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FEICA's proposal to improve the protection of professional workers using the most harmful chemicals

FEICA, the Association of the European Adhesive & Sealant Industry, is a multinational association representing the European adhesive and sealant industry. Today's membership stands at 15 National Association Members, 24 Direct Company Members and 19 Affiliate Company Members. The European market for adhesives and sealants is currently worth more than 17 billion euros. With the support of its national associations and several direct and affiliated members, FEICA coordinates, represents and advocates the common interests of our industry throughout Europe. In this regard, FEICA works with all relevant stakeholders to create a mutually beneficial economic and legislative environment.

Applying generic substance bans to substances used by professionals would be inappropriate and disproportionate

The Chemicals Strategy for Sustainability commits the Commission to 'extend to professional users under REACH the level of protection granted to consumers'.¹ We understand that the European Commission's rationale behind the extension of the generic approach to risk management (GRA) to professional uses lies in a general observation that professional users 'cannot control risks from the presence of the most harmful chemicals in products' and that 'professional users are exposed to those chemicals in products in their daily lives and not only occasionally as consumers, there may be even more need to protect them'.² We strongly believe that these two statements cannot be generically applied to all professional users and/or all products used by professional users containing 'most harmful substances'.

However, we believe that there are ways to improve the protection of professional workers other than generic substance bans without a risk assessment having been performed.

Adhesives and sealants used by professionals are designed to be used safely. For example, moisture-curing one-component polyurethane foams (OCFs) containing a respiratory sensitiser component and typically used for gap filling, sealing, bonding and insulating for general construction and renovation purposes are a case in point (More detailed information can be found in Annex I). The hazard of OCF is driven by the monomeric diisocyanate (MDI), which is classified as a respiratory

¹European Commission (2020), 'Chemicals Strategy for Sustainability - Towards a Toxic-Free Environment'.
https://eur-lex.europa.eu/resource.html?uri=cellar:f815479a-0f01-11eb-bc07-01aa75ed71a1.0003.02/DOC_1&format=PDF

²CARACAL Background document 'Interface REACH - Occupational safety and health (OSH)', CA/05/2022

sensitizer and may cause an allergic skin reaction. Under the conditions described for its intended use, there is no dermal contact (Skin contact is avoided by the design of the can, the product cures in minutes with complete consumption of the MDI, and protective gloves are required). Moreover, measurements of MDI on OCF products, containing approximately 15% of MDI monomer, were approximately 83 times below the Occupational Exposure Limit applicable at the time and even below the new proposed OEL (after 2029).³ It would be unjustified to adopt automatic generic bans on products based on their hazards, like respiratory sensitizing properties, and/or based on professional use where safe use can be guaranteed. In this respect, we would propose that if the GRA is extended to professional users, a 'derogation for safe use' should be granted (see more details in Annex I).

In addition, use of chemical products by professional workers differs considerably from that by consumers and should therefore not be subjected to the same restrictions or prohibitions. In fact, professional users have more characteristics in common with industrial users than with consumers. Professional users normally receive adequate information and training on handling hazardous substances and apply other risk management measures, such as the use of personal or technical protective equipment. This helps reduce exposure and work-related diseases considerably. For instance, a 2017 report by the Employer's Liability Insurance Association for the Construction Industry (BG BAU)⁴ found that in only a limited number of cases was there a clear or probable connection between the exposure to diisocyanates and airway diseases, whereas 'skin diseases caused by diisocyanates are rare'.

Training programmes and certifications are effective tools to address workers protection. As FEICA, we consulted some of our customers applying adhesives and sealants in professional settings (e.g. for flooring, furniture making and resin injections) to assess the level of protection of workers. All their responses confirm that there are high levels of training in the industry.⁵ As reported by the Austrian Competent Authorities, in Austria many professionals receive at least 3 years of education ('Lehrberufe'), including a final examination.⁶ However, there are still significant disparities between Member States on the requirement and level of training required for employees, and information is limited regarding chemical risk training.

In addition, targeted REACH restrictions under art. 68(1), based on specific risk assessment, have successfully addressed workers' protection issues. For instance, for diisocyanates, restrictions under REACH introduced training obligations. REACH restrictions, furthermore, imposed harmonised derived no-effect level (DNEL) limit values for 1-methyl-2-pyrrolidone (NMP). In this case, suppliers and users are required to use NMP or mixtures containing NMP ($C \geq 0.3\%$ w/w) in a way that ensures workers are not exposed to the chemical above the DNELs set in the restriction. As far as diisocyanates are

³ These results of the measurements are realistic applications, in realistic environments. The results obtained show an extremely low inhalation exposure. In the theoretical extremes, with high volumes extruded in a short time, and a large surface in contact with air (which is not intended in real applications), results are also extremely low, clearly because MDI is not a volatile substance at room temperature.

⁴ Berufsgenossenschaft der Bauwirtschaft (BG BAU - Employer's Liability Insurance Association for the Construction Industry) (2017), Final report on the project 'Evaluation of occupational diseases caused by isocyanates' of the, original title in German: Abschlussbericht zum Projekt 'Evaluierung berufsbedingter Erkrankungen durch Isocyanate'.

⁵ A total of 68% of the employees went through internal training at the time of employment; 76% of the employees go through regularly repeated internal training; 76% of the employees receive task-specific training. Moreover, over 40% of the employees interviewed got external vocational training.

⁶ CA AT - Comments and responses to Questions raised in CARACAL paper CA/19/2022 'Discussion on options to implement the extension of the generic approach to risk management in the REACH Regulation', available [here](#).

concerned, a comprehensive training programme has already been made available to ensure the safe use of diisocyanates for producers and professional users all over Europe.

ECHA's Risk Assessment Committee (RAC) agreed with the Dossier Submitter that the introduction of stricter mandatory handling habits through training and instruction would be the most effective option. The committee also agreed that REACH is well suited to ensure a comprehensive quality management programme with regard to effective training measures and improvement of risk management measures based on the knowledge and experience of the actors at the top of the supply chain.⁷

A commitment from our industry sector

FEICA members are committed to ensure the highest level of protection for professionals and believe that the approach followed with the diisocyanates restriction should work as a model for all professional uses.

FEICA members would like to propose the development of specific trainings covering the risks arising from the most harmful chemicals as identified by the Commission.

Trainings could be made mandatory in the context of REACH restrictions following the prioritisation established in a work plan to be developed by the European Commission or in the context of a harmonisation of training requirements in the occupational safety and health (OSH) legislation at the European level.

On our side we would like to collaborate with the regulators to provide an online training platform with courses available in all EU languages on the safe handling of hazardous products. The training would be free of charge for all users. In this way, we would ensure the establishment of a level playing field and avoid any financial burden on SMEs, micro-enterprises and individuals.

Other options to consider when reviewing REACH

As part of our commitment, we have also looked into ways to improve REACH to further strengthen workers protection.

Giving a more formal place to the Regulatory Management Option Analysis (RMOA) in REACH, making it mandatory before any regulatory measure is undertaken, would be a first significant step forward. An RMOA should guide the understanding of hazards and exposure and help assess whether the OSH route or the REACH route (i.e. authorization or restriction) should be selected. For instance, if OSH measures according to the hierarchy of control are not in place, and there are no binding OEL

⁷ ECHA (2017), Committee for Risk Assessment (RAC) and Committee for Socio-economic Analysis (SEAC) opinion on an Annex XV dossier proposing restrictions on diisocyanates, available [here](#).

or biological limit values, a REACH restriction and training obligations should be preferred. Or eventually the application of a hazard-based generic use restriction could be the outcome of the RMOA.

Additional improvements might include: i) the simplification of communication along the supply chain through the inclusion of electronically provided information on labels, leading to simplified information, and/or a link to training made available by the industry; ii) a mandatory obligation for the industry to share information on uses and exposure upon the request of authorities if a regulatory process is started.

You can find more information on how to improve OSH legislation in Annex II.

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Annex I: Learning from experiences in Member States and providing 'safe use derogations'

Building on the European Commission's intention to implement the GRA through a stepwise approach and according to a workplan, we would suggest prioritising consumer uses where the likelihood of exposure is high. We also support, under any circumstances, the recognition in the Commission's CARACAL paper on the GRA implementation⁸ that 'as in the current system, the empowerment means that the Commission may but is not obliged to propose such restrictions'.

However, if the GRA gets extended to professional uses, we would recommend differentiating between types of professional uses by using clear and transparent criteria, based on existing literature and available data. For the selected professional uses, the extension of the GRA approach should result from a mandatory RMOA, helping to identify uses at risk.

Alternatively, derogations for 'safe use', in line with the system in place in Sweden, should be provided.⁹ Sections 37 a-g of the Swedish collection of 'Provisions and General Recommendations of the Swedish Work Environment Authority on Chemical Hazards in the Working Environment' provide some useful criteria to determine when a derogation can be granted:

1. The substance/mixture/article should be designed to be safe, i.e. an assessment is provided showing that the exposure to allergenic substances is negligible, even without the use of protective measures.
2. Short-time exposure should be required, for instance less than 30 minutes per week in the case of cyanoacrylates.
3. Protective personal equipment should be used.
4. Mandatory training should be provided.

⁸ CARACAL, 'Discussion on options to implement the extension of the generic approach to risk management in the REACH Regulation', CA/19/22, available [here](#).

⁹ <https://www.av.se/globalassets/filer/publikationer/foreskrifter/engelska/chemical-hazards-in-the-working-environment-provisions-afs2011-19.pdf>

Annex II: FEICA's suggestions on how to refine REACH and OSH legislation to further strengthen workers protection

FEICA considers that additional measures could be put in place to improve the OSH legislative framework, on the one hand, and the REACH restriction process on the other, while keeping both legislative frameworks in place. We agree with the German Competent Authority that the duty to comply with a risk assessment, not to exceed limit values, and to apply risk reduction measures is implemented under the OSH legislation, and therefore gaps in the protection of workers are more limited compared with those in consumer or environment protection.¹⁰ The extension of the GRA to professional uses should be carefully reconsidered case by case.

It would be advisable to focus on addressing known gaps first. Despite EU-level directives on occupational safety and health, there are significant disparities between Member States on the requirement and level of training needed for relevant professions and trades. As a first step, training requirements should be harmonised among Member States. Then, based on existing literature¹¹ and on data available from different Member States identifying those professional uses/professional categories where occupational diseases are having an increased incidence, targeted training should be developed.

The setting of binding OELs for professional uses at risk could be considered, too. In some cases, the setting of binding OELs could be even more effective than REACH restrictions. For example, for the introduction of binding OELs for cobalt in Carcinogen and Mutagen Directive 2004/37/EC (CMD), the Cobalt Institute has argued that a binding OEL would cover up to 75,000 workers, rather than the 35,000 covered by the restriction on 5 cobalt salts. ECHA's risk assessment committee (RAC) and socio-economic analysis committee (SEAC) have also recommended an OEL approach for all cobalt compounds, including those not covered by the restriction.

¹⁰ DE CA comment on document CA /19/2022 "Discussion on options to implement the extension of the generic approach to risk management in the REACH Regulation", available [here](#).

¹¹ UK Health and Safety Executive: The burden of occupational cancer in Great Britain, 2010 – <https://www.hse.gov.uk/research/rrhtm/rr800.htm>; Montano, D.: Chemical and biological work-related risks across occupations in Europe: a review. *J Occup Med Toxicol* 9, 28 (2014). Available [here](#). EU-OSHA has also set up an initiative to collect harmonised and comparable data at the EU level on occupational exposure to cancer risk factors. A feasibility study (2017) showed that a task-based EU-wide worker survey on exposure to carcinogens can fill important information gaps. The study found that the Australian OccIDEAS survey concept and the AWES survey, could serve as a model for an EU-wide exposure survey. The survey will be developed, tested and implemented in 2021 and 2022. The first findings are expected to be published in 2023.