

**Summary Report of the Public Consultation conducted by the
European Commission based on the main issues identified in the
Commission's Communication on the interface between chemical,
product and waste legislation (COM(2018) 32 final)**

4 March 2019

1. Background

In the context of the Circular Economy Package, adopted in January 2018, the European Commission launched an Open Public Consultation (OPC) focused on options to address the interface between chemical, product and waste legislation, which ran from 23 July to 29 October 2018.

The questionnaire was divided in two parts: Part A aimed at gathering information on the company or organisation represented by the respondent; Part B was organised based on the four main issues identified by the European Commission in the Communication¹ and Staff Working Document² on the interface that were published earlier in 2018. The questionnaire identified a number of challenges for each issue and posed questions (both multiple choice and open questions) aimed at collecting detailed information on specific topics.

This Public Consultation received 461 valid responses. 40 ad hoc contributions in the form of position papers were received separately. The replies were sorted and analysed by category of stakeholder. Stakeholders were categorised as follows: Academic or Research Institutes/Educational Institutions (Academia); Non-governmental organisations (NGOs); Governments or public authorities (Governments); Other³; Businesses; and Industry or Trade Associations (Industries and Trade Associations). In addition, categories such as Businesses and Industries and Trade Associations included a versatile profile of respondents (recyclers, manufacturers, importers, etc.).

Disclaimer: The contributions received cannot be regarded as the official position of the Commission and its services and thus do not bind the Commission.

2. Profile of respondents

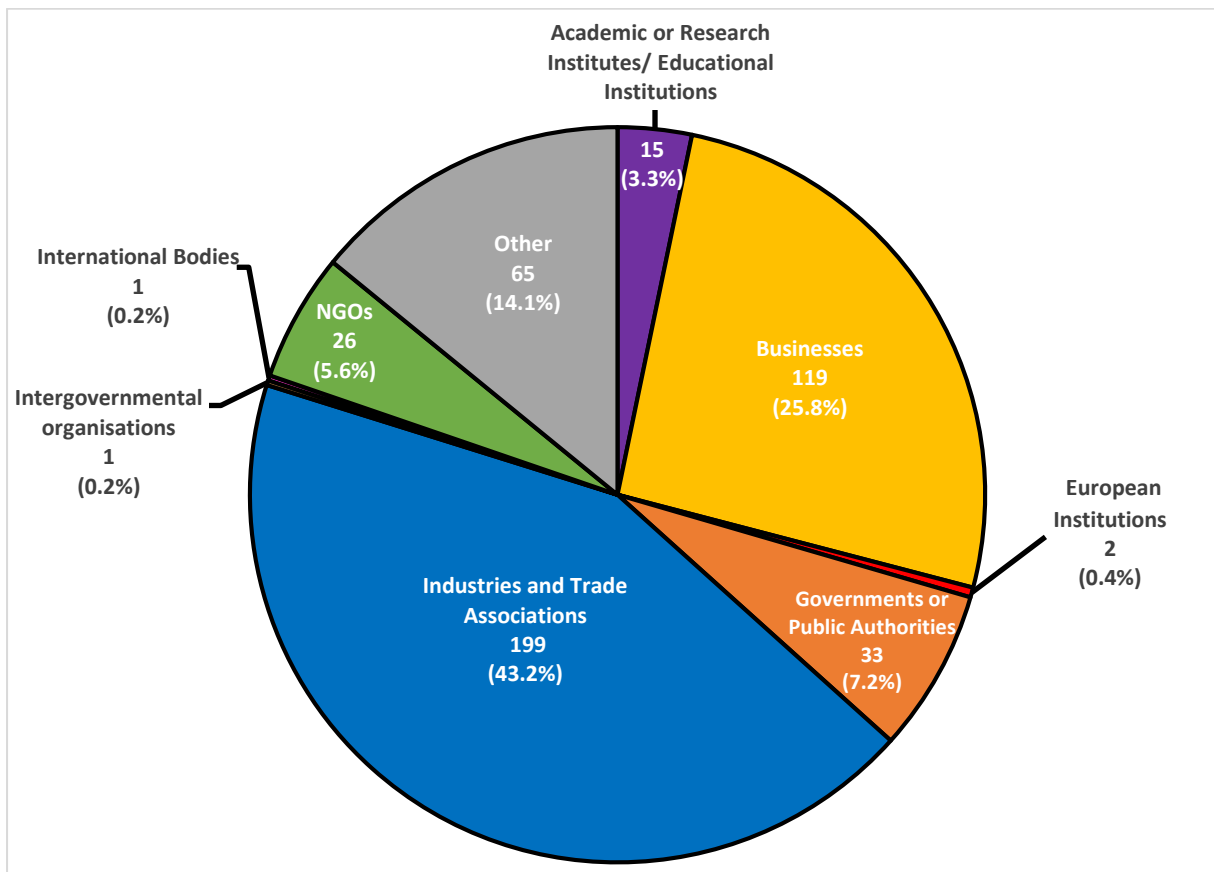
The largest group of respondents was Industries and Trade Associations (43%), followed by Businesses (26%). Together, these two groups accounted for 69% of all contributions, thus

¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1516265440535&uri=COM:2018:32:FIN>

² <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1516265440535&uri=SWD:2018:20:FIN>

³ Other entails respondents without a specific affiliation, e.g. citizens, consultancies, national councils, etc.

having a considerable weighting in the overall results of the OPC. The unspecified contributions were included in the category “Other” and comprised 14% of the respondents. 7% of the respondents represented Governments or Public Authorities, while 6% were coming from NGOs and 3% from Academia. Only one International Body and an Intergovernmental Organisation participated in the survey whereas two respondents represented European Institutions.



From the 28 Member States, Slovenia, Slovak Republic, Romania, Malta, Croatia, Latvia and Cyprus were not mentioned among the countries of origin of the stakeholders. However, nearly 17% of the respondents did not specify the country of activity. Belgium, Germany, France, Italy and Sweden were the most represented countries.

3. Analysis of responses⁴

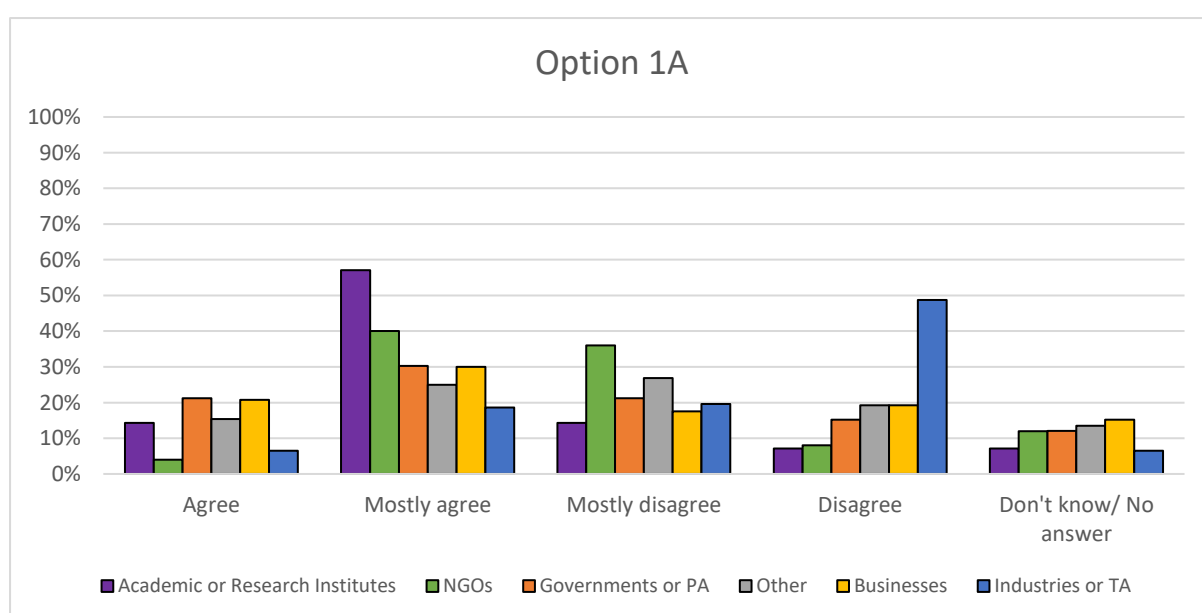
⁴ It is important to note that the data represents the views of those that responded. The respondents are self-selecting and are not a statistical sample of the EU population.

In this section, the responses provided by the different stakeholder groups to the multiple-choice and open questions in the public consultation were analysed, segmented and the results represented in graphical form and text summaries respectively.

Issue #1: Insufficient information about substances of concern in products and waste

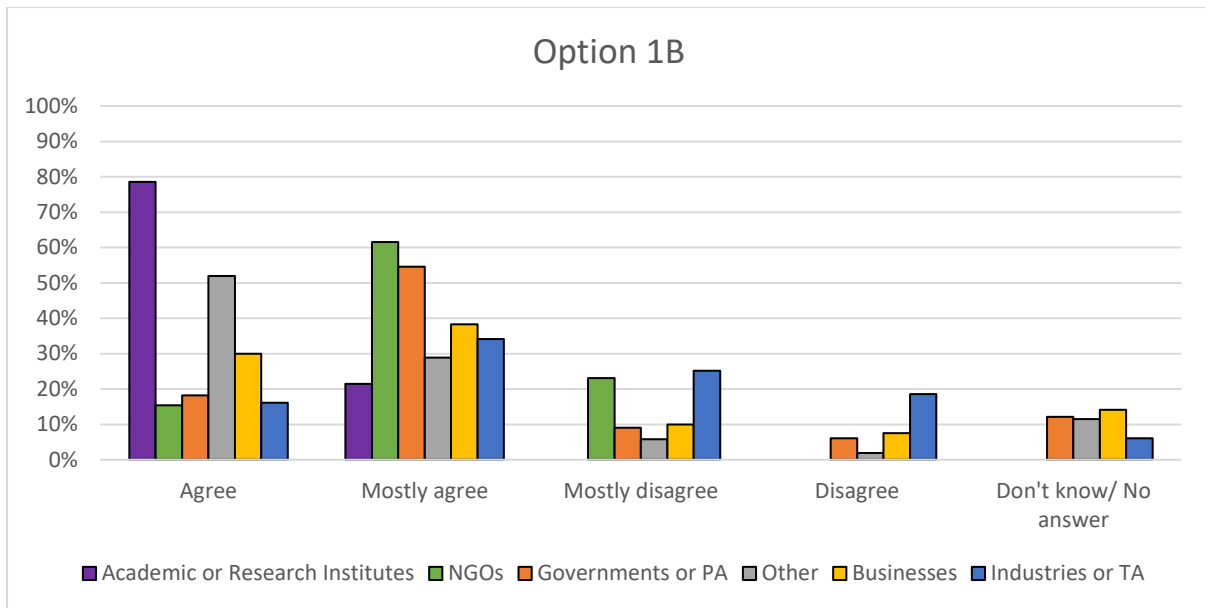
Challenge 1: Defining substances of concern

Option 1A - substances of concern are all substances identified under REACH as substances of very high concern ('candidate list substances') or listed in Annex VI to the CLP Regulation for classification of a chronic effect.



Overall, the views regarding this option are quite evenly distributed, with Industries and Trade Associations showing a clear disagreement and Academia a clear agreement. 71% of respondents coming from Academia supported this proposed definition, together with a slight majority of Governments and Businesses (around 51% and 50% respectively). 68% of Industries and Trade Associations, however, were not in favour of the proposed definition, yet 25% agree with option 1A. NGOs' position was evenly distributed, expressing the exact same level of agreement and disagreement (44%).

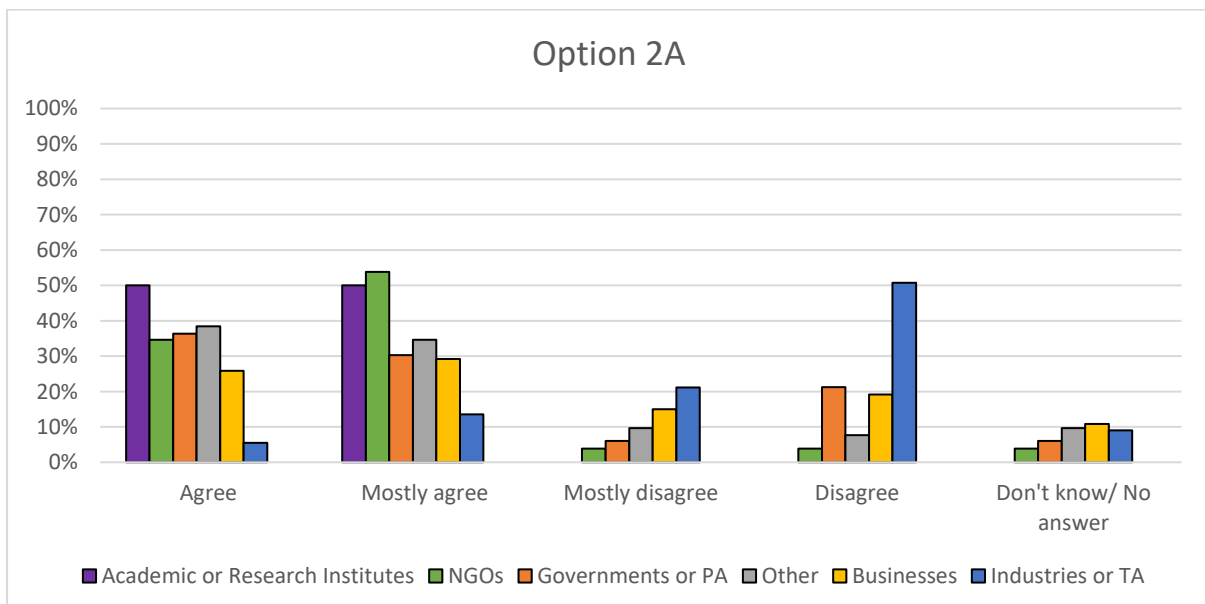
Option 1B - substances of concern are those identified under REACH as substances of very high concern, substances prohibited under the Stockholm Convention (POPs), specific substances restricted in articles listed in Annex XVII to REACH as well as specific substances regulated under specific sectorial/product legislation.



Overall, respondents were positive toward this proposed definition, which seemed to give rise to a greater level of agreement than option 1A. However, while slightly shifting to agreement (50% in favour, 43% not in favour), Industries and Trade Associations’ position did not show a strong trend in favour or against this option.

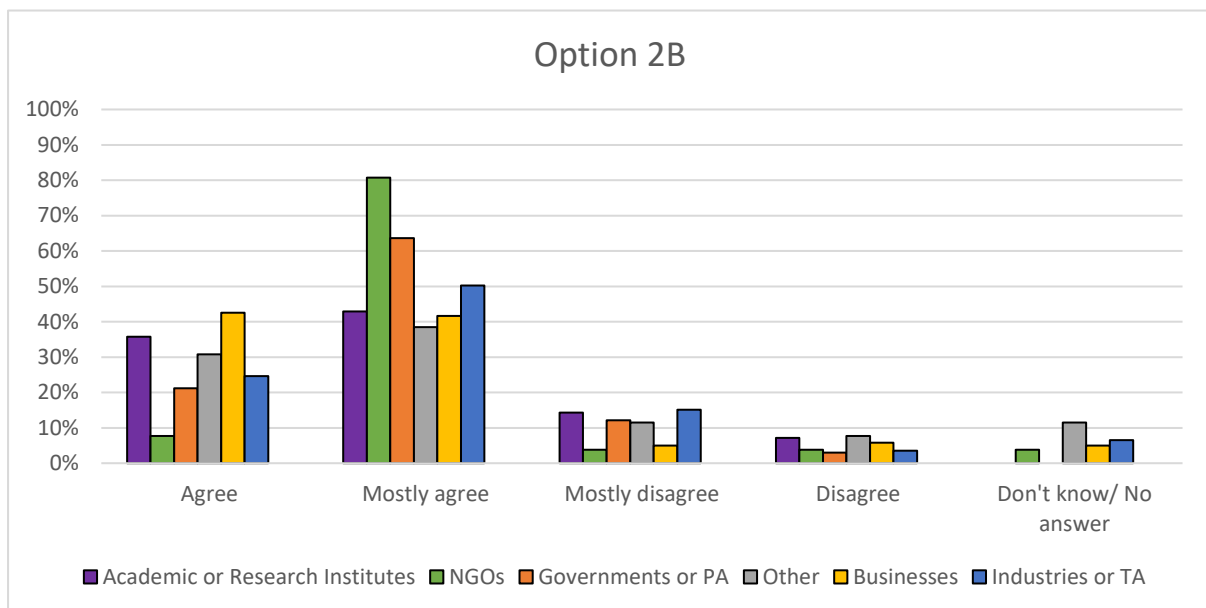
Challenge 2: Tracking substances of concern

Option 2A - all substances of concern should be tracked by a set date.



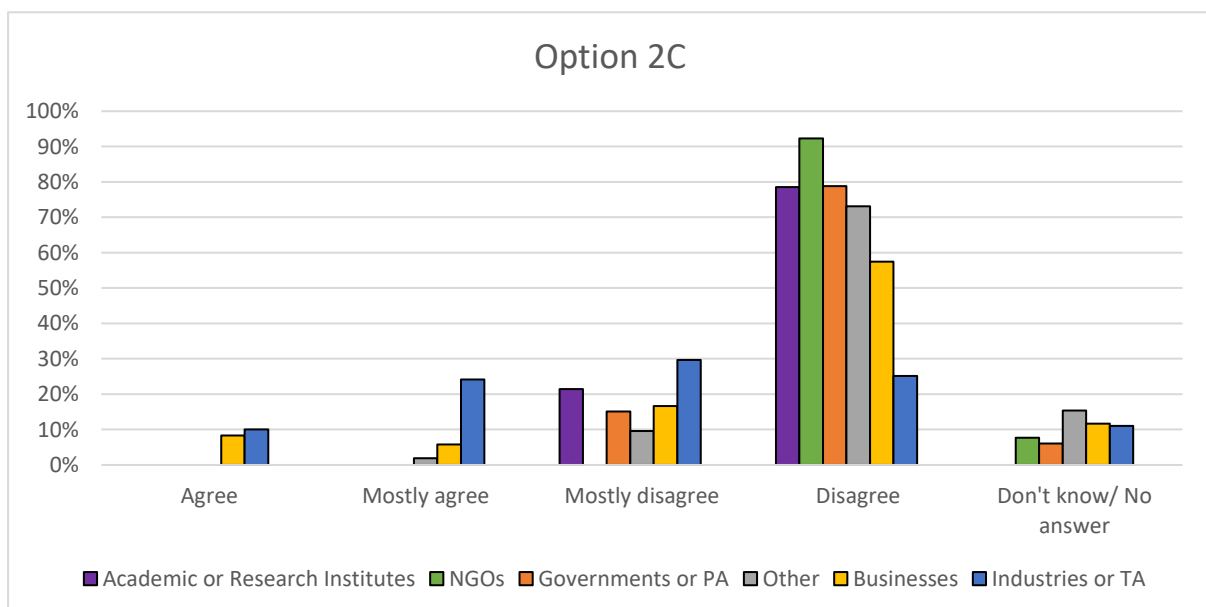
While most of stakeholders strongly supported this option, Industries and Trade Associations significantly disagreed with the establishment of a set date to track all substances of concern, with 72% being against this option.

Option 2B - sector-specific tracking solutions: information on relevant substances of concern should be available to recyclers in a form commensurate to what is required.



The idea of developing a sector-specific approach was supported by around 70% of all stakeholder groups - in particular, NGOs, Governments and Businesses -, each of which expressed over 80% support for this option.

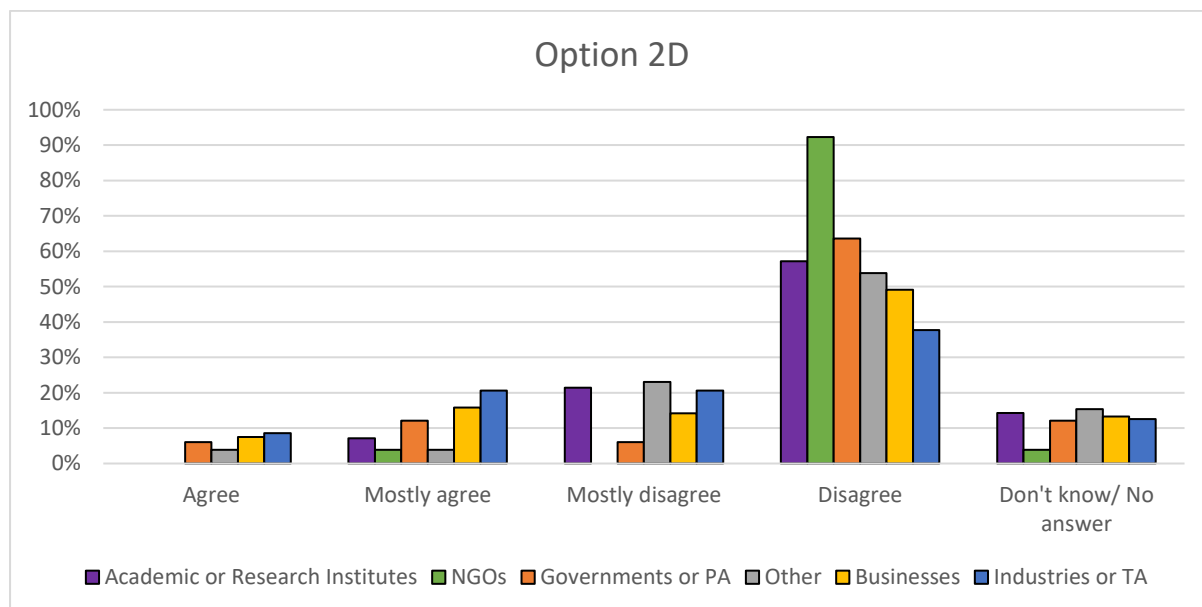
Option 2C - tracking of substances of concern should remain voluntary.



Academia, NGOs, Governments, Other and Businesses declared themselves strongly against the voluntary tracking of substances of concern whereas Industries and Trade Associations'

opinions were more spread. 54% of the contributions coming from this category did not support the option.

Option 2D - tracking of substances of concern is not necessary or suitable because information on chemicals should be obtained directly by analytical means (incoming waste batches, including imported waste, and outgoing recycled or recovered materials).



A rather similar trend to option 2C was observed regarding the responses to this option.

Questions that arise in relation to Issue #1: Insufficient information about substances of concern in products and waste

Question 1.1 - What would be the added value of introducing a compulsory information system in the Union that informs waste management and recovery operators of the presence of substances of concern?

Overall, stakeholders welcomed the development of a compulsory information system, observing that it would be useful to waste operators in identifying which products and waste streams were likely to contain substances of concern, thus supporting effective waste management. There was a general agreement concerning the need to improve the traceability of end-of-life products as well as support for the general objectives of enhancing protection of human health (from both the worker and the consumer perspectives), protection of the environment and the use of cleaner secondary raw materials that are suitable for re-entering production streams.

Moreover, such information systems would support industry with regard to product design, as well as inform the recovery and recycling processes, and would result in a more balanced distribution of the obligation to communicate information on the composition of products among all relevant actors along their lifecycle. Some respondents coming from Businesses and Industries and Trade Associations indicated that the implementation of such information systems could provide the necessary tools to avoid the re-introduction of substances of concern into the productive economy through recycled materials, hence boosting confidence in the recovered and recycled materials.

However, other respondents from a range of stakeholder categories expressed uncertainties regarding the framework for implementation and the real benefits of introducing such a system. They indicated that it would not be useful in the case of mixed waste streams and that it would not take account of accidental contaminations, for which analytical approaches could be the most appropriate. Although a number of respondents recognised the relevance of improved traceability for the waste management sector, they highlighted the importance of performing a feasibility study assessing technical, logistical and economic aspects involved in the setup of such system.

Concerns were also expressed about the risks of double reporting and information overlap due to the legislation already in place. More specifically, Industries and Trade Associations and Businesses referred to the provisions of Article 31 and 33 of Regulation (EC) No 1907/2006 (REACH), which establishes requirements for the provision of Safety Data Sheets and the duty to communicate information on substances of very high concern (SVHCs) in articles, respectively. They also referred to the database on SVHCs in articles that is currently being set up by the European Chemicals Agency in accordance with Directive 2008/98/EC (the Waste Framework Directive), against which the usefulness of other proposals to develop a compulsory information system would have to be assessed. In the context of the risk of duplicating information and the related administrative burden that could arise, it was suggested to first test the efficacy of the database being developed by ECHA before launching any further proposals beyond that database.

The development of sector-specific approaches was highly supported across all stakeholder categories as it was regarded to be effective in addressing the particularities of each value-chain. These positions were justified with reference to certain products already covered by mandatory information systems (*e.g.* Electrical and Electronic Equipment through the Waste

Electrical and Electronic Equipment Directive) and also to the complexity of some products (e.g. vehicles).

Hence, some respondents suggested that additional information tools should only be implemented in sectors where information was clearly lacking. An example of this is the textiles sector where some respondents stated that there is a lack of information and data on substances of concern at the end of life, which translates into difficulties for recycling.

Regarding the concept of “substances of concern”, there was general support for developing a definition that would clarify this concept. According to some respondents coming from Businesses and Industries and Trade Associations, the definition should be built on a risk-based approach, should set concentration thresholds and should not be linked to the concept of substitution. On the other hand, a small number of respondents raised concerns about the proposed term "substances of concern", which was likely to create confusion with the terminology already used in different EU legislative instruments. Some examples included the similarity of this wording when compared with "substances of very high concern" in REACH and, even, regarding the Plant Protection Products Regulation⁵, which already uses a definition for "substances of concern" that is grounded in different concepts.

Question 1.2 - How should we manage goods imported to the Union?

There is strong support for the option to subject imported products to the same rules applied to those produced within the EU. This support was justified by both the need to protect human health and the environment and also to ensure that EU producers are not at a competitive disadvantage vis-à-vis non-EU producers.

Stakeholders emphasised the importance of improving enforcement, mainly at customs level, to ensure the compliance of the imported products. Respondents from Academia advocated for the verification of imported products by an independent non-industry entity.

Industries and Trade Associations, Businesses and NGOs drew attention to the risk that growth in the *e-commerce sector* may lead to an increase in the import of substances of concern in products and called for legal measures to ensure their appropriate control.

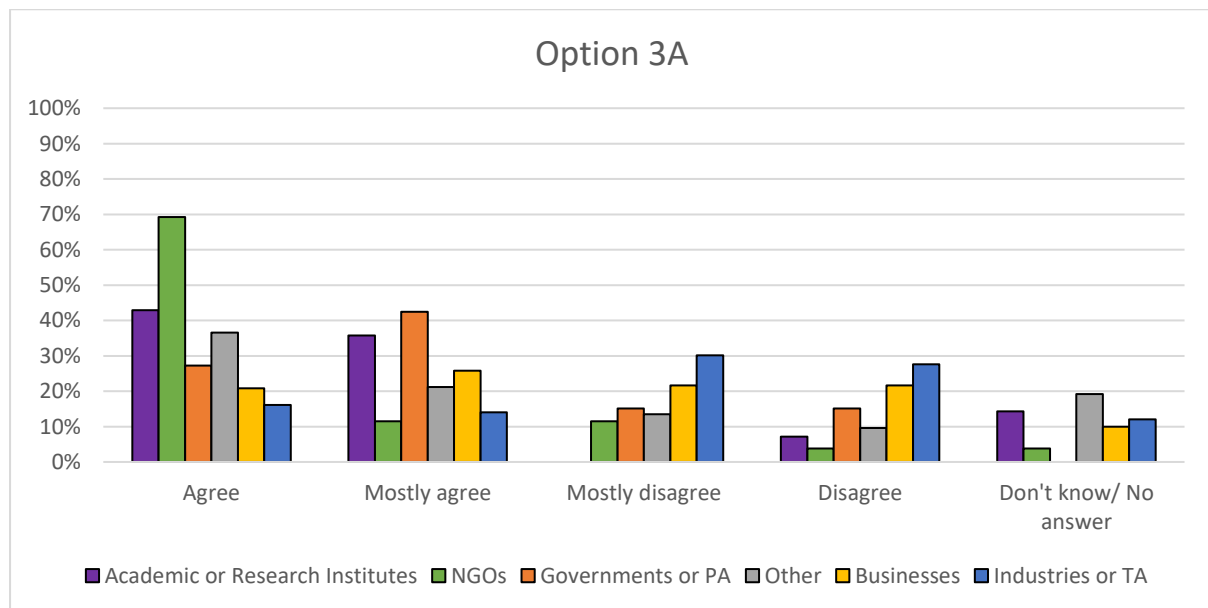
⁵ Regulation (EC) No 1107/2009 concerning the placing of plant protection products on the market.

The timely use of restrictions on the presence of SVHCs in articles to complement their introduction in Annex XIV to REACH was also welcomed by all stakeholders, in particular by NGOs, who almost fully supported this approach. It is also suggested to extend the scope of restrictions to substances of concern exported to non-EU countries in order to both support the protection of human health and the environment and also as a way to prevent the re-entry into the EU market of secondary raw materials containing such materials.

Issue #2: Substances of concern in recycled materials

Challenge 3: Level playing field between secondary and primary material

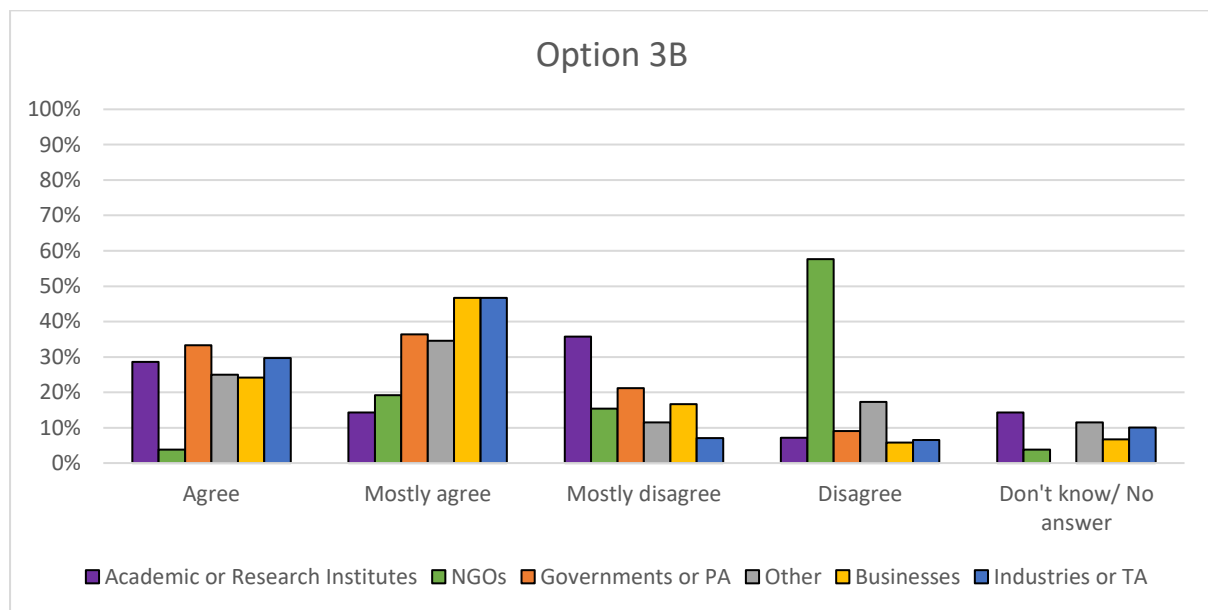
Option 3A: all primary and secondary raw materials should be subject to the same rules. For example, under REACH, restrictions and authorisation conditions imposed on primary substances should apply equally to recovered materials. Materials not meeting such requirements cannot be recycled and can only be destined to energy recovery, final disposal or to destructive chemical recycling (feedstock recycling).



Businesses expressed a rather mixed opinion, while 58% of Industries and Trade Associations manifested a slight disagreement. Around 80% of NGOs and Academia were inclined to support the application of the same rules to primary and secondary raw materials. 70% and 58% in the respective categories of Governments and Other also agreed.

Option 3B: derogations from rules on primary materials could be made for secondary materials, subject to conditions and to review within a defined time period. Such decisions

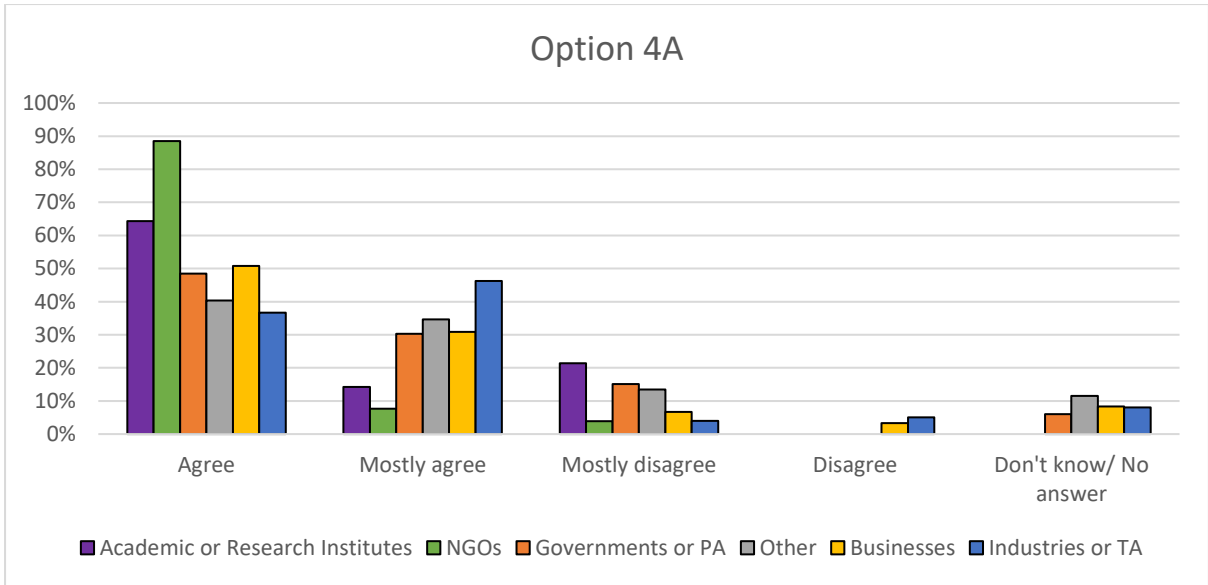
should be substance-specific and based on overall costs and benefits to society according to an agreed methodology. The methodology should include considerations of risk, socioeconomic factors and overall environmental outcome based on the whole life cycle of the material. In some cases, a careful analysis will have to be made, for example, on the trade-off between allowing the repair of equipment with spare parts containing substances of concern versus early decommissioning or obsolescence of that equipment.



Contrary to the rather spread views regarding option 3A, this option was supported by about 70% of Governments and Businesses and 76% of Industries and Trade Associations. NGOs, however, indicated a 73% level of disagreement.

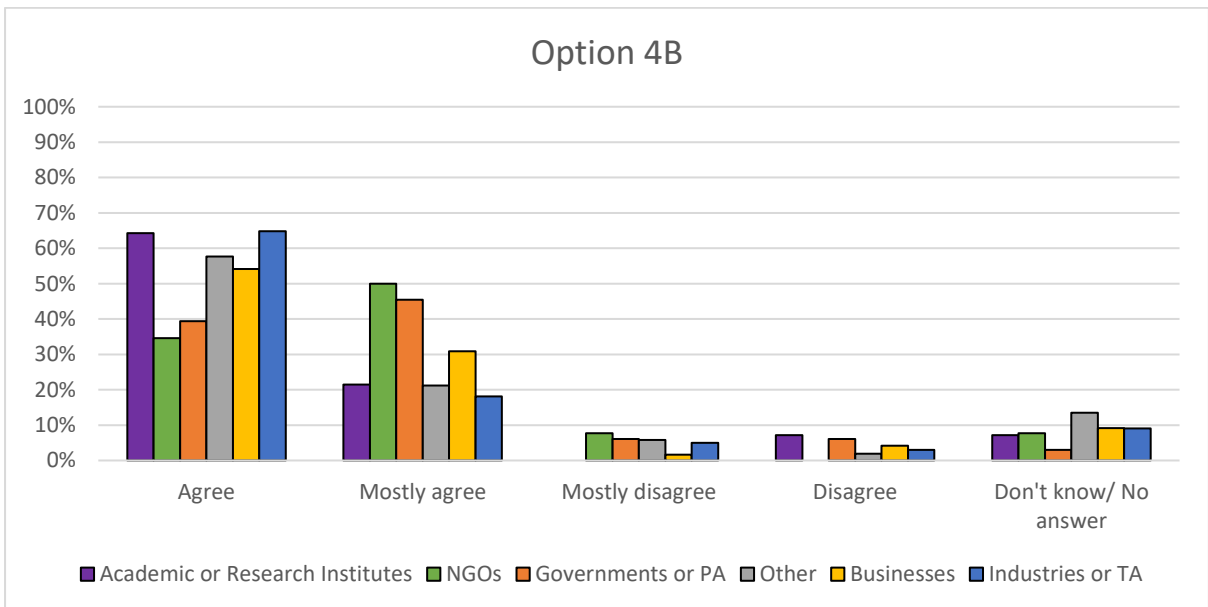
Challenge 4: Level playing field between EU-produced and imported articles

Option 4A: In the case of REACH, the restriction procedure is the only means to address differences in treatment between imported articles and EU-produced articles. Therefore, we propose to promote the timely use of the restriction procedure under REACH and other product legislation so that EU-produced and imported products are subject to the same rules.



A strong positive trend was generally observed among stakeholders. More specifically, nearly all contributors coming from NGOs manifested their support together with over 80% of Governments, Businesses and Industries and Trade Associations.

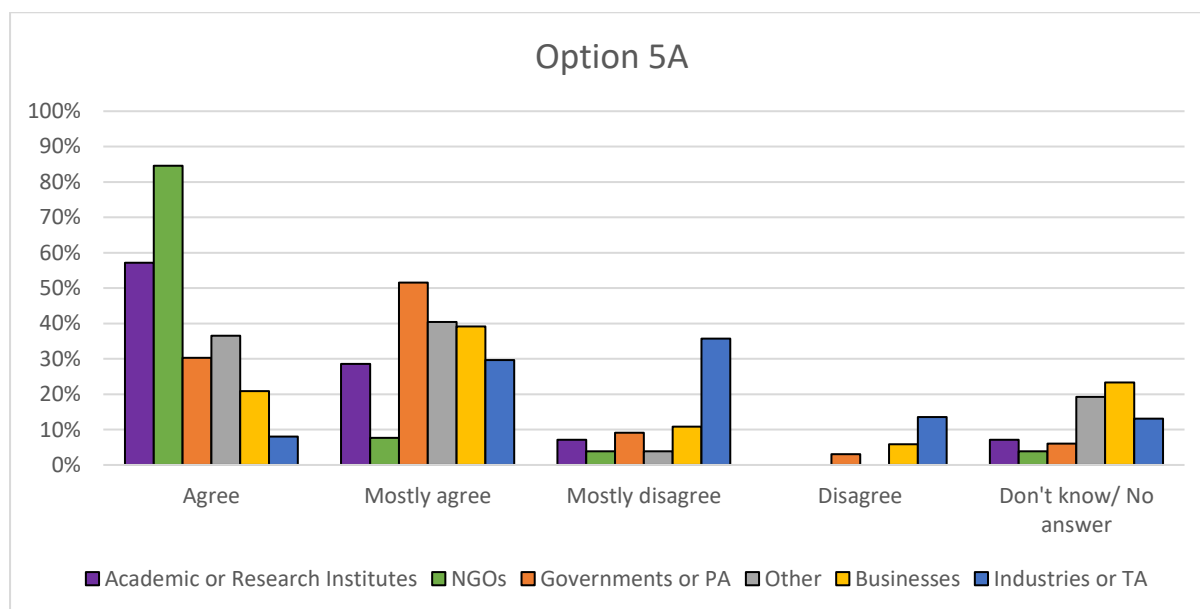
Option 4B: The enhanced enforcement of existing legislation to prevent the entry of non-compliant products into the EU is necessary, not only to protect human health and the environment, but also to contribute to the availability of high quality material for recycling. Therefore, we propose to promote the enhanced enforcement of chemicals and product legislation at EU borders.



Again, each stakeholder group expressed over 80% support for this option.

Challenge 5: Design for circularity

Option 5A: use of the Ecodesign Directive, or of other dedicated product specific legislation as appropriate (for example, WEEE or ROHS), to introduce requirements for substances of concern with the purpose of enabling recovery.⁶

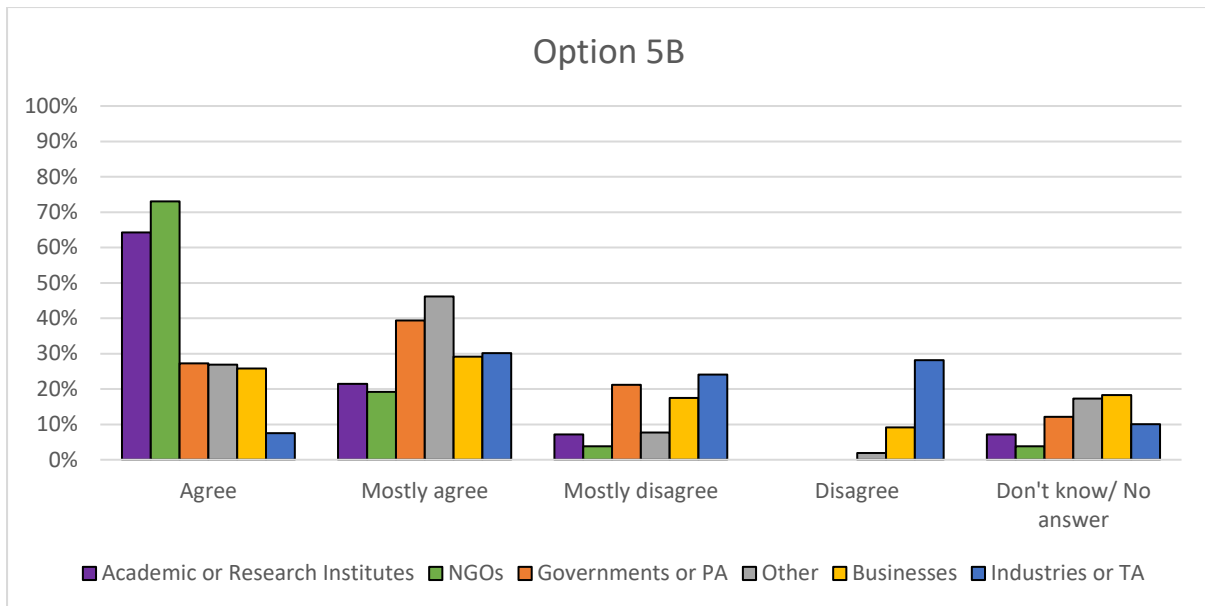


Industries and Trade Associations indicated some level of disagreement whereas Academia, Governments, Other and NGOs generally agree, with above 90% of NGOs strongly agreeing.

Option 5B: make use of the extended producer responsibility requirements under the Waste Framework Directive to promote the circular design of products.⁷

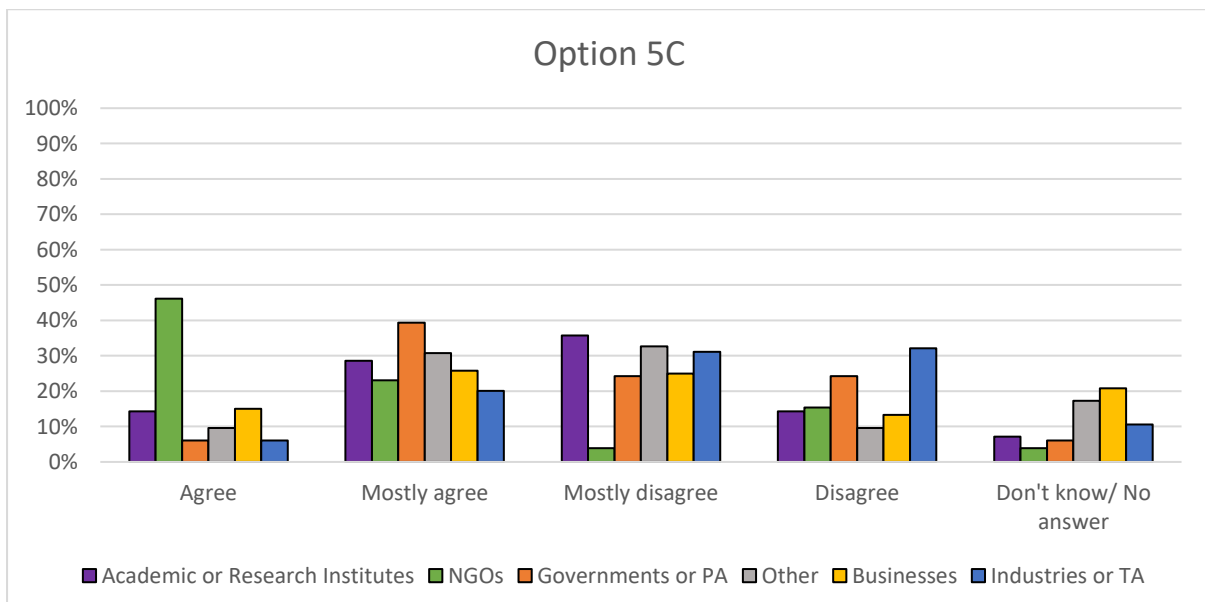
⁶ Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products (Text with EEA relevance)

⁷ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (Text with EEA relevance)



The graphic shows that 92% of NGOs and 85% of Academia agreed with this option. 66% of Governments also expressed their support for this option. Over half of Businesses were in favour of this option, while in the case of Industries and Trade Associations the views were quite evenly spread.

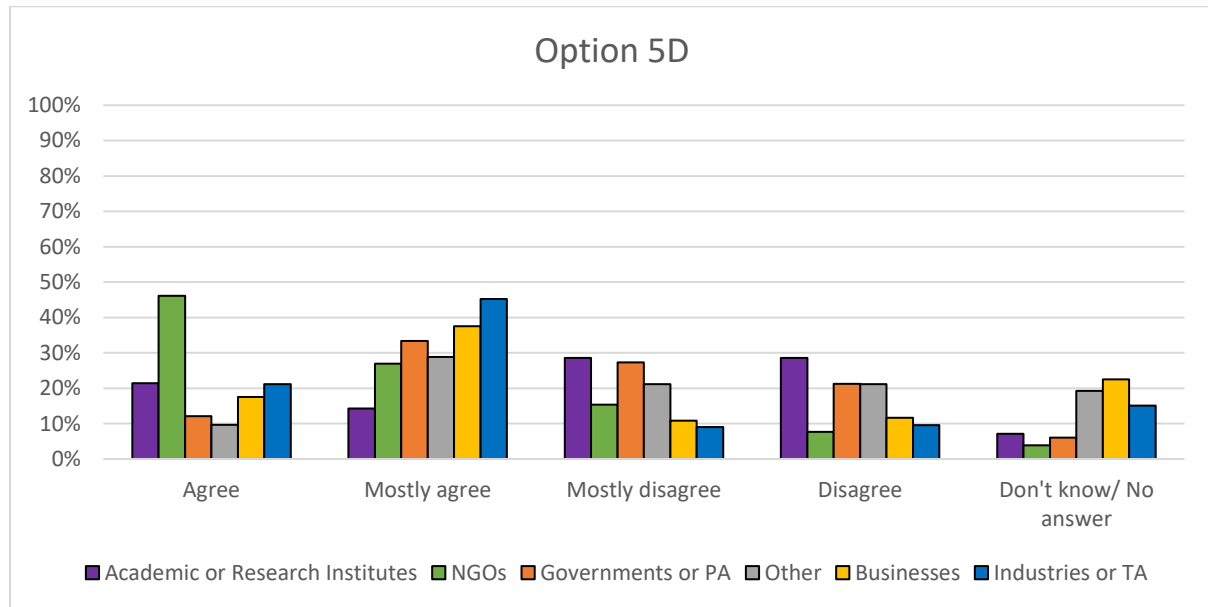
Option 5C: make use of voluntary methods of environmental performance certification (e.g. national or EU Ecolabel or green public procurement) to introduce rules for substances of concern.



From the responses received, it appears that NGOs supported this option (with 69%). In contrast, a significant part of the Industries and Trade Associations stakeholder group disagreed. For the rest of stakeholders no clear trend was observed. It is important to note,

however, that a significant number of participants did not provide an answer, namely the ones coming from Businesses (21%), Other (17%) and Industries and Trade Associations (10%).

Option 5D: make use of voluntary approaches such as value chain platforms for exchange of good practice in the substitution of materials in the design phase.



A slight majority of respondents saw value in option 5D. Around 54% Business, 72% of the NGOs and 66% of the Industries and Trade Associations agreed with this option. By contrast, Academia shifted to disagreement (around 56% disagree). The Governments' responses were evenly spread: 45% agree and 48% disagree.

Questions that arise in relation to Issue #2: Substances of concern in recycled materials

Question 2.1 - How can one reconcile the idea that waste is a resource that should be recycled and, at the same time, ensure that waste that contains substances of concern is only recovered into materials, which can be safely used? How do we strike the balance?

Stakeholders raised concerns regarding the issue of legacy substances. Industries and Trade Associations and Businesses supported the use of waste streams containing legacy substances only when a safe use of the recovered material can be guaranteed. Recycling Industries and Trade Associations, as part of the category of Industries and Trade Associations, raised concerns about the costs associated to the recycling of products that contain legacy substances and the obstacles involved. Furthermore, Businesses advocated for a

precautionary approach to avoid the reintroduction of legacy substances in recycling by properly identifying and removing substances of concern at an early stage.

Some NGOs proposed that the EU should adopt ambitious measures to avoid recycling legacy substances, to phase out substances of concern and to include product design principles in support of the circular economy. NGOs stated the importance of producer responsibility and added the idea that companies that produce products containing legacy substances should be economically responsible for the future decontamination of such products, based on the polluter pays principle.

Regarding how legislation should apply to primary and secondary raw materials, NGOs were of the opinion that both should be subject to the same requirements. Moreover, this stakeholder group stated the necessity to include more circular economy aspects in instruments such as the Ecodesign Directive and proposed that eco-design approaches should include traceability requirements to enable the removal of substances of concern in the waste phase (as further described in the detailed responses to Issue #1).

Some Businesses supported the use of different standards for primary and secondary materials so as not to jeopardise the viability of recycling activities. By contrast, in the same stakeholder group, it was argued that the use of the same rules for primary and secondary materials would facilitate compliance with specific product legislation such as RoHS and the Ecodesign Directive. Businesses also advocated for better enforcement of compliance for primary and secondary raw materials with requirements in REACH and CLP in order to ensure safety.

Question 2.2. Should recycled materials be allowed to contain chemicals that are no longer permitted in primary materials? If so, under what conditions?

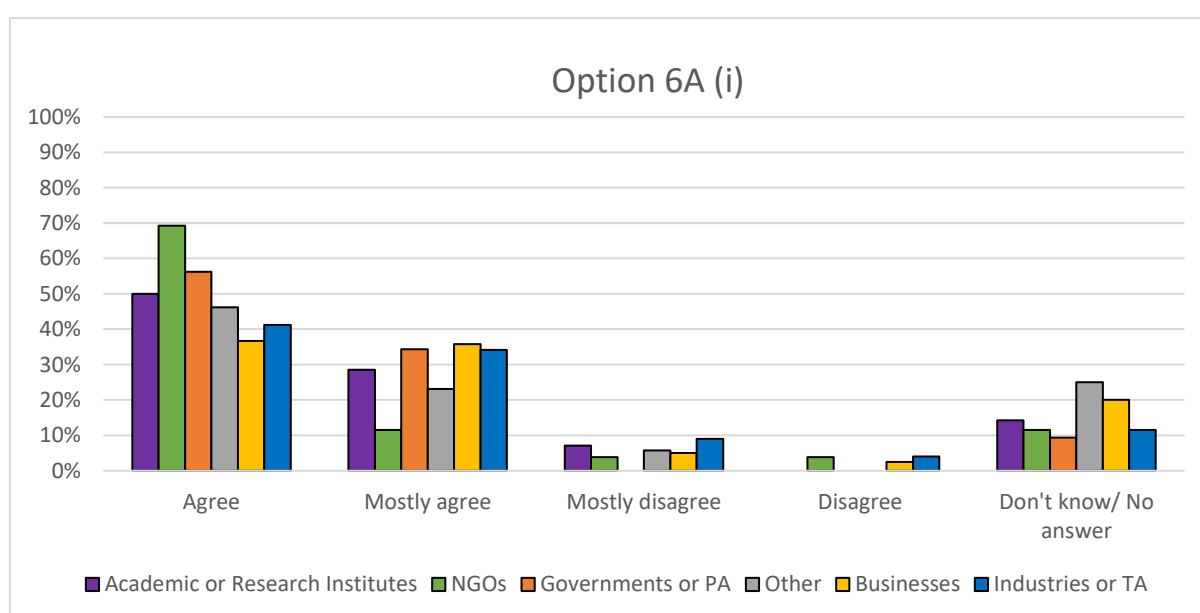
NGOs and individual citizens contained in the category “Other” were of the opinion that recycled materials should not contain substances of concern. According to these groups, derogations for these materials should be avoided and uses must be restricted to those carried out under stringent safety requirements.

Industries and Trade Associations considered that recovered materials should be allowed to contain legacy substances and emphasised the idea of carrying out risk assessments on a case-by-case basis. This stakeholder group suggested another option, where the safety of the product could be confirmed by traceability certifications.

Businesses stated that legacy substances were already regulated in specific pieces of legislation, such as that dealing with Persistent Organic Pollutants (POPs) and RoHS, and decisions in this sense should be undertaken under those existing frames.

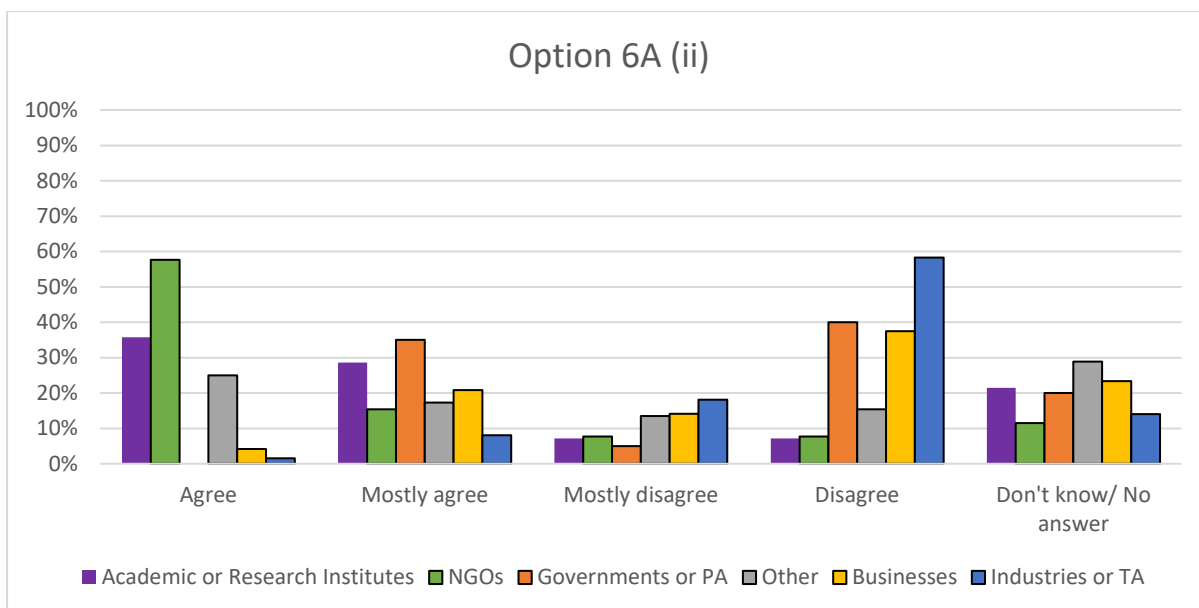
Challenge 6: Improving certainty in the implementation of end-of-waste provisions

Option 6A (i): stepping up work on the development of EU end-of-waste criteria. This would ensure that more waste streams are covered by clear EU-wide rules specifying which conditions need to be met to exit the waste regime and introducing support measures that would enable Member States to check compliance by recyclers with the exemption from REACH.



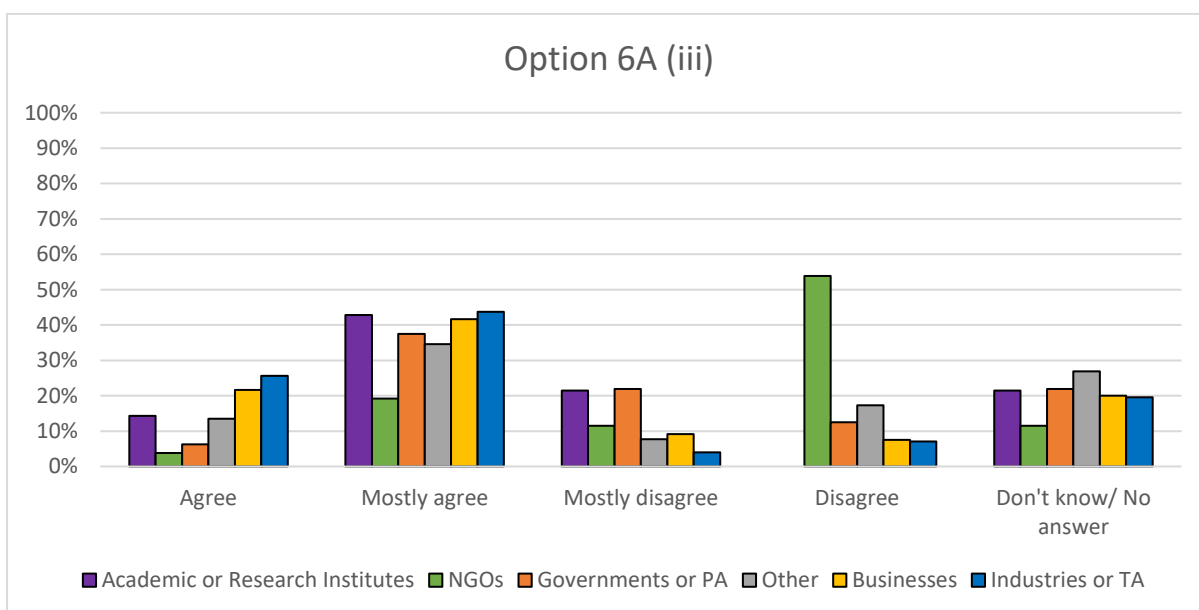
Overall, a majority of stakeholders were in favour of this option. It is to be noted that between 9% and 25% of each stakeholder group did not provide an answer.

Option 6A (ii): removing the registration exemption for recovered substances provided in REACH thus requiring that all recovered substances should be registered under REACH and thereby achieve end-of-waste status.



NGOs were in favour of this option (above 70% support), whereas many Business and Industries and Trade Associations disagreed. Governments' results did not reflect a clear trend although they seemed to slightly lean towards disagreement.

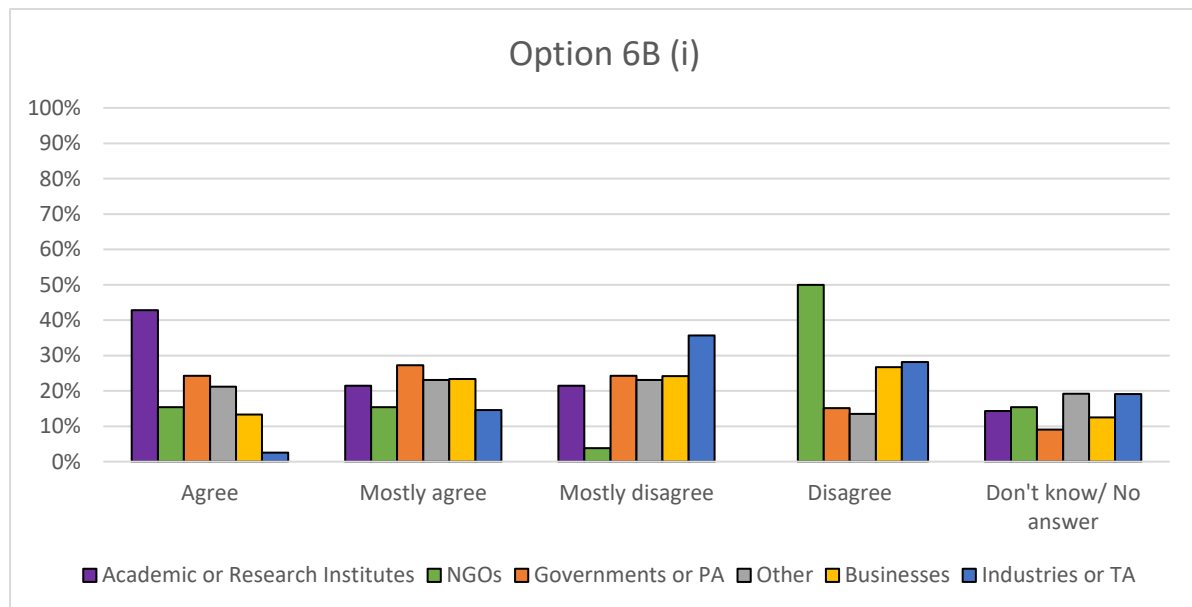
Option 6A (iii): where other specific product legislation provides conditions that ensure the safe placing on the market of a substance or mixture, it is proposed to recognise these conditions to be end-of-waste criteria and, where justified, introduce a specific exemption from REACH registration.



NGOs expressed their disagreement with this option (around 64%), whereas Industries and Trade Associations as well as Business agreed (62% and 68% respectively). Above half of Academia followed the same trend (56%).

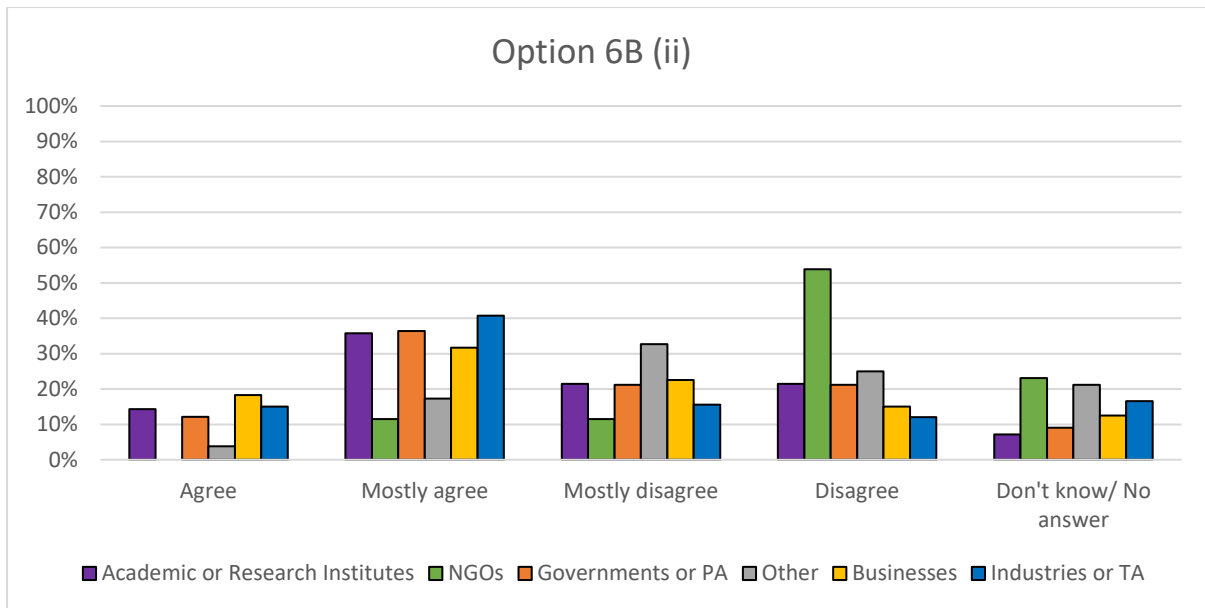
Option 6B: take measures to ensure more consistency of practices at Member State level. Indicate which of the following approaches would best achieve this purpose:

Option 6B (i): End-of-waste status can only be achieved as a result of an ex-ante decision by a Member State competent authority (i.e. permit).



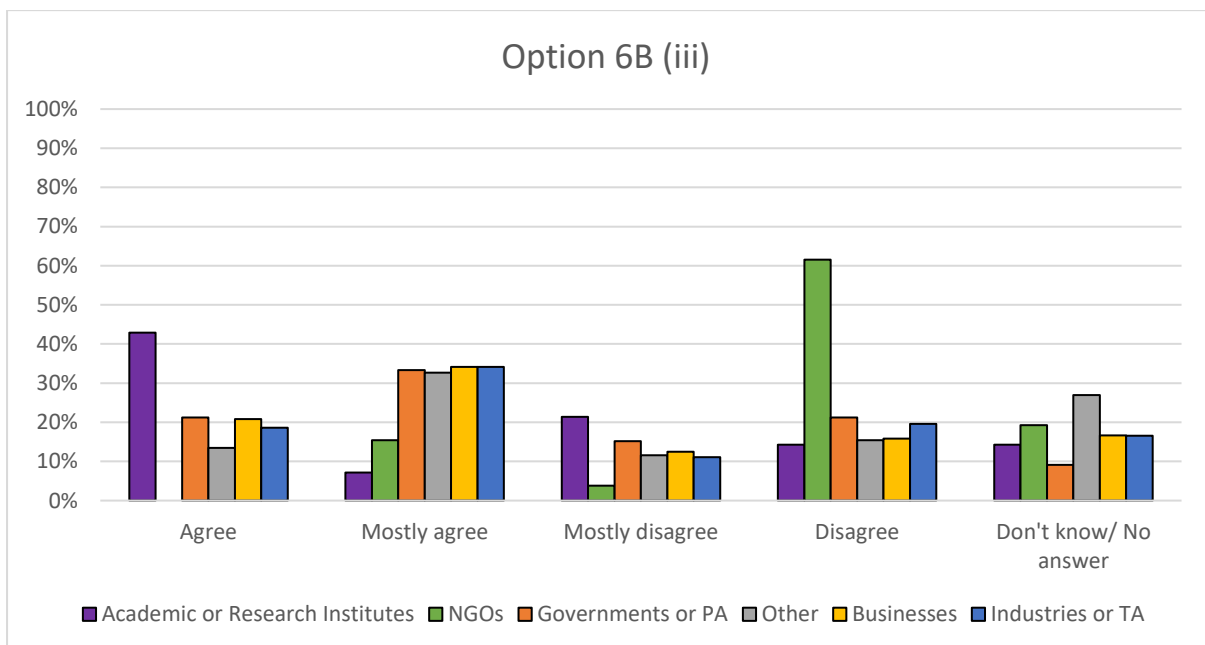
NGOs and Industries and Trade Associations adopted a position of disagreement (75% and above 60%). Academia clearly supported this option (63%). Between 9% and 19% of each stakeholder group did not respond.

Option 6B (ii): A recovery operator can make his own assessment of whether end-of-waste status is achieved. This assessment is subject to an ex-post verification regime by competent authorities



The graph shows that NGOs disagreed with this option (64% of the respondents). On the contrary, Industries and Trade Associations adopted a position of agreement with 55% support.

Option 6B (iii): A combination of these approaches, e.g. distinguishing on the basis of the nature of specific waste streams.



Overall, it could be seen that Governments, Other, Businesses and Industries and Trade Associations were in favour of this option. By contrast, NGOs disagreed with this option (above 60% disagreed).

Questions that arise in relation to Issue #3: how and for which waste streams (and related to which uses of the recovered material) should the Commission facilitate more harmonisation of end-of-waste rules to improve legal certainty?

The majority of stakeholders expressed their concerns regarding the different interpretations between Member States generated by the lack of harmonisation on end-of-waste rules across the EU. While stakeholder groups generally supported the development of EU end-of-waste criteria, a number of industry associations noted with caution that there has been a low take-up of existing EU end-of-waste criteria and that material-specific streams cannot be regulated by a one-size-fits-all approach. Harmonised European implementation and comprehensive enforcement was also mentioned as a priority with actions ensuring more consistency of practices at Member State level.

The general criteria proposed by the respondents to define which waste streams should be prioritised included the volume of waste produced and the presence of strategic materials. Moreover, priority could be given to waste streams that have the potential to be exported between Member States, as well as to waste that contains critical raw materials which the EU needs to import from third countries. According to Industries and Trade Associations, the end-of-waste process could be simplified for waste streams not containing hazardous substances and for waste whose composition is well known for optimal recycling. Businesses and Governments claimed that the Commission should define standardised procedures, which would be the basis for the definition of end-of-waste criteria by a Member State for specific types of waste.

As to specific waste streams to prioritise, plastics were most commonly mentioned. It was suggested that EU end-of-waste criteria for plastics should be considered to obtain useful polymers and other useful materials for recycling into new products in compliance with the relevant restrictions and authorisations under REACH. Industries and Trade Associations suggested for the Commission to provide end-of-waste guidelines for each plastic waste stream and output material which clarifies the point at which the end of waste status takes effect for the different processing processes. Other specific waste streams that were proposed for consideration at EU level include those from construction, mainly due to the high volume of waste generated, and electronic sector, giving the high environmental impact of these products when disposed of and their possibility of being recovered. Furthermore, the

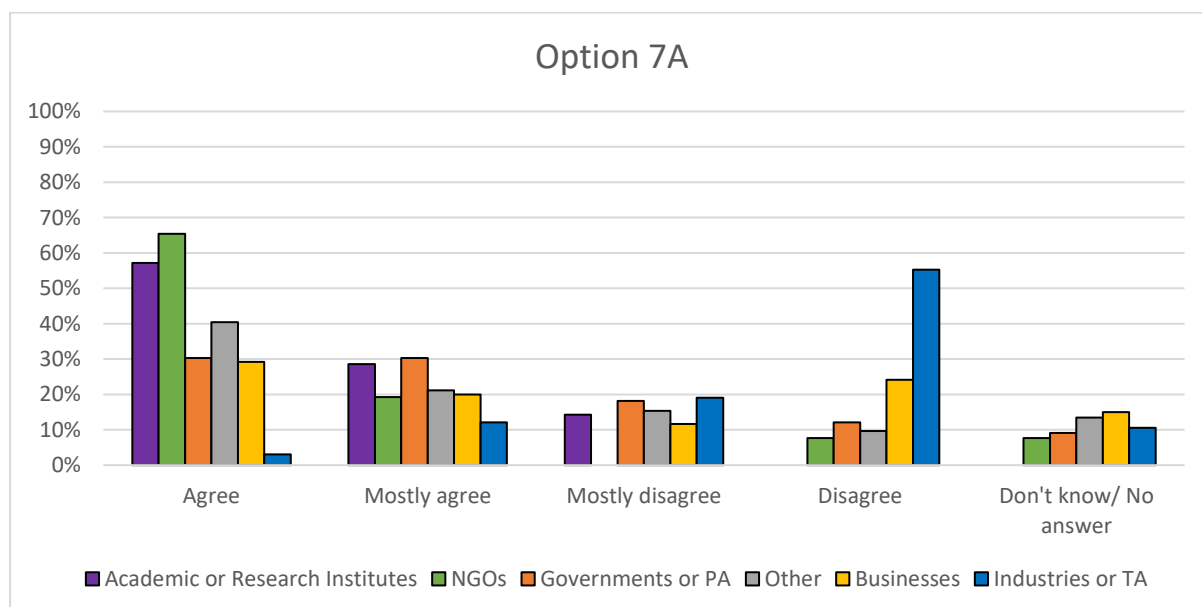
following waste streams were also mentioned: metals other than those covered by EU end-of-waste criteria, textiles, tyres, paper, biodegradable waste, including food waste, sewage sludge, slag and ash from biomass combustion.

NGOs supported the option that recovered materials should reach the end of waste status through REACH registration of the recovered substances, whereas Industries and Trade Associations highlighted that the removal of the REACH registration exemptions for recovered substances was not a viable solution as it would create additional administrative burden for recyclers. In addition, Businesses advocated for the inclusion of obligations and/or exemptions under REACH to facilitate recycling of waste, resulting in safe materials and products similar to the virgin products.

Issue #4: Difficulties in the application of EU waste classification methodologies and impacts on the recyclability of materials (secondary raw materials)

Challenge 7: Approximating the rules for classification of chemicals and waste.

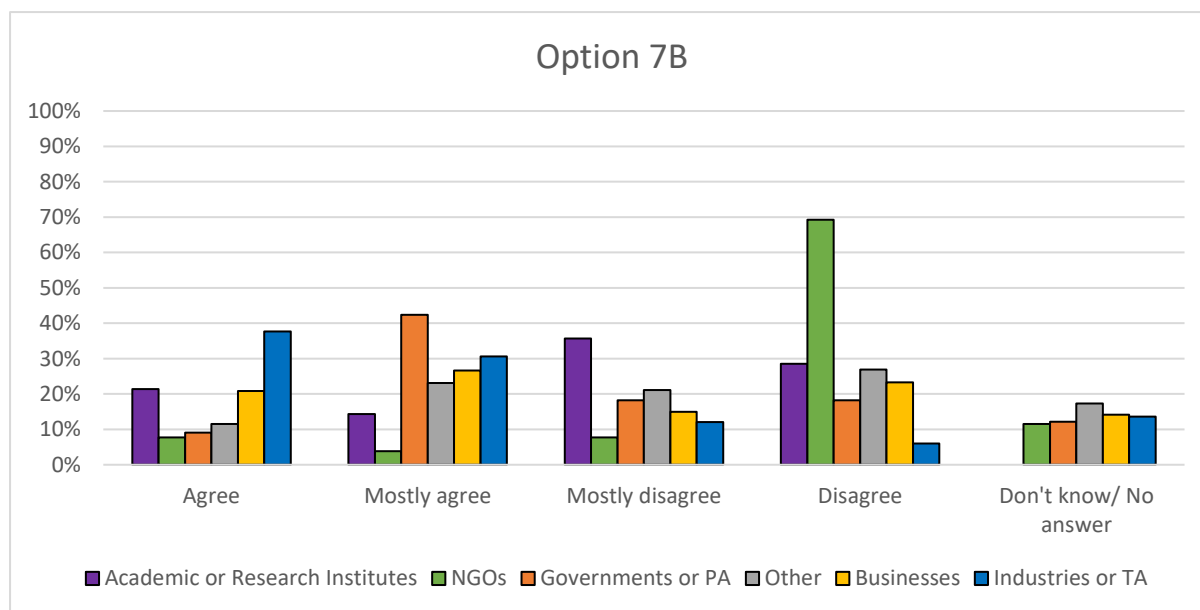
Option 7A: the rules for classifying waste as hazardous or non-hazardous in Annex III of the Waste Framework Directive should be fully aligned with those for the classification of substances and mixtures under CLP. This should enable a smooth transition and placing on the market of secondary raw materials in full knowledge of their intrinsic properties.



The results showed that NGOs (above 80%), Academia (86%), Government (61%) and “Others” (60%) clearly supported this option. Businesses showed an opinion which was more

spread, although still somewhat favourable to this option whereas Industries and Trade Associations clearly disagreed with this approach.

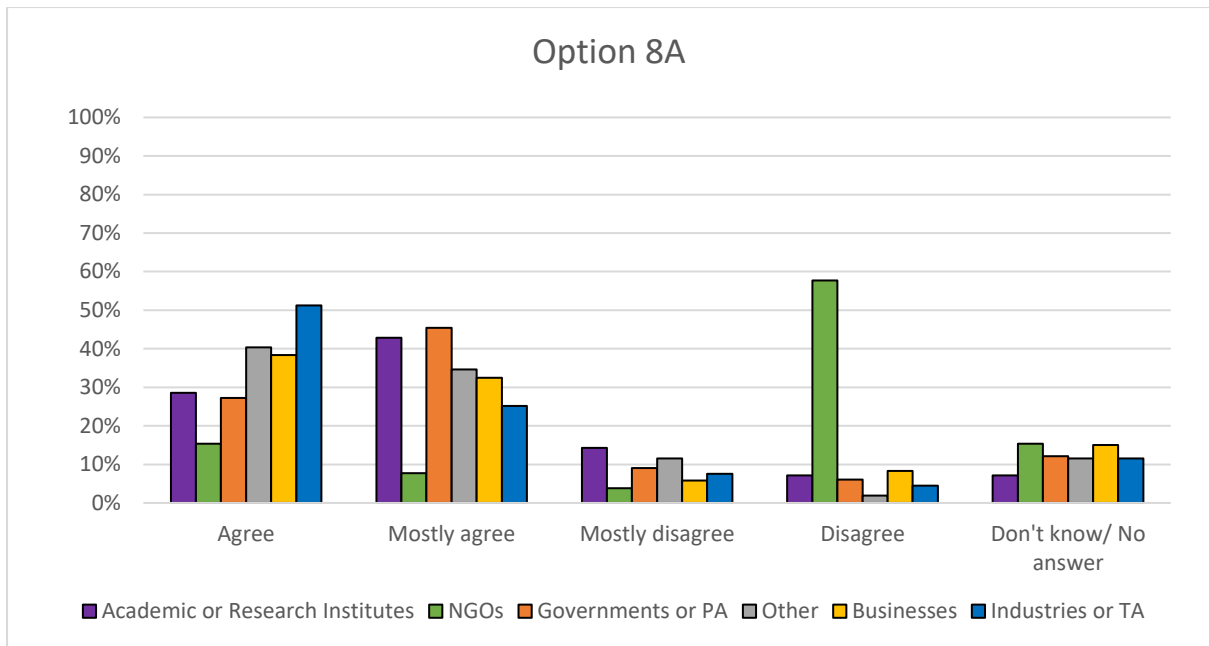
Option 7B: hazardousness of waste should be inspired by the classification of substances and mixtures under CLP, but not fully aligned with it. Specific considerations of each waste stream and its management may allow wastes to be considered as non-hazardous even if the recovered material will be hazardous when placed on the market as secondary raw material.



NGOs indicated they strongly disagreed with this option (above 70%). Academia showed a disagreement of 64%, yet 35% of this stakeholder group agreed with this option. By contrast, Industries and Trade Associations clearly supported this option while businesses had a spread opinion indicating a preference with 68% supporting this option. 51% of Governments agreed with this option whereas almost 12% of this group did not provide an answer and 36% disagree with option 7b, which is contradictory with the support expressed by this same stakeholder group for the opposite option 7A.

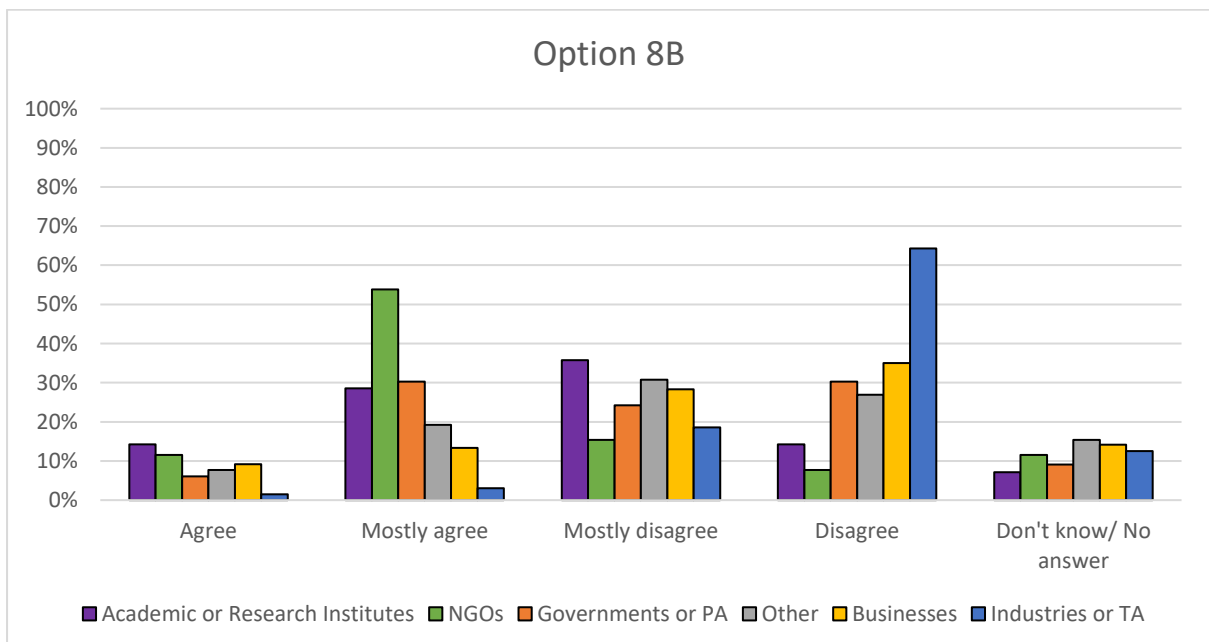
Challenge 8: Classifying waste taking into account the form in which it is generated.

Option 8A: once the rules have been established under CLP, waste classification should also consider the form in which it is produced, taking account of the bioavailability/bio accessibility of the substances contained in the waste, subject to reliable scientific information to support claims for reduced hazard classification.



Overall, the graphs show a clear trend towards support for this option, especially by the Industries and Trade Associations (76% agree). On the contrary, NGOs manifested a clear disagreement (around 60%).

Option 8B: Under Annex III of the Waste Framework Directive, waste should be classified exclusively based on the concentration of hazardous substances it contains, without further consideration of bioavailability or bio accessibility.



The results indicate that NGOs were in favour of this option (around 65%), whereas Industries and Trade Associations shifted towards disagreement (83%). Over a half of Governments and Academia disagreed (54 % and 50%).

Questions that arise in relation to Issue #4: Are there any other points that you wish to make regarding the application of waste classification rules in the context of the interface between chemicals, products and waste legislation?

Although a few respondents from Industries and Trade Associations supported alignment of the rules for classification of waste under the Waste Framework Directive (WFD) and those for substances/mixtures under CLP, most Industries and Trade Associations considered this to be profoundly unworkable.

Industries and Trade Associations called for harmonised waste classification as well as for better enforcement and implementation of rules governing this matter at EU level. It was considered that this would avoid conflicting approaches by Member States in classifying waste as well as in defining end-of-waste criteria. In the same line, Governments supported a clear regulation on classification of waste, to avoid compliance issues.

Certain stakeholders from Businesses and Industries and Trade Associations presented the argument that CLP is hazard-based and not risk-based. Some expressed the need for classification using a risk-based approach for chemicals, products and also for waste. It was argued that the full alignment of rules was not needed due to the distinction between product and waste phase. Some respondents within the same group were of the opposite opinion.

Stakeholders from Businesses had divergent views on the practicality of alignment between the rules for classification of waste under the WFD and those for substances/mixtures under CLP. Some businesses considered that a full alignment would endanger recovery of waste and the circular economy as a whole. In their view, a full alignment of the waste classification rules with CLP would result in more waste streams being classified as hazardous leading to increased cost and administrative burden as transport permits for hazardous waste as well as processing by hazardous waste operators would be required.

In the public consultation, NGOs, Academia, Businesses and Industries and Trade Associations made comments about the European List of Waste. According to some

stakeholders, an update of the List of Waste is needed. NGOs considered that there should be stricter classification processes which would include nanomaterials.

The use of bioavailability as an element to be considered in hazard classification of waste raised different opinions and concerns among the stakeholders. Academia considered that the methodology for evaluation of bioavailability would require harmonisation and development at European level. Stakeholders from Industries and Trade Associations expressed that bioavailability of substances of concern was relevant for waste classification and stated the difficulties to assess the chemical composition of waste.

Few Businesses considered that information on bioavailability should focus on those cases where this could lead to avoiding hazard classification under CLP. As opposed to this opinion, a part of Businesses questioned the benefit of including bioavailability, mainly due to the lack of harmonisation. Governments shared the same concerns as Businesses on harmonisation and considered that it could entail implementation challenges: waste is heterogeneous and a clear methodology and criteria have first to be developed and proven scientifically. Businesses suggested the inclusion of exposure parameters.

NGOs did not support the use of bioavailability criteria for classification, mainly due to the change over time in bioavailability, which could be observed, for instance, in heavy metals. It was suggested by NGOs that other properties, namely bioaccumulation, endocrine disruption and neurotoxicity should be considered.

4. Concluding remarks

This analysis of the contributions to the public consultation on the interface between chemical, product and waste legislation confirms general agreement among the stakeholders on the relevance of the issues identified and sets solid foundations to underpin future policy development. In addition, three studies on different aspects of the interface, as identified in the Communication, have been launched and will deliver further relevant information in 2019 and early 2020.