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"European Chemicals Policy Reform: From Emotion to Facts"

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Chemicals are the basis for many essential and less essential goods and services but also cause many problems. It is time that chemicals are brought out of the shadows of non-regulation and irresponsibility into an integrated and transparent management system - a system that is accountable and can be held responsible for future generations.

The reason for reforming the EU chemicals policy is to guarantee better human health and environmental protection. There is overall agreement that the use of some chemicals is out of control, and that we are also losing track of the possible negative consequences of this. In the light of this, statements like 'we have used that chemical for decades and nothing has ever gone wrong' seem rather cynical. On the contrary, we believe that industries must be encouraged to examine systematically and constructively the safety of their products, adopting the approach that 'everything must be considered dangerous until proven safe'. A constant search for safer alternatives based on information and sound science should be the driving force for innovation and integrated management.

The chemical industry itself is accepting that the question is not whether we will have REACH, but how will we have it?

The chemical problem

Some of the consequences of ignorant chemical management are hitting us directly today. The European Agency for Safety and Health at Work has stated: 'Dangerous substances contribute significantly to the 350 million days lost through occupational ill health in the EU, and to the seven million people suffering from occupational illnesses'. Allergies, especially child allergies, are becoming commonplace far too fast. Liability claims are eating into company's operating profits and billions of euros are spent cleaning up avoidable damage from chemical use in clean-up and end-of-pipe technology. In 1999 alone, the chemical industry spent 7.7 billion euros in environmental protection measures - three times the amount REACH would cost over 11 years. Couldn't REACH reduce such end of pipe costs as chemical industry would produce and use safer chemicals? Reach should be seen an investment in cost savings.

Safety information is largely not available. It is shocking that most chemicals in the daily products we use have never been tested on safety. The 1981 legislation left 100,000 already existing chemicals virtually untouched by regulation, and many of these can now be found in places where they were never designed to be. Greenland's Inuits carry chemicals in their bodies that they never used. Mothers all over Europe worry about contamination of their breast milk, and PFOs run through our veins. The flawed 1981 approach created a massive burden for future generations, starting with ourselves. It has also discriminated the introduction of new chemicals, hampered innovation and created an increasing public mistrust in the use of chemicals, many of which are not only safe but necessary.

We cannot say that chemicals are destroying our lives. It is more subtle than that. Thanks to improved health care and eating habits more people, in the developed world, are living longer. Nevertheless, exposure to too many chemicals in everyday living does lead to illness and reduced life-expectancy. This is simply unacceptable.

We believe that the REACH reforms are a unique chance for our generation to deal with our perpetual exposure to chemicals, by giving industry a framework for taking responsibility, identifying and ending the use of chemicals 'of very high concern', chemicals which accumulate in the environment, cause cancer, damage genetic material, interfere with human or wildlife hormone systems or is a reproductive toxin.

What are the cornerstones of the REACH framework?

1. It is based on the responsibility of industry to investigate and report on the safety of its chemicals in a standard format.
2. Public authorities control the running of the system and focus regulatory action on chemicals of very high concern.
3. Increased transparency and a public right to know about dangerous chemicals in consumer products, including in imported products.

What are the real problems of the actual REACH proposal?

The Commission's REACH proposals are the result of some contradictory views within the Commission's departments. As a result REACH avoids some necessary decisions and remains open-ended. It also leaves important questions about its practical implementation unanswered.

Let me make it clear: REACH has NOT been set up to kill off Europe's chemical industry! It is there to protect citizens, future generations and nature. But we are surprised and angry at the all-out attacks on REACH from industry federations, based only on unrealistic worst-case scenarios. It is not credible to on the one hand support the reform's objectives and on the other calling it a de-industrialisation programme for Europe and not putting forward serious alternatives.

The proposals to shift responsibility back to authorities to identify which chemicals have to come first and with how much information for the registration, is not the answer. The relevance of such a screening is simply not clear: it would only be a continuation of the existing flawed and unworkable EU chemicals regulation, and would overturn one of REACH's cornerstones!

Why has industry not explored Annex IX of the Commission's proposal? The provisions there give industry much flexibility in reducing the testing burden and even in omitting chemical tests if relevant exposure is not taking place. Why has industry not proposed clear concepts about grouping exposure scenarios in order to facilitate and simplify the communication between chemical producers, chemical users and authorities?

However, as EEB we also do have some reservations about REACH. Its role will be to protect people's lives, people's health, to protect our water - water that farmers are using and citizens are drinking. And REACH is set up to protect biodiversity. We don't think that it can fully deliver those objectives due to cumbersome and ineffective procedures.

EEB's views on REACH

The EEB has identified five key areas where REACH must be improved in order to realise its benefits:

- 1. The use of 'chemicals of very high concern' must not be authorised if their use is not essential to society or if safer alternatives are available. We insist on the mandatory implementation of the substitution principle.**

The loophole of 'adequate control' must be removed. Otherwise perfectly acceptable alternatives will be sidelined and withheld from chemical users, and consumers will continue to be exposed to unacceptable risks.

2. The registration must ensure that the gap in safety information is closed.

In the proposed new regulations, 20,000 chemicals will be excluded from a proper safety assessment. Without sufficient information, including biodegradability tests, and exposure information, chemicals cannot be classified or prioritised for further action. Closing the gap is not impossible: the German chemicals industry supports this.

3. Industry information must be of a guaranteed quality.

Industry's self responsibility for chemicals safety can only work if enough quality assurance and official quality control is provided. All registration dossiers should be quality assured by an independent third or certified party and it has been proposed that 5% of all registration dossiers must be evaluated by national authorities.

4. Chemicals used in imported articles must pass the same testing standards as in EU-made articles.

The current weak requirements in the proposals would cause potential pressure on certain sectors of EU manufacturing. Consumers would remain unprotected from unsafe chemicals in imported products. We have to close this safety gap – even if we risk a WTO challenge. Europe is the world's biggest market and should not shy away from setting a new global safety standard.

5. Sufficient information must be made publicly accessible.

Information on chemicals must allow third parties to make their own risk judgements, chemical users to screen the market for better alternatives and consumers to know about dangerous chemicals in products that they want to buy. Therefore the list of non-confidential business information must be extended to include the names of registrants, volume categories and exposure information. Safety data sheets must be handed down the manufacturing chain to enable retailers and consumers to know if dangerous chemicals are present in final products.

The EEB has proposed practical solutions and presented them to politicians and government officials. We've been told that industry has not come forward with proposals of their own, which only increases the lack of clarity about what industry actually wants, and further delays the reforming process!

The way forward and EEB's expectations

It is not an option to not have REACH or to compromise on its basic principles: this would throw us back by decades. It would also increase the likelihood of chemical disasters, further reduce the public reputation of the chemicals sector, discourage industry responsibility and innovation and increase the chemical burden on the environment and in living organisms.

The EEB believes that the many ambiguous parts of the REACH package have to be tackled urgently. Some will need development of appropriate implementation guidance and common understanding. The pilot testing of the registration requirements in North-Rhine-Westphalia have provided important results already. We hope that NGOs and industry associations can start finding common ground on such aspects.

While the registration requirements have been extensively assessed and tested, nothing has been done on authorisation and access to information requirements. But these elements are precisely what REACH needs to deliver visible and publicly relevant results.

Conclusion

The current REACH testing, impact assessment and implementation guidance projects should be used constructively to improve and promote REACH and to make the reform acceptable to all stakeholders. Most of these projects will be concluded in 2004 and should not be a reason for further damaging delays in the legislative process. It is not acceptable that civil society organisations are not always regarded as valuable contributors to such processes and excluded from the outset: this reduces their value and credibility.

Real concerns deserve mutual respect and practical solutions

Public concerns about chemical threats and Right to Know are a reality. The authorisation process for chemicals of very high concern must deliver the important EU obligations and international commitments to phase out our emissions of such chemicals by 2020. Transparency and access to information is a key element for an open society and essential to business innovations. We want REACH to be tested against both these objectives.

Genuine business concerns need to be looked at, but then they need to be separated from scaremongering. Registration will be burdensome for some companies in specific sectors and might collapse if appropriate guidelines and definitions are lacking. German pilot testing in North-Rhine-Westphalia identified some specifics of the problem and made suggestions for solutions, which we support.

We think that the chemical industry is taking a big risk by launching a confrontational campaign against what we regard as a flexible, modern and necessary regulatory instrument. Industry-conducted surveys show that companies rank the loss of their reputation as the greatest risk to their business. The ongoing campaigns from the chemical industry are seriously undermining the positive image that the industry has tried to build up in the last 15 years in trying to be 'part of the solution, rather than part of the problem'.

We expect national governments and the next European Parliament to take a responsible and visionary approach towards REACH: responsible in the sense that they put people's health first in their deliberations. Visionary in the sense that they see the necessity to go through this process in order to stimulate innovation and creative thinking among producers and downstream users, leading to increased trust from citizens here and elsewhere in European products and competitiveness of European business.

We all agree that the current chemicals safety regime in Europe can't continue. We hope that the current unnecessary dispute over 'REACH or not REACH' will end. The chemicals industry needs REACH as much in business terms as we do as consumers. Resisting regulation blindly is no option. There are practical problems in REACH where we need sensible proposals from industry. Rationality must be brought back into the debate to prevent further damaging polarisation.