

Space Industry Contribution to the Public Consultation Addressing the Interface between Chemical, Product and Waste Legislation

The European Space Industry, represented by ASD-EUROSPACE – collaborating with European and national space agencies – wishes to contribute to the public consultation addressing the interface between chemical, product and waste legislation¹, (hereafter “the Consultation”).²

With regards to the questionnaire, and taking into account the specific nature of our sector (more of this below), we are only concerned by *Issue #1: Insufficient information about substances of concern in products and waste* and, within that issue, more particularly *Challenge 2: Tracking substances of concern*.

The Space Sector as a producer of very complex space systems (spacecraft and launch vehicles) is already strongly impacted by the REACH Regulation in general and REACH Article 33 in particular.³ The sector is fully committed and has been working since the adoption of REACH on a company and sector-level to address the REACH impacts and ensure continued compliance efficiently. Whereas it is clear that REACH does apply to ground operations, it is also clear that **EU waste rules do - by definition - not cover objects that do not result in “waste”⁴ on the EU territory**. This is the special case for the Space Sector as producers of equipment that is designed to be sent into Space, and is therefore not part of the Circular Economy:

The **EEA supply chain ends** at the launch site (for example in EU at Centre Spatial Guyanais (CSG), the European spaceport and launch facility near Kourou in French Guiana).^{5&6} Subsequently a change of legal regime takes place as space activities are governed by

¹ https://ec.europa.eu/info/consultations/public-consultation-addressing-interface-between-chemical-product-and-waste-legislation_en

² This paper has been prepared in the frame of the Materials and Processes Technology Board of the European Space Components Coordination (ESCC MPTB). The ESCC MPTB is a partnership between the European Space Agency (ESA), national space agencies, and space industry represented by ASD-EUROSPACE; it is chaired at present by ESA. Current participants from Eurospace include: Airbus Defence & Space, ArianeGroup, Avio, MT Aerospace, OHB, RUAG, TESAT and Thales Alenia Space. Participating national space agencies are: Agenzia Spaziale Italiana (ASI), Centre National d’Etudes Spatiales (CNES) and Deutsches Zentrum für Luft- und Raumfahrt e.V. (DLR). Other participants are MAP, a manufacturer of mixtures, REACHLaw, a consultancy supporting the group on REACH and other chemical regulations, and the European Defence Agency (EDA) as observer.

³ See Eurospace Space Sector contribution to the EC REACH Review 2017, especially “Difficulties to comply with REACH Article 33” (page 7-8) and “Substances in complex articles: Workable approach” (page 9); available at <https://eurospace.org/working-groups/#reach>.

⁴ ‘Waste’ means any substance or object which the holder discards or intends or is required to discard, Article 3 No. 1 of Directive 2008/98/EC.

⁵ See also Eurospace REACH position on hydrazine (June 2012); available at <https://eurospace.org/publication/position-papers>.

⁶ Alternatively spacecraft produced in EU may also be launched from non-EU launch sites or subsystems and equipment produced by EU space companies are supplied to non-EU satellite producers who operate under a different space law framework. However, end-of-life considerations for these objects post launch as given in this document are similar to spacecraft launched from CSG.

international agreements⁷ and national space law.⁸ The **space law framework** contains specific and very stringent rules and safety requirements, including provisions on the Return of Objects Launched into Outer Space and Space Debris Mitigation. At the end of their service life, space systems are **either re-orbited (graveyard orbit above geosynchronous)** and never come back or **they are de-orbited. Spacecraft are now being designed for demise to maximise burn-up during descent through the atmosphere and controlled to come down above the southern Pacific.**

Therefore ASD-Eurospace is of the opinion that the **new notification duty under Article 9 (1) (i) of Directive (EU) 2018/851 does not apply** to EU suppliers of equipment designed to be sent into space and related means of transport (spacecraft and launch vehicles) which do not result in “waste” on the EU territory. On 8 October 2018 ASD-Eurospace has submitted this position to the European Commission (DG ENV) with a request for legal clarification; the questions raised are currently being assessed in cooperation with other Commission services.⁹ ASD-Eurospace has also contributed to the recent Call for Input on the task of the European Chemicals Agency to develop a database on articles containing Candidate List substances under the said Directive.

While we understand the issue of insufficient information about substances of concern in products and waste and the need for suitable tracking for those substances throughout the supply chain in order to enable safe recycling activities and compliant transition of materials from waste to product status, **the tracking solutions should be sector-specific (Option 2B in the questionnaire)** taking into account each sector’s recycling aptitude and needs. As explained above, the Space Segment does not produce articles that result in waste in the EU territory, therefore the recycling potential is nil and the most effective tracking solution for the sector would be **no-tracking**.

Implementing Option 2A: *all substances of concern should be tracked by a set date*, would result in redundant declarations (further to the already existing requirements, such as REACH Article 33) and disproportionate compliance efforts for the Space Sector, and we strongly disagree with it. Option 2C: *tracking of substances of concern should remain voluntary*, and Option 2D: *tracking of substances of concern is not necessary or suitable because information on chemicals should be obtained directly by analytical means* are both acceptable for the Space Sector and we mostly agree with them.

We also would like to express our support to the **contribution by ASD** to this public consultation.

We trust our contribution is useful to your Consultation and are available for any further questions.

Kind regards,

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⁷ See [United Nations Treaties and Principles On Outer Space, related General Assembly resolutions and other documents \(ST/SPACE/61\)](#).

⁸ Concerning launches from CSG (launcher and spacecraft), the French Space Act ([Loi n° 2008-518 du 3 juin 2008 relative aux opérations spatiales](#) – « L.O.S. ») applies (fully applicable for all launches after 01/01/2021).

⁹ Letter of the European Commission (DG ENV), Ref. Ares(2018)5213564 - 10/10/2018.