

## **First Reading Approval of REACH in the EU Parliament and by the Council of Ministers**

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*This article has been written under personal title and does not necessarily reflect the opinion of the European Commission.*

The Registration, Evaluation and Authorization of Chemicals (REACH) legislation passed one more hurdle winning first reading approval in a vote in the Parliament of the European Union (EU) on November 17 and by the Council of Ministers on December 13. The next step for the legislation is a second reading vote in the European Parliament in 2006.

REACH has been called “possibly the most controversial and complex piece of legislation in European history”<sup>1</sup> by the EU Industry Commissioner Gunter Verheugen. It is a response to the lack of information known about chemical substances (i.e., properties and risks), particularly those that have been in use for more than 20 years. Promoted as a sustainable development initiative, REACH is primarily aimed at protecting human health and the environment.

### **What is REACH?**

Under REACH, companies must register with the European Chemicals Agency and provide information on up to 30,000 chemicals produced in or imported into the EU in quantities over one metric tonne per year per producer/importer. REACH applies to chemical substances and preparations, as well as substances in “articles” (objects composed of one or more substances or preparations which during production are given a specific shape, surface, or design determining their end use functions to a greater degree than their chemical compositions do).<sup>2</sup>

This legislation shifts the burden of proving chemicals can be used safely away from national and European regulators onto industry. Some of the key provisions of the legislation include:

- Each substance will have to be pre-registered within 12 to 18 months after REACH comes into force.
- If chemical testing is needed, manufacturers will have between three and 11 years (depending on the volume produced or imported; from highest to lowest volumes) to collect the required information for testing.
- “Substances of very high concern” (around 1,500), including those that are carcinogenic, mutagenic, and toxic to reproduction (CMRs) and persistent, bioaccumulative, and toxic (PBTs), will have to be registered as soon as REACH is in force and be subject to a special authorization system related to each individual use.

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<sup>1</sup> Rennie, David. “‘Most controversial European law’ wins parliamentary approval.” *The Daily Telegraph* 18 November 2005: Online: <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2005/11/18/wchem18.xml&sSheet=/portal/2005/11/18/ixport al.html>

<sup>2</sup> COM (2003) 644 Chapter 2 Definitions – Article 3 Definitions

- The European Commission would have the power to ban the use of a chemical in certain products or completely.

### **The Pros and Cons**

Since its introduction by the European Commission in October 2003, REACH has endured a long, bitter battle between politicians, environmental groups, and industry. Industry groups are concerned that REACH entails too much regulation to be effective; while environmental groups are afraid the legislation will become too watered down. In addition, trade unions have sided with environmental groups, as they want strong legislation to protect worker health.

Many arguments, other than the environmental and health-related, have been made in favor of REACH:

- REACH will greatly simplify European chemical management as it will supersede 40 or so pieces of legislation that currently govern chemicals;
- It will increase communication and knowledge about chemicals management and uses through supply chain and data sharing; and
- It will increase innovation, as current chemical testing laws only apply to chemicals introduced after 1981, encouraging industry to use 'old' chemicals as they are easier to market and less costly to use.

The European Commission estimates REACH will cost industry between 2.8 and 5.2 billion euros to implement over 11 years.<sup>3</sup> However, studies have concluded that there will be tens of billions of dollars saved on health and environmental costs due to increased knowledge of health risks and how to protect against them.

Countries outside the EU are afraid that REACH will hurt international trade as well as their industries. While the majority of REACH applies to manufacturers and importers of chemicals, REACH is perceived to affect U.S. goods manufacturers through requirements on U.S. exports to the EU.<sup>4</sup>

According to a U.S. House of Representatives report, "From the outset, the U.S. chemical industry strongly opposed REACH. The chemical industry argued that REACH would interfere with trade, increase costs, discourage innovation, and hamper commerce. The industry maintained that REACH could discourage the sale of particular products that contained hazardous chemicals and that REACH could increase the costs of chemicals due to testing and evaluation costs."<sup>5</sup>

The November 17 vote included many amendments to the European Commission's proposal. It took two and a half hours, but the legislation passed by a decisive 407-155

<sup>3</sup> "Q&A: Reach chemicals legislation". BBC 28 November 2005: Online: <http://news.bbc.co.uk/1/hi/world/europe/4437304.stm>

<sup>4</sup> *U.S. Comments on the EU's Draft Chemicals Regime*. The United States Mission to the European Union. July 10, 2003. Online: <http://www.useu.be/Categories/Environment/July1003USEUChemicalsComments.html>

<sup>5</sup> A Special Interest Case Study: The Chemical Industry, the Bush Administration, and European Efforts to Regulate Chemicals. US House of Representatives Committee on Government Reform - Minority Staff Special Investigations Division. April 1, 2004. Online: [http://www.house.gov/reform/min/pdfs\\_108\\_2/pdfs\\_inves/pdf\\_admin\\_reach\\_rep.pdf](http://www.house.gov/reform/min/pdfs_108_2/pdfs_inves/pdf_admin_reach_rep.pdf)

vote, with 41 abstentions. One amendment requires companies to find safer alternatives to high-risk chemicals. Provisions were also added limiting use authorization for some of the most hazardous substances to five years.

One requirement was dropped that required costly testing of the long-term toxicity of chemicals on the environment and their impact on DNA. Another key compromise, negotiated before the November vote, was exemption of up to two-thirds of chemicals from full information sets. A company producing 10 tons of a chemical or less a year will have to provide limited data, and the European Chemicals Agency will decide which chemicals need further research. In addition, the Parliament agreed that manufacturers producing the same chemicals could share registration of those chemicals reducing the costs of registration, which is particularly beneficial for small producers. The potential strain of REACH on small and medium-sized businesses has been a concern to the industry.

In Spring 2006, when all 20 EU language versions of the Council position are available, the European Parliament will have its second reading debate and vote, followed by what should be the final round of decision making in the Council of Ministers by the end of 2006. It is hoped that a third reading, or 'conciliation' (similar to 'conference' in the U.S. Congress), between the Parliament and Council can be avoided.

Thus, the timeline for implementation of REACH is still under development, but it could begin as early as 2007.