Cefic input stakeholder consultation on the SUPD IA

Please find below the contribution of the European Chemical Industry Council (CEFIC) into the stakeholder consultation for the Single Use Plastic Directive Implementing Act (SUPD IA). This contribution reflects the discussions and different positions of the Cefic members, who are engaged in different technologies.

A) General appreciation of the SUPD IA Draft

1. Cefic supports the urgent adoption of the Single Use Plastic Directive (SUPD) Implementing Act (IA) suggesting targeted changes (as stated below) to ensure legal clarity and support the economic case for both new investments and use of existing infrastructure.

2. The recognition of chemical recycling in EU policy is critical to enable its contribution to the transition towards a circular economy for plastics and especially contributing to increasing the sustainability of the plastic value chain and overall rate of plastic waste replacing fossil feedstock.

3. Various polymers require various recycling technologies and meeting the EU's ambitious circularity targets will require mobilizing all available recycling capacity. Chemical recycling can be done in new stand-alone recycling facilities (e.g. depolymerization or pyrolysis), as well as in existing integrated petrochemical sites that can be used to do pyrolysis or depolymerization.

4. Pyrolysis oil typically requires purification/upgrading to be able to be fed into a steam-cracker, which can also be done in new stand-alone facilities or in existing integrated petrochemical sites. Monomers are mostly produced in steam crackers, but some monomer production also takes place in integrated petrochemical sites. Chemical feedstock can be converted to polymers, but also to other material uses (e.g. aromatics, lubricants, solvents).

5. Cefic appreciates the acknowledgement of the complementarity between chemical and mechanical recycling.

6. It is important to consider learnings from experience with implementation of calculation rules for recycled content for chemical recycling for future legislation. Regulatory certainty must be obtained now for existing and future investments with the ability to improve by learning from experience, as highlighted in Recital 27. In this light, the implementation of a well-defined fuel use exempt mass balance chain of custody method to ensure traceability will allow for a transition to leverage recycled feedstocks in a carbon-system that also allows other feedstock sources.

7. To ensure an affordable transition towards circularity, it is essential to maximize the use of existing infrastructure. By doing so, the industry can focus investments on expanding new complementary

European Chemical Industry Council - Cefic aisbl
Rue Belliard 40 b.15 B-1040 Brussels Belgium
Tel. +32.2.436.93.00 mail@cefic.be www.cefic.org
EU Transparency Register n° 64879142323-90

recycling capacities rather than duplicating current capabilities. It is necessary to leverage market readiness and consider economic factors.

8. Cefic welcomes the provision allowing the carryover of positive amounts to the next mass balancing period.

9. Cefic appreciates the use of process-specific operational data with verification. It is essential to demonstrate the recycling that is achieved in the respective process.

10. Cefic welcomes the requirement for economic operators to only report on the next step in the supply chain, rather than the entire downstream supply chain, minimizing the administrative burden.

11. Cefic appreciates the intent to enable all recycling technologies and consideration of economic viability, to enable the transition to circularity, but amendments are required to achieve this purpose as set out below.

B) Proposals for improvement

12. The definition of chemical building blocks leads to a methodology focused solely on polymers, whereas it should also be possible to allocate eligible materials to non-fuels that are not polymers.

13. The definition of recycling technologies must be inclusive of all technologies to be technology neutral. Therefore, the proposed definition of "recycling technologies" should not be limited to plastic-to-plastic conversion but also include processes that transform plastic waste into any other chemicals and materials, aligned with the concept of recycling as defined in the Waste Framework Directive.

14. Cefic suggests a re-wording of Article 1(15) of the draft SUPD IA to make sure the definition is aligned with the broader recycling concept in the Waste Framework Directive of waste materials to non-fuel products, materials or substances: 'chemical building blocks' means chemicals that form the base for or can be processed into non-fuel products, materials or substances including polymers, as defined in Article 3, point (5), of Regulation (EC) No 1907/2006, including monomers and other reactants such as initiators for polymerization. The definition should be broad enough to enable this draft as a basis for further policies beyond the current scope of bottles made from polymers.

15. The exclusion of solid material from "dual use outputs", (Article 7.4(c)(iii)(1)), hinders innovation and the potential recycling of these materials in the future. Application of "dual- use factor" ensures anyway that in case solid material is not recycled into non-fuel material the dual use factor would be zero. Therefore, no additional restriction is needed at this stage. Cefic therefore proposes to delete this paragraph.

16. Article 8.3. requires economic operators to provide customers with a declaration regarding the recycled content issued in accordance with the model in Annex V, for each batch of material. The model established in Annex V Part B requires the declaration of the identity of the economic operators at previous steps of the supply chain (under section 4.2.). This obligation is particularly critical as it would require economic operator to provide their customers with confidential

commercial and industrial information. This information is included and verified during the third-party verification audits.

17. It is essential to harmonize the verification methodology for recycled content, as outlined in Annex III 3.1., to ensure consistency across all Member States, guarantee the principles of the European Single Market and minimise the administrative burden.

18. Competition is global. All suppliers on the EU market should follow the same standards. The enforcement of the methodology developed in this SUPD Implementing Act for imported plastic items, plastics or polymers with recycled content obtained through chemical recycling, such as the equivalence clause in the PPWR, is essential for a level playing field.

19. Cefic asks the Commission to clarify in the proposal how it intends to enforce this Implementing Act particularly for the import of recycled material and plastic items and to develop enforcement rules.

20. Regulations need to be enforceable. The process of importing materials with claimed (attributed) recycled content should include a very deep understanding and control of the attribution mechanism used, especially for imports from regions where more flexible allocation models are used (e.g. free allocation). Effective enforcement with the right level of penalties is crucial to remove the significant risk of unfair competition to European industry and to secure investment to develop a circular economy in Europe.

21. Cefic considers the prohibition of credit transfer across sites (Article 7.7.) as counterproductive to achieving a true circular economy. Restricted credit transfer under very specific conditions: the same product, the same parent company, and within a specified geography, should be allowed. This approach avoids unnecessary transport of intermediate products along the value chain and the associated environmental impacts while supporting consumption of plastic waste in place of fossil feedstocks.

22. Recital 21 requires amendments: The current text states "Attributed amounts of eligible material should not be shifted across different facilities of a company as this would add complexity to calculation and verification of attributed amounts". Cefic proposes to add: *"Restricted credit transfer between sites should be allowed under specific conditions: the same product, the same parent company, and within a specified geography in the context of chain of custody".* That should however not prevent physically moving material with attributed amounts between different facilities of a company or between different companies without reallocating their attributed amounts, provided that the material is accompanied by the necessary documentation to ensure "*compliance with this decision".*

While the above sections found consensus within Cefic membership some members have expressed different views on certain parts of the SUPD IA draft. The following contributions give-expression to these different views without declaring these statements as a fully approved Cefic position.

C) Swift implementation required for new infrastructure

a) The proposed draft is workable for some Chemical Recycling technologies (e.g. PET/depolymerization and some pyrolysis technologies), and these technologies do not require amendments beyond those highlighted above.

b) Priority for these members is the swift implementation of the SUPD IA as it is essential for recognizing chemical recycling and a mass balance approach, which is critical for advancing the circular economy.

c) Rather than seeking additional adaptations now that might delay the implementation of the SUPD IA these members would like to see the SUPD IA implemented urgently now.

d) However it should be clear, that the SUPD IA should not be considered as an automatic precedent, but rather a test-case, for other upcoming legislation such as the PPWR.

D) Amendments required to support existing infrastructure

a) Members supporting the use of existing refinery assets which use co-processing for pyrolysis, purification or apply upgrading of pyrolysis oil that is produced in stand-alone units have identified the need for further amendments to the SUPD IA draft so that the full range of technologies can be enabled, while a fast implementation of the SUPD IA is key for them as well. Especially for such assets, the proposed IA is essentially a restrictive approach with significant negative impact on recycled content credits.

b) These members also want to encourage the European Commission to not only amend the current draft IA but also to continue to work towards calculation rules in future legislation like the PPWR which treat all chemical recycling technologies without bias and does not discourage any of them.

c) These members have raised that the draft IA is likely to have significant impacts:

1. The need to build new upgrading infrastructure - rather than using existing refineries - add to the circular economy investment gap. These are investments that could instead be directed towards gradually increasing recycling capacity instead of duplicating infrastructures that already exist.

2. The Draghi report identifies higher costs when building new production facilities as one of the root causes of the EU's lack of competitiveness in clean tech. There is therefore a significant risk that investments in new assets for chemical recycling are made outside the EU, if the transformation of Europe's existing infrastructure is not viable. This would also work against the achievement of the EU's plastics recycling targets since exports of waste plastics have been restricted.

3. If investments in chemical recycling were mainly made outside the EU, it would put Europe's industry at a competitive disadvantage in the markets for recycled content created by the EU's own targets. It would also leave the industry reliant on importing raw materials and/or final products further weakening the EU's supply security.

4. The current allocation rules for refineries forces additional steps in the refinery process for fossil feedstock as well, which places further strains on the competitiveness of Europe's chemical industry.

d. As described in the introduction, in order to meet the EU's ambitious circularity and recycling goals, multiple technologies and solutions will be needed that leverage both new and existing infrastructure.

Cefic stands ready to work with the Commission on this and future legislation to support a level playing field for all recycling technologies. In order to enable a swift implementation, Cefic and its members are available to provide the necessary technical expertise and information to the regulator to identify in more detail what is required considering the complexities of integrated petrochemical facilities.