

REACH and Worker protection legislation: Complementary legislations for improving worker protection?

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Will REACH duplicate the Chemical Agents Directive?

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Overview

Duplication of the Chemical Agents Directive (98/24/EC)?

political background

scope and content: REACH vs. CAD

preliminary conclusions

Potential synergies between REACH and CAD elements

**existing results of risk assessment under CAD as input
to CSA under REACH**

**REACH elements (additional hazard information, exposure
scenarios, information according to articles 29 and 30)
as basis for improved risk assessment under CAD**

Duplication of the Chemical Agents Directive (98/24/EC)?

Political background

European Parliament, Committee on Employment and Social Affairs
(T. Mann, rapporteur; March 2004):

“The industrial safety requirements should therefore be covered in full by REACH, and Directive 98/24/EC should be repealed, thereby enabling REACH to do justice to its comprehensive aims, without engendering systemic contradictions.”

Duplication of the Chemical Agents Directive (98/24/EC)?

Political background (cont.)

UNICE, Overlap between REACH and Worker protection directives
(8 February 2005):

“Options – In order to eliminate some of the overlaps between REACH and OSH two main scenarios can be foreseen – a **radical approach** or an **adaptation approach**.

A radical approach

Either manufacturers' / importers' workplace OSH conditions and the OSH aspects of downstream use could be removed from REACH, or

REACH should address all EHS downstream uses, and the relevant elements of CAD and CD should be repealed.

If this approach is not adopted then ...”

Duplication of the Chemical Agents Directive (98/24/EC)?

Political background (cont.)

UNICE, Overlap between REACH and Worker protection directives (cont.):

“If this approach is not adopted then the interfaces and lack of coherence must be identified, addressed and better managed. ...”

An adaptation approach to both to complement each other

the issues addressed by UNICE include:

- CSA and CAD risk assessment are two different types of risk assessment which should be considered as complementary, i.e. one informs the other
- links between OELs and DNELs and the process of establishing DNELs should be clarified
- dissemination of information on risk-reduction measures already in use should be improved for workplaces and along the supply chains

Duplication of the Chemical Agents Directive (98/24/EC)?

Scope and content: REACH vs. CAD

scope and content in general

scope of certain elements:

- **CSA / CSR / extended SDS**
- **DNEL**
- **exposure scenarios / appropriate measures for adequate control of risks**

Duplication of the Chemical Agents Directive (98/24/EC)?

Content: REACH vs. CAD – overview

Issue (CAD)	article in CAD	art. in REACH	issue (REACH)
IOELV	art. 3	art. 13 (1), (3); Annex I	DNEL
risk assessment	art. 4	art. 13 (1)	CSA
prevention measures	art. 5 & 6	art. 9 (a) (v); Annex IV, sect. 5	guidance on safe use
accidents, ...	art. 7	-	-
workers' information and training	art. 8	-	-

Duplication of the Chemical Agents Directive (98/24/EC)?

Content: REACH vs. CAD – overview (continued)

Issue (CAD)	article in CAD	art. in REACH	issue (REACH)
restrictions	art. 9; Annex III	Title VIII	restrictions
health surveillance	art. 10	-	-
workers' consultation and participation	art. 11	-	-

Duplication of the Chemical Agents Directive (98/24/EC)?

Scope: REACH vs. CAD

scope – CAD (art. 1 & 2):

- **all chemical agents**
- **all hazardous chemical agents**
 - **substances hazardous acc. to criteria in Annex VI of dir. 67/548/EEC**
 - **preparations hazardous acc. to criteria within the meaning of 1999/45/EC**
 - **any chemical agent, whilst not meeting the above criteria as hazardous, presenting a risk to the safety and health of workers because of its ... properties or the way it is used or is present in the workplace**

Duplication of the Chemical Agents Directive (98/24/EC)?

Scope: REACH vs. CAD (continued)

scope – REACH (Title II, Registration – art. 5 (1)):

- substances **“in quantities of 1 tonne or more per year”**
- exemptions
 - polymers (art. 14 [COM] / art. 2 (6) [Council])
 - certain specified uses (art. 4 [COM] / art. 2 [Council])
 - product and process orientated research and development – PPORD (art. 7)

Duplication of the Chemical Agents Directive (98/24/EC)?

Scope: REACH – certain elements

scope of

- **CSA:** “for ... substances ... in quantities of **10 tonnes or more** per year”
exemptions: isolated intermediates (Art. 15 & 16)
- **DNEL:** whenever a CSA is to be performed, irrespective of outcome of Classification and Labelling
- **exposure scenarios / “appropriate measures to adequately control the risks”:**
when a CSA is to be performed **and** the substance meets the criteria for classification as dangerous according to dir. 67/548/EEC

Duplication of the Chemical Agents Directive (98/24/EC)?

Content: REACH vs. CAD – duplication of certain elements?

- **CSA:** obs. for CAD: (i) workplace specificity
(ii) interaction with other risk factors
(cf. dir. 89/391/EEC, art. 6)
for details cf. presentation by **C. Northage**
- **DNEL:** obs. (i) different authorship (industry vs. COM)
(ii) details of criteria (TGD vs. SCOEL)
for details cf. presentation by **N. Rupprich**
- **exposure scenarios / exposure assessment:**
obs. generic vs. workplace-specific outcome
for details cf. presentation by **E. Karhu**

Duplication of the Chemical Agents Directive (98/24/EC)?

Preliminary conclusions

For a **limited number of chemicals**, **CSA** and **exposure scenarios** could constitute a valuable basis for **risk assessment** and the derivation of **prevention measures** in the workplace.

The extent of necessary adaptations will depend on both

- (i) the degree of specificity of the **intended uses** or the **use categories**, and
- (ii) the **specifics of the workplace** / the **work environment**

Duplication of the Chemical Agents Directive (98/24/EC)?

Preliminary conclusions (continued)

determinants of exposure

who	industrial or professional worker
where	indoor / outdoor
how	type of use
amount	g / kg / t
frequency	sporadic ... continuously
duration	min. ... 8 h / shift
RMMs	
waste handling	

adapted from H. S. Elbro, Danish Paint Association, Arona workshop, Feb. 2006 Folie 13

Potential synergies between REACH and CAD elements

Existing results of risk assessment under CAD as **input** to CSA under **REACH**

- already existing exposure assessment and derived prevention measures to be communicated **up the supply chain** in order to assist M/I's CSA (cf. art. 34 (1) & (2))
- use of already existing exposure assessment and derived prevention measures by DU for his own CSA in the case of art. 34 (4)

Potential synergies between REACH and CAD elements

REACH elements as **basis for improved risk assessment under CAD**

- **additional hazard information** (for substances above 10 tonnes): closing of data gaps should result in the recommendation of more protective risk management measures
- **identified uses / use categories**: the **less generic** identified uses / use categories are, the more specific the resulting exposure scenarios and the recommended RMMs can therefore be and, thus, the **less laborious** the adaptation at the end of the supply chain will be

...

Potential synergies between REACH and CAD elements

REACH elements as basis for improved risk assessment under CAD (continued)

...

- **transparent communication of data gaps**
 - for substances above 10 tonnes **due to waiving**: communicate exposure situations, excluded by waiving, explicitly as **use restrictions** (imposed by supplier) either in SDS or according to art. 30 (1) (d) (“... **relevant information ... to enable appropriate risk management measures ...**”) in order to enable the derivation of appropriate RMMs or to trigger DU’s CSA, if necessary

...

Potential synergies between REACH and CAD elements

REACH elements as **basis for improved risk assessment under CAD** (continued)

- ...
- **transparent communication of data gaps (cont.)**

...

- for substances between 1 and 10 tonnes which will **not be classified as “hazardous” whilst data for relevant endpoints are lacking:**

communicate **registration information** according to art. 9 (a) (iv) in connection with Annex IV, section 4, no. 4.1 (“... for each entry, the reasons why no classification is given for an endpoint should be provided ...”) **also in the supply chain** as part of information according to art. 30 (1) (d) in order to enable the derivation of appropriate RMMs

Summary & the way forward

- **no duplication of obligations discernible**
(pending the outcome of the following three presentations)
- **M/I (or the respective manufacturers' associations) should support the performance of risk assessment acc. to CAD at the end of the supply chains where there still are deficits:**
would be **helpful for SMEs**, would pay off as **input to CSA**
- **tuning of REACH details (through TGDs) should be aimed at:**
 - **easing of workplace risk assessment (particularly valuable for SMEs)**
 - **communication in the supply chain of remaining data gaps by utilizing information obligatory in the registration process**