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NOTE

From: General Secretariat of the Council
To: Delegations

Subject: Policy conference "REACH Forward" (Brussels, 1 June 2016)
- Information from the Presidency

Delegations will find in Annex an information note from the Presidency on the above subject, to be dealt with under "Any other business" at the Council (Environment) meeting on 20 June 2016.

**Policy conference "REACH Forward"
(Brussels, 1 June 2016)****- Information from the Presidency -**

The Netherlands hosted a policy conference on 1 June 2016 with the aim to build a common understanding among Member States of the desired further development of European policy on chemical substances, with a focus on REACH¹. The findings of the conference intend to provide input for the 2017 REACH review. The conference builds upon the results of earlier meetings, in particular the REACH-up conference 'REACH and beyond' (20 October 2015) and the ECHA-workshop 'REACH(ing) the WSSD 2020 Goals' (27 and 28 January 2016). A background document² was prepared for the conference, giving an overall view of challenges encountered and some suggestions for possible solutions. ECHA's recent 5-year report on the operation of REACH and CLP³ provided the conference with additional important background information.

The conference was attended by representatives of 18 EU Member States⁴, one EFTA Member State⁵, the European Commission (DG ENV and DG GROW) and the European Chemicals Agency (ECHA). Based on the conference's discussion, the chair of the conference⁶ was able to draw the following chairman's conclusions.

¹ EU Regulation 1907/2006 concerning the registration, evaluation, authorisation and restriction of chemicals.

² <https://www.government.nl/documents/publications/2016/06/03/discussion-paper-reach-forward>.

³ http://echa.europa.eu/documents/10162/13634/operation_reach_clp_2016_en.pdf.

⁴ Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Latvia, Malta, Netherlands, Poland, Portugal, Slovakia, Spain, Sweden.

⁵ Norway.

⁶ Deputy director of the Risks and Safety Directorate of the Netherland's Ministry of Infrastructure and the Environment, Joris van der Voet.

1. General observations

The conference recalled the 7th Environment Action Programme, adopted in 2013, which includes actions in the field of chemicals with the aim of creating a non-toxic environment and the setting up of an EU strategy to achieve that. It was underlined that these actions must be seen in the context of the goal of the World Summit on Sustainable Development in 2002, reaffirmed at Rio+20, “*aiming to achieve, by 2020, that chemicals are used and produced in ways that lead to the minimization of significant adverse effects on human health and the environment*” as well as the 12th Sustainable Development Goal (2015), target 12.4, stating “*by 2020, to achieve the environmentally sound management of chemicals [...] and significantly reduce their release to air, water and soil in order to minimize their adverse impacts on human health and the environment*”.

It was generally acknowledged by the conference that REACH has brought about significant progress. There is information about 14.000 substances, facilitating their safe use throughout the supply chain. A functioning implementation structure is in place to identify and manage substances of very high concern (SVHC Roadmap). This has resulted in the identification of 168 substances of very high concern, 31 of these now require authorisation for their continued use in specific cases.

Nevertheless, the conference considered the steps taken so far towards the overarching goal of a non-toxic environment are still insufficient. In particular the REACH review now offers the opportunity to accelerate and intensify this process. Furthermore, this overarching goal could only be achieved by taking account of a broader context than just the REACH regulation alone. It was considered important that the forthcoming review seizes the opportunity to identify possibilities to enhance innovation and green growth, and to strengthen connections and synergies with other policy areas and legislative frameworks, including Occupational Health and Safety and the Circular Economy Package. Furthermore, it was stressed that progress can and should be made on implementing several actions, even ahead of the REACH review.

The objective of making the implementation of REACH more effective and efficient should also result in a reduction in administrative burdens, especially for small and medium-sized enterprises.

2. *Implementation of the 7th Environment Action Programme's (EAP) political commitments*

The conference discussed the most relevant actions laid down in the 7th EAP:

- to set out a comprehensive approach to minimising exposure to hazardous substances, including chemicals in products;
- to develop harmonised hazard-based criteria for the identification of endocrine disruptors and take horizontal measures to minimize exposure to such substances;
- to ensure that, by 2020, all relevant substances of very high concern, including substances with endocrine-disrupting properties, are placed on the REACH candidate list;
- to further develop and implement approaches to address combination effects of chemicals;
- to ensure the safety and sustainable management of nanomaterials and materials with similar properties.

It was noted that, to date, none of these actions have been adequately and fully implemented in EU policy and legislation. There was general agreement that the actions of the 7th EAP should be implemented as soon as possible and that options to do so should be evaluated in the REACH review.

Reducing exposure to chemicals was considered of overarching importance. At the same time, it was concluded that decisions are currently being taken on the basis of limited information on exposure. Since overall consumer exposure results, to a large extent, from products, the reduction of hazardous substances in consumer products, especially products in contact with the human body, deserves particular attention. It was advocated that substance data sets should be used across all relevant legislation and policies to ensure efficiency, consistency and transparency. REACH registration data provide valuable opportunities for promoting more consistent use of information, notably by reducing exposure to substances of very high concern through controlling emissions to air and water.

It was considered to be impossible to determine the risk of all conceivable combinations of chemicals. A pragmatic approach was suggested to deal with combination effects, such as to limit allowable exposure to a proportion of the current limit values for the single substances.

The conference underlined the urgency of adequate management of endocrine disruptors and nanomaterials. Scientific criteria for identification of endocrine disruptors will be of value in practice, also within the REACH framework where they could trigger the requirement to test and therewith enhance data availability. For nanomaterials, although implicitly covered by REACH, clarification of how the information requirements for registration are applied to substances in nanoform is urgently needed for adequate risk management.

All of the above conclusions confirm that links (data, overall exposure, combination effects) to other legislation should be reinforced to adequately implement the actions from the 7th EAP.

3. *Improving data availability and use*

The conference emphasised the importance of REACH's requirement for companies – instead of governments – to demonstrate that the chemicals they place on the market can be used safely, by providing and updating information on toxicological properties, uses, exposure and risk management measures. The conference noted, however, that deficiencies are found in many registration dossiers. This hampers industry to apply appropriate risk management, and forces authorities to search for additional information themselves for the purpose of adequate regulatory action. Furthermore, companies often do not continue to update the dossiers on their own initiative, even when new information comes available. It was considered that real proactive ownership on the part of industry should be encouraged, whereby REACH would be viewed as an instrument working for the companies involved rather than being just a one-off obligation.

Participants felt priority should be given to further improve dossier quality, by continuing to implement current actions, continuing compliance checks after 2018, incentivising companies to update dossiers (possibly with an implementing act), and rewarding good quality dossiers. The forthcoming REACH review should consider a structured approach to deal with deficient or incomplete dossiers, helping to determine on a case-by-case basis what risk management measures would be appropriate or whether measures could be postponed until further information is available, also considering the consequences of inaction. The focus should be on the information that is actually needed for the decision at hand. In particular, adequate exposure data is crucial but is often lacking. The approach should take into account the precautionary principle, while keeping the responsibility for data on safe use with companies. In case of serious concern and if the necessary information to demonstrate safe use is not provided or available, restrictions may be adopted or authorisations could be rejected more often than currently is seen in practice. The global level playing field would benefit if restrictions for imported articles could be developed hand in hand with restrictions for production or the phasing out of chemicals within the EU.

The perception was that the current procedures to adopt an authorisation obligation or a restriction can be slow. As such, actions to simplify, clarify and speed up procedures, while maintaining proper assessment of risk management options, would be welcomed. In particular, reduction of the costs of compiling restriction proposals (in addition to recent improvements) could enable an increase in restrictions.

4 *Improving substitution and innovation*

There are clear signals that REACH already promotes substitution of toxic substances in those cases where phasing out is anticipated. Conference participants emphasised how substitution contributes to innovation and a green economy. However, there is little evidence thus far that chemical legislation, such as REACH, is in itself a stimulus to more fundamental development of alternative technologies, new business models and non-chemical solutions, as innovation is predominantly market driven. Overall it was felt that encouraging innovation was something that would need the active involvement of other policy fields, such as R&D and economic policy.

Several approaches to encourage such innovations were suggested. Public consultations in REACH could be complemented by engaging with R&D hubs, academic communities and discussion boards. A grouping approach targeting similar chemicals could prevent substitutions with substances with comparable hazards. It was also concluded that in this respect governments need to move beyond their regulatory role, and to take on the role of facilitating and linking up with industry-led initiatives and by stimulating partnerships or “green deals” between government, business and NGO’s. Other suggestions were to set up a substitution platform, a specific European research and training institute, such as the international sustainable chemistry collaborative centre (ISC3), and economic incentives like taxes, green investments and grants for hiring relevant scientific expertise, especially for SMEs.

It was considered important that safe design of chemicals and products should become an integral part of EU innovation programmes and legislation. Incentives for substitution of chemicals should be embedded in innovation policies that support companies in their efforts to further a circular, green and low-carbon economy. Promoting greater awareness among the R&D communities about the challenges and opportunities created by REACH, should help to move from substance substitution to systemic innovation.

5. *Communication in supply chains about substances and mixtures*

The conference recognised that indications show that REACH information has started to improve risk management in supply chains, including in improved quality of Safety Data Sheets. Participants underlined the need to further improve information on safe use of chemicals from producer to the users, to promote occupational safety and health. Further improvement in quality and usability of Safety Data Sheets could be encouraged notably through tailored and practical instructions for small and medium-sized enterprises. Several standardised tools and formats have been developed (ENES-network) and it was discussed that a legally required format for exposure scenarios could support broad implementation.

Mutual alignment of REACH and Occupational Safety and Health frameworks could increase the usability of Safety Data Sheets as well, since the trigger for downstream users to comply is more likely to be found in a safe working environment. Administrative burdens, especially for downstream users and small and medium-sized enterprises, could consequently be reduced.
