

## ANNEX I – STAKEHOLDER FEEDBACK TO THE EEB CSS REPORT

This Annex is complementary to the EEB Report on the EU Chemicals Strategy for Sustainability (CSS).<sup>1</sup> The report provides an overview of the CSS, published by the European Commission (EC) in October 2020 as part of the European Green Deal (EGD).<sup>2</sup> It evaluates the progress in implementing the Strategy by examining its proposed actions and assessing related policies and legislation.

This Annex comprises a detailed version of the feedback gathered from different stakeholders and that is used in the report to analyse the CSS, its expected outcomes and its level of implementation. We conducted interviews, discussion groups, and distributed questionnaires to obtain insights from diverse stakeholders, including representatives of European Institutions, EU Member States, industry and civil society organisations.

The stakeholders comprised: European Commission representatives, Members of the European Parliament, representatives of several EU Member States, representatives of environmental NGO and Civil society organisations, and representatives of various industries affected by chemicals production or use, including manufacturers and downstream users of chemicals. Here a more detailed overview of the stakeholders:

STAKEHOLDER	ORGANISATION NAME	MODE
EU Institutions	Representative of DG GROW (EC) Representative of DG ENVI (EC) MEP to the Greens Assistant to the Greens MEP to S&D MEP to the EPP	Interview
MS representatives	Representative of Germany Representative of Sweden Representative of The Netherlands Representative of France Representative of Spain Representative of Belgium	Questionnaire
Industry representatives	Representative of CEFIC Representative of Eurometaux Representative of SME United Representative of H&M	Questionnaire

<sup>1</sup> European Commission, Communication on the Chemicals Strategy for Sustainability, Towards a Toxic-Free Environment (COM/2020/667 final), 2020, European Commission. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2020%3A667%3AFIN>

<sup>2</sup> European Commission, Communication on The European Green Deal (COM/2019/640 final), European Commission, 2019. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2019%3A640%3AFIN>

CSO representatives	Center for International Environmental Law - CIEL Client Earth Health & Environment Alliance – HEAL International Chemical Secretariat – Chem Sec CHEM Trust Friends of the Earth Germany European Consumer Organisation – BEUC Pesticide Action Network Europe – PAN-E Women Engage for a Common Future – WECF Corporate Europe Observatory – CEO	Discussion group
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For reference, below is an example of the guiding questionnaire used with all stakeholders.

- Level of ambition of the CSS:
  - *Regarding the objectives of the CSS, has it been ambitious enough to effectively tackle chemical pollution? Please provide specific areas or examples in which the CSS succeeded or failed achieving its objectives, if you have any.*
  - *What are the most remarkable positive impacts or wins of the CSS?*
  - *Were there any crucial topics or actions that were not included in the CSS, any missing opportunities?*
  - *Are there any synergies missing in the CSS?*
- Implementation:
  - *Are there any topics or actions that the CSS promised that have not been followed through or correctly implemented?*
  - *What were the reasons for the failures mentioned, if any?*
  - *Have there been any bottlenecks for the effective implementation of the CSS?*
- Recommendations for a future CSS:
  - *What topics would you like to be highlighted in future chemicals strategies?*
  - *What are the measures needed for the next Commission's work plan to be effective in tackling chemical pollution?*

- PFAS related question:
  - Do you think that the has CSS managed to tackle the PFAS issue, as the Commission described in its [PFAS work plan](#)?

## FEEDBACK ON THE CSS PROMISES: LEVEL OF AMBITION AND IMPLEMENTATION

### 1. Civil Society Organisations

#### Positive

- Addition of new classes in Classification, Labelling and Packaging Regulation (CLP), and the commitment to comply with the United Nations' Globally Harmonised System of Classification and Labelling of Chemicals (GHS)<sup>3</sup>
- Improved access to justice for victims of chemical pollution
- Publication of the Restrictions Roadmap<sup>4</sup> acknowledging the need to ban groups of chemicals
- Introduction of the 'One Substance, One Assessment' (OSOA) package<sup>5</sup>
- Inclusion of the Safe and Sustainable by Design framework (SSbD)<sup>6</sup> as an underlying concept for chemicals control

#### Negative

CSO representatives were concerned about the increasing volumes and number of chemicals in the market. They mentioned the need for harmonisation in enforcement (including lack of effective sanctions despite huge non-compliance rates) and to tackle shortcomings in implementation of measures to increase transparency and traceability (e.g. for substitution).

Despite ambitious commitments being made by the policy makers, in CSOs' view the actions proposed did not meet the level of ambition of the original proposal. This has led to deadlines being surpassed without achieving clear objectives. One of the clearest examples has been the failure to put forward a proposal for the revision of the REACH Directive, which has

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<sup>3</sup> UNECE, The United Nations' Globally Harmonised System of Classification and Labelling of Chemicals (GHS), UNECE. Available at: <https://unece.org/about-ghs>

<sup>4</sup> European Commission, COMMISSION STAFF WORKING DOCUMENT Restrictions Roadmap under the Chemicals Strategy for Sustainability (SWD(2022) 128 final), European Commission, April 2022. Available at: <https://ec.europa.eu/docsroom/documents/49734>

<sup>5</sup> European Commission, 'One substance, one assessment' package, European Commission, 2023. Available here: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_6413](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_6413)

<sup>6</sup> European Commission, Recommendation establishing a European assessment framework for 'safe and sustainable by design' chemicals and materials (C(2022) 8854 final), European Commission, 2022. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32022H2510>

limited the impact of other parallel initiatives such as the Recommendation on an assessment framework for Safe and Sustainable by Design of chemicals and materials, or the development of an 'Essential Use Concept' (EUC) and the Generic Approach to Risk Management (GARM, previously called GRA). CSOs mentioned the failure to put forward concrete measures towards the effective implementation of the Restriction Roadmap and they regretted the lack of action on Toxic Free Products. CSOs also found unsatisfactory the inactivity of the high-level roundtable. Finally, they regretted that the mixture assessment factor (MAF) is not being applied for pesticides.<sup>7</sup>

### PFAS specific issues

CSO representatives identified the wide use of PFAS as the main factor for the gravity of the issue. They believe that REACH failed in regulating new chemicals, that the registration requirements were not met, and enforcement was watered down. However, they highlighted that it is still possible to ban PFAS through REACH and that succeeding in doing so would be a substantial step forward. They also mentioned that transparency and traceability issues still pose considerable obstacles as users are not aware of what is in their products and what they are using.

## **2. EU Institutions, Members of European Parliament and National Authorities**

Representatives from the EU institutions and Member States shared that in their view the CSS was ambitious. They believe it addressed most of the gaps identified in the different fitness checks and evaluations of EU chemicals policies and included major changes in main chemicals legislation. It was comprehensive and horizontal, involved different actors and stakeholders (such as Commission DGs, or the JRT), took into account the demands of the European Parliament and helped stakeholders to recall to the Commission its commitments.

### Positive

Policy-makers and authorities noted several achievements such as the proposals for CLP, the OSOA package or the SSbD framework. They also welcomed the roadmap to transition toward safe and sustainable chemicals, and its contribution to circular economy and non-toxic material cycles, better protection against the most harmful chemicals (specifically, by extending the GARM and introducing criteria for essential uses) and addressing mixtures.

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<sup>7</sup> Pesticide Action Network Europe, How to best address cocktails effects in the Pesticide legislation?, PAN Europe, October 2021. Available at : [https://www.pan-europe.info/sites/pan-europe.info/files/field/CRA\\_Towards%20the%20implementation%20of%20a%20MAF.pdf](https://www.pan-europe.info/sites/pan-europe.info/files/field/CRA_Towards%20the%20implementation%20of%20a%20MAF.pdf)

They also welcomed the CSS promise to tackle chemicals that have been poorly regulated, such as the new hazard classes for endocrine disruptors or PFAS through the dedicated action plan.<sup>8</sup> It also proposed to simplify the evaluation and risk assessment process, such as with the OSOA proposal. The CSS also contributed to putting other key issues for the green transition in the political spotlight, such as the essential use concept, GARM or the need to speed up the evaluation and risk assessment process of chemicals. The proposals regarding regulations on Toys, water pollutants and EQS, or Ecodesign were also deemed a positive step forward in chemicals control. Research programs on PFAS and other hazardous chemicals such as microplastics were initiated and work on advanced chemicals seems to be upcoming.

### Negative

Policy-makers mentioned the REACH revision as one of the major missed opportunities. In their view, the CSS was not clear enough on what the changes in REACH would entail. Another missing opportunity was the revision of the Food Contact Materials Regulation and the digital passport from the Ecodesign for Sustainable Products Regulation (ESPR), which still needs to be developed and implemented.

Some policy-makers also thought that the CSS failed to include the business case agenda and failed to bring industry onboard with the transition and clearly define their part in it. Many believe that the CSS agenda supports the EU chemicals industry and makes a case to make it more competitive by investing in innovation and clean and safe materials and products. However, the CSS did not manage to enhance the competitiveness and strategic autonomy of EU industry. One impediment to this was the failure to address the export of harmful chemicals.

Policy-makers also noted the lack of synergy between issues interconnected to chemicals such as human rights (right to health – especially for women, to a healthy environment, or access to water for example), climate, energy use (for instance as part of the evaluation to restrict chemicals), circular economy (e.g., waste). Even if the Strategy tried to have a horizontal approach and take different aspects into account, it did not manage to achieve a coherent and comprehensive implementation that would streamline the evaluation process,

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<sup>8</sup> European Commission, Staff Working Document on Poly- and perfluoroalkyl substances (PFAS), (SWD(2020) 249 final), European Commission, 2022. Available at: <https://circabc.europa.eu/ui/group/8ee3c69a-bccb-4f22-89ca-277e35de7c63/library/e94fa1f8-864f-421e-af20-b2b68f3a6335/details?download=true>

speed it up and eliminate redundancies. They identified a missed opportunity to link CSS with Product Policy or the new Ecodesign Regulation.

Similarly, it was mentioned that more synergies could have been implemented between REACH and the IED so that hazardous substances could be better regulated at the scale of each industrial site. For instance, REACH outputs could feed the IED BREF and local permits processes, in terms of raising attention to hazardous substances. Policy-makers and authorities also mentioned unresolved gaps in certain areas such as the pesticides and biocides regulations, regarding how the evaluation studies are conducted, i.e. the evaluation of certain impacts such as the impact on biodiversity. Other points that were not fully implemented were the essential use concept and the GARM, especially useful for sectorial legislations such as the Cosmetics Regulation, which now risks ending in non-binding documents and with an unclear impact on chemicals policy. The interviewed representatives pointed out that the revision of information requirements should take into account the CLP criteria and include NAMs. They added that information requirements should not just be amended to identify all carcinogenic and ED substances manufactured or imported in the EU, but also other highly harmful substances. They were also concerned about not having an ECHA founding regulation, as for some of the policies to be adequately implemented, the Agency would need to be given appropriate resources to be able to fulfil their tasks in a timely manner.

#### PFAS specific issues

Policy-makers noted that the CSS has shed light on the PFAS issue and acknowledged that some steps to tackle it had been taken or had been planned for the short term, but they shared concerns about the situation being at a standstill, especially due to the delay in the revision of REACH. They regret the rise in PFAS pollution scandals in Europe and fear that the Commission's commitment to tackle the PFAS issue will be insufficient.

Some mentioned that the restriction process in REACH is flawed and slow. The registration process and the information sharing along the supply chain are unsatisfactory, which are essential first steps for proper chemicals production control. Some mentioned that the current substance control system is too lenient and does not properly incentivise industry to register substances, and that a "no data, no market" approach would be more appropriate.

Regarding a universal PFAS restriction, the CSS identified important actions to tackle the PFAS problems. Thanks to the proposal to restrict PFAS put forward by some MS, some things have been advanced but most of the work is still to be done. In general, they all those interviewed agreed that a universal PFAS restriction would improve the situation greatly.

Some believe that for practical reasons, restricting PFAS for concrete uses first, and in batches, would be the better option. In the view of some, due to the wide scope of the restriction and the high workload that ECHA is already under, a big ban might be counterproductive.

On the recent vote on the restriction of PFHxA and related substances, some of the interviewees considered that its scope was too limited and was not in line with the ambitions set under the CSS, especially in view of the change of scope to a targeted instead of a broad restriction. Furthermore, they believed there has been significant delay on the Commission proposal to restrict PFAS in firefighting foams, for which no formal timeline has been presented.

Apart from the PFAS restriction, policy-makers noted an underlying challenge to better control the pollution at the source and decontaminate and remediate historic pollution. In the view of some of the interviewed policy-makers, there has been very little done to effectively implement the precautionary principle and address the issues related to the persistence of PFAS. Some also mentioned that the PFAS action plan committed to provide research and innovation funding for the development of safe PFAS substitutes under Horizon Europe, but this is yet to materialise.

Other actions on PFAS in the area of IED and WFD, and the PPWR ban were welcomed, as well as the addition of PFAS maximum levels in food in the food contaminants legislation, but most sources of the contamination still need to be addressed.

### **3. Industry**

Industry representatives described the CSS as an ambitious, progressive, and inclusive initiative. Because of its holistic approach, the CSS represented a step forward in streamlining the complex EU environmental policies landscape and ensuring a more efficient risk management, as well as having the potential bring alignment at the international level. However, some also mentioned that it lacked details and clarity on how the objectives would be carried out.

Industry acknowledged the hazards of some of the materials they use, and exposures related to some of the processes. They mentioned their efforts to work towards a better “risk-controlled” chemicals management system and the importance of taking into consideration the lifecycle of substances, as well as uses outside the scope of REACH.

Positive

The CSS correctly approached the minimisation of consumers exposure to hazardous substances in consumer products, e.g. by defining the EUC and the GARM. The CSS identified good steps to promote the innovation needed in safe and sustainable chemicals and proposed critical actions against the most problematic groups of substances (i.e. PFAS, Endocrine disruptors).

Another positive point mentioned was that the CSS encouraged industry to phase out toxic substances in the supply chain and identify safer substitutes. The focus of the CSS on 'higher endpoints' or 'populations' (e.g. consumers vs. CMRs in the GARM) was also welcomed as it is expected to speed up protection, compared to "substance-by-substance" regulatory actions. It also brought together more clearly the aspects of competitiveness and innovation in chemicals management and included a strong encouragement to consider these aspects more holistically and take into account the circularity and sustainability of products.

The efforts to present the PFAS group restriction and the addition of new hazard classes (i.e. PMT substances, endocrine disruptors etc.) under the recently adopted CLP Regulation were mentioned as an overall success of the CSS. The Battery Regulation, as well as the new provisions in the revised Industrial Emissions Directive (IED) and the Ecodesign for Sustainable Products Regulation (ESPR) were also welcomed.

### Negative

The common regret that industry representatives mentioned was that many positive actions of the CSS have been delayed and will likely not materialise in the medium term. In particular they refer to the REACH revision and the delivery of the essential use concept and the GARM. As for the delivery of REACH 2.0, industry said they were actively waiting for it to increase the efficacy of some elements of the Regulation (notably, risk management).

Industry also commented on the SSbD, as in their view it failed to take into account the social and economic dimension, thus becoming just another hazard/risk assessment tool. They believe that the instrument is too slow to improve access to safe and sustainable alternatives for downstream users. In addition, although the CSS achieved a lot on speeding up the group-assessment of substances and the generation of new data for these, industry mentioned missing improvements in relation to the sharing of such data for different registration, authorisation and approval schemes (e.g. REACH-authorisation or for biocidal products). According to industry, this could have been a great opportunity to reduce the compliance costs based on the requirements of chemicals legislation for SMEs. Similarly, they noted a missed opportunity to significantly improve transparency in the supply chain, such as for



ingredients in chemical products for downstream users (i.e. enhanced data requirements in the safety data sheets). For some industries this is critical to improve chemical transparency and find and substitute hazardous chemicals in consumer products or track substances of concern under the ESPR.

Furthermore, industry described how the lack of enforcement of the existing rules is one of the main failures of the CSS and a missed opportunity to advance chemicals safety. Although the collection and assessment of data for that purpose is an important first step, industry noted the need to put it to use more efficiently in the supply chains (e.g. in safety data sheets so that users can improve RMMs) and for the purpose of other legislations (e.g. OSH legislation).<sup>9</sup> They also mention that the CSS also did not look sufficiently into optimising authorities' resources to reduce unnecessary administrative procedures and into further integrating chemicals, waste and products initiatives and concepts.

They also regretted the CSS not providing further consideration to enhance industry competitiveness, avoid pollution export and support effective risk control within the EU. Industry also highlighted the difficulty for SMEs to manage the implementation of the different initiatives from the CSS without proper support (financial and organisational) and noted a lack of planning for such support in the strategy. They also mentioned a lack of innovation and research funding directed towards the value chain to understand risks and implications around legacy chemicals in recycled products and to enable faster and more effective innovation in safe and sustainable substitutes.

### PFAS specific issues

On the point of PFAS related objectives, industry viewed the restriction as a positive development, yet regretted that the PFAS restriction is not formally applying the essential use concept. Some industries raised concerns about the PFAS restriction being too burdensome for SMEs due to the volume of documentation.

## FEEDBACK ON THE BOTTLENECKS FOR CURRENT CHEMICALS CONTROL

### 1. Civil Society Organisations

CSO representatives highlighted that one of the major obstacles to implementation of the CSS has been the lack of accountability of the Commission to meet the deadlines of its own

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<sup>9</sup> <https://osha.europa.eu/en/safety-and-health-legislation>

promises and deliverables. With many measures having been delayed or are which are not expected to be completed (or even started), CSOs regret the inaction. Moreover, the lack of “teeth” of some of the measures proposed, especially when it comes to obligations on industry and authorities, have watered down some of the ambition of the measures proposed in the Strategy.

## **2. EU Institutions, Members of European Parliament and National Authorities**

The interviewed representatives mentioned political reasons as the main cause of the delays or lack of implementation of some of the actions in the CSS. They identified shortcomings in coordination of different cabinets, services and DGs as one of the main bottlenecks for the implementation of the CSS. Although co-leadership was necessary to allow different parties to have a say in the strategy, they believe that, at times, stronger political ownership was needed. The changes in the political scenario of some EU countries have also negatively affected the completion of the CSS objectives, mainly with right wing political parties gaining traction and pushing back in environmental measures. Some relevant figures in the EU sphere that were leading on EGD policies leaving their positions was also noted to have had a negative effect.

Some also noted a focus shift towards EU sovereignty, safeguarding production and competitiveness of EU industry, sacrificing some of the environmental protection measures set out in the EGD and CSS. The interviewed people brought up several geopolitical events that could have contributed to this shift, such as the war in Ukraine, which lead to an energy crisis and rising production costs in all sectors, or the impact of the COVID crisis, which shed light on the dependency of the EU countries in many key sectors. More recently, the EU-wide agricultural crisis has also hurt environmental ambitions.

On a more specific note, interviewees mentioned the delays in dealing with restrictions and authorisations in REACH as one of the main bottlenecks impeding effective chemicals control. The failure to take the revision of REACH forward and the lack of advancement with the Restriction Roadmap were big contributing factors in this regard.

## **3. Industry**

Industry mentioned that in their view, the strategy required greater policy coherence in order to provide sufficient clarity and predictability about how and when the various measures announced were going to be proposed and implemented. They regretted that the CSS did not manage to create further synergies between actors and policy areas involved in chemicals management, while the objectives are common.

## RECOMMENDATIONS FOR A FUTURE CHEMICALS STRATEGY

### 1. Civil Society Organisations

CSOs believe that a future strategy should enhance the protection of people and the environment while delivering measures to increase the resilience and innovativeness of EU industry. We should focus on producing safe and quality products and on finding available substitutes and alternatives.

The strategy should highlight the costs of inaction and business as usual for our environment and health and for future generations, while providing concrete and clear paths to systemic change (e.g. by implementing economic incentives in EU chemicals legislation that would support companies who are moving away from hazardous chemicals). The system should be improved to be faster and more efficient and to allow for the sharing of more and better-quality information on uses and exposure to chemicals.

CSO representatives said would welcome increased focus on specific key points and problems at hand (e.g. hazardous chemicals, lack of information, toxics in consumer products) and additional attention regarding the time constraints and the necessity for alternative solutions. They also highlighted some measures that should be prioritised such as the fast tracking of restrictions of chemicals in everyday products, especially products found in human bodies.

Finally, they stressed the relevance of the Chemicals agenda towards achieving other commitments such as the Beating Cancer Plan<sup>10</sup>, protection of Human Rights etc., and the synergies with other policy areas and strategies (e.g., in industrial pollution, water management, soil, circular economy).

### 2. EU Institutions, Members of European Parliament and National Authorities

Most stakeholders agreed that the key to a strong chemicals strategy in future is the political will to tackle these issues and to send a clear message on steps forward and objectives for the long term (e.g. the climate neutrality objective by 2050). Many believe that a future

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<sup>10</sup> European Commission, Europe's Beating Cancer Plan, European Commission. Available at: [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12154-Europes-Beating-Cancer-Plan\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12154-Europes-Beating-Cancer-Plan_en)

strategy should avoid focusing only on high-level ambitions and should make sure that it sets concrete and operational objectives. It should also ensure chemicals are safe and sustainable by design, include clear and binding criteria focused on achieving a toxic-free environment, and provide predictability and time for the European industry to adapt.

Most interviewed representatives pointed out that moving forward with the REACH revision would be very positive, although they doubt the political scenario will allow it. They also noted that there are other aspects that should be improved in the current system, such as information sharing, prioritising substitution, tackling the delays in processing authorisations and restrictions, or strengthening enforcement (e.g. sanctions). The need to move forward with the GARM was also mentioned as a useful tool to address mixtures, polymers, low- and medium tonnage substances and to avoid regrettable substitution. Some were in favour of further strengthening the burden of proof under the principle of “no data, no market”. Policy makers also mentioned that there is a need to internalise the cost of chemicals pollution, for example by prioritising a good application of the Polluter Pays Principle, broadening the Extended Producer Responsibility and putting a bigger focus on prevention, also when it comes to exposure to chemicals.

Finally, there were also a number of other sectoral legislations that need to be revised in their view. Some mentioned areas were the regulations on pesticides and biocides, the export ban of highly hazardous chemicals, and adequate market surveillance (also for online markets). The future CSS should also take into account and address missing synergies, such as human rights and exposure to chemicals, or effects of chemicals on women’s health, cohesion among related regulations (i.e. REACH and the IED), or circular economy within REACH (in restrictions, for instance). Identifying and exploiting these synergies would make it possible to address combination effects (including chemicals covered by other legislation like the biocidal products regulation and similar legal instruments), or link hazard identification to emission policy and push for stringent measures to reduce emissions to air and water.

### **3. Industry**

In their view, the future chemicals strategy should focus on better implementation of the policy frameworks and smoother processes. They also highlighted that it should bring predictability for industry to make the EU attractive for innovation and for companies and authorities to adequately plan their work and allocate the needed level of resources.

They believe that enforcement will play a central role in implementing the EU Green Deal and the CSS, and in achieving a satisfactory level of protection for consumers and workers. The strategy should also support the competitiveness for EU businesses, for instance by

having strong import control and not allowing non-compliant products to enter the market. They would welcome a strategy that maintains the economic and social dimension of sustainability, taking into account competitiveness and adequate support for SMEs. A future strategy should also ensure a common set of priorities across EU countries and have a strong focus on the global component to promote higher standards for non-EU countries.

A common point raised among stakeholders was that the future chemicals strategy should work on the integration of policies to give more predictability, decrease complexity and avoid inconsistent or incoherent restrictions. They believe that the integration of environmental objectives and strategies is key to maximising the sustainability of the CSS: addressing climate change, access to resources, circularity, and chemicals management. This would require the strategy to be better embedded and less detached from other objectives. For that purpose, it is necessary to improve the interfaces and coherence with other legislations, e.g. waste-legislation or product-legislation, and tackle transparency in chemical supply chains (i.e. enhanced data requirements in the safety data sheets).