



## ALTERNATIVES ASSESSMENT AND SUBSTITUTION PLANNING UNDER REACH

The EU Commission is discussing how alternatives assessment and substitution planning can support the authorities' decisions on granting authorisations or derogations to restrictions under REACH (see [tender specifications](#) and [workshop background paper](#)). With this paper, EEB and ChemSec would like to give our view on the best way forward and share our concerns with some of the proposals brought forward already in this early stage of the process.

We believe more relevant information on alternatives and substitution possibilities earlier in the regulatory process could support a more efficient alternatives assessment since a lack of this information is one of the main obstacles in today's system. The issue is twofold, authorities lack information on alternatives when drafting restriction dossiers and companies lack information on alternatives when applying for authorisation. More information about alternatives earlier in the process, together with the introduction of the essential use concept, would be able to speed up regulation, reduce the burden on ECHA Committees, REACH Committee and the Commission as well as support producers and users of safer alternatives more effectively.

The key to achieving this is strict regulation and implementation of regulation as well as clear and strong incentives for companies to phase out the most harmful chemicals as soon as possible. One effective incentive would be to introduce fees, growing over time, for the use of the most harmful chemicals.

Moreover, the system we have today disfavours alternative providers and closes possibilities for safer alternatives to take market shares instead of opening up these market opportunities. A system based on substitution plan commitments will not necessarily make the situation for alternative providers and users of safer alternatives better. This needs to be taken into account in the discussions.

To make regulation more efficient and to support producers and users of alternatives we propose substitution plans to be an obligation for companies using the most harmful chemicals until they are banned. However, we do **not** support these substitution plans being a justification for achieving a derogation or authorisation to continue using the most harmful substances.

Strict regulation with clear phase-out deadlines has shown, time and again, to be the main incentive to substitute hazardous chemicals. Voluntary commitments by industry, which are difficult to assess and monitor, will only delay the much-needed transition to safer alternatives.

Below you will find more details on our proposal for how alternatives assessment and substitution planning can support the authorities' decisions on granting authorisations or derogations to restrictions under REACH. For some of the proposals below, a revision of REACH is not necessary, although changes in the legal text are needed for others, and hence a revision, is necessary.

### **More relevant information on alternatives earlier in the process:**

When a substance is either:

- CLH-classified as belonging to the most harmful chemicals\*
- CLP-notified as belonging to the most harmful chemicals\*
- Included in Registry of Intentions for restriction
- Candidate-listed as a SVHC

Downstream users shall notify the European Chemicals Agency (ECHA) about their uses, registration dossiers shall be updated and downstream users shall inform ECHA about available alternatives and present a substitution plan for all different uses.

All substitution plans should be reviewed at least once a year. ECHA should keep all submitted substitution plans to be able to go back and look at the credibility and accuracy of the plans when needed.

Substitution plans can be done company by company or within industrial consortia (such as SIEFs).

In developing substitution plans, the user needs to actively search for alternatives, consult with research institutions, search platforms with potential alternatives and discuss possibilities for substitution with potential alternative providers.

Each use of a substance needs to have a substitution plan in order to make it credible.

The information on uses and alternatives will support the preparation of restriction dossiers and Annex XIV listing.

If a company has failed to update registration dossiers, notify uses and submit a substitution plan they should not be able to apply for authorisation or get a derogation within a restriction.

### **Fee for use of the most harmful substances**

Companies producing or using any of the most harmful substances\* should pay a yearly fee dependent on the production or use volume. This fee should increase over time.

*\*Defined in the Chemicals Strategy for Sustainability as: CMRs, EDCs, PBT, vPvB, PMT, vPvM as well as substances affecting the immune, neurological or respiratory systems and chemicals toxic to a specific organ.*

### **Include the Essential use concept in REACH**

Only uses critical to health and societal functions and where no alternatives are available (“essential use”) shall be able to get derogations from restrictions or apply for authorisation. These derogations and authorisations should be based on the criticality of the use as well as when alternatives can be available.

All derogations should be time-limited.

No derogation should be granted to individual companies.

### **Focus on creating a market for the alternative providers**

Providers of alternatives shall be able to give information about their products in a platform managed by ECHA. This platform shall be searchable for all and used as an information source when discussions, if alternatives are available, take place. It will also help determine if substitution plans are credible.

ECHA shall encourage alternative providers to hand in their information on the platform and establish contact with the alternative providers.

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*Some of the ideas in this paper come from [ClientEarth's briefings](#) on the REACH reform.*

*\*Defined in the Chemicals Strategy for Sustainability as: CMRs, EDCs, PBT, vPvB, PMT, vPvM as well as substances affecting the immune, neurological or respiratory systems and chemicals toxic to a specific organ.*