

**STATEMENT BY ASEAN ON REACH
AT THE 9 NOVEMBER 2006 MEETING OF THE TBT COMMITTEE**

Agenda Item 2(b): Specific Trade Concerns

The following statement, dated 9 November 2006, is being circulated at the request of the Singapore, on behalf of ASEAN members.

1. ASEAN Members both as a grouping and individually have expressed our concerns on various aspects of the EC's REACH proposal in previous meetings of this Committee. As we had commented previously, we recognize and support the right of Members to take measures to protect health, safety and the environment. However, in keeping with the spirit and letter of the TBT and other WTO Agreements, it is also incumbent upon Members not to adopt measures that create unnecessary barriers to trade. In this connection, our industry remains concerned about the adverse impact that the REACH's complex and broad regulatory structure could have on international chemical and downstream trade.

2. While we express our appreciation to the EC for the consultations it has undertaken on the REACH with industry and other interested parties, there continues to be many outstanding questions and concerns on the REACH.

3. In fact, apart from the ASEAN context, the EC's REACH proposal has also been discussed in the broader APEC setting, to which ASEAN Members belong. At its meeting in Da Nang, Vietnam in September, the APEC Chemical Steering Group consisting of industry experts and government officials from the Asia-Pacific region discussed the latest developments in the REACH. That meeting identified a number of concerns that our industry continues to have on the REACH.

4. Our industry has a number of concerns relating to the following aspects of the REACH.

I. MANDATORY SUBSTITUTION OF SUBSTANCES

Questions:

- (a) How will information on acceptable testing methods for substances of very high concern be made available to industries outside the EU? How will non-EU stakeholders have access to this determination process?
- (b) How will European Chemical Agency officials evaluate the required analysis asked of registrants, as a matter of routine, on possible alternative substances? Given the significant lead times needed for producers to make any changes in product development and increasingly global supply chains, how will the information on

possible alternative substances be used? What kind of consultation process will occur with companies facing possible requirements for the substitution of substances, including substances in articles?

- (c) Applicants for authorizations must include socio-economic and alternatives assessments. These assessments include, by necessity, information (e.g., price, performance and other aspects) considered to be confidential. What procedures and safeguards exist for the protection of confidential business information, including rights of appeal from adverse decisions prior to disclosure of information?
- (d) How will the European Chemicals Agency address the lack of capacity of laboratory facilities in overseas markets? Are capacity building projects foreseen? Will overseas laboratories be able to enter into mutual recognition agreements with European labs for the purpose of carrying out REACH requirements?

II. REQUIREMENTS FOR MONOMERS IN IMPORTED POLYMERS

Question:

- (a) How will the wholesale registration of monomers in imported polymers by non-EU firms enhance the protection of human health or the environment in Europe?

III. COMPLIANCE DETERMINATIONS

Questions:

- (a) Given that compliance enforcement for REACH will occur at the Member State level, how will consistency be maintained with respect to registration, evaluation and authorization?
- (b) How will the transparency of REACH compliance procedures be guaranteed?

IV. DEVELOPMENT OF REACH GUIDELINES AND PROCEDURES

Questions:

- (a) How can non-EU firms be assured that their unique viewpoints, comments and concerns have been taken into account in the development of REACH implementation guidance?
- (b) In anticipation of determinations that are adverse to non-EU firms' interests, what avenue(s) of appeal or review will be available to firms to secure redress, particularly for firms downstream in the supply chain?

5. The above-mentioned concerns are by no means exhaustive and we reserve the right to raise further issues on the REACH later. ASEAN would appreciate it if the EC could provide clarification to our industry concerns and questions, and take account of these concerns.
