

Position paper

ECHA Database on Candidate List Substances

amfori comments on the call for input on the task of ECHA to develop a database on articles containing Candidate List substances. This document outlines key challenges associated with the development of a database and will particularly highlight key issues encountered by different actors in global supply chains by the approach taken by ECHA to develop this database.

Background

ECHA will establish a new database on the presence of Candidate List substances, i.e. substances of very high concern, in articles. The primary users of the database are the waste treatment operators and consumers. The database will contain information submitted by companies producing, importing or supplying articles that contain Candidate List substances. Companies need to submit this information for articles placed on the market from 5 January 2021 onwards. The exercise stems from the revised Waste Framework Directive that entered into force in July 2018. It is part of the EU's waste legislation package, contributing to the EU's circular economy policy. The database has three main objectives:

- Decrease hazardous waste generation by supporting the substitution of substances of concern in articles, placed on the EU market;
- Allow authorities to monitor the use of substances of concern in articles and initiate appropriate actions over the whole life-cycle of articles;
- Provide information to further improve waste treatment operations.

Current Status

ECHA has developed a draft scenario for the database on articles containing Candidate List substances. The draft scenario introduces an article-centric approach. Article suppliers would have to submit a notification per article (or complex object, i.e. objects made of two or more articles). If an article contains several Candidate List substances, all those substances would have to be notified together, as part of the notification for the article supplied. The information to be submitted to ECHA would therefore be structured around

articles/complex objects that are supplied to the EU. The article-centric approach is likely to be very challenging for certain supply chain actors, such as retailers, distributors and importers, who are part of increasingly sophisticated multi-actor supply chains involving articles and most importantly complex objects and combinations of complex objects with mixtures. There is a real risk that the article notification requirements could thus lead to multi-reporting. In order to mitigate this risk, ECHA has proposed to implement "unique identifiers" for articles and complex objects. The unique identifier would enable retailers / distributors to refer to the already submitted information using an article ID. The unique identifiers would be generated following an algorithm to be made available, by ECHA.

Key Challenges

1. The decision to build a database for submission of Candidate List substances for all articles/complex objects by all EU suppliers has been taken without any **impact assessment**. An impact assessment would have allowed to analyse the database's effectiveness in supporting substitution, providing information to waste treatment operators and ultimately contributing to the circular economy.
2. One of the key objectives of the database is to make information on Candidate List substances available to waste operators. The information needs of waste operators will vary per product and related treatment processes. The recent position paper published by the European Recycling Industries' Confederation (EuRIC) on the ECHA Database on Candidate List substances raises significant concerns as to the proposed database's suitability to achieve this aim, arguing that the database is unlikely to change the

treatment processes of end-of-life articles covered by a sector-specific directive and will not have an impact on waste classification¹.

3. Waste streams are **highly heterogeneous in nature**. The information on the presence of several Candidate List substances in one or more articles would be very difficult to manage during any dismantling and/or other waste treatment operations.
4. The information in the database will be made available to both waste operators and consumers. The information needs of these groups are however very different.
5. It remains unclear how the database would accommodate the dynamic nature of the Candidate List. In case all article notifications for articles containing a newly identified Candidate List substance would require amendments, the process would risk becoming overly complex.

Supply chain implementation challenges of an article-centric approach

- The integration of unique identifiers per article would require adaptation of current company master data management systems, since those unique identifiers would have to be integrated **for all articles**, including equivalent articles and irrespective of the sourcing region and quantities. As a result, EU article suppliers would not only have to adapt the configuration of their ERP management systems, but also their inventory management systems across global supply chains, which would have significant financial implications.
- The change from a “substance-centric approach” to an “article-centric approach” requires complex adjustments to already existing tools for communication on substances in articles in global supply chains. The relatively short timeframe for implementation of reporting requirements (5 January 2021) could prove difficult to meet and potentially lead to initial non-compliance.
- The article-centric approach represents a challenge regarding enforcement, it is fundamental to coordinate transposition and establish harmonized approaches regarding data submission requirements and procedures, so that these can be checked by the authorities in a reliable manner. Harmonized approaches for enforcement activities are key to avoid supply chain disruption, especially for articles imported to the EU from non-EU suppliers.

Moreover, the notification per article adds additional burden on custom authorities as it would require extra capacity and training to ensure enforcement activities are carried out properly.

Challenges encountered by duty holders

- According to the ECHA draft scenario, supply chain actors which are at the bottom of the supply chain, such as importers, retailers and distributors will be able to refer to the already submitted information through unique identifiers. It is, however, not clear how those actors can refer to that information and how a unique identifier for articles/complex objects will be generated in case the information from the top of the supply chain (producers e.g. non-EU-suppliers) is not available. Therefore, it is crucial to consider the supply chain “reality” where not all actors will always be submitting their notifications successively to avoid any gaps in the set of information on Candidate List substances for articles / complex objects in the database. It is important to be mindful of the interdependencies in the envisaged reporting system and explore the feasibility of an efficient submission system for substance notifications by individual supply chain actors, if necessary.
- Supply chain actors which are at the bottom of the supply chain are often the last recipients of information on candidate list substances (importers/retailers/distributors). Given today's long and complex supply chains, this represents a big challenge especially for importers who are often sourcing raw materials and/or finished products from non-EU suppliers. These actors would have to re-design their material master data management systems in order to include a unique identifier **for all product ranges** containing candidate list substances. If the actors at the top of the supply chain are non-EU producers and suppliers, i.e. supply chain actors who do not fall within scope of ECHA's article notification database, the importers would not be able to refer to any pre-notified articles. This in return would put additional burden on importers to submit a vast amount of notifications **for all articles**, including equivalent standard articles, such as fasteners and articles which are often sourced from the same non-EU suppliers by different EU importers, irrespective of the sourced quantity. It is, therefore, important to consider alternative

¹ EuRIC-Position ECHA-Database-18.09.2018: https://www.euric-aisbl.eu/images/PDF/EuRIC-Position_ECHA-Database-18.09.2018.pdf

approaches which would avoid duplications in the database and allow importers to submit article notifications in an efficient manner.

amfori recognizes the benefits of providing more information on Candidate List substances to all actors in the supply chain, including waste operators. However, we see significant challenges as outlined in this document, which relate to the proposed approach for the database. We are not convinced that the expected additional administrative burden for businesses is proportional to the desired objective, not least given the uncertain added value and effectiveness of the database. Given these concerns, we believe that alternative measures which would put less administrative burden on supply chain actors should be explored. Moreover, the information needs of waste operators vary significantly per industry sector. There is no “one size fits all” solution to tackle the lack of communication on substances in articles for waste treatment operators. Therefore, amfori proposes to explore other options to provide useful information on Candidate List substances by clearly identifying the needs of the information users (e.g. waste operators) in each sector and by developing sector-specific approaches which take into account existing systems and can be integrated more seamlessly.