2
Stimulating competitiveness and innovation	1

Q11: If you think the EU chemical and chemical-related legislation is not effective (1) or only somewhat (2,3) effective, please indicate what you believe are the main reasons for this limited effectiveness in the following table:

Protecting human health	The legislation is not adapted to the issues at stake
Protecting the environment	The legislation is not adapted to the issues at stake
Ensuring a well-functioning internal market	The legislation is not effectively implemented
Stimulating competitiveness and innovation	The legislation is not adapted to the issues at stake

Q12: To what extent do you consider that EU chemical and chemical-related legislation has had an added value above what could have been achieved through action at a national level? (1= no value, 5= a very high added value)

EU-level legislation adds value to national level action	4

PAGE 4: Part III - Specific Questions

Q13: For businesses and industry associations - Please select the legislation that regulates or otherwise affects your sector's or your company's activities.For other stakeholders - Please select the legislation you are familiar with.

Classification, labelling and packaging (Regulation No (EC) 1272/2008)
,

REACH, Annex XIII (Regulation (EC) No 1907/2006)
,

Inland transport of dangerous goods (Directive 2008/68/EC)
,

Chemical Agents (Directive 98/24/EC),

Carcinogens and mutagens at work (Directive 2004/37/EC)
,

Young people at work (Directive 1994/33/EC) ,

Pregnant workers (Directive 1992/85/EEC) ,

Industrial emissions (integrated pollution prevention and control) (Directive 2010/75/EU)
,

Waste framework (Directive 2008/98/EC) and List of Waste
,

Waste shipments (Regulation (EC) No 1013/2006) ,

Major-accident hazards involving dangerous substances (Seveso) (Directive 2012/18/EU)
,

Water Framework (Directive 2000/60/EC) ,

Export and import of hazardous chemicals (Regulation No 649/2012)
,

Test methods (Regulation (EC) No 440/2008) ,

Good Laboratory Practice (Directives 2004/9/EC and 2004/10/EC)
,

Other (please specify)
Physical Agents Directive 2013/35, Directive EVESO III 2012/18, Landfill Directive S

PAGE 5: Effectiveness

Q14: In the EU legislative framework for chemicals, risk management measures are, in some cases, determined directly based on the identified hazard using generic risk considerations (e.g. widespread exposure or exposure of vulnerable groups), which justify the automatic adoption of such measures. In other cases, the risk management measures are determined by a specific risk assessment that assesses the probability of adverse health and environmental effects resulting from the specific exposure scenarios associated with the proposed use(s) of the chemical. In your view, do you think EU chemical and chemical-related legislation should, in general:

a. Be more oriented towards specific risk assessments (i.e. differentiate more between chemicals depending on their use despite the possibility of prolonged discussions and implementation delays)
,

If you answered a or b, please explain
A too broad approach in risk assessment provides no meaningful guidance, can be wholly arbitrary or may lead to incoherencies between various pieces of legislations or creates even cross media effects (transfer of pollution). In addition, it could imply excessive or disproportionate burden to Industry leading to barriers to technological development and economic growth or competitiveness. Indeed, sometimes clearly disputable harmonized classification under CLP can have snowball effects on downstream regulations impacting directly the operating plants on the EU/EEA territory without providing benefit to the health or the environment. More tailored measures would enable to address the real risks in an efficient and sustainable manner. Any unsound ban of Substances of Very High Concern (SVHC) in product content based on hazard without assessing the risk can be counter-productive to protect health and environment. As an example, Ferro-nickel is used in stainless steel to improve general corrosion resistance and formability. Despite the inherent hazard of nickel, it was recognized there is very low release of nickel from stainless steel in water or body fluids, i.e. there is virtually no risk. Therefore, Nickel in stainless steel applications have received derogation from ecolabel criteria in many applications to ensure that improper focus on hazard will not result in the use of technically inferior and from a life time perspective worse material.

Q15: In your view, apart from the hazard and/or risk of a chemical substance or mixture, are all relevant considerations taken into account in regulatory decision making on risk management (e.g. whether there will be combined effects of chemicals, whether there are certain vulnerable groups, whether there will be impacts on jobs or on the competitiveness of EU industry, etc.)? Please explain your answer.

No,

If you answered no, please explain which considerations are not (sufficiently) taken into account and, if relevant, explain which legislation you are referring to.
We have concerns about the way some decision processes at the Commission level are implemented. This is particularly true under the Industrial Emission Directive, and more precisely for the BREFs process and the related Implementing Acts. Despite the scientific data provided by Industry according to the rules in place, we have seen decisions taken by the Commission on industrial emissions limit values based on minority or even false cases, ignoring the majority of the data or comments expressed. The "discretionary power" of the Commission is not always properly excercised. Similarly, the recent EU Court case related to the harmonized classification of high temperature coal tar pitch (HTCTP) as acute and chronic for the environment is an illustrative example. HTCTP is a key substance composing the electrode paste used in the electric arc furnaces to produce silicon and ferro-alloys. The recent harmonized classification for the environment of HTCTP is now triggering Seveso requirements for silicon and ferro-alloys producers (and also their suppliers) which were so far not subject to Seveso. The European Court of Justice has decided to annul this environment harmonized classification, thus giving right to the Industry, underlining that “the EU authorities which have adopted the act in question must be able to show before the EU Courts that, in adopting the act, they actually exercised their discretion, which presupposes the taking into consideration of all the relevant factors and circumstances of the situation which the act was intended to regulate”. Despite this ECJ Decision, Seveso requirements are still applicable because an appeal has been lodged by the Commission. Before any decision is taken at Court level, the provisions of Seveso will have to be implemented with huge consequences in terms of costs and hence competitiveness. This legaly contested classification of HTCTP has already lead to higher costs associated to electrode paste transport, because it has became a dangerous good. Key resources will in addition be diverted from other relevant core activities, like research and innovation.

Q16: In your view, to what extent are the following elements of the overall EU legislative framework for chemicals satisfactory? (1= not satisfactory, 5= very satisfactory)

Transparency of procedures	3
Speed with which hazards/risks are identified	3
Speed with which identified risks are addressed	2
Time to allow duty holders to adapt	2
Predictability of the outcomes	1

Stability of the legal framework	2
Clarity of the legal texts	3
Guidance documents and implementation support	4
Effective implementation and enforcement across Member States	2
Consistent implementation and enforcement across Member States	2
Public awareness and outreach	3
International collaboration and harmonisation	1
Please explain your answers and list any other aspect you consider relevant. If you have specific legislation in mind, please specify it.	In terms of the transparency of procedures, these are generally to some extend satisfactory, with the increased opportunity of public consultations. However, as already indicated previously, there are concerns about the way the comments are considered and weighted afterwards. Identification of hazard or risk is less a matter of speed than a matter of relevancy. As indicated above, a "more oriented towards specific risk assessments" is needed so as to have an efficient health and environment protection policy. In this respect, we consider that currently there is an important imbalance between the means of the EU institutions for hazard issues (high) and those to more oriented real risks issues. Headcounts for workplace legislations are extremely low as compared to the Chemical Agency, despite that workplace legislations are dedicated legislations. As regards, stability of the legal framework, we have seen a tendency of the Commission when revising some guidances to go beyond the mandate of the legal text. Although guidances are not legally binding, in practice they are often becoming a legal reference. Implementing Acts adopted by the Commission can also become a source of unstability. As regard enforcement, we would like to underline that the growing number of chemicals requirements and harmonized classifications with downstream legal consequences for economic industrials operators can trigger a growing number of infringements in particular from non-EU producers in case of lack of proper controls. The consequence will be a more acute lack of level playing field between EU and non EU producers but above all a lack of proper protection of the human health and the environment because of lack of quality traceability of goods put on the European market. To be efficient, controls have to be made at the earliest stages like at the customs boarders. As far as international collaboration and harmonization is concerned, we support the European Parliament motions issued those

last years that it “Recognises that a sustainable development chapter is an essential part of any EU Free Trade Agreement (FTA) and calls on both sides to agree to an ambitious chapter which reflects the common commitment to promoting sustainable development and inclusive growth on the basis of shared values; urges the Commission to include legally binding clauses on human rights, social and environmental standards and their enforcement, with measures in the event of infringement”. The European industry, and in particular the ferro-alloys and silicon industry, implements very high standards compared to third countries’ industries. These standards do entail higher costs and therefore call for the establishment of a level playing field on human rights, social and environmental standards between EU operators and their non-EU competitors who are not subject to the same rules and constraints

Q17: In your view, to what extent are the following elements of risk management satisfactory? (1= not satisfactory, 5= very satisfactory)

Hazard identification criteria	3
Risk assessment and characterisation	3
Hazard and risk communication measures to consumers (e.g. labels, pictograms, etc.)	I don't know
Hazard and risk communication measures to workers (e.g. labels, pictograms, safety data sheets etc.)	2
Risk management measures restricting or banning the use of chemicals	2
Risk management measures regulating the safe use of chemicals (e.g. packaging requirements or requirements for the use of personal protective equipment)	I don't know
If you answered 1, 2 or 3 above and would like to provide further information (in particular on specific pieces of legislation), please explain your answers.	We fully support the comments made by Eurometaux on biovailability, STOT-Re and dust cut-off value, the lung overloaded effect triggering inflammatory response in rats but not in human, the current impossibility to classify differently a massive and a powder. The later can have huge consequences for industries. Indeed, SEVESO III has incorporated in its provisions the chronic environmental classification criteria. As a consequence, the SEVESO obligations may be triggered by a relatively insignificant presence of classified impurities as chronic environmental in alloys, metals or other materials , although not sufficient to trigger a chronic environmental classification for the overall substance/material. For metal and alloys, in particular in massive form, it is indeed impossible in practice that the presence at 0.1 % of such impurities can cause a release of matter or energy that could create a major accident. There are no way to be exempted of SEVESO as its derogation article cannot be implemented (it requires the revision of the directive itself !). Regarding Hazard and risk communication measures to workers, extended-Safety Data Sheet are today unpractical documents with for some the size of a book ! This is not "to the point" information", which is a must in case of accident/incident.
Q18: Safety data for chemicals is subject to quality requirements, notably Good Laboratory Practice (GLP), aimed at ensuring the reliability and reproducibility of the data. Do you consider these requirements to be appropriate?	Yes

PAGE 6: Efficiency

Q19: In your view, what are the most significant benefits generated for EU society by the EU chemical and chemical related legislation? (one or more answers possible)	Reducing the exposure of workers to toxic chemicals and, therefore, avoiding healthcare costs, lost productivity, etc. , Reducing the damage to the environment and to eco-systems and, therefore, avoiding the costs of treating contaminated water, restoring impacted fisheries, cleaning-up of contaminated land, compensating for reduced crop pollinisation, etc.
Q20: In your view, what are the most significant costs incurred by EU society due to EU chemical and chemical related legislation? (one or more answers possible)	Costs for small and medium sized enterprises , Costs for large enterprises
Q21: In your view, do any of the following requirements in the legislative framework lead to significant costs for companies?	Classification requirements for substances and mixtures , Chemical labelling and packaging requirements , Risk management measures under the different legislation , Inspections and administrative requirements
Q22: Are there specific requirements in the EU chemicals legislative framework which lead to particularly significant costs for authorities?	I don't know

PAGE 7: Relevance

Q23: To what extent has the EU legislative framework for chemicals contributed to a reduction in the number and/or use of hazardous chemicals and/or their substitution with safer alternatives? (1= no contribution, 5= a large contribution)

Framework has led to a reduction in the number and/or use of hazardous chemicals and/or their substitution with safer alternatives	3

Q24: To what extent does the existing EU legislative framework sufficiently address emerging areas of concern, e.g. arising from advances in science and technology? (1= emerging areas of concern are not sufficiently addressed, 5 = emerging areas of concern are sufficiently addressed)

Novel areas of concern sufficiently addressed by framework	3
Please comment	Issues are identified but the relevant/factual parameters/criteria to adress the areas of concerns are then too often supplanted by political/emotionnal considerations.

PAGE 8: Coherence

Q25: Please indicate the extent to which you agree with the following statements relating to the EU chemicals legislation framework overall

The EU chemicals legislation framework contains gaps and missing links	Agree
The EU chemicals legislation framework has overlaps	Agree
The EU chemicals legislation framework is internally inconsistent	Agree

Q26: Please indicate any incoherence (gaps or missing links, overlaps, inconsistencies etc.) between the different pieces of legislation which are under the scope of this fitness check. Please only consider aspects related to hazard identification, risk assessment and risk management of chemicals. The legislation covered by this fitness check can be found here.

Gaps or missing links	We support the comments made by Eurometaux on CLH and their related justification (or no justification); the determination of risks management measures purely based on classification should not be done without proper information on exposure has those measures will not address properly the risk at stake. Decisions should be based on the need to tackle a demonstrated risk. It is a matter of relevancy and proportionality. Irrelevant burdens would divert resources for proper research and innovation
Inconsistencies	CLP and SEVESO, CLP and transport regulations, EU Extended-SDS and international SDS, national legislation versus EU legislations

Q27: Please indicate any incoherence (gaps or missing links, overlaps, inconsistencies etc.) between legislation which are covered by this fitness check and any other legislation you consider relevant as regards the regulation and risk management of chemicals.

We support the comments made by Eurometaux, in particular the incoherence between REACH and CLP classifications; the overlapping between workplace legislations and REACH and the confusion between DNELs derived by RAC under REACH and the OEL developed under the OSH context; the need of a visual mapping of the broader architecture and vertical and horizontal interlinkages between chemicals and other EU legislations. We have concerns that the so-called 'self-classifications' notified to the C&L Inventory under CLP which do not require providing any evidence supporting the notified classification (contrary to REACH) can be considered for other regulatory purposes on equal footing with years of work of consortia under REACH to set-up the registration dossiers and hence to addres the classification issue.

There is a conflict between the industrial policy presented as a key driver towards EU 2020 and competitiveness of EU industry and the continuous proliferation of regulatory measures adding unilateral costs to industrial operators, complicating operations and negatively impacting the industry's ability to invest in long term projects. Despite being an exhaustive hazard and risks assessment without real precedence, the REACH dataset remains to be disregarded in Member States and EU policies such as the Water Framework Directive, the Waste Directives, or the IED, under which it is not yet fully recognised as a reliable reference. We have concerns on the fact that at some national level old data/quality thresholds (i.e. from the landfill directive) are used, ignoring the state-of-the art information generated under REACH.
For example, since the advent of the current Landfill Directive in 2008/2009, industry has generated a robust scientific dataset (for REACH) that strongly demonstrates the low environmental toxicity of molybdate. The current leaching limit value for molybdenum applied to inert waste in the Waste Acceptance Criteria for landfills (Council Decision of 2002 pursuant to Article 16 of and Annex II to Landfill Directive) are outdated (too low) and need revising (higher limit values) in line with the currently available scientific dataset generated under REACH. This outdated data is jeopardizing valuable uses of ferro-molybdenum slags in road construction applications and hence the objectives of the circular economy.

Another example: In the context of critical raw materials (CRM) at EU level, substitution is seen as a potential answer to the criticality issue. Silicon, which is on the CRM list is seen by some consultant mandated by the Commission as substitutable with graphene. On the other hand, the European Commission's scientific advisors on emerging health risks have included graphene nanomaterials on a list of issues that could have a significant impact on human health and the environment in the future. This is a good example of conflicting regulatory initiatives: the substitution approach in critical raw material replacing A by B to escape criticality issue and the substitution approach of REACH replacing B by A to remove health and environment hazard effects !

PAGE 9: Part IV: Specific questions on the CLP Regulation

Q28: CLP communicates hazards to workers and consumers through various label elements, including danger words, pictograms, hazard statements and precautionary statements. (1= not effective; 5= very effective)

To what extent are CLP labels effective in communicating hazards to workers?	3
To what extent are CLP labels effective in communicating hazards to consumers?	2

Q29: Do the hazard classes in the CLP Regulation cover all relevant hazards?

Environmental	Yes
Physical	Yes
Human health	Yes

Q30: How effective is the support to companies through formal guidance documents and national helpdesks? (1= not effective; 5= very effective)

Guidance documents	3
Helpdesks	2
Industry association guidance and materials	5
Other (training, conferences, etc.)	4
Please add further details as necessary	Euroalliages is providing guidances/document/training or workshop to its members on some specific regulatory topics and provide input to umbrella organisation like Eurometaux which provides cross-metals/alloys sector guidances. Accurency and efficiency of helpdesks at members states levels varies widely. The waiting time is often very long and the information is sometime misleading/incorrect.

Q31: To what extent is CLP enforced in a harmonised manner across Member States?

Enforcement is not harmonised across most Member States

,

Please add further details as necessary
There are important discrepencies between Member States. In addition, controls at the boarders are not implemented. Uncontrolled goods are flooding the EU market without proper controls at the entry of the EU territory with hence impact on the health end the environment.

Q32: To what extent are the current elements relating to the CLP classification criteria satisfactory? (1= not satisfactory; 5= very satisfactory)

Ease of implementation for duty holders	3
Appropriateness of classification criteria and methods for substances	3
Appropriateness of classification criteria and methods for mixtures	2
International harmonisation through the Globally Harmonised System (GHS)	2
If you answered 1, 2 or 3 and would like to provide further information, please explain your answer	The special nature of alloys and the matrix effects should be (better) considered. We support the comments made by Eurometaux

Q33: CLP is revised on a regular basis through adaptations to technical progress. Do transitional periods allow sufficient time to implement new or revised classification criteria?

Transition period is too short,

Please elaborate if you answered that the transition period is too short or too long.
The new or revised classifications or classification criteria trigger changes in the classification of substances and mixtures with hazard classes which trigger automatic requirements under other legislation. As an example, a change in a classification of a substance can from one day to the next change the status of a site into Seveso (see previous comments). When decisions are taken without taken into account all scientific, this could hence trigger Court cases with uncertainty related to the timing.

Q34: To what extent are the current elements of the procedures for harmonised classification & labelling (CLH) satisfactory? (1= not satisfactory; 5= very satisfactory)

Transparency of the procedures	3
Involvement of stakeholders	3
Quality of scientific data and related information	2
Speed of the procedure	3

If you answered 1, 2 or 3 and would like to provide further information, please explain your answers
We have concerns when the Commission pretend to use its discretionnary power to decide on harmonized classifications (see previous comments). Epidemiological data should be better considered. Our industry members have conducted huge epidemiological studies over several years and thousands of workers. This provides robust statistical data.

PAGE 10: Part V: Additional comments

Q35: In case you have any additional comments with relevance for this public consultation, please insert them here.

Respondent skipped this question