# POSITION PAPER
# regarding the application of the *generic approach to risk management* to professional users

## Background

The *generic approach to risk management* is based on the principle that the intrinsic[1] properties of substances alone are determinant for regulatory measures, such as ban of certain uses. In this case, no risk assessment takes place, and therefore nor are the conditions and risk management measures determined for ensuring safe use. The risk approach which is otherwise usual under the REACH Regulation and in European chemicals legislation is not applied with the *generic approach to risk management*.

According to Article 68, Paragraph 2 of the REACH Regulation, the *generic approach to risk management* is already being applied in the current legal framework, whereby this is currently restricted to substances with CMR[1] properties of Categories 1A and 1B, and to the use by the private end consumer.

## Planned changes in the framework of the *Chemicals Strategy for Sustainability* (CSS)

The extensive package of measures under the *Chemicals Strategy for Sustainability* (CSS) includes a fundamental revision of the REACH Regulation. In this context, the application of the *generic approach to risk management* is intended to be extended in two directions:

- The intrinsice[1] properties of the substance, as a starting point for the application of the approach, should, as a first step, be extended from the present CMR[2], Cat. 1A/1B additionally to endocrine disrupters and substances with PBT[3] and vPvB[4] properties. In a second step, a further extension is to be examined to substances which are respiratory sensitisers, and which are immunotoxic and neurotoxic, as well as to substances with specific target organ toxicity (STOT[5]).
- In addition to this, it is intended to broaden the scope of application of the *generic approach to risk management* to products for use in the professional sector. This would make it possible for the hazard-based and not risk-based approach to be applied in principle to all construction products (mixtures and articles) which contain the substances with the properties referred to above. The European Commission takes the view that, in comparison with industrial users, professional users are not subject to the same risk management, although the products are used more frequently in comparison with the private consumer. Accordingly, in the view of the Commission, the *generic approach to risk management* should be applied to professional users in the same form as for the private consumer.

[1] Intrinsic properties: Inner properties of a substance, regardless of quantity and conditions of application
[2] CMR: Carcinogenic, mutagenic and reprotoxic
[3] PBT: Persistent, (P), Bioaccumulative (B), Toxic (T)
[4] vPvB: very Persistent (vP) and very Bioaccumulative (vB)
[5] STOT: specific target organ toxicity

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**Position of Deutsche Bauchemie**

The extension of the *generic approach to risk management* to other hazard classes would substantially increase the number of relevant raw materials, and therefore the number of construction products affected. The criteria for the new hazard classes, such as for endocrine disrupters, have in part not yet been established, which leads to the scope of possible effects being hard to assess, and incurs legal uncertainty. It can already be foreseen, however, that, with their excellent properties, a large number of reactive resins used in the construction sector, on a polyurethane, epoxy, and MMA[6] resin base, are among possible candidates of which the use could be prohibited or restricted by the *generic approach to risk management*.

**The extension to products for professional uses is viewed as particularly critical and inappropriate. This would equate these products which are processed by trained professionals with DIY[7] products distributed to private end consumers and subject professional products to the same restrictions or prohibitions.**

In contrast to the use by private end users, the professional sector - including with regard to working with the chemical substances - involves trained personnel, who in the course of their professional activity apply prescribed risk management measures, such as technical and personal safety equipment. The basis for the determination of suitable protective measures is a risk assessment for the systematic identification and evaluation of all relevant hazards.

Personal protective equipment for professional uses is in most cases not available to private end users. The purchasing costs alone frequently prevent such equipment being encountered in the consumer sector. In addition to this, private usage situations lack the legal framework for carrying out hazard evaluations, and the instructions deriving from this for safe use and for the implementation of such maybe necessary risk management measures. Accordingly, protective measures and measures for reducing exposure are not comparable in the professional and private sectors.

In order to identify safe conditions for use, and the possible risk management measures which may be required, a risk assessment is needed which is specific to substances and specific to uses. By the application of the *generic approach to risk management*, this risk assessment would cease to exist, and direct restrictions or prohibitions would be instigated. This would in turn, even though safe usage would already be ensured, impose unnecessary regulations and restriction on products and their uses,

It should also be borne in mind that in professional applications only personnel in good health are concerned, who in accordance with the provisions of the legislation are subject to medical supervision. By contrast the general population also includes persons who are unwell and the elderly, as well as infants and small children, for whom a higher level of protection is naturally called for.

[6] MMA resins Methylmethacrylate resins

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**In the light of the differences described between private and professional uses, any equivalence between these two areas is inappropriate and not conducive to progress. If this approach were to be adopted, this could lead to professional users in the construction industry and building trades only having access to products which are also offered to the private end consumer in the DIY market, and which are suitable for DIY applications. The consequence of this would be that, in many areas, it would not be possible to maintain the current state of the art in construction. Specifically, highly qualified craft and artisan professionals would no longer be differentiated in their range of services, as they were previously, from activities which can be carried out by unskilled persons.**

While there may also be a requirement in individual cases for regulation for professional uses, conditions for use and risk management measures for specific substances and their uses are now already being selectively regulated by a regular restriction procedure within the current legal framework (REACH), such as has occurred recently in the case of the diisocyanates.

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