



**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

from: General Secretariat
to: Delegations

Subject: REACH: Report and Review in the light of EU Competitiveness
- Information from the Czech and Slovak delegations

Delegations will find annexed an information note from the Czech and the Slovak delegations on the above item, which will be dealt with under "Other business" at the meeting of the Council (Environment) on 19 December 2011.

REACH: Report and review in the light of the EU competitiveness**- Information from the Czech Republic and the Slovak Republic -**

The Czech Republic and the Slovak Republic would like to draw attention to two important tasks awaiting the European Commission next year in relation to the application of the REACH Regulation (hereinafter referred to as “the Regulation”).¹

In June 2012 the Commission is to publish a general report on the experience acquired with the operation of the Regulation² and review the Regulation in order to evaluate the need to change the scope thereof.³ On the basis of that review, the Commission may present a legislative proposal amending the legislation in place.

We consider the forthcoming review of the scope of the Regulation a welcome opportunity to assess the fulfilment of the objectives for which the Regulation was adopted in 2006. These objectives are to ensure a high level of protection of human health and the environment as well as to increase the competitiveness of the European chemical industry and to promote innovation. Especially with regard to fulfilling the objective of enhancing industrial competitiveness, we believe that the findings of the Commission will reflect the fact that REACH legislation was adopted in a very different economic situation than the one the European Union and its Member States have been facing since the beginning of the financial crisis in 2008. Financial and economic crisis, challenges in maintaining budgetary positions in many EU countries and the rapid economic rise of Asia and other emerging economies raise the question as to whether certain regulatory measures adversely affect the position of European companies on the global market. In the phase of preparation of the Regulation it was in fact already obvious that it might become the most ambitious legislation on chemicals in the world.

¹ Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning 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.

² Article 117(4) of the Regulation.

³ Article 138(6) of the Regulation.

According to a study by CEFIC⁴, the contribution of the EU to world chemical sales was reduced by 4.8 percentage points from 34 % in 1998 to 29 % in 2008 and, from 1999 to 2009, the EU chemical industry lost 275 000 jobs.

The experience of our chemical industries in the last few years has shown that the application of the Regulation imposes considerable administrative and financial burdens on EU companies resulting from the registration process for chemical substances and fulfilment of other related requirements.⁵ High costs intensify the difficulties of the European chemical industry, where there has been a decrease in the growth rate in the past few years. In addition the Regulation not only has an impact on the chemical industry but also on all manufacturing industries (e.g. automotive, rubber and textile industry). In connection with decreased production during the economic recession the result is a gradual weakening of competitiveness of the European chemical industry compared to emerging economies such as China, India or South America.

The negative impact of unbalanced legislation on competitiveness of the European chemical industry can be seen in the upcoming authorisation process for substances listed in Annex XIV to the Regulation. In the case of products containing substances mentioned in Annex XIV, European producers will be significantly disadvantaged compared to importers of the same products from third countries, because authorisation is not required for the import of products containing the above-mentioned substances. This could have a negative economic impact on European producers while not ensuring the objective of a high level of protection of human health and the environment as declared by the Regulation.

⁴ CEFIC: Facts and Figures: The European chemical industry in a worldwide perspective: 2010.
⁵ Administrative burdens arise due to the frequent changes in regulation during the preparatory phase of the process of registration, lack of time for the preparation of registration documents, an unclear interpretation of the Regulation and in the quantity and extensiveness of the regulations, guidelines, recommendations and manuals. The financial difficulties of the process lie in both the direct costs of registration and indirect costs imposed mainly on small and medium enterprises that lack a sufficient number of experts and are forced to use the services of consulting companies.

Furthermore, we would also like to stress the significance of the registration deadline in 2013 for substances manufactured or imported in quantities from 100 to 1000 tons per year that will have an impact on small and medium enterprises, which represent 96 % of the total number of the EU companies involved in the chemical industry.⁶ This additional financial and administrative burden might result in the closure of many small and medium-sized enterprises.

On this occasion we would also like to draw attention to the new legislation on biocides, which introduces a similar mechanism of registration and fees as the Regulation. In this case it is also necessary to take into account the competitiveness of European enterprises and to adjust the amount of registration and maintenance fees.

In our view the economic recession has shown more than ever the importance of small and medium-sized enterprises for the European economy. The Czech Republic and the Slovak Republic will therefore pay close attention to both the report and the review of the Regulation. On that account we call upon the Commission, while preparing the report and the review, to take the competitiveness of the European chemical industry into consideration while maintaining a high level of protection of public health and the environment, which is one of the aims of the Regulation, as well as to act in accordance with the principle "Think Small First", the principles of Smart Regulation and the Action Programme "Cutting Red Tape for Europe". At the same time we would like to ask the Commission to keep the relevant Council configurations informed about the current state of preparation of the report and the review.

Finally, we would also like to express our wish for the Competitiveness Council to deal regularly and more intensively with other regulated areas that may negatively affect the competitiveness of European industry and enterprises in the future.

Done in Prague and Bratislava

24 November 2011

⁶ By the first registration deadline in 2010 about 25 000 registration dossiers for about 4300 compounds were submitted, of which about 86 % were submitted by large enterprises and about 14 % of small and medium enterprises. (DOSSIER SUBMISSION REPORT ON 1 DECEMBER 2010: http://echa.europa.eu/doc/press/registration_stats_20101201_en.pdf).