

20 March 2006

**AUSTRIAN PRESIDENCY CONFERENCE ON REACH
REACH AT THE EDGE OF THE SECOND READING
VIENNA – 30-31 MARCH 2006**

1. EFFORTS ARE STILL NEEDED TO ENSURE THAT REACH FITS WITH THE EU OBJECTIVES OF GROWTH AND JOBS

With more than two years of heated debate, 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 at the heart of industrial production, with new responsibilities not only for chemical producers but also for a whole range of receiving companies such as, importers, formulators, downstream users of substances, chemicals 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.

Thanks to numerous debates, stakeholder consultations and various impact assessments to inform decision-makers, the European Parliament and the Council have both managed to move several aspects of REACH in the right direction. Although not fully risk-based, as has always been recommended by industry, the *Registration* step has been improved with a prioritisation according to risk for low tonnages (1-10T). Also, clarifications have been brought to the *Scope* and to the question of duplication of legislation.

However some amendments have also added difficulties to REACH, in particular for the *Authorisation* procedure which is raising major concerns from industry. Industry insists that an *Authorisation* should be granted based on adequate control of risk. Last, serious issues remain regarding the processing of *Confidential Business Information*.

REACH has improved and the Council political agreement has arrived at a fair balance. Nevertheless, more efforts are still needed to iron out unnecessary burdens and ensure a workable REACH which fits into the new EU industrial policy. This new EU industrial policy is to encourage a flourishing industrial sector, which is a vital source for growth and employment in Europe, and the next steps of REACH also need to be addressed in that context.

2. REACH IS RESOURCE INTENSIVE AND WILL HAVE ECONOMIC IMPACTS

Implementing REACH will require industry and authorities to adapt to new responsibilities and working methods. For example, the burden of proof that a substance is safe will be shifted from authorities to industry.

Companies will have to gain new expertise. This is particularly true for downstream users which have not so far been required to be that deeply involved in chemicals legislation.

REACH will also entail additional direct and indirect costs that will have to be absorbed by companies. As an example, the KPMG study concluded that up to 17% of the portfolio of chemical suppliers may become unprofitable because of registration costs. 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.

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

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

The Strategic Partnership on REACH Testing (SPORT), focusing on the pre-registration, registration and dossier evaluation steps and carried out under the supervision of a stakeholder group including the Commission, industry and Member States, showed that the current legal text on REACH needs adjustments. The report stresses that guidance and tools will be required to enable manufacturers, importers and industrial users of chemicals to meet their obligations. The study also concludes 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, bearing in mind companies to the radically changed roles foreseen in REACH.

SPORT has been complemented by PRODUCE (Piloting REACH on Downstream Use and Communication in Europe), a pilot study taking 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.

Companies are prepared to contribute to the best possible extent to take up REACH challenges, providing that the recommendations from the pilot projects described above are genuinely taken into account in order to moderate the impact and reduce the risk of facilitating production outside the EU.

However this cannot be achieved by companies only, authorities also must be ready to facilitate REACH implementation in an efficient manner. Authorities will have to support in particular those companies having limited resources to address REACH such as SMEs. SMEs need to benefit as much as possible from a cooperative approach, both through appropriate helpdesks to be set up by the authorities as well as through the access to data-sharing consortia providing that confidential business information is safeguarded.

The Commission is also developing technical guidance and IT tools that will enable industry and authorities to administer the legislation effectively from the start. This is done through a number of REACH Implementation Projects (RIP) that are carried out in close collaboration between the Commission services and stakeholders of REACH. It is of utmost importance that the whole range of industries are involved in the running and conclusions of these projects.

To facilitate REACH implementation, all these preparatory tools need to be carried out and finalised well before the REACH implementation deadline. The calendar foreseen to implement REACH is extremely tight and the preparatory work still considerable. If the tools cannot be ready by the REACH deadline, it might be necessary to foresee some flexibility in extending this deadline in order to ensure that all necessary support structures are fully operational.

4. CONCLUSION: REACH A WORLDWIDE BENCHMARK?

REACH needs further improvements, in particular on the Authorisation/Substitution procedure as well as on the balance between data transparency and confidential business information. But even with these improvements in the text, REACH will remain a considerable challenge for European industries, which will have to implement new rules that do not exist in other parts of the world. It might be hoped in some quarters that European counterparts adopt similar rules. However signs for REACH being taken up as a worldwide benchmark are not encouraging so far. 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, and not as an incentive for investments and production to migrate to countries outside the EU.

* * * * *