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PAGE 2: Part I – General Information about Respondents

Q1: Address	
Contact name	John Mortell
Organisation/company	EUROMOT
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.	6284937371-73
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 electrical equipment (C27), Manufacture of machinery and equipment (C28)
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	*Respondent skipped this question*

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	5
Protecting the environment	5
Ensuring a well-functioning internal market**	5
Stimulating competitiveness and innovation	5

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	3

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 effectively implemented
Protecting the environment	The legislation is not adapted to the issues at stake
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)
,

Biocidal products (Regulation (EU) No 528/2012),

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

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

Chemical Agents (Directive 98/24/EC),

Asbestos (Directive 2009/148/EC),

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

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

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

Water Framework (Directive 2000/60/EC),

Urban Waste Water (Directive 91/271/EEC),

Restriction of the use of certain hazardous substances in electrical and electronic equipment (Directive 2011/65/EU)
,

Batteries (Directive 2006/66/EC),

Packaging and Packaging Waste (Directive 94/62/EC)
,

EU Ecolabel (Regulation (EC) 66/2010),

Drinking Water (Directive 98/83/EC),

Medical devices (Directive 93/42/EEC regarding medical devices, Directive 90/385/EEC regarding active implantable medical devices, and Directive 98/79/EC regarding in vitro diagnostic medical devices, under revision)
,

Explosives (Directive 93/15/EEC),

Pressure equipment (Directive 2014/68/EU),

General Product Safety (Directive 2001/95/EC),

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

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
Most chemicals can have adverse human health and/or environmental effects depending on how they are used and in which quantity only when released to the environment or exposed to human. For example, many chemicals only have adverse effects if released to the environment or with direct exposure to humans. Many manufacturers already take action to avoid such exposure during the life of the product and at the end of the life cycle through recycling and recovery, when appropriate. Technology and the way products are used make each industry specific. Therefore, regulation requirements should target specific risks instead of generic ones to be more efficient, to increase security where it is necessary, and to not create disincentives for manufacturers who already appropriately reduce or remove the risks of adverse effects. Assessment must be based on the application, taken into account the benefit of use in that specific application, and the available alternatives. One should not be forced to use an alternative to find that this is being found dangerous as well, or not available in the EU. Substances with the same properties/structure/hazards can be restricted together, e.g. phthalates with the same properties, structures/hazards. Looking at one substance at the time could result in the above statement. Some substances are only hazardous in a specific step in their life cycle. In those cases it could be better to restrict and secure safe usage/disposal etc for that specific stage.

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. The competitiveness of EU industry is not sufficiently taken into account when making a regulatory decision on risk. At just one example, the open scope of RoHS (2011/65/EU) has brought many large scale equipment products into scope seemingly unintentionally, which will cause EU industry to lose access to some critical tools and equipment because the regulation is driving some of these products out of EU market. For instance, large scale portable generator sets which do not qualify as stationary items, but are often used in case of emergency, may fall under the open scope of RoHS and yet generally do not pose the adverse risks to human health and/or environmental effects that many of the other in-scope products may pose. For those and other products where control of chemicals in the products under RoHS is largely unnecessary, the expense in developing and building in alternatives may often prompt a manufacturer to instead exit the EU market.

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	2
Speed with which hazards/risks are identified	2
Speed with which identified risks are addressed	3
Time to allow duty holders to adapt	2
Predictability of the outcomes	2
Stability of the legal framework	3
Clarity of the legal texts	3
Guidance documents and implementation support	3
Effective implementation and enforcement across Member States	3
Consistent implementation and enforcement across Member States	2
Public awareness and outreach	2
International collaboration and harmonisation	2
Please explain your answers and list any other aspect you consider relevant. If you have specific legislation in mind, please specify it.	here is a real need for harmonization and collaboration as you will see from the example of the "Non-road Mobile Machinery" (NRMM) definition. According to the "Non-road Mobile Machinery" (NRMM) definition in the EU RoHS Recast Directive (2011/65/EU), "mobile" means the machinery needs to move "while working". A portable/mobile generator will not be

considered as a "mobile" machinery because it does not move "while working". The same can be said of other traditional "mobile" equipment that moves from job site to job site, but may not move "while working". At the same time, according to RoHS, "Large Scale Stationary Industrial Tool" must be "permanent" and Q3.1 of the Commission's official RoHS FAQ clarifies that equipment "that is intended to be used on different sites during its life is not considered as permanent". Therefore, a large scale portable/mobile generator and other traditional mobile equipment will be neither "stationary" nor "mobile" according to RoHS. The contradiction clearly demonstrates that revisions are necessary to prevent inconsistency with application and unintentional inclusion of products that should not otherwise fall within scope of RoHS. As a matter of fact, the EU Commission launched a public consultation on the concern of the definition of NRMM in the EU RoHS Directive in November 2014. Oeko Institute, the consultant retained by the EU Commission, strongly recommended that the EU Commission revise the definition of NRMM to align with the definition in Article 2 of the Emission Directive 97/68/EC, which would eliminate the contradictory clauses in RoHS. Here is the NRMM definition in the Emission Directive 97/68/EC: "non-road mobile machinery shall mean any mobile machine, transportable industrial equipment or vehicle with or without body work, not intended for the use of passenger- or goods-transport on the road, in which an internal combustion engine as specified in Annex I section 1 is installed." The recent development of EU Stage V Emission Directive, expected to enter into law in 2016, has proposed updating the definition of NRMM to the following: "non-road mobile machinery means any mobile machine, transportable equipment or vehicle with or without body work or wheels, not intended for the use of passenger or goods transport on roads; it includes machinery installed on the chassis of vehicles intended for passenger or goods transport on roads." The United Arab Emirates (UAE) RoHS (Annex 5.6) has essentially adopted the NRMM definition from the Stage V Emission Directive, in line with the need for harmonization and in collaboration with industry and understanding the recommendation that Oeko Institude made. However, it does not appear that the EU legislative framework allows for effective harmonization and collaboration in a timely fashion to correct for inconsistencies discovered after the legislation is in place.

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.)	3
Hazard and risk communication measures to workers (e.g. labels, pictograms, safety data sheets etc.)	3
Risk management measures restricting or banning the use of chemicals	3
Risk management measures regulating the safe use of chemicals (e.g. packaging requirements or requirements for the use of personal protective equipment)	4

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?	*Respondent skipped this question*

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 consumers and of citizens in general to toxic chemicals and, therefore, avoiding healthcare costs, lost productivity, etc. , 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 authorities at EU level , Costs for authorities at national level , Costs for small and medium sized 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 , Understanding and keeping up-to-date with changes in legal requirements , Training staff to ensure compliance with legal requirements , Inspections and administrative requirements , We do not view the business costs of meeting EU chemicals legislation to be significant , Other (please specify) The cost to prepare and collect compliance information, including declaration, material disclosure, etc., in the supplier chain can be very significant as well, especially for equipment manufacturer and its supply chain. A single construction equipment can have more than 10,000 components with hundreds even thousands of suppliers but potential market volume is much less than other industry such as automobile. Therefore, the cost impact for construction and other similar equipment industry is much higher.
Q22: Are there specific requirements in the EU chemicals legislative framework which lead to particularly significant costs for authorities?	Yes, If you answered yes, please indicate what these are. Training/education of staff; undertaking enforcement activities. RoHS exemption renewals and applications consume a significant amount of resources and time for authorities because of the nature of open scope under current RoHS legislation.

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

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	In RoHS (2011/65/EU), the definition of "Non-road Mobile Machinery" and "Large Scale Stationary Industrial Tool" are contradictory with each other and cause a situation that certain equipment can not be classified to be either "mobile" or "stationary".
Overlaps	RoHS, Battery directive, REACH, ELV
Inconsistencies	The definition of "Non-road Mobile Machinery" is not consistent between RoHS (2011/65/EU) and Stage V and earlier Emission Directives

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.

Please see the detailed responses in questions above. Here is a list of the incoherences in RoHS:

1) Contradiction in the definitions of NRMM and "stationary" in RoHS and its FAQ

2) Inconsistency on the definition of NRMM between EU RoHS and Stage V Emission Directive

3) Missing link and inconsistency on the definition NRMM between EU RoHS and UAE RoHS

Furthermore, there are inconsistencies between the RoHS, Battery directive, REACH, ELV rules

Examples:

Different thresholds:
Example 1: Thresholds are inconsistent which leads to confusion among suppliers. For example homogenous materials (RoHS), Article (REACH), Rubber/Plastic components (REACH Annex XVII),
Example 2: SCCP: 1907/2006: SVHC report requirement 0,1%; 850/2004: 0,15% in an article. However, even though "article" has the same definition REACH also use the interpretation "once an article always an article".

Harmonization of definitions in different legislation and FAQ is clearly lacking today. For example NRMM, placing on the market / making available /made available.

E.g. RoHS2, FAQ RoHS2, Stage V emission Directive.

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?	4
To what extent are CLP labels effective in communicating hazards to consumers?	3

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	4
Helpdesks	4
Industry association guidance and materials	4

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

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	4
Appropriateness of classification criteria and methods for substances	4
Appropriateness of classification criteria and methods for mixtures	4
International harmonisation through the Globally Harmonised System (GHS)	4

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?	*Respondent skipped this question*

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	3
Speed of the procedure	3

PAGE 10: Part V: Additional comments

Q35: In case you have any additional comments with relevance for this public consultation, please insert them here.	Revisions to EU legislation take a significant amount of time, but redeveloping equipment products to meet new requirements takes years and can take almost a decade, so when inconsistencies are noted, it harms entities when action is not taken in a timely fashion to resolve those inconsistencies.