SVHC in (imported) articles: State of play in the implementation of REACH

Policy Workshop:
Strengthening REACH provisions concerning (imported) articles

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Background

- A key objective of REACH = to ensure the safe use of substances
  - workers, consumers, environment
  - throughout the life-cycle of the substance, from manufacture until service life of articles and waste phases
- Articles can contain a broad range of substances
- Growing awareness, concerns and pressure from the civil society to get more information on chemical substances in everyday products

How to ensure the safe use of chemicals in articles?

- To **be informed** of the presence of substances in articles (industry / authorities / consumers)

- To **communicate** the presence of substances in articles, and the conditions to ensuring their safe use (supply chain / consumers)

  - To **assess** the releases/exposure to conclude whether the use in an article is safe (registrants)

- If needed, to **regulate** the use of certain substances in certain (categories of) articles (authorities)

The legal tools addressing (imported) articles

- Information generation/gathering:
  - Registration – Art.6 / Art. 7(1), 7(5) - all substances
  - Notification – Art. 7(2) - Candidate List substances only

- Communication obligations, towards both supply chain, including distributors (Art. 33(1)) and consumers (Art. 33(2))

  Note: no direct involvement of ECHA

- *Regulatory Risk Management tool: REACH and non-REACH Restrictions*

Info gathering – Registration (1/3)

Articles 6 / 7(1), 7(5)

- These articles indicate when and how the use of substances in articles triggers « standard » registration information requirements

- **Art. 6, in combination with Art. 10 and Annex I**: registrants of substances as such or in mixtures should cover all identified uses; the life-cycle stages resulting from identified uses cover, where relevant, the service-life of articles and the waste stage.

Info gathering – Registration (2/3)

Articles 7(1), 7(5) – Legal text

- Art. 7(1) and 7(5):
  - target specifically producers or importers of articles
  - apply to all substances (above 1 ton/year)

  - *Art. 7(6): registration obligations does not apply when already registered for the same use (in article), either in the same supply chain (EU-made articles) or in another supply chain (in particular for non-EU articles)*

Info gathering – Registration (3/3)

Articles 7(1), 7(5) – Legal text

- Art. 7(1): when «*substance is intended to be released under normal and foreseeable conditions of use*» → registration

- Art. 7(5): option for ECHA to request registration when it «*has grounds for suspecting that:*
  - *i. the substance is released […]*
  - *ii. the release […] presents a risk […].*»

Info gathering – Notification (1/2)

Article 7(2) – Specificities

- Targets specifically producers or importers of articles which are not already addressed via Art. 7(1), or already registered for that use

- Focus on:
  - Candidate List substances only,
  - Presence above 0.1%.

Info gathering – Notification (2/2)

Article 7(2) – Legal text

- EU Producers and importers of articles shall notify substances in articles to ECHA if
  - The substance is on the **Candidate List,** and
  - The substance is present in the articles at a total of **>1 tonne** per producer/importer per year, and
  - The substance is present in those articles above a concentration of **0,1 %** weight by weight.

- Companies shall notify to ECHA within 6 months of the inclusion of the substance on the Candidate List or when starting import/production.

Communication

Article 33 – Legal text

- Article 33(1): when there is >0.1% of a Candidate List substance in the article, the supplier of the article: "...shall provide the recipient of the article with sufficient information to allow safe use of the article including, as a minimum, the name of the substance"

- Article 33(2): Consumers can request the same information. The information should be provided within 45 days, free of charge.

Art. 7(2) notifications

State of play

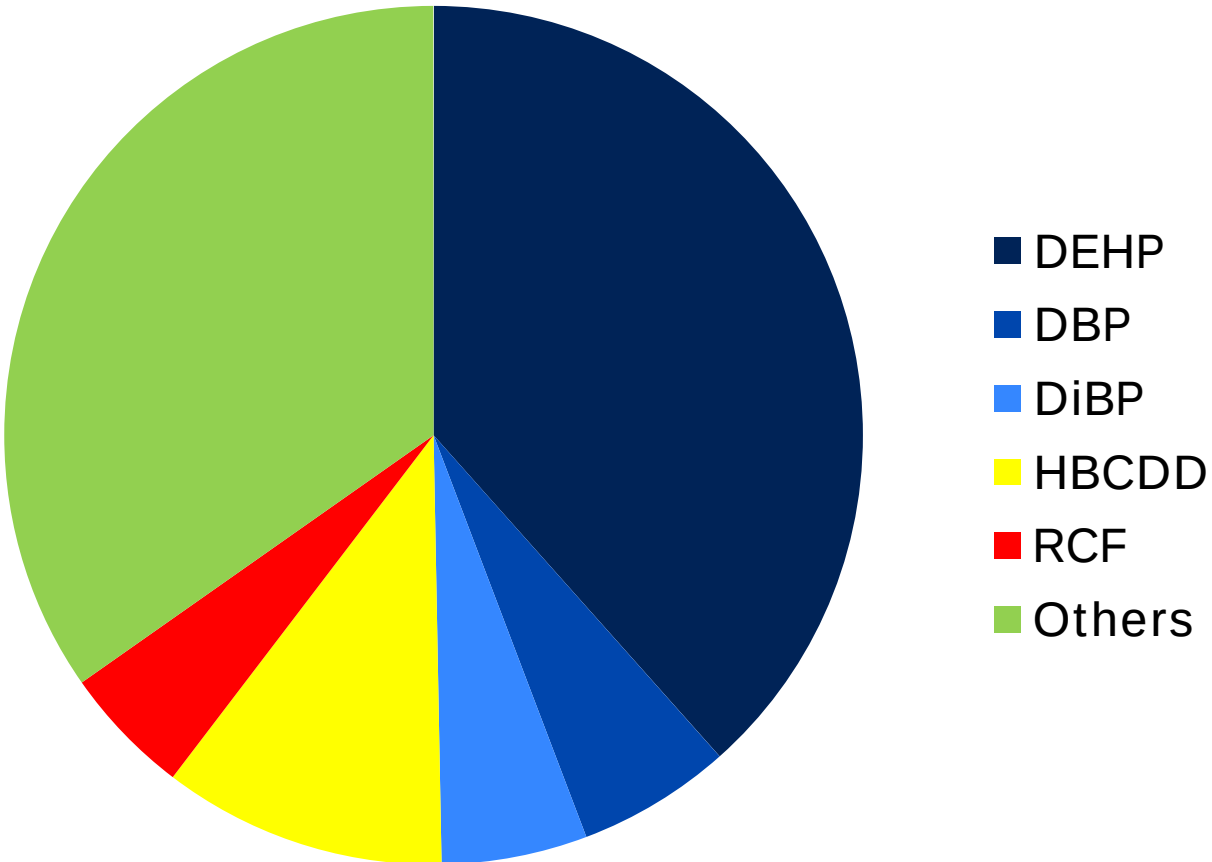
Purpose of the SiA notification (art 7(2))

- Ensure that **sufficient information is available** on use of Candidate List (CL) substances in articles not covered by registrations.
  - In principle, for EU producers of articles, the use of CL substances in production of articles should already be registered; this is assuming that Downstream Users (DU) obligations and supply chain communication duties are complied with

- To support the identification of cases which may require regulatory risk management.

State of play – Art. 7(2) notifications

- Number of Candidate List substances: 155
- 328 notifications, covering 36 substances



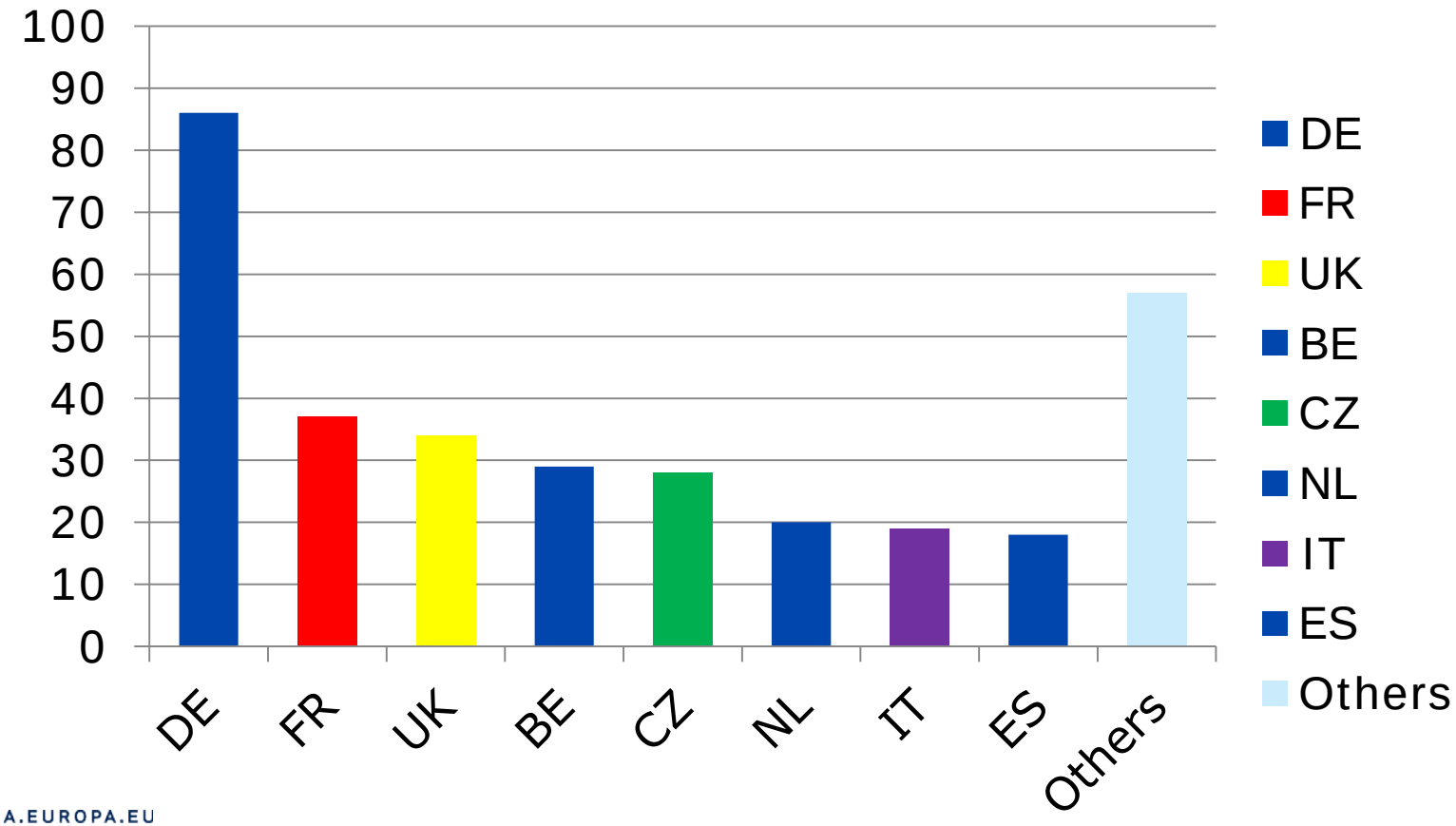
State of play – Art. 7(2) notifications

Who is notifying, and how?

- Approx. 52% from Importers and Only Representatives
- Approx. 52 % of notifications received through webform submission (since 1 December 2012)

State of play – Art. 7(2) notifications

More than 80% of notifications received are from 8 countries; no notification from 6 EU MS



State of play – Art. 7(2) notifications Conclusions

- Overall picture:
  - Number of notifications remains very low over the years
  - Limited number of substances notified
  - Share of importers of articles lower than expected

- Conclusions:
  - Limited level of compliance
  - Some actors are out of the picture

- Possible reasons:
  - Lack of awareness
  - Difficulties in complying
  - Misinterpretations of the legal text

Identification of issues and needs

- Early 2013: questionnaire to Member States (RiME, HelpNet, Forum) about national activities relating to the Substance in Articles (SiA)

- Main learnings:
  - Industry:
    - awareness is generally low (importers of articles, non-EU producers of articles, SMEs)
    - SiA requirements perceived as complicated
    - practical difficulties in complying with the obligations (eg. to get information on/determine the presence of SVHCs in articles, updates of the Candidate List, handling IT-tools etc.)
  - Consumers: awareness is generally low
  - Enforcement: little enforcement of the SiA obligations

The challenge

- The problem = expected data is missing
- The challenge = To get good quality data:

1. generated,
2. communicated, and
3. used.

ECHA's activities

- To raise:
  - general interest of ensuring safe use of chemicals, and
  - awareness of legal obligations, and existing tools
- To provide support to various actors involved (to guide, to provide tools, to disseminate information…)
- To serve Regulatory Risk Management

ECHA's activities: Raising awareness

- To reach a larger number of importers (incl. SMEs) and non-EU actors
  - → awareness raising strategy / campaign towards selected group(s) of importers on the SiA obligations, and consumers
  - → seeking for cooperation with multipliers, such as Member States incl. enforcement authorities, Commission, general public)

- To disseminate data in the most appropriate way
  - →ECHA's website contains notification information, available to different actors

  Includes examples of articles containing CL substances, which are available for consumer use: http://echa.europa.eu/information-on-chemicals/candidate-list-substances-in-articles

ECHA's activities: Providing support

- Objective: to serve both duty holders (and their partners) and other recipients of the information
- On-going activities: Guidance, Q&As, IT tools
- Some projects:
  - Ensuring a better description of uses, and in particular the article service-life
  - Developing examples of Exposure Scenarios, including from articles
  - Materials' information platform

ECHA's activities: Serving Regulatory Risk Management (RRM)

- The data on substance in articles allow authorities to:
  - identify needs for RRM measures
  - develop proposals for RRM measures
- Restrictions:
  - « standard » Restrictions
  - Art. 69(2) Restrictions, for articles for which substances are subject to Authorisation
  - Art. 68(2), for CMR in articles
- ECHA provides technical support, and develops Restriction proposals on request of Commission

Conclusions (1/2)

- «Standard» registration remains the main source of information on the use of substances, including in articles, and aims at ensuring the safe use of chemicals for articles produced in EU

- Art. 7, and in particular Art. 7(2), is meant to ensure that sufficient information is available on use of substances in articles not covered by registrations, to identify any potential concerns

- ECHA's task: to make the current system work, and further improve it

Conclusions (2/2)

As far as notification of Substances in Articles is concerned, most important is to:

- improve awareness and understanding, by all parties involved
- ensure the generation and communication of information throughout the supply chain
- ensure that the collected information serve the purpose (information in the supply chains, consumers, and regulatory action where necessary)

ECHA
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Thank you for your attention…

Any questions?