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AT THE CONFERENCE ON REACH  
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Thank you for the invitation to speak at this Conference.

The challenges linked to REACH implementation are of economic as well as legal nature. These challenges will be faced by both producers and users of substances.

As Mr Perroy has outlined specific aspects of producers from the chemical industry, I will focus in particular on the downstream user side examining three issues:

- What is still possible to deliver a more workable REACH in terms of legislative adjustments
- What are the possible resource and economic impacts of REACH
- How to smooth out REACH impacts and ensure successful implementation

**1. LEGISLATIVE ADJUSTMENTS STILL POSSIBLE TO GET A MORE WORKABLE REACH**

REACH has often been described as one of the biggest and most complex pieces of EU legislation. And rightly so because REACH will affect nearly all substances needed for industrial activities.

REACH goes right to the heart of industrial production. Implementing REACH will affect the chemical industry, but it will also have an impact on other types of production such as metal, cement, paper, etc.

Above all, REACH will impact downstream users of these substances. And just to name a few, REACH will have to be implemented from traditional activities such as formulation of dyes for the textile industry to high-tech sectors like electronics, automotive or aerospace industries.

Therefore REACH will not only require new responsibilities for chemical producers. REACH will also require new responsibilities for a whole range of companies including, importers, formulators, downstream users of substances or preparations.

In that wide context, finding the right balance, in a proportionate way, for a regulation that will achieve its health and environmental objectives while maintaining EU competitiveness is a real challenge.

This challenge has led us to more than two years of heated debates.

Thanks to these debates as well as to various impact assessments we understood better the impact REACH will have on our economy.

This information has been passed on to decision-makers. And the European Parliament as well as the Council have both managed to move several aspects of the Commission's proposal on REACH in the right direction.

Mr Perroy has highlighted some of these improvements in the previous presentation. These include:

- The **Registration** step with a prioritisation according to risk for substances produced in low tonnages (1 to 10T). Although industry has always recommended developing a full risk-based approach, facilitating the registration of low volumes is a step forward.
- Also, clarifications have been brought to the **Scope** and to the question of **duplication of legislation**.
- Finally, the inclusion in the legal text of the concept of **use and exposure categories** could facilitate the communication along the supply chain if made more operational.

However some amendments have also added difficulties to REACH, in particular for the **Authorisation** procedure. These provisions are raising major concerns from industry. Industry insists that substitution should not be the first aim. **Authorisation** should be granted based on adequate control of risk. Neither the European Parliament nor the Council proposals on authorisation are satisfactory. The European Parliament adds dramatically stricter criteria to obtain such authorisation, namely that no suitable alternatives are available AND that socio-economic advantages outweigh the risk AND that the risks are adequately controlled. It also suggests limiting the authorisation to five years. The Council also foresees a regular review period and analysis of possible alternatives. However the Council still recognises adequate control of risk as a primary criterion to grant an authorisation. Therefore the Council proposal on authorisation is less damaging for industry and should be preserved.

To illustrate what is at stake, let me give you an example in the aerospace industry. The aerospace sector is at the forefront of innovative engineering. To do so it relies on a wide range of advanced and specialised substances. The choice of these substances aim at delivering products that meet the highest levels of safety, reliability and performance compatible with the environment and risks to human health.

Substitution of hazardous chemicals has been carried out within the aerospace industry over a long period of time.

The drivers for substitution are economic, technical, environmental or related to occupational health. Each substitution needs the most advanced testing to certify the safety of aircrafts. In particular, in-flight testing must be performed. Once the new material has been qualified all production parameters are locked. This process can take up to 5 years or more.

Research has been made to replace cadmium. This has led to successful substitution on fasteners and on structural parts of the aircraft. This is today an established technique. However replacement of nickel-cadmium plating on aero-engine disks did not succeed in meeting the certification requirements. This shows that in some cases substitution might be envisaged in theory, but is not feasible in practice, and this should not bar authorisation.

Finally an aeroplane has an expected lifetime of 25 to 40 years and the availability of spare parts qualified to ensure its safety need to be secured all through its life cycle. A time-limited authorisation need to be defined according to these parameters. Theoretical calculations showed that a time limit of 5 years might lead to over 2,000 re-certifications over the lifespan of a plane. This would mean a new certification every week!

REACH has been referred to as the “litmus test” for better regulation. A compromise still needs to be found between the European Parliament First Reading – *better on Registration* – and the Council Political Agreement – *less damaging on Authorisation*. Finding the right balance on these aspects is key to move towards better regulation and safeguard European industry’s competitiveness.

## **2. REACH IS RESOURCE-INTENSIVE AND WILL MOST LIKELY HAVE DETRIMENTAL ECONOMIC IMPACTS**

Companies will have to gain new expertise, including some downstream users which have not so far been required to be so deeply involved in chemicals legislation.

The REACH learning process and integration of new procedures will require considerable efforts from all actors. It will be resource-intensive and will have economic impacts.

REACH will entail additional direct and indirect costs that will have to be absorbed by companies somewhere along the supply chain.

If not there will be restructuring in the industry and delisting of substances. As an example, the KPMG study concluded that up to 17% of the portfolio of chemical suppliers may become unprofitable because of registration costs. These registration costs could amount up to 20% of turnover. Even though these are one-off direct costs, they are likely to lead to rationalisation of portfolios. Such rationalisation will have considerable impact downstream with indirect costs linked to substitution and re-engineering constraints.

Most of these costs are likely to hit SMEs, which will have to offset these costs by diverting resources from research/innovation activities. But even for the larger companies REACH will lead to a re-evaluation of business decisions, including possible outsourcing of articles or even re-location of production plants for exports towards non-European markets.

European companies will have to face REACH new challenges, which do not exist in other regions of the world.

On the positive side, one can hope that the image of the chemicals industry will improve and that the downstream users will be able to capitalise on the better safety of their products. But these are long-term and uncertain developments.

### **3. NEXT CHALLENGE: SMOOTH OUT REACH IMPACTS AND ENSURE SUCCESSFUL IMPLEMENTATION**

It is therefore of utmost importance to prepare the ground to smooth out REACH impacts as much as possible. Several studies carried out by the Commission, industry and Member States have highlighted these impacts but also a number of recommendations aimed at minimising them.

The Strategic Partnership on REACH Testing (SPORT) was carried out under the supervision of a stakeholder group. This stakeholder group included the Commission, industry and Member States. SPORT aimed at assessing the workability of the upstream part of REACH, namely the pre-registration, registration and dossier evaluation steps. It concluded that guidance and tools will be required to enable manufacturers and importers of substances to meet their obligations. The study also concluded that both companies and authorities will need to adapt their current internal procedures, dealing with communication, cooperation and workflows, to meet the challenge of REACH. SPORT came up with 39 recommendations and in particular stressed the need for:

- Simplification of requirements, in particular for SMEs to meet the imminent time, resource and expertise challenges
- Clarity on the roles and responsibilities of all actors in the supply chain
- Preparedness for change on the part of authorities as well as companies to the radically changed roles foreseen in REACH.

SPORT has been complemented by PRODUCE (Piloting REACH on Downstream Use and Communication in Europe). PRODUCE took the REACH process all the way down the supply chain, from supplier to first downstream user and beyond. PRODUCE concluded that, although exceedingly complex and needing various improvements, REACH will be workable for those with sufficient training and experience. More than 30 recommendations detail how to get REACH working well. Taken together they show that, to ensure the success of REACH, we need 3 Cs:

- Clarity on how much work is involved in implementing REACH
- Collaboration with partners along the supply chain
- Communication, by providing the right information in the right way at the right time.

Inside experiences from these two projects showed that REACH implementation will lead to challenges in terms of awareness.

For example, one participant thought he was typically a downstream user within REACH. However during the exercise he realises that he was also a producer and sometimes an importer within REACH. In other words while he was prepared to fulfil the requirements for downstream users, he will also have to learn how to fulfil criteria for producers and importers. This will increase the resources he needs to invest in REACH.

On the paper the division of tasks under REACH is pretty clear (producer, formulator, downstream user, importer).

However in practice the situation is more complex and companies might not be able to distinguish their status so clearly.

PRODUCE also proved often difficult and time-consuming to find the right REACH contact in the company.

Another case showed the difficulties for an importer to obtain information from its supplier located outside the EU. The importer had first to explain what REACH is to its supplier. Its supplier had never heard of REACH. Then the supplier had to consult with its management whether they would be ready to provide the required information. After some weeks they confirmed that they would provide this information. The importer sent its supplier a registration form and it took more than 4 months to get it back with 90% of the required information.

Finally let me underline that all companies that took part in these projects had a pro-active attitude; in reality the exchange of information will be much more difficult than experienced in SPORT and PRODUCE.

Companies are prepared to contribute to the best possible extent to take up REACH challenges:

- Industrial sector organisations are preparing themselves to support their companies through the set-up of helpdesks that will provide assistance for REACH implementation.
- Cooperation will have to be developed to fully take advantage from consortia formation. In particular large companies will have to bear responsibility and ensure that SMEs are included in the exchange of information. SMEs need to benefit as much as possible from a cooperative approach through the access to data-sharing providing that confidential business information is safeguarded. Downstream users should also be able to join consortia if they deem it useful.
- Efficient communication will have to be established along the supply chain. In that context, it would be good to have from the start a clear and single REACH contact point in each company.

However this cannot be achieved by companies only, authorities have to assume responsibilities to facilitate REACH implementation in an efficient manner. The agency must play a focal role in coordinating REACH implementation, and namely be fully responsible for the Evaluation.

Authorities will have to devise ways to support those companies having limited resources to address REACH such as SMEs. In particular, Registration remains a big problem and small companies are really going to struggle. Automated methods to facilitate the submission of information should be developed. This could be a software that would not require an understanding of the whole REACH mechanism to submit the adequate information.

The Commission is also developing technical guidance on REACH implementation and IT tools that aim at enabling industry and authorities to administer the legislation effectively from the start. This is done through a number of REACH Implementation Projects (RIPs) that are carried out in collaboration between the Commission services and stakeholders of REACH.

Industry would like to raise some concerns regarding these RIPs:

- Only a small number of industries are involved in running RIPs. It is nevertheless of utmost importance that the whole range of industries is involved in the conclusions of these projects.
- Some RIPs will be finalised at the same time as REACH enters into force. However to facilitate REACH implementation, all these preparatory tools need to be carried out and finalised well before the REACH implementation deadline. Otherwise it might be necessary to foresee some flexibility in extending this deadline in order to ensure that all necessary support structures are fully operational.
- It should be made sure that the Technical Guidances remain short and simple to fulfil their objective of facilitating REACH implementation, which is not the case for some drafts.

In order to ensure that the outcome of the RIPs ends up as an efficient tool, we believe that some clarifications are needed regarding their running and conclusions. In that context, industry is preparing a list of comments and questions, which we will send to the Commission shortly.

#### **4. CONCLUSION: REACH A WORLDWIDE BENCHMARK?**

Whatever the final legislative outcome is, REACH will remain a considerable challenge for European industries. European industries will have to accept constraints that do not exist in other parts of the world. It might be hoped in some quarters that Europe's competitors counterparts adopt similar rules. However even if the chemicals legislation is being also re-examined in some non-EU countries, signs for REACH being taken up as a worldwide benchmark are still missing. Reactions of Europe's trading partners vis-à-vis REACH have shown a high level of concerns rather than interest.

It is therefore of utmost importance that a good balance is further sought to ensure that REACH ends up as an efficient tool achieving its health and environmental objectives while safeguarding EU competitiveness. Only if this is managed might there be some opportunities for the EU to promote REACH to its trading partners. This would be a way forward to level the playing field.