



**International Chamber of Commerce**

*The world business organization*

## **ICC views on the European Commission "REACH" proposal**

Prepared by the Commission on Trade and Investment Policy

The International Chamber of Commerce (ICC) supports international cooperative efforts on chemicals including those under the United Nations Rotterdam Convention on Prior Informed Consent (PIC), the United Nations Stockholm Convention on Persistent Organic Pollutants (POPs), the World Summit for Sustainable Development (WSSD) and the Organisation for Economic Cooperation and Development (OECD). WSSD highlighted the synergy among development, trade, commercial activity and environmental protection, emphasizing implementation that integrates economic, social and environmental considerations, built on cooperation and partnership.

In our view, the REACH proposal risks undermining existing international negotiations and cooperative ventures on chemicals in international commerce.

The REACH proposal does not adequately reflect economic, development and trade aspects of sustainable development, and would have negative economic impacts throughout the global economy with questionable environmental benefit. ICC is particularly concerned by its lack of consideration for trade impacts and the special circumstances of developing countries.

ICC's main concerns with the REACH proposal are the following:

- the questionable cost effectiveness and unnecessary increase of costs for chemical producers, users, and the general public;
- its potential for trade discrimination against non-EU companies in many sectors;
- the negative effect that such a unilateral EU initiative could have on existing global harmonization and cooperation efforts on chemicals; and
- the market access barriers and negative impacts on developing countries seeking to export chemicals or manufactured goods to the EU.

The European Commission's DG Environment and DG Enterprise have recognized that the REACH proposal's competitive impact can only be justified if the "REACH regime is successful in establishing itself as a new international standard." ICC is troubled by the fact that the European Commission itself anticipates the need to impose the proposed system on the world to make it economically viable, which would seem to contradict the multilateral cooperation that trans-boundary chemicals issues warrant.

Given the pervasiveness of chemicals in almost every product and REACH's substantial requirements for downstream users and importers, the REACH proposal would pose barriers for companies from a wide range of industries seeking to access EU markets, or relying upon chemicals or products manufactured in the EU. The REACH proposal will have significant consequences not only for chemical manufacturers, but also for all companies along the value chain that use chemicals in the manufacture or formulation of their products, especially for small and medium-size enterprises. Ultimately the cost of the initiative will be borne by individual consumers.

The REACH proposal prohibits the marketing and use of chemicals unless they register a base set of data, based on the tonnage manufactured, regardless of whether the data are needed to manage the actual exposure and risk to human health or the environment. As such, the REACH proposal ignores basic principles of cost-effectiveness, and could place unnecessary costs on businesses and societies

**International Chamber of Commerce**

38 Cours Albert 1er, 75008 Paris, France

Tel +33 (0)1 49 53 28 28 Fax +33 (0)1 49 53 29 42

E-mail [icc@iccwbo.org](mailto:icc@iccwbo.org) Website [www.iccwbo.org](http://www.iccwbo.org)

in developed and developing countries. The REACH proposal could create a significant data generation burden and extensive and expensive bureaucratic registration processes, potentially at the expense of necessary risk management measures by governments and companies. All of this will increase the cost of selling existing chemicals in the EU market, and risks removal of those chemicals from that market, with little measured benefit, and with potential losses in employment and economic growth.

In addition to the 30,000 chemicals it references, REACH will affect all downstream products made with those chemicals. The draft legislation requires downstream users to carry out additional testing where use or exposure differs from that foreseen by the chemical producer. The implication is that for chemicals requiring "authorization," downstream products could also be barred from the EU market until manufacturers or importers satisfy authorities' as yet undefined concerns about the chemicals used to make them. Similar potential employment and economic losses could be expected with regard to the wide range of affected downstream products.

In light of what are certain and potentially significant economic costs of the proposal, ICC strongly recommends that the Commission prepare a socio-economic assessment of the REACH proposal, to evaluate both its impacts in the EU member states (current and incoming) and on EU trading partners. ICC note that the REACH proposal itself provides for consideration of socio-economic impacts in authorization decisions and includes procedures to ensure transparency and public comment in that connection. In light of this, ICC submits that it would be appropriate to undertake the same type of socio-economic assessment of REACH and share it publicly for comment from stakeholders. The findings of such an analysis and subsequent societal dialogue would be of tremendous value in improving REACH, and determining the most cost-effective and least trade-restrictive approaches to meet its objectives.

The chemicals testing and information framework that results from the REACH consultative process should:

- be workable and non-trade discriminatory, fully in line with WTO rules;
- manage chemicals in a manner that is cost-effective and responsive to actual environmental and health risks, in order to limit the disruption of commerce and welfare that would result from broader, indiscriminate mandates;
- work in harmony with established international chemicals testing and management frameworks, rather than seeking to impose its approach internationally;
- be streamlined to accommodate the use of existing information and establish requirements that are flexible enough to reflect the intended uses of substances;
- include a list of possible exposure categories; and
- provide a substantive interface between the proposed EU chemicals agency and third countries, particularly developing countries, and make available technical and other assistance to developing countries in line with their special circumstances.

The WSSD, with the agreement of European countries, called for a renewal of commitments, "as advanced in Agenda 21, to sound management of chemicals throughout their life cycle (...) for sustainable development as well as for the protection of human health and the environment (...) using transparent science-based risk assessment procedures and science-based risk management procedures, taking into account the precautionary approach (...) in principle 15 of the Rio Declaration (...), and support developing countries in strengthening their capacity for the sound management of chemicals (...) by providing technical and financial assistance." ICC believes that the REACH proposal is contrary to this commitment, eschewing risk-based assessment and science-based management.

In addition, ICC notes that the REACH proposal is not in keeping with the precautionary approach set out in principle 15 of the Rio Declaration. No blanket threat of "serious or irreversible damage" is demonstrated, let alone alleged, with regard to every single chemical covered by the REACH proposal. Moreover, cost-effective measures, as called for by Principle 15, are not sought -- instead costs are merely shifted to chemical producers, users, importers and ultimately, to consumers.

Developing countries are major suppliers of a wide variety of commodity chemicals, plastic resins, products made from plastics and textiles made from chemical fibers. Exporters in developing countries -- including numerous small and medium sized enterprises -- may be ill-equipped to face the regulatory hurdles and unaffordable costs that the REACH proposal would impose. The REACH proposal could restrict access to EU markets for developing countries' products, unless they develop the extensive data sets called for or pay the owner of an existing data set. These market access barriers will be further increased if EU authorities were not to recognize tests performed in developing countries.

Although the opportunity offered by the Commission to comment on the proposal is welcome, it should not substitute for the dialogue and partnership appropriate to address an international issue with major sustainable development implications. The REACH proposal makes minimal reference to "third countries," and provides only for discretionary consultation with them. Numerous inter-governmental efforts in which both developed and developing countries participate take due account of the financial and technical assistance and capacity building required by developing countries to pursue chemicals risk management, an element that REACH lacks.

The proposal should be revised to factor in cost-effectiveness as a primary consideration, as opposed to merely shifting (and increasing) costs to business. More flexible data and risk assessment requirements that would reflect the intended uses of substances should be developed. Excessive or unnecessary testing requirements should be eliminated, as should unnecessarily trade restrictive procedures.

The EU should continue to work with the international community to promote cooperation to test, harmonize testing and assessment procedures for, share data on, and manage the transboundary movement and use of chemicals that pose the greatest risk to people and the environment. These international efforts should continue to be complemented by efforts to reduce and manage environmental impacts in the chemical and other industries. Such partnerships and voluntary initiatives should be promoted as complementary to governmental efforts in the EU and international contexts.

-----

**Document n° 103-42 / 11 Rev1 Final**  
**10 September 2003**