

European Voice Conference “Beyond REACH”, 1st April 2003, Brussels

Text for the speech by John Hontelez, Secretary General, European Environmental Bureau [Actual speech may differ from the published version]

Environmental and Business opportunities within REACH

Dear Ladies and Gentleman,

I am very pleased to have the opportunity of addressing this impressive audience, representing most of the chemical business community in Europe.

The European Voice made a good decision in organising this event, bringing most stakeholders together for a further exchange of views on what must become an essential piece of reform of EU environmental policies. It is not the first event of this kind since the White Paper emerged, and faces are becoming familiar. Unfortunately this does not mean that we have, by meeting each other, resolved our different views. I do feel that on some issues, and with some stakeholders, we have come closer together. On the other hand, we continue to see constant attempts to prevent this essential reform from taking place.

A wide alliance of environmental NGOs, together with consumer groups, health organisations, trade unions and animal groups here in Europe and across the Atlantic, support an open and precautionary REACH system. This huge alliance on a specific EU policy is unique and shows the great hopes and expectations we have of this reform. Even business has come out recently in public support of REACH, as in the case of the Association of Swedish Chemical Industries (Kemikontoret) and Marks & Spencers – understanding that it is time to embrace the reform’s opportunities.

The debate on the reform of the EU's Chemicals Policy was started 5 years ago by the Environment Council. The White Paper of 2001 gave us a good platform for discussion on the principles, and all three EU Institutions appeared to be on the same, positive track. However, the Commission has faced major difficulties in finding internal agreement on the specific legal requirements needed, and due to the delays this has caused, we are meeting here today discussing inflated fears not knowing what this will lead to.

We are not happy with the slow pace of legislative preparations, and we think the EU is missing an important opportunity to presenting a piece of legislation before the upcoming Parliament Elections – a piece of legislation that would show the public that the EU is responsive to peoples' concerns about health and environmental quality.

Europe's citizens do not trust the chemicals industry

While citizens are aware of the important role that chemicals play in their life, they expect producers and retailers to produce and sell only those products that are safe during production, use and disposal. But people do not have this trust. A 1999 Eurobarometer survey found that diffuse chemical pollution is what people feared most.

CEFIC was not happy with the comic strip the European Parliament published this January, in which an MEP, Irina Vega, was fighting the criminal Carimas Chemical Co, in this way explaining the functioning of the European Parliament. It was no accident that this - probably the most popular Parliament publication ever – had the chemical industry as its target. It was chosen, I am convinced, because it would appeal to the public, and this shows that the public indeed does have serious concerns about the credibility of the chemical industry. The public is concerned about chemicals accumulating in their bodies, contaminating their food and drinking water. Citizens are embarrassed and disappointed that, after being been told this or that chemical is safe, they then find out it is a great threat to their health after all, when the damage is massive and possibly even irreversible. How can one explain to citizens the embarrassing history of Nonylphenol. In the fifties this surfactant swept the market and was believed to be safe. In the nineties, industry was still arguing that it was not persistent and does not accumulate. In the last few years it was found to be widespread on food and in the human body. And recently it became clear that it disrupts hormone systems. And industry today is still fighting to keep it on the market. Unfortunately, it is rarely the other way around, that a chemical has been restricted or banned on a precautionary basis and later we have found out that it is eventually safe.

Voluntary initiatives are not the answer

What has the chemical industry done to respond to these fears? While aiming to respect existing legislation, which is normal, chemical industry has embarked mainly on voluntary

initiatives. We are not convinced that this has developed into any more than straightforward public relation campaigns. How can we trust something called “responsible care”, which allows the Solvay company to recently start high volume production of the powerful greenhouse gas HFC? How credible is a “responsible care” assessment by CEFIC which announces drastic SO₂, VOC or heavy metal emission reductions, while it remains unclear what the programme has added to the reductions required by law under the Air Quality Directive or the IPPC? How responsible is “responsible care” when industry cannot provide risk-relevant information for most of the chemicals in our daily lives?

Despite all these questions, we consider "responsible care" as evidence that the chemicals industry understands the importance of public opinion, and we want to believe that it is interested in accepting its responsibility for sustainable development. And we believe that the big chance is here and now: it is not beyond REACH; it is within REACH.

What do we expect from REACH? A high level of protection for the environment and human health

As environmental NGOs, we want to see an end to the paralysis in dealing with chemical threats. A paralysis which allows long-term and serious potential damage to be ignored, while short-term business interests dominate. We do not want a repetition of the Asbestos or PCBs cases and we do not want to embark again on a discussion about whether a child is safe with chemicals accumulating in its body from chewing on baby toys, when safer alternatives are available. Substitution of very high concern substances with safer alternatives must be the first consideration when going into the new authorisation procedure under REACH.

We strongly reject industry’s attempt to undermine this principle of substitution, and fear that the Commission’s position will become too weak.

Today, chemicals are controlled via a cumbersome and lengthy process. A producer of a chemical, who is on this lengthy and uncertain road, will try to the last to defend his chemical as strongly as possible, putting the burden on the regulators to prove there is sufficient reason for restrictions. Instead we want REACH to give the chemicals business chain a clear indication early on of what kind of substances are unacceptable. This clear

signal should be accompanied by better communication and information, making it easier for industry to find and use safer alternatives, instead of wasting capacity and time in defending the old stuff . We want business to engage in innovation, instead of defending a volume-production-based business model. It must be innovation driven by environmental and social sustainable development requirements, of course. Innovation cannot be simply measured in the number of new substances on the market, which are economically successful in the short-term – as done by a number of different, recent studies. Innovation needs a direction.

We have the unique opportunity to set this direction by agreeing on a red line, consisting of property criteria for chemicals which need to be phased out. These criteria have been developed and agreed upon over past decades in scientific discussions as the trigger for great scientific uncertainty and potentially massive, long-term negative impacts, which justifies the use of precautionary measures. The political agreement is that the emission of substances meeting such criteria must be ceased within one generation. This would provide all players in the chemicals business – from the producer, across to the downstream user, to the retailer – with a more predictable regulatory environment.

The objectives must be set correctly before we can talk about how many substances, with how much data, in how many years. The objectives will be determined by the decision-making mechanisms and how the precautionary principle is finally put into practice.

Huge business opportunities

Commissioner Wallström once spoke of "scaremongering" by the chemical industry, when it was presenting huge costs for testing and huge losses of jobs. While the cost estimations for the initial testing have been withdrawn, we continue to see attempts to mobilise politicians and trade unions against the reforms by presenting extreme forecasts. Just look at the so-called "study" from the German industry association BDI, predicting more than two million lost jobs, or the statement from BASF that parts of industry would have to leave Europe. This is scaremongering indeed. Please be honest: A panel of German economists from leading scientific institutes have qualified BDI's predictions and assumptions as "unusable" and "unsupportable". On the contrary, the panel expressed its

views about the positive economic effects that were omitted, which could lead to potential competitive advantages internationally for European businesses.

And where are the examples of companies having moved abroad because of environmental standards? The most important drivers for business location are labour costs, skilled employees, research facilities and political stability.

Rarely has an EU policy undergone the same kind of scrutiny as the chemicals policy

What are we waiting for? Are we waiting for the exact economic calculation that will forecast the economic impacts for the next thirty years and then the monetary assessments of the damage to society due to the deterioration of human health and the environment?

It is unfair that promoters of the environment are being asked to do the impossible - to precisely assess the economic impacts and prove that the 100% best economic solution is found. A huge number of unforeseeable factors are decided upon in other policy sectors, such as industry subsidies, tax-reduction, research support, and minimum wages, which are much more decisive about business development than environmental policies have ever been.

What worries me is that the resistance to the new chemicals policy gives the impression that the chemical industry does not want to be properly regulated and exposed to public scrutiny. I do understand that cumbersome legislative procedures are no fun; they cost money and time. And we agreed that the current system is certainly cumbersome. Industry wanted a reform. But then, let us go fully down the road of reform – not just reducing information standards for new chemicals, but also making sure that there is a real result for health and the environment at the end of the process. The trade-off must be fair for all.

On the second area of concern to industry – to be exposed to public scrutiny – I want to point out to you your “responsible care“ principle of transparency and the slogan, “Don’t trust us, track us” brought out when responsible care was launched. The concept of pure mass production is over for almost all sectors, and consumer-driven, transparent, accountable quality production now dominates; does the chemicals business think it should remain an exception to this? Industry is such an important player in our societies, if

it is not accountable and transparent, if it does not give all the information that citizens and their organisations need, it is undermining the democratic nature of these societies. People have the right to know, as is laid down in constitutions, national laws, the Aarhus Convention. This right to know is so important for our societies that industry has to accommodate it, even if to do so is not always pleasant.

Now the good news: there are huge business opportunities.

The EEB, together with WWF, has published a study to assess the opportunities the reform may bring to industry – the positive effects on innovation and competitiveness. These benefits are completely ignored in the studies done by industry and DG Enterprise. We do not accept calculations that only include negative impacts, being called “business impact” studies and then being used to predict job losses. Thirty years of EU environmental policy has shown us that there are always business benefits from environmental regulation – to ignore these is not only destructive, but dangerous for business itself. It is astonishing that, in this particular case, leading industries and their branch organisations are missing the opportunity to identify and promote the potential benefits. As we did not see this changing, we took the initiative ourselves.

We have found six specific business opportunities for a REACH system, as long as it is well-designed, open and precautionary:

- ◆ ***New markets*** for safer and more environmentally-friendly products;
- ◆ ***Safer products will reduce the risk of future liability lawsuits***, which can result in enormous costs (as has happened with asbestos);
- ◆ ***Increased trust*** among consumers, employees, local communities and investors, leading to a more positive business environment;
- ◆ ***Easier introduction of new chemicals*** onto the market will encourage development and innovation;
- ◆ ***A more predictable regulatory system*** will aid future long-term planning by industry; and
- ◆ ***Improved transparency and communication through the supply chain*** will lead to increased power and confidence for downstream users and SMEs.

I would like to focus on three of these opportunities.

The first is the predictability of regulation. This is also of special importance for small and medium sized businesses, which are suffering from the current costly and unpredictable risk management based on ad hoc approaches from one problem to the next – we have already seen this in the famous example of the company Du Pont, who replaced ozone-depleting CFCs by HCFCs, which were already known as greenhouse gases, to be phased out later. Precaution, an essential principle to start with, should be put into clear rules and procedures allowing all players to foresee whether their chemical can stay, with or without strong exposure controls, or will have to be banned. Therefore we need to leave the well-trodden path of arguing what level of exposure of a hormone-disrupting chemical is safe or not, or whether an accumulating substance is toxic or not, and instead give the clear signal that exposures and accumulation are unacceptable. The search for safer substitutes, or their use if already available, must become the priority. Socio-economic arguments will influence the timetable of the phase-out of such chemicals. And when industry can prove that no exposure occurs – like in some closed system processes – then phase out might be unnecessary if worker protection can be secured.

The second point is improved transparency and communication through the supply chain – again, a very important issue for small business and downstream users and retailers. Currently, a small downstream user or retailer will have to accept the chemicals he gets from the supplier without receiving proper safety information or having sufficient knowledge about safer alternatives, but at the same time is exposed to public or regulatory pressure. We would expect a new system to give downstream users and retailers greater access to safety information and facilitate more intensive communication within the supply chain. This would allow informed choices to be made about which chemical to use for which process or which product to retail. In this way, smaller/medium downstream users and retailers would have more influence in future – which we feel is necessary and justified, considering the importance of these players in sustainable development.

And thirdly, the creation of new markets;

i) focussing on selling solutions rather than chemicals,

- ii) for new safety testing and risk assessment methods, which are more reliable, effective and morally acceptable than current instruments and
- iii) for safer products replacing hazardous substances.

REACH provides powerful incentives for innovation. More intensive communication up and down the supply chain will enable companies to better understand the needs of the other players. This is likely to promote a situation where the chemicals industry and traders will tend to sell solutions to their customers rather than chemicals.

Currently, innovative and pro-active companies who have developed alternatives to hazardous chemicals often face the problem that potential customers are not sufficiently motivated to buy the "better" product. The authorisation regime will give a clear and convincing signal to, and pressure on, the market to look for better alternatives. Of course, chemical producers who do not react to such signal in time will lose their markets – but this is an incentive for innovation and gives the first to react a competitive advantage.

The information demands of REACH, combined with the phased introduction of existing chemicals into the system, will provide a powerful incentive to develop and market innovative new testing methods; for example, those based on computer prediction and expression profiling – this should also reduce testing costs over time. There will also be a demand for companies that can provide risk assessment services.

Conclusion

REACH cannot fail to provide increased safety for human health and environment – in the end, citizens will judge government and industry on this. And at the same time, it must encourage progressive business, and provide a level playing-field in the world's biggest market, with a framework to create a much more positive business environment, especially for downstream users.

We are concerned about the timetable slipping, which in our opinion is not good for the quality of the debate. We need the Commission's proposals now – also to avoid further confusion and increasing gaps between stakeholders' opinions.

We are also very concerned about the political focus on what is in the system – such as intermediates – rather than focussing on how the system will work. This has been influenced by industry’s scaremongering about inflated numbers of marketed chemicals and testing costs. If industry’s aim is to make a piecemeal legislation with many loopholes, then I believe that this will hurt business most. It would add to the bureaucracy, to parallel or even competing management systems, and would destroy the hope for a more effective and integrated business environment. This would be the status quo, which I believe industry does not want any longer.

We want a reform which is clear about both its objectives and the mechanisms to achieve them. The question of how many chemicals, and in what time, has to be addressed in a flexible manner and be adjusted to reality rather than predictions. Are there 60.000 or 10.000 intermediates, are most data available as CEFIC claims and the only job is to get the studies out of the archives, or are there huge information data gaps? Time will tell!

I am confident that Europe’s business will be able to use the unique chance of an integrated regulatory framework for a 550 million consumer market and become world leaders in the safer chemicals business, if it wants to accept this challenge.

However, we have heard enough from the few big chemicals producers in Europe, to distrust their ability to represent the complex chemicals market. Small downstream users and retailers are part of the equation. They need a simple, robust and effective regulation, which increases information flow and implements precaution in a predictable way by substituting hazardous substances with safer alternatives.

REACH presents a massive deregulation for new substances in order to deal with a 25-year backlog of information on existing substances and to correct irresponsible care – this must pay off for the environment and human health!

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