REACH: ONLY REPRESENTATIVE

Non-EU companies (exporters to EU) have no direct obligations under REACH. Compliance with REACH must be ensured by their EU-based importers (i.e. they have to register the substance, provide safety data sheets (SDS) where necessary, etc.). In order to allow importers to fulfil their obligations, non-EU companies will, however, have to provide the necessary information on the substance to the importer. In other words, all companies supplying or selling their products in the EU must register their substances (chemicals).

But, if the exporters do not wish to disclose their confidential business information (CBI) regarding substance, (e.g., exporters may not wish to disclose the composition and formulation of polymer, which may be of significant interest to their clients), the **"only representative"** will be the only option to get their substances registered because exporters cannot register substances themselves.

An **"only representative"** (OR) may be EU based companies/ independent service organization/ individual and he takes over all obligations on the importers under the registration title of REACH. The only representative can represent one or several manufacturers, formulators or producers of articles outside of the EU and exporting to the EU.

Who can be Only Representative/ Qualifications of the Only Representative

The only representative may be a subsidiary of the non-EU manufacturer, an importer, a legal representative, a consultant or even citizen of EU states (legally). Therefore, this could be anyone living in European Union. However, it is important that such a person should be a good organizer and communicator. He should have sufficient background in the practical handling of substances and the information related to the relevant substances to fulfill the obligations of importers. An only representative is not obliged to disclose the identity of the 'non-EU manufacturer' he is representing, to the other participants in the data sharing process.

If a person other than the importer is appointed as OR, all importers will be regarded as downstream users (DU) of that only representative.

Appointment of an Only Representative

When appointing an only representative, it is necessary that the "non-EU manufacturer" provides his only representative with up-to-date information on the list of EU importers which should be covered by the registration of the OR and the quantities imported into the EU.

The "non-EU manufacturer" will appoint an OR by mutual agreement, has to inform all the EU importers in the same supply chain that he has appointed an only representative to conduct the registration, (He should clearly mention the particular tonnage band and use(s) of the substance(s) to be pre-registered and registered), thus eventually relieving the importers from their registration obligations. The list of the importers that are covered by the registration is to be reported in IUCLID

in section “1.7 Suppliers” while submitting the registration dossier.

A “non-EU manufacturer” can only appoint one only representative per substance. Both the only representative and the importer must be able to clearly document to enforcement authorities which imports are covered by the registration of the only representative. Otherwise, the importer remains responsible for all his imports.

Consequences for the EU Importers

Although the importer will receive confirmation from his “*non-EU manufacturer*” on the appointment of the only representative, he should preferably also obtain confirmation in writing from the only representative that his imported tonnage and use is indeed covered by the registration submitted by the only representative. This would not only provide the importer with the contact point to whom he, as acting as a downstream user, can make his use known, but would also give the importer a clear documentation that the imports are indeed covered by the registration of the only representative, as otherwise he remains responsible for the imports.

The role of the Only Rep

An only representative is fully liable for fulfilling all obligations of importers for the substances he is responsible for as a registrant. These do not only pertain to registration but also all other relevant obligations such as pre-registration, communication in the supply chain, notification of substances of very high concern (SVHC), classification and labelling and any obligations resulting from authorisations or restrictions etc.

Although the only representative is legally responsible for the registration, it can be anticipated that in most cases, it will be the “Non-EU Manufacturer” that will provide him with all necessary data for his registration dossier. If a ”Non-EU Manufacturer” decides to change his only representative, the successor will have to submit a new registration dossier, as there is no link between the two only representatives who are separate legal entities. It is nevertheless possible for the new only representative to agree with the former only representative and to reuse the data and dossier of the former only representative to prepare his registration dossier.

The only representative can represent one or several ”Non-EU Manufacturer”. If it acts on behalf of several ”Non-EU Manufacturer” it must submit a separate registration for each of these substance manufacturers. The tonnage of the substance to be registered in each registration is the total of the tonnages of the substance covered by the contractual agreements with the only representative and the specific ”Non-EU Manufacturer” represented by him. The information requirement for the registration dossier shall be determined according to this tonnage. By making separate submissions, the confidential business information of the ”Non-EU Manufacturer” can be preserved and equal

treatment with EU manufacturers can be ensured (EU manufacturers must submit separate registration dossiers for each legal entity).

The responsibilities of Only Representative can be summarized as follows:

- To make the pre-registration and fulfill other obligations on behalf of the non EU manufacturer
- To accept official role on SIEFs
    - Agree on hazard assessment for single registration (CSA)
    - Agree on data gaps
    - Agree on costs of sharing data
    - Agree on new testing strategies
- To identify and agree to work with importers (DUs)
- To consider exposure scenarios of DUs (and in turn, their customers etc)
- To organise CSR (either prepare themselves or helps DUs)
- To organise and agree on SDSs to be consistent with Registration details
- To be a part of joint submission when other manufacturers, importers or representatives exist for the same substance.
- To make Registration (pay fees!)
- To monitor supply patterns (volumes of import by each importer, SDS checks, etc.)
- To check whether risk management measures are being communicated or not.

For queries and services related to the "REACH" Please Contact

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