

Proactive application of REACH through social dialogue and voluntary agreements

Giuseppe D'Ercole
CISL, Department of
sustainable development
policies, Rome

The chemical industry has often been blamed as the main culprit in a range of environmental hazards. But, to be fair, the chemical industry is the sector that is currently investing most to reduce the environmental impact of its activities and deliver better protection of workers' health at work. Even so, the consensus is that there is still a long way to go, and that REACH is a step in the right direction.

Successful delivery of the REACH objectives could be further improved if industrial relations and the whole labour relations set-up that in Europe goes by the name of "social dialogue", were carried out in accordance with each country's best practices, and if the clearest, most participatory and transparent voluntary agreements were to be implemented with the involvement of the stakeholders concerned.

Italy's national chemical industry monitoring centre – an Industry Ministry agency – has pointed out that the chemical industry has invested and is still investing most in innovation in both area and sectoral industrial relations and social dialogue systems.

Innovation in industrial relations

Among the most significant agreements recently concluded between trade unions and employers' organizations is that establishing a workers' environmental representative in refineries as a result of a chemical industry "energy" contract.

The workers' environmental rep has a right to paid time off for specific work-related training on the area environmental impact of refinery activities. He is also entitled to paid time off for discussions with the community and local authorities on issues relating to the environmental impact of industrial activities.

In the wake of this agreement, refinery industry unions and employers worked out a joint environmental training programme for workers' reps, and company safety and environment officers, which has recently gone into operation.

Workers' safety reps now also act as workers' environmental reps, therefore, helping to develop a function that promotes sustainable social, environmental and economic development. So, it could safely be said that the chemical industry is behind the creation of the workers' sustainable development rep.

He has gone from being a workplace representative arguing purely for shopfloor interests, even when they clash with the wider interests of the local community, to being a union rep conscious of his rights and responsibilities as a citizen in a specific area, working with the company to forge balances that are increasingly tipped in favour of sustainable environmental development and social acceptance of production activities. This helps business owners bring the social value of their activities into sharper focus and gain a wider acceptance in society for the idea that business is not just about providing jobs, but also about helping to prevent environmental damage that is as yet undetected or likely to appear only years or decades hence.

REACH provides a reference framework, and promotes real sustainability that is less about short-term profits than the ability to spot potential or future risks.

Sectoral agreement: sea transport of hazardous substances

The chemical industry is also behind another major agreement on the sea transport of hazardous substances. This is a voluntary agreement replacing binding legislation that has been challenged in the courts, leaving companies unsure of their rights and obligations.

Following the sinking of the oil tanker *Prestige*, which wreaked environmental, economic and social havoc to the Galician coastline in Spain, Italy's Environment Minister sought to create a statutory obligation to improve safety by using double-hull tankers.

The double-hull tanker legislation was already in force for the Venice lagoon, the site of one of Italy's biggest chemical complexes.

The Environment and Transport Ministers called joint national negotiations with chemical manufacturers and oil producers, shipping firms, trade unions and environmental groups to announce that the Venice

legislation was to be extended to all Italian ports, requiring double-hull tankers to be used for transporting and storing hazardous substances.

To their credit, the Italian environmental organizations, especially WWF Italy and Legambiente, did not stick to a hard line or political diatribes, but instead accepted the petrochemical industry's proposal to enter into a voluntary agreement which had the same effect by encouraging firms to charter only double-hull tankers, while shipping business associations pledged not to charter vessels without the double-hull safety structures for the carriage of hazardous substances.

This national agreement pre-empts by four years the entry into force of international legislation governing the carriage of hazardous substances by sea. The agreement was also supplemented with a training programme for crew on the management of waste in transit and a programme for port authorities to improve logistical facilities in this area for the efficient and prompt management and disposal of waste from the sea transport of hazardous substances.

The higher initial chartering costs of double-hull tankers was offset by the reduced cost of insurance premiums for accident and environmental damage risks, but especially by the increased security and certainty delivered for continuity of chemical plant and oil refinery production, and greater protection of other sea-related economic interests like fishing and tourism.

Once again, the chemical industry was proactive, bringing in a set of rules on the sustainability of its activity, in terms of the protection of the health and environment of those who could have been harmed by its activity, by putting the precautionary principle into practice.

REACH can be improved by this wealth of experiences, including more directly workplace-related ones, like *Responsible Care*, which can be incorporated into and developed within the REACH system.

Responsible Care is a global programme linking together chemical firms in an outreach initiative towards the families of workers and the local community where chemical plants are situated. It is a "factory open day" initiative where company executives and workers introduce their families, the local community and the authorities to the production process, the results they have achieved in terms of lessening the impact on the local environment, and safety systems that protect the health of workers and the surrounding community.

Far from trying to gloss over the dangers and risks of their production activities, these firms highlight the technologies and organizational systems that protect health and safety.

One thing is certain: it is an example to be followed for products used in production processes. What is needed is to communicate available state-of-the-art scientific and theoretical knowledge about their inherent dangers (registration), measures to protect workers and the local community (evaluation), and procedures for protection when using substances that are hazardous to humans and the environment.

Taking up the challenge of global competitiveness and sustainable development together

In this scenario of cooperation and transparency, the chemical industry can work with a greater will if institutions, stakeholders and especially European public opinion, become more aware of the global economic, industrial and financial challenges facing chemical industry firms.

Promote innovation

The European chemical industry is a world leader both in the market and in technologies for safety and lessening the environmental impact. Capital projects for innovative production processes and products can be brought in proactively without necessarily waiting for a payback which clears their written-down or investment cost.

Firms and sectors that are early innovators in production processes and products should be rewarded in line with the rules of the "Community guidelines on State aid for environmental protection", which could be further finessed and targeted in the first application of the REACH system.

Look at critical points

A special look must be taken at substances produced where European industry is structurally weak, both in terms of production, and levels of reliability for research and innovation.

Manage complexity

We believe that many firms are right now ready and able to work within the REACH system. But many fear it will be implemented and managed along unnecessarily bureaucratic, lines fixated on controls and penalties.

Various scenarios spring to mind:

- Firms with several substances to be subjected to the REACH procedure could find themselves under attack for one or two poorly analysed and notified substances, ignoring the dozen substances correctly notified.
- Allowance must be made for products that are marginally competitive on the market, where the REACH procedure could tip the balance in favour of stopping production in Europe.
- There are other substances where the market is already weak, and the possibility of resuming production in Europe may be ruled out.

We believe that the European chemical industry will gain more than it will lose from REACH, but if the winners keep silent, the bigger focus will obviously be on firms whose financial health is undermined to the point of collapse by their refusal to understand the damage that their activity may be doing to their workers, the local community and downstream users.

Introducing procedures to make REACH implementation more flexible based on good practice, especially in proactive registration, would enable the most critical and specific situations to be approached with equanimity through a balance between proactivity and possible derogations or staggered compliance periods for registrations, evaluations and authorizations.

Working assumptions

Voluntary agreements: programme contracts

Firms and sectors that claim to be ready to adapt to REACH, but which have critical points somewhere along the line, can set up voluntary technical discussions with official agencies, national authorities and workers' representatives, plus representatives of environmental and consumer groups, to work out a programme for positive REACH implementation. As part of this, proactive measures could be worked out for

some substances, while others could be accorded more time, with checks carried out at regular intervals.

The rules remain, but opportunities for "voluntary" negotiation open up around which specific programme agreements can be formed; these can be national but also European where the activities concerned relate to multiple substances and/or production facilities present in at least three European countries, or again, if they relate to entire production sectors.

Programme agreements concluded by firms with the relevant official agencies, also signed up to by the unions, environmental and consumer protection groups, could possibly use a special label signalling that not only are the firms REACH-compliant, but also that their commitment and development schedules have been officially vetted and are supervised by the relevant stakeholders.

Finally, as well as specific national seats, stakeholder representatives could have a permanent seat in the European Chemicals Agency for consultation, supervision, evaluation and approval of the results of voluntary agreements. ■

