EVENT REPORT

IMPACT OF REACH AUTHORISATION

COSTS AND BENEFITS OF REACH AUTHORISATION

On 10th November 2016, MEP Inge Gräßle hosted a breakfast briefing on the "Impact of REACH AUTHORISATION: costs and benefits". The event was timely organized ahead of the European Commission's REFIT report on REACH to be presented in June 2017. The event attracted 50 representatives from EU Institutions, Permanent Representations & Missions to the EU and industry.

MEP Grässle stressed in her introduction the importance of the issue for the EU industry and especially for SMEs. She emphasized that after 10 years of REACH implementation there are still unsolved problems and challenges for substances which are undergoing Authorisation. Furthermore, the MEP acknowledged the positive steps taken so far but also called for more legal certainty and to keep the jobs and companies in Europe. She asked the panelists to reflect on the tendency that the EU holds an ethical approach setting high standards for the protection of human health and the environment which third countries do not always respect.

MEP Jens Gieseke, EPP, Germany recognized the effectiveness of REACH and the progress made so far with the two registration phases completed. At the same time, he explained that it is difficult to disregard the strong impact REACH has on SMEs and he referred to the DG GROW study on "Monitoring the Impacts of REACH on Innovation, Competitiveness and SMEs". The study concluded that the 2018 Registration deadline will have an even higher impact on SMEs. He highlighted that substitution is not always the best solution especially in cases where substitutes are not readily available. In his view the way forward is to support the progress for a sustainable chemistry and innovation through a profound risk management approach while protecting our environment and ensuring that Industry and international competition is not being left behind.

The priorities of the 2017 Maltese Presidency of the Council of the European Union were addressed by Peter Sant, Technical Attaché Industry, Better Regulation and Company Law and Deputy Chairperson for the Council Industry Working Party. Mr. Sant mentioned that the Maltese EU Presidency aims to engage with all relevant stakeholders.

The Presidency will look at the competitiveness of the EU vis-a-vis third countries within the scope of the Growth and Employment Agenda and will focus on the transaction costs of operating in the EU and would like to promote Europe as a destination for foreign investments. Four Joint Working Parties with representatives from industry and trade associations, the European Commission, the European Parliament and the Member states will be chaired by the Maltese Presidency, among them, one on the chemical industry and REACH and one on Technical Harmonization and Better Regulation. Finally, the Maltese EU Presidency will follow a pragmatic and hands on approach to hear the voice of SMEs and Industry and will keep the doors open for bilateral meetings.

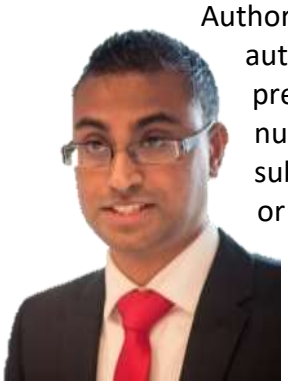
Klaus Berend (Head of Unit REACH, DG GROW, European Commission) emphasized the fact that Authorisation is the process under REACH that currently attracts highest attention, which is not too surprising given that it is the newest concept in REACH compared to the earlier legislation. He explained that so far, the Commission has adopted only 12 Authorisation Decisions, 10 more have received favourable opinions of the REACH Committee, while a very high number (mostly concerning chromates) will be coming next year. ECHA and the Commission hosted two workshops in February 2015 and November 2015 to take stock of the experience by then. Among the findings of the workshops is the fact that many companies that have been through the application process, confirmed that improvements were made in regards to exposure of workers and the environment. Still, opinions of stakeholders on authorisation are sharply divided: while industry stresses the high costs, the lack of predictability and the disadvantage for manufacturers in the EU compared to competitors outside of the EU, NGOs criticise ECHA and the European Commission as too “lenient” and in this way penalising the companies that were able to find substitutes for the substances subject to authorisation. He explained that in reaction to the difficulties perceived around authorisation, the Commission and ECHA had introduced the SVHC 2020 Roadmap and in particular the concept of Risk Management Option Analysis (RMOA), which by now has been embraced by Member States The European Commission has also been criticised for working on simplification for applications for uses in low volumes or those used for machinery spare parts. A draft Regulation on the first should be presented to the REACH Committee in the coming months.

Mr. Berend presented the different activities which are carried out by the Commission in the framework of the REFIT REACH Evaluation. In particular, a Study on the Impacts of REACH Authorisation aims to collect more robust data and information from the “real world”. In particular, data are missing from companies not applying for authorisation, e.g. those who are already successfully applying alternatives. Also, a public Consultation was launched and is open until 28th January 2017 and a specific SME Panel will be consulted via the Enterprise Europe Network. Finally, he concurred with MEP Gräßle that the worse outcome of REACH authorisation would be that jobs move outside the EU with the continued use of the SVHC substances there.

Matti Vainio (Head of Unit, Risk Management Implementation Unit, ECHA) stated that while the Authorisation system is new, it is functioning well. Thus far ECHA has received applications for 181 uses, it has given 119 opinions and the Commission has made 35 authorisation decisions on uses. Naturally a new system can and needs to be further improved. A joint Task Force with the Commission, ECHA and Member States are working on this. He emphasised that the REACH requirements also apply to SVHC on imported articles because ECHA must propose restrictions, if risks are not controlled in articles. ECHA’s scientific committees are currently giving their opinions to the Commission of such a restriction proposal for DEHP and other plasticisers.

Mr. Vainio explained that there are still misconceptions as regards the Authorisation process. One of the most surprising one is that some think that Authorisation is granted only once. In reality companies can re-apply for Authorisation which gives continuity to the system. He then gave an overview of the costs and benefits of authorisation. For example, the application costs for Chromium Trioxide are estimated at about €1 million per annum. This can be compared with the turnover of the sector, €153 billion per annum. He also provided specific examples of benefits observed so far substituting to less harmful substances on and reducing the risk of harmful substances. ECHA together with the Task Force attempts to further improve the Authorisation system and thus increase certainty and reduce the applications costs. Mr. Vainio concluded that "the Authorisation system is self-learning and will be further improved". Finally, he highlighted that the purpose of the Authorisation system is not to drive out production outside the EU but to improve health and the environment in the EU in a cost-effective manner.

Rohit Mistry (eftec), representing the lead contractor of the EC funded study on the "Impact of REACH Authorisation" explained the study as an opportunity to substantiate the impact of authorisation with quantified data. The inception report of the study will be presented soon and the final report is due in August 2017. The study will include a number of case studies in order to examine the impact of REACH Authorisation at substance level but also at impact level e.g. by gathering evidence of risk reduction, or on substitution (which is not limited to any particular substance). Furthermore, a targeted online survey will be launched in January 2018, followed by telephone interviews and targeted email questionnaires. The event was an opportunity for eftec to consult with key stakeholders and to urge them to substantiate their messages on the impacts of REACH Authorisation with data and evidence.



Dave Elliott, (President, European Committee for Surface Treatment (CETS), Chief Executive of the Surface Engineering Association (SEA)) explained why surface engineering is crucial for manufactured products. As surface engineering companies use up to 200 different substances to apply a coating to a manufactured product, the sector is profoundly impacted by REACH. Mr. Elliott disputed the real value of the REACH studies.

According to the recently published ECHA study on the "Cost and benefit assessments in the REACH Restriction dossiers" the total cost assessed for all the restrictions in the EU having gone through the REACH procedure is estimated at €290 million per year with health benefits equivalent to over €700 million per year. Nevertheless, Mr. Elliott questioned the accuracy of those data as overestimating benefits and underestimating cost impacts. All in all, Mr. Elliott noted that he fully subscribes to a careful substances management, particularly for those that could qualify as SVHCs and, wherever possible, their removal from global supply chains if suitable alternatives are technically and economically feasible. He also believes that the benefits of REACH will eventually become clear for all to see but the EU should ensure that decisions are based on real impacts of REACH on SMEs which currently makes them less competitive in the global marketplace.

Veronique Steukers (Global Director Public Policy, Nickel Institute) pointed out the wide range of partly consistent, partly contradictory views on REACH Authorisation, its impacts and benefits. Yet, for those who argue for the broadest and strictest possible application of REACH Authorisation, it is seen to

solve the problems related to hazardous substances before they occur and moreover, Authorisation push industry to check permanently for substitutes. A reality check of the above mentioned approach with the metals industry illustrates that there is only a limited number of metals that can substitute each other, thus, banning the use of a metal always results in the reduction of possible alternatives.

Having said that Ms. Steukers agreed that the European Commission and Member States competent authorities have taken the right steps in looking into risk based approaches, to assess all options for regulators to manage risks before taking decisions and added that the Risk Management Option Analysis (RMOA) is an important tool in order to choose the most appropriate and efficient regulatory instrument. For example, in many cases, hazardous substances are exclusively dealt with in an industrial or professional environment. RMOAs may therefore find that there is a need for further risk management, but may also find that the need for measures is limited to the workplace only. In such a case, they can be managed with the relevant legislation.

The relevance of the issue is shown in the Cross Industry Initiative or CII which was launched in the context of the Better Regulation Agenda, representing around 60 different organizations from various sectors. The CII proposes a holistic application of the existing legislation without leaving regulatory gaps but at the same time avoiding unnecessary duplication and costs. The CII approach was endorsed by the Government Group of the REFIT Platform which agreed that workplace legislation may be sufficient to address concerns and that this assessment needs to be done on a case-by-case basis, on the basis of criteria that should be defined. This constructive approach will enable the proportionate, targeted and most effective use of the available regulatory tools without adding additional costs by imposing other measures, such as Authorisation, which in that case does not bring additional benefits.

MEP Gräßle then opened the floor for the Q&A with the first comments from Hugo Waeterschoot, REACH Advisor, Eurometaux. He summarized that there is a need for better efficiency, reducing the costs, speedier process etc. and agreed with V. Steukers on RMOA building this process further.

Jonna Byskata, Director of Government Relations from United Technologies Corporation, explained that the aerospace industry is very much impacted by the chromates Authorisation process. She questioned how the process can be simplified and whether the scope will be broader in the future as currently it only includes low volumes and spare parts.

Mathias Enseling, General Manager of a surface engineering company (Hartchrom) and member of CETS, referred to the Panteia Study on the "Economic Impact Authorisation Chrome VI" (2016) which estimated the economic impact of phasing out the use of Chrome VI for the Netherlands and reported a turnover loss of over 3 billion euro if no Authorisation review period would be granted. He also clarified that very small companies have no financial resources for upstream applications and that as a result he sees a danger of market concentration.

In conclusion, the MEP thanked all the speakers and participants for their constructive comments and their contribution to the debate and urged for a continued and open dialogue on REACH Authorisation between the EU Institutions and all the relevant stakeholders.