

WORKSHOP REPORT

The Relation between Chemicals Legislation and Worker Protection Legislation - Present and in the Future under REACH

14-15 June 2004

HSE office, Rose Court, 2 Southwark Bridge, London

Workshop on the
**Relation between Chemicals Legislation and Worker Protection
Legislation - Present and in the Future under REACH**

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Preface

This is the proceedings from a highly topical workshop, organised by government representatives from the UK, Germany, the Netherlands and Sweden, with Sweden acting as lead.

The workshop "Relation between Chemicals Legislation and Worker Protection Legislation" was held on 14 - 15 June 2004, at the UK Health and Safety Executive office, Rose Court, 2 Southwark Bridge, London SE1, under the chairmanship of Reiner Arndt, DE, BauA. This report includes a summary of the workshop, a brief introduction, summaries of the five breakout sessions and most of the presentations.

Acknowledgements

The meeting expressed special thanks to Reiner Arndt (DE BauA) for chairing this conference, to Lolo Heijkenskjöld (SE KEMI), Eva Lechtenberg (DE BauA), Ann Bambauer (DE BauA), and Carol Spence (UK HSE) who were responsible for the organisation of the workshop; all of the speakers, moderators and rapporteurs for their important contributions; to Graham Tompkins (UK HSE) for his technical help; and to the UK Health and Safety Executive, whose hospitality added to the success of the workshop.

Summary of outcome

Chair: *Reiner Arndt (DE)*

Meeting rapporteurs: *Alick Morris (DG EMPL) and Mats Forkman (SE)*

We all share a common aim, to improve worker protection, and this was also the ultimate aim of this workshop. Work on Risk Reduction Strategies under the Existing Substances Regulation (ESR) has shown an increasing overlap and a need to clarify the relationship between Chemicals legislation and Worker protection legislation. The interrelation between these two fields of legislation will also be a fundamental issue under the new European chemicals legislation, REACH. The EU is now shaping REACH, and this is the right time to address this issue. This workshop aims to start bridging the new Chemicals legislation to the current Worker protection legislation as well as to clarify the relationship between Chemicals Legislation and Worker protection legislation in general, and seek to improve efficiency in the present work.

The meeting asked the Commission to organise a follow-up on the interface between the Chemicals Agents Directive (98/24/EC) and the REACH proposal, involving representatives of workers, employers and member states.

Bridging into the new Chemicals Legislation, REACH, the meeting took note of the following:

On the links between REACH-Chemical Safety Reports (CSR), Safety Data Sheets (SDS) and employers' assessments under 98/24/EC and consequences for the CSR

- *CSR is a substance specific RA (Risk Assessment) whereas the employers' assessment under 98/24 is a work activity based RA. They could be complementary (one informs the other) though with slightly different scopes. Duplication of work should be avoided. To avoid ambiguity good communication and guidance for industry is needed, and possibly also development of exposure scenarios in a sector specific manner.*
- *The employer will still be responsible for workplace safety, but will be helped in this by REACH. REACH will make the protection of workers exposed to hazardous chemicals more efficient by providing missing information on their properties and enforcing a two-way communication process in the supply chain between suppliers and users about risk reduction measures.*
- *The workplace RA is a good basis to supply information upstream to the suppliers who prepare the CSRs. Formulators are key players in this and need to be involved. Confidentiality issues and complexity of supply chain are obstacles that need to be addressed. Also end users are often confronted with preparations rather than single substances that put additional demands on the employer.*
- *For good communication, users and suppliers must use the same language and have similar levels of understanding. Trade associations will have a role to play in this.*
- *The draft guidelines to help assist Member States in drawing up national policies and facilitate compliance with 98/24 should be consulted in developing the REACH guidelines preferably leading to one guidance for industry.*

On Authorisation and worker protection

- *Shared liability between commission, applicant and employer.*

- *Harmonisation (article 95 in the EU Treaty versus article 137). Will member states be able to keep national bans and authorisations (that are more restrictive than REACH authorisation) for workplace use of substances of very high concern? As REACH will apply without prejudice to the Worker protection legislation, a correct application of REACH will make it possible for Member States to maintain or introduce rules that ensure a higher level of protection for workers.*
- *Substitution is highest in the control hierarchy according to directive 98/24. Will REACH change this? The total impact, including environmental, should be taken into account in decisions on substitution.*
- *Exemptions based on availability of Binding occupational exposure limit values should be used with care. The quality of the scientific, technical and socio-economic basis for the limit needs to be evaluated.*
- *The carcinogens directive has a wider scope of substances (e.g. by-products/processes) than the proposed REACH authorisation.*
- *It was proposed by some parties to consider adding substances with sensitising and chronic toxicity properties to the REACH authorisation.*
- *It was proposed to look at the possibilities to do a trial authorisation of a substance within the SPORT (Strategic Partnership On REACH Trial)*
- *It was recognised that guidance is currently lacking on how cost benefit assessments ought to be undertaken.*
- *The relation between OELs and DNELs as proposed under the REACH need to be clarified. Duplication should be avoided.*

Clarifications and openings for improved efficiency in present work identified and addressed by the meeting included:

- *The two applicable directives for restrictions of chemicals in the workplace (Chemical Agents Directive 98/24/EEC and the Restrictions Directive 76/769/EEC) have different legal bases and scope. Criteria for selecting the appropriate legal instrument were developed, and it is recommended that they are applied in the future work. The enforcement of substitution poses problems. There is a lack of knowledge about alternatives and their impact. Examples of substitution and policies for application are available within some Member States, but are not generally available and accessible.*
- *There is a continuing need for an EU process on the setting of exposure limits in workplace air (OELs), but the current system can be improved, to be faster and more transparent. Ways to make further improvements include the addition of limits derived by Member States, introduction of a “control banding” system based on degree of hazard and increased resourcing to the SCOEL secretariat. The role and impact of OELs in the risk management process needs to be considered further.*
- *The question on Binding limits needs to be addressed and a methodology developed for their consideration. Criteria need to be developed to consider technical feasibility and socio-economic factors.*

- *A process for the dissemination of information on risks and risk reduction measures identified in the Risk Assessment Reports in ESR needs to be developed, and should clarify responsibilities of all stakeholders*
- *There is a lack of available and accessible information on good practice of Risk Reduction Measures and on exposure. A variety of mechanisms for collecting this information are available within industry and national governments. This could possibly be collated at EU level within the framework of the Agency for OSH in Bilbao, but need to be reviewed in terms of quality and relevance.*
- *A range of guidance to support reduction of risks from chemicals in the workplace is needed; there is no single measure that will cover everything. It should be fit for purpose to address the objective to improve levels of workplace control and reduce risks, i. e. it needs to be adapted to the receiver. The employer is the responsible party and it is up to the employers to determine what is appropriate to their workplace. It is therefore not the role of such guidance to be prescriptive.*

Table of contents

Introduction

Workshop objective and background

Participants

Programme outline

Day 1 – 14 June 2004

Welcome

General presentations

Current risk reduction tools – introductory presentations

Current risk reduction tools – breakout discussions

Day 2 – 15 June 2004

General presentations

Future perspectives under REACH – introductory presentations

Future perspectives under REACH – breakout discussions and conclusions

Appendix 1 – Day 1 report from breakout groups and comments from plenum

Breakout session: Restrictions on workplace use of chemicals

Breakout session: Exposure limits in workplace air

Breakout session: Other measures to support the reduction of risk from chemicals in the workplace

Appendix 2 – Day 1 report from breakout groups and comments from plenum

Breakout session: Links between REACH –Chemical Safety Reports (CSR), Safety Data Sheets (SDS) and employers' assessments under 98/24/EC and consequences for the CSR

Breakout session: REACH Authorisation and worker protection

Appendix 3 – Presentations of Day 1

Risk Reduction measures under 794/93 – practical outcome

Restrictions on workplace use of chemicals

Current work on exposure limit values for workplace air

Role and impact of community level OELS

Other measures to support the reduction of risks from chemicals in the workplace

Appendix 4 – Presentations of Day 2

Impact of OSH-legislation on the workplace situation

Relation between worker protection legislation and REACH

Links between REACH –Chemical Safety Reports (CSR), Safety Data Sheets (SDS) and employers' assessments under 98/24/EC and consequences for the CSR

REACH authorisation and worker protection

Appendix 5 – Final programme

Appendix 6 – Participants list

Introduction

Workshop objective and background

Work on Risk Reduction Strategies under the Existing Substances Regulation (ESR) has shown an increasing overlap and a need to clarify the relationship between Chemicals legislation and Worker protection legislation. The interrelation between these two fields of legislation will also be a fundamental issue under REACH.

The main objective of the workshop was to develop a common understanding between the participants from the various stakeholders.

It was envisaged that the workshop would:

- clarify the relationship between Chemicals legislation and Worker protection legislation
- seek openings for improved efficiency in present work
- start bridging to a new Chemicals legislation

Participants

Some 55 people from the European Commission (DG ENV, DG ENTR and DG EMPL), trade unions, industry trade-organisations representing both producers and users of chemicals and from member states', including several of the new member states', authorities participated in the workshop. A list of participants is included as appendix 6.

Programme outline

General presentations on the Existing Substances Regulation (ESR), the worker protection legislation and REACH set the scene and created the basis for the workshop. Participants worked on the applicability and efficiency of different risk reduction tools for worker protection in breakout sessions. Applying different perspectives, they discussed problems, solutions and ways to implement the solutions.

A first session dealt with issues in the current practice of risk reduction under ESR in order to evaluate what works well, what can be improved and what are the most effective strategies for future work.

Summarising the experience gained in ESR and taking stock of the discussions during the first day, the second day was mainly devoted to future perspectives under REACH. The risk reduction tools for workplace chemicals will not be changed by REACH, but some issues need to be elaborated further in view of the implementation of REACH. This may be especially true in relation to the chemical safety report and authorisation scheme.

Day 1 – 14 June 2004

Welcome

Host: Christine Northage (UK)

Chair: Reiner Arndt (DE)

The delegates were welcomed to HSE by Christine Northage. The chairman extended his thanks to the UK Health and Safety Executive for generously hosting this workshop and went on to present the background to why this workshop came about and gave an outline of the two days activities.

General presentations

Bertil Remaeus (SE) started with "Opening speech on Priority setting and follow up", emphasising the need for continued work on reducing risks from chemicals in the workplace. Lolo Heijkenskjöld (SE) gave a presentation on "Risk Reduction Measures under 793/93 – practical outcome" indicating possibilities for improvement in the current work and some important learning points to take on board when bridging towards REACH. This presentation is included in appendix 3. José Ramon Biosca de Sagastuy (DG EMPL) presented "Community legislation in the field of worker protection as tools for worker protection on community level", stressing that it is a minimum requirement legislation, and that the employer is responsible for worker protection, but that everybody in the enterprise should participate.

Current risk reduction tools – introductory presentations

Four presentations served as an introduction to the three parallel break out sessions. Eva Lechtenberg (DE) gave a presentation on "Restrictions on workplace use of chemicals", expanding on when restrictions is the better risk reduction tool. Alick Morris (DG EMPL) presented "Current work on exposure limit values for workplace air" outlining the current situation and highlighting the opportunities and challenges ahead. David Walters (Cardiff University) presented "The role of OELs in the EU", describing the findings of a study on the process of setting OELs and their use in inspections and enforcement practices in various member states. Chris Money (CEFIC) gave a presentation on "Other measures to support the reduction of risks from chemicals in the workplace", showing practical examples of guidance and discussing ideas of risk management communication. All four presentations are included in this report in appendix 3.

Current risk reduction tools – breakout discussions

The delegates were asked to sign up for one of three groups. Each of the groups had one risk reduction tool to discuss. A moderator led the discussions in each group, and a rapporteur, who then prepared a report and presented it in the plenary session, documented the suggestions and issues raised. Comments and clarifications from the plenary discussions were incorporated into the breakout report. The modified results along with further comments and questions raised in the plenary discussion are presented as appendices to this report.

Restrictions on workplace use of chemicals

Moderator: Bent Horn Andersen (DK)

Rapporteur: Lena Perenius (CEFIC)

The target of this session was to discuss restrictions on workplace use of chemicals and to develop ideas on criteria for choosing the most appropriate legal instrument for such restrictions.

The key points from the discussion were:

- *There is a need for further restrictions to address workplace risks when actions under Directive 98/24 are not enough.*
- *The two applicable directives (Chemical Agents Directive 98/24/EEC and the Restrictions Directive 76/769/EEC) have different legal bases and scope, and each has its appropriate application depending on the circumstances. Criteria were developed to select the most appropriate legal instrument and are included in the report in appendix 1. It is recommended that they are applied in the future work on risk reduction on EU level.*

The complete report from the discussion, including any clarifications from the discussion in the plenary session along with further comments and questions is presented in appendix 1.

Exposure limit values for workplace air

Moderator: *Teresa Quinn (UK)*

Rapporteur: *Richard Pedersen (UK)*

The target of this session was to discuss the impact of community level OELs and to have a more detailed exchange of ideas on the role of occupational exposure limit values.

The key points from the discussion were:

- *There is a continuing need for an EU limit-setting process, but the current system can be improved, to be faster and more transparent. Possible ways to make further improvements include the addition of limits derived by Member States, increased resourcing to the SCOEL secretariat and the introduction of a “control banding” system that takes account of the hazard of the substance and how it is used in the workplace to determine the likely risk to workers health and to assist in the selection of suitable controls. To make the best use of the limited resources currently available for the development of OELs, a control banding system could be used for “lower risk “ chemicals and OELs could be developed for “higher risk” chemicals. .*
- *The question on Binding limits needs to be addressed and a methodology developed for their consideration. Criteria need to be developed to consider technical feasibility and socio-economic factors.*
- *The role and impact of OELs in the risk management process needs to be considered further.*

The complete report from the discussion, including any clarifications from the discussion in the plenary session along with further comments and questions is presented in appendix 1.

Other measures to support reduction of risks from chemicals in the workplace

Moderator: *Marc Sapir (ETUC)*

Rapporteur: *Allison Margary (CEFIC)*

The target of this session was to explore measures such as authoritative guidance and/or standards to reduce risks from chemicals in the workplace, and how such measures could be implemented. Problems and solutions should be listed for future use.

The breakout session started with a presentation by Elke Schneider (European Agency for Safety and Health at Work) on “What is the Agency doing on dangerous substances”, showing some of the work the Agency is doing in collecting and presenting good practice examples related to dangerous substances, substitution, OELs and the prevention of workplace risks and where available information can be found. The presentation is included in appendix 3.

The key points from the discussion were:

- *A process for the dissemination of information on risks and risk reduction measures identified in the Risk Assessment Reports in ESR needs to be developed and should clarify responsibilities of all stakeholders.*
- *A range of guidance is needed; there is no single measure that will cover everything. It should be fit for purpose to address the objective to improve levels of workplace control and reduce risks, i. e. it needs to be adapted to the receiver. The employer is the responsible party and it is up to the employers to determine what is appropriate to their workplace. It is therefore not the role of this guidance to be prescriptive.*
- *There is a lack of available and accessible information on good practice of Risk Reduction Measures and on exposure. A variety of mechanisms for collecting this information are available within industry and national governments. This could possibly be collated at EU level within the framework of the Agency for OSH in Bilbao, but need to be reviewed in terms of quality and relevance.*
- *The enforcement of substitution poses problems. There is a lack of knowledge about alternatives and their impact. Examples of substitution and policies for application are available within some Member States, but are not generally available and accessible.*

The complete report from the discussion, including any clarifications from the discussion in the plenary session along with further comments and questions is presented in appendix 1.

Day 2 – 15 June 2004

General presentations

The second day started with two general presentations, Laurent Vogel (ETUC) gave a presentation on the “Impact of OSH-legislation on the workplace situation”, outlining the current situation and discussing possible contributions and conflicts with REACH. Mark Blainey (DG ENV) presented “Relation between worker protection legislation and REACH”, elaborating on the how and why of the proposed registration and evaluation process. These presentations are included in this report in appendix 4.

Future perspectives under REACH – introductory presentations

Two presentations served as an introduction to the two breakout sessions. Henning Wriedt (ETUC) gave a presentation on the “Consequences for REACH-Chemical Safety Reports (CSR), resulting from links between REACH CSR, Safety Data Sheets (SDS) and employers’ assessments under 98/24/EC”, listing a number of issues for discussion, with communication being a key area. Silke Schmidt (DG ENTR) presented “REACH Authorisation and worker protection” clarifying the relationship between authorisation and other parts of REACH and worker protection legislation. Both presentations are included in this report in appendix 4.

Future perspectives under REACH – breakout discussions and conclusions

The process for the second day’s breakout discussions was the same as for the first day’s. The delegates were asked to sign up for one of the groups and each group had a moderator and rapporteur, with the latter preparing the report and presenting it in the plenary session. The modified results along with further comments and questions raised in the plenary discussion are presented as appendices to this report.

Links between REACH-Chemical Safety Reports (CSR), Safety Data Sheets (SDS) and employers’ assessments under 98/24/EC and consequences for the CSR

Moderator: *Sharon Munn (ECB)*

Rapporteur: *Tony Musu (ETUC)*

The target of this session was to exchange views on the chemicals-using industry’s present obligation as employers to perform risk assessment for work-place chemicals, its relation to the safety data sheets as produced by the manufacturer of chemicals and, in the future, to the Chemical Safety Reports within REACH.

The key points from the discussion were:

- *CSR is a substance specific RA (Risk Assessment) whereas the employers’ assessment under 98/24 is a work activity based RA. They are complementary (one informs the other), but duplication of work should be avoided. To avoid ambiguity good communication and guidance for industry is needed, and possibly also development of exposure scenarios in a sector specific manner.*

- *The employer will still be responsible for workplace safety, but will be helped in this by REACH. REACH will make the protection of workers exposed to hazardous chemicals more efficient by providing missing information on their properties and enforcing a two-way communication process in the supply chain between suppliers and users about risk reduction measures.*
- *The workplace RA is a good basis to supply information upstream to the suppliers who prepare the CSRs. Formulators are key players in this and need to be involved. Confidentiality issues and complexity of supply chain are obstacles that need to be addressed. Also end users are often confronted with preparations rather than single substances that put additional demands on the employer.*
- *For good communication, users and suppliers must use the same language and have similar levels of understanding. Trade associations will have a role to play in this.*
- *The draft guidelines to help assist Member States in drawing up national policies and facilitate compliance with 98/24 should be consulted in developing the REACH guidelines.*

The complete report from the discussion, including any clarifications from the discussion in the plenary session along with further comments and questions is presented in appendix 2.

REACH Authorisation and worker protection

Moderator: *Jaco Westra (NL)*

Rapporteur: *Mark Blainey (DG ENV)*

The target of this session was to exchange views on the relation between the worker protection legislation and, in the future, authorisation within REACH.

Risks associated with uses of substances having hazardous properties of very high concern will be reviewed and, if they are adequately controlled, or if the socio-economic benefits outweigh the risks and there are no suitable alternative substitutes or technologies, then the applications for the uses will be granted an authorisation.

Key issues where a need for further clarification was seen:

- *Possible shared liability between Commission, applicant and downstream user when an authorisation has been granted and problems occur.*
- *Harmonisation (article 95 in the EU Treaty versus article 137). Will member states be able to keep national bans and authorisations (that are more restrictive than REACH authorisation) for workplace use of substances of very high concern? As REACH will apply without prejudice to the Worker protection legislation, a correct application of REACH will make it possible for Member States to maintain or introduce rules that ensure a higher level of protection for workers.*
- *Substitution is highest in the control hierarchy according to directive 98/24. Will REACH change this? The total impact, including environmental, should be taken into account in decisions involving substitution.*

- *Exemptions based on a Binding occupational exposure limit values should be developed with care. The quality of the scientific, technical and socio-economic basis for the limit needs to be evaluated.*
- *The carcinogens directive has a wider scope of substances (e.g. by-products/processes) than the proposed REACH authorisation.*
- *It was proposed by some parties to consider adding substances with sensitising and chronic toxicity properties to the REACH authorisation.*
- *It was proposed to look at the possibilities to do a trial authorisation of a substance within the SPORT (Strategic Partnership On REACH Trial).*

The complete report from the discussion, including any clarifications from the discussion in the plenary session along with further comments and questions is presented in appendix 2.

Appendix 1 – Day 1 Report from breakout groups and comments from plenum

Breakout session: Restrictions on workplace use of chemicals

Report from discussion in breakout group

Restrictions

- Do we need restrictions to address workplace risks?
- Yes. We need restrictions when rules on handling substances are not sufficient.
- A restriction could be on marketing of a substance, product related and/or prohibition of a use
- Which is the appropriate legislative tool?

Scope

Dir 76/769	Dir 98/24
Marketing and Use	Manufacturing, production and use
Dangerous substances	Apply where hazardous chemical agents are present or may be present at the workplace.
All work-places	Does not cover self-employed
Cover import	Does not cover import
Includes a wide range of measures	

Restrictions

Dir 76/769	Dir 98/24
Legal bases Art 95, harmonisation	Legal bases Art 137, minimum rules
Marketing and Use	Manufacturing, production and use
Traded substances (restrictions involving trade)	Produced and used within a work place
Normal instrument to use to introduce Community wide restrictions	Certain activities which not justify trade restrictions
	Manufacturing processes

When a risk has been identified for a use of a chemical in the workplace, and that risk can only be managed by a restriction/prohibition of the use, and part of the risk management strategy is a restriction on trade for that use and a prohibition of that use at the work place, the directive 76/769/ EC should be applied. If the use is prohibited under Directive 76/769/EEC, this of course also applies to the use at the workplace.

When a restriction/prohibition of use is required to manage the risk of a chemical that is not traded and where trade restrictions are not part of the risk management strategy the prohibition of use under 98/24/EC is the appropriate legal tool.

It is recommended that this is applied in the further work on risk reduction measures.

Example

The risk reduction strategy for MDA (open professional use) includes both a need to restrict marketing and work-place use. It would be appropriate to only use the marketing and use directive for practical reasons and legal clarity rather than two Directives.

Comments from plenary discussion

The severity of risk that justifies restrictions was discussed; the conclusion was that restrictions should be used when other options for handling the risk cannot be used.

In a report made by the commission in 1998, the efficiency of work in the framework of the Restrictions Directive was evaluated. The results were taken into account in the REACH proposal.

Breakout session: Exposure limit values in workplace air

Report from discussion in breakout group

CONCLUSIONS

- There is a continuing need for an EU limit-setting process
- The group supported the existing SCOEL system as a way of making recommendations for limits
- The current SCOEL system needs to be improved – credibility
- The system needs to be faster
- Greater transparency is needed e.g., the DG EMPL website could be upgraded to contain a list of all the substances currently going through the system
- SCOEL needs greater resources and support
- The question of Binding Limits needs to be addressed and a methodology developed for their consideration
- Criteria need to be developed to consider technical feasibility and socio-economic factors
- The system could be reviewed as part of the review of Chemical Agents Directive expected in 2006, and the impact and effect of REACH could be considered
- The scientific resource at the ECB could provide data to SCOEL
- The need for EU limit setting procedure (including SCOEL) under REACH was questioned – but there was overall acceptance that it would still be necessary

WAYS TO MAKE FURTHER IMPROVEMENTS

- Look at limits derived by Member States and add them to those being reviewed by SCOEL
- Introduce a “control banding” system that takes account of the hazard of the substance and how it is used in the workplace to determine the likely risk to workers health and to assist in the selection of suitable controls. To make the best use of the limited resources currently available for the development of OELs a control banding system could be used for “lower risk” chemicals and OELs could be developed for “higher risk” chemicals.
- Recommend additional European Commission financial resources to produce pre-SCOEL documentation

Further consideration

- The role and impact of OELs in the risk management process needs to be considered further

Comments from plenary discussion

It was pointed out that a council decision regulates the process of setting of OELs, and so it cannot be easily changed. There are opportunities within the current system for national agencies to help with the supplying of data. Also the setting of a large number of health-based OELs means that more work will have to go into revisions. The website of DG employment is being revised and will be ready soon. This might help in making information on OELs and the process more accessible.

The proposal to transpose member states' OELs to EU-level ones was discussed. If this is to happen it is very important that the scientific and other basis for the OELs is assessed. Fears that this assessment might take more resources than investigating new OELs was voiced. The commission has asked for information from member states on national OELs and the scientific foundation for them to see if it can be used in the current OEL setting activities.

There was a question of whether the Derived No Effect Level (DNEL) as proposed in REACH will make OELs redundant. There was no clear conclusion on this, but it is clear that duplication of work need to be avoided.

A final open question was whether the amount of resources invested in the setting and implementation of OELs is proportionate to the results in terms of risk reduction in the workplace.

Breakout session: Other measures to support reduction of risks from chemicals in the workplace

Report from discussion in breakout group

Current practices of today with existing regulations

<i>Problems /Issues</i>	<i>Solutions/Comment</i>
Presentation of proposed RRM by the Rapporteurs is not well developed in terms of dissemination. Available in the RA report (not accessible). How to better express the need for improvements? Who should implement?	Identify and pin point added value of risk assessment advice to the relevant workplaces – targeted critical RM information. Specified scenarios. Clarify target audience. Who should provide. A range of guidance is needed – fit for purpose to address the objective to improve levels of workplace control and reduce risks; what the national authority needs is different to the employer and the employee. Clarify process for implementation regarding responsibilities of all stakeholders. Take account of impacts.
10 new member states who are only beginning to apply these regulations. Implementation is the issue not the adoption of the regulation.	Slovenia has examples of practical guidelines
90 If CAD guidance is non-binding how will this assist in legal enforcement?	It is not the role of this guidance to be prescriptive. The employer is the responsible party, therefore need to be flexible with guidance to allow employer to determine what is appropriate to their workplace. Agreed to direct the EU guidance to the competent authorities as they are able to interpret and translate into national requirements take account of cultural differences. Statement of DG Employment. ?
Difficult to get exposure information/RRM on good practice.	EU collate existing information available within the member states to make accessible. Translation arrangements into useful risk reduction measures? Quality assurance and relevance. Stakeholder/social partner agreement. Variety of mechanisms available within industry and national governments. Consider within the framework of Bilbao? Focus with risk and priorities. Use SLIC?
Current diversity of levels of enforcement across the MS and this is not taken into account in the design of the risk reduction measures. Emphasised by the recent enlargement of the EU.	Risk based enforcement within a broader HSE perspective than just policing to support the SME's. Make use of existing exposure and product registers in the priority setting process.
Design improvements recommended by the RA e.g. improve the design of fuel filter position in cars to facilitate maintenance and repair work	No one was identified to implement. These need to be targeted/ownership of the action needed. Run in conjunction with DG Research?
Lack of available information on details of amount produced, which sectors used to help to target information to assist in setting targets and priorities.	REACH hopes to address, however, this is only a partial solution as it does not cover all that CAD does.
Problems with addressing enforcement of substitution. Lack of knowledge about alternatives. Little	There are already examples of substitution and policies for application within some EU member

dissemination of practical alternatives. Not just a technical process, need to understand application at the plant level.	states (e.g. Germany, UK). Problems with comparing alternatives and relative risks; process to be evidence based to support the substitution.
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Comments from plenary discussion

A key issue for the spreading of best practice within EU is the language. Only documents of general interest are translated into all languages. Member states should arrange for the translation of any documents of interest for them. It is not clear how documents that might be of interest to other countries will be translated into English to make it more accessible for other member states. Translating is expensive; translations therefore need to be targeted. An increased use of symbols and pictograms could reduce the need for translating.

Attitude, training and access to appropriate preventive services were deemed to be critical for a better risk prevention, especially for SMEs (Small and Medium sized Enterprises). It was also questioned whether chemicals and workplace legislation was becoming too complicated for SMEs.

Appendix 2 – Day 2 Report from breakout groups and comments from plenum

Breakout session: Links between REACH-Chemical Safety Reports (CSR), Safety Data Sheets (SDS) and employers' assessments under 98/24/EC and consequences for the CSR

Report from discussion in breakout group

Relations between the two Risk Assessment processes (RA)

Is there a duplication of work and what are the differences between RA under 98/24 and under REACH-CSR?

- Majority: No duplication of work; Minority: Yes, it might be duplication of work
- The two RA are different but complementary (one informs the other)
- Exposure scenarios should be detailed enough to be used within the workplace risk assessment without variation if it really mirrors the situation of the users. However, there will always be a place for the site-specific assessment (due to particular local conditions). Even a very good RA under REACH will sometimes give only a very small part of a total RA.

What use should be made of the existing draft guidelines to help employers comply with 98/24?
They should be consulted in developing the REACH guidelines

How is possible confusion avoided for the purpose of the two RAs?

Good communication needed

Good Guidance for industries

- development of exposure scenario in a sector specific manner was recommended

There is no legal confusion, the employer is responsible for workplace safety and must apply the Chemical Agents Directive 98/24 but will be helped in this by REACH by receiving a better SDS

Training needs? What could be offered?

There is a need to train employers and workers on chemical risk issues, especially in Small and Medium sized Enterprises (SMEs)

Downstream and Upstream communication: CSR as an instrument that provides input to workplace RA

How should communication best work?

- Speak the same language between users and suppliers
 - similar level of understanding necessary
 - continuous dialogue needed to reach a similar level of understanding
 - speak to the right person. i.e.: appropriately trained
 - There is a role for trade associations in developing common language as intermediaries

Workplace RA is a good basis to supply information upstream for CSR preparation

BUT obstacles to overcome:

- Confidentiality issues.
- We don't always have the workplace RA
- Complexity of the supply chain
- End users are confronted with preparations not single substances

REACH will stimulate employers to conduct workplace RA!

Formulators need to be involved because they are key players

How should knowledge gaps be taken into account?

For single substances it will be clear where data gaps are in the CSR.

For preparations: more difficult!

Transfer in the SDS what info you have or do not have?

Comments from plenary discussion

A question was raised regarding the impact of GHS (The Globally Harmonized System of Classification and Labelling of Chemicals) on Safety Data Sheets. It was concluded that this would affect only classification and labelling, not the Safety Data Sheets in general.

The risk of overburdening member state authorities with Chemical Safety Reports (CSR) made by Downstream Users (DU) was mentioned. But it was made clear member states will only be notified of such CSR, and can then choose appropriate action.

There will be guidance available for the assessment of socio-economic impact, but it is not currently available.

It was proposed to do a trial of the process for doing a CSR for a substance within the SPORT (Strategic Partnership On REACH Trial).

CEFIC is working on a document that compares the Chemical Agents Directive and the REACH proposal.

Breakout session: REACH Authorisation and worker protection

Report from discussion in breakout group

Questions

1. Authorisation: an effective tool to achieve workplace risk reduction or should the focus be more on worker protection law?
2. Problems of combining REACH Authorisation and worker protection legislation
 - Harmonisation
 - Substitution
 - Risk Assessment
 - Exemptions
 - Target group
 - Substances covered
3. Strategic Partnership to trial?

REACH Authorisation: an effective tool?

- Would workplace risks ever be considered (priority setting);
 - yes: when PBT dealt with, only then high volume, wide dispersive use CMR inc workplace
 - potency as another prioritisation criteria?
- Demand for clarification of substances of equivalent concern;
 - will become clear during existence of REACH
- Shared liability an issue – commission/applicant?
 - But authorisation only applies for substances of very high concern so the procedure is justified.

Problems of combining REACH Authorisation and worker protection legislation

- Harmonisation (art 95 vs. 137):
 - National bans/authorisations for workplace use of substances of high concern (may be more restrictive than REACH authorisation). Can they be kept?

Problems of combining REACH Authorisation and worker protection legislation

- Substitution:
 - Is substitution needed if there is no risk?
 - Some yes – ‘no risk’ is not shown in authorisation
 - No – some substances have threshold e.g. R
 - Concern expressed: less may be known about substitute
 - Agency identify substitutes - Registered information? Competencies?
 - Information needed about effects on workers, human health and environment
 - Workplace law: substitution first, does REACH circumvent?
 - In practice substitution usually doesn't happen (difficult for employers – knowledge)
 - Under REACH substitution decisions taken by experts
 - REACH complements workplace but is there duplication?
 - Workplace substitution does not look at environmental considerations
 - If eg PBT substituted then need to look at its risks to workers
 - Time limited authorisations will help drive substitution

–In REACH an authorisation request *may* contain an analysis of alternatives – suggestion of some to change to “shall”.

•Exemptions:

–suggested to do on basis of risk assessment (but differences in quality)

–others disagreed and wanted hazard based (as authorisable substances difficult to control, some lack of thresholds) -> however, no exemptions would then be the result

–Binding limit values should be used with care (are they good quality limits? New scientific knowledge?)

•Risk Assessment:

–Does it need to be more stringent?

- as specific as necessary to show adequate control

Also debate on use authorisation vs supply authorisation

•Target group:

–workplace consultation is a big part of carcinogens directive. Should REACH have more social dialogue in authorisation process?

•Substances covered:

–Carcinogens Directive has much wider scope of substances (e.g. by-products/processes)

- Messages? as won't be authorised

–suggested adding substances that are sensitisers and have chronic toxicity

–care if implement GHS criteria esp re CMR criteria

SPORT

•Strategic Partnership On REACH Trial – CEFIC proposal.

•Suggested for a trial authorisation of a substance within the Strategic Partnership.

- To be looked at

•DE volunteered authority to contribute

Comments from plenary discussion

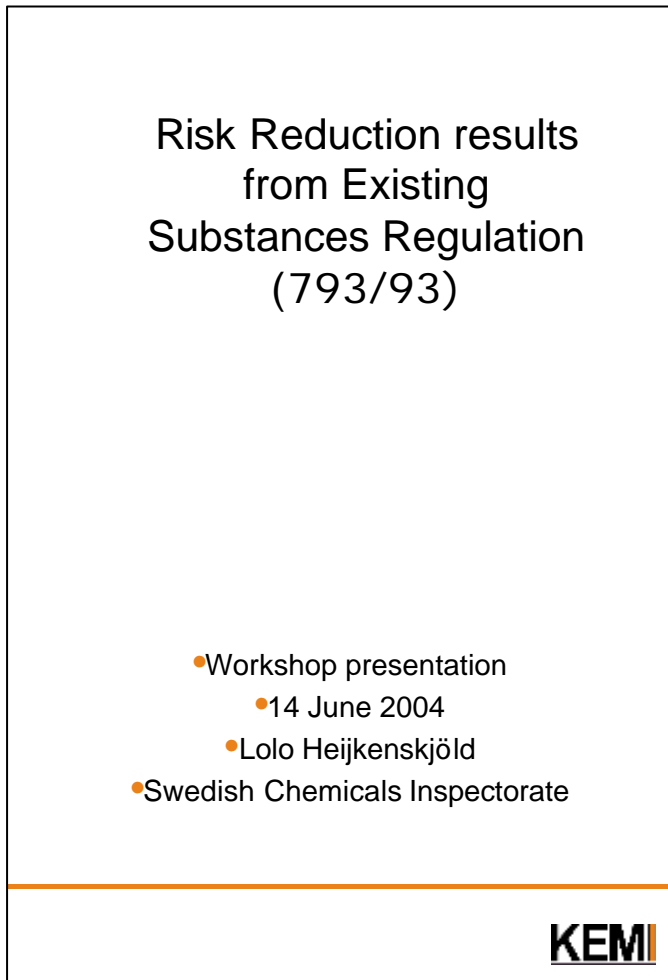
The Carcinogens directive will still have a role to play after the implementation of the authorisation under REACH.

The employer's RA (Risk Assessment) under 98/24 is a workplace RA that takes combined effects from different chemicals into account, the supplier's risk assessment under the REACH proposal is a substance-specific RA, that does not.

Appendix 3 – Presentations of Day 1

Risk Reduction Measures under 793/93 - practical outcome

Double-click on the presentation below to start the slide show. To print it, right-click on it, choose “Presentation object” (or similar) and open. The presentation will then be open as a ppt-file, and can be printed etc.



Risk Reduction measures for the workplace recommended or under discussion within the Existing Substances Regulation (793/93)

Risk reduction measure for the workplace	Priority Substance	
	finalised in 793/93	under discussion in 793/93
- to consider marketing and use restrictions in Council Directive 76/769/EEC for the use		[4,4'-Methylenedianiline (MDA)]
- to consider at the Community level prohibition of the use of in at work by including the substance in Annex III of the Chemical Agents Directive	Hydrofluoric acid	<i>alt.</i> [4,4'-Methylenedianiline (MDA)] Trichloroethylene
- to establish at community level occupational exposure limit values.	2-(2-ethoxyethoxy)ethanol (DEGME) 2-(2-Butoxyethoxy)ethanol (DEGBE) Acrylaldehyde Dimethyl sulphate 1,4-Dioxane Diphenyl ether, octabromo derivative Acrylamide Acrylonitrile Acrylic acid Butadiene Methacrylic acid Methyl methacrylate	4,4'-Methylenedianiline (MDA) Trichloroethylene Dibutylphthalate Diethylhexylphthalate (DEHP) Monochloroacetic acid Methylacetate Dibutylphthalate
- that the Commission Scientific Committee on Occupational Exposure Limits (SCOEL) review the new information and recommend whether there is a need to revise the current occupational exposure limit.	Hydrofluoric acid Toluene	
- to consider reviewing the current occupational exposure limit value to provide an indication that dermal exposure can make a contribution to the worker body burden	Acetonitril	

<p>- exposure in the workplace should be reduced as low as technically feasible.</p>	<p>Diphenyl ether, octabromo derivative Acrylaldehyde o-Anisidine</p>	
<p>- Member States to ensure the periodic monitoring of workplace exposure. A follow up at community level of the general degree of reduction should be initiated.</p>		<p>Diethylhexylphthalate (DEHP)</p>
<p>- Employers to take note of the practical non-binding guidance, to be developed by the Commission as foreseen under Article 12(2) of the Chemical Agents Directive and of any sector specific guidance developed at national level based on this guidance.</p>	<p>Acrylic acid Hydrogen peroxide Methacrylic acid Methyl methacrylate</p>	<p>Monochloroacetic acid 3,4-Dichloroaniline Methylacetate</p>
<p>- Employers to review any risk assessments produced according to the Chemical Agents Directive to take into account the information contained in the risk assessment and risk reduction strategy produced under 739/93, and takes any necessary measures that are required.</p>	<p>Hydrogen peroxide</p>	
<p>- to investigate how to improve the design of fuel filter position in cars and fuel pumps so to facilitate maintenance and repair work while aiming at minimum skin exposure to petrol. It is therefore suggested to pursue discussions with relevant organisations of industry branches.</p>	<p>tert-Butyl methyl ether (MTBE)</p>	

Restrictions on workplace use of chemicals

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Federal Institute for Occupational Safety and Health

Dr. Eva Lechtenberg-Auffarth

Unit „Handling Hazardous Substances“

Restrictions on workplace use of chemicals

Current work on exposure limit values for workplace air

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An article on this subject, named "Exposure Limits: the European dimension", by David Walters, was published in Occupational Health Review, issue 08 March/April 2004.

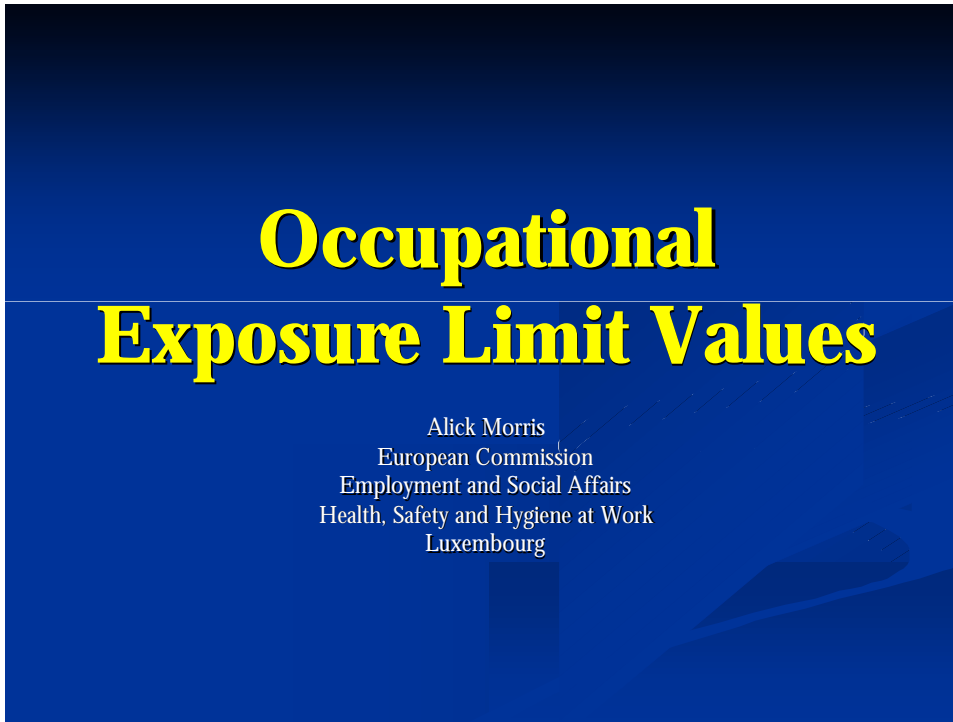


The role of OELs in the EU

David Walters
Cardiff University

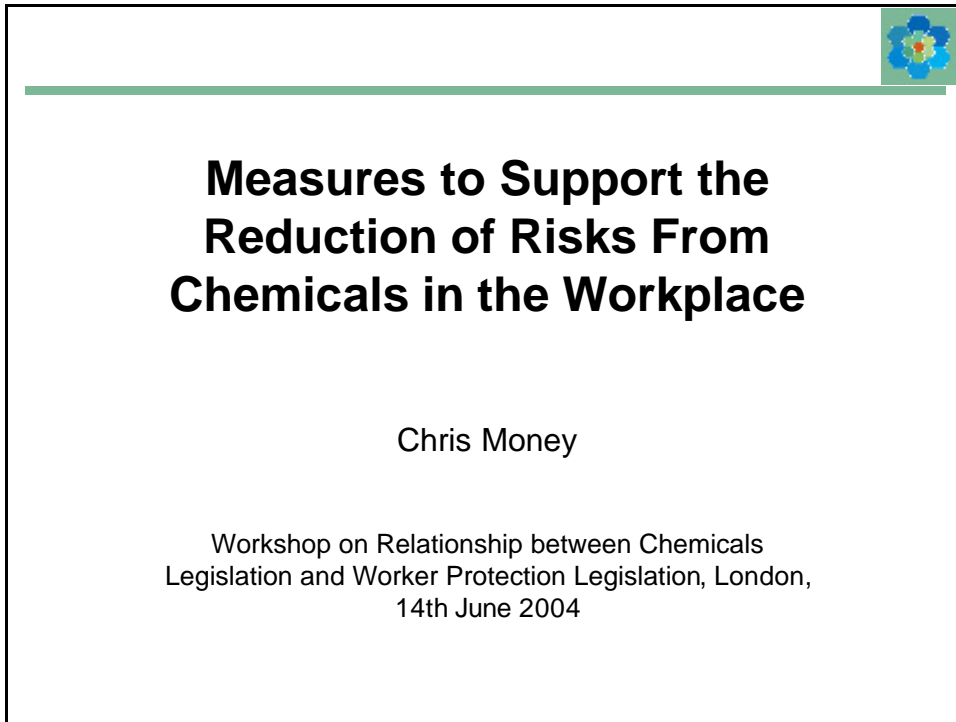
Role and impact of community level OELs

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Other measures to support the reduction of risks from chemicals in the workplace

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What is the agency doing on Dangerous substances?

This presentation is sent as a separate PowerPoint presentation (WS Presentation Elke Schneider.ppt) due to its size.

Appendix 4 – Presentations of Day 2

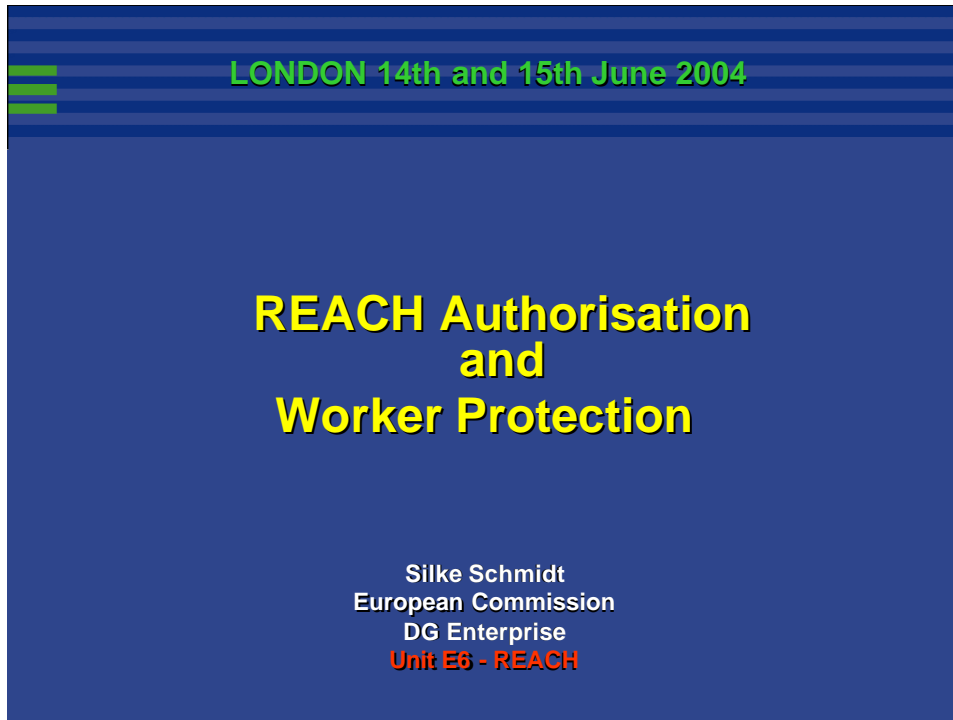
Impact of OSH-legislation on the workplace situation

Double-click on the presentation below to start the slide show. To print it, right-click on it, choose “Presentation object” (or similar) and open. The presentation will then be open as a ppt-file, and can be printed etc.



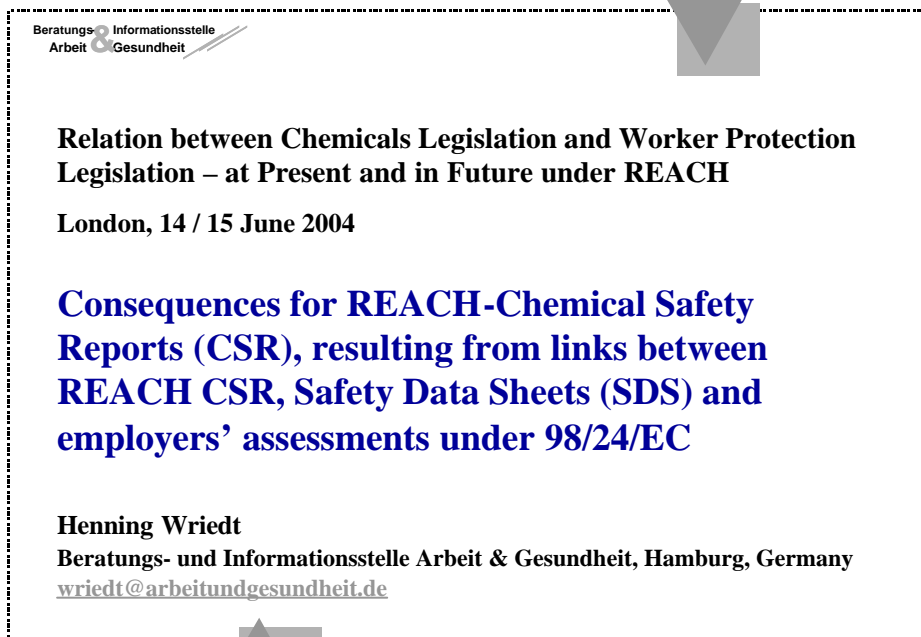
REACH Authorisation and Worker Protection

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Consequences for REACH-Chemical Safety Reports (CSR), resulting from links between REACH CSR, Safety Data Sheets (SDS) and employers' assessments under 98/24/EC

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Beratungs- und Informationsstelle
Arbeit & Gesundheit

Relation between Chemicals Legislation and Worker Protection Legislation – at Present and in Future under REACH

London, 14 / 15 June 2004

Consequences for REACH-Chemical Safety Reports (CSR), resulting from links between REACH CSR, Safety Data Sheets (SDS) and employers' assessments under 98/24/EC

Henning Wriedt
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Appendix 5 – Final programme

FINAL PROGRAMME

Workshop on the
**Relation between Chemicals Legislation and Worker Protection Legislation - Present and in
Future under REACH**

HSE office, Rose Court, 2 Southwark Bridge, London

14 June 2004

10.00 – 10.15 **Welcome**

Host: Christine Northage (UK)

Chair: Reiner Arndt (DE)

10.15 – 10.45 **Opening speech on Priority setting and follow up**

Bertil Remaeus (SE)

10.45 – 11.30

Risk Reduction Measures under 793/93 - practical outcome

Lolo Heijkenskjöld (SE)

**Community legislation in the field of worker protection as tools for risk
reduction relating to workplace chemicals**

José Biosca de Sagastuy (DG EMPL)

11.30 – 11.45

Coffee

BREAKOUT SESSION 1 – RISK REDUCTION TOOLS

11.45 – 12.45

Introduction and thought starters

Restrictions on workplace use of chemicals

Eva Lechtenberg (DE)

Current work on exposure limit values for workplace air

Alick Morris (DG EMPL)

Role and impact of community level OELs

David Walters (Cardiff University)

**Other measures to support the reduction of risks from chemicals in the
workplace**

Chris Money (CEFIC)

12.45 – 13.30

Lunch

13.30 – 15.00

Breakout discussion in 3 different groups

Restrictions

Moderator: *Bent Horn Andersen (DK)*

Rapporteur: *Lena Perenius (CEFIC)*

Exposure limit values for workplace air

Moderator: *Teresa Quinn (UK)*

Rapporteur: *Richard Pedersen (UK)*

Other measures to support reduction of risks from chemicals in the workplace

Moderator: *Marc Sapir (ETUC)*

Rapporteur: *Allison Margary (CEFIC)*

15.00 – 15.15 Coffee / Tea

BREAKOUT SESSION 2 - TOWARDS A NEW AGREEMENT FOR FUTURE COOPERATION
--

15.15 – 16.30 **Continuation of breakout discussion - proposed solutions and ideas for the implementation**

Restrictions

Exposure limit values for workplace air

Other measures to support reduction of risks from chemicals in the workplace

16.30 – 18.00

Breakout session reports and conclusions

Rapporteurs / Chair

Meeting-rapporteurs: *Alick Morris (DG EMPL); Mats Forkman (SE)*

15 June 2004

9.00 – 9.20 **Impact of OSH-legislation on the workplace situation**

Laurent Vogel (ETUC)

9.20 – 09.40 **Relation worker protection legislation and REACH**

Mark Blainey (DG ENV)

BREAKOUT SESSION 3 – REACH

9.40 – 10.20 **Introduction and thought starters**

Links between REACH-Chemical Safety Reports (CSR), Safety Data Sheets (SDS) and employers' assessments under 98/24/EC and consequences for the CSR

Henning Wriedt (ETUC)

REACH Authorisation and worker protection

Silke Schmidt (DG ENTR)

10.20 – 10.40

Coffee / Tea

10.40 – 12.00

Breakout discussion in 2 (3) different groups

Links between REACH-CSR, SDS and employers' assessments under 98/24/EC

and consequences for the CSR

Moderator: *Sharon Munn (ECB)*

Rapporteur: *Tony Musu (ETUC)*

REACH Authorisation and worker protection

Moderator: *Jaco Westra (NL)*

Rapporteur: *Mark Blainey (DG ENV)*

Optional 3rd group on subjects identified during day 1

12.00– 13.00 Breakout session reports and conclusions

Rapporteurs / Chair

Meeting-rapporteurs *Alick Morris (DG EMPL); Mats Forkman (SE)*

13.00 – 14.30

Lunch

14.30 – 15.30 Summing up of the workshop, conclusions and future perspectives

Reiner Arndt (DE)

Meeting-rapporteurs *Alick Morris (DG EMPL); Mats Forkman (SE)*

Appendix 6 – Participants list

The relation between Chemicals legislation and worker protection legislation – 14-15 June 2004**Delegates list**

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