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NOTE TO THE FILE

GHS IMPLEMENTATION: ON THE OPTIMAL LENGTH OF THE TRANSITION PERIOD

1. INTRODUCTION

In order to ensure a smooth transition from the current EU classification and labelling system, the implementation of the GHS by companies requires a certain amount of time to prepare for and comply with the requirements. This transition period can be relatively short for substances but ought to be longer for mixtures as the classification of mixtures builds on the classification of substances and can only be carried out when the classification of its ingredients are available.

Therefore, the transition should be made in two phases as set out in the below table:

	Proposed length of transition period	Substances	Mixtures
Phase I	Up to 3 years after EiF ¹ of REACH	Current EU system: Obligatory GHS: Voluntary	Current EU system: Obligatory GHS: Voluntary
Phase II	From 3 to 3+4/5 ² years after EiF of REACH	Current EU system: Obligatory to the extent that information should be supplied in SDS GHS: Obligatory	Current EU system: Obligatory GHS: Voluntary

After the end of the second phase, the GHS will become obligatory not only for substances but also for mixtures, while the current EU system loses its legal status.

The length of these transition periods is a trade-off between the necessary adaptation time for companies, the burden and possible confusion of applying two systems in parallel and the delay in trade-related benefits from applying the harmonised system. The optimal length of the transition period cannot be determined exactly as not all costs and benefits can be quantified with a sufficient degree of certainty. Nevertheless, too short transition periods would leave insufficient adaptation time

¹ Entry into Force

² The proposed duration of the additional transition period for mixtures (4 or 5 years) is to be decided in the light of the internet consultation.

and too long transition periods would significantly increase workability problems, increase costs and confusion due to the application of two systems and reduce trade benefits. This note sets out to find the most appropriate length of the transition period based on the Impact Assessment material collected so far.

2. THE RESULTS OF THE IMPACT ASSESSMENT STUDIES

The costs and benefits of different transition periods have been assessed by RPA & London Economics in their study “Impact Assessment of Implementing the GHS” (May, 2006).

The study was able to quantify only a part of the costs, namely the **administrative costs of re-classifying and re-labelling as well as the increased costs for IT and training** for shifting to GHS. These costs were estimated at around €390 million for a transition period of 3+2 years, €340 million for 3+5 years and €280 million for 6+5 years (for substances and mixtures, respectively and in all cases after entry into force of REACH). The reduction in these costs for longer transition periods is the result of more synergy between the GHS implementation and the efforts related to meeting the REACH registration deadlines and also of discounting³. It is important to note that these costs are essentially one-off: once the new system is applied, the annual costs are more or less the same as under the current classification and labelling system. Of these administrative costs (around 55-65% of total costs), around 15-20% relate to substances and 80-85% to mixtures; the overhead costs of training and IT (35-45% of total costs) bear relatively heavily on SME suppliers of chemicals.

However, the additional costs resulting from applying two systems in parallel and the related **workability problems** have not been quantified as it is difficult to predict the amount of confusion and mistakes that may arise as a result of applying and updating two systems in parallel. These costs may be substantial and will not necessarily occur evenly throughout the entire transition period, but concentrated in certain peak periods. This is of particular relevance for SMEs as they have generally limited resources to implement new legislation

On the basis of company interviews and the use of a simple model, the study also calculated an order of magnitude of the **likely increases in trade flows** resulting from the introduction of the GHS. Under the GHS, non-tariff barriers are reduced because it is no longer necessary to apply different classification and labelling for different parts of the world. The study estimates a Present Value from the resulting increase in exports and import of roughly € 500 million and € 420 million respectively, when the GHS implementation in the EU fully concurs with those of its trading partners.

³ These synergy effects occur, when, for a substance, the reassessment of classification and labelling within REACH and the application of the GHS can be done at the same time. The longer the transition period under the GHS, the more substances and mixtures will benefit from this opportunity as a result of the staggered deadlines for the different tonnage bands under REACH.

A delayed implementation in the EU as compared to elsewhere renders lower trade gains. For instance, a moderate delay⁴ results in estimates of roughly €390 million for exports and €350 million for imports, amounting to a loss of €110 million and €70 million respectively. However, in a worst-case scenario⁵, non-tariff barriers rise, which leads to trade *losses*: an estimated decrease of €660 million for exports and €550 million for imports. Note that these trade flows do not constitute in themselves a benefit; however, as the related profits are proportional to these gross flows, the latter help to give an indication of the size of these benefits.

3. THE REASONS FOR THE CHOICE OF THE 3+4/5⁶ YEARS TRANSITION PERIOD

For the reasons outlined above, it is difficult to identify an exact number of years reflecting the optimal trade-off between the reduced administrative and overhead costs of longer transition periods and the increased costs relating to operating two systems in parallel as well as the foregone trade-related benefits. If the transitional period exceeds its optimal length, the further reduction in the one-off costs is more than offset by the increases in the other costs and the foregone benefits. The evidence collected in the study suggests that the optimal length is somewhere around 3+4/5 years.

The first phase of the transition period of **3 years** after entry into force of REACH **for substances** was chosen because the RPA and London Economics study showed that the re-classification and re-labelling of substances is clearly less costly and less difficult for substances than for mixtures. Moreover, a transition period of three years after entry into force of REACH coincides with the deadline for the REACH classification and labelling inventory. All manufacturers and importers have at the latest at that date to report the classification and labelling of the substances they place on the market to the European Chemicals Agency. A shorter transition period would be difficult to implement in practice and might create the need to re-label a significant amount of existing stocks. A longer transition period would also cause problems to mixture manufacturers wishing to apply the GHS early, as not all ingredients may be available with the necessary GHS classification and labelling.

Due to the many uncertainties in estimates and actual responses in the various supply chains, it is difficult to determine an exact optimal period. The choice of an additional 4/5 years for mixtures in a second phase of the transition period reflects the workability needs of mixtures, in particular those in the more complex chemicals supply chains. The "slash" indicates that a transition period of 4 or 5 years is currently seen as the most appropriate, so as to ensure a smooth transition for

⁴ In this scenario, the transition period in the EU is assumed to be 6+5 years and 3+5 in the rest of the world.

⁵ This scenario assumes that a long delay in implementation by the EU will lead to the break-down of GHS. EU trading partners will adopt each their own classification and labelling systems; consequently, the EU system will then no longer be accepted elsewhere as is the case today among many trading partners.

⁶ The proposed duration of the additional transition period for mixtures (4 or 5 years) is to be decided in the light of the internet consultation.

mixtures classification. It should be noted that a significant number of SMEs is involved in the formulation of mixtures; a longer time would provide them with better opportunities to cope with the required changes coming directly from GHS or indirectly, through their suppliers, and to spread the implementation costs over a longer period. However, with longer durations, these advantages are offset by the workability problems and costs related to the need of managing two systems in place. A shorter time than 4/5 years would increase the risk that mixture suppliers have to carry out the GHS classification of their products without having received proper information from their suppliers leading to mistakes, inconsistencies and double efforts. These two opposite effects of two non-quantified costs categories imply that the transition period for mixtures must neither be too short nor too long. In comparison, the revision of the Dangerous Preparations Directive had a transition period of three years for chemicals in general and five years for biocides and plant protection product as the requirement to classify and label these two groups was introduced for the first time with this amendment.

The total transition period of 3+4/5 should be largely sufficient to exclude any major problems in obtaining the necessary information to apply the GHS.

4. CONCLUSION

The proposed transition period of 3+4/5 years aims at ensuring an appropriate balance between early availability of GHS classification and labelling for both substances and mixture suppliers, the co-ordination with the REACH classification and labelling inventory and registration deadlines, and giving the necessary time to adapt for mixture manufacturers, many of which are SMEs. Longer transition periods would not only undermine the EU's credibility towards its international partners and its commitment to implement the GHS by 2008⁷ but it would also cause additional costs and reduced benefits for the EU suppliers, exporters and users of chemical products and thus the EU economy as a whole.

⁷ See Johannesburg plan of implementation from WSSD September 2002