Council of the
European Union

Brussels, 19 November 2021
(OR. en)

13615/21

MI 806
ENT 180
CHIMIE 113
ENV 828
IND 316
COMPET 769

NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Competitiveness Council, 25 November 2021: AOB Item: Workshop on the Reform of REACH, Authorisation and Restriction, Brdo, 9 November 2021 - Information from the Presidency

Delegations will find in the Annex the information from the Presidency about the Workshop on the revision of the authorisation and restriction systems of the REACH Regulation[1]. The information will be taken as AOB point at the Competitiveness Council on 25 November 2021.

[1] Regulation (EC) 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation, and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94, as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1);

ANNEX

Presidency Note

AOB Item: Workshop on the Revision of REACH

Competitiveness Council, 25 November 2021

On 9 November 2021, the European Commission and the Slovene Presidency organised a Workshop on the revision of the authorisation and the restrictions systems of REACH. The workshop took place in person in Brdo, on 9 November, in combination with the virtual participation of 130 participants from Member States' Competent Authorities.

On the basis of a background paper prepared by the Commission in consultation with the Slovene Presidency, the following topics and options for reforming the authorisation and restriction systems were discussed in four groups:

1. Problem analysis and objectives;
2. Option1: Elements for simplification under the current authorisation and restriction system;
3. Option 2: Merging authorisation and restriction;
4. Option 3: Removing the authorisation title from REACH completely or partially; the role of the restrictions; the role of the candidate list of substances of very high concern for authorisation (SVHC); notification obligation for uses after identification of SVHC;
5. Level of ambition, advantages/disadvantages of options 1, 2, 3;
6. National authorisations; international level playing field and export bans;
7. Interface between REACHand 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 objectives. They were in favour of combining the best elements of option 1 and 2 for reforming the authorisation and restriction systems, and raised a number of issues to be taken into account in the further impact assessment work. Option 3 was considered as being too radical. In particular, Member States supported the simplification of authorisation and certain possibilities for joint authorisations/derogations for restriction where these make sense and can simplify the process.

The participants expressed interest in merging authorisation and restrictions, with the due care that such an approach should indeed simplify the process, rather than complicate it. In particular, there should be no need for the authorities to prove an unacceptable risk for uses of the most harmful substances. The burden of proof for authorisations/derogations from restrictions should remain on the industry. Information requirements should be proportionate.

Member States also supported the continued use of the candidate list of substances of very high concern for authorisation for prioritising further regulatory action. The timing of the various steps in authorisation and restrictions needs to be re-assessed in order to ensure early availability of information and smooth adoption of decisions. In this context, the workshop positively considered the option of requiring additional use and exposure information upon the candidate listing.

The workshop offered a clear support for dealing with authorisation and restrictions at EU level. Still, more time is needed to discuss the interface between REACH and other EU legislation, and in the first place, between occupational safety and health legislation, for example. Member States were also in favour of strengthening the incentives for innovation and substitution, including the use of financial instruments, as long as those do not exert a negative impact on the competitiveness of the EU companies. Further discussion should take place on the role of the Forum for Enforcement and on possible measures to reflect better the constraints of the SMEs.

At the end of the workshop, the participants emphasised that this forum represents a significant first milestone towards the revision of REACH. The authorisation and restriction processes comprise an important part of the ongoing revision. Another stakeholders' workshop with similar scope took place in Brussels and online on 12 November 2021. The outcome of these two events will allow to refine the options in the overall impact assessment, which is being prepared for the revision of REACH. Further discussions with Member States experts and stakeholders are planned at the CARACAL expert group meetings in January and March 2022.

The Commission plans to submit its proposal to revise REACH by the end of 2022.