

Brussels, 27 April 2005

## Industry concludes from impact assessment study that solutions are within reach

### Objective of the study

In March 2004, industry commissioned this study from the consultant firm KPMG within the framework of a Memorandum of Understanding (MoU) between industry (UNICE, Cefic and involved sector associations) and the European Commission (DGs Environment and Enterprise). It was monitored, with the European Commission in the chair, by a multi-stakeholder group including trade unions, environmental and consumer NGOs. The goal of the study was to examine the mechanisms of business decisions in the context of REACH throughout the value chain through 'case studies' in the automotive, electronics, flexible packaging and inorganics sectors (such as metals, paper and cement). The insight resulting from this study would provide valuable input into the legislative process by allowing the legislative bodies to identify remedial options to mitigate effects. The process was kept fully transparent and all parties involved were committed to contributing in a constructive manner.

In particular, the KPMG study examined the consequences of the REACH legislation with regard to the following important aspects:

- availability of substances and primary (in)organic raw materials to companies operating on the EU market and related reformulation / re-engineering efforts
- relative competitive position of EU companies in global supply chains
- innovation
- business benefits
- recycling and recovery (in the (in)organics sector).

This study was not intended to quantify direct or indirect costs from a macro-economic perspective.

The main lessons industry draws from the case studies are outlined below:

### **1) Cost of REACH will force companies to rationalise their portfolio**

According to the study, substances which are critical for the success of downstream user businesses are not likely to disappear from the market for economic reasons. This is so because of the strategic importance for chemical suppliers of staying in the market regardless of costs and considering that reformulation / re-engineering costs at formulator and downstream user level would be very substantial. Chemical suppliers will therefore try to maintain their product portfolio. However, this has a price tag. Registration under REACH will absorb a substantial part of company profits, which will hit companies with limited financial resources more heavily. SMEs will face difficulties funding the direct costs of registration, which could account for up to 20% of their annual turnover, leading them to rationalise their product portfolio to limit the costs.

The expected accelerated rationalisation of product portfolios will focus primarily on substances of less critical importance or which are in a mature market phase. As rationalisation will concentrate before registration deadlines and as limited transparency means that chemical suppliers may not be aware of the importance of substances downstream, this will have a significant impact on formulators and downstream users. The finding that SMEs are likely to suffer most from REACH requirements especially in the lower volume bands appears to confirm the outcome of the impact assessment workshop held in The Hague in October 2004.

## **2) Competitiveness of European industry needs to be safeguarded**

The case studies show that the structure of markets in the supply chain will not necessarily allow for passing on the registration or reformulation costs to the next level in the supply chain and eventually to the final consumer. At some level in the value chain companies may have to absorb the costs. This will affect their competitiveness in a global market. Even small price changes can lead to changes in international sourcing in a highly competitive environment. The risk is that SMEs or those industry sectors where global sourcing is particularly strong will be affected first.

## **3) Substance loss has to be timely synchronized with market needs**

Documented cases of substance loss underline that disruption in the supply of substances (for reasons of rationalisation or restriction/authorisation) can create major costs in terms of reformulation and re-engineering, particularly if not synchronised with development and product cycles and therefore affecting on-going production lines. By affecting processes and products, significant changes and long-term re-testing will divert resources from market-driven activities. Competitors outside the EU can continue to use process-chemicals for the production of articles, thereby affecting the competitiveness of EU producers on both domestic and export markets.

## **4) More cost-effective REACH will foster innovation and safeguard business flexibility**

Companies included in the study do not plan to increase their R&D budgets. They will give priority to keeping existing substances and formulations on the market so as to avoid creating problems down the supply chain. This will absorb a substantial part of their financial resources. Industry concludes that the lower the administrative and financial burden, the better companies will be able to invest in customer-oriented innovation whilst maintaining existing business necessary to generate the required cash. The more rationalisation of the product portfolio can be limited, the more scope will remain for innovation. Another lesson from the study is that a narrow definition of the concept of "identified use" does not fit business operational processes: first, this may slow down changes to manufacturing processes; second, it reduces innovation capability; and third, it hampers reactions to solve problems arising in production that require an immediate reaction ("trouble-shooting").

## **5) Better scope of REACH would contribute to business benefits**

One of the findings of the study is that better information about potential risks should facilitate risk management. In some cases the benefits to business resulting from REACH are perceived to be low because existing legislation already provides for sufficient information (e.g. food contact materials). The study failed to substantiate other benefits to companies. Companies do not expect REACH to bring additional business or to increase the value of existing business.

## **6) Confidential business information remains a key issue**

Especially in the electronics case study, cooperation in the value chain has turned out to be highly problematic, indicating that information on the composition of preparations and their use is highly sensitive and disclosure would result in competitive disadvantages or loss of market shares. In the context of specific rules for R&D and registration consortia-forming, the loss of intellectual property to "free-riders" remains a key concern.

## **7) Clarity of REACH is needed to maintain recycling/recovery and provide certainty to business**

If recyclables remain within the scope of REACH, their higher registration costs would push companies to shift back to the use of primary materials and fuels. The case study covering inorganics (metals, paper and cement) also shows that REACH definitions and concepts are difficult to apply to primary and recycling / recovery materials. This leaves those industries with open-ended questions and planning uncertainty.

## Conclusions

The study has helped identifying a number of areas that remain problematic in the current version of REACH. Industry is convinced it is possible to strike a balance between the different objectives of REACH and is committed to working constructively with the EU institutions to find effective solutions to make REACH more workable and cost-effective whilst keeping the benefits. We believe that the following matters can help achieve this:

- Prioritisation of substances in the registration process and pre-registration will help focus resources;
- Increased cost-effectiveness will enable SMEs to cope with REACH requirements and will avoid disruption of the value chain;
- Balanced approach regarding transparency of information and confidentiality needs of companies;
- Revision of “identified use” concept will safeguard flexibility needs and innovation capabilities
- Clear focus of REACH with clear definitions will avoid overlap with other legislation;
- Clear exemption for recycling / recovery and R&D will lower unintended consequences for sustainability;
- Holistic approach to authorisation and restriction will help minimise negative effects on international competitiveness.

Industry hopes that this study will be received as a positive contribution to the debate on REACH and serves as a tool for the discussion on solutions.

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