Consultation response
April 2023

CHEM Trust, HEAL and EEB comments on REACH revision Information Requirements, as follow-up to CARACAL-48, 28/3/23

- Comments sent by email on 26th April 2023 to: *GROW-CARACAL@ec.europa.eu* ; *ENV-CARACAL@ec.europa.eu*;

1 General comments:

We would like to comment on the presentation of the REACH revision information requirements as presented at the CARACAL-48.

We underline and support the importance of the two most important goals as mentioned, to

- increase information on low tonnages substances
- increase information on harmful properties, including on endocrine disruption

These will be our guiding lines in evaluating the proposals on the table. In the context of introducing new NAMs it has to be clear what the consequences of a positive/negative study result is, i.e. what kind of regulatory conclusion will be drawn (*e.g.*`how many *in vitro* studies/how much evidence is needed to conclude the substance is an endocrine disrupter´).

As described in a recent CHEM Trust article we need to see chemical safety assessments as part of a stronger REACH, protecting health and the environment and promoting alternative methods. In the process of finding this balance the importance of read-across and grouping should be strengthened. We also sent a joint NGO letter to the European Commission calling for a more precautionary approach to regulation that enables faster and more effective identification of very harmful chemicals while reducing animal testing.

In the following comments below, we have responded to the questions raised at the CARACAL meeting, however, in general we find it difficult to comment on revised information requirements without having received a written proposal and a more comprehensive argumentation for the proposed changes. In particular, it will be important to include the advantages and disadvantages of the proposed replacements of *in vivo* studies with *in vitro* studies, most notably also the

justifications for the deletions of requirements of studies for high tonnage substances. In other words: what do we gain and what do we lose?

It should be kept in mind that the European population is still daily exposed to thousands of chemicals that have not at all been tested or evaluated for their potential endocrine disrupting effects and other hazardous effects. Therefore, there is a need for closing these data gaps. The current proposals seem to propose a trade-off: including a few new information requirements for ED properties and for low tonnages while at the same time deleting other information requirements for high tonnages. This bears the risk of undermining the protection level for human and wildlife health (in particular see our comment on the carcinogenicity study in Annex X).

Overall, the goal of revising the information requirements should also be to ensure that the updated information requirements should enable classification & labelling and thus match the criteria of the hazard classes under CLP.

2 Specific comments

2.1 Inclusion of *in vitro* tests for ED activity and triggering *in vivo* tests for ED – low tonnages

We welcome the new NAM requirements in Annex VII which are under consideration as presented at CARACAL 48. Positive results should be triggers for further investigation while negative results from just these tests would be insufficient to conclude the substance is safe.

In particular, we find it crucial for future identification of EDCs that ED *in vitro* mechanistic information is included, as endocrine activity is one of the three required components of the criteria for ED identification. In addition, we support inclusion of the suggested *in vitro* test for EAS modalities. However, we also strongly encourage the Commission to consider the inclusion of *in vitro tests* to cover various sorts of thyroid activity, currently under development in the EURION cluster and OECD. As a minimum, the legislation should be prepared in a way, that when these tests are adopted as OECD test guidelines, they will automatically be included in the REACH information requirements.

In our view it is important that positive results from NAMs are followed up. In case of *in vitro* testing (or QSAR-screening or literature search) showing signs of ED properties, this should **trigger** further investigations depending on the available information (e.g. by advancing the level of evidence according to OECD GD 150 or following testing strategies as proposed in a report by the Danish Centre on Endocrine Disrupters. In this context we would like to emphasize that evidence from environmental data may also be relevant in relation to effects in humans and vice versa, thus making an integrated assessment most effective.

In order to reduce costs and animal testing, a more straight-forward identification based on non-animal methods and other approaches is needed without requiring the same evidence as in current assessments. Thus, it should be sufficient for concluding a substance as an ED if there is endocrine activity *in vitro or in vivo,* if a substance is bioavailable, and if similar substances are already identified as EDs. For other substances and to follow-up in case there are clear indications of endocrine disrupting properties, more focussed tests may have to be requested such as an EORGTS. Here the test design and an experienced laboratory is most crucial to obtain meaningful results.

Further, it should be emphasized that negative results from in-silico/in-vitro screenings should not be used to negate other alerts of ED properties relevant for humans or the environment, e.g. found in academic studies. In such cases, focussed investigations are needed and further requests for clarification should be triggered - based on a weight of evidence approach as presented in CARACAL. Several open questions are still remaining for us, among them if it will be possible to

classify low tonnage carcinogens with the new info requirements. We hope this will be clarified in future communications.

2.2 Environment – low tonnages

When it comes to the question whether we can rely on the

- In vitro cytotoxicity OECD TG 249 *or*
- Fish embryo toxicity (OECD TG 236)

to replace the short-term fish toxicity test, we have got the impression from following the work in the EU research project ERGO that both tests are very promising and show good capacity to detect effects on several endpoints.

When it comes to the proposal to replace bioaccumulation in fish (Annex IX) by either

- In vitro test OECD TG319A/B (i.e. intrinsic clearance in rainbow trout hepatocytes) and in vitro-in vivo extrapolation (IVIVE) for estimation of kinetic BCF or
- Bioaccumulation in invertebrates (e.g. Hyalella Azteca bioconcentration test)

it has to be questioned whether these tests are ready for use for the time being, e.g. the Hyalella test has been postponed in the OECD work.

2.3 Proposal for deletion of studies, including the carcinogenicity study in Annex X

A proposal to ´balance´ the additional information requirements for low tonnage substances with deletions of other information requirements for high tonnage substances, cannot be supported. The REACH review by the Commission in 2018 found that the current requirements do not allow a sufficiently thorough hazard assessment, including for identifying substances of very high concern (SVHCs). This means the current ***im***balance needs to be rectified and no deletions should be proposed unless a convincing justification and alternative assessments can be provided to ensure that protection levels are not undermined. Therefore, we strongly oppose this reduction in the information requirements, especially for the carcinogenicity study in Annex X.

From a protective perspective it is hard to defend that substances can be marketed in high tonnages without detailed knowledge about the carcinogenic properties – this would be a significant step down in the protection of human health and indirectly also of wildlife health. Further, the REACH information requirements are also crucial for generating the data for identification and CLP classification of carcinogens.

The proposed deletion of the carcinogenicity study does not seem to be in consistency with the commitments of the CSS to amend REACH information requirements to enable identification of all carcinogenic substances manufactured or imported in the EU, irrespective of the volume, and to strengthen protection of workers. In addition, this seems not to be in line with and support of the Europe's Beating Cancer Plan, where reduction of environmental pollution is one of the aims. Furthermore, it is not clear how this can be proposed without presenting an assessment of the health impact of such approach.