European Automobile Manufacturers Association

Supporting Document for REACH authorisation: Public consultation on streamlining and simplification of the REACH authorisation application procedure for applications concerning uses of substances in low volumes and on a one-time extension of transitional arrangements for uses of substances in legacy spare parts

1. Duration

For vehicles (Article Category AC1) a period of 15 years after end of production should apply. Within this period the vehicles needing the spare parts at our knowledge will have typically achieved end of their product lives.

The automotive industry has a responsibility to its customers to support the longevity of their current vehicles by ensuring that these products can be serviced, repaired and maintained in such a manner as to not be detrimental to their function, safety and reliability. Extending the lifetime of a vehicle is essential to reducing costs for consumers, as well as conserving natural resources and energy.

The supply of spare parts is also regulated at a national level, e.g. in Germany[i], where a minimum 10 year availability obligation must be fulfilled. For this and other reasons, it is not uncommon for Original Equipment Manufacturers (OEMs) and suppliers to provide spare parts for vehicles that have been out of production for more than 15 years (or even longer for historical vehicles or special cases such as military vehicles).

Spare parts for vehicles must meet the performance demands of the original part and function identically with associated systems and components to make sure that the function and safety of the vehicle is not adversely affected. The technical performance defined for these spare parts may be linked to their chemical composition. To guarantee the technical performance of the individual parts and interaction with other components an adverse chemical reaction should be avoided. The geometry of the parts needs to be identical to the original part in order for the components to physically fit into the required space. For example, it is not possible to replace the bulbs in high intensity discharge lamps with mercury free bulbs unless the system has been designed to use mercury free bulbs as the size, energy requirements and heat management requirements are incompatible. Interchangeability must be ensured. This issue has been addressed in the End-of life Vehicle Directive (2000/53/EC) in 2005 with the Council Decision 2005/438/EC. Preconsideration (2) states: "*As product reuse, refurbishment and extension of lifetime are beneficial, spare parts need to be available for the repair of vehicles which were already put on the market on 1 July 2003*". Subsequently, all new material restrictions in the ELV Directive have a 'repair as produced'

exemption for spare parts that were not originally designed to be compliant with the new material restrictions.

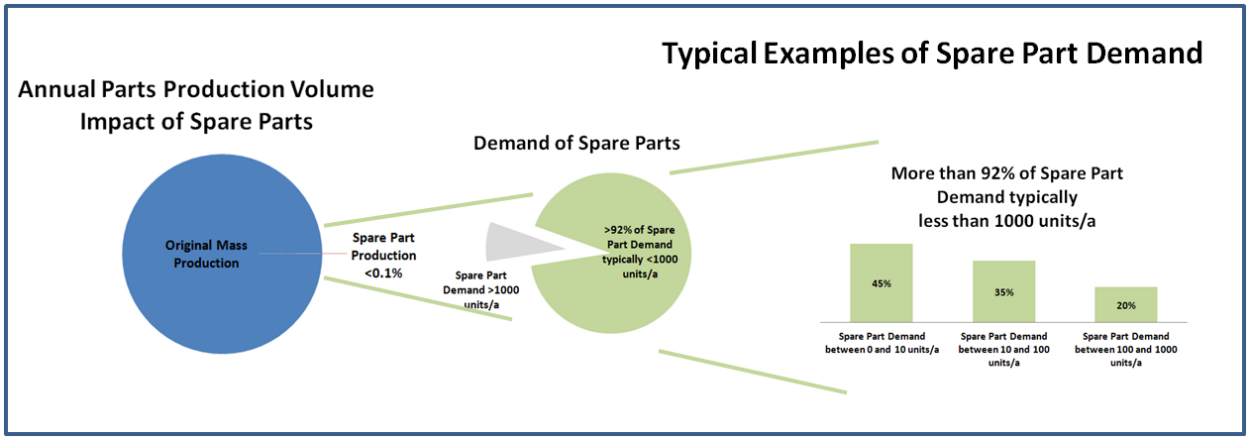
2. Criteria justifying the application of the legacy principle

When a vehicle ceases volume production, the part tooling and design drawings either remain under the responsibility of the original component manufacturer (mostly Tier 1 suppliers) or are transferred to an SME in order to continue production of the service parts in smaller volumes. Typically these SMEs are located in the EU and they have very little knowledge of part development and whether substituting certain substances will lead to detrimental effects on performance. These SMEs are also unable to validate any changes to the components and the impact of those changes on the vehicle as a whole, which means that expected functionality cannot be guaranteed.

Uncontrolled substitution of substances can cause changes in function, geometry or thermal durability, etc. In order to ensure road safety while also following whole vehicle type approval procedures, modified vehicle components may need to be intensively tested, both as individual parts, and in the assembly together with other associated components. For safety relevant spare parts such as brakes or airbags a re-validation has to be based on the original vehicle, which in most cases will have ceased production years previously and thus is no longer available. For some special components such as seat belts or head lamps a type approval on a component level is needed. Even the producer of a spare part for these components needs a type approval which would have to be re-certified in case of a change within that part. The high number of samples required to perform all necessary testing also has to be taken into account, as it is difficult to reconcile with the fact that the number of available spare parts generally decreases over time.

Additionally, spare parts are usually produced in rather small quantities. More than 90 % of spare parts have an annual production volume which is below 0.1 % of the original mass production volume (see Figure 1). This example of an OEM impact assessment demonstrates the low spare part demands, e.g. less than 100 units per year for more than three quarters of the available spare parts. There are between 1,000 to 4,000 suppliers providing spare parts to individual vehicle manufacturers or Tier 1 suppliers. Due to low demand for spare parts, any additional costs for authorisation, testing validations on components and/or vehicle level would make this business unprofitable, independent of the size of the supplier.

Figure 1: Example of an OEM impact assessment on spare part demands (2012)



Finally, spare parts would potentially have to be redeveloped (and tested) several times whenever a new substance is scrutinized under REACH and used in the component.

Stockpiling of spare parts for decades is equally problematic. Apart from the issue of storage capacity, there is the problem of physical and chemical ageing. For instance, rubber parts have a limited shelf-life, so it is difficult to ensure functional integrity when sold to the customer. The potential for overcapacity that stockpiling can produce is inefficient and a waste of resources because obsolete parts would eventually have to be scrapped. It could potentially inflate the cost of spare parts, as the SME would need to recover any costs related to obsolescence.

3. Preferred solution for spare parts

As already indicated, the automotive industry is having long and complex supply chains including many SMEs, based in many countries in Europe and outside Europe. The burden of managing authorisation together with the complexity of the requirements and the supply chains must be considered when constructing an effective solution for spare parts. Furthermore, the supply of spare parts must be guaranteed and thus a related purchasing strategy for parts containing substances listed in Annex XIV currently is under preparation on OEM side. In order to achieve a maximum on planning certainty and to avoid the outsourcing of capacities to outside Europe, any solution for such spare parts must be easily and quickly integrated in the context of the REACH regulation.

Therefore industry prefers the solution of extended sunset dates for spare parts, as defined above, together with extended Latest Application Dates for Authorisation applications in accordance with REACH Article 56 1. (d).

It is important to reinforce the urgency of resolving the industry concerns; the solution needs to be applied to existing Annex XIV entries, in order to allow a quick communication through industry supply chains to assure continued supply of spare parts.

Why do we need this?

- Protection of SMEs from threat of non-compliance through the removal of the need for an Authorisation dossier in the immediate term;
- Relief of administrative burden from end-users of chemicals who do not have the technical or economic capability to apply for Authorisation;
- Resolution of the threat of operational disruption where an unforeseen and rare circumstance results in an immediate need to use an unplanned substance or mixture.
- Protection of European business;

Through the compliance of risks related to chemical agents at work (Directive 98/24/EC known as chemical agents directive) and Carcinogens and mutagens directive (2004/37/EC), it is important to note that measures to protect human health and the environment will be identical irrespective of a part's status as spare part or not.

4. Simplified Authorization with Longer review periods

Our industries considered the concepts of simplified authorisation and longer sunset dates. At this time our primary consideration is timing of implementation. We see the need for longer sunset dates as the solution for spare parts, since a solution has to include substances currently listed in Annex XIV. It is questionable that a not yet defined simplified authorisation together with longer review periods can be put in place as soon as necessary given the urgency of the need. Especially considering that an implementation of such a solution has to include the communication and understanding of the new authorization process by all actors of complex supply chains.

Nevertheless, a simplified authorisation may be a helpful mechanism in the medium term. However with regard to the above mentioned reasoning that the application for a simplified Autorisation often will take place for business cases with low margins and by companies with a low knowledge of the Authorisation obligations it only can work if the following criteria are fulfilled:

- Should be more like a Notification which can be pre-completed by a trade association and then provided to interested members of their supply chain.
- 1st level material / part producer (person who uses substances to manufacture materials / parts) may apply
- Free of charge
- Duration – set time frame (e.g. 15 years), can re-apply if still required
- Automatically accepted by RAC / SEAC
- No need for a Chemical Safety Report (CSR)
- No need for Exposure Scenarios (replace with RMM in place)
- Analysis of alternatives / Substitution plan obsolete – not required because spare parts are automatically phasing out

[i] Post-contractual fiduciary duty to supply spare parts, German Civil Law Code, Art. 242.