A 10-POINT ACTION PLAN FOR THE SUSTAINABLE MANAGEMENT OF CHEMICALS RISK

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Today, Europe faces important challenges around its security, the green transition, and its competitiveness. Solving these challenges cannot be done without the safe use of chemicals. Addressing chemical risks does not need to conflict with Europe's political objectives, but done wrongly, it will have major and irreversible consequences for all.

Legal or economic restrictions on the use of substances will place European manufacturers at a disadvantage versus their non-EU competitors, by preventing their products from having the same affordability and/or performance characteristics. This is especially true in third countries where European companies do a great share of their business. In effect, this does not address chemical risks globally and moves jobs and economic growth those companies create into competing jurisdictions.

A sustainable transition towards safely used chemicals is achievable but will involve trade-offs and careful policy decisions. Below are the 10 key elements that help contribute to a successful and sustainable transition to safer use of chemicals.

ACTION 1: Managing risks

What?

A substitution decision should be sustainable and based on a thorough risk assessment. It should consider factors such as risk, exposure, protection, feasibility, impact on recycling and economic impact.

Why?

A risk-based approach to chemical management promotes substitution in a more practical and dynamic way than the hazard-based approach. It reduces the risk of regrettable substitution with respect to various policy objectives, including those of the EU Green Deal, the European Digital Strategy, the Circular Economy, and the Industrial Strategy.

ACTION 2: Pursue safe uses and targeted restrictions

What?

Allow the continuation of safe and well-established uses. Problematic uses should be addressed with adequate risk management measures and/or targeted restrictions. These effectively achieve the protection objectives for human health and the environment.

Why?

Substituting a substance only based on intrinsic properties (e.g. a specific chemical hazard) puts important technologies at risk. It does not necessarily achieve the objective of increasing health or environmental protection. A dogmatic hazard-based approach to chemicals management creates legal uncertainties, which will slow down or even block the green transition and strategic resilience.

ACTION 3: Improve efficiency and reduce workload

What?

Exempt safe uses of the "most harmful chemicals" from regulatory actions. These should be identified with an early screening step and a thorough risk assessment.

Why?

An early screening for "safe uses" would help reduce the workload for evaluating alternatives. It would also avoid legal uncertainty, which is detrimental to investments and erodes economic resilience.

ACTION 4: Avoid regrettable substitutions

What?

Avoid regrettable substitution and an unnecessary or unintended decrease in performance. Equal data and assessment requirements for the alternatives can achieve this. Also, avoid legally imposed substitution based on a purely hazard-based approach.

Why?

Numerous hazardous substances are highly important for the global economy and are used safely. Many of these are crucial for green and sustainable innovation. If the EU bans such substances based on their hazards, they will still be used in other jurisdictions. This will deepen the Union's dependency from imports. Only a more globally harmonised policy, like the GHS, could prevent this by creating uniform safety standards and more fair competition with third countries.

ACTION 5: Improve market access

What?

Develop a substitution strategy focused on unsafe uses of chemicals. This strategy should also include adequate time for a sustainable substitution.

Why?

Higher regulatory pressure, including hazard-based restrictions, does not automatically stimulate innovation and substitution. An approach focused on unsafe uses that does not discontinue the safe use of chemicals increases market access and creates a more dynamic "substitution culture." Furthermore, it decreases the need for case-specific derogations, which are resource-intensive for authorities and industry.

ACTION 6: Customised approaches to ensure green transition

What?

Avoid a rigid "one-size-fits-all" substitution approach. A more dynamic and use-specific approach, taking into account individual applications and end-user expectations, standards, and other requirements, is necessary.

Why?

Each use of a substance can be very different, and the consequences of substitution need to be assessed in a focused manner to solve technical and functional aspects. These aspects relate to predictability, technical complexity, administrative discretion, and potential lack of feasibility.

ACTION 7: Avoid trade-offs

What?

Perform a thorough estimation of impacts and trade-offs. A systematic ban of hazardous substances usually does not allow this. In particular, aspects related to regrettable substitution and adequate performance of the adjusted products should not be underestimated.

Why?

The potential of forced and unnecessary substitution may compromise Europe's security, prosperity, and the objectives of the Green Deal.

ACTION 8: Protect the benefits of investment

What?

Uncertainties caused by inadequate legal interventions have a high potential to nullify the benefits of substitution.

Why?

The costs and risks of investments will increase. The incentive to innovate will be reduced. This will result in a loss of competitive advantage for European industries.

ACTION 9: Avoid a fee/tax system for SVHCs

What?

Do not introduce a fee/tax system. This will result in market distortion and disturb the level playing field.

Why?

Theoretically, a fee/tax on SVHCs should incentivize substitution, discourage the use of SVHCs and support ECHA in developing information on alternatives for such substances. Yet, creating a fee/tax system for SVHCs does not increase the physical availability of suitable alternatives. At the same time, it creates additional costs and administration. Both do not speed up substitution.

ACTION 10: Analysis of Alternatives (AoA)

What?

Continue allowing the use of a substance where substitutes are not yet available, and the safe use can be demonstrated.

Why?

This allows time for innovation where substitutes are not yet available. The search for alternatives is use-specific and requires specialised technical knowledge. When a substance requires substitution, all its uses must be analysed separately. Furthermore, it reduces the number of derogation requests and partially subjective decisions, providing the industry with more legal certainty.

About us:

The Alliance for Sustainable Management of Chemical Risk (ASMoR) is an alliance of more than 30 organisations. It covers a wide variety of critical sectors throughout the European value chain and represents 20 million companies through the membership of its members, with a vast majority of SMEs. The common goal of ASMoR's members is to ensure that safe uses of substances remain permitted.

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For more information, please consult www.asmor.eu
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References

- ASMoR feedback to the substitution study on "Strengthening the role of substitution planning in the context of REACH and other EU chemicals legislation"
- ASMoR Comments: CARACAL paper on the Reform of REACH Authorisation and Restriction Processes
- ASMoR Position Paper on Regrettable Substitution