Stock-taking conference on the implementation of REACH authorisation

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Ladies and gentlemen,

A 10-year anniversary is always a good occasion to look back at all that has been achieved. Today and tomorrow our focus will be on REACH authorisation. REACH itself was quite a revolution in the previous decade, and REACH authorisation brought a new concept and a new approach in EU chemicals law, bringing significant changes for the chemicals sector and its downstream users in the EU.

What was so new about REACH authorisation?

After all, we are very familiar with chemicals authorisation systems. These existing systems were however conceived for certain specific product groups, such as pesticides, biocides, medicinal products, or food contact materials. Before placing them on the market, they need prior authorisation.

But authorisation in REACH is based on a different logic. It is conceived to address all uses of substances of very high concern that are already on the market. Primarily, the system aims to phase-out these substances, but if companies do not have alternatives and need to continue using substances of very high concern they can apply for a REACH authorisation. On the one hand, this different approach is reflecting the high ambitions of REACH, while on the other hand, introducing and implementing such new concepts is challenging.

For this reason, REACH authorisation was, and still is, a learning-by-doing exercise.

Today, we are all here together, as we just heard, to live up to that challenge and to get the best out of this unique system. We welcome all opportunities, such as this Conference, to listen to each other and find ways to further improve the system.

There is growing evidence that the system is working. In addition to the figures that Geert just mentioned, I can say that the Commission adopted 40 authorisation decisions so far.

Obviously, we are also aware of some areas that need improvement, and we are already working on those.

However, in the Commission we believe that we cannot yet completely conclude on where further improvements are needed and what they should be, until we have completed the full decision-making, implementation, review and enforcement cycles for all types of applications. An additional but inseparable part of this learning-by-doing is also the completion of the court proceedings that are legally challenging some of the decisions.

We have limited experience with review reports: the first of these reports are now been scrutinised by the ECHA committees.

For the majority of the authorisations granted we are in the implementation and enforcement stages – and it is still unclear whether companies will submit review reports for granted authorisations, or

whether these companies have successfully substituted their substances of very high concern in the meantime (as was the case for HBCDD).

For us, it is difficult to see now how the shortcomings and the difficulties identified in the granting of some authorisations can be overcome at the review stage. We need to see in practice what the possibilities within reviews are.

Our experience so far shows that when downstream users submit specific applications, they generally have a smooth ride from the opinion making to the decision. The same cannot be said for applications submitted by actors higher up in supply chains that cover multiple downstream users. I would like to underline that, although REACH does not provide this type of applications by default, they are included in its provisions as a possibility. The authorisation process therefore also needs to work properly for these applications.

However it is exactly some of these more complex applications are now being subject to court cases. These are also the type of cases that, due to their complexity, need more time in the decision making phase. These are the applications where the Commission needs to look critically at the ECHA opinions and discuss internally and with the Member States in the REACH Committee. The Commission is intensifying and increasing its resources to speed up the decision-making and there is no doubt that the forthcoming case-law will provide clear and binding directions for further improvements. This should, in the end, serve to the benefit of all actors in all the stages of the authorisation process.

We cannot deny that the Commission decisions have been long in the making. However, it is only fair to say, that a faster and more efficient decision making in the Commission relies on good and clear ECHA opinions, which in turn rely on good and comprehensive applications.

Many applicants preparing the applications are here today. Please let us know what we, in ECHA and in the Commission, can still do to help you in your tasks, especially for the most complex cases.

As you may know, the Commission is currently looking at how the REACH Regulation is delivering on its objectives, including the Authorisation Title. This is happening in the framework of the second REACH Review, and we are in the final stages of the work. The conclusions and the reports will be made public at the end of the year or in early 2018.

In the context of the REACH Review, we conducted a study targeted at gathering evidence on impacts of authorisation. The main findings of this study will be presented to you today and tomorrow and we hope you will find them a useful basis for discussing the different topics in this Conference.

As you will hear soon from the presentations today and tomorrow, the study showed that authorisation is promoting substitution. It is reducing the risks for HH and ENV from the use of SVHCs and improving the risk management measures in the workplace.

There is also criticism on some parts of the process, including the analysis of alternatives and the public consultation on alternatives. We want to hear your views on these problems, to be able to address them and improve further the system.

Thank you for your attention – and I look forward to the discussion.