

Memorandum of Understanding between the European Commission side (DG Enterprise and DG Environment) and industry (UNICE/CEFIC) to Undertake Further Work Concerning the Impact Assessment of REACH

3 March 2004

1. Objective

The objective of this agreement is to provide a framework for the efficient undertaking of further investigations of the impact of REACH. The further investigations will take the form of specific detailed studies additional to the Commission staff working paper "Extended Impact Assessment of the REACH proposals" (COM(2003)644 final). The results of this work will form an essential input to inform the legislative process of the REACH regulation.

2. Methodology

- **Case-study approach**, collecting factual evidence on how REACH is expected to affect enterprises and material streams in practice and where possible to identify appropriate options;
- **Highlight points along the value chain** where there is uncertainty as to what decisions will be taken, and provide an assessment of the different choices possible, the factors influencing those choices, and the likely economic consequences.
- **Organise an adequate validation process** involving persons with responsibility to represent relevant sectors
- **Conclude a summary assessment within a period of 6-9 months**

3. The Scope of the Work

The envisaged additional studies will provide a focussed and thorough economic analysis of a limited and well-defined set of issues.

Among the issues that would be submitted for further focussed study are:

- a. Analysis of the potential impacts of REACH on business throughout the supply chain
- b. Analysis of the potential impacts of REACH on innovation.
- c. Analysis of the potential impacts of REACH on Accession countries.

The aim would be to carry out work which would ensure that, as far as possible, a representative range of issues with significant impact on various industrial sectors would be addressed.

The requirement is to obtain a timely, efficient, and reliable process to allow these issues to be investigated, resulting in substantial results to be made available by the Autumn of 2004.

Additional issues agreed by stakeholders may also be the subject of further work, consistent with the achievement of the above timetable. This is without prejudice to other agreed arrangements to examine individual sectoral issues linked to other aspects of REACH.

4. The Structures to be created to manage the work

a. High Level Group

A High Level Group will be set up to oversee the work. This will provide a forum for high-level dialogue between stakeholders and the Commission, Council (Presidency), and European Parliament and give overall direction to the exercise.

The High Level Group will examine reports on the outcomes of the individual studies and will recommend the appropriate follow-up. The High Level Group will confirm the need for any further studies as appropriate.

The membership of the High Level Group will include representatives from industry, the Commission, the European Parliament, the Council (Presidency), Trade Unions and NGOs. The membership would be the Presidents of CEFIC and UNICE (substitutes: the Directors-General of CEFIC and UNICE), the Commissioners of Enterprise and Environment (substitutes: the Directors-General of Enterprise and Environment), two high-level representatives of the Council (one of the current and one of the future Presidency), two members of the European Parliament (one from each of the main political parties), the Director of the World Wildlife Fund, and the General-Secretary of the ETUC/EMCEF.

The High Level group may invite representatives to attend meetings on an ad hoc basis, consistent with the achievement of its task.

b. The Working Group

A Working Group will be established with the aim of monitoring the progress of the studies.

The Working Group would endorse the broad definition of the activities to be undertaken in the agreed areas of work (see section 6) and suggest, if deemed important, new or additional ones. The Working Group would give its views on the methodological approach, any interim and final reports on each individual study. The Group will communicate its views to the High Level Group. The Working Group may establish task groups for specific work. The Working Group may be supported in its activities by consultants or external experts competent in respective project areas.

The composition of the Working Group will be as follows:

- The competent Directors of the Commission Services concerned (ENTR, ENV, ECFIN). The JRC may also nominate a representative.
- Two representatives of the industry (UNICE and CEFIC)
- Three industry delegates representing those sectors primarily concerned by individual studies, namely X, Y, and Z;
- Two industry representatives from user or retailing sectors not included in the scope of the studies;
- One representative of Small and Medium Sized Enterprises;
- Two representatives of NGOs;

- A representative of workers;
- A representative of consumers;

The parties concerned are asked to ensure as far as possible a geographical balanced representation of nominees.

c. Secretariat

The Commission services would provide the secretariat for the meetings of the High Level and Working Group meetings.

5. Working Arrangements

The further work will be carried out through a series of business case studies. The actual workings of the REACH proposals would be illustrated in concrete situations. This would allow for a detailed diagnostic examination of the reasons for particular impacts, allowing for the identification of potential remedies.

The studies would be carried out by consultants or other experts to ensure that the work was carried out in a fully professional, scientific, and technical manner and in a manner to ensure the transparency of the process.

The Working Group participants will be asked to review the results of the studies and to complement the evidence with inputs from the sector or group they represent. The Working Group Participants also commit themselves to inform each other of related studies being undertaken (e.g. in the Member States), so as to get a comprehensive view on other activities being carried out in the area of impact assessment of the REACH proposal.

6. Scope of the Further Targeted Work on Impact Assessment

It is proposed that three sets of studies will be initiated, as developed in greater detail in the Outline of Further Work.

a. Analysis of the potential impacts of REACH on business throughout the supply chain

The study of the impact of REACH on the availability of substances and other material streams to downstream users and producers would be done through case studies of representative categories of substances. The potential effects of REACH on product withdrawal for commercial reasons and the time-to-market of substances, including substitutes, would involve detailed case studies of those firms responsible for their production or import. The studies should allow for specific diagnostics of the causes of such withdrawal. The study should also try to exploit the already available evidence (pre-REACH) of product withdrawal for commercial reasons. The implications for product and raw material availability and timeliness would then be investigated through case studies of downstream users and producers, including examination of the availability of substitutes and substitute materials, reformulation/re-engineering costs, and impacts on product cycles and business flexibility.

b. Impact of REACH on Innovation

The study of innovation issues would be done through a series of case studies of business actors, including both downstream users and the chemicals industry. The case studies will cover a range of firms such as an innovative established SME, a recent start-up SME, and a large trans-national company.

c. Impact of REACH on Accession Countries

Following a review of the chemicals industry in Accession countries and the impact of the implementation of the Community Acquis on the industry, case studies on different sizes and types of relevant firms in one (or possibly two) candidate countries would assess the capability of the firms to implement REACH.

7. Timetable

It is envisaged that the work will be initiated in March 2004, with the objective of providing interim reports from the studies by May 2004. Work will continue, with final reports of studies being available by November 2004. The interim and final reports will be public, while individual company data will be confidential.

8. Financing of Studies

The industry side, as well as the Commission services, agree to carry out the studies on the issues indicated in section 3.