

Nickel Institute Position Paper EU Communication for an Industrial Renaissance September 2014

The EU communication for an Industrial Renaissance which was released in spring 2014 is well-timed to address the EU's 2020 targets of reaching 20% of industry share of the European GDP. Industry drives growth, innovation and job creation. Therefore, the Nickel Institute welcomes the EU Communication and would like to note the following in particular.

1. An Integrated, Single European Market: Creating an Attractive Place for Enterprises and Production

Competitiveness-proofing of all EU policies and proposed legislative measures: the EU industrial policy must build on a proper understanding of the characteristics and needs of different industrial sectors in order to propose appropriate and targeted policy measures. Using effective and independent business impact assessments is vital to ensure harmonized policies and to avoid their accumulated pressure on business activities leading to situations where costs outweigh benefits to the economy.

Consistent, clear and coherent legislation: Prioritization and harmonization of the various policy objectives and corresponding instruments are essential to avoid competing measures and to ensure that the strategic objectives of the EU (including re-industrialization, combatting climate change, access to raw materials, resource efficiency, chemicals management, environmental protection, etc.) are met and are consistent.

A recent example of conflicting targets are the EU Emission Trading System (ETS) and the EU Industrial Emissions Directive (IED). While the EU ETS requires industry to reduce its energy consumption, the IED aims to achieve stricter environmental quality standards for air and water emissions. Yet emission reduction can only be achieved by the installation of further filter capacities (to further reduce emissions to air) and waste water treatment (to further reduce emissions to water) which result in additional energy consumption.

Resource Efficiency and Chemicals Management Legislation provide another example of conflicting targets. Resource efficiency aims at maximizing resources in production, use and recycling of raw materials, whilst chemicals management legislation aims at protecting the environment and human health. By basing legislation on hazard and precaution rather than on risk and science, properties and characteristics of the substance and end-products are not taken into account which could severely hamper resource efficiency. Production processes become inefficient as essential substances for processing cannot be used, by-products become stigmatized and can no longer be marketed. Such valuable raw materials would be landfilled instead of being safely processed and used, as ensured through the existing regulatory framework.

A similar example demonstrating the need for clearer and more coherent legislation can be found in the Commission's 'EU Raw Materials Strategy' which has identified 21 economically important raw materials for the future of the EU. Despite their importance, the use of some of these raw materials which are subject to a higher risk of supply interruption is, or could in future be restricted because of the hazard-based nature of EU chemicals management policy. As a consequence, we have been facing an increase in regulatory uncertainty, which has negatively affected the planning and security for companies. This can result in the allocation of production and use of these substances to areas outside the EU where legislation is built on scientific evidence and risk based approaches or where there are lower standards to protect the environment or health of workers at workplace.

In order to back coherent policies the key priority is to ensure ***sound science as basis for regulation*** which will support industry in long-term planning and investment, as well as stimulate innovation within the EU. Unfortunately, we consider that this is currently lacking in some aspects of chemical management regulations (e.g. the REACH Authorization process), the Ecolabel Regulation and the ongoing review of the RoHS Directive list of restricted substances. A purely hazard-based approach to regulations can result in depriving industrial value chains of substances critical for the development of efficient and sustainable products and industrial processes, negatively affecting the potential for economic growth, job creation and innovation.

Technical feasibility and economic affordability: EU manufacturing industry is already operating at very high environmental and energy efficiency standards and in line with the Best Available Technologies. High performance made possible by technology improvement and economic feasibility must remain the reference for establishing the license to operate in Europe.

2. Industrial modernisation: Investing in innovation and new technology production inputs and skills

Innovation: Innovation is the backbone of the European industry and economy. Special focus should be given to maintaining the innovation capacity of industry throughout the entire value chain and keep investing in R&D. Moreover, there is a need to ensure that industry is involved in defining the strategic agenda of the European Union. Additionally, the administrative burden of investments in the EU has to be eased and relevant procedures speeded up.

Innovation requires industry to deal with potential risks which are linked to new technologies and products. Currently there are strict rules and well-established regulatory frameworks that industry have to comply with, before applying new technologies or marketing new products. In the absence of science based evidence, the precautionary principle is applied in order to protect consumers and the environment from adverse impacts. However, regrettably the precautionary principle is not adequately applied by the EU, the Member State regulators and policy makers. The Nickel Institute calls for the updating of the Communication on the

precautionary principle, and training regulators and policy makers in evidence-based risk communication.

Many highly innovative sectors such as the catalyst sector, batteries sector or plating sector deal with substances that have a hazardous profile. Even though these substances do not pose a direct risk to the environment or to human health when dealt with in a professional and safe working environment, their use is either already restricted or restrictions are under consideration (e.g. REACH authorization). Therefore companies risk losing planning security and, as a consequence, may be forced to relocate production outside EU where there is no guarantee for high social and environmental standards.

The Nickel Institute calls for a concrete policy action to have more transparency in decision processes: application of risk based approaches; REACH authorization, and substance restrictions only to be applied if there are no better risk management options available.

Full life cycle thinking: Full life cycle thinking was acknowledged as a key principle for EU legislation in the EU Resource Efficiency Roadmap which the Nickel Institute supports. However there is a gap in applying full life cycle thinking into EU legislation. Currently, different pieces of EU product legislation refer solely to the environmental impacts of raw materials and the production process but do not acknowledge potential benefits occurring during use (e.g. less maintenance, longer life time) and end of life (e.g. full recyclability). Especially in the discussions around the Product Environmental Footprint, these are important aspects that need to be taken into consideration.

Impact Assessment of legislation: There is a need to assess impacts and benefits of upcoming but also existing legislation with the aim to identify and remove target conflicts with other legislation that might evolve.

Access to nonferrous metals and materials and products: A level playing field has to be pursued for all market participants. There needs to be recognition of the special properties of metals in general in all legislation affecting their condition of use, including resource efficiency, product and end of life legislation, environment and health. Data on raw materials which were generated over the past years (REACH registration dossiers) must be consistently used in other EU legislation. The Globally Harmonized System (GHS) should be implemented in a sound manner. Exchanges on data and methodologies have to be ensured.

Predictability: Investment planning in the nickel industry requires a consistent, stable and predictable regulatory framework. Smarter regulation should take into account industry's competitiveness and investment cycles, and secure overall coherence and long-term stability.

Single market: The effective completion of the European Internal Market, and in particular of the internal energy market, is absolutely necessary.

Integration of the industrial value chains: A good knowledge and understanding of the value chains is necessary in order to design coherent and complementary measures for all industrial

players. A competitive non-ferrous metals industry is a necessity for maintaining and developing all related downstream sectors especially as SMEs constitute a large part of this value chain. SMEs are the backbone of the EU industry and require flexibility and long-term security of the legislative framework to be able to compete in a growing global market.

In conclusion, the Nickel Institute believes that these points need to be taken into consideration in any future action or measure, in order to be successful in achieving an effective and sustainable European Industrial policy. This is essential as industry is crucial in order to boost competitiveness, sustainable growth and to strengthen recovery and foster innovation in Europe.

About the Nickel Institute

The Nickel Institute is the global association of the world's primary nickel producers who together account for approximately 85% of worldwide annual nickel production outside China. Our mission is to promote and support the use of nickel in appropriate applications. NI grows and supports markets for new and existing nickel applications including stainless steel; and promotes sound science, risk management, and socio-economic benefit as the basis for public policy and regulation. Through our science division NiPERA (www.nipera.org), we also undertake leading edge scientific research relevant to human health and the environment. NI is the centre of excellence for information on nickel and nickel-containing products and has offices in Asia, Europe and North America.

For more information: www.nickelinstitute.org

