ECHA's PROGRESS TOWARDS IMPLEMENTATING REACH PRINCIPLES.

TEN CRUCIAL TESTS FOR 2020

REACH is the EU flagship regulation on chemicals. It is based on key EU democratic and environmental principles that need to be implemented in order to ensure that human health and the environment are protected against the risks posed by hazardous chemicals.

In our view REACH is delivering results towards achieving its protection objective, worthwhile and considered as a global model. However, the EEB has identified several areas that needs to be improved by ECHA, in particular on the implementation of the precautionary principle, assigning the burden of proof to industry, the 'no data, no market' rule, substitution of hazardous chemicals and transparency. Only the application of these principles will allow REACH to provide high levels of protection to human health and the environment and help to achieve the Sustainable Developments Goals (SDGs) and the EU goal of a toxic-free environment.

The European Chemicals Agency (ECHA) has a crucial role as it is the main EU body in charge of implementing the REACH Regulation and is responsible for the management and the technical, scientific and administrative aspects of REACH.

This test aims to improve the implementation of REACH by enhancing ECHA's adherence to REACH's underlying principles.

We challenge ECHA with the following ten activities to be performed within the year. We consider the delivery of these activities as indicators of ECHA's commitment and success towards implementing REACH's underlying democratic and environmental principles.

We will evaluate and communicate its progress in one year time.

INCREASING TRANSPARENCY AND IMPROVING DISSEMINATION

1. **Ensure transparency of ECHA Committees meetings** by:
    - Ensuring that all documents subject to discussion at all ECHA committees are available to attending stakeholders at least one week before the discussion takes place.
    - Allow civil society organisations (CSO) stakeholders access to advanced information, participation and reporting of any workshops, or training sessions organised for ECHA Committees members as well as industry-ECHA dialogues.
    - Ensure advanced access to documents subject to written procedures.

2. **Ensure the transparency and user-friendliness of ECHA's database:**

- Include a clear and short explanation note in the front page of ECHA's registered substances database explaining that the data is provided by industry, not by ECHA or any scientific body or public authority. Make clear that the industry is responsible for the reliability of the data.
- Develop a proposal on how to ensure that ECHA's registered substances database better reflects the results of dossier and substance evaluation in the database with regard to the compliance and evaluation status of the dossiers: for example, dossier has been checked for compliance [XYZ endpoints]; dossier has been found not compliant, when, reasons/concerns found and follow-up actions.
- Initiate a two-year stepwise approach to improve transparency of ECHA's Dossier evaluation status pages and Substance evaluation - CoRAP pages as suggested in EEB's Evaluation report (2019). For example:
  - Specify whether "Follow-up" means follow-up evaluation by ECHA or follow-up by national enforcement authority;
  - Add explanatory note on the different categories under "status" for substance evaluation (as already included on dossier evaluation);
  - Add outcome of Substance evaluation (further risk management needed or not);
  - State explicitly if dossier was found non-compliant and on what ground; stop redacting the names of the companies ECHA finds in non-compliance with registration obligations;
  - Add outcome of Board of Appeal decisions as well as the follow up delivered or intended by ECHA.
- Publish tonnage bands for all substances for each company.
- Initiate process to publish all exposure scenarios by 2021.
- Ensure that the SCIP database under development allows easy and free public access by 2021.

PRECAUTIONARY PRINCIPLE

3. **Develop a guidance and organise a workshop** for MSC, RAC and SEAC (or each individually) on how the committees shall reflect uncertainties, time to generate missing information and cost of inaction in their opinions. This will enable the Commission to apply the Precautionary Principle.

ALLOCATION OF BURDEN OF PROOF TO INDUSTRY

4. Commission an **independent evaluation of ECHA's socio-economic assessment methodology** to address the concerns raised by the reports "Lost at SEA" by ChemSec and "Discounting Future Damage" by CHEM Trust regarding:

- Low weight and lack of accuracy given to current and future benefits to society;
- Limitations of used willingness-to-pay studies;

- Assessment of available alternatives and the ability of the market to adapt to changes and innovation;
- Lack of clarity/coherence on choice and use of discount rates;
- Monetisation and aggregation of impacts where there is only partial quantification and a high level of uncertainty over some impacts –particularly health and environmental impacts. Better understanding what future impacts will meaningfully be;
- Business confidential data;
- Methods for reporting on and judging scientific uncertainty.

5. Develop guidance on the **minimum information requirements needed to justify granting derogations to restrictions** (equivalent to information required for applications for authorisation)and ensure that no derogation is accepted when registration dossiers are not compliant or updated.

6. Ensure that the **final opinions of ECHA Committees on restrictions transparently highlight the changes to the dossier submitter's original proposal and the justifications for these changes**, as well as ensure that they include information on the impacts to health and/or the environment of the proposed derogations, costs of inaction and justifications of the Committees for supporting these derogations.

SUBSTITUTION

7. Co-organise two **supply chain workshops** per year **on alternatives** to Annex XIV or candidate list substances in order to allow potential applicants to authorisation to be informed about substitution possibilities and network with alternative providers.

8. Ensure that the **ECHA committees' opinion template** for applications for authorisation include the possibility to recommend not granting an authorization (e.g. in case of general availability of alternatives) by including an option of zero years for the proposed review period.

9. Ensure that **ECHA** requires systematic proof from the applicant that it contacted existing alternative providers and reports from the discussion on the feasibility of the alternatives or asks market information from applicants, in order **not to take the arguments of applicants on lack of alternatives at face value**.

10. At least until a clear position has been adopted by the Commission, **stop granting derogations for use of substances of concern in recycled materials** without having assessed the whole life-cycle of materials such as plastic, including the post-recycling phase. Emissions estimates for recycling shall incorporate new use phases (life cycles) and final disposal options e.g. landfilling or incineration.