

OSPAR Convention for the Protection of the Marine Environment of the North-East Atlantic
Meeting of the Offshore Industry Committee (OIC)
Videoconference: 8 - 11 March 2022

Terms of Reference for an Intersessional Correspondence Group on REACH Harmonisation (ICG-REACH)

Background and Purpose

1. OIC 2019 agreed to reconvene the REACH Inter-sessional Correspondence Group (ICG-REACH) and OIC 2020 to expand its terms of reference to progress the OSPAR objective of harmonising HMCS and REACH. ICG-REACH will undertake a review of OSPAR Decision 2000/2 (as amended by OSPAR Decision 2005/1) and all underpinning Recommendations and Agreements to determine how the OSPAR approach to offshore chemicals can further harmonise with REACH.
2. At OIC 2021 ICG-REACH submitted a report recommending areas of work where effort should be focused to progress the objective of ICG-REACH. The update to ICG-REACH terms of reference reflects those recommendations.
3. At OIC 2022 ICG-REACH submitted a report on the progress of the recommended work in 2021-22. The present ToR reflects the content of this report in regards to the continuation of the work on the recommended areas and the results hereof and in addition the proposed involvement of HASEC in the ICG.

Scope of Work

4. ICG-REACH will develop proposals for submission to OIC 2023 on how further harmonisation between the OSPAR HMCS and REACH regulation could be achieved, including on the issue of CHARM Assessment Factors (AFs) not being accepted under the REACH Regulation. In terms of further harmonisation between OSPAR HMCS and REACH, ICG REACH will progress the following:
 - a. Work towards the identification of those substances that cannot demonstrate safe use under REACH Regulation at an efficacious dose and support the development of an agreed plan of action to demonstrate safe use.
 - b. For those substances that are not able to demonstrate safe use under REACH determine if the REACH registered PNECs have been calculated using REACH R10 or CHARM Assessment Factors.
 - c. Determine the potential consequence of adopting REACH AFs under the OSPAR approach and identify potential options to limit the impact on the OSPAR approach.
 - d. Consider the similarities between the data requirements of the OSPAR HMCS Pre-Screening Scheme and those of the REACH PBT Screening process, how they could provide a basis for further harmonisation, and whether it would be possible for HMCS registrants to access the relevant REACH data. In addition, consider the acceptability of REACH data for the purposes of HMCS registrations.
 - e. Consider how substances exempt under REACH, as is currently the case for polymers, would be handled, given that they do not have any REACH data available and therefore rely upon the OSPAR HMCS approach to provide a process of obtaining those data and provide a means for undertaking risk assessment.

- f. Consider how the validity of REACH exemptions based on tonnage limits would need to be reviewed because if adopted under HMCS they would have consequences for chemical products used in low quantities by the offshore oil and gas industry, in particular for products that feature substitutable substances.
 - g. Consider whether the Hazard and Risk assessment approaches for inorganics, which are not well-defined under the HMCS, offer scope for harmonisation with REACH.
 - h. Strategies for the identification of substances for substitution, acknowledging that the OSPAR HMCS approach provides Contracting Parties with a means to address the risks presented by a greater range of substances than those only covered by REACH.
 - i. The review of OSPAR Decision 2000/2 (as amended by OSPAR Decision 2005/1) on a harmonised mandatory control system (HMCS) for the use and reduction of the discharge of chemicals should also consider that offshore chemicals registered using the OSPAR approach should be fully compliant with the REACH regulation for the end user (OIC 19/3/4).
5. The review of OSPAR Decision 2000/2 (as amended by OSPAR Decision 2005/1) and all underpinning Recommendations and Agreements to determine how the OSPAR approach can further harmonise with REACH should consider, but not be limited to:
- a. Toxicity, biodegradation and bioaccumulation data and testing requirements.
 - b. The relevance of harmonisation of OSPAR with REACH Bioaccumulation and Toxicity Cut-off values.
 - c. Basis of risk assessment for a) organic chemicals and b) inorganic chemicals.
 - d. Strategies for the identification of substances for substitution.
 - e. That registration under REACH is for a substance but under OSPAR HMCS it is for the offshore chemical and understanding the possible implications for further harmonisation.
 - f. Differences in HMCS and REACH exemption policies (e.g. polymers not covered by REACH, REACH tonnage limits, HMCS exemptions for non-offshore chemicals, PLONOR list).
 - g. That HMCS registrations and REACH registrations may not have been submitted by same registrant/notifier and understanding the possible implications for further harmonisation.
 - h. Identifying potential opportunities to simplify any overlap between the HMCS and REACH Regulation, including the best process for HMCS when further harmonised with REACH.

Working Procedure

6. ICG-REACH will have a teleconference meeting in May 2022 to discuss the work programme and set priorities establishing a timeline; and will then correspond and/or meet as considered necessary to report its conclusions to OIC 2023.

Participants

7. In accordance with OSPAR Rules of Procedure, the ICG will be open to all Contracting Parties and Observers. ICG-REACH will be convened by Mikael Palme Maliknovsky (Denmark) and Pim Wassenaar (the Netherlands) with the participation of Norway (NO), the United Kingdom (UK), International Association of Oil and Gas Producers (IOGP) and European Oilfield Speciality Chemicals Association (EOSCA), HASEC (TBC) and when possible support from the European Union (EU).