Declaration adopted by the ETUC Executive Committee in their meeting held in Brussels on 17-18 March 2004

162.EC

ETUC DECLARATION on REACH, the proposed reform of EU policy on Chemicals

The draft Regulation on REACH (Registration, Evaluation and Authorisation of Chemicals) applies to the 30,000 chemical substances produced or imported into the European Union in quantities exceeding 1 tonne per annum. By adopting it on 29 October 2003, the European Commission pursued two main objectives, the first being to achieve a high level of protection for human health and the environment, the second being to promote the efficient functioning of the single market and enhance the competitiveness of the European chemical industry.

The European Trade Union Confederation is of the opinion that the REACH proposal constitutes a significant contribution to sustainable development in keeping with the commitments made by the EU and its Member States in Lisbon and Gothenburg.

The planned reform is important for several reasons. Firstly, concerning a Regulation rather than a Directive, it will apply directly in the 25 Member States as soon as it enters into force. REACH will replace around 40 existing directives and affect a very large number of different sectors. The system adopted will not only impose obligations on manufacturers (in the chemical industry), but also on numerous users of chemicals (e.g. in the building trade, woodworking industry, automotive sector, textiles, agriculture, the provision of services in the environmental and health sectors, the computer sector…)

REACH should also have considerable impact on the existing legislation designed to protect workers exposed to hazardous substances in the various sectors concerned, namely by:

- providing missing information on their properties;
- making chemical safety data publicly available on a right-to-know basis;
- enforcing the efficient distribution of information to downstream users and their personnel in a bid to counteract the risks of occupational diseases;
- encouraging the replacement of the most harmful substances by less hazardous substances, via restrictive and authorisation procedures, with a view to minimising risks.

With a view to genuinely improving the health protection of workers exposed to chemical products, the ETUC demands that particular attention should be paid to

EUROPEAN TRADE UNION CONFEDERATION
CONFEDERATION EUROPEENNE DES SYNDICATS
John Monks, General Secretary
Boulevard du Roi Albert II, 5 • B - 1210 Bruxelles • Tel: +32 2 224 04 11
Fax: +32 2 224 04 54 / 55 • e-mail: etuc@etuc.org • www.etuc.org

ensuring that the obligations laid down in the REACH system are consistent with those of the occupational safety and health directives.

REACH fits in with the approach set out in the Single European Act aimed at expressly linking the development of the internal market with respect for workers' rights and their protection in health and safety terms. ETUC believes that downstream users, like manufacturers and importers of chemical substances, must be responsible for all safety-related aspects of their products for that part of the life cycle in which they are involved, including recycling and disposal.

The 30,000 substances concerned will have to be registered with a future European Chemicals Agency. In this framework, the producers will henceforth have to supply the appropriate information required to ensure the safe use of their products before those products can be marketed within the European Union. ETUC welcomes this adoption of the principle of shifting the burden of proof, and strongly supports it.

ETUC calls upon all the economic actors to recognise the principles of registration and duty of care as general principles. ETUC also believes that the inclusion of other worrying substances should be facilitated in the authorisation procedure.

ETUC demands that workers' representatives be made members of the future European Chemicals Agency on a tripartite basis because it believes that the involvement and initiatives of employers and unions in the bid to securing better health and safety standards is a key precondition for the success of the Lisbon Strategy. Greater familiarity with good practices is essential in this connection. ETUC stresses that ongoing, constructive social dialogue between the social partners at both European and national level is an essential prerequisite for improving the implementation of existing legislation on worker's protection and training.

ETUC also notes that REACH should foster innovation. This is vital for the European economy as a whole and for the chemical industry in particular. It must enhance its capacity to come up with modern solutions for its future by developing criteria that embody respect for the environment and social responsibility.

To meet the requirements set out in Johannesburg in 2002, the European Union must take steps to ensure that the principles of REACH are recognised worldwide, thereby ensuring fair conditions of global competition.

There is a pressing need at European level to diagnose the requirements that this imposes in terms of defining and financing public and private sector R&D. Equally, smaller and medium-sized companies (SMEs) in particular need to gain a finer appreciation of the specific impact on employment of the implementation of the REACH Regulation, failing their adoption of appropriate preventive or stopgap measures. These measures ought to go hand in hand with a sharing of the costs, risks and financing schemes between producers and users, and especially between the major chemical groups and SMEs and SMIs. This can be done in particular by facilitating the application by SMEs and SMIs of the rules set out by the REACH system via the use of clear and simple procedures which enable them to cut their costs.

Based on the concerns and demands set out above, ETUC and its member federations undertake will not only continue to ponder these matters and take

further action, but will also take initiatives based on the annex[1] to draw up specific proposals designed to improve REACH by jointly safeguarding both the protection of the environment and the health of citizens and workers alike, thereby making a contribution towards sustainable development.

./.

[1] The ETUC Executive Committee has given the Ad Hoc REACH Working Group within the "Sustainable Development" Working Group the responsibility for discussing furher the questions raised in the annex.

ANNEX TO THE ETUC DECLARATION ON REACH

In addition to the ETUC declaration, we believe there is a need to consider some elements of the proposed draft reform in greater depth with a view to improving its contents. We have identified the following dimensions where thought and action is required:

1. **Duty of Care**

In what way should the general principle of the 'duty of care' be reintroduced into the REACH system so that it covers substances which fall outside the scope of the Regulation in question, namely those produced or imported in quantities below the registration threshold of 1 t per annum?

For registered substances that are not classified as hazardous, shouldn't we guarantee the possibility of demanding manufacturers and importers to document the sources used to decide on that non-categorisation and place them at the disposal of the respective authorities if requested to do so?

2. **Registration**

What will be the consequences of easing the requirements governing the registration of substances produced or imported in quantities of between 1 and 10 t per annum?

Wouldn't the exemption from a chemical safety assessment and from the requirement to draft a chemical safety report for the 20,000 substances concerned (2/3 of the substances that will have to be registered under REACH) represent a major loss of benefit with respect to the health and safety of workers exposed to hazardous substances?

Wouldn't risk management be improved by the following elements?

- If the obligation to submit a Chemical Safety Report applied to all substances produced or imported in quantities exceeding 1 t per annum.
- If the following tests[2] were required for substances produced or imported in quantities of between 1 and 10 t per annum:
    1. Acute toxicity
    2. Algal growth inhibition test
    3. Biodegradability test

3. **Assessment**

To safeguard the quality of the information provided by manufacturers or importers, isn't there a need to participate in the debate on the possibility and feasibility of introducing a quality control system into REACH? Could such a system cover both toxicological and exposure data?

[2] See the voluntary commitment made in 1997 by the German chemical industry (VCI) to provide such data within 5 years for all substances produced in quantities exceeding 1 t per annum.

4. **Authorisation**

In the REACH system as it currently stands, the authorisation procedure applies to the following chemicals of very high concern: CMRs, PBTs and vPvBs[3]. Shouldn't this regime be extended to other, equally hazardous chemicals, like strong respiratory and cutaneous sensitisers?

5. **Links between REACH and legislation governing worker protection**

It is important to remember that current legislation governing the protection of workers' health and safety against risks associated with chemicals remains in force and that REACH will therefore apply without prejudice to the minimum directives 89/391/EEC[4], 90/394/CEE[5] and 98/24/EC[6].

In this context, isn't there a need to look into the potential clashes between some provisions planned in the REACH system and existing legislation governing health and safety in the workplace?

Should we consider the possibility and feasibility of introducing provisions into the REACH that aimed to shore up the application of the various directives on occupational health and safety? In particular, might we envisage getting together with the relevant parties to consider how the obligations regarding assessment as set out in directive 98/24/EC and those provided for in the REACH system can be made totally compatible with each other?

6. Downstream users and SMEs

Bearing in mind the limited possibilities of a large number of companies in Europe, isn't there a need to think about the possibility of asking the relevant authorities to organise an aid plan to facilitate the implementation of the REACH system, especially for SMEs and downstream users?

7. **Impact on employment, health and European research programmes**

ETUC is also wondering what impact the application of REACH legislation might have on employment and health in the numerous sectors concerned. In the event that such impact was evaluated afresh, ETUC would like to be involved.

Could a commitment also be made to consider the potential influence of REACH on the definition of future European research programmes?

****

[3] CMRs: carcinogenic, mutagenic or toxic to reproduction; PBTs: persistent, bio-accumulative and toxic; vPvBs: very persistent and very bio-accumulative.
[4] Framework Directive on occupational health and safety
[5] Directive on the protection of workers from the risks related to exposure to carcinogens at work
[6] Directive on the protection of the health and safety of workers from the risks related to chemical agents at work

EUROPEAN TRADE UNION CONFEDERATION
CONFEDERATION EUROPEENNE DES SYNDICATS
John Monks, General Secretary
Boulevard du Roi Albert II, 5 • B - 1210 Bruxelles • Tel: +32 2 224 04 11
Fax: +32 2 224 04 54 / 55 • e-mail: etuc@etuc.org • www.etuc.org