

Cefic views on the EU Single Market

The Single Market is a major asset for a competitive chemical industry. Cefic encourages EU and Member State authorities to uphold and consolidate the Single Market.

A strong and resilient Single Market is a precondition for a successful industrial strategy and an indispensable factor for the chemical sector to operate and compete on a global scale.

Historically, European chemical companies have been selling most of their production in EU neighboring countries, over and above their home country. Thanks to the growth of the Single Market, sales of chemicals within the European Union increased by at least 40% between 1997 and 2017ⁱ.

A strong and resilient Single Market is an important factor for the chemical industry to operate and compete in Europe and abroad. Although the industry requires more actionⁱⁱ to uphold its competitiveness, the Single Market remains an essential precondition for its success.

First, because **free movement is at the heart of chemical operations** and this is facilitated by the Single Market. Chemicals cross many borders between production and final use or consumption: throughout the supply chain, chemicals are transported first in bulk, then in packaged products when integrated in formulations and complex products. The sector transports about 250 million tonnes of chemicals every year, mainly by road, sea and pipeline.

Second, because the chemical sector **operates and recruits internationally**. The chemical industry relies on the four freedoms to trade and grow. The sector employs 1.2 million people in the EU, supplies virtually all manufacturing sectors of the economy via millions of supply chains and many companies have production facilities in several EU countries.

Third, because the chemical sector competes on a global scale. **Chemical companies rely on a resilient Single Market to invest in Europe, but if investors lose trust, they will turn to other regions**. Chemical companies are worried about the future of the Single Market. This is due to Brexit but also to the on-going discussion on areas of competence to be re-delegated to the Member States and reform of comitology procedures. Regulatory uncertainty may affect levels of investment at a time where the EU is calling industry to invest and develop long-term solutions to address the big societal and environmental challenges.

Cefic encourages the EU to further develop the Single Market by fostering a common approach to regulation and harmonizing strategic areas.

EU harmonization of trade, product safety and transport rules has facilitated cross-border operations inside the EU. It also ensures the EU has a stronger voice in international trade talks and at the WTO.

But in many cases, EU harmonization **did not achieve a common rule-book**: discrepancies in national legislation remain and new technical barriers are introduced post-harmonization despite existing control mechanisms in the Treaty and Single Market tools (cf. TRIS, SOLVIT).

A fully functioning Single Market requires **a common legislative approach, at both EU and Member State level**: one that favors a level-playing field across the EU and minimizes goldplating.

It also requires constant attention from all EU and national authorities to the **correct implementation of EU law** – respecting the common rules and procedures agreed by the EU legislature – and always favoring the **least restrictive and burdensome national measures**.

In addition to strengthening the existing framework, Cefic encourages the EU to continue deepening the Single Market in the following areas:

- Integration of the **electricity market** is key for further deployment of renewable energy production that can help the chemical industry on the way towards carbon neutrality. To go successfully through the energy transition, the chemical sector will need access to abundant, reliable and competitive low carbon electricityⁱⁱⁱ.
- Completion of the **digital single market** is important to unlock and protect innovation. As data is becoming a new feedstock for industrial value creation, data access and data sharing practices need an effective, holistic framework in order to take advantage of the data economy.
- Further improving the **inter-operability of international rail freight** is needed to ensure efficient and safe chemical transport operations. The Rastatt (Germany) incident in 2017 showed the current vulnerability of our European rail freight network. Cefic supports full implementation of the Railway Packages and further development of European Rail Freight Corridors.

REACH is the centrepiece regulation of the Single Market for chemicals and all players on the EU market should meet its standards.

Over ten years ago, the EU REACH regulation harmonized Member State's chemical policies into an ambitious framework for the registration, evaluation, authorization and restriction of chemicals.

By 2018 the chemical sector successfully registered over 20 000 substances. Chemical companies will keep on updating the data registered under REACH and improving ways to pass on information for the safe use of chemicals through supply chains.

However, companies regularly notify Cefic about non-compliant substances, mixtures and articles imported in the EU. Recent reports of the ECHA Enforcement Forum show that non-compliant products keep entering the EU market^{iv}, pointing to the **need for better enforcement** of REACH.

Cefic encourages EU and Member States' authorities to strengthen enforcement at EU borders. We, and especially the Member States, need to ensure that no substance can enter Europe without being REACH compliant. We support the Goods Package's ambition to

increase surveillance on imported products, but encourage more surveillance on import of substances.

The EU fosters a common approach to chemicals policy. Yet, barriers remain both in harmonised and non-harmonised areas.

Cefic supports EU procedures for the assessment and restriction of chemical substances and products; isolated regulatory action creates technical barriers to trade within the EU.

In a number of harmonised areas, barriers keep on dividing the Single Market.

In some cases, Member States use safeguard clauses to introduce country-specific restrictions often based on conflicting scientific evidence, such as for instance France's suspension of titanium dioxide in food and ban of bisphenol A in food contact materials. In other cases, Member States implement EU legislation in a restrictive way, relying on an erroneous interpretation of the law, as happened with Denmark and the F-Gas Regulation (517/2014).

Chemical companies also report barriers in non-harmonised areas.

Several Member States have their own approval systems for products in contact with drinking water (cf. pipes, taps, valves) and market access for this type of product is generally not granted based on a proof of compliance issued by another Member States^v. Similarly, for substances used in the manufacture of component materials (e.g. plastics, silicones), manufacturers have to apply for pre-market authorization in different Member States, resulting in high burdens.

In the area of export controls and explosive precursors, chemicals remain subject to a patchwork of national regimes despite EU harmonization efforts.

BREXIT means the UK will no longer be part of the EU single market of chemicals.

As soon as the UK leaves the EU, REACH registrations for 5000 substances will be invalidated: those registered by UK companies. Unless those companies obtain a new registration or a transfer of their substance via a legal entity established in the EU27/EEA – directly or via other supply chain operators - they will no longer be entitled to access the EU single market. This is a serious cause of concern for both chemical manufacturers and downstream users.

Another legal consequence concerns REACH authorized chemicals: when the Commission granted the authorization to a UK legal entity, the effects of that decision will cease when the UK leaves the EU, unless it is transferred to an Only Representative based in the EU27/EEA.

Cefic calls for a least disruptive EU-UK relationship after Brexit, including continued participation of UK authorities and businesses in the implementation of chemical regulations administered by the European Chemicals Agency^{vi}.

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About Cefic

Cefic, the European Chemical Industry Council, founded in 1972, is the voice of large, medium and small chemical companies in Europe, which provide 1.2 million jobs and account for 17% of world chemicals production.

ⁱ Cefic Facts and Figures, 2016.

ⁱⁱ See [Cefic Manifesto for a Competitive Europe](#): Why the EU needs an ambitious Industrial Strategy and what it should contain.

ⁱⁱⁱ Dechema study, Low carbon energy and feedstock for the European chemical industry, June 2017.

^{iv} ECHA Forum Ref 4 Project Report, February 2018: *“When counting non-compliance on the basis of the origin of the product, the highest rate of non-compliance was with products imported from China (17 % of the products checked were non-compliant)”*. See also ECHA Forum Ref 3 Project Report, December 2015: *“The rate of non-compliance for importers and ORs was higher compared to that of manufacturers”*. Recent RAPEX reports also show that importers placing articles containing substances of very high concern on the market in the EU often do not comply with their communication duties.

^v As recognized by Commission REFIT Evaluation of the Drinking Water Directive 98/83 (SWD(2016) 428 final, p. 15).

^{vi} In their March [joint statement](#), Cefic and CIA called for continued UK engagement in ECHA after Brexit, and, in June, they issued their [recommendations](#) for post-Brexit chemicals regulatory cooperation.