

1 chemicals: stricter regulations

New EU Chemicals Strategy

As was reported in ENHESA's Global Regulatory Forecast for 2002, the European Union is moving towards a fundamental renewal of the way in which chemicals are regulated [ID 1978]. The White Paper intends to bring new and existing chemical substances under a unified regime called REACH (Registration, Evaluation and Authorisation of CHemicals). The European Commission intends to put forward proposals for a Directive on the issue by mid 2003. The new regulatory approach will not only impact the chemicals industry, but also anyone who imports anything considered to be chemicals (such as printer ink cartridges). In the coming ten years this is expected to cost industry more than EUR 3000 million. The REACH strategy is just part of a wider movement to better regulate the use of chemicals. In order to be able to assess vulnerability and cost, companies should ensure they know which chemicals are used in their processes and products, and the type of releases this may involve. Intra-industry co-operation is likely to be encouraged to reduce the burden imposed by the new chemicals strategy.

During 2002, the European Union, also saw significant regulatory developments relating to existing chemicals legislation including, amongst others:

- Legislation further restricting the marketing and use of various chemicals [ID 5651, ID 5376, ID 5285, ID 2649, ID 4970, ID 4327, etc]
- Directive on hazardous substance restrictions in electronic and electrical equipment (RoHS Directive) [ID 3648]
- Legislation on import and export of dangerous substances [ID 5544, ID 1317]
- Regulation on Ozone Depleting Sunstances amended [ID 1987]
- Update on positive and negative chemicals lists for cosmetics [ID 2211]
- Consultation on battery Directive revision [ID 2822]

Web-links:

European Chemicals Page

<http://europa.eu.int/comm/enterprise/chemicals/index.htm>

Introduces the New Chemicals Strategy and provides an overview of the existing chemicals legislation. This includes the results of the study ordered by the European Commission on the Assessment of the Business Impact of New Regulations in the Chemicals Sector. The new regulations are expected to cost industry between EURO 3000 million and EURO 10.000 million over the coming ten years, depending the options selected.

European Commission Page on Restrictions on Use of Chemicals

<http://europa.eu.int/comm/enterprise/chemicals/markrestr/markrestr.htm>

Provides access to recent regulatory developments to further restrict the use of specific chemicals such as Blue colourant/Azo-dye, Arsenic, Organostannic compounds, Hexachloroethane, Creosote, Penta/octabromodiphenyl ether, CMR (Substances classified as carcinogens, mutagens or substances toxic to reproduction),

Short Chain Chlorinated Paraffins (SCCP), and azocolourants. Identifies the targeted risk assessments that form the basis of the European Commission's latest proposals to further restrict Methylene-chloride, DEGBE, Phthalates, Nonylphenol and Lead.

European Chemicals Bureau:

<http://ecb.jrc.it/>

Includes new (Feb 2003) Classification and Labelling database which contains Classified Dangerous Substances as in Annex I of Directive 67/548/EEC and the recently agreed classification by the Commission Working Group of Classification and Labelling. Also gives multi-language translations of chemical names.

Global System for Chemicals Regulation adopted

In December 2002 the Globally Harmonized System of Classification and Labelling of Chemicals (GHS) was finally adopted. It seeks to protect people from the mismanagement of chemicals, classifies them according to their hazard, creates a labeling system based on pictograms universally understandable and a uniform safety data sheet system. It is the outcome of a collaborative effort amongst various international organizations such as ILO, WHO, OECD, UNECE and the EU, with the active support of the chemicals industry and countries that have regulated chemicals thus far. It is expected that most countries will adjust their regulations and practices in the coming years in order to have the system fully operational by 2008. This will involve adjusting the various national chemical classification and labeling systems. Many countries in Asia, Africa and Latin America will receive support to introduce their first chemical legislation. Anyone using chemicals will be affected and will need to review and adjust standard operating procedures to identify, classify, label and handle chemicals accordingly. Systems used to identify and track chemicals used on site will need to be adjusted. The global harmonization will however greatly facilitate the development of corporate-wide procedures and systems, and thus chemical management in general. A variety of databases and information sources are also becoming available to aid in the global harmonization of chemicals classification and labeling.

At the World Summit on Sustainable Development held in Johannesburg, South Africa from 26 August - 4 September 2002, the following key outcomes in relation to chemicals were agreed upon:

- By 2020, to use and produce chemicals in ways that do not lead to significant adverse effects on human health and the environment.
- A renewal of the commitment to the sound management of chemicals and of hazardous wastes throughout their life cycle.
- Promote the ratification and implementation of relevant international instruments on chemicals and hazardous waste, including the Rotterdam Convention so that it can enter into force by 2003 and the Stockholm Convention so that it can enter into force by 2004.
- Further develop a strategic approach to international chemicals management, based on the Bahia Declaration and Priorities for Action beyond 2000, by 2005.
- Encourage countries to implement the new globally harmonized system for the classification and labeling of chemicals as soon as possible, with a view to having the system fully operational by 2008.

South Korea: [5640, 5641, 2278]; China: [4005, 4505, 5603, 5604, 5601]; Hong Kong: [4225]; Japan: [5515, 5711, 5714]; New Zealand: 5441; Australia: 507, 5273; Thailand: [5051, 5495]; Argentina: [5685]; Mexico: [5675, 5611]; Colombia: 5518; Canada: [3953, 5206, 5416]; USA: [5470]

web-links:

The Globally Harmonized System of Classification and Labelling of Chemicals

<http://www.unece.org/trans/danger/publi/ghs/officialtext.html>

The official text of the Globally Harmonized System of Classification and Labelling of Chemicals (GHS), with the annexes on the label elements, classification and labeling, statements and pictograms, consumer product labeling, and examples. Guidance is included to assist countries and organizations in the development of tools for implementation of the GHS.

UNITAR Training and Capacity Building Programmes in Chemicals Management

<http://www.unitar.org/cwm/homepage/b/hc/index.htm>

Widespread introduction of the GHS and effective hazard communication into national legal and technical infrastructures is only likely to occur if adequate support for training and technical assistance is made available. To this end, the UNITAR/ILO/IOMC GHS Capacity Building Programme is developing partnership activities and providing support to assist countries in developing and implementing the GHS. A dedicated site includes some 50 National Chemical Profiles:

<http://www.unitar.org/cwm/infocap/service1/service1.htm>

OECD Chemicals Page

<http://www.oecd.org/oecd/pages/home/displaygeneral/0,3380,EN-about-519-14-no-no-no-0,FF.html>

Web-site of the Organisation for Economic Co-operation and Development (OECD) with extensive information on its chemicals safety programme. The program has as its goal to make chemical control policies more transparent and efficient and save resources for government and industry. The site provides access to information on chemicals hazard risk assessment, risk management, testing guidelines, good laboratory practice, new chemicals,... Good sources of information include: The EXICHEM database which is a pointer system on current, planned and completed activities on existing chemicals in OECD Member countries and other relevant bodies.

<http://www.olis.oecd.org/exichem.nsf>

<http://cs3-hq.oecd.org/scripts/hpv/>

The High Production Volume list including those industrial chemicals for which a Chemical Abstracts Service (CAS) Registry Number had been assigned and which are produced or imported at levels greater than 1000 tonnes per year. The most recent OECD HPV Chemicals List is that compiled in 2000, which contains 5,235 substances. The next List will be compiled in 2003.

Chemical Safety Information

<http://www.inchem.org/pages/icsc.html>

Chemical Safety Information collected under the International Programme on Chemical Safety as a means of rapid access to internationally peer reviewed information on chemicals commonly used throughout the world. It consolidates information from a number of intergovernmental organizations whose goal it is to assist in the sound management of chemicals. It an alphabetical list (by chemical name) of some 1260 chemical safety cards (MSDS) by chemical name.



Continued global focus on Asbestos regulation & liability

2002 saw a sustained amount of legislative activity in relation to asbestos across the globe. Regulatory activity was evenly distributed between further banning or restricting marketing and use on the one hand [ID1976, ID 2318, ID 4359, ID 4485, ID 5138, ID 4797], and exposure reduction and control requirements on the other [ID 5531, ID 5265, ID 3690, ID 1734, ID 3008]. This global activity shows that asbestos regulation is spreading steadily around the world and that it will remain an important and topical issue for 2003 and beyond.

Other developments related to asbestos have focused on personal injury claims from employees who were exposed to asbestos at work and now suffer from cancer. According to the US National Bureau for Economic Research (NBER) at least 600,000 people have now filed asbestos exposure claims in the US. Eighty firms have filed for bankruptcy because of asbestos liability, including 30 since the beginning of 2000. Insurers have paid out approximately USD 32 billion in compensation to date and the total cost of asbestos compensation is projected to be between USD 200 and USD 275 billion, making asbestos the largest mass tort in U.S. legal history.

Europe is also likely to be affected, although not to such an extent as in North America. According to some analysts, asbestos-related claims could cost the European insurance industry as much as 80 billion euros (USD 70 billion). In the UK, the House of Lords judgment provided a landmark ruling in **Fairchild etc. v. Glenhaven Funeral Services Ltd and others** on 16 May 2002. The Judgement paves the way for joint and several liability of employers for damage caused by asbestos exposure.

In addition, the UK House of Lords judgment in **Lubbe and others v Cape Plc** of 20 July 2000 could open doors to future asbestos claims in the UK courts. In this

case, the House of Lords held that 1,600 South African asbestos miners employed by a South African company had the right to bring a personal injury claim in the English courts against their employer's UK parent company. Although the case was settled (for USD 60.3 million) before the central question (i.e. whether a parent company could be liable for the activities of its foreign subsidiary) could be answered, the judgment remains significant. It establishes that the availability of legal funding arrangements in England and Wales is a ground for granting jurisdiction to foreign claimants wishing to bring a personal injury action against a UK-based defendant, even where the claimant lives overseas and the exposure and disease occurred outside England or Wales.

The pro-active and safe management of asbestos is more important than ever for businesses. If asbestos is increasingly being banned worldwide, it remains present in many existing buildings and equipment. Employers should contract specialized companies to carry out a full asbestos survey (e.g. compulsory in Belgium, France and the United Kingdom - ID 3690), and if any asbestos is found on site, an asbestos management plan should be elaborated to avoid any asbestos exposure and the asbestos should be removed in a safe manner.

Web-links:

Government Asbestos Topic Pages

<http://www.hse.gov.uk/asbestos/index.htm>

http://www.workcover.vic.gov.au/dir090/vwa/home.nsf/pages/so_asbestos

Background information and guidance on asbestos issues. Includes for example in the UK, a short guide on managing asbestos in premises.

US - The Asbestos Alliance

<http://www.asbestossolution.org/index.html>

Home page of a non-profit organization comprised of asbestos defendant companies, trade associations, insurers and others seeking congressional legislation to solve America's asbestos litigation crisis.

Pages from Associations of Asbestos Victims

<http://www.abrea.com.br>

Brazilian Association of the 'Asbestos-Exposed' (ABREA) which is at the forefront of campaigns to achieve both domestic and international asbestos bans. The website describes the origins and aims of ABREA and carries links to other proactive groups both in Latin America and worldwide.

<http://andeva.free.fr/>

National association representing French asbestos victims (ANDEVA), which played a leading part in campaigning for French and European asbestos bans.

International Ban Asbestos Secretariat

<http://www.ibas.btinternet.co.uk/>

Home page of the International Ban Asbestos Secretariat - an NGO. Provides a global overview of asbestos initiatives, regulations, etc.

The British Asbestos Newsletter

<http://www.lkaz.demon.co.uk>

The site carries web versions of the last 22 issues of the newsletter which is distributed to victim support groups, public bodies, lawyers, researchers, doctors, academics and environmentalists in over thirty countries. Stories cover asbestos-related topics in a variety of areas: legal, medical, historical, economic, corporate, sociological, etc.

PCBs receive global regulatory attention

Polychlorinated biphenyls (PCBs) are mixtures of up to 209 individual chlorinated compounds (known as congeners). There are no known natural sources of PCBs. PCBs are either oily liquids or solids that are colorless or light yellow. PCBs were used as coolants and lubricants in transformers, capacitors, and other electrical equipment because they don't burn easily and are good insulators. However, PCBs are recognized as being a persistent organic pollutant, which can have serious impacts on human health and the environment. Products that may contain PCBs include old fluorescent lighting fixtures and electrical devices containing PCB capacitors, and old microscopes and hydraulic oils. Due to their inherent dangers (they easily accumulate and do not break down in the environment), and the fact that PCBs can enter the environment through the air, water, and soil during their manufacture, use, and disposal; from accidental spills and leaks during their transport; or from leaks or fires in products containing PCBs, there is widespread regulation of their use and disposal.

PCBs were recognized as posing a significant risk to human health and the environment in the mid-1970s. Since then they have been increasingly regulated. Various countries during 2002 have adopted legislation or made steps towards phasing out the use of PCBs, as well as regulating their disposal.

For example, Peru [ID 5681]; Argentina [ID 5591; ID 3421; ID 5189]; the United Kingdom [ID 5543] and Sweden [ID 536] have recently taken regulatory initiatives towards the phase out on the use of PCBs. In particular it is worth mentioning that the Province of Buenos Aires in Argentina now requires that devices containing more than 0.0002% of PCBs in weight (2ppm) will have to be decontaminated at the owner's expense before the end of 2009 [ID 3421], instead of the limit of 5ppm widely applied throughout the European Union. In addition, it is worth noting that in Sweden, innovative proposals have been put forward to regulate the use and removal of PCBs in buildings [ID 5336]. When adopted, the proposals would require reports, inventories, measures and action plans to be drawn up for the supervising authorities on how PCBs in buildings are to be managed (by 2004). By 31 December 2008 a proposed requirement on the reconstruction of floors with a PCB content higher than 500 ppm would be implemented and finally, a requirement for action on floors with a PCB content lower than 500 ppm by demolition/renovation/rebuilding would also be introduced.

With regards to controlling the disposal of PCBs, Canada [ID 4198]; France [ID 1917]; Czech Republic [ID 3175]; the Netherlands [ID 5136]; Germany [ID 4602]; and Belgium [ID 3073] have all seen regulatory initiatives taken to avoid the landfilling of PCBs and to control the incineration of waste containing PCBs.

The aforementioned regulatory developments are in part a reaction to the adoption of the Stockholm Convention of 22 May 2001 on Persistent Organic Pollutants, which is a global treaty to protect human health and the environment from persistent organic pollutants (POPs). The Convention will enter into force once it has been ratified by 50 signatories (as at March 2003 the number of ratifications stood at 30).

These developments are likely to have an increased influence on industry. Although many developed countries are already regulating the issue, the eventual ratification of the POP Convention and the voluntary adoption of PCB restrictions will mean the issue becomes increasingly global throughout 2003 and beyond.

Web-links:

UNEP Global Survey on Persistent Organic Pollutants "living document"

<http://www.chem.unep.ch/pops/pops-gs/popsgs.htm>

Provides national research and background information on POPs, listed alphabetically by country.

UNEP POPs Database on Alternatives

<http://dbserver.irptc.unep.ch:8887/irptc/owa/ini.init>

The POPs Database on Alternatives is a reference database for possible alternatives to POPs. Not only chemical substitutes but also biological, environmental and other alternative approaches are covered.

US-EPA - PCB Homepage

<http://www.epa.gov/opptintr/pcb/>

Describes the applicable US Laws and Regulations, guidance documents, lists of approved companies, a database on PCB activities and a database on the location of some 3400 transformers containing PCBs.

U.S. ATSDR - Resource Page on PCBs

<http://www.atsdr.cdc.gov/tfacts17.html>

Website of the U.S. Agency for Toxic Substances and Disease Registry with a Resource Page on PCBs describing what PCBs are, what happens to them in the environment, how humans can be exposed to them, the possibility that they may cause cancer,...

Helsinki Commission - Reports on PCB Releases

<http://www.helcom.fi/pollution/hazardous.html>

The page gives access to a compilation of information, derived from various international organisations, and analysis of appropriate measures aiming at safe handling and reduction of releases of PCB from PCB-containing equipment in use. A second report provides a compilation and evaluation of the information given by the Contracting Parties with the focus on legislative situation, current uses, stockpiles and releases.

European Commission Page on PCBs

<http://europa.eu.int/comm/environment/waste/pcbs/index.htm>

DG Environment Information on on the disposal of PCBs and PCTs.

Stockholm Convention on Persistent Organic Pollutants (POPs)

<http://www.pops.int/>

Homepage of the Convention with links to implementation, guidance, lists of ratification and the official text of the convention, etc.