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NOTE

From: General Secretariat of the Council
To: Delegations

Subject: Workshop on the revision of REACH (Authorisation and Restriction)
(Brdo, 9 November 2021)
- Information from the Presidency

Delegations will find in the 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 December 2021.

Workshop on the revision of REACH (Authorisation and Restriction)

(Brdo, 9 November 2021)

- Information from the Presidency -

On 9 November 2021 the European Commission and the Slovenian Presidency organised a workshop on the revision of REACH (authorisation and restriction), which took place in person in Brdo, Slovenia, in combination with more than 110 online participants from Member States' competent authorities. The revision of the part of REACH on authorisation and restrictions is necessary because it is quite clear that the system could be more efficient and that resources are limited. The challenge is to work out how we can be even more efficient with the limited resources we have available. The main objective of the workshop was to consult Member States to obtain their initial views of different opinions set out by the Commission services on the planned reform of the REACH authorisation and restriction system. It is important to stress that the policy options for revising the REACH regulation that the Commission is considering aim to achieve a higher level of protection of human health and the environment against the most harmful substances. The following eight topics were discussed in four groups based on a background paper prepared by the Commission in consultation with the Slovenian Presidency:

1. Problem analysis and objectives of the proposed reform
2. Option 1: Elements for simplification under the current authorisation and restriction system
3. Option 2: Merging authorisation and restriction
4. Option 3: Removing the authorisation heading from REACH completely or partially; role of restrictions, role of candidate list; notification obligation for uses after SVHC identification
5. Level of ambition, advantages/disadvantages of options 1,2 and 3
6. National authorisations, international level playing field and export bans
7. Interface REACH / other EU legislation
8. Innovation and how we support substitution, improving enforceability and impact on SMEs.

The workshop participants supported the Commission's initial problem analysis and the objectives of the proposed reform. They were in favour of combining the best elements of options 1 and 2 and raised several issues to be considered in the further impact assessment work. Option 3 was considered to be too radical. In particular, Member States supported the simplification of the authorisation process and possibilities for joint authorisations/derogations for restrictions where this makes sense and can simplify the process. There was interest in merging authorisation and restrictions, but care needs to be taken that it does indeed simplify the process rather than complicating it.

Participants confirmed the need for an international level playing field. They also stated that consideration should be given to extending the scope of existing conventions e.g. PIC (Prior Informed Consent Regulation), POPs (Persistent Organic Pollutants Regulation) and that co-operation with SAICM and the OECD should be further developed. It was also mentioned that the approach of the Basel Convention on the export of waste should be explored with a view to banning exports of chemicals that are severely restricted in the EU.

In the discussion about interconnections between REACH and other legislation, the IED (Industrial Emissions Directive) and the Batteries Regulation were mentioned as was occupational safety and health legislation (OSH). There is a further need to discuss the interface between REACH and other EU legislation, in particular OSH.

With more cooperation we could achieve more for the protection of human health and the environment in a simplified way if for example we had more knowledge of the exposure caused by specific uses.

Member States also supported the continued use of the candidate list for prioritising further regulatory action. The timing of the various steps in authorisation and restrictions needs to be reassessed in order to ensure the early availability of information and the smooth adoption of decisions. In this respect, the option of requiring additional use and exposure information upon candidate listing was positively received.

Member States were also in favour of strengthening incentives for innovation and substitution, including financial instruments.

At the end of the workshop, it was emphasised that this workshop was an important first milestone towards a revision of REACH. The authorisation and restriction processes are an important part of this revision. A similar workshop, with stakeholders this time, took place in Brussels and online on 12 November 2021. The outcome of these two workshops will serve to refine the options for the impact assessment. Further expert level discussions with experts from Member States and stakeholders are planned for next year. The Commission plans to submit its proposal to revise REACH by the end of 2022. The workshop also stressed the importance of enforceability, in particular the enforceability of restrictions where stronger cooperation between EU enforcement authorities is needed. This cooperation can be facilitated by digital tools. And finally, it should be mentioned that care should be taken that any action taken does not conflict with another environmental aim.