



Position Paper of the German Textile and Fashion Industry on Chemicals Policy in Europe

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State of Affairs

The EU regulation 1907/2006 on the registration, evaluation, authorization and restriction of chemicals (REACH) came into force on 1 June 2007 and has since then had a significant impact on European chemicals policy and thus on European industrial policies.

While the chemical industry is directly affected by the regulation, particularly when it comes to the registration of substances, the textile and fashion industry as a "downstream user" is primarily impacted by the duty to provide information in the supply chain for substances of very high concern. However, this industry is also greatly affected by the restriction of certain substances by imposing limit values in end products.

31 May 2018 was the final REACH registration deadline for substances to be put on the market in quantities of 1-100t in the EU. It can already be predicted that not all substances, including some that are contained in special products for the textile and fashion industry, will be registered by their manufacturers or importers because these companies are unable to cope with the complex registration process. Many of these manufacturers are small- and medium-sized enterprises (SMEs), and simply cannot afford registration because of the high administration costs, the associated staffing requirements and the extensive requisite studies that it involves.

In addition, because of the enormous effort and expenditure of registration, there is a risk of creating oligopolies on the provider side because large companies can more easily provide the resources for a registration. This tendency can already be clearly seen in ECHA's latest REACH registration statistics.

Unless they are registered, substances with a volume ranging from 1-100t may no longer be imported or manufactured in the EU after 31 May 2018. As a result, key special products for our industry will become unavailable and the companies will no longer be able to produce certain end products in the EU.

At the same time, however, end products containing non-registered substances but manufactured outside the EU are being launched on the EU market.

Risky substances may continue to be used outside the EU and even be present in end products within the EU as long as they do not exceed the limit values of a REACH restriction. There is a problem however: the incomplete and uneven enforcement of REACH restrictions in the EU, which means that EU producers who comply with the legal requirements may find themselves facing competitors from outside the EU who do not comply with these requirements and thereby gain unfair competitive advantage. German importers are already taking their duty very seriously by performing elaborate product audits and taking random samples of the imported goods to comply with the limit values. Another problem with the restriction procedures lies in the often unreasonably low limits for certain substances and the lack of suitable test methods, making it difficult or even impossible to verify compliance with the limit values.

Proposals/ Requests

In order to make the situation more bearable for the EU producers and to allow them to continue producing and also if possible investing and developing new products in the EU, we urgently recommend the following actions:

Support especially for medium-sized (chemical) companies with regard to the difficulty of registering a substance beyond 31 May 2018

This may include financial support as well as assistance in preparing the expert report that is mandatory for registration. All application procedures must be as simple and manageable as possible for small and medium-sized enterprises with their limited resources.



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“Emergency solution” for unregistered substances to maintain innovation and avoid production losses

If, after 31 May 2018, it should turn out that the non-registration of a small-quantity substance under REACH causes a significant supply chain problem, an extension of the registration deadline by at least two years should be allowed by emergency application to be decided upon within two weeks. Such a problem might be that a safety-relevant end product can no longer be produced or that a downstream user is threatened by insolvency due to the fact that a particular substance has not been registered. Solutions must also be created for EU start-ups if their product innovations are based on non-registered substances, otherwise they too may find themselves facing insolvency.

Extensive, well-funded European research promotion programmes for alternative substance research / innovation

There must be support for researching chemical manufacturers and other entrepreneurs, particularly in the quest for new substances or physical solutions that can replace controversial substances which, although on the one hand they pose a risk, are on the other hand the only means of achieving extremely important protective functions in end products (e.g. flame retardancy, chemical protection, infection protection, ballistic protection etc.).

Ensuring a level playing field for EU- as well as Non-EU-producers

EU manufacturers are often at a disadvantage compared to non-EU manufacturers because they can no longer use certain substances or because the authorities do not check closely enough whether end products already on the market comply with the legal requirements.

To create a level playing field, the enforcement authorities must examine the end products on the market in such a way that anyone who deliberately fails to comply with the legal regulations will risk being exposed. Deliberately placing products on the market that do not comply with the rules in order to save money on their production is a calculation that must not be allowed to pay off.

The highly divergent national sanctions in the field of substance legislation in the EU member states must be harmonized at EU level.

There must be no REACH legislation in Annex XVII unless a functioning test method is already in place, as it will otherwise be impossible to verify compliance with the regulation itself.

Permanent monitoring of the impact of chemical policy (impact assessment) in the downstream industries

The EU must initiate a short-term procedure to thoroughly analyze the consequences of chemicals policy (e.g. registration, authorization, restriction), especially in the supply chain. This area was covered inadequately or not at all in the 2018 REACH REFIT Report for the EU-COM.

Such measures should focus on the possible loss of particularly important functions of end products and on the impact that this will have on small and medium sized enterprises. The market monopolization and concentration within the chemical industry and the consequences in terms of availability and price development, as a direct consequence of REACH registration for downstream industries in the EU, must immediately be monitored and investigated under antitrust criteria. The trend towards monopolization and the preferential treatment of conglomerates over SMEs in the chemicals market can already be ascertained in ECHA's REACH registration statistics.

Basing chemicals legislation on the real risk of a substance, rather than on the abstract danger that it theoretically poses

Some substances have properties that theoretically pose a risk. However, this danger often never realizes, for example because the substance is only used within companies, occurs only in harmless concentrations, or because the risk can be minimized or eliminated by suitable (occupational safety and health) measures.

The competent authorities must undertake an in-depth risk management analysis to determine which regulatory procedure is appropriate for the substance (restriction, authorization, harmonized classification and labeling, no further action required) before taking respective action.

Prior assessment of the national legal consequences of decisions under REACH/ CLP, to preclude serious collisions in international substance law (as was the case with formaldehyde in Germany, for example) which could lead to extensive production bans.

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