

Name of the Director who has cleared the briefing: Kristin Schreiber

BASIS request ID: Participants: Name of main contact person: Telephone number: Directorate/Unit:

Fiche d'entretien

WHO	KJ attending Cefic Board
WHEN	25/05/2022 10:30
WHERE	Venue
WHY	<i>Objective of the meeting – what are we aiming to accomplish. Maintain good relationship with CEFIC; listen to their concerns and respond to their questions</i>
MESSAGE +	<p><i>Key messages</i></p> <ul style="list-style-type: none"> • REACH Revision: <i>The impact assessment is ongoing. REACH Revision still foreseen for end 2022 but more likely beginning of 2023 – the intention is to be fast.</i> • <i>We have carefully analysed the numbers in the CEFIC study for the impacts of implementing the Chemicals Strategy. We should have no illusion that implementing the strategy and the planned restrictions will be a challenge, but we also think that the assumptions taken in the CEFIC study go well beyond what we are planning.</i> • <i>We have well understood your message that what you need is planning security, and we will implement the generic restrictions according to a work plan similar to the recently adopted restrictions roadmap.</i> • <i>We are also happy to make clear links between the work plan and the transition pathways, as well as to the work on safe and sustainable chemicals, which was discussed at the 18 May meeting of the High Level Roundtable on the implementation of the Chemicals Strategy</i> <p><i>Defensives see below</i></p> <p><i>Three key numbers relevant to the topics</i></p> <ul style="list-style-type: none"> • <i>Chemical manufacturing is the fourth largest industry in the EU, directly employing approximately 1.2 million people. 59% of chemicals produced are directly supplied to other sectors, incl. health, construction, automotive, electronics, and textiles.</i> • <i>So far we had 117 applications for authorisation of chromium VI substances. Under the revised REACH regulation, we could have replaced all those applications by 5-10 broad derogations.</i> • <i>According to CEFIC's figures, 80% of non-compliant products with REACH/CLP originate from outside the EEA, hence the need from COM side to step-up enforcement and ensure competitiveness;</i>

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Defensives:

- *Is there not a risk that **the revision of authorisation and restriction processes/essential uses will further complicate procedures rather than simplifying them?***
- The **current processes** are based on **too much micro-management**, too controversial, leading to Court cases, and not effective enough to achieve the substitution of the most hazardous substances
 - **We can only resolve this problem by simplification.**
 - The core of our **proposals** are
 - To allow **joint industry proposals for derogations**. For example, if we could replace 70 individual authorisations for Octylphenol- and Nonylphenoethoxylates (OPE/NPE) by one joint derogation, this could lead to very significant simplification
 - To allow **fast-track decisions for clearly essential and clearly non-essential uses**. It will not make sense to make people submit very detailed technical dossiers if the outcome is clear from the outset. We better use our resources on questions that are really relevant
 - We put **more responsibility** on preparing derogation proposals **to industry**. This reduces the burden on authorities in the preparation of restrictions but also **increases the possibility for industry to propose practical and flexible solutions** to address the risks.
 - Whether this is sufficient to achieve that simplification is a **matter for debate**, and will be a key criterion to be assessed in the **impact assessment**. Ultimately the **proof will be in eating the cake**.
 - But anybody who has **better ideas** is **most welcome** to submit those in the public consultation. We are also always available for meetings.
- ***SMEs: What's in for SMEs? Will the joint derogations not put lead to further **arm-twisting for SMEs by big companies?** Will you charge **fees** on use of the most harmful chemicals?***
- We think that SMEs can benefit most from the simplifications we plan. It is our impression that **SMEs had particular challenges to prepare authorisation applications**, and by allowing them to **benefit from general derogations** applicable to everyone covered by the derogated use, this could significantly reduce the burden to companies.
 - Concerning potential **fees**, this is indeed an option that is being considered. However, fees on the most harmful chemicals would **only target chemicals which we want to substitute**. Next to the positive effect on ECHA financing, they would also indirectly **support innovation and providers of alternatives**. This would also offer **new business opportunities**, in particular for innovative SMEs.
 - However, the **fee** option requires further discussion, also within the global picture of future financing models for ECHA. On this, all options are being considered and **no decision has been taken as yet**.

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- *Is REACH the only tool to regulate risk management? Should we not have a **regulatory management options analysis (RMOA)** before deciding between REACH and **occupational safety and health (OSH) legislation**? Should we not use OSH more than currently done?*
 - **RMOA** is a valuable tool and there was a discussion prior to the adoption of the Chemicals Strategy whether to strengthen its role. Nevertheless, this was not supported, as Member States feared that it would curtail their right to propose restrictions and NGOs were concerned that this would delay decision making. Therefore, RMOA **stays a voluntary tool** which can be used but nobody is obliged to.
 - One of the options put on the table by the Commission to reform authorisation is **abandoning authorisation altogether** and to address risk management of industrial uses of substances of very high concern **via OSH legislation** and the Industrial Emissions Directive. **So far this option has not found much support.** Nevertheless, the REACH/OSH interface will also be discussed in a **joint meeting** between the **CARACAL** expert group and the **Working Party on Chemicals** under OSH legislation. That meeting is scheduled for 5 April.

- What about the **essential use concept**?
 - Essential uses is a cornerstone of the revision of REACH legislation expected for end 2022. It will be the main **criteria to justify derogations from certain restrictions and to grant authorisations.**

 - In order for a use of a substance to qualify as essential it has to fulfill **two conditions**:
 - The use of a substance is necessary for health, safety or is critical for the functioning of society, AND
 - There are no alternatives that are acceptable from the standpoint of environment and health.

 - The concept of what is essential for the functioning of society is **more political** than the current criteria. DG GROW is working on changes that may be required in the legislation to clearly differentiate political and technical discussions without delaying procedures.

 - If we get it right, we believe that the concept can **speed up decision making**, also for uses which are **clearly essential**, so we should also see the concept as a chance to gain efficiency.

- *What is the Commission's planning on the restriction of **PFAS-substances**?*
 - The proposal for a broad restriction of all **PFAS substances** is still at the stage of preparation by 5 Member States and will be submitted to the ECHA Scientific

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Committees at the earliest in the second half of this year. The Commission expects the ECHA opinions not before the second half of **2023**.

- The Commission has received the ECHA opinion on **PFHxA** (specific substance in the PFAS group) very recently. The Commission will analyse the ECHA opinion and plans to make a proposal in the **second half of 2022**.

➤ *Why does the Commission hurry to propose new **classification criteria for endocrine disruptors and persistent substances in CLP**? Would it not be better to do this at UN GHS level? Does this not undermine the coherence of the UN GHS system?*

- There is a high pressure in the EU public to speed up risk assessment and risk management of endocrine disruptors and persistent substances. It would be **unrealistic to expect sufficient progress at UN level** to address those expectations. The Commission will however aim at making **proposals to GHS as soon as possible**. Should the UN adopt different criteria in future, the EU criteria will be adapted.

➤ *What is the Commission doing on **strategic dependencies**?*

- An **in-depth review (deep-dive)** is currently being undertaken on chemicals in order to identify EU's strategic dependencies, how they may develop in the future and to which extent they lead to vulnerabilities for the EU. This could also lead to fact-based policy measures.
- COM study on **strategic Foresight for chemicals**, which will build on the information on dependencies and will examine the future, available as of 2023.

➤ *What is the Commission doing to actively support industry's need for **flexibility in administrative procedures**?*

- The Chemicals Strategy outlined several support measures for industry through EU **funding and investment mechanisms**. Financial instruments include the European structural and investment funds, InvestEU, the Strategic Investment Facility, React-EU, and Horizon Europe among others.
- **Targeted revisions of the REACH and CLP Regulations**, will aim to reduce burdens on stakeholders. For example, we know that communication in the supply chain is burdensome for companies. We will therefore assess different options how to make this process more efficient and effective. We are also looking into simplification options for labelling requirements.
- With the revision of REACH we also aim ensure a **level playing field between the EU and the non-EU industry**, especially as regards authorisations, which only applies to uses in the EU and can leave EU industry in a competitive disadvantage compared to their non-EU competitors.

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- We are considering how to simplify and streamline hazard and risk assessment via the **“One substance one assessment”** process (for instance centralizing bodies in charge of hazard assessment etc.)

➤ *Restrictions roadmap?*

- *The restrictions roadmap is **a tool for a transparent discussion** on priorities for restrictions until the REACH revision will be in place.*
- *The Commission has published the roadmap on 25 April 2022.*

➤ *Enforcement*

- Will DG GROW be strict on enforcement and apply the “no data – no market” principle?
 - *DG GROW is in the lead of actions to enforce requirements on chemicals legislation.*
 - *We have already finalised a **study** to strengthen REACH in **customs** procedure*
 - *We will propose a regulation to set minimum requirements for enforcement (minimum number of checks etc.) as part of the **Market Surveillance Regulation***
 - *We will also propose an **audit system** for national enforcement systems*
 - *Concerning evaluation of REACH registration dossiers (“no data – no market”), DG ENV is in the lead. We will inter alia propose the possibility to withdraw registration numbers for non-compliant dossiers.*

High Level Round Table

- High-level Round Table (**third meeting**): took place on **18 May 2022** with focus on safe and sustainable chemicals (BASF CEO participated in its capacity as CEFIC President);

Mention three key numbers relevant to the topics.

- So far we had **117 applications for authorisation of chromium VI substances**. Under the revised REACH regulation, we could have replaced all those applications by 5-10 broad derogations. This can save a lot of administrative burden for everyone, focus discussions on the most relevant question, and avoid delays and Court cases we faced with the existing REACH authorisation system.
- Update of Industrial Strategy 2020 identified 137 products in sensitive ecosystems for which the EU is **highly dependent on foreign suppliers**. From these 137 products, **61 are chemical substances**. Hence, the need for strategic foresight;

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- According to CEFIC's figures, **80% of non-compliant products with REACH/CLP** originate **from outside the EEA**, hence the need from COM side to step-up enforcement and ensure competitiveness;
- Chemical manufacturing is the fourth largest industry in the EU, directly **employing approximately 1.2 million people**. **59% of chemicals** produced are **directly supplied to other sectors**, incl. health, construction, automotive, electronics, and textiles.

Contact persons for more information:

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