

## FuelsEurope summary comments on REACH REFIT Consultation

The industry supports REACH compliance and puts a lot of effort into it. The Regulation does not need to be revised, but there are fears that aspects of implementation are turning the regulation into something different to what was envisaged. Here we highlight some of these points and make some practical suggestions for improved REACH implementation, which could plausibly be enacted with the correct level of cooperation.

### What is working with REACH

The industry supports achievement of all of REACH's goals, highlighting the internal market, enhancing competitiveness and alternative methods for assessment, as well as protection of health and the environment. We like that the approach to REACH is based on:

- Making decisions based on sound science
- Increasing information on substances and their uses
- Making substances safe for intended use
- Putting to the onus on registrants
- Applying data sharing between registrants and the avoidance of unnecessary testing
- Taking a collaborative approach, for instance the PetCo approach to Petroleum Substances helps with UVCBs.

### Some areas of concern

However, there are some developments in the implementation of REACH which do cause concern. Some of these could be considered 'unintended consequences'.

**Value chain information:** the complexity of REACH is resulting in the fact that its original purpose, clear information about substances, is being diluted.

**Mission creep:** there are more and more requirements, coming in the form of guidance and overreaching secondary legislation- this increases the burden on registrants.

**Coherence:** an implementation factor due to the inherently complex nature of REACH, sometimes dossier evaluations can occur at the same time as substance evaluations, or substances can be screened multiple times against different criteria.

**Hazard versus risk:** there is a concern that an over-emphasis on precautionary principle, even when good evidence exists, is being used to essentially blacklist candidate substances.

**Enforcement:** the sector feels that proportionate enforcement actions are important. We have concerns about the recent issues of SoNCs regarding testing deadlines; the approval process isn't clear and communication at national to EU level must be effective in such procedures.

### Another issue, of particular interest to our sector, where we are worried about the implementation process:

**UVCBs:** Whilst explained and defined in the Regulation, we have concerns about the treatment of UVCB substances in the current regime; too much focus on analytical work may essentially remove the legislation's allowance for complex substances. The reality should not be ignored that very many substances are UVCBs, and should not be seen the same way as well-defined substances. However, as we have explained above, we do see some promising steps in the PetCo process.

Many concepts in REACH are primarily oriented to simple chemicals. However for the most complex substances (UVCBs) such as petroleum substances, we appreciate that the risk

assessment process is being developed and carried out in collaboration with industry groups, who are well placed to offer suitable processes to assist in the assessment of the hazards and exposure levels for their substances. In our case these include analytical approaches, models for environmental assessment, and strategies for grouping and prioritizing substances.

## **Practical ways to improve REACH implementation**

### **Supply chain information complexity and Safety Data Sheets:**

Safety Data sheets could be cut down and made simpler to read, making them more aligned with their original purpose. The Commission has even suggested such changes in the Better Regulation Communication. The ENES group should continue to taking simplification and clarification as a priority- a sub group with industry could help. Engaging importers as well as manufacturers, involved with front-line delivery, is important. Exposure scenarios are important. Industry initiatives should be supported. The current readers of SDS are now industrial hygienists or other experts, not related to front-line use. The specialized information, e.g. on environmental and health hazard or the complex modelling of exposure scenario is available in registration dossiers whose information are now disseminated. The SDS can therefore focus on guidance dedicated to end-users only.

### **REACH IT and IUCLID:**

The registration dossier in IUCLID is increasingly complex (the number of fields is increasing with each new release). The around 200 petroleum substances are organised in categories and read-across is required to properly describe all hazards. For consistency reason, all data files need to be updated simultaneously, on an annual basis. That allows to properly organise the data, provide adequate guidance to (lead) registrants and ensure the files have correctly been updated in REACH-IT. This ever-increasing IT complexity delays in practice the prompt delivery of new data and is likely to prevent co-registrants to update their information without undue delay.

Our sector has always and will continue working informally with ECHA to feedback on these issues to try and find the best solutions. Data extraction from such a large database is probably already difficult for the regulator and this would only be exacerbated if the complexity increases further. The next IUCLID updates should take this complexity into account to simplify the process / the structure and make it consequently more reliable. Early indications are that there might be some concerns with the process of carrying out manual checks on dossiers, and the unpredictability of their results, particularly for 2018 registrants.

### **Guidance:**

From a procedural point of view, sometimes the process in developing new guidance for certain REACH elements isn't transparent enough and can lead to documents that do not necessarily give the most practical advice. To avoid this, and stakeholders should be involved as the target given their role implementation of REACH. From a substantive point of view, new obligations and precedents are set by guidance, going beyond the initial text or even related secondary legislation- this can raise concerns about compliance.

### **Other legislation:**

The industry also supports the Cross-Industry Initiative of using RMMs found in workplace legislation such as worker OELs as an alternative to Authorisation. Impacts of other regulations should be considered. REACH implementation should adjust to co-existing rules and procedures. Coherence with other legislation, such as those in water and waste must be considered.