

ROADMAP			
TITLE OF THE INITIATIVE	Analysis of the interface between chemicals, products and waste legislation and identification of policy options.		
LEAD DG – RESPONSIBLE UNIT	DG ENV B2 (COORDINATED WITH UNIT B3) DG GROW D1 (COORDINATED WITH UNITS D2, C1 AND C2)	DATE OF ROADMAP	27/ 01/ 2017
LIKELY TYPE OF INITIATIVE	Communication		
INDICATIVE PLANNING	4th quarter 2017		
ADDITIONAL INFORMATION	http://ec.europa.eu/environment/circular-economy/index_en.htm		
<p>This Roadmap aims to inform stakeholders about the Commission's work in order to allow them to provide feedback and to participate effectively in future consultation activities. Stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to make available any relevant information that they may have. The Roadmap is provided for information purposes only and its content may change. This Roadmap does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content.</p>			

A. Context, Problem definition and Subsidiarity Check
<p>Context</p> <p>The Commission announced in the Commission Communication "<i>Closing the loop - An EU action plan for the Circular Economy</i>"¹ the intention to undertake an "<i>Analysis and [prepare] policy options to address the interface between chemicals, products and waste legislation, including how to reduce the presence and improve the tracking of chemicals of concern in products</i>" as a means to develop policies that can deliver circular economy through a seamless flow of materials recycled from waste as suitable raw materials back into the economy.</p> <p>The analysis will take into account a number of studies, including the Commission's 2014 scoping study to identify potential circular economy actions, priority sectors, material flows & value chains² and a recent study conducted by the Commission on "<i>Regulatory barriers for the Circular Economy – Lessons from ten case studies</i>"³. The outcome of the legislative procedure for the Commission's proposals covering multiple waste directives, including the Waste Framework Directive, currently being discussed in Council and Parliament⁴, will also be relevant.</p> <p>The options that will be developed, based on the analysis of this interface between chemicals, products and waste legislation, may include considerations on how to overcome any legislative barriers and may also inform other relevant actions announced in the Circular Economy Action Plan, including the development of quality standards for secondary raw materials and the strategy on plastics in the circular economy. Work done on this interface will also feed into the future EU strategy for a non-toxic environment.</p> <p>There are also two on-going evaluations which are relevant for this initiative. Results of both the REACH REFIT evaluation and the fitness check on chemicals legislation (excluding REACH)⁵, which encompasses a broader evaluation of the interface between chemicals legislation and related legislation, including waste and products legislation, are expected in 2017 and may provide information that will assist in the assessment of the options to be developed.</p>
<p>Problem the initiative aims to tackle</p> <p>Four issues have been identified that create obstacles for a smooth transition of recycled materials from waste to new products:</p> <p>#1: Insufficient information about substances of concern in products and waste</p> <p>Limited information is available about the presence of substances of concern in articles, waste streams and recycled materials which affects the ability to monitor compliance of recovered materials (and articles produced</p>

¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52015DC0614>

² http://www.ieep.eu/assets/1410/Circular_economy_scoping_study_-_Final_report.pdf

³ <http://ec.europa.eu/DocsRoom/documents/19742>

⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52015PC0595>

⁵ http://ec.europa.eu/smart-regulation/roadmaps/docs/2015_grow_050_refit_chemicals_outside_reach_en.pdf

therefrom) with relevant legislative requirements (including REACH and CLP, but also product legislation such as RoHS, etc). This lack of information hinders the assessment of whether these materials are safe and fit for purpose in relation to their envisaged uses which also increases business risks for recyclers.

#2: Presence of substances of concern in recycled materials and in articles made thereof

Currently there is no general framework to deal with the presence of substances of concern in recycled materials and in articles made thereof and, in particular, no agreed methodology to determine the overall costs and benefits for society of the use of recycled materials containing such substances compared to disposal of, or energy recovery from, the waste and the impacts of production of virgin materials in case recycling is prevented.

#3: Uncertainties about how materials can cease to be waste

There are different interpretations regarding the manner in which waste can cease to be waste, in accordance with the Waste Framework Directive. This situation generates legal uncertainty for operators and authorities and creates difficulties in the application and enforcement of chemical and product legislation, which requires, as a starting point, to know whether a given material is still subject to waste legislation (either as hazardous or non-hazardous waste) or has ceased to be waste.

#4: Difficulties in applying EU waste classification methodologies and impacts on the recyclability of materials

The rules that govern the classification of waste as hazardous or non-hazardous determine, among other things, whether the holder of waste needs to obtain a hazardous waste management permit and may affect the recyclability of waste materials. Lack of consistency in terms of application and enforcement of waste classification methodologies leads to uncertainty about the legality of waste management practices of certain important waste streams containing substances of concern in a complex material such as minerals, plastics or glass.

Subsidiarity check

The EU's right to act is based on Articles 114 and 191 of the Treaty on the Functioning of the European Union (TFEU).

The existing waste and product legislation has been enacted at EU level and both waste and products are subject to trans-frontier transport and trade within the EU. Consequently, addressing the problems identified solely on a national basis does not seem appropriate. This is further corroborated by the fact that many of the problems identified seem to derive precisely from inconsistencies in the national implementation of existing waste and product legislation.

B. What does the initiative aim to achieve and how

The Communication will present a detailed analysis of the legal, technical or practical problems at the interface of chemical, product and waste legislation that may be unnecessarily hindering the transition of recycled materials into fit-for-purpose products that can be reintroduced into the productive economy. The Communication will also identify options to facilitate recycling and improve the uptake of secondary raw materials through the promotion of non-toxic material cycles and better tracking of chemicals of concern in products.

Consultation with stakeholders is expected to provide further insights regarding the problems outlined in section A of this roadmap and how to address them. Other issues that have yet to be identified or fully developed may also come to light as part of the consultation.

At a later stage, following an analysis of the feedback received from stakeholders, the results of new studies and the on-going evaluations, the Commission will make proposals to address barriers or short-comings detected, while preserving the high level of protection of human health and the environment, in the rules and processes currently governing the flow of waste-derived materials back into the economy.

C. Better regulation

Consultation strategy [max 10 lines]

The purpose of the initiative is to prepare the basis for a broad consultation on the problems and options. In order to prepare a factually correct Communication, the Commission will ask for input from relevant stakeholders.

Following the adoption of the Communication, the Commission will launch a 12 week open public consultation, providing all interested stakeholders the opportunity to have their say on the identified options.

Impact assessment

After the adoption of the Communication, the policy options and associated actions therein will be further specified following the feedback from stakeholders and the co-legislators. Any subsequent action will be taken forward in line with the Better Regulation principles, including, where appropriate, through the preparation of Impact Assessments before any concrete proposals with expected significant impact are put forward.

Evaluations and fitness checks

The Fitness check of five waste stream Directives⁶ has evaluated, ex-post, the effectiveness, efficiency, relevance and coherence of provisions relating to a number of waste streams and analysed the impact of those Directives in relation to the objectives stated in the 7th Environment Action Programme.

The Commission's scoping study, conducted in 2014, to identify potential circular economy actions, priority sectors, material flows & value chains⁷ and a recent study finalised in June 2016, "*Regulatory barriers for the Circular Economy - Lessons from ten case studies*", as well as other relevant ongoing studies, will also be considered in detail in the current analysis by the Commission on the waste/chemicals and products interface.

The Commission is currently assessing the need to launch additional studies targeting some of the specific problems identified in this roadmap, with a view to gathering additional information and/or assessing potential solutions.

⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52014SC0209>

⁷ http://www.ieep.eu/assets/1410/Circular_economy_scoping_study_-_Final_report.pdf