

ETRMA views on the Inception Impact Assessment on the revision of REACH

Brussels, 28th of May 2021

Rubber is a versatile material flexible and resistant used for many applications. The industry producing rubber in Europe is organized in two main blocks. The most visible and known is Tyres present in vehicles. The other is the General Rubber Goods (GRG) sector whose main application fields can be summarized as follows: the automotive and transport sector 63%, the industrial appliances sector 8-10%, the household applications 10%, energy / offshore 10-12%, food contact materials 4-5% and leisure 1-2%. The majority of the GRG sector are small medium size companies, SMEs.

The use of chemicals in the rubber industry is of utmost importance, to mention there are more than 1600 substances registered under REACH for its use in the sector of rubber manufacturing. The strong and robust chemical regulatory framework in Europe has placed the rubber industry at the foreground on chemical compliance, and strengthened its position worldwide.

The producers of rubber articles, as downstream users of substances and mixtures to produce rubber goods, are in a unique position in the value chain. Rubber articles are in many cases part of more complex articles serving to a large variety of sectors. This central position in the value chain boosts the industry importance and knowledge on legislation on products, articles, chemicals and mixtures.

Since its approval in 2006, the REACH legislation has evolved, from focusing on registration and evaluation of substances, to define restrictions and requirements on products in articles. An evolution, that has been emphasized even more in the recent chemical strategy for sustainability, placing in the front row the use of substances in articles. This evolution is forcing an adaptation of the rubber sector to new regulatory requirements at an extreme fast pace, in an environment where competitiveness and global trends already pressure the sector¹.

ETRMA would like to share the following considerations and points of attention in the coming REACH revision

Access to raw materials could be hampered by too demanding registration requirements

Rubber articles used in automotive aerospace, oil and gas or construction, to mention some, are required to perform in extreme conditions. Some examples are O-rings in diesel engines, hoses on off-shore installations and tyres for mining, agriculture or aviation. Specific and technical requirements demand the use of particular chemicals and polymers. Some are produced in low tonnages and in some cases imported and acquired for relatively low tonnages. Access to those raw materials is more and more difficult, as beyond global trends on increase production in Asian countries, the COVID-19 crisis has drastically hampered the access to raw materials.

Increasing the registration requirements for low tonnage products and polymers could disincentive the import of chemicals, reducing the choice and the options on raw materials for EU rubber manufacturers, and placing the industry in a competitive disadvantage face to non-EU countries with larger production. ETRMA has

¹ European market, LMC Tyre & Rubber for ETRMA, October 2020
<https://www.etrma.org/news/european-market-lmc-tyre-rubber-for-etrma-october-2020/>

estimated that approximately 30-40%² of the chemicals used in the production of rubber articles are currently registered under lower tonnage or are polymers not registered. The potential impact of reducing the access to 30% of the raw materials used in the rubber industry is not trivial³. Therefore, any increase in registration requirements for low tonnages substances and polymers should secure access, agreed transition periods, and address the impacts for niche, specialty chemicals and SMEs.

Rethinking the authorization title for REACH in favor of other risk management measures would secure a level playing field for EU manufacturers of articles without compromising safety.

The inclusion of substances in Annex XIV, in essence, requests the no-use of the substance in favor of alternatives. The use is only possible when an authorization is granted. This measure does not include EU producers of Annex XIV substances, which can continue to produce and export the substances. It does not affect either the use of the substances in non-EU countries neither the import of articles manufactured with the substances and/or containing the substance. The inclusion in Annex XIV targets exclusively EU manufacturers of articles and mixtures, downstream users. This is particularly concerning when technically performing alternatives are not available. EU manufacturers wishing to produce articles in the EU with the substance, have to apply for an authorization, a tedious and uncertain process that only grants access for a period, if ever granted.

This places EU manufacturers in an extreme competitive disadvantage, particularly when substances are process chemicals, process aids and similar technical functions. Those chemicals are used during the production of articles but not present in the final article or in negligible quantities. Non-EU manufactures can freely use the substance to produce articles and import articles to the EU, while EU producers are pending of an authorization to continue the use of the substance.

This also discourages innovation and investments across the whole value chain, as the lack of security on the use of the substance discourages investment and boosts delocalization of production lines and research and innovation.⁴

The proposal of removing the Title *Authorization* should be seen as an enabler to secure a level playing field for EU manufacturers of articles without compromising safety. Targeted risk management measures for concerning substances, such as inclusion in Annex XVII, Restrictions, and occupational exposure limits under the CAD 98/24/EC, and CMD 2004/37/EC, will allow equally and ever higher level of protection than inclusion in Annex XIV, Authorization, without compromising EU manufacturers' competitiveness, and boosting the use of alternatives when available .

Any extension of the *generic approach* shall be risk based and support the EU manufacturing industry, essential to boost modern society

Every chemical used in the production of rubber articles is carefully selected to secure performance including resistance, durability, anti-aging protection, and in some cases, protection under extreme temperatures and pressures.

The majority of chemicals used in the production of rubber articles do not meet the requirements of CMR; only a minority of substances meet the requirements as CMR among all the substances used in the production of rubber articles. Note that this includes process chemicals, aids, impurities and substances present in the

² Source: ETRMA. The term *substances used in the production of rubber* used includes, process chemicals, aids, impurities and substances present in the value chain of rubber production. The percentage does not refer to the substances present in rubber articles. The percentage might vary deepening of the type of article and sector.

³ Note: Not all raw materials are used in every application or article.

⁴ Impacts on the European Rubber sector of the inclusion of ADCA in Annex XIV of REACH: Authorization; March 2019 https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/2151-Chemicals-Regulation-REACH-updated-rules/F462517_en

value chain of rubber production. The proposal to extend the generic approach to more substances will increase by 40 % the substances used for the production of rubber articles under the *generic approach*.

The impacts of increasing the application of the generic approach to more hazardous substances are unpredictable, but would certainly damage and affect EU manufacturers' ability to produce rubber articles. Competitiveness will also be affected, as EU producers will lose the capacity to use raw materials that despite of being to some extent hazardous, are high performant, technical and economically advantageous and do not pose a risk when used under adequate risk management measures or when present in products.

In this sense, in the absence of a definition and even an agreement on what the *essential use* concept is and how to be applied; restrictions that apply the generic approach should target the risk the substance pose and not solely and exclusively be based on the hazard of the substance.

Equally, considering the serious impacts these restrictions have on society and businesses at large, Annex XV restriction dossier should be done considering all the possible scientifically and recent trustworthy sources and information, remaining the referent on state-of-knowledge and expertise, a goal that requires time, effort, dedication and adequate consultation with stakeholders. Such a process is incompatible with fast-track procedures.

Digitalization of safety data sheets should be free open-access and user-friendly.

The use of electronic formats to share information across the value chain and specifically safety data sheets already occurs in the rubber value chain. Unfortunately, in many cases, downstream users of mixtures or chemical substances, as rubber articles producers, are requested to purchase a particular software license in order to access to electronic safety data sheets. Having to purchase a specific software impedes a truth and broad spread of digitalization and particularly affects rubber SMEs. Digitalization requirements have to go hand in hand with user-friendly software, accessible to everyone with no cost, and comprehensive for basic computer skills users.

A level playing field can only be achieved with homogenous and continuous enforcement across EU member states

ETRMA welcomes and celebrates initiatives that aims to strengthen and enforce coherent and homogenous enforcement across member states. Securing compliance is essential to guarantee a level playing field and secure equal competitiveness across products placed on the market across EU members states and between EU manufactured and no-EU manufactured articles.

About ETRMA

The European Tyre & Rubber Manufacturers Association (ETRMA) represent nearly 4.400 companies in the EU, directly employing about 370.000 people. The global sales of ETRMA's corporate members represent 70% of total global sales and 7 out of 10 world leaders in the sector are ETRMA Members⁵. The product range of its members is extensive from tyres to pharmaceutical, baby care, construction and automotive rubber goods and many more applications. We have a strong manufacturing and research presence within the EU and candidate countries, with 93 tyre plants and 16 R&D centres.

⁵ ETRMA's membership: APOLLO VREDESTEIN, BRIDGESTONE EUROPE, BRISA, COOPER TIRES, CONTINENTAL, GOODYEAR, HANKOOK, MARANGONI, MICHELIN, NOKIAN TYRES, PIRELLI, PROMETON, SUMITOMO RUBBER INDUSTRIES and TRELLEBORG WHEEL SYSTEMS. Furthermore, members include Associations in the following countries: Finland, France, Germany, Hungary, Italy, the Netherlands, Poland, Spain and the UK.