

# **Polymers for Europe Alliance**

## **Force Majeure Analysis Q1-3 2020**

**The Alliance for all users of  
polymers in Europe**

## Polymers for Europe Alliance

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# Polymers for Europe Alliance - Overview



## What is the Polymers for Europe Alliance?

- The European Plastics Converters association (EuPC) decided during its General Assembly in May 2015 to initiate the **Polymers for Europe Alliance, an online information platform free of charge, confidential and open to all parties who have an interest in the competitive conversion of polymers in Europe.**
- The platform is chaired by Ron Marsh, Board member of EuPC.
- Website:  
<http://www.polymercomplyeurope.eu/what-we-offer/polymers-europe-alliance>



# Polymers for Europe Alliance - Objectives



## What are the Alliance objectives?

- Provide factual public information on the status of the polymer supply situation in Europe.
- Re-establish a constructive dialogue with the supply base.



# Polymers for Europe Alliance - Background



## Why was the Alliance set up?

The reliability of the European polymer producing industry created serious concerns as more than 40 force majeure situations had been declared in a period of only four months in the first semester 2015. Due to this sudden material shortage, production lines across Europe had been forced to stop at the plastics converting level, alarming brand owners and OEMs. Meanwhile, raw material prices had risen to record highs due to this shortage of materials.





# Polymers for Europe Alliance - Background

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## General definition of Force Majeure

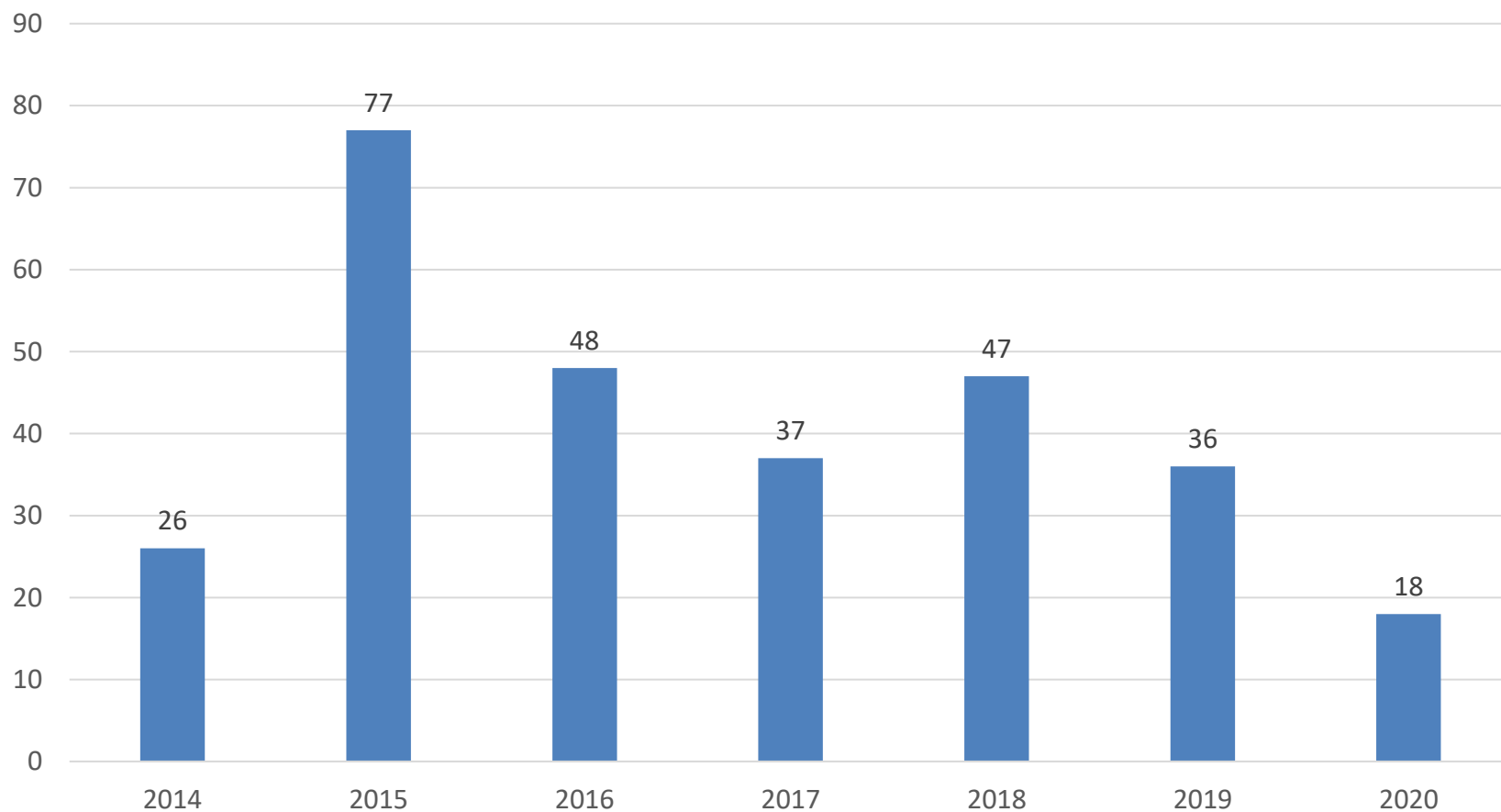
According to the European Court of Justice (ECJ), force majeure implies non-performance due to **abnormal and unforeseeable circumstances** beyond the control of the person invoking force majeure whose **consequences could not have been avoided in spite of the exercise of all due care**. As the concept of force majeure is not identical in the different branches of law and the various fields of application, the significance of this concept must be determined on the basis of the legal framework within which it is intended to take effect.

**The party who fails to perform must give notice to the other party of the impediment and its effect on its ability to perform.** If such notice is not received by the other party within a reasonable time after the party who fails to perform knew or ought to have known of the impediment, it is liable for damages resulting from such non-receipt.

# New FORCES MAJEURES per year (2014 – Q3 2020)



Source: [www.polyglobe.net](http://www.polyglobe.net)



# FORCES MAJEURES situation in Q1-3 2020



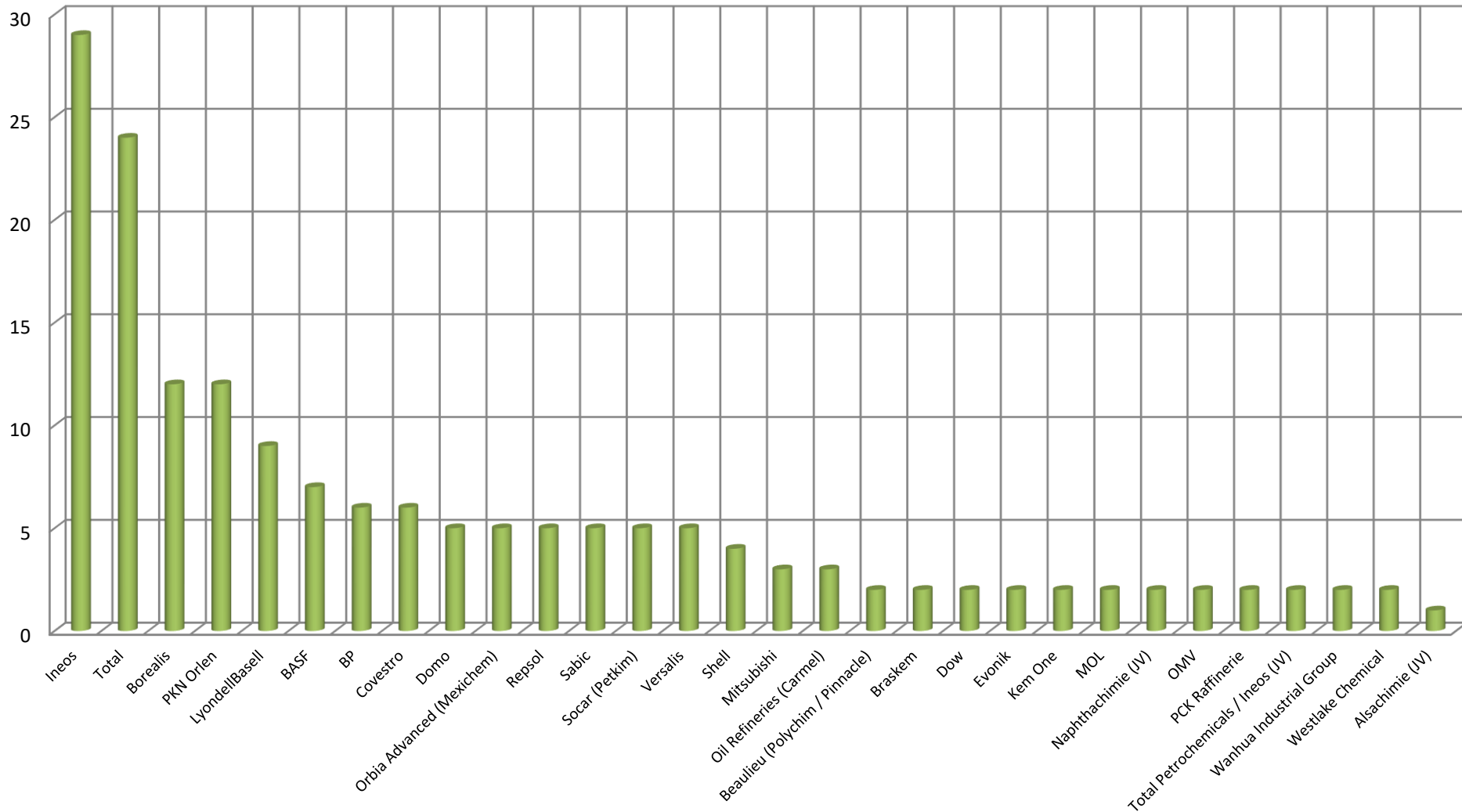
- Total number Forces Majeures in Q1-3 2020:
  - **From January to September 2020, 18 new Forces Majeures** for polymers and primary products were notified. **Seven of these new FMs were suspended until the end of September.**
  - At the beginning of 2020, **5 FMs from 2019** were still **persisting** in 2020, **Two of them were suspended until the end of September.**
  - **Therefore, at the end of September 2020, 14 cases of Forces Majeures were registered.** They relate to Propylene (2), Acrylonitrile (1), LDPE (1), MDI (1), PP (2), TDI (1), PVC (5), and HDPE (1)

Source: [www.polyglobe.net](http://www.polyglobe.net)



# Top 30 producers (most new FMs) in the las 5 years (2016 – Q3 2020)

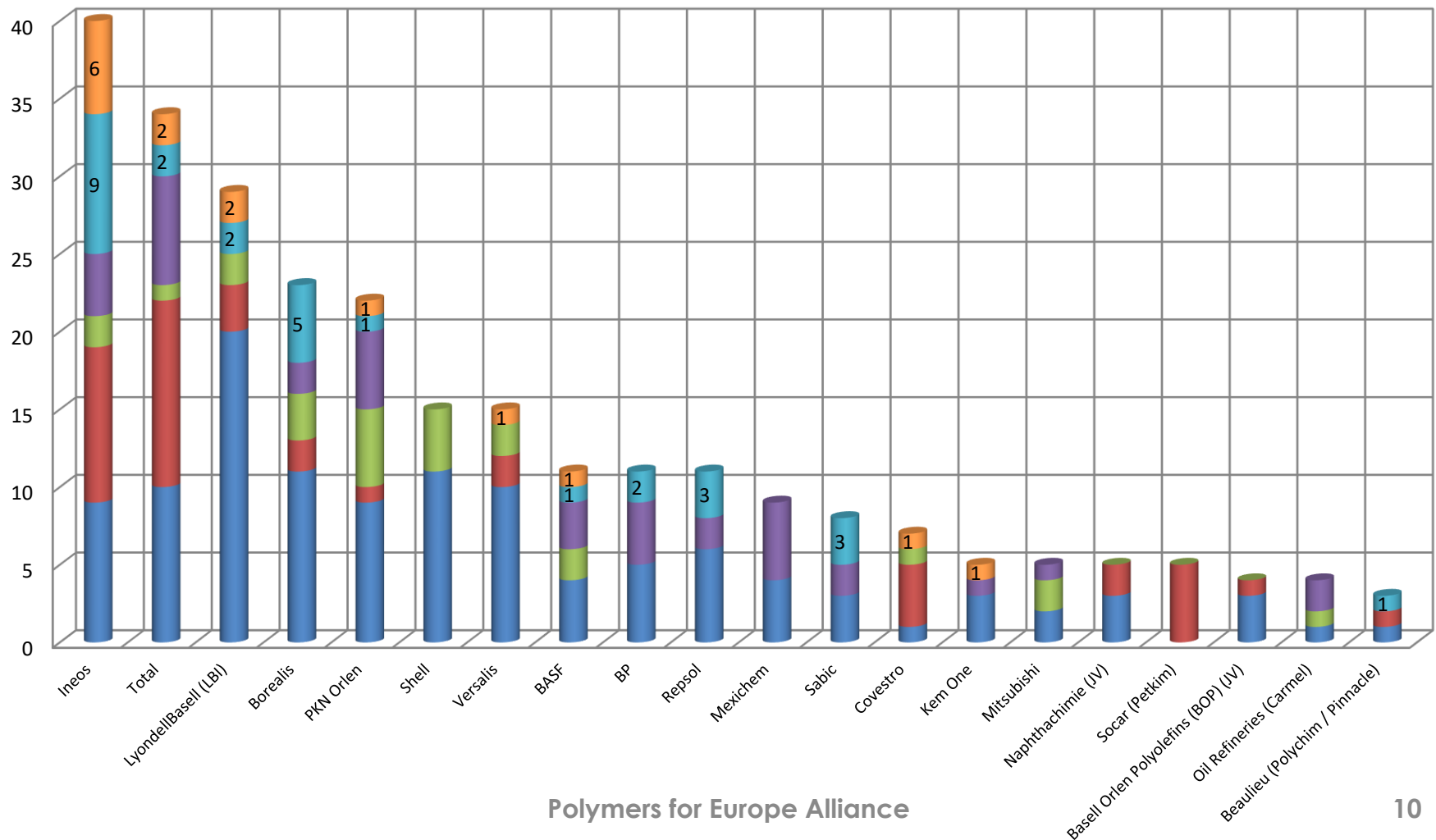
Source: [www.polyglobe.net](http://www.polyglobe.net)



# New FORCES MAJEURES yearly overview of top 20 producers (most FMs)

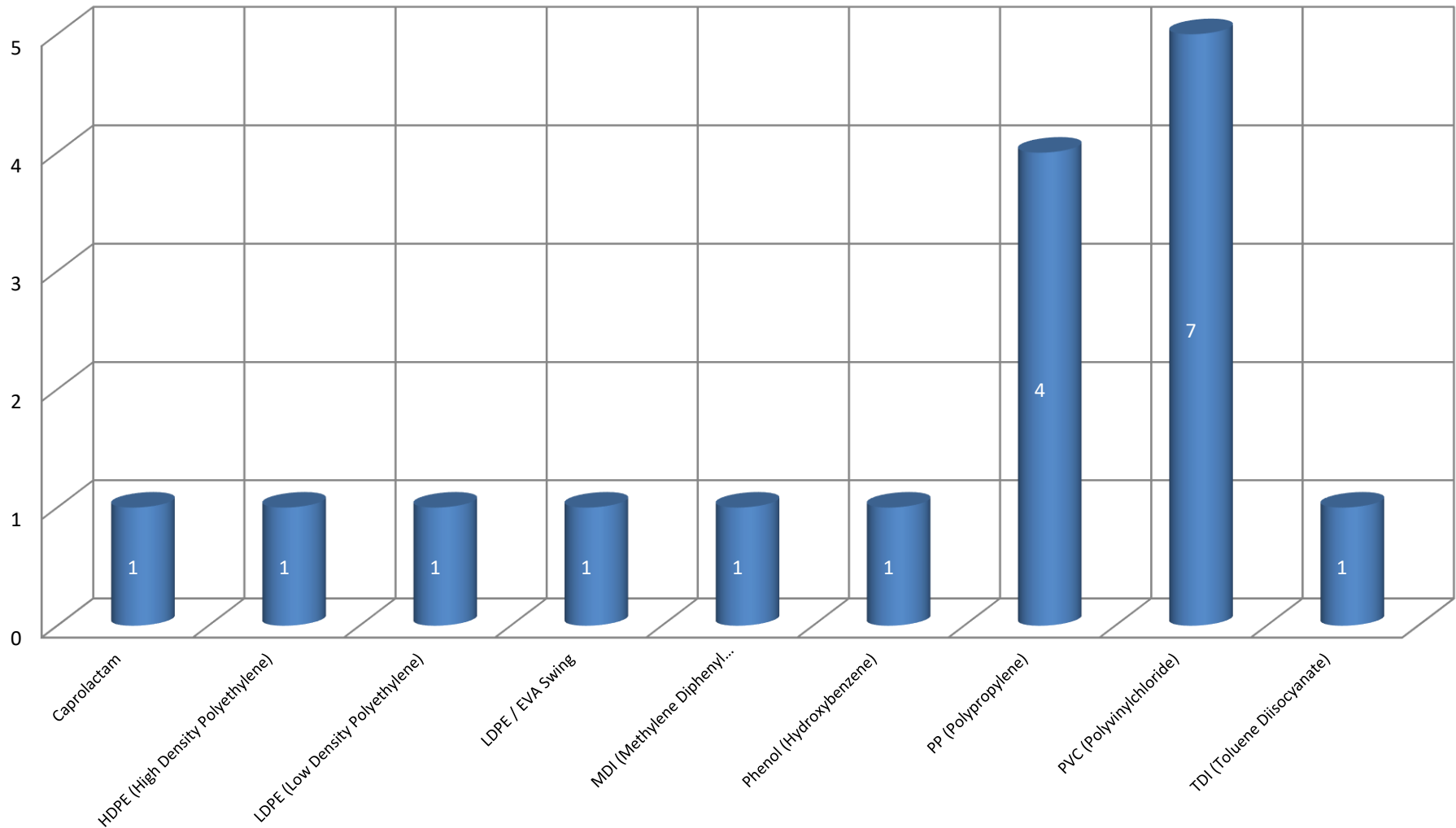
Source: [www.polyglobe.net](http://www.polyglobe.net)

■ New FMs 2013-2015 ■ New FMs 2016 ■ New FMs 2017 ■ New FMs 2018 ■ New FMs 2019 ■ New FMs 2020



# New FM declarations in Q1-3 2020 per polymer type

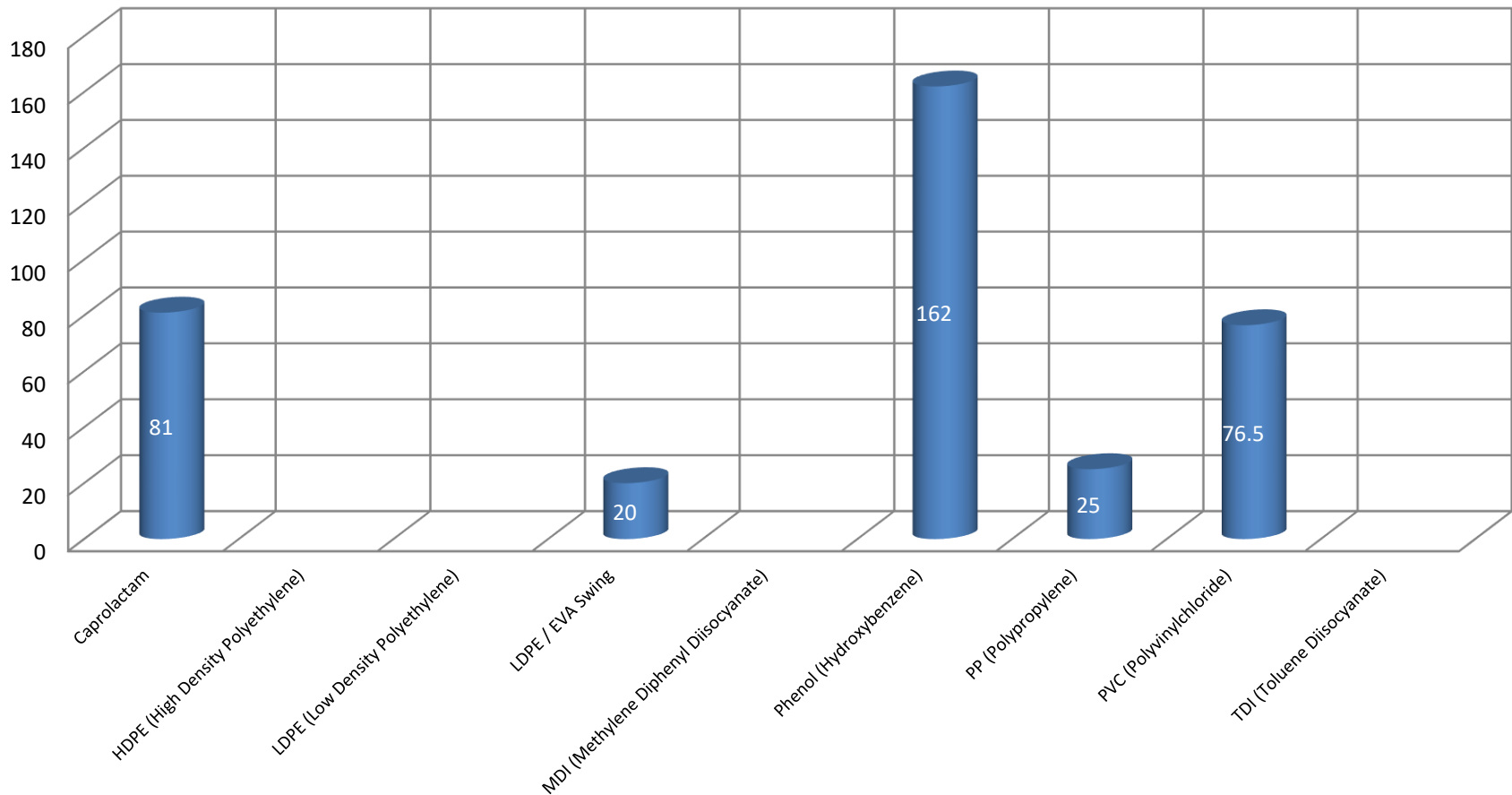
Source: [www.polyglobe.net](http://www.polyglobe.net)



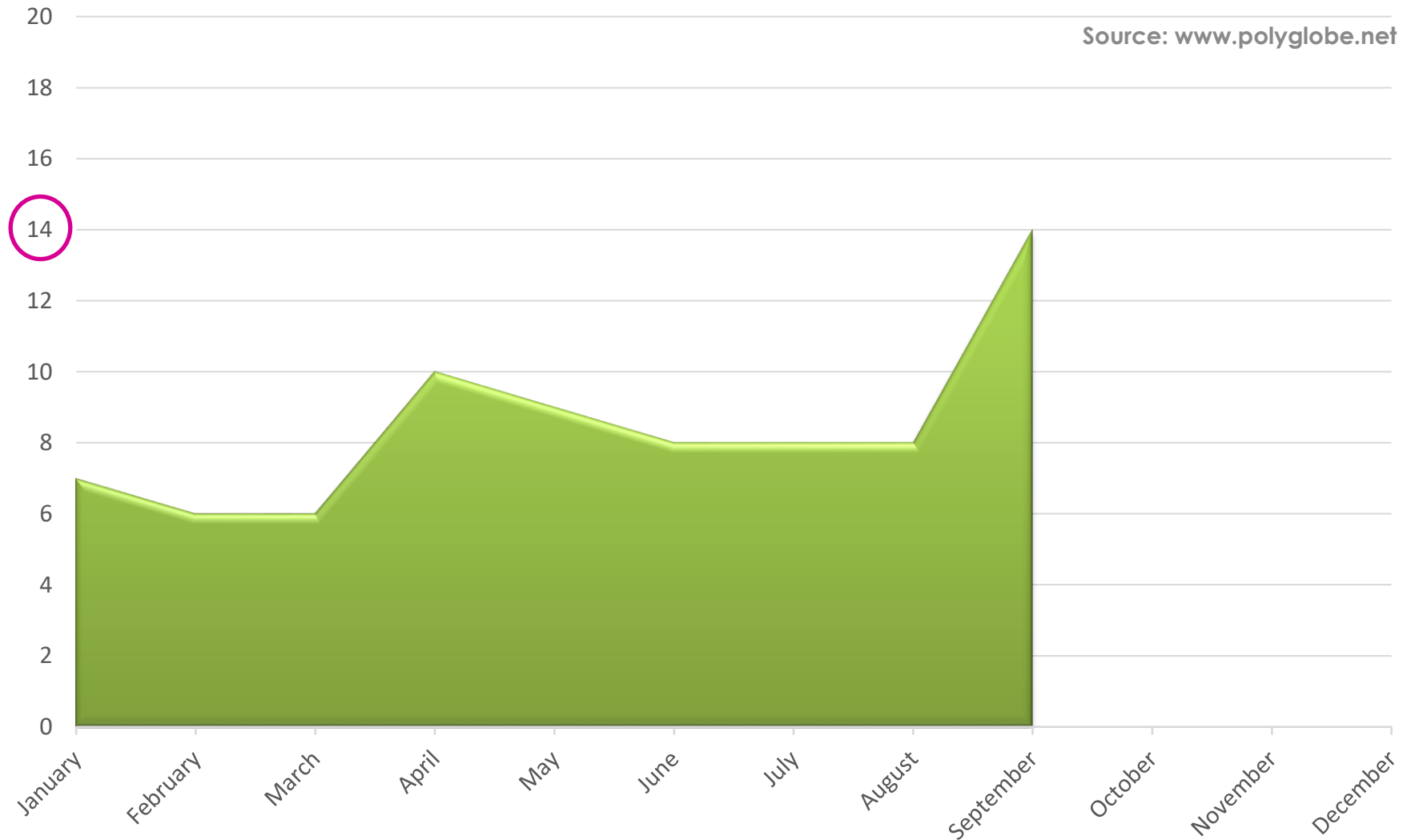
# Average duration of FM declarations in Q1-3 2020 per polymer (days)

Source: [www.polyglobe.net](http://www.polyglobe.net)

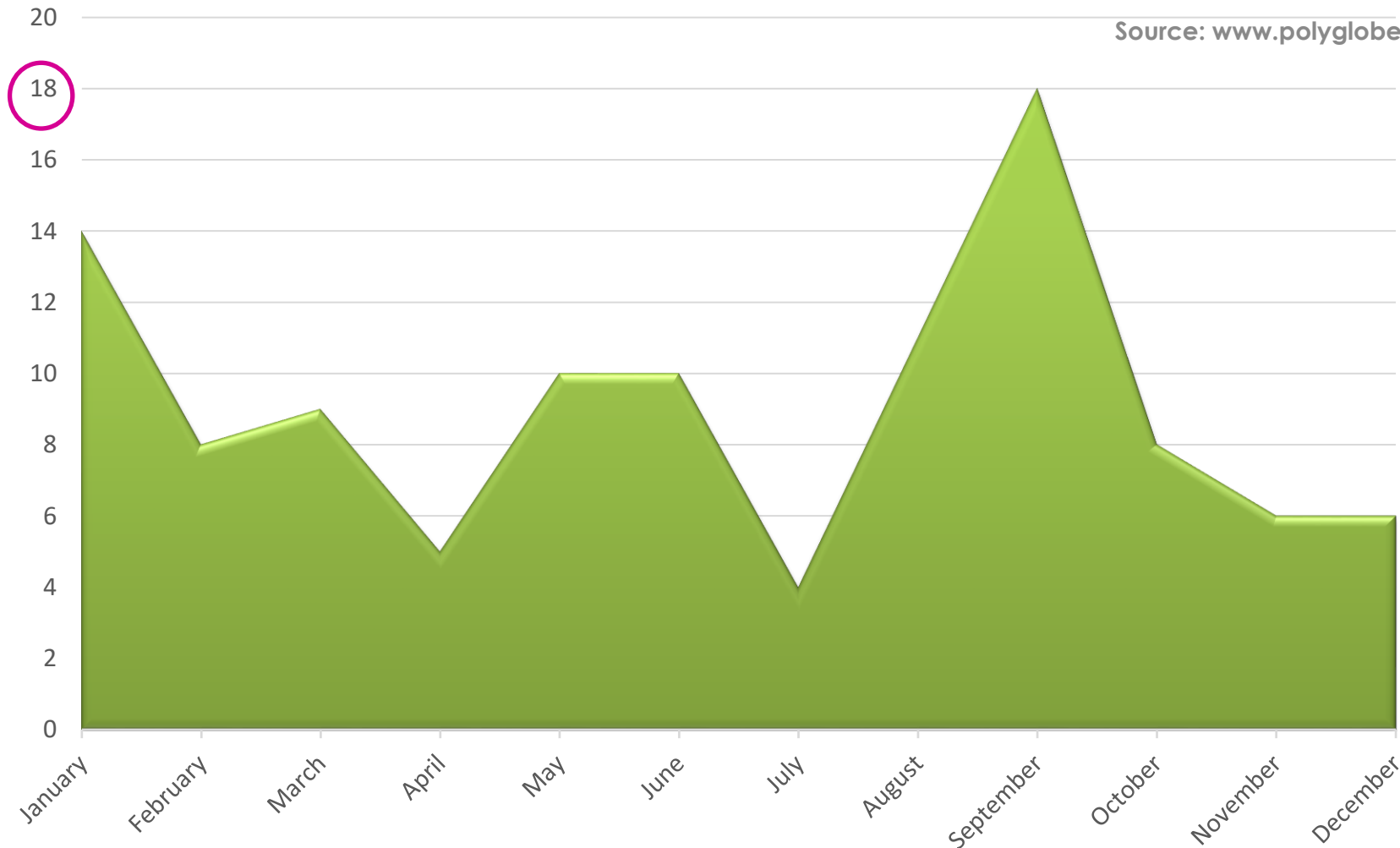
- Data only displayed for FMs that have been suspended.



# Number of existing FORCES MAJEURES Q1-3 2020 - per month

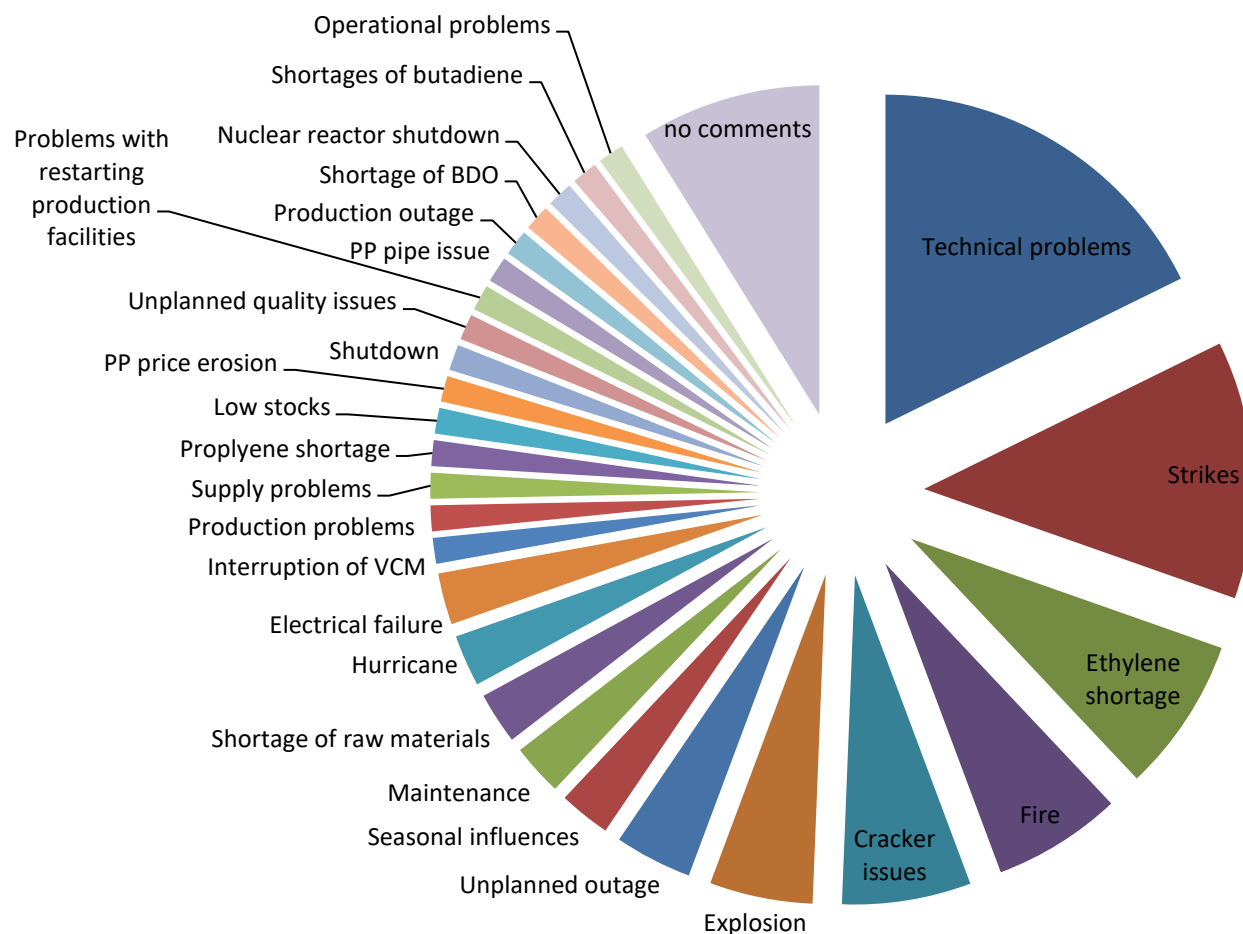


# Number of existing FORCES MAJEURES 2019 - per month



# Evoked reasons for FORCES MAJEURES

Source: [www.polyglobe.net](http://www.polyglobe.net)





# Polymers for Europe Alliance

## - What does the platform offer?



### 1. Online information platform for all users of polymers in Europe:

- **Free registration & access**
- **Updated information & documents on a regular basis**
- **Information on:**
  - **Current polymer market situation and production capacity:**
    - Public Market Data
    - Studies
  - **EU Import Duties Suspensions / Quotas proceedings:**
    - Legal proceedings
    - Letters to/from authorities
    - Global trade issues
    - Overview of import duties on polymers
  - **Force Majeure Analysis:**
    - Press overview
    - Legal information
    - Studies & Overview
  - **Legal guidance on joint purchasing agreements**

# Polymers for Europe Alliance - What does the platform offer?





## Environmental Goods Agreement (EGA) negotiations – State of Play

**Monika Hencsey, chief negotiator of EGA**  
DG TRADE Unit D1 Trade and Sustainable Development, GSP

Disclaimer: All images and photographs in this presentation are used purely for purposes of demonstration and do not in any way commit any of the companies shown to, or imply their approval of, any of the proposed policies, actions or measures featured.

**03.06.2015**

Nameplate capacity Europe product	
HD / LLDPE swing (Polyethylene High Density / Linear Low Density)	1
HDPE (High Density Polyethylene)	7
LDPE (Low Density Polyethylene)	7
LDPE / EVA Swing	
LLDPE (Linear Low Density Polyethylene)	3
PEI (Polyethylene Terephthalate)	3
PP (Polypropylene)	11
PVC (Polyvinylchloride)	8
Total	44

Available capacity Europe product	
HD / LLDPE swing (Polyethylene High Density / Linear Low Density)	1
HDPE (High Density Polyethylene)	6
LDPE (Low Density Polyethylene)	5
LDPE / EVA Swing	
LLDPE (Linear Low Density Polyethylene)	2
PEI (Polyethylene Terephthalate)	3
PP (Polypropylene)	10
PVC (Polyvinylchloride)	7
Total	38

Availability Europe product	
HD / LLDPE swing (Polyethylene High Density / Linear Low Density)	1
HDPE (High Density Polyethylene)	6
LDPE (Low Density Polyethylene)	5
LDPE / EVA Swing	
LLDPE (Linear Low Density Polyethylene)	2
PEI (Polyethylene Terephthalate)	3
PP (Polypropylene)	10
PVC (Polyvinylchloride)	7
Total	38



MEMO ON FORCE MAJEURE  
PLEASE ONLY DISTRIBUTE TO YOUR MEMBERS

May 2015

### I. INTRODUCTION

The high number of recent Force Majeure declarations from European polyolefin producers has been leading to low product availability, shortages and inevitably to significant price increases.

Material availability shortened considerably from late March due to a series of highly-publicized force majeure being invoked by major polymerization plants, and a number of extended plant maintenance programs. As a result, converters' stock levels are very thin and many of them, particularly polyolefin film extruders, report such a severe material shortfall that some production lines will be shut down.

EuPC is very concerned that the low availability/shortages of material as well as the significant price increases will affect the whole plastics chain, including consumers and subsequently will endanger employment in Europe. As polymer producers are not disclosing sufficient details as to the reasons for the Force Majeure declarations, EuPC – and many others associations – are questioning whether all

investigating the matter and antitrust

usual contractual issue between the resin

relative document for the converters on

Cecilia Malmström



Ref: EU Import duties on polymers


Dear Mrs. Malmström,

EuPC is the leading European-level trade association for plastics converters. The plastics industry is the heart of the plastics industry. It is particularly important in a time when the EU plastics industry is in a great position to be a vanguard of growth with its potential to deliver customers and broader society with carbon savings and resource efficiency for the benefit of all Member States and Union citizens. As long as polymer producers are able to guarantee continuous and stable supply of polyethylene and polypropylene to Union converters, measures are warranted to guarantee the competitiveness of the EU plastics converting industry.

As EuPC delegation of CEOs would welcome meeting you to provide you with additional information on the dramatic situation faced by the EU plastics converting industry and review the trade measures that may be adopted at the EU-level to enhance the production of plastic converters by guaranteeing access to polymers not available or not available in sufficient quantities in the EU. This situation never happened in the plastics industry in the last 50 years and needs your serious attention if we are to safeguard employment in the EU.

EuPC thanks you for your attention to this matter and looks forward to meeting you.

Respectfully yours,

  
Alexandre Daigis  
Managing Director

CC: Pierre Moscovici  
Economic and Financial Affairs, Taxation and Customs Commissioner  
Elżbieta Bieńkowska  
Internal Market, Industry, Entrepreneurship and SMEs Commissioner  
Jyrki Katainen  
Jobs, Growth, Investment and Competitiveness Commissioner

## Tariff Suspensions and Tariff Quotas for Imports of Polymers into the EU and Turkey

### July 2016 Round

Charles Julien  
King & Spalding

19 June 2015

## PURCHASING AGREEMENTS

WHICH ARE THE CONDITIONS TO BE  
FULFILLED TO COMPLY WITH EU  
COMPETITION LAW?

# Polymers for Europe Alliance - What does the platform offer?



- 2. Assist raw material users through the EuPC network of national plastics associations as well as request suspension of certain EU import duties to relieve shortages on polymer markets.**

More information:

<http://www.polymercomplyeurope.eu/news/press-release-eu-tariff-suspensionquota-laws-are-failing-eu-plastics-converters>

- 3. Provide legal assistance for companies that seek legal action against their polymer suppliers due to erroneous force majeure declarations.**



# Polymers for Europe Alliance - What does the platform offer?



## 4. Initiate studies and publish reports for members

In 2016: Exploratory industry study – conducted together with industry and independent experts – to assess the level of competitiveness of the European plastics converting industry:

[www.polymercomplyeurope.eu/news/wpeupc-study-competitiveness-threatened-european-plastics-converters-staying-ahead-pack-thanks](http://www.polymercomplyeurope.eu/news/wpeupc-study-competitiveness-threatened-european-plastics-converters-staying-ahead-pack-thanks)

In 2017: PCE survey on the use of recycled plastics materials (rPM) by plastics converting companies in Europe to get a deeper insight into the challenges the European plastics converting industry is facing when it comes to the usage of rPM:

[www.polymercomplyeurope.eu/news/eupc-publishes-results-its-survey-use-recycled-plastics-materials](http://www.polymercomplyeurope.eu/news/eupc-publishes-results-its-survey-use-recycled-plastics-materials)

In 2018: 2<sup>nd</sup> PCE survey on the use of rPM by plastics converters to follow up on the results of the 1<sup>st</sup> survey and help boost the use of rPM: [www.polymercomplyeurope.eu/news/eupc-publishes-results-its-2nd-survey-use-recycled-plastics-materials](http://www.polymercomplyeurope.eu/news/eupc-publishes-results-its-2nd-survey-use-recycled-plastics-materials)



# Polymers for Europe Alliance - What does the platform offer?



## 5. Best Polymer Producers Awards for Europe

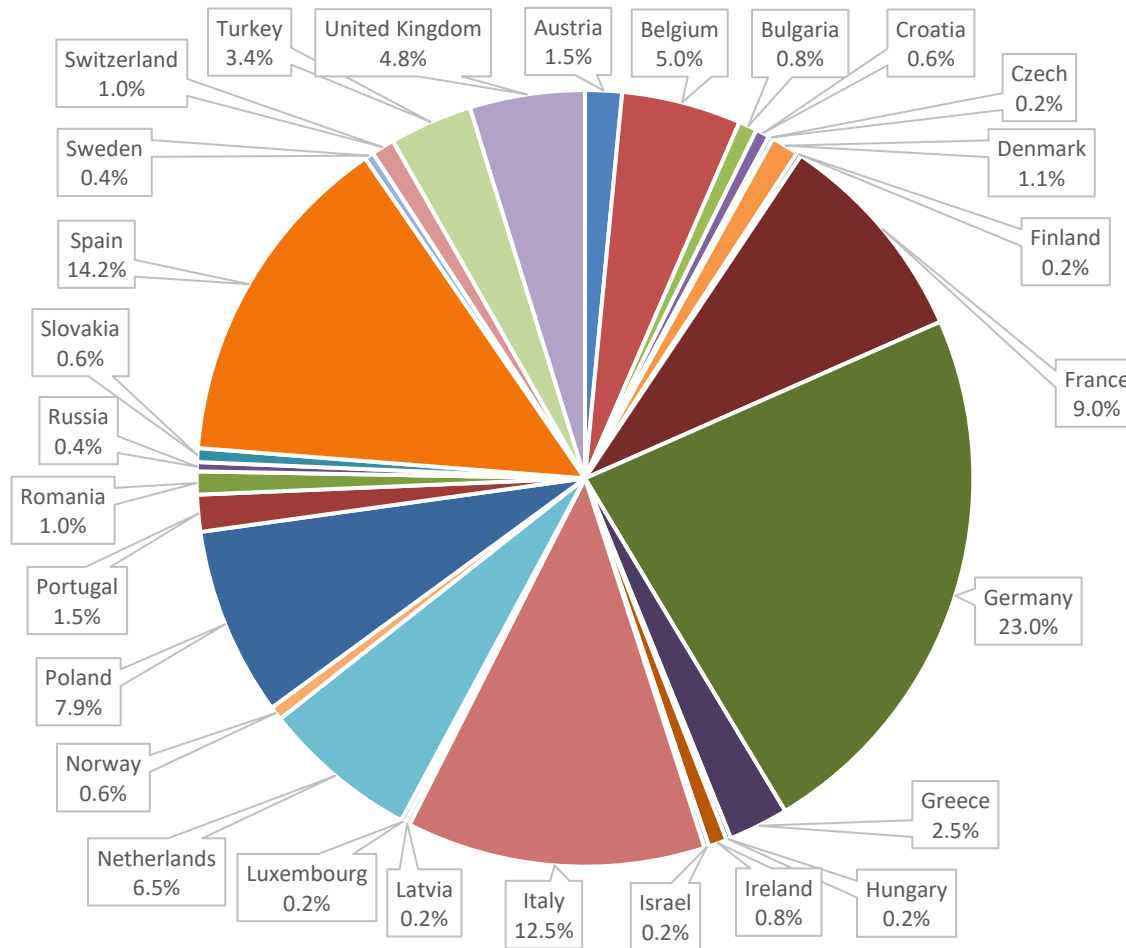
- **Objective:** Re-establish a constructive dialogue and a good relationship / communication between suppliers & users of polymers.
- **Voters:** All users of polymers in Europe are eligible to rate their suppliers' performances in the last year regarding 5 criteria. Only condition is an approved registration to the Polymers for Europe Alliance: <http://www.polymercomplyeurope.eu/node/210/register>
- **Voting criteria:** Quality, Delivery Reliability, Communication, Innovation, and Circularity
- **Voting system:** Online confidential rating tool is hosted in the Polymers for Europe Alliance extranet on the Polymer Comply Europe website.
- **Awards:**
  - Categories for different polymer types: LDPE, LLDPE, HDPE, PC, PET, PVC, PS, PP, ABS, etc.
  - One additional overall Award covering all suppliers: in 2020 for the criterion "Circularity"
- **Awards editions:**
  - [Awards 2016 \(1st edition\)](#), [Awards 2017](#), [Awards 2018](#), [Awards 2019](#), [Awards 2020](#)



# Polymers for Europe Alliance - Members



Total number of registrants: 580





# Contact



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