

5 years of EU Green Deal and other challenges – Impact on chemical industry remains high – Assessment from Eurocolour’s perspective

For more than 20 years, the EU chemical industry has been improving its production to make manufacture and products more and more sustainable. In the same period, manufacturers had to invest significantly to be in compliance with new (chemicals) regulations, while coping with disruptions caused, for example, by the banking crisis, COVID-19, terrorism and conflicts, China joining the WTO etc. which had and continue to have substantial impacts on their activities.

In general, the chemical industry is faced with an upcoming new world order that questions the benefits of globalization and the international division of labour. Whereas the banking crisis, COVID-19 and the Russian attempt to rebuild the former Soviet Union may be considered as external shocks for the EU and can thus neither be anticipated nor held off, the EU chemical regulatory system, in particular the Green Deal, is home-made by EU legislators and basically open for revisions. Those are urgently needed to reverse counterproductive measures and to support the EU industry on its way to becoming (even more) climate-friendly and sustainable.

With the following paper the authors attempt to answer these questions:

- What has been achieved so far? Where are we now? What are the challenges?
- What are the implications of the EU Green Deal for the European chemical industry?
- What does a sustainable European industry really need?

What has been achieved so far? Where are we now? What are the challenges?

Interim conclusion:

EU industry is on its way to a climate-neutral and more sustainable economy in Europe, despite the disruptions in 2008, 2020 and 2022 – instead of supporting the industry to cope with all the challenges mentioned above, the EU Commission has inadvertently generated another crisis by introducing the Green Deal in 2019 which greatly enhances the burden of bureaucracy while often not significantly increasing the protection of health and environment. Furthermore, after five years almost none of the planned measures have been implemented leading to legal uncertainty, countries developing their own national, non-harmonized regulations and to different approaches when dealing with downstream regulations that should be based on chemical regulations like REACH and CLP.

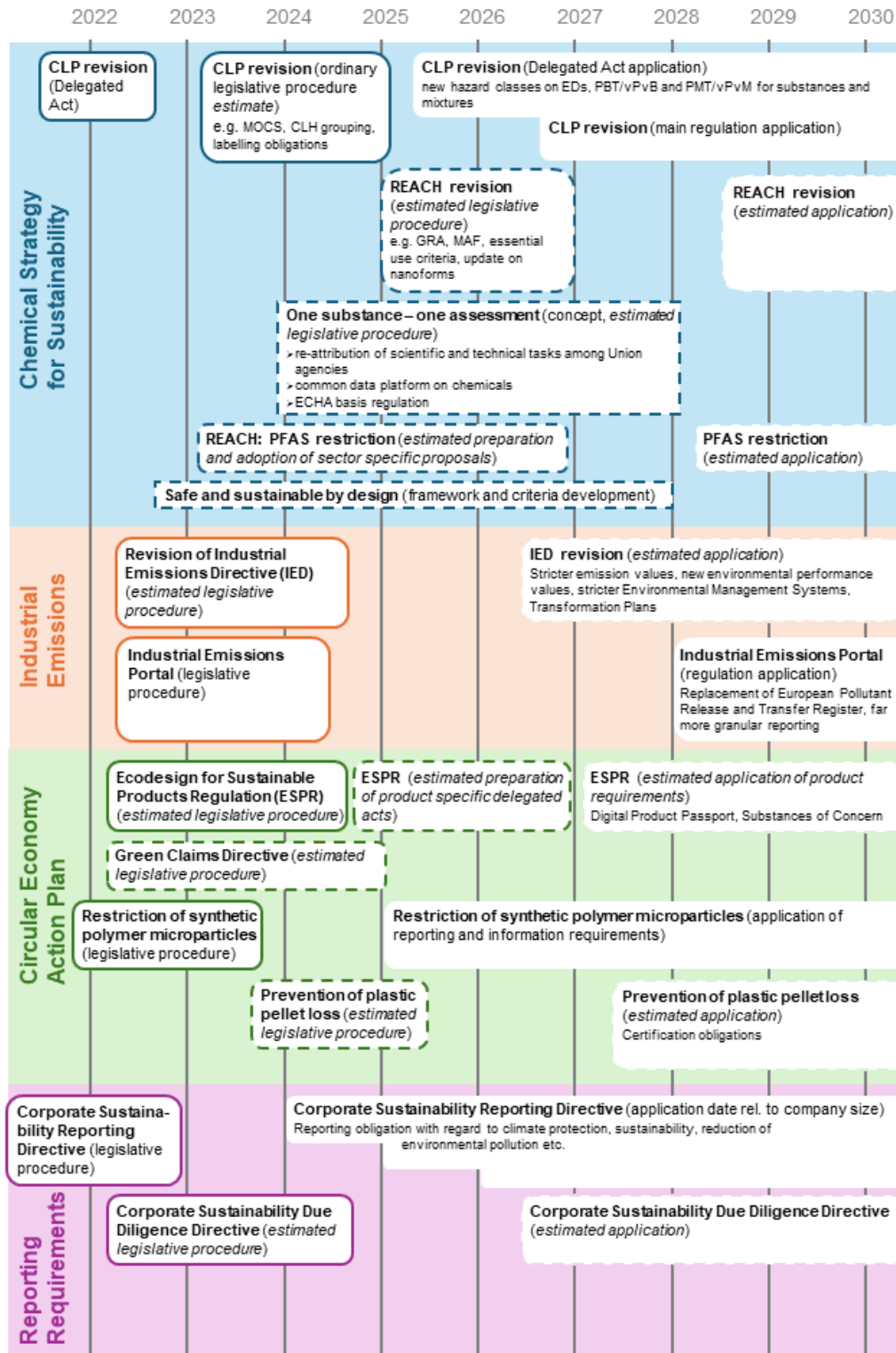
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European Green Deal



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Chemical Strategy for Sustainability

- Scope of substance definition differs from regulation to regulation which leads to confusion and in particular legal uncertainty.

- General remarks

We are extremely concerned about the proposed measures in the Chemical Strategy for Sustainability, in particular:

- Moving away from the proven, risk-based systems ignores the safe handling of chemicals in the last decades
- The impending restrictions and losses of essential raw materials are without benefit for consumer safety

Only with a sufficient variety of substances, including those classified as hazardous, will the overarching goals of the Green Deal be achievable. The focus is too one-sided on substances that are categorized as hazardous.

The path to greater sustainability and climate neutrality is only possible with a broad raw material base for a wide range of applications. We believe that restricting the raw material base right from the start by solely relying on criteria such as hazard classification is not appropriate and counterproductive.

- Hazard based approaches instead of risk-based approaches

Several legislative and supporting initiatives use a hazard-based approach, i.e. substances that fall under certain hazard categories (often called Substances of Concern) are not “allowed” at all under these initiatives. Among them, we find the Generic Risk Assessment of REACH, the Substances of Concerns definition in the ESRP or the Safe and Sustainable by Design program.

The so-called generic approach to risk management is basically a hazard-based approach. As an “automatic trigger” of pre-determined risk management measures (e.g. packaging requirements, restrictions, bans, etc.) based on the hazardous properties of the chemicals and generic considerations of their exposure¹ it turns away from proven risk-based systems, ignoring the safe handling of chemicals and disregarding the distinction between hazard of a pure substance and the corresponding risks to be examined in the different stages of its life cycle.

- Essential use concept

The essential use concept as a stand-alone decision-making criterion for the use of substances and mixtures is absolutely disproportionate and unfeasible. The essential use concept should only be applied as an option, if at all, and should not become the main trigger for regulatory decisions. A result of a first evaluation of the essential use report shows that there only minor benefits.^{2, 3}

¹ [Commission Staff Working Document Fitness Check of the most relevant legislation \(excluding REACH\); 25.06.2019](#)

² [20230829 eurocolour comments on the final report essential uses concept.pdf](#)

³ [Supporting the Commission in developing an essential use concept - Publications Office of the EU \(europa.eu\)](#)

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- New hazard classes
The introduction of the new hazard classes in the EU - via delegated act - fundamentally contradicts the UN GHS approach and the global harmonization of the hazard classes. For companies in the EU, this may mean a stricter classification of substances than in the rest of the world. New data may have to be generated based on animal experiments; this contradicts the EU Commission's aim to avoid animal experimentation. The new hazard classes PBT, PMT and ED require more animal tests, also for lower tonnages.

Circular economy /Circular Economy Action Plan

- The term “circular economy” comprises many measures that enable materials and products to be kept in circulation and are intended to get away from linear process chains. For example, products are to be reintroduced into production as secondary raw materials after disposal.
- Recycling – mechanical, solvent-based or chemical – is primarily associated with end-user products made of plastics. Each of the processes has specific requirements for the composition of the plastic materials. Quite often, only the plastic content is considered in recycling, but mechanical recycling has its limits for additives and added pigments. Therefore, it is important to consider other recycling methods as well.
- With the new Ecodesign Regulation, the legislator wants to set a new standard for circular products. Unfortunately, the Ecodesign Regulation again refers to substances of concern that are categorized as hazardous or could interfere with recycling. This one-dimensional view of sustainability limits the possibilities for further development.
- Pigments and fillers contribute to longevity, function and thus also sustainability. A restriction of substances that one-sidedly considers only the hazard and not the functionality is not expedient. A classification as hazardous does not fundamentally preclude recyclability or sustainability.
- Our industry has been working for a long time to provide recycling solutions. Functional pigments, for example, enable NIR detection. High pigment purity also helps improve material recyclability.
- With the new Ecodesign for Sustainable Products Regulation, the EU Commission introduces a Digital Product Passport for every product or article. Meanwhile, digital product passports have already been put in place in other downstream regulations, such as the Toys Regulation and more. In our view, it is essential to take an aligned approach to the Digital Product Passport.

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Consequences for the European chemical industry

Alongside the Chemicals Strategy for Sustainability and the Circular Economy Action Plan, there are many other EU regimes that directly determine and influence the burdens on our companies – such as the Emission Trading System, the 2030 decarbonisation goals, regulations on waste, packaging and labelling, water, soil and deforestation, CSRD reporting, compliance, due diligence, requirements under the Sustainable Finance Action Plan, rules on energy (electricity, gas, H2 etc), the Industrial Emissions Directive ... the list seems endless. Each of these norms brings new regulatory obligations. These might turn out very difficult or impossible to fulfil, as their total causes an immense strain in both administrative and technical terms.

Not only do the initiatives proposed by the EU Commission result in uncertainty for the industry, they also cause high costs which can be detrimental, especially for SMEs. More studies than potentially necessary have to be funded. In addition, rising energy costs due to internal and external factors mean that production in Europe is no longer competitive, particularly in energy intensive industries. The direct consequences of these increased costs to industry are the closure of sites in Europe and the shifts of future investment to countries outside the EU.

In fact, companies have already started to relocate and gear up production in plants outside the European Union where businesses are not faced with huge amounts of regulation and other legal requirements and energy and labour costs are significantly lower. This is evident especially for multinationals who rely on their installations functioning in other parts of the world and find it easier to move their activities and investments to facilities abroad. Obviously, this is to the disadvantage of prosperity and industrial development in Europe.

Research into the job cuts announced or planned by European chemical companies over the last two years shows that the process is already underway. Numbers of job reductions range from a few hundred to several thousand redundancies in larger companies. In total, more than 10,000 jobs in the chemical industry in the EU have been lost. When adding the SMEs, these numbers are most likely to be much higher.

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What does a sustainable European industry really need?

For a successful improvement of the European industrial landscape, it is first necessary that the overarching zero pollution goal is carefully considered to address the challenges of its practical implementation: What can realistically be achieved under social, environmental, economic and governance criteria? This question can only be answered properly in a constant dialogue not only with the chemical manufacturers but also with the other actors in the value chain and the end users who can influence further the impact that chemicals have.

This collaborative approach is also necessary for the impact assessment as an important step in the examination of any new regulation: Currently, it is not really taken into account that many new obligations in their entirety will affect the manufacturers all at once, with a combined effect much higher than the single impact assessments developed for individual initiatives alone.

For a broad initiative like the Green Deal, it would be more useful to define distinct strategic objectives instead of detailed regulations that, for example, address limit values for substances in ppm or ppb levels. The separate drafting of many different pieces of new legislation focused on general limits creates legal uncertainty, particularly when their effect on each other or on already existing regulations is not clear or shows discrepancies even at an earlier stage. In turn, such uncertainty destabilizes the whole value chain since it becomes impossible to have a precise estimation of the real impact and to communicate about compliance. To avoid this, a coherent approach of the COM directorates is a key aspect, based on an informed view on the current and expected socio-economic situation.

The Green Deal with its numerous regulations and directives should be inspired by the principle of technology neutrality according to which the transition can be achieved through a flexible approach to different technologies instead of being limited to a single solution.

Objectives should be pursued leaving the industry with opportunities to invest and to do research into many technologies. Legislation should be limited to setting the goals without prescribing technologies and tools. These need to be developed by the industry itself in an independent context, using different approaches and paths.

The establishment of a stable and sustainable framework of regulatory conditions for manufacturers is an underlying and possibly not enough stressed component of the Green Deal. Only if manufacturers are given clearly defined, achievable goals in a manageable legislative framework will they be able to work towards the set objectives. Otherwise, the process will not only create enormous bureaucracy which will take time and resources away from the desired result of an improved and still competitive European chemical and general industry – the process will also reduce Europe's attractiveness as an investment region, as also mentioned in the chapter "Consequences for the European chemical industry".

Furthermore, the activities need to be included in the global political and competition landscape. As of now, many initiatives lead to significant disadvantages for European manufacturers and will intensify the trend to establish industrial activities outside of Europe. To give one example, costs of manufacturing with high hurdles (e.g. limit values of ppt that cannot be analyzed) combined with weak enforcement activities will decrease the competitiveness of European industry as a whole

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The EU Green Deal was planned and conceived at a different time and in different circumstances. The original objective to protect our climate is still fully supported by Eurocolour but this is a global task and cannot be achieved by the European Union alone. However, more weight has to be given to the other goals like no person and no place being left behind and economic growth relying on resources (e.g. human capital, technology) independently of producers outside of the EU. Since then, realities have shifted, and the economic and political conditions have changed dramatically. The new economic and political situation requires policy adaptation. The Antwerp Declaration⁴ sets out a way forward, demonstrating industry's commitment to the goals of the EU Green Deal.

Backup or Annex I

- 1999 UN General Secretary Kofi Annan asks global leaders – CEOs, government officials and civil society – to support the UN efforts for a more sustainable development of the world economies and their globalization. Big chemical companies start to establish and implement ESG (environmental, social and governmental) programs within the industry.
- 2000 Constitution of the „Global Compact“, an initiative of leaders around the world, who commit their organizations to a sustainable and responsible governance. ⁵
- 2000 Millions of millennials are born who will consider in the coming years whether companies that manufacture consumer products or could be their prospective employers share their mindsets and expectations with regard to sustainability.
- 2001 EU COM communicates the cornerstones of the future chemicals policy („White paper – Strategy for a future Chemicals Policy“). ⁶
- 2006 EU adopts REACH, which comes into force in 2007. ⁷
- 2008 Banking crisis in the US with tremendous impact on financial and goods markets reveals the vulnerability of our globalized world.
- 2009 EU's Non-Financial Reporting Directive (NFRD) requires corporations to include non-financial information associated with environmental, social and governance behaviour (ESG) in their reporting systems.
- 2011 BASF, Bayer, Evonik Industries, Henkel, Lanxess and Solvay constitute „Together for Sustainability“⁸, a member-driven initiative, raising CSR standards throughout the chemical industry. TfS members are chemical companies committed to making sustainability improvements within their own – and their suppliers' – operations. Together they are building the global standard for environmental, social and governance performance of chemical supply chains.
- 2014 EU CSR Directive implements non-financial reporting which also affects small and medium-sized enterprises as part of the supply chains.
- 2015 Paris Agreement and Agenda 2030 are ratified by more than 190 countries that commit themselves to a climate-friendly and resilient world (limitation of the rise of the average global

⁴ [The antwerp Declaration for a European Industrial Deal \(antwerp-declaration.eu\)](https://www.antwerp-declaration.eu/)

⁵ <https://unglobalcompact.org>

⁶ <https://ec.europa.eu/newsroom/growth/items/40849/>

⁷ https://environment.ec.europa.eu/topics/chemicals/reach-regulation_en

⁸ <https://www.tfs-initiative.com/>

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temperature, reduction of emissions and adaptation to climate change, allocation of financial resources to projects and organizations consistent with climate goals). This demonstrates that the EU economy did not start from scratch when in

2019 Ursula von der Leyen, President of the European Commission, announces the EU Green Deal, which will burden and strain the EU industry with even more data requirements, regulations and unnecessary bureaucratic hurdles, controls and costs.

2020 Again, another crisis hits the world with COVID-19, which shows that the world's societies are vulnerable and thus need stable and solid economies and companies which are able to supply their populations with the necessary goods (in 2020 - 2022 in particular face masks, sanitary products and vaccines). The aftermath influences the world economy and population until today with interrupted supply chains, erratic price variations and socio-psychological disorders of many people.

2022 Russia starts a war in Ukraine after „unfriendly takeover“ of Crimea in 2014 and infiltrates the Eastern part of Ukraine with paramilitary troops. The following sanctions of the Western World urge companies throughout the EU to cease their activities with Russian companies and in Russia - without significant impact on Russian markets so far.

While other world economies (e.g. China and the USA) support their manufacturers, high energy prices and disruptions of supply chains combined with counterproductive regulations within the EU drive many companies away from Europe, as their competitiveness suffers major damage compared with their overseas business competitors. This also reduces the incentives for innovation.

2024 After the Hamas attacks of 7 October and Israel's reactions in Gaza, the axis Russia-Iran-Houthi rebels intends to stop or at least to hamper the sea route through the Persian Gulf and the Suez Canal – which adds costs and causes loss of time for shipping goods from Asia to Europe.

On top of that, the EU (and NATO) have to consider the possibility of a re-election of former US president Donald Trump as a threatening scenario for both.

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About Eurocolour:

Eurocolour e. V. is the umbrella association for manufacturers of pigments, dyes, fillers, frits, ceramic and glass colours, and ceramic glazes in Europe.

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