



**Friends of
the Earth
Europe**

PROFITS BEFORE HEALTH AND ENVIRONMENT HOW THE CHEMICAL INDUSTRY IS UNDERMINING EUROPEAN CHEMICAL LEGISLATION



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EXECUTIVE SUMMARY

Existing chemicals legislation fails to protect humans and the environment. The EU REACH (Registration, Evaluation and Authorisation of Chemicals) chemicals policy was designed to address this problem. However, in the period between the White Paper in 2001 and the Commission's 2003 proposal, REACH was seriously undermined by Cefic – the European Chemical Industry Council – and its members. This study reveals more closely the difference between public statements of support for REACH made by Cefic and their efforts to wreck REACH even further. Unfortunately, for the sheer benefit of even higher profits, the chemical industry is jeopardising the protection of human health and the environment.

In this study Friends of the Earth Europe surveyed 31 corporate members of Cefic and posed a number of questions related to REACH and the debate surrounding it. The questions dealt with issues such as substitution and phasing-out of chemicals of “very high concern”, consumers’ right to know about chemicals in products that they purchase, substances exported outside the EU and “risk-based prioritisation”.

Only 18 of the 31 companies responded although we had taken efforts to locate the responsible person at each of the companies. 13 companies didn't even take the effort to provide Friends of the Earth Europe with a formal reply. Of those who replied, the responses were in most cases unsatisfactory: they provided only short letters or a statement without answering most of our questions. Five companies returned identical letters. Only two companies, BP and DuPont, answered all the questions as they were laid out in the questionnaire.

Given the lack of specific responses, our study also looked at company websites for specific information on chemicals and at statements on transparency and sustainability in general.

From the responses and our research we conclude that:

Cefic (and members) make misleading statements about their commitment to transparency

Cefic (and members) claim to be transparent and willing to provide the public and other stakeholders with relevant information. Company websites contain numerous statements underlining the importance of dialogue, transparency, informing the public and open lines of communication. Reality is different however. Hardly any company answered our questions on consumers’ right to information or on the exact chemicals of very high concern they might produce or use. Also their websites and reports do not contain the information necessary for stakeholders in order to assess the risks of a product. This actual lack of transparency raises serious questions about the credibility of the statements companies have made and makes them look more like greenwash (Greenwash is a term that environmentalists and other critics give to the activity of giving a positive public image to environmentally unsound practices).

Cefic (and members) make misleading statements about their ability to pay for REACH

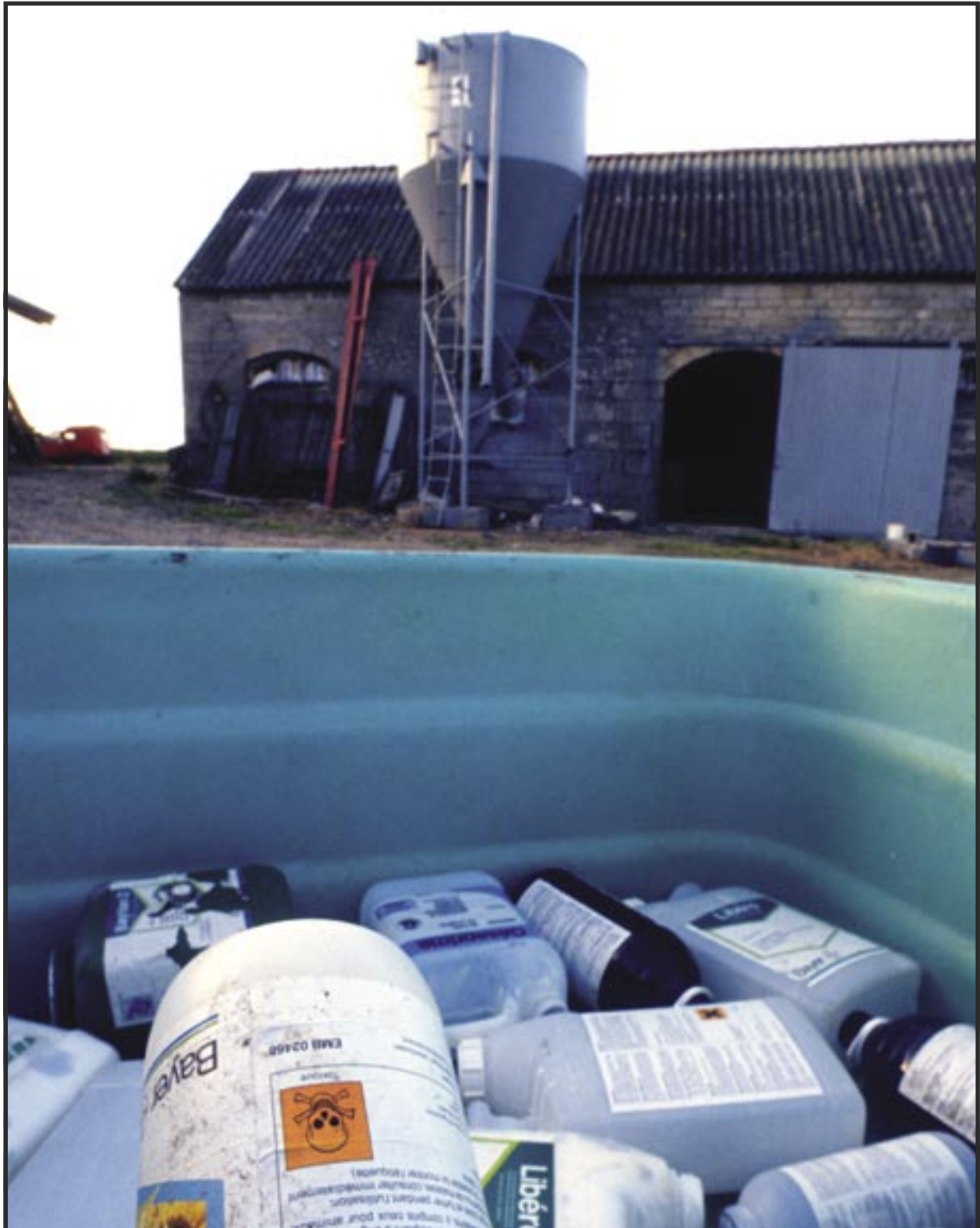
Cefic (and members) complain strongly that REACH will have too high financial costs. Cefic's former president Voscherau in 2003 even threatened that REACH would de-industrialise Europe. These misleading statements have already been countered by the recent KPMG report and by the fact that the direct annual costs of REACH will be a mere 0.05% of the sector's annual sales. The statements are even more appalling if one considers the actual financial performance of Cefic members. As our report shows, most companies presented excellent figures over 2004. BP reports record financial results, Bayer exceeded its targets for sales and earnings, DuPont had its fastest annual growth in recent years and BASF earned a premium. The conclusion can be clear. Cefic members can pay for the costs of REACH but they are not willing to pay the necessary costs for protection of the environment and health of European citizens.

Cefic (and members) make unsubstantiated claims about sustainability and product stewardship

Cefic (and members) make statements about their commitment to sustainable development and product stewardship. However, some of them produce or use chemicals likely to be defined as of “very high concern” and are unwilling to establish a date to phase them out. Furthermore, many of them are resisting the principle of mandatory substitution. They are unwilling to substitute chemicals of very high concern unless risk can be proven, even when safer alternatives exist. Hence, they are attempting to undermine the substitution principle.

Cefic (and members) are unwilling to provide necessary information to protect people and the environment

Cefic and most members are unwilling to provide a basic and standard set of information on chemicals in the 1-10 tonne band (some 20,000 chemicals), and are trying to compromise the data set for higher volume chemicals. They advocate "risk-based prioritisation", but without a commitment to provide full hazard and exposure data, risk calculation will be inaccurate and risk prioritisation incorrect. Thus, the Cefic proposal fails to protect people and the environment.



1. INTRODUCTION

Responding to the failings of current chemicals legislation to provide adequate human and environmental protection, the European Commission has planned, drafted and proposed a future strategy for a new European chemicals policy: REACH (Registration, Evaluation and Authorisation of Chemicals).

The primary objectives of REACH include:

- **Protection of human health and the environment**
- **Maintenance and enhancement of the competitiveness of the EU chemicals industry**
- **Preventing fragmentation of the internal market**
- **Increased transparency**

(European Commission, 2001)

Cefic - the European Chemical Industry Council - alongside many of its members and affiliates has played a major role in shaping the REACH policy proposal, putting forward a variety of studies, proposals and amendments that have culminated in a progressive weakening of policy since the original White Paper in 2001. Many of the arguments used by Cefic and its members to weaken REACH (e.g. on costs, loss of jobs and lack of "workability") have been greatly exaggerated and seriously flawed. Eggert Voscherau of BASF and former president of Cefic in 2003 even went so far as to claim that REACH would "de-industrialise Europe"¹. Despite the uncertainty that the arguments have generated amongst a wide variety of decision-makers, stakeholders and downstream users, Cefic continues lobbying activities aimed at further weakening the draft REACH Regulation.

In our view, Cefic's proposed amendments have been designed to completely undermine the REACH policy proposal in favour of industry interests. Many of these proposals are cloaked in misunderstood catch-phrases. For example terms such as "*risk-based prioritisation*" and "*appropriate available information*" on first hearing sound like sensible ideas but in detail reveal that they would destroy the systematic acquisition of essential safety data for some 20,000 chemicals - two-thirds of the chemicals under the scope of REACH!

This study aimed to explore Cefic and its members' influence on REACH more closely. We do not exhaustively analyse the Cefic position (Cefic proposed hundreds of amendments to the REACH draft), but focussed on a series of questions that we put to 31 of their corporate members.

1.1 OBJECTIVES OF THE STUDY

- To compare positions and lobby activities of the chemical industry with public statements on their behalf on the REACH Regulation and on sustainability issues in general.
- To gain a better understanding of how widely the Cefic approach to REACH reflects the positions of some of its individual members.
- To acquire more information on how the chemical industry might be affected by REACH. Questions were posed on the following issues:

1. Risk-based prioritisation
2. A (reduced) information set for chemicals produced in the 1-10 tonne band
3. Chemicals destined for markets outside the EU
4. Time limited REACH Authorisations
5. Substitution of chemicals of "very high concern"
6. Consumer access to information
7. Production of chemicals likely to be considered of "very high concern" under REACH

1.2 METHODOLOGY

- Friends of the Earth Europe sent out a questionnaire to 31 of Cefic's corporate members. A six-week period was given to respond. Each corporate member had initially been contacted by phone to establish who they regarded as their lead contact on REACH. All members were contacted a week in advance of the deadline with a reminder.
- The questionnaire responses were analysed and interpreted.
- Research on corporate member websites, annual reports and public statements from Cefic and member companies was also undertaken.

1.3 RESPONSES

The study was limited by the number of responses received: only 18 members replied out of 31 to whom we wrote.

Corporate members who responded:

Akzo Nobel	BP	DSM	Repsol YPF
BASF	Clariant	DuPont	Rhodia
Bayer	Cognis	Eastman	Unilever
Borax	Degussa	Honeywell	
Borealis	Dow	Procter & Gamble	

Corporate members who failed to respond:

Basell	Lyondell	Solvay
Celanese	Novartis	Total
Ciba	Polimeri Europa	Wacker-Chemie
ExxonMobil	Rohm & Haas	
Kemira	Shell	

The study was also limited by the quality of the responses we received. Of those members that replied only two (DuPont and BP) answered all the questions as they were laid out. The remaining members provided only short letters or statements that revealed little about their exact position. Akzo Nobel, Borax, Repsol YPF and Rhodia returned identical letters.

All responses can be found at the Friends of the Earth Europe website:

www.foeeurope.org/safer_chemicals/Index.htm

Where corporate members failed to answer our questions and the necessary information could be located on their website or in company reports, such information was treated as an accurate representation of that members' position. When a statement originates from a website or a company report, this is indicated as such.

2. AN INDUSTRY PERSPECTIVE ON REACH: THE RESULTS

2.1 RISK-BASED PRIORITISATION

Question 1: Do you fully support the Cefic proposals for "risk-based prioritisation" (i.e. the proposal for industry prioritisation based on volume and a (reduced) information set)? If not, can you indicate briefly points that you agree or disagree with?

Yes (17)	Akzo Nobel, BASF, Bayer, Borax, Borealis, BP, Clariant, Cognis, Degussa, Dow, DSM, DuPont, Eastman, Procter & Gamble, Repsol YPF, Rhodia, Unilever
No (0)	
No direct comment (1)	Honeywell

Risk-based prioritisation: Cefic defines "risk-based prioritisation" as a strategy that focuses "on the substances that really matter – that is to say, those of potentially high risk" (Cefic, 2005)².

A function for risk in prioritising chemicals was stated by two of our respondents:

"Good science and risk assessment provide a sound basis for the safe use of chemicals" (BP);

"A risk-based prioritisation approach ... allows prioritising the substances of higher concern and therefore focusing resources on those substances" (DuPont).

But how to know which are of high risk? Risk is a combination of **hazard** - the intrinsic dangerous properties of a chemical *and* **exposure** - the likelihood of being exposed to a hazard. This is well understood in the world of chemicals (e.g., both DuPont and BP stated this explicitly in their responses). Thus one needs both sets of information to know the risk.

In order to make an accurate risk calculation, a full set of hazard data must be made available. *"Reliable knowledge on intrinsic properties is important because it also constitutes the basis for the classification of chemicals"* (European Commission, 2001)³. As risk is also determined by exposure, data on many different exposure scenarios must also be gathered.

Neither of the above requirements is met by Cefic's risk-based prioritisation strategy. The primary reason for this is that Cefic proposes that only very limited hazard and exposure data be required. On the subject of hazard data, Cefic's proposed "information set" fails to include data on repeated dose toxicity, reproductive toxicity and several eco-toxicological end-points. Long-term testing requirements are not included, making it impossible to assess how chemicals will affect humans and the environment in the future.

On the subject of exposure data, Cefic's proposal also fails to provide critical information. Its *"generic exposure and use information"* is essentially insufficient. Crude generic use categories (for example, whether a chemical is for "industrial", "professional" or "private" use) fail to take account of the *"complex and indirect exposure situations for consumers and the environment such as uptake via food and air"* (WWF, 2005)⁴.

Few would object to a strategy that prioritises substances based on the risk they pose. However Cefic's risk-based prioritisation strategy contains serious drawbacks which systematically fail to achieve this objective. Indeed, problems with the *current* risk assessment process and the difficulties of getting agreement on the extent of the risk and any measures to be taken has been one of the driving forces behind the proposed new policy. With risk-based prioritisation we are in danger of going back to square one.



Greenpeace action against Bayer who distribute the pesticide Tokuthion from their operations in Wyong Shire, Australia.

© Greenpeace/Toby Hutcheon

Whilst everyone would agree that legislative measures should be efficient, justifications for supporting Cefic's proposal for a reduced data set mentioned reducing costs:

Procter & Gamble "do not support approaches that would broadly restrict chemicals based on their hazard properties" but instead believe that "chemicals management systems should be designed to gather and analyze information efficiently, with the least cost necessary" (Procter & Gamble, 2005)⁵.

"Focusing the data generation on actual use and exposure [as opposed to hazard or "default data"] avoids unnecessary additional testing and reduces the costs" (Dow).

Prioritising risk using Cefic's "risk-based prioritisation" strategy is impossible as it only calls for limited hazard and exposure data. Without a mandatory and scientifically acceptable data set, risk calculations may well be inaccurate and chemicals prioritised incorrectly.

Despite Cefic's claim that risk-based prioritisation would "make the political objectives of REACH achievable"⁶, the support of Cefic and its members for risk-based prioritisation threatens to seriously undermine what should be the main aim of REACH: to protect human health and the environment.

2.2 APPROPRIATE INFORMATION

Question 2: More specifically, do you support the Cefic proposal that "appropriate available information", rather than a defined information set, should be submitted for registration of chemicals in the 1-10 tonne band?

Yes (8)	Bayer, Borealis, BP, Clariant, Degussa, Dow, DSM, DuPont
No (0)	
No direct comment (10)	Akzo Nobel, BASF, Borax, Cognis, Eastman, Honeywell, Procter & Gamble, Repsol YPF, Rhodia, Unilever

In our view, supply of only "appropriate available information" overthrows REACH's ability to systematically gather data and evaluate what might be around 20,000 chemicals in this low volume band and is completely unacceptable. This is one of the major reasons why REACH was created: to generate more (public) chemical data.

The majority of corporate members in the "Yes" category did not answer this question directly, instead choosing to state that they fully supported Cefic's proposals.

Companies that did provide reasons in support of "appropriate information" gave the following responses:

"providing "appropriate information" rather than a fixed data set would be the most cost effective approach" (BP);

"We also agree with Cefic's insistence that the initial registration of substances between 1 and 10t should be done on the basis of available data. This process substantially reduces the burden" (Dow);

DuPont states that "appropriate information" would help in "reducing the complexity of the requirements" (DuPont).

Support for Cefic's proposal to reduce data requirements appears peculiar in light of the following corporate members' statements:

"We already possess a large amount of data on our products" (Cognis);

"In 1997, the German Chemical Industry (VCI) came up with the voluntary agreement of establishing defined information sets on all substances handled or manufactured in volumes of 1 metric ton per year or more. By 2002, BASF had accomplished this goal by over 96 percent" (BASF). "We can provide customers, regulatory authorities and members of the general public with detailed information on the effects of the substances we use. We want to achieve further improvements in this area using uniformly structured data records worldwide" (BASF, 2002)⁷;

"We are in the process of compiling our own restricted chemicals list and have begun to make complete inventories on the chemicals in use in our operations" (Borealis, 2005)⁸.

"Information included in [DuPont's] Material Safety Data Sheet(s) aids in the selection of safe products, helps you understand the potential health and physical hazards of a chemical" (DuPont, 2005)⁹.

Cefic's document on risk-based prioritisation suggested that a "small quantity already indicates a limited exposure potential therefore appropriate information substantiating this assumption might be sufficient to indicate no concern" – which seems to argue that it might not be necessary to generate *any* hazard data for low volume chemicals! And it should be recalled that the volume bands are per manufacturer or importer. There could be many such manufacturers across the EU.

Cefic and its members are unwilling to provide sufficient information on chemicals in the 1-10 tonne band necessary to calculate accurately risk. This undermines the aim of REACH to generate useful chemical data that can allow us to better manage chemicals. Ironically, at least some corporate members have indicated that they already hold significant amounts of information.

2.3 EXEMPTION OF NON-EU TRADE

Question 3: Do you support the Cefic proposal to exempt chemicals that are not (directly) placed on the market in the EU (even though these might be imported back into the EU in articles and which might not reach the threshold for registration)?

Yes (6)	Borealis, Clariant, Degussa, Dow, DSM, DuPont
No (0)	
No direct comment (12)	Akzo Nobel, BASF, Bayer, Borax, BP, Cognis, Eastman, Honeywell, Procter & Gamble, Repsol YPF, Rhodia, Unilever

Again, there were few direct responses to our question. The few explanations for support were as follows:

Exemption would "avoid double regulation" (Dow);

"Every country has its specific policies and requirements for the management of chemical substances" (DuPont);

BP stated it would be unaffected by Cefic's proposal:

"As far as exports are concerned, this would make no difference to us due to the size and nature of our product portfolio" (BP).

"Any business that is done in line with [REACH] policy, will set the standard, which the chemical industry will follow worldwide"

Dr. Nance Dicciani, President of Honeywell

Concerns about the burden of "double regulation" are misleading. REACH will require stricter standards than anywhere else in the world and will set a global standard. More knowledge should, if anything, make compliance with non-EU chemicals regulations easier. As the President of Honeywell, Dr. Nance Dicciani, has stated: "any business that is done in line with [REACH] policy, will set the standard, which the chemical industry will follow worldwide" (CHEManager, 2003)¹⁰.

The loophole within Cefic's proposal means that hazardous chemicals could still be imported back into the EU in articles which would not reach the threshold for registration. None of the comments received on this topic indicated how Cefic's proposal would reduce the risk from human and environmental exposure to such chemicals.

2.4 TIME-LIMITED AUTHORISATIONS

Question 4: Do you support the notion that REACH authorisations granted for substances of very high concern should be time-limited so that they can be reviewed?

Yes (3)	BP, DuPont, Unilever (<i>but see the qualifications below</i>)
No (4)	Borealis, Clariant, DSM, Degussa
No direct comment (11)	Akzo Nobel, BASF, Bayer, Borax, Cognis, Dow, Eastman, Honeywell, Procter & Gamble, Repsol YPF, Rhodia

Cefic has said: "Authorisation should not be time limited, but reviewed if new and relevant information becomes available" (Cefic, 2003)¹¹.

The four corporate members opposed to time-limited authorisations offered no explanation for their lack of support, only stipulating that they backed Cefic's position.

The three corporate members who nominally agreed with our question gave the following responses:

"We do not oppose a time limitation and a review if new scientific information indicates a potential of uncontrolled risk" (DuPont);

"Yes, but the focus should be on cases where risks are identified and when technically and commercially viable alternatives are available" (BP);

"Thus, we can, for example, support the notion that REACH authorisations for substances of very high concern should be time-limited so that they can be reviewed – providing that the review can lead to renewal of the authorisation providing that circumstances have not changed since the original authorisation" (Unilever).

In our view, the function of time-limited authorisations is primarily to phase out substances of very high concern (on a precautionary basis) and encourage the development of safer alternatives. BP and DuPont make their positions clear: Unless "technically and commercially viable alternatives are available" or "information indicates a potential of uncontrolled risk", the production of substances of very high concern could continue. This approach undermines the precautionary principle, to which the EU Commission is committed:

"Whenever reliable scientific evidence is available that a substance may have an adverse impact on human health and the environment but there is still scientific uncertainty about the precise nature or the magnitude of the potential damage, decision-making must be based on precaution in order to prevent damage to human health and the environment" (European Commission, 2001)¹².

Without placing a time-limit on the production of chemicals of very high concern, REACH will do little to drive the substitution of such chemicals. Exposure will continue to present a risk – indeed a risk difficult to quantify which is why we stress a precautionary approach.

Cefic and the majority of its members are opposed to time limits on authorisation for substances of very high concern. The lack of time limits will hinder and delay the substitution of those substances.

2.5 SUBSTITUTION

Question 5: Would you support the position of the UK Confederation of British Industry, the Chemicals Industry Association, and Greenpeace that if suitable "acceptable alternative(s)" are available, chemicals of very high concern shall be replaced, and that REACH should drive the progressive phasing-out of substances of very high concern?²¹

Yes (4)	BASF, BP, DuPont, Procter & Gamble
No (2)	Bayer, Dow
No direct comment (12)	Akzo Nobel, Borax, Borealis, Clariant, Cognis, Degussa, DSM, Eastman, Honeywell, Repsol YPF, Rhodia, Unilever

¹ Please note that we unintentionally exchanged the word "shall" for "should" (at "shall be replaced" instead of "should be replaced") in paraphrasing. The full statement is available at: www.defra.gov.uk/environment/chemicals/csf/050125/pdf/csf0502.pdf

Corporate members **opposed** to phasing-out/substituting chemical substances of very high concern gave the following explanations:

"If adequate risk control is demonstrated then there is no ground for forced substitution, by regulation"... "when it is demonstrated that the risks posed by substances can be adequately controlled, substitution decisions may still be made by the market actors" (Dow);

"In our company it is common practice to subject every single chemical substance to risk management processes ... This also means that we cannot support the substitution principle" (Bayer).



Greenpeace volunteer in front of DOW Chemical logo during an action. © Greenpeace/Tim Cole

Although some corporate members were in **support** of phasing-out/ substituting chemical substances of very high concern, they did not support its absolute application and emphasised risk again.

For BASF, the substitution principle can only be exercised if consideration is given to the "combination of hazardous properties of a substance with certain conditions of use of that substance" (BASF).

For DuPont, the substitution principle can only be exercised if "there is a risk for health or the environment, that the risks outweigh largely the benefits to society and that there are no risk reduction measures available to control risks" (DuPont).

At first glance, these arguments may seem logical but fall apart when one considers the hazardous properties of chemicals of very high concern. Many of them do not break down, or break down only very slowly and can also bio-accumulate. Presuming that risk or exposure can be controlled indefinitely is a false notion - there is already a wealth of evidence that proves many chemicals are building up in humans and the environment. This presumption also means that companies can continue to produce chemicals of very high concern even where safer alternatives exist:

"There is ... no benefit of replacing a substance that poses no risk" (Dow);

"In our company it is common practice to subject every single chemical substance to risk management processes. If exposure can be avoided through such measures then such an approval procedure [substitution] is unnecessary" (Bayer).

Most companies do not want mandatory substitution, even in cases where safer alternatives exist; believing that risk management can suffice. But in our view, risk management of persistent and bio-accumulative substances is a deeply flawed concept. A substitution principle is necessary to encourage safer chemicals and drive innovation.

"Substitution helps to ensure that the risks from [chemical] substances for health and the environment are reduced in the longer term" (European Commission, 2004)¹³.

2.6 CONSUMERS' RIGHT TO INFORMATION

Question 6: On Access to information

6A: Do you believe that end users/consumers should be informed of the presence of chemicals that have been specifically authorised under REACH when in products that they buy?

6B: If not, do you believe that retailers should have the right to know such information?

6C: Do you support the right of consumers to know (at least on request) what chemicals are in the products they are buying?

6D: If so, how will you support provision of this information?

Unilever spoke of "real information" and investigation of their website revealed some noteworthy information.

"[Unilever's] formats provide real information about the substances used in a product without divulging the precise levels, thereby protecting the precise details of the, generally, commercially sensitive and confidential product formulation" (Unilever).

We are not exactly clear how comprehensive the information is, but their website states:

"On these pages you will find the ingredients lists for each product sold in Europe within our home and personal care brands."¹⁴

This is followed by a number of brands, lists of specific products in the ranges and then lists the chemicals in each product. We commend Unilever for this information.

Otherwise only 2 companies responded directly to our set of questions:

BP states that it is part of the "Supply Chain Leadership Group initiative" to "facilitate better mutual understanding and to develop joint recommendations". BP goes on to argue "This is not an easy question for the retailers themselves. They actually do not have a clear answer yet on which information and how this information should be effectively communicated to the consumers" (BP).

At least BP makes reference to the provision of consumer information, although it puts some emphasis on provision of effective information and the role of "retailers". DuPont also pointed at where the gravity of responsibility lay:

"DuPont believes in the individual's right to information regarding product safety. DuPont applies strict and transparent guidelines in communicating safety information on its products to customers in a clear and accessible manner. DuPont is always interested in working with its customers to provide information in a way that is useful. DuPont has a policy of transparency. The safety data sheets of the substances we sell can be found on our public website" (DuPont).

Of course, consumers are highly unlikely to find the time to research safety data sheets, and in any case they will find that information is not particularly suitable with respect to products (rather than substances) and may not be complete, particularly with respect to persistence, bio-accumulation or endocrine disrupting properties.

Other corporate members gave the following indirect responses:

"I am sure that you can understand that protecting confidential business information is decisive for the competitiveness of any company" (BASF);

"You may understand that, in today's competitive environment, we cannot publish business sensitive information" (Clariant);

"protection of sensitive and/or confidential business information, e.g. composition, is decisive for the competitiveness of Degussa and cannot be disclosed to the broader public" (Degussa);

The sheer lack of consumer information provided by corporate members on chemicals critically undermines their claims about being transparent.

"An important part of [BASF's] commitment is open and transparent dialogue with our stakeholders" (BASF);

"We are always prepared to enter into constructive discussions with organizations which worry about the development of our lively planet" (Clariant).

As for corporate members who failed to respond at all, statements (from their websites) about transparency ring hollow.

Table 1: Corporate transparency

Corporate member	Statement
Basell	"Basell places strong emphasis on establishing and maintaining meaningful dialogue with a wide range of external stakeholders. The company takes pride in forging good relationships with the local communities adjacent to its manufacturing operations, and encourages meetings and dialogue with local communities to identify and discuss issues of concern" ¹⁵
Celanese	"Celanese has undertaken to provide the public with information about the effects of our products on health and the environment" ¹⁶
Ciba	"we build trust through integrity and open communication... Ciba is willing to enter into dialogue with any legitimate stakeholder which could lead to improvements in the Company's performance" ¹⁷
ExxonMobil	"ExxonMobil's support for transparency is an important part of our commitment to honest and ethical behaviour wherever we operate. Transparency helps us to achieve that commitment, because it helps lead to good governance... our actions match our words in support of transparency, and it is another sign of our deep commitment to helping fight corruption through EITI [Extractive Industries Transparency Initiative]" ¹⁸
Kemira	Kemira states that it provides "open and reliable product information" ¹⁹
Lyondell	"We listen to you and lead our industry in creating winning partnerships... we are listening to our neighbours, responding to their concerns and striving to maintain open lines of communication" ²⁰
Novartis	"Novartis is committed to open and transparent communication with its shareholders, potential investors, financial analysts, customers, suppliers and other interested parties." ²¹
Polimeri Europa	"Our commitment originates from the belief that only a huge effort in terms of transparency and information can help to eliminate the many prejudices that still weigh on the chemical industry, encourage mutual understanding and establish an open, constructive dialogue, especially with people living in areas close to our industrial sites." ²²
Rohm & Haas	"For more than 50 years, Rohm and Haas has operated under the philosophy that maintaining an open line of communication with neighboring residents about all aspects of manufacturing processes and community issues is the responsible way to do business. One-way communication, however, is not adequate to assure that residents' concerns are appropriately addressed." ²³
Shell Chemicals	"We are committed to transparency and engaging with people's concerns and expectations and involving external parties in decision-making... In implementing sustainable development, these are the factors we felt were most important: ... Transparency Because increasingly in the world today people don't accept what they are told. They want to find out for themselves." ²⁴
Solvay	"We maintain a continuous dialogue with many stakeholders. Our aim is to make constructive contributions to policy and regulatory choices so that the economic, social and environment issues presented by changes in society can be tackled effectively." ²⁵
Total	"We need to hear what people from outside the organization have to say, so transparency, dialogue and feedback are critical to the way we exercise corporate social responsibility." ²⁶
Wacker-Chemie	"We create and promote a climate of mutual trust through ongoing, open dialog with our employees, customers and suppliers, as well as with our neighbors, authorities and the general public." ²⁷

The provision of consumer information is of utmost importance if the EU is to meet the objectives laid out in the White Paper:

"Better public access to information on chemicals will increase public awareness and will lead in turn to greater accountability on the part of industry and authorities ...[it will also] lead to better informed purchasing decisions about such products" (European Commission, 2001).

Without the provision of consumer information, human and environmental protection from the hazardous effects of chemicals will not be ensured. No corporate member stated how the withholding of consumer information would help protect human and environmental health.

Despite claims of transparency from virtually all of Cefic's corporate members, only two companies took the opportunity to respond to this question. As far as we can ascertain, with the possible exception of Unilever, none of them provide consumers, retailers and other stakeholders full information about chemicals in products. Thus consumers are disempowered in this regard and the companies' own transparency statements look like green-wash.

2.7 MANUFACTURE OF LISTED CHEMICALS

Question 7: Does your company manufacture any of the following chemicals: Bisphenol A, Brominated Flame Retardants, Phthalates, Organotin Compounds, Alkyl Phenols & Alkyl Phenol Ethoxylates, Triclosan, Artificial musks, and Benzene?

Yes (2)	BP, DuPont
No (0)	
No direct comment (16)	Akzo Nobel, BASF, Bayer, Borax, Borealis, Clariant, Cognis, Degussa, Dow, DSM, Eastman, Honeywell, Procter & Gamble, Repsol YPF, Rhodia, Unilever

The chemicals listed in our question were selected because they were known to be either persistent, bio-accumulative or found in human tissue, have endocrine disrupting properties or be carcinogenic.



Phthalates, widespread contaminants with potential to cause liver, kidney and testicular damage, have been found in children's toys. © Greenpeace/David Sims

Table 2: Chemicals Likely to be of Very High Concern

P – Persistent B – Bio-accumulative E – Suspected Endocrine Disruptor					
	P	B	E	General Information	Some possible product areas²⁸
Bisphenol A			X	Can imitate the female hormone and contaminate human blood; can alter male reproductive organs and increase the likelihood of genetic abnormalities ²⁹	Food cans and lids, baby bottles
Brominated Flame Retardants	X	X	X	Exposure in the womb has been shown to interfere with brain development in animals ³⁰	Home textiles, upholstered furniture, TVs computer and video systems
Phthalates			X	Widespread contaminants, some of which may cause liver, kidney and testicular damage ³¹	In plastic toys and many other uses as a plasticizer
Organotin Compounds	X	X	X	Very poisonous, can attack the immune system, cause birth defects and attack neurons in the brain ³²	Home textiles, upholstered furniture, anti-bacterial shoe insoles and has been detected in nappies
Alkyl Phenols & Alkyl Phenol Ethoxylates			X	Can disrupt sperm production and damage the body's ability to fight germs ³³	Detergents, in some paints, cosmetic products and clothing.
Triclosan	X	X		Concerns about environmental levels ³⁴ ; contaminant in human breast milk (one study) and fish ³⁵	Washing up liquids, liquid soaps, mouthwashes, dishcloths and chopping boards
Artificial musks	X	X		May cause liver damage and interfere with brain messages ³⁶	Perfumes, cosmetics, toiletries, laundry detergents
Benzene				Causes cancer ³⁷	Wide variety of products (but particularly in petrol)

Only two companies responded to our question:

"Benzene ... Benzene is used as a critical intermediate for petrochemical manufacture" (BP)

"Benzene ... in the USA" (DuPont)

Friends of the Earth Europe conducted extensive research of corporate websites and found that many of the chemicals of very high concern listed above were either in production or use. It calls into question corporate members' environmental credentials given the statements reproduced below.

(It must be stressed that finding this small amount of information was incredibly time-consuming and in most cases, did not reveal information on which retail products actually contained the above chemicals. Consumers should not be *expected* to take the same steps in order to be sufficiently informed about the chemicals used in retail products.)

Table 3: Product Stewardship

Company	Chemical used/produced	Statement
Akzo Nobel	<p><u>Phthalates</u> DBP (consumer coatings) DEHP (consumer coatings)</p> <p>Brominated Flame Retardants</p> <p><u>Organotin Compounds</u> DBT</p> <p><u>Alkyl Phenols & Alkyl Phenol Ethoxylates</u> Nonylphenol Nonylphenol Ethoxylate³⁸</p>	<p>"Not so long ago, we decided to measure ourselves against our peers. If we're as good as some would have us believe, why not put ourselves to the test when it comes to People, Planet and Profit? The outcome taught us that while we had a lot to be proud of, we're not up to scratch in some areas. Sometimes we simply didn't have the data available to be able to give an adequate assessment"³⁹</p>
Ciba	<p>Triclosan⁴⁰</p>	<p>"Customers increasingly prefer to buy products whose potential hazards are both minimized and clearly defined"</p> <p>"Ciba supports the use of Triclosan only if there is a benefit to human beings"⁴¹</p>
Procter & Gamble	<p>Nitro Musks Polycyclic Musks</p> <p><u>Phthalates</u> DEP</p> <p><u>Alkyl Phenol</u> Nonylphenol⁴²</p>	<p>"Throughout history, P&G has believed that the safety of our products is a prerequisite for responsible business. Our co-founder, James Gamble, stated in the mid- 1800s that "if you cannot make pure goods and full weight, go to something else that is honest, even if it is breaking stone".⁴³</p>
BASF	<p><u>Phthalates</u> DBP (Palatinol® C) DINP (Palatinol® N)⁴⁴</p>	<p>"BASF's principle is to produce products that are safe to manufacture, use, recycle or dispose" (BASF)</p>
Polimeri Europa	<p>Bisphenol A⁴⁵</p>	<p>"Polimeri Europa intends not only to carry on the eco-friendly approach that has always been present in all its business areas, but to go further, towards sustainable development" (Polimeri Europa, 2005)⁴⁶</p>

Eastman	<p><u>Phthalates</u> DBP DEP DMP DMT DEHP (Bis(2-Ethylhexyl) Phthalate)⁴⁷</p>	<p>"We will lead our companies in ethical ways that increasingly benefit society, the economy and the environment while adhering to the following Responsible Care TM principles: to provide chemicals that can be manufactured, transported, used and disposed of safely; to make health, safety, the environment and resource conservation critical considerations for all new and existing products and processes"⁴⁸</p>
ExxonMobil	<p><u>Phthalates</u> DINP (Jayflex TM)</p>	<p>"Every product that carries our name carries our reputation for excellence and responsible attention to environmental, health and safety considerations throughout the product's life cycle"⁴⁹</p>
Rohm & Haas	<p>Alkyl Phenols & Alkyl Phenol Ethoxylates Octylphenol</p> <p>Many phthalates used, only ones that are clearly indicated are: BBP⁵⁰ DBP⁵¹</p>	<p>"At Rohm and Haas, product stewardship represents much more than the safe, conscientious manufacture of chemicals for industry. By cultivating our customer relationships in ways that add value to their operations, we can help ensure that our products have a positive impact on consumers and no adverse impact on the environment"⁵²</p>
Shell	<p>Bisphenol A⁵³</p> <p>Organotin Compounds Dibutyltin⁵⁴</p>	<p>"Contributing to sustainable development is not only the right thing to do – it also makes good business sense"⁵⁵</p>
Wacker-Chemie	<p>Bisphenol A (GENIOPERL® M23A)⁵⁶</p>	<p>"Long shelf and service lives benefit the environment and nurture additional customer confidence. Developing products that fulfil [sic] these high demands is a central mission"⁵⁷</p>
Unilever	<p><u>Phthalates</u> DBP DEP DEHP</p> <p>Triclosan (Mentadent TM toothpaste) Bisphenol A (resin coatings for cans)⁵⁸</p>	<p>"Unilever is, we believe justifiably, proud of its record of producing products that can be used safely by consumers, without damage to the environment. If safety risks are identified and unacceptable on the basis of new information, then we accept our responsibility to reformulate the product(s) involved." (Unilever)</p>

There is an obvious fissure between the use/production of chemicals likely to be of very high concern and most of the above corporate statements.

Corporate members' statements about product stewardship are contradicted by their protective attitude to the provision of information to us about very hazardous chemicals they may be producing or using. This raises serious questions about their integrity and their possibly vested interests in a weak REACH.

2.8 RETAIL PRODUCTS CONTAINING CHEMICALS OF VERY HIGH CONCERN

Question 8: Does your company (including group companies) manufacture retail products which contain any of these chemicals, and if so, what are these products?

This question refers to the chemicals mentioned in 2.7.

Yes (1)	BP
No (1)	DuPont
No direct comment (16)	Akzo Nobel, BASF, Bayer, Borax, Borealis, Clariant, Cognis, Degussa, Dow, DSM, Eastman, Honeywell, Procter & Gamble, Repsol YPF, Rhodia, Unilever

Only two corporate members addressed this question giving the following responses:

"Benzene is a natural component of crude oil and as a result of refining processes it is present in petrol (gasoline) that we sell as a retail product. The amount of benzene in petrol is subject to regulatory control in Europe to a maximum of 1%. Additionally, benzene has been the subject of a complete risk assessment under the Existing Substance regulation, and there is already a complete set of data for this substance to cover REACH requirements." (BP)

"No" (DuPont)

"A main aim of REACH is to rebuild consumers' trust in industrial chemicals. This requires public access to information"⁵⁹

(International Chemical Secretariat, 2005).

The majority of respondents stated that they wanted to protect their intellectual property rights or provided no answer at all.

There are currently no obligations on the chemical industry to provide consumers with information about products that contain chemicals likely to be of very high concern. Without this information, consumers do not have the ability to make informed decisions about the products they purchase. They also do not have the opportunity to choose *safer* products.

As the NGO International Chemical Secretariat put it:

"A main aim of REACH is to rebuild consumers' trust in industrial chemicals. This requires public access to information" (International Chemical Secretariat, 2005).

Cefic and most of its members have not provided information on chemicals of very high concern in retail products to us, appealing to business confidentiality. Their position creates public mistrust, keeps consumers in the dark about the products they manufacture and severely damages corporate credibility, especially given their statements about transparency.

2.9 CHEMICALS LIKELY TO BE IDENTIFIED AS OF VERY HIGH CONCERN

Question 9: Are there any other chemicals that your company manufactures that are likely to be defined as chemicals of very high concern under REACH? If so, please list these and any retail products you produce which contain them.

Yes (2)	BP, Degussa
No (0)	
No direct comment (1)	Akzo Nobel, BASF, Bayer, Borax, Borealis, Clariant, Cognis, Dow, DSM, Eastman, Honeywell, Procter & Gamble, Repsol YPF, Rhodia, Unilever
Unclear (1)	DuPont

Only two companies responded directly, giving the following information:

"BP manufactures some chemicals - including petroleum products - that meet the REACH authorisation criteria. Many of these are used as petrochemical intermediates. BP does not generally produce retail products, except fuels and some lubricants. As far as fuels are concerned, they contain some of these chemicals that are already the subject of European regulations. Lubricants may contain small amounts of performance chemicals. Based on currently available information we do not expect these chemicals to be defined as "very high concern" under REACH, or to be present in amounts likely to present a significant risk to health or the environment." (BP);

"Primarily, the small and medium volume segments (approximately 60% of all Degussa products) are affected by REACH" (Degussa).

DuPont's response was less clear:

"Presently, the REACH proposal does not include definitions of substances of very high concern. However, we are currently reviewing all the existing information and data related to the substances that we produce, import, and use in the European Union" (DuPont).

With the exception of BP, no company explicitly listed which chemicals of high concern they actually manufacture, raising once again serious questions about their willingness to be open.



Phthalates, widespread contaminants with potential to cause liver, kidney and testicular damage, have been found in children's toys.
© BUND/Friends of the Earth Germany



Greenpeace activists chained themselves to hazardous waste barrels in front of the French Consulate in Rio de Janeiro. © Greenpeace/Steve Morgan

2.10 PLANNED ALTERNATIVES

Question 10: Are you working on alternatives for any of the above mentioned chemicals?

Yes (0)	
No (0)	
No direct comment (16)	Akzo Nobel, BASF, Bayer, Borax, Borealis, Clariant, Cognis, Degussa, Dow, DSM, Eastman, Honeywell, Procter & Gamble, Repsol YPF, Rhodia, Unilever
Unclear (2)	BP, DuPont

Only two companies responded to question 10, giving the following answers:

"[Fuels and lubricants] cannot be easily substituted. BP is however pro-actively engaged in the business of alternative energy sources such as solar, LGP, and in the development of cleaner existing fuels and new fuels such as bio-fuels, hydrogen, and, more recently, decarbonised fuels" (BP)

"Considering safer alternatives for health and the environmental reasons is an ongoing process within DuPont. It is part of our core values and product stewardship practices" (DuPont)

Given that no corporate member was forthcoming on the issue of planned alternatives; real doubts are raised about their obligations to product stewardship in real terms. Broad claims about product stewardship and sustainable development are not reassuring and cannot inspire confidence. Until corporate members are more ready to report on their activities, if any, to replace chemicals of concern, the widely held perception that they are not trustworthy will continue⁶⁰.

2.11 PHASE OUT DATES

Question 11: If so, have you set a date to phase out the above mentioned chemicals? What is that date?

Yes (0)	
No (1)	BP, DuPont
No direct comment (17)	Akzo Nobel, BASF, Bayer, Borax, Borealis, Clariant, Cognis, Degussa, Dow, DSM, Eastman, Honeywell, Procter & Gamble, Repsol YPF, Rhodia, Unilever

Again, only two corporate members responded:

"Benzene, although not produced or imported by DuPont in Europe, is an essential material for many industrial applications, its use is properly controlled to ensure a high level of protection of health and the environment" (DuPont);

"We constantly review our products in the light of new findings or developments and are involved in longer-term projects that cannot be easily time-fixed" (BP).

Many other corporate members have also published statements highlighting their commitment to innovation, yet are reluctant to articulate any specific actions or strategies for dealing with chemicals of very high concern.

"Cutting-edge technologies and innovative strength, combined with intensive customer care, are the main pillars of the company's strategy" (Clariant, 2004)⁶¹

"Cognis delivers specific solutions that are consistently aligned to ecological compatibility, application reliability, consumer safety and the achievement of a superior performance profile. And with our formulation and applications know-how, we are able to provide impetus for new concepts in numerous Industrial markets" (Cognis, 2004)⁶²

"[Ciba's] emphasis on innovation will enhance its position under any new requirements, as recently developed products are already likely to comply with regulations"⁶³ (Ciba, 2004)

Polimeri Europa is committed to: "the development of innovative processes; the strengthening of proprietary technologies, particularly in the most innovative areas; the definition of solutions aimed at limiting the environmental impact of existing products and production processes."⁶⁴ (Polimeri Europa, 2005)

"[Our] Sustainable Innovation Process is driven by the need for better and improved functionality, but it is almost always connected to sustainability and environmental performance. We cannot bring a product to market which is less environmentally friendly than its predecessor. Entirely new concepts can only become competitively advantageous if they offer a better eco-efficiency than conventional solutions."⁶⁵ (Akzo Nobel, 2005)

"Basell has a strong tradition in innovative process design and catalyst research. The last two decades have seen the introduction of completely new advanced polyolefin processes and products"⁶⁶ (Basell, 2005)

"Here at Rohm and Haas company our success has been built through unwavering commitments to integrity and innovation."⁶⁷ (Rohm & Haas, 2003)

"Innovation is the only way to generate the growth that is vital for our future... In today's globalized economy that is truer than ever. Innovation is a fundamental means of differentiation. It is the key to success; we must and intend to show our stakeholders that we have the ability to systematically exploit our potential."⁶⁸ (Bayer, 2004)

"The ability to develop innovative products and services efficiently safeguards the customers' success and is essential to the sustained growth of the Clariant Group."⁶⁹ (Clariant, 2005)

"The approximately 500 scientists, engineers and technicians at our two technology centers are focused on:... creating and sustaining an environment that stimulates innovation"⁷⁰ (Lyondell, 2005)

"We're investing over \$40 million a year in research and development to bring you innovative new security products. And, we leverage the best technologies globally at our Engineering "centers of excellence" in... Scotland and France"⁷¹ (Honeywell, 2005)

"In today's world, **business as usual can put you out of business**. That's why Eastman Chemical Company is dedicated to the innovation of new products and new processes. Like its founder Eastman thrives on visionary methods. It's a company founded on ideas that work. Ideas that solve problems. Ideas that change and improve the world."⁷² (Eastman, 2005) [their emphasis].

"Innovation is the lifeblood of successful plastics businesses," said Romeo Kreinberg, Senior Vice President, Plastics. "For Dow, innovation is not only a culture founded on successful development and implementation of new ideas, but the collaboration between customers and other partners to create industry leading solutions. By defining innovation and driving trends together with our customers, we are better positioned to develop future market successes."⁷³ (Dow, 2005)

"Our approach — innovation, stewardship and sustainability — is grounded in our heritage in and commitment to thoughtful, careful science."⁷⁴ (DuPont, 2005)

Cefic also shares a promising forecast for innovation:

"The chemical industry has a strong record of innovation – in products that meet customers' needs, in manufacturing processes that protect the environment and human health, and in solutions that directly address environmental problems" (Cefic, 2005)⁷⁵

In light of statements about high levels of commitment to innovation, it is very disappointing that Cefic's corporate members cannot stipulate any actions or timelines for phasing out chemicals of very high concern or show some enthusiasm for this job. Cefic's comment only casts further doubt on how earnest the chemical industry is about acting on its innovative capacity.

3. COSTS OF REACH VERSUS SALES FIGURES

The European Commission has studied the costs and impacts of the REACH policy proposal:

"Total costs: The overall costs to the chemicals industry and its downstream users would be €2.8 - 5.2 billion. From a macroeconomic perspective, the overall impact in terms of the reduction in the EU's Gross Domestic Product (GDP) is expected to be very limited" (European Commission, 2003).

Although there have been numerous impact studies since, the broad conclusions about costs and benefits reached then have stood up.

Costs need to be put into perspective. In terms of annual turnover, the European Commission has estimated that the direct costs of REACH annually to the entire chemical sector will be a mere **0.05%** of the sector's annual sales (which were €586 billion in 2004 according to Cefic). This also amounts to less than one euro per person per annum in the EU.

Whilst the costs may not be spread evenly from one company to another of course, the possible effects on SMEs in particular have been emphasised by Cefic: threats of withdrawal of substances from the market for example, registration costs. There has been less emphasis on the benefits of better information on chemicals to SMEs; most of them are users rather than producers of chemicals. After publication of the recent KPMG impact study⁷⁷, Verheugen, Vice-President of the Commission, is reported to have said explicitly that "REACH will not ruin the European chemicals industry" and that the "financial" battle (the debate about the costs) is over⁷⁸.

Moreover, the health benefits alone are estimated to hugely outweigh the costs. Millions of workers are exposed to carcinogens every year in the EU for example.

A UK study for the government estimated that saving only 18 to 37 cancer deaths per year (in the UK) would lead to "breaking even" on the costs of REACH⁷⁹. And that was without taking into consideration other types of occupational illnesses, non-occupational health benefits, environmental benefits, etc. We also note that:

*"The Commission's Impact Assessment developed an illustrative scenario which put the health benefits in the order of magnitude of **€50 billion** over a 30 year period. The expected environmental benefits have not been expressed in monetary terms"* (European Commission, 2003)⁸⁰.

The table on "Corporate Annual Sales" shows some statements from annual reports and similar, where companies advertise their financial success.

"There has been a lot of discussion about the costs for producers and importers caused by the proposal. These arguments have to be taken seriously and the system must be made as effective and workable as possible. But there have clearly also been a lot of exaggerated arguments. I think the scare tactics from parts of the industry have been counterproductive, meaning that they have lost a lot of credibility with their costly and aggressive lobbying against the proposal.

Not only that, but by concentrating only on the costs to industry we risk looking at only one side of the picture. There have been a great many studies about costs, and only a few about benefits to health and the environment. But all the serious investigations on the matter suggest that the benefits to society far outweigh the costs to industry, even if we disregard the benefits that REACH would bring to industry in terms of modernisation."⁷⁶

Jonas Sjöstedt, Nordic Green Left, Swedish Member of the European Parliament

"I firmly believe that the Parliament must face up to the challenge of creating a sustainable chemicals policy, which increases the protection of people's health and the state of our environment and will enable the European chemicals industry to be more innovative and competitive. We also have to move away from the sterile confrontation of 'competitiveness versus health and environmental protection' and move the REACH debate forward from concept into action".⁸¹

Guido Sacconi, Socialist Group, Italian Member of the European Parliament

The companies in our survey have emphasised their good or often excellent financial results. Despite the small costs of REACH relative to industry turnover as a whole, Cefic and its members are unwilling to pay the necessary costs to help protect human health and the environment. They regard the costs as excessive and disproportionate.

Corporate Annual Sales			
Cefic Corporate Member	2004 Annual Sales (Unless otherwise stated)	Company statements	Reference
Akzo Nobel	€12.688 billion	"Akzo Nobel Chemicals experienced healthy profit growth" ⁷⁶²	Akzo Nobel Annual Report 2004
Basell	€6.7 billion ⁸³	"Both volumes and sales revenues continue to surpass last years' levels" ⁷⁶⁴	Meyera 2005
BASF	€37.537 billion	"2004 was a very successful business year for BASF: We earned a premium" ⁷⁶⁵ "We achieved higher sales volumes mainly in the Chemicals and Plastics segments" ⁷⁶⁶	BASF Corporate Report 2004 BASF Facts and Figures 2005
Bayer	€29.758 billion	"Bayer had a successful year in 2004. We exceeded our targets for sales and earnings... We expect the underlying operating result from continuing operations to grow by around 20 percent" ⁷⁶⁷	Bayer Annual Report 2004
Borax	"Borax does not report its financial performance in order to protect proprietary information" ^{**2} "Revenue (2005): \$179.40 Million" (Source: Hoover, 2005) (€148.566 million) ⁸⁸	"Rapid economic growth and successful commercial strategy created a vibrant business environment for Borax in 2004" ⁷⁶⁹ "Borax has been profitable for more than a century" ⁷⁹⁰	2004 Rio Tinto Borax Sustainable Development Report
Borealis	€4.628 billion	"Net sales amounted to €4,628 million, 26% higher than the 2003 net sales of EUR 3,673 million" ⁷⁹¹	Borealis Annual Report 2004
BP	\$285.059 billion (total revenue) (€236.064 billion)	"2004 was a great year for BP... and led to our record financial results" ⁷⁹² "Our strong profitability has allowed us to increase the dividend year on year, and we are continuing to invest in the future" ⁷⁹³	BP 2004 Annual Report

Celanese	\$5.069 billion (€4.197 billion)	<p>Highlights: "Gross profit margins expand in Chemical Products on higher pricing, driven by strong demand"⁹⁴</p> <p>"Net sales increase 10% to \$5,069 million from 2003"⁹⁵</p> <p>"In 2005, we will continue to build on these efforts to position the company for greater growth and profitability"⁹⁶</p> <p>"Gross profit rose 27%"⁹⁷</p>	<p>Celanese Corporation Reports 2004 Fourth Quarter and Combined Full Year Results</p> <p>Celanese (2004) Celanese Corporation Report.</p> <p>Ciba Financial Review 2004</p>
Ciba Speciality Chemicals	CHF 7.027 billion (€4.528 billion)	<p>"Gross profit increased"⁹⁸</p> <p>"Additional sales from acquired companies, mainly Raisio Chemicals, contributed strongly to sales growth in 2004"⁹⁹</p>	Ciba Financial Review 2004
Clariant	CHF 8.530 billion (€5.496 billion)	<p>"We are pleased to be able to report a good business year for Clariant"</p> <p>"In the past business year Clariant achieved significantly higher growth while at the same time reducing costs. Sales on a like-for-like basis rose from CHF 8.075 billion to CHF 8.530 billion"</p> <p>"The Process Chemicals Business can look back on an exceptionally good financial year. All business lines recorded good growth"¹⁰⁰</p>	Clariant 2004 Annual Report
Cognis	€3.073 billion	<p>"With major growth in both sales and profits, Cognis achieved the turnaround in 2004"</p> <p>"Care chemicals further expanded its position as a global player in the personal care and home care segments"¹⁰¹</p>	Cognis Annual Report 2004
Degussa	€11.244 billion	"2004 was a successful year for Degussa. Demand for specialty chemicals products and system solutions was high throughout the world" ¹⁰²	Degussa Annual Report 2004

Dow	\$40.2 billion (€33.29 billion)	"We achieved record sales of \$40.2 billion in 2004" "Dow's fundamental aim is to maximize long-term shareholder value" "We expect that continued global economic growth will spur still higher demand for chemicals and plastics" ¹⁰³	Dow Corporate Report 2004
DSM	€7.752 billion	"Financially DSM is a very healthy company. DSM has a strong balance sheet, and is generating sustainable cash returns" "[DSM] has a healthy asset base and an organisation geared towards further improving the financial performance" ¹⁰⁴	DSM Completing Vision 2005
DuPont	\$27.340 billion (€22.64 billion)	"For DuPont and its people, 2004 was a landmark year... We had our fastest annual growth in recent years" ¹⁰⁵	DuPont 2004 Annual Review
Eastman	\$6.58 billion (€5.44 billion)	"Our sales revenue of \$6.6 billion was the best in our company's history ... - a solid improvement over 2003... We expect this growth to continue" ¹⁰⁶	Eastman 2004 Annual Report
ExxonMobil	\$291.252 billion (€241.193)	"2004 was an outstanding year for the company. Net income [was] the highest in the history of the Corporation" ¹⁰⁷	ExxonMobil 2004 Summary Annual Report
Honeywell	\$25.601 billion (€21.2 billion)	"Our businesses are in better shape competitively than they have ever been, the economic outlook is good, our balance sheet is strong" ¹⁰⁸	Honeywell 2004 Annual Report
Kemira	€2.533 billion	"Kemira is strengthening its operations within pulp and paper chemicals, water treatment chemicals, industrial chemicals and paints and coatings through both organic growth and acquisitions. All operations aim at improving profitability, achieving growth, building a strong competitive position and boosting synergy across the Group" ¹⁰⁹	Kari Savolainen (2005)
Lyondell	\$5.968 billion (€4.94 billion)	"we are now positioned to maximize profitability as business conditions continue to improve in the year ahead" ¹¹⁰	Lyondell 2004 Annual Report
Novartis	\$28.247 billion (€23.39 billion)	"News in 2004: Novartis delivers record net sales and net income" ¹¹¹	Novartis Caring and Curing Annual Report 2004
Polimeri Europa	€5.417 billion	"The Polimeri Europa Sector ... achieved a net operating profit of 276 million euro in 2004, compared to the 117 million euro operating loss totalled at the end of the previous year" ¹¹²	Polimeri Europa (2005)

Procter & Gamble	\$56.741 billion (2005) (€46.98 billion)	"We've grown sales more than 40%, to \$57 billion. We've more than doubled profits" ¹¹³	Procter & Gamble 2005 Annual Report
Repsol-YPF	€40.585	"The chemical business area also achieved excellent results in 2004, posting a 63%" ¹¹⁴	Repsol YPF Annual Report 2004
Rhodia	€5.281 billion	"Aggressive price increases, satisfactory business volume and rigorous control of fixed costs have enabled us to improve our operating earnings significantly" ¹¹⁵	Rhodia 2004 Annual Report
Rohm & Haas	\$7.3 billion (€6.04 billion)	"Sales of \$7.3 billion represent a 14% increase over 2003, the second consecutive year of double-digit sales growth" ¹¹⁶	Rohm & Haas Going to Market 2004
Shell Chemicals	Net income: \$18.183 billion (€15.05 billion)	"We achieved the highest net income in our history, \$18.2 billion. This was 48% higher than in 2003" ¹¹⁷	Shell Annual Report 2004
Solvay	€7.877 billion	"Our group achieved record results in 2004, beating the previous records set in 2002. Sales were 4% higher at EUR 7.9 billion" ¹¹⁸	Solvay Global Annual Report 2004
Total	€122.7 billion	"In 2004, we had record earnings" "We have kept to our chartered course ... balancing and increasing the profitability of our portfolio of Chemicals activities" ¹¹⁹	Total 2004 Annual Report
Unilever	€40.169 billion	"Underlying sales grew by 0.4% and leading brands by 0.9%" ¹²⁰	Unilever "Fourth Quarter and Annual Results 2004"
Wacker-Chemie	€2.542 billion	"we are a stronger business than we were five years ago and we have valuable assets on which we can build" ¹²¹ "2004 was a successful year for the chemical segment's business divisions. Their sales grew significantly ... which is a clear sign of WACKER's improved competitive position" "sales and profits from our operational business are set to rise again in 2005" ¹²²	2004 Unilever Annual Report and Accounts Annual Report 2004 Wacker-Chemie

(Please note: figures expressed in \$ and CHF were converted to € using www.xe.com at exchange rates on 15th October 2005)

4. CEFIC'S LOBBYING ACTIVITIES AND ITS IMPACT ON REACH

"REACH has been the subject of an unprecedented aggressive and sustained attack from one of the largest industrial sectors in the world..."

From the former Swedish Member of the European Parliament Inger Schorling's booklet: REACH – What Happened and Why?¹²³.

"Everyone in the parliament has noted that the lobbying by the industry on this particular file has been intense, but for a legislation that is as complex as the REACH proposal it is helpful to be in dialogue with different stakeholders. The industry has been providing specific information in French, my mother tongue that enabled me to listen to their concern with the new regulation. However, I was also aware that the industry views were very unbalanced on several key issues of the draft regulation."¹²⁴

Beatrice Patrie, Socialist Group, French Member of the European Parliament

Lobbying in itself is not an illegitimate activity of course, far from it. Lobbyists can provide decision-makers with useful information and bring to bear important perspectives. In the current context, health and environmental NGOs also lobby for an improved REACH. However the battle over REACH has gone far beyond the usual tussle – it has become an almost iconic test of the resolve of the EU to implement high standards of health and environmental protection against the wishes of a major industry.

Cefic has always maintained its support for protection of health and environment but then goes on to demolish the actual framework proposed. For example, in its response to the 2003 "internet consultation" on a draft proposal put forward by the Commission, Cefic stated:

"Of particular importance for industry is to ensure the protection of human health and environment and to create a more efficient regulatory framework. However, **the proposed system is unworkable. It will have a negative impact on the competitiveness of the European chemical industry in the global market, its contribution to the economic wellbeing of the EU and its ability to finance innovation**" (Cefic, 2003¹²⁵) (Cefic's own emphasis).

With such statements, Cefic has tried to turn the mantra of "competitiveness" of the EU's Lisbon Agenda into a trump card.

Given that it is estimated that costs of REACH will be around 0.05% of the chemical industry's turnover, the threat that REACH will de-industrialise Europe (as formulated by Eggert Voscherau of BASF and former president of Cefic in 2003) is atrocious. Given the (partially) estimated health and environmental benefits of REACH, which are estimated to hugely outweigh the costs, the threat becomes monstrous.

Cefic has also tried to pull in the SMEs and alarmed downstream users of chemicals by scaring them with talk of withdrawal of chemicals from the market, costs of registration and so on. While no-one can fully predict the micro-effects of REACH and costs may not be evenly spread, the recent KPMG study was in the view of NGOs and many others not so pessimistic¹²⁶. However, it is widely recognised now that there is still a lot of misinformation circulating, which is unhelpful to the debate to say the least.

Cefic has pushed (and is pushing) hard to weaken REACH almost to the point of destruction. For example, despite much emphasis on transparency in the original White Paper, the final proposal introduced a list of information that would *always* be confidential (such as the precise use of a substance) with no reference to the public interest or indeed reference to the public's rights of access to information¹²⁷. Safety data requirements for chemicals in the 1-10 tonne band were reduced significantly in order to cut costs to industry (and now fall short of data needed for proper classification). The "substitution principle" (the replacement of the most hazardous chemicals with less hazardous chemicals) was severely compromised by the introduction of the "adequate control" clause. Instead of a presumption against use of, for example, very persistent and very bio-accumulative chemicals, a manufacturer could gain permission for use (an authorisation) if releases could be "adequately controlled" – an impossible concept we believe for long-lived

"Strong forces within the industry set out to destroy the REACH proposals by hugely exaggerating their likely costs and by spending vast sums of money on lobbying activities. CEFIC has never been able to explain how its claims to support the objectives of REACH square with its attempts to wreck the means by which they can be put into practice."¹³⁰

Chris Davies, Alliance for Liberals and Democrats in Europe, UK Member of the European Parliament

and bio-accumulating substances which can be concentrated in wildlife and humans around the globe, far from their point of release even. And substances under the one tonne threshold are completely outside REACH, despite Council's request that collection of information, even a simple list, be studied.

Despite gaining major concessions even before the final proposal was published in 2003, Cefic still maintains that the draft "*fails to provide a workable, effective and competitive framework for the management of chemicals*"¹²⁸. A full analysis of Cefic's proposals is beyond the scope of this report, but here are some examples of Cefic's ideas that will further weaken REACH:

Addition of a *toxicity* criterion to chemicals that are very persistent and very bio-accumulative. This would remove the precautionary approach to chemicals that can accumulate in humans and wildlife: one would have to show that the chemical is also toxic before it would be regarded as a chemical of very high concern;

The removal of *endocrine disrupting chemicals* (chemicals that may interfere with the functioning of hormone systems at extremely low levels, causing a wide variety of effects including birth defects, brain damage and cancers) from the definition of chemicals of "very high concern";

Submission of "appropriate *available*" data only for chemicals in the 1-10 tonne band, rather than adhering to a coherent set of required data: this would result in losing the chance to systematically classify chemicals in the 1-10 tonne band;

Exemption of all substances used in *research and development*, irrespective of volume;

Exemption of substances that are *exported* and not placed on the EU market. This way exported substances would have less safety data, creating a double standard, and might even be imported back into the EU incorporated into articles;

"For years the chemical industry has tried to stop the REACH legislation entirely. Industry amendments were an insult to intelligence, as their campaign tried to minimise the information request for chemicals while maximising bureaucracy. Their aim was to overburden the reform so that the system would not be functional. On the contrary the chemical industry should show that with REACH European companies have a chance to become leaders in product safety and can then use this as their competitive advantage."¹²⁹

Hiltrud Breyer, Greens/European Free Alliance, German Member of the European Parliament

"Even though the industry's wild claims have been exposed as false, and even though many of its legitimate concerns have been addressed, I get the impression that so much money has already been spent that the opposition juggernaut has been given a life of its own without regard to reason or reality."¹³⁰

Chris Davies, Alliance for Liberals and Democrats in Europe, UK Member of the European Parliament



50 symbolically pregnant activists greet delegates at international negotiations for Persistent Organic Pollutants treaty. Montreal, Canada



Commissioner Wallström meets Toxic Ted and environmental activists, July 2003 © EEB, Raf Willems

A clause that would completely undo the concept of certain types of information never being confidential (Article 116 (1)). Manufacturers could *challenge publication of information* on toxicological/eco-toxicological studies, and so important safety data might be withheld from the public domain;

Rejection of mandatory substitution plans for authorised chemicals (i.e. chemicals of very high concern), thus hindering one of the basic aims as stated in the White Paper: to replace the most hazardous chemicals with less hazardous chemicals.

The final form of REACH is still to be negotiated of course, but there is no doubt that its integrity is under threat. Cefic and its constituent companies will have played a crucial role in undermining the legislation if the aims of the original White Paper are thwarted in implementation of the new policy.

(Please note: we have requested statements from parliamentarians of several political parties, including Karl Florenz, Chairman of the Environment Committee and Hartmut Nassauer, Rapporteur for the Internal Market and Consumer Protection Committee of the European People's Party, but not all have been forthcoming)

5. CONCLUSIONS

A closer look at the words and actions of the 31 chemical corporations in this study revealed that often their claims are misleading or unsubstantiated. Through our research and communication with Cefic's corporate members, we have reached the following conclusions:

- Prioritising risk using Cefic's "risk-based prioritisation" strategy is impossible as it only calls for limited hazard and exposure data. Without a mandatory and scientifically acceptable data set, risk calculations may well be inaccurate and chemicals prioritised incorrectly.
- Despite Cefic's claim that risk-based prioritisation would "make the political objectives of REACH achievable"¹³¹, the support of Cefic and its members for risk-based prioritisation threatens to seriously undermine what should be the main aim of REACH: to protect human health and the environment.
- Cefic and its members are unwilling to provide sufficient information on chemicals in the 1-10 tonne band necessary to accurately calculate risk. This undermines the aim of REACH to generate useful chemical data that can allow us to better manage chemicals. Ironically, at least some corporate members have indicated that they already hold significant amounts of information.
- The loophole within Cefic's proposal means that hazardous chemicals could still be imported back into the EU in articles which would not reach the threshold for registration. None of the comments received on this topic indicated how Cefic's proposal would reduce the risk from human and environmental exposure to such chemicals.
- Cefic and the majority of its members are opposed to time limits on authorisations for substances of very high concern, which will hinder and delay their substitution.
- Most companies do not want mandatory substitution, even in cases where safer alternatives exist; believing that risk management can suffice. But in our view, risk management of persistent and bio-accumulative substances is a deeply flawed concept. A substitution principle is necessary to encourage safer chemicals and drive innovation.
- Despite claims of transparency from virtually all of Cefic's corporate members, only two companies took the opportunity to respond to this question. As far as we can ascertain, with the possible exception of Unilever, none of them provide consumers, retailers and other stakeholders full information about chemicals in products. Thus consumers are disempowered in this regard and the companies' own transparency statements look like green-wash.
- Corporate members' statements about product stewardship are contradicted by their protective attitude to the provision of information to us about very hazardous chemicals they may be producing or using. This raises serious questions about their integrity and their possibly vested interests in a weak REACH.

- Cefic and most of its members have not provided information on chemicals of very high concern in retail products to us, appealing to business confidentiality. Their position creates public mistrust, keeps consumers in the dark about the products they manufacture and severely damages corporate credibility, especially given their statements about transparency.

- With the exception of BP, no company explicitly listed which chemicals of high concern they actually manufacture, raising once again serious questions about their willingness to be open.

- Given that no corporate member was forthcoming on the issue of planned alternatives, real doubts are raised about their obligations to product stewardship in real terms. Broad claims about product stewardship and sustainable development are not reassuring and cannot inspire confidence. Until corporate members are more ready to report on their activities, if any, to replace chemicals of concern, the widely held perception that they are not trustworthy will continue¹³².



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- In light of statements about high levels of commitment to innovation, it is very disappointing that Cefic's corporate members cannot stipulate any actions or timelines for phasing out chemicals of very high concern or show some enthusiasm for this job. Cefic's comment only casts further doubt on how earnest the chemical industry is about acting on its innovative capacity.

- The companies in our survey have emphasised their good or often excellent financial results. Despite the small costs of REACH relative to industry turnover as a whole, Cefic and its members are unwilling to pay the necessary costs to help protect human health and the environment. They regard the costs as excessive and disproportionate.

6. APPENDIX

The full questionnaire and the responses are published on the Friends of the Earth Europe website at: www.foeurope.org/safer_chemicals/Index.htm

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Friends of the Earth Europe campaigns for sustainable and just societies and for the protection of the environment, unites more than 30 national organisations with thousands of local groups and is part of the world's largest grassroots environmental network, Friends of the Earth International.

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