



REACH IMPACT ON DEFENCE: EU PERSPECTIVE & EDA REACH ACTIVITIES

*promoting military capabilities and
sustainability in the defence sector*

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5 Dec 2019, Washington, DC, USA



Presentation by the European Defence Agency (EDA)

- **TSCA and REACH Regulatory Developments Short Course**
- **REACH Impact on defence: *EU Perspective & EDA REACH activities***
- Short Instructor Biography:

Costas Tataroglou, EDA Policy Officer Industry Engagement and EU Policies

- **Leading EDA activities on REACH Regulation** (among others), since joining the Agency in Sep 2013;
- Prior to that, served as a **military officer engineer** in the **Hellenic Air Force (HAF) and Hellenic Ministry of National Defence (HMoND)** since **1987**, in several posts related to engineering/management of maintenance, logistics support, procurement/contracting and EU/international relations (incl. being appointed as Liaison Officer for cooperation between HMoND and US ODC Athens (2007-2013)), **retiring in 2013 with the rank of Colonel**;
- **Electronics and Telecommunications Engineer (BSc)** specializing in military aviation systems, with post-graduate degrees in **Communications and Signal Processing (MSc)** (1997 – Imperial College, London, UK) and **Business Administration (MBA)** (2002 – National Technical University of Athens (NTUA), Greece), accredited also as a **UK Chartered Engineer (CEng)** and **UK Chartered Manager (CMgr)**.

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INTRODUCTION ABOUT THE EUROPEAN DEFENCE AGENCY

FACTS & FIGURES

Only EU Agency whose Steering Board meets at ministerial level



27 Member States

(all EU members except Denmark)

Administrative Arrangements

with Norway, Serbia, Switzerland and Ukraine

Budget 2019

€34.1 Mio

EDA Portfolio:

ca. **300 activities** related to capability development, R&T and defence industry

Value R&T projects 2004-2017 run within EDA:

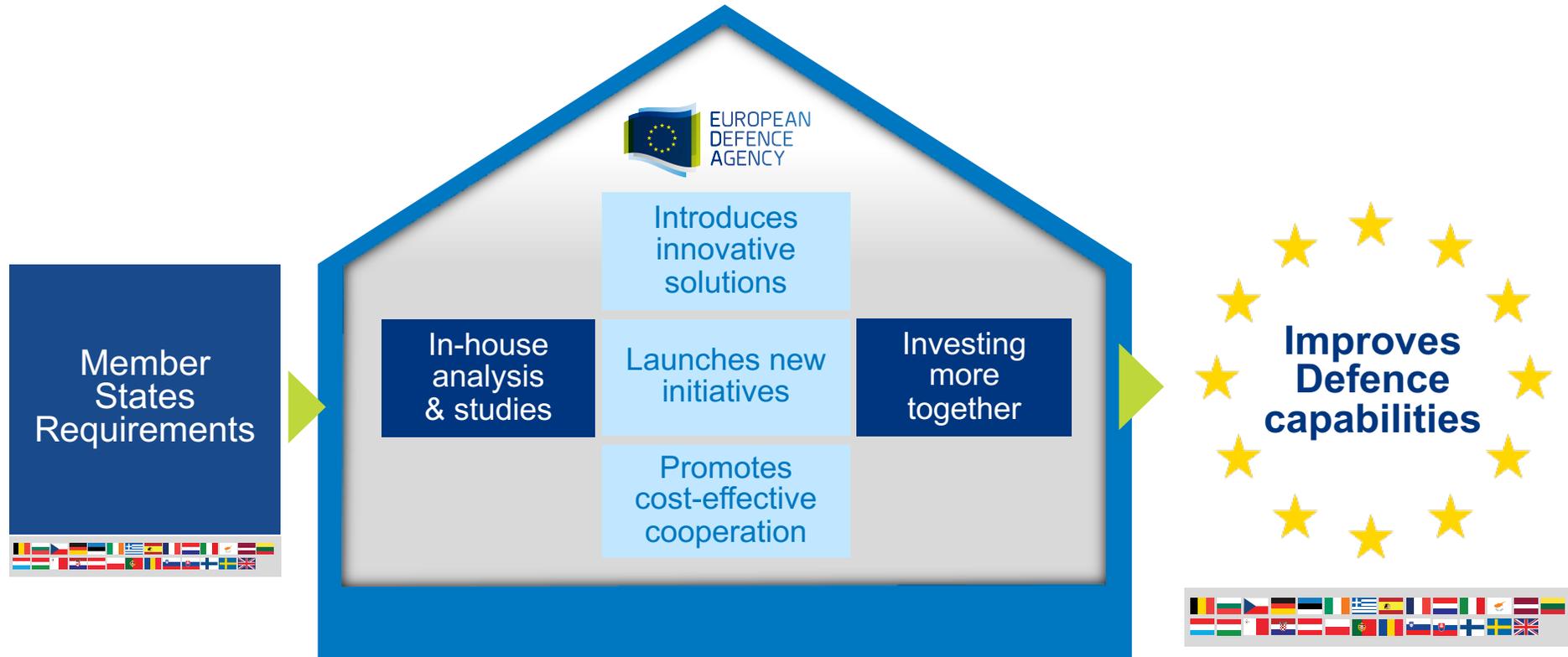
approx. **€1 billion**

MAIN MISSION

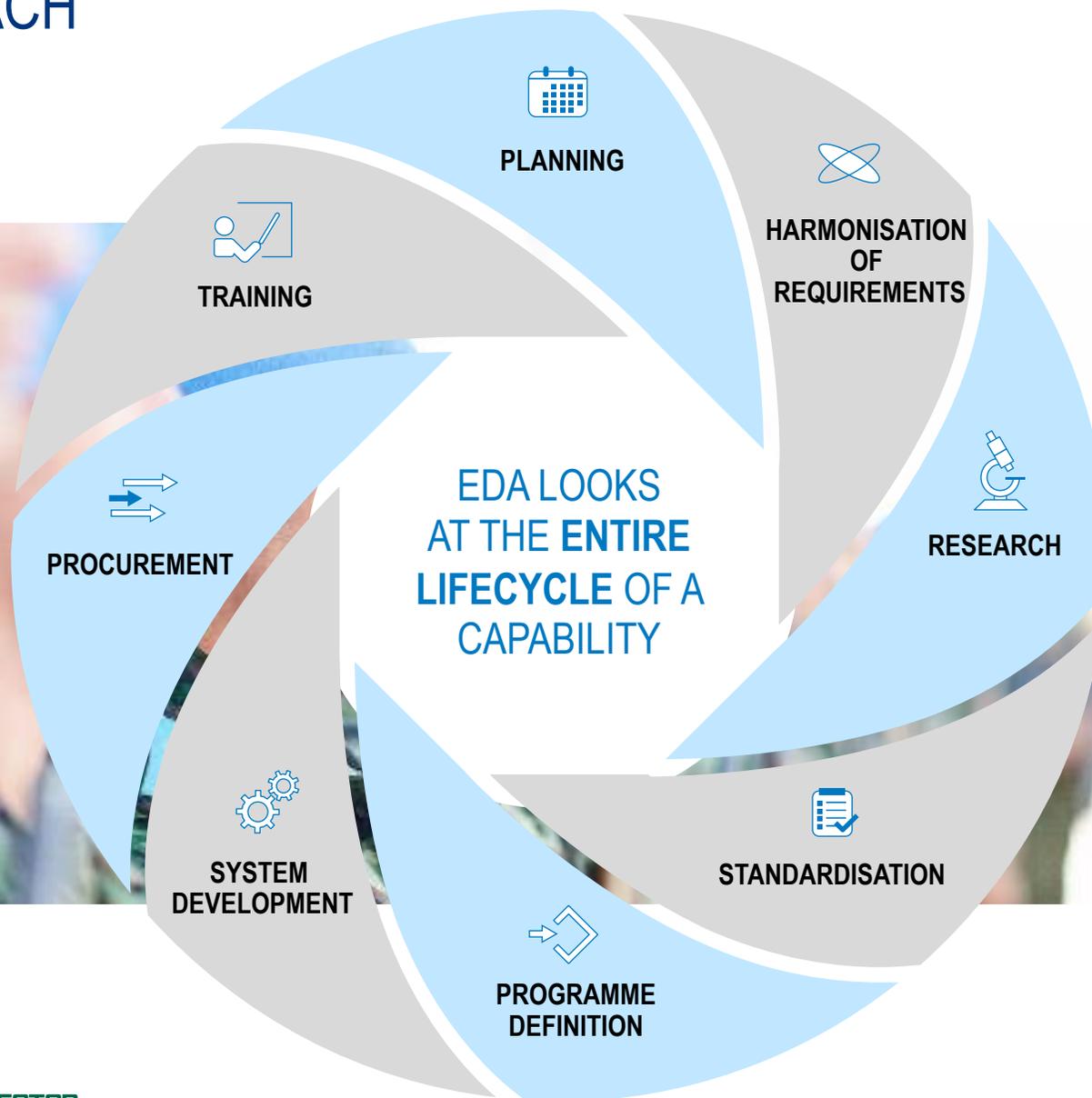
... to support the Council and the Member States in their effort to improve the Union's defence capabilities in the field of crisis management and to sustain the CSDP*

* Council decision 2015/1835 of 12 October 2015 on statute, seat and operational rules of the EDA

A CATALYST: FROM MEMBER STATES TO MEMBER STATES



LIFECYCLE APPROACH



EDA PRIORITY WORKSTRANDS

SUPPORT

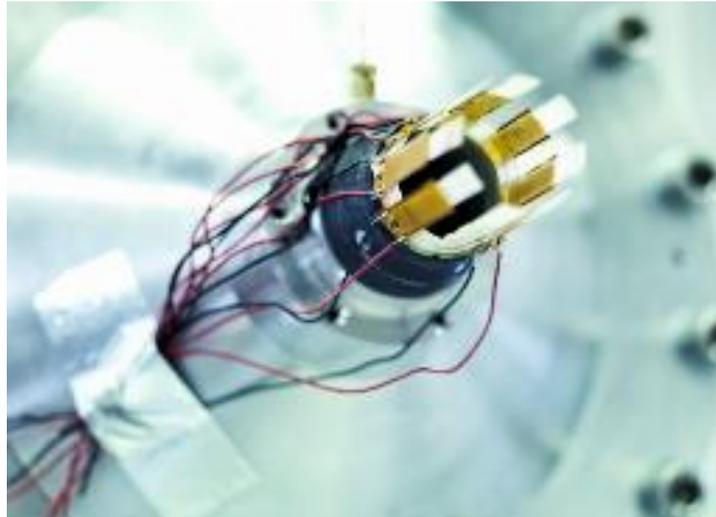
the development/sustainment of European Defence **key capabilities**



+

STIMULATE

defence **R&T** to prepare the capabilities of tomorrow and support the EDTIB



+

ENSURE

that military interests are taken into account in **wider EU policies**



REACH



REACH – SETTING THE SCENE

REACH Regulation_ Legal Text

- **REGULATION (EC) No 1907/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)**
- *Applicable in **European Economic Area (EEA)** i.e. EU+ Norway and Iceland*
- *Most comprehensive/strict chemical legislation in the world*
- *~850 pages*
- *50+ amendments to date*

30.12.2006  Official Journal of the European Union L 396/1

I
(Acts whose publication is obligatory)

REGULATION (EC) No 1907/2006 OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL
of 18 December 2006
concerning the Registration, Evaluation, Authorisation and
Restriction of Chemicals (REACH), establishing a European Chemicals Agency,
amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93
and Commission Regulation (EC) No 1488/94 as well as
Council Directive 76/769/EEC and Commission Directives 91/155/EEC,
93/67/EEC, 93/105/EC and 2000/21/EC

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty establishing the European Community, and in particular Article 95
thereof,
Having regard to the proposal from the Commission,
Having regard to the opinion of the European Economic and Social Committee¹,
Having regard to the opinion of the Committee of the Regions²,
Acting in accordance with the procedure laid down in Article 251 of the Treaty¹,

¹ OJ C 112, 30.4.2004, p. 92 and OJ C 294, 25.11.2005, p. 38.
² OJ C 164, 5.7.2005, p. 78.

- *REGULATION (EC) No 1907/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)*
- *Applicable in European Economic Area (EEA) including Norway and Iceland*
- *Most comprehensive/strict chemical legislation in the world*
- *~850 pages*
- *50+ amendments to date*

**REACH is a
comprehensive/
very complex
legal instrument**

30.12.2006  Official Journal of the European Union L 396/1

(Acts whose publication is obligatory)

REGULATION (EC) No 1907/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC

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² OJ C 164, 5.7.2005, p. 78.

REACH Regulation_ Main Principle

- **“No Data No Market”** ...substances on their own, in mixtures or in articles shall not be manufactured in the Community or placed on the market unless they have been registered....
- Application of the **“precautionary principle”**: there is a social responsibility to protect public from exposure to harm, when scientific investigation has found a plausible risk.

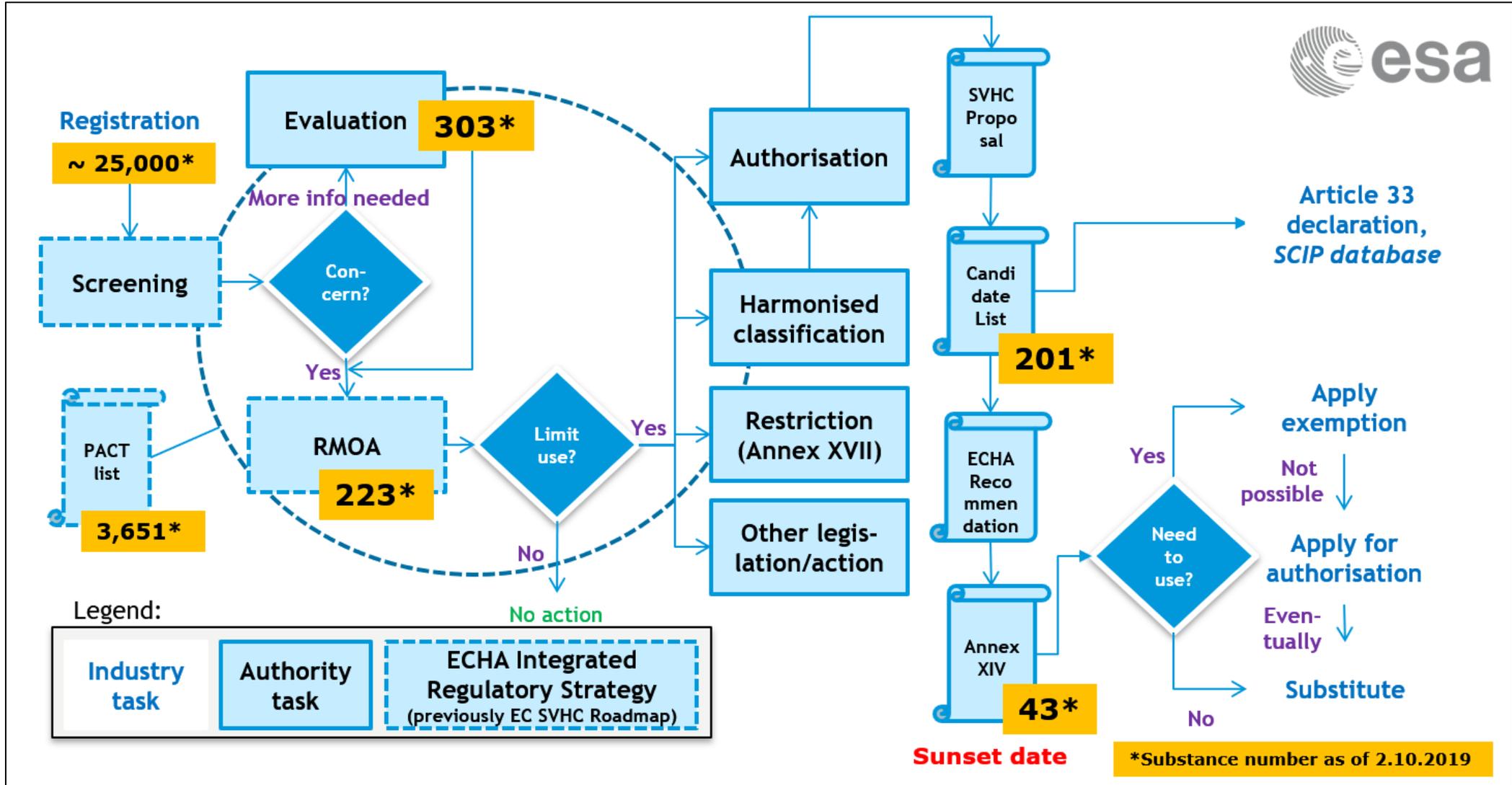
**** Provision of information is mandatory for compliance under REACH ****



REACH Regulation_ Consequences not only for EU Stakeholders

- REACH affects **all users of chemicals in the EU/EEA**
 - service delivery centres/MRO facilities, component suppliers, formulators of proprietary mixtures, and any materials/chemicals used in operations
- **** REACH has consequences for just about everyone with some upstream or downstream supply chain operations in the EU/EEA, even if they themselves are not based there ****
- **Such consequences** relate to (among others)...
 - legality of/permitting continued use of certain chemicals (in the EU/EEA)
 - reporting of substances in articles
 - the impact of regulatory burden on substance/mixtures suppliers; and
 - the resulting risk of obsolescence
- Many non-EU/US Aerospace/Defence companies recognise these consequences and are **as involved in REACH-related activities (e.g. authorisation consortia) as their European industry counterparts**

REACH Overall Process Overview



REACH Overall Process Overview



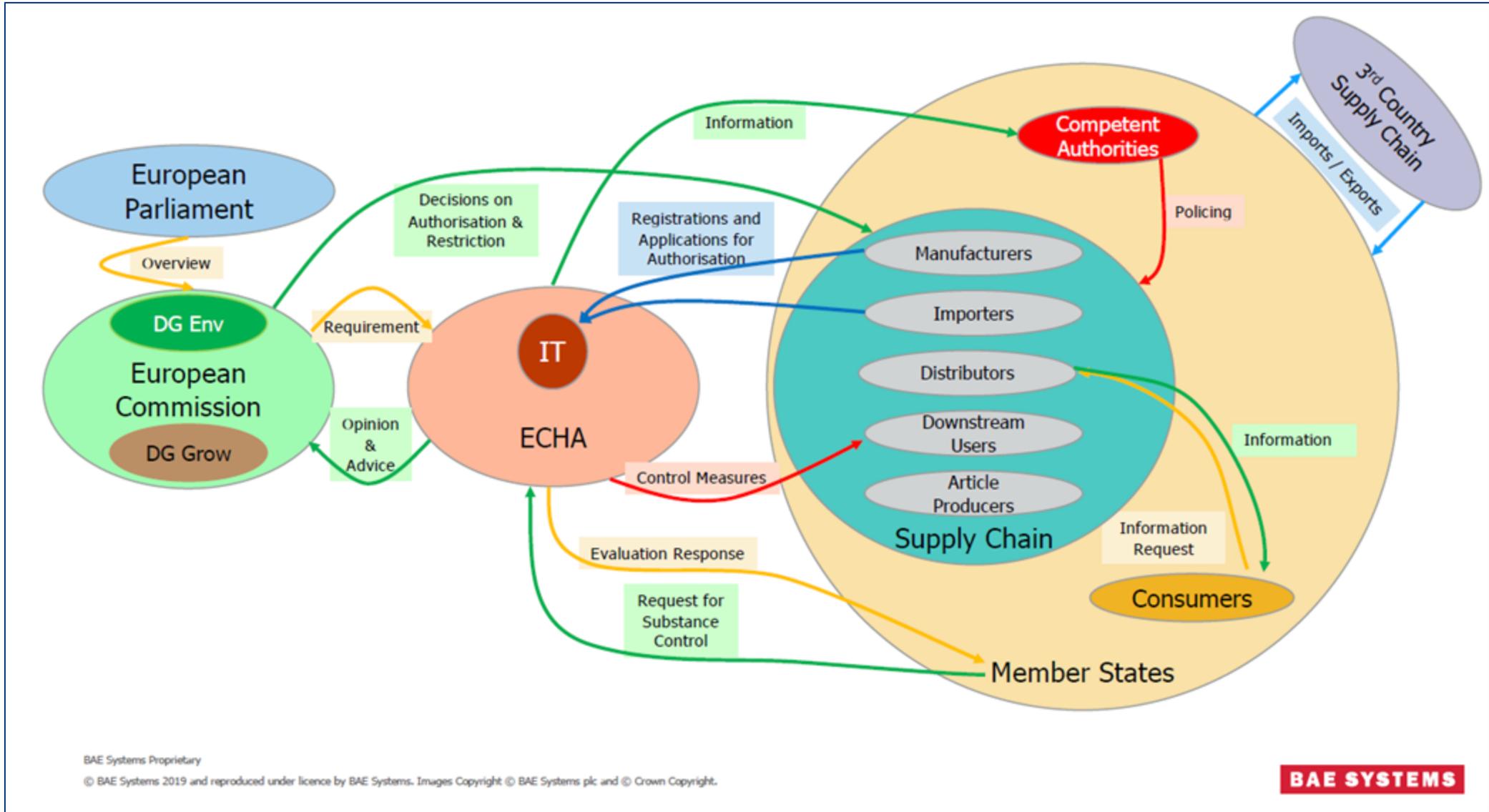
REACH Overall Process Overview _ REACH Lists

- The **number of regulated substances is constantly increasing** (*ECHA's Integrated regulatory Strategy*)
- To be able to remain current and ensure compliance, **several REACH lists should be monitored as a continuous process** (*European Chemical Agency's (ECHA) website*):
 - The List of Registered Substances
 - The Public Activities Coordination Tool (PACT) List
 - The Community Rolling Action Plan (CoRAP) List
 - The Registry of SVHC(*) Intentions
 - The REACH Candidate List
 - The REACH Authorisation List
 - The REACH Restrictions List

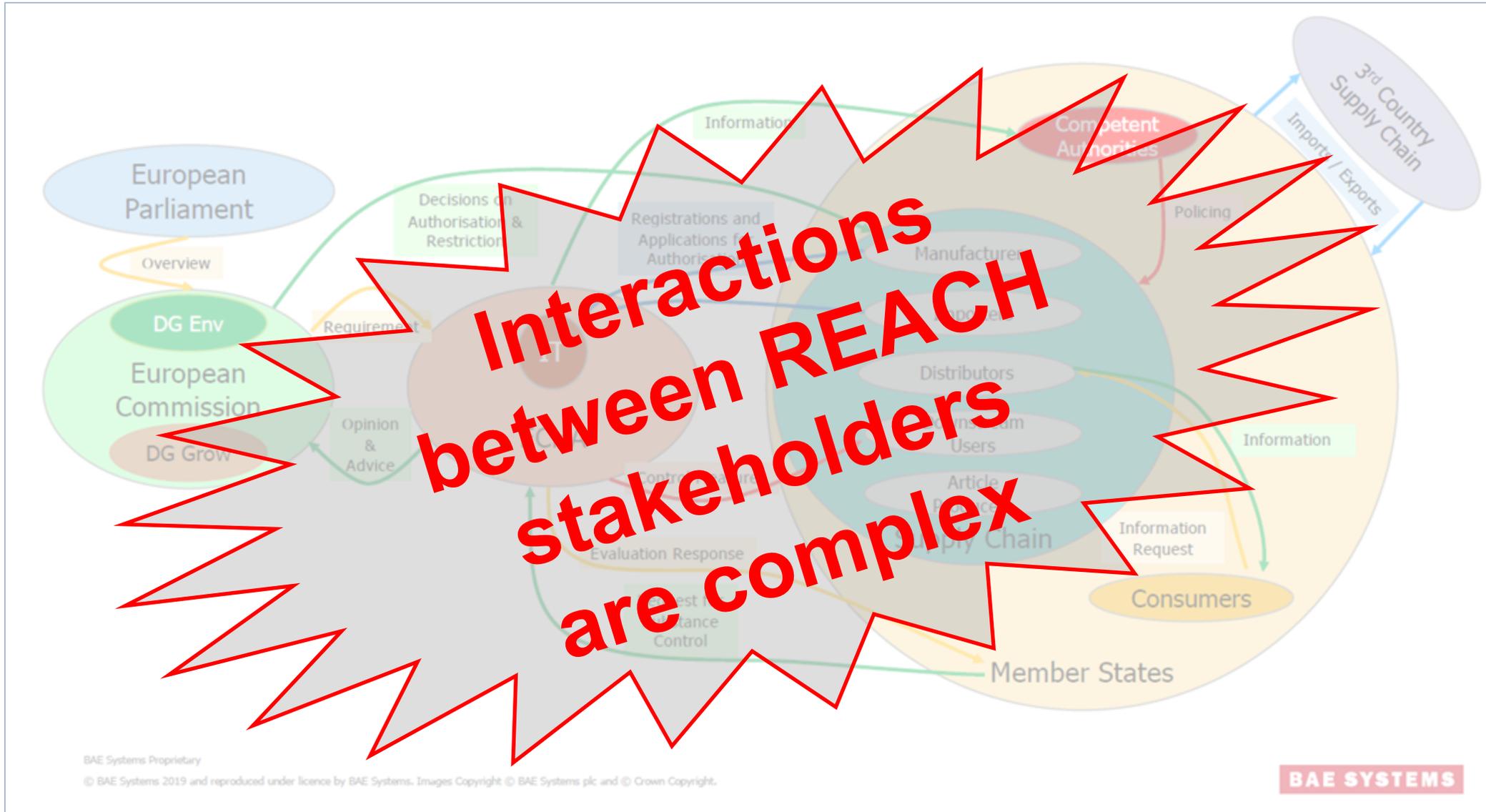
(*) *Substances of Very High Concern (SVHC)*



REACH Stakeholders' Interactions



REACH Stakeholders' Interactions





EU PERSPECTIVE ON IMPACT OF REACH ON DEFENCE

REACH Implementation_ EDA and MoDs

- EDA and its participating Member States (MoDs) **strongly support** the implementation of the REACH Regulation, and **fully acknowledge the positive effects to human health and environment**, from its implementation.
- It is crucial to ensure that **potential negative impacts** from REACH implementation to **EU defence stakeholders (MoDs and Defence Industry)** are **identified in due time and appropriate potential mitigating actions are taken**
- Supporting MoDs (and defence industry) towards this, is essentially the **main aim of EDA's work on REACH.**



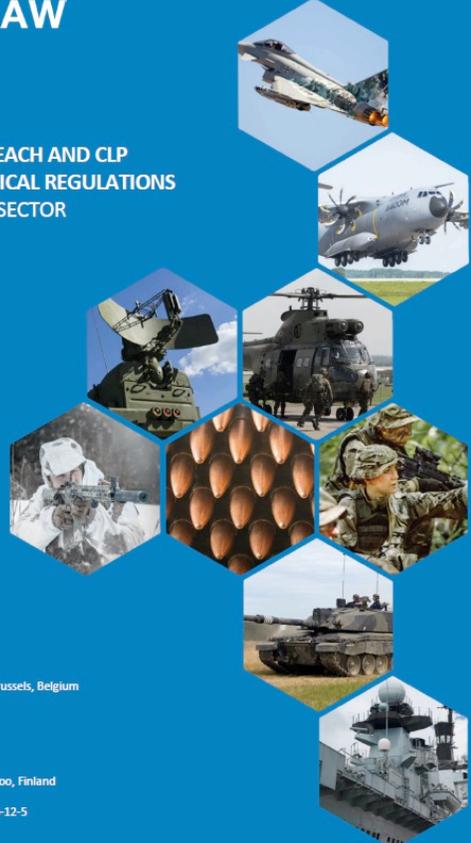
Impact of REACH on Defence _ EDA Study

- **Wide Stakeholder Consultation:** EU MoDs, EU Defence Industry, European Commission, ECHA, REACH Member State Competent Authorities (MSCAs), and non-EU/US industries (Boeing, GE Aviation, Lockheed Martin, Pratt & Whitney, Raytheon)
- **Final Report:** Dec 2016
- **Recommendations:**
 - For improvement of REACH regulation and its processes → EC + ECHA (*EC 2017 REACH Review*)
 - For further work on mitigating impact of REACH on defence → EDA + MS MoDs + Defence Industry.

available at: <https://www.eda.europa.eu/docs/default-source/reports/eda-reach-study-final-report-2016-december-16-p.pdf>

REACHLAW

STUDY ON
THE IMPACT OF REACH AND CLP
EUROPEAN CHEMICAL REGULATIONS
ON THE DEFENCE SECTOR
FINAL REPORT
16 DECEMBER 2016



COMMISSIONED BY:
European Defence Agency (EDA)
Rue des Drapiers 17-23, B-1050 Brussels, Belgium
www.eda.europa.eu
EDA reference: 16.ESI.OP.038

CONTRACTOR:
REACHLaw Ltd.
Vänrikinkuja 3 JK 21, FI-02600 Espoo, Finland
www.reachlaw.fi
REACHLaw reference: RL-QV-2016-12-5

THIS STUDY WAS COMMISSIONED BY THE EUROPEAN DEFENCE AGENCY. THE STUDY DOES NOT, HOWEVER, EXPRESS THE AGENCY'S OFFICIAL VIEWS. THE VIEWS EXPRESSED AND ALL RECOMMENDATIONS MADE ARE THOSE OF THE AUTHORS.

THIS STUDY AS WELL AS ANY OTHER RESULTS AND RIGHTS OBTAINED IN PERFORMANCE OF THE ENSUING CONTRACT, INCLUDING COPYRIGHT AND OTHER INTELLECTUAL OR INDUSTRIAL PROPERTY RIGHTS, SHALL BE OWNED SOLELY BY THE AGENCY, WHICH MAY USE, PUBLISH, ASSIGN OR TRANSFER THEM AS IT SEES FIT, WITHOUT GEOGRAPHICAL OR OTHER LIMITATION, EXCEPT WHERE INDUSTRIAL OR INTELLECTUAL PROPERTY RIGHTS EXIST PRIOR TO THE CONTRACT BEING ENTERED INTO.

Impact of REACH on Defence _ Types/Aspects & Mitigation Actions

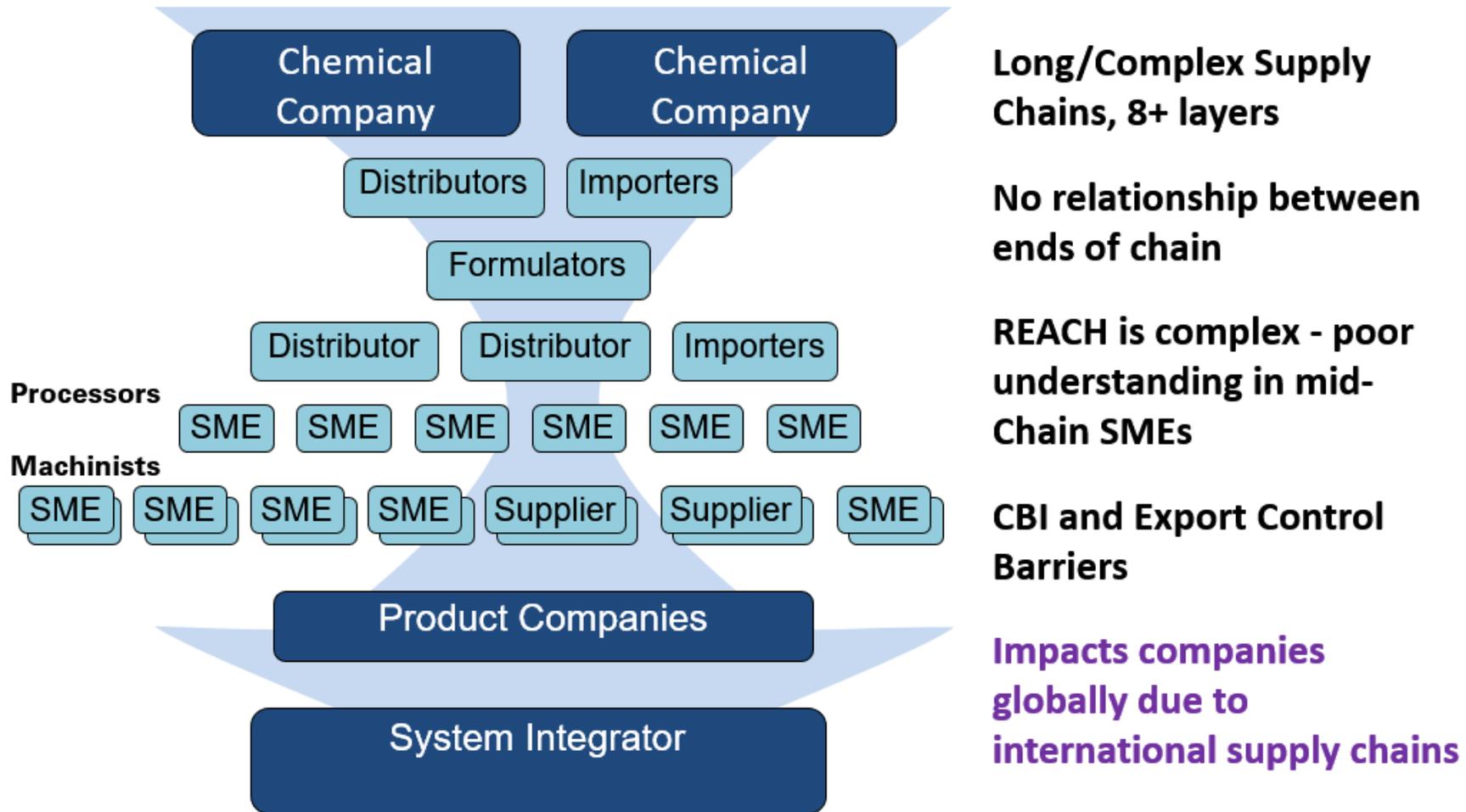
- **Potential REACH impacts include**

- Impacts to **EU defence industry** (as main addressee of the REACH Regulation)
 - as main developers/providers and supporters of MoDs/Armed Forces' defence capabilities
 - on wider industrial considerations, such as industry competitiveness, not only in the EU market but also at a global scale
- Impacts to **EU Ministries of Defence and Armed Forces** - directly or indirectly through industry - in terms of sustainment of operational capabilities

- **Required mitigation actions**

- actions by defence stakeholders for **coherent implementation of REACH** as it stands now
- potential actions by EU stakeholders for potential improvements of REACH Regulation and its processes, in the near future

Impact of REACH on Defence _ Supply Chain Complexity



Impact of REACH on Defence _ Key Conclusions 1

REACH authorisation **timelines are strongly mismatched** to the defence sector (yrs vs decades).

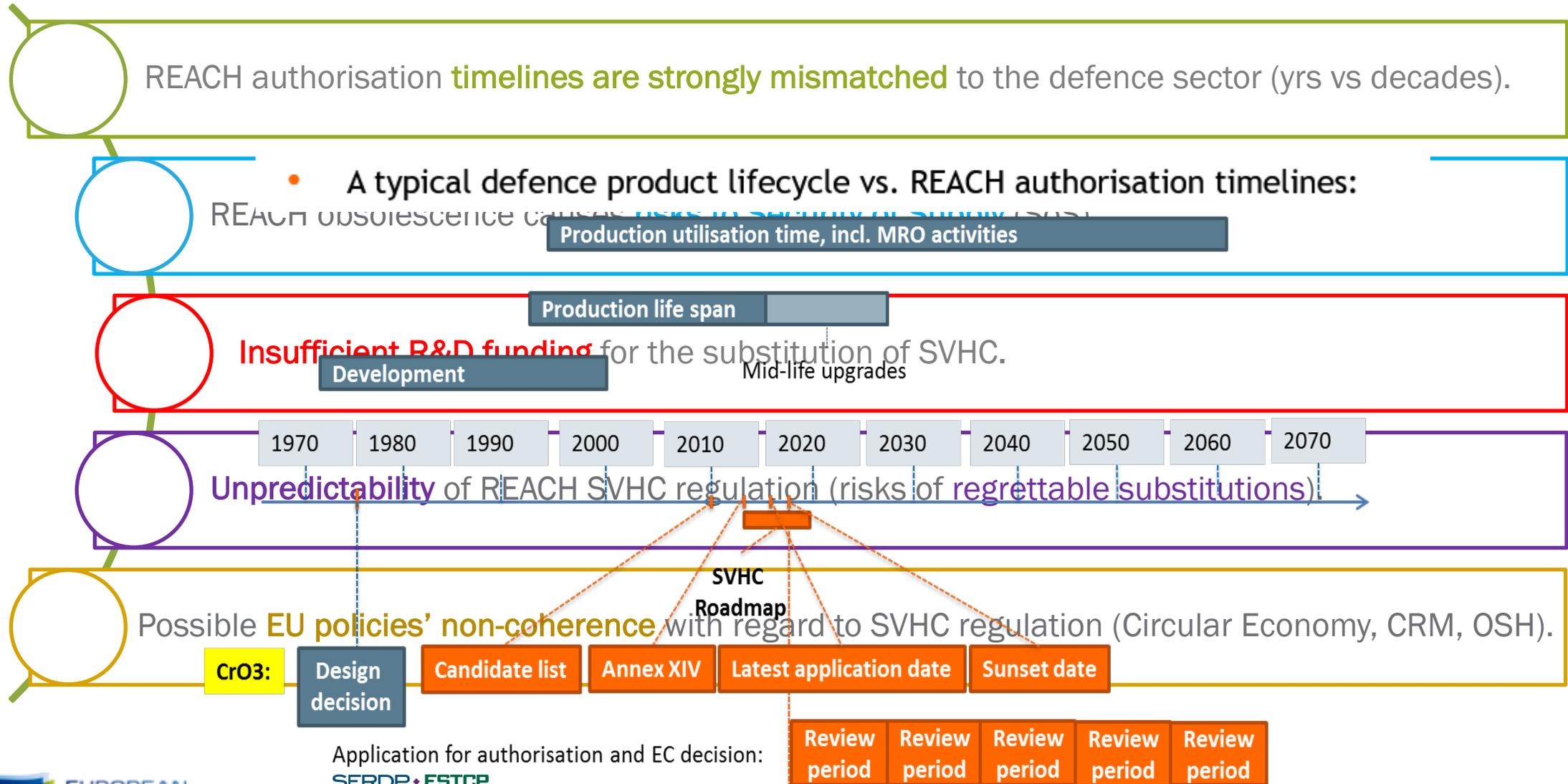
REACH obsolescence causes **risks to Security of Supply** (SoS).

Insufficient R&D funding for the substitution of SVHC.

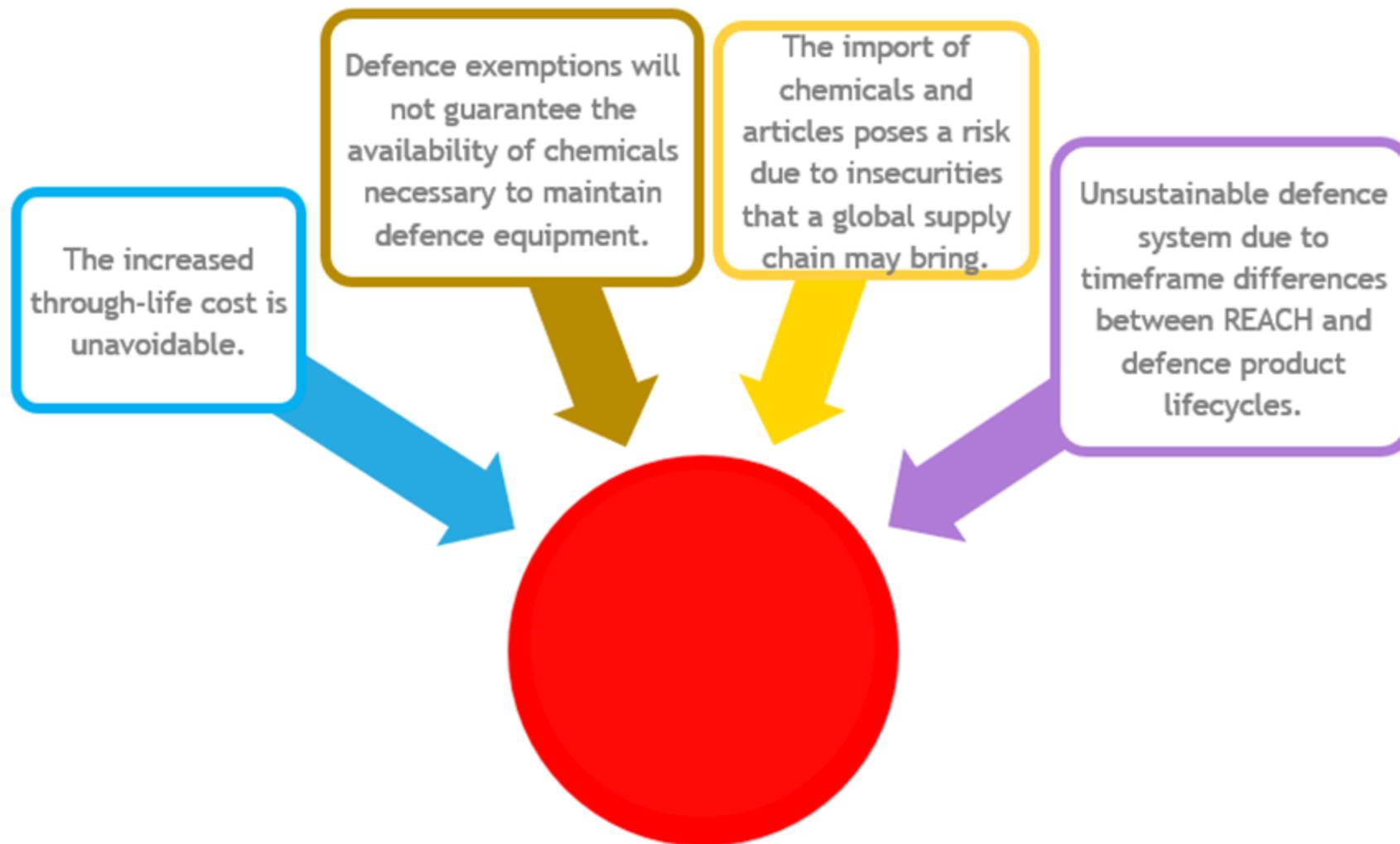
Unpredictability of REACH SVHC regulation (risks of regrettable substitutions).

Possible **EU policies' non-coherence** with regard to SVHC regulation (Circular Economy, CRM, OSH).

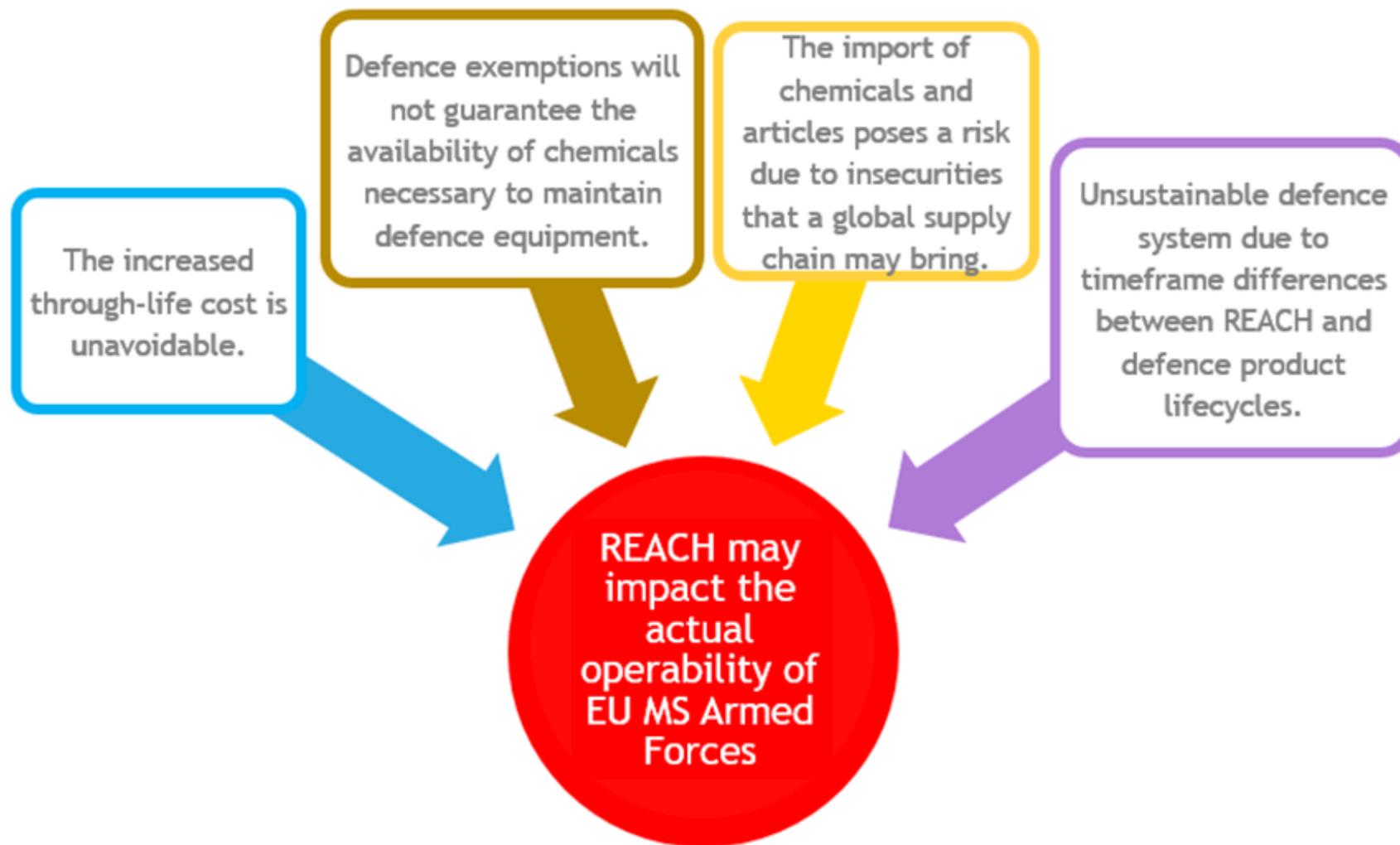
Impact of REACH on Defence _ Key Conclusions



Impact of REACH on Defence _ Key Conclusions (cont)



Impact of REACH on Defence _ Overall Conclusion



Impact of REACH on Defence _ Illustrative Examples of Substances (status during EDA Study – Dec 2016)

Substance / substance group	REACH/CLP status	Air-Naval-Land	Space	Electronics	Nuclear	Munitions	CRM	R&T ongoing
Phthalates	Annex XIV: first sunset date passed 21.02.2015	+				+		YES
Lead chromate (CAS 7758-97-6)	Annex XIV: sunset date passed 21.05.2015	+				+		YES
Trichloroethylene (CAS 79-01-6)	Annex XIV: sunset date passed 21.04.2016	+				+		YES
Cr(VI) compounds	Annex XIV: first sunset date on 21.09.2017	+	+	+		+	Chromium	YES (high)
Cobalt salts	Annex XIV recommendation (2011) - on hold	+	+				Cobalt	Not known
ADCA (CAS 123-77-3)	Annex XIV recommendation (2014)					+		Not known
Refractory ceramic fibres	Annex XIV recommendation (2014)	+					Silicon metal	Not known
Boric Acid (CAS 10043-35-3)	Annex XIV recommendation (2015)	+	+		+		Borates	YES (some)
Lead and its compounds	Annex XIV recommendation (2016) - partly	+	+	+		+		YES
Hydrazine (CAS 302-01-2)	Candidate list (20.06.2011)	+	+		+	+		NO (F-16)
Lead titanium zirconium oxide (CAS 12626-81-2)	Candidate list (19.12.2012)	+		+	+			YES
Cadmium (CAS 7440-43-9)	Candidate list (20.06.2013)	+	+	+	+	+		YES (some)
Ammonium perchlorate (CAS 7790-98-9)	RMOA (after substance evaluation)		+			+		YES
Beryllium (CAS 7440-41-7)	RMOA	+	+	+	+	+	Beryllium	Not known
Bisphenol A (CAS 80-05-7)	SVHC proposal and intention; restriction	+						Not known
Diisocyanates	RMOA concluded: Annex XVII proposal	+	+	+	+	+		Not known
Gallium Arsenide (CAS 1303-00-0)	CLP Annex VI			+			Gallium	YES
Nickel salts	RMOA	+	+	+		+		YES (some)
Petroleum substances, e.g. in NATO fuel	SVHC Roadmap to 2020 / PetCo Group	+						YES (some)

Legend:	Annex XIV	ECHA recommendation	Candidate List	(Potential) SVHC
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Impact of REACH on Defence _ Illustrative Examples of Substances (current status – Nov 2019)

Substance / substance group	REACH/CLP status (OEL activities highlighted)	Air-Naval-Land	Space	Electronics	Nuclear	Munitions	CRM
Phthalates	Annex XIV: first sunset date passed 21.02.2015. Restrictions decided	+				+	
Lead chromate (CAS 7758-97-6)	Annex XIV: sunset date passed 21.05.2015	+				+	
Trichloroethylene (CAS 79-01-6)	Annex XIV: sunset date passed 21.04.2016	+				+	
Cr(VI) compounds	Annex XIV: first sunset date on 21.09.2017	+	+	+		+	Chromium
Cobalt salts	Annex XIV recommendation (2011) - on hold. ECHA restriction proposal	+	+				Cobalt
ADCA (CAS 123-77-3)	Annex XIV recommendation (2014) - on hold					+	
Refractory ceramic fibres	Annex XIV recommendation (2014) - on hold	+					Silicon metal
Boric Acid (CAS 10043-35-3)	Annex XIV recommendation (2015) - on hold	+	+		+		Borates
Lead and its compounds	Annex XIV recommendation (2016) - partly/on hold. OEL revision. Specific restriction activities	+	+	+		+	
Bisphenol A (CAS 80-05-7)	Annex XIV recommendation (2019)	+					
Hydrazine (CAS 302-01-2)	Candidate list (20.06.2011). OEL activities	+	+		+	+	
Lead titanium zirconium oxide (CAS 12626-81-2)	Candidate list (19.12.2012)	+		+	+		
Cadmium (CAS 7440-43-9)	Candidate list (20.06.2013). Restriction in entry 23 of Annex XVII. OEL activities	+	+	+	+	+	
Beryllium (CAS 7440-41-7)	RMOA concluded. OEL activities.	+	+	+	+	+	Beryllium
Diisocyanates	RMOA concluded. OEL and restriction activities	+	+	+	+	+	
Nickel salts	RMOAs concluded. OEL activities	+	+	+		+	
Gallium Arsenide (CAS 1303-00-0)	CLP Annex VI			+			Gallium
Ammonium perchlorate (CAS 7790-98-9)	RMOA (after substance evaluation) (Status 2016)		+			+	
Petroleum substances, e.g. in NATO fuel	SVHC Roadmap to 2020 / PetCo Group (Status 2016)	+					

Legend:	Annex XIV	ECHA recommendation	Candidate List	(Potential) SVHC
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EDA REACH PROGRAMME

EDA REACH PROGRAMME

- **EDA activities on REACH:** since 2009
- **Continuous interaction-cooperation with/support by all EU competent stakeholders:** Member States, European Commission, European Chemicals Agency (ECHA), European Space Agency (ESA), European defence industry - also US Department of Defence and US industry
- **Wide EDA network of Member States REACH experts**
 - **EDA REACH Task Force** : REACH/defence experts from 11 countries supporting EDA at technical level

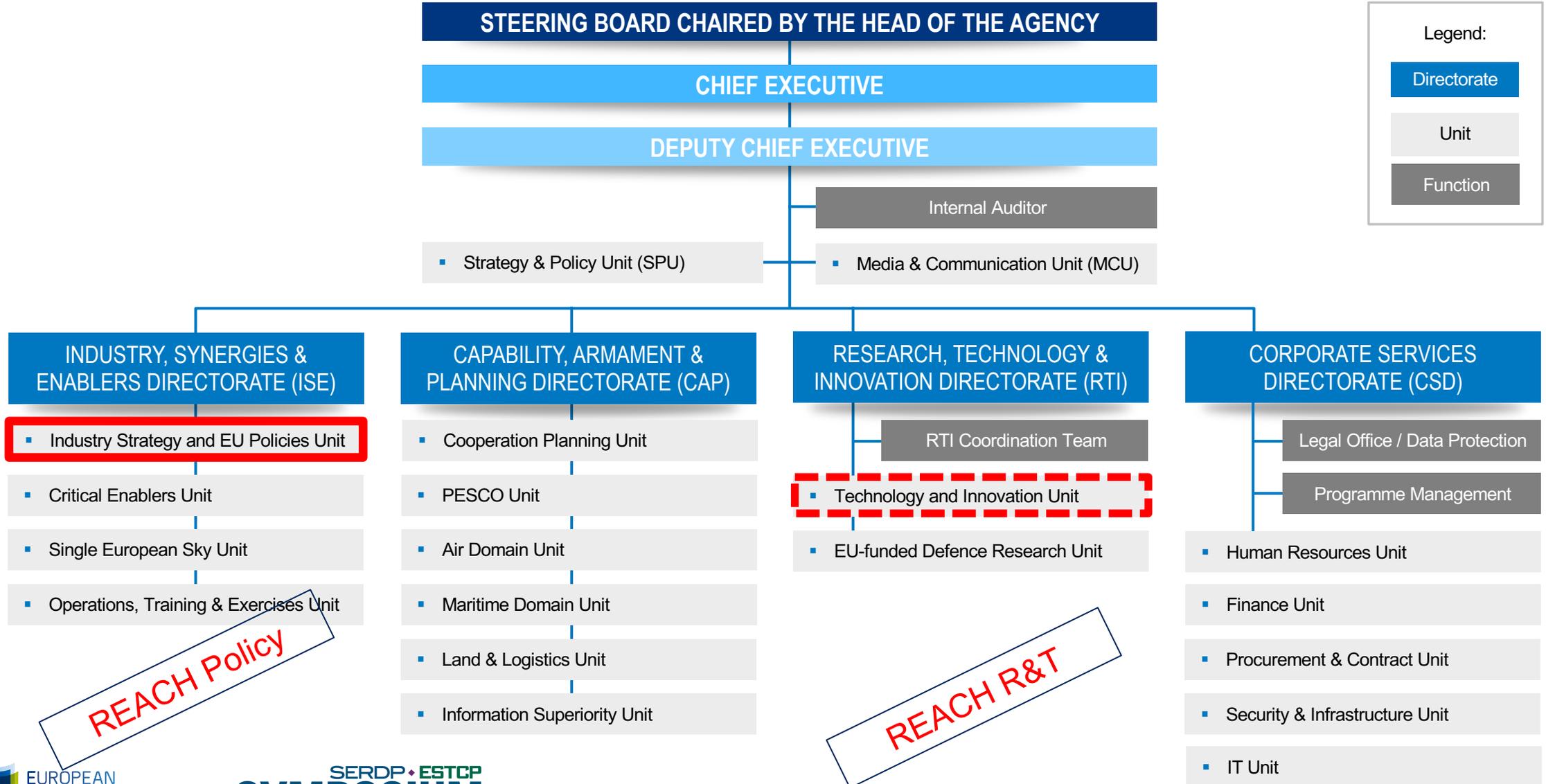
EDA only forum for structured dialogue - central role as EU military coordinator on REACH/defence issues

EDA REACH Programme Webpage:

<https://www.eda.europa.eu/what-we-do/activities/activities-search/reach/>



ORGANISATION



REACH Policy

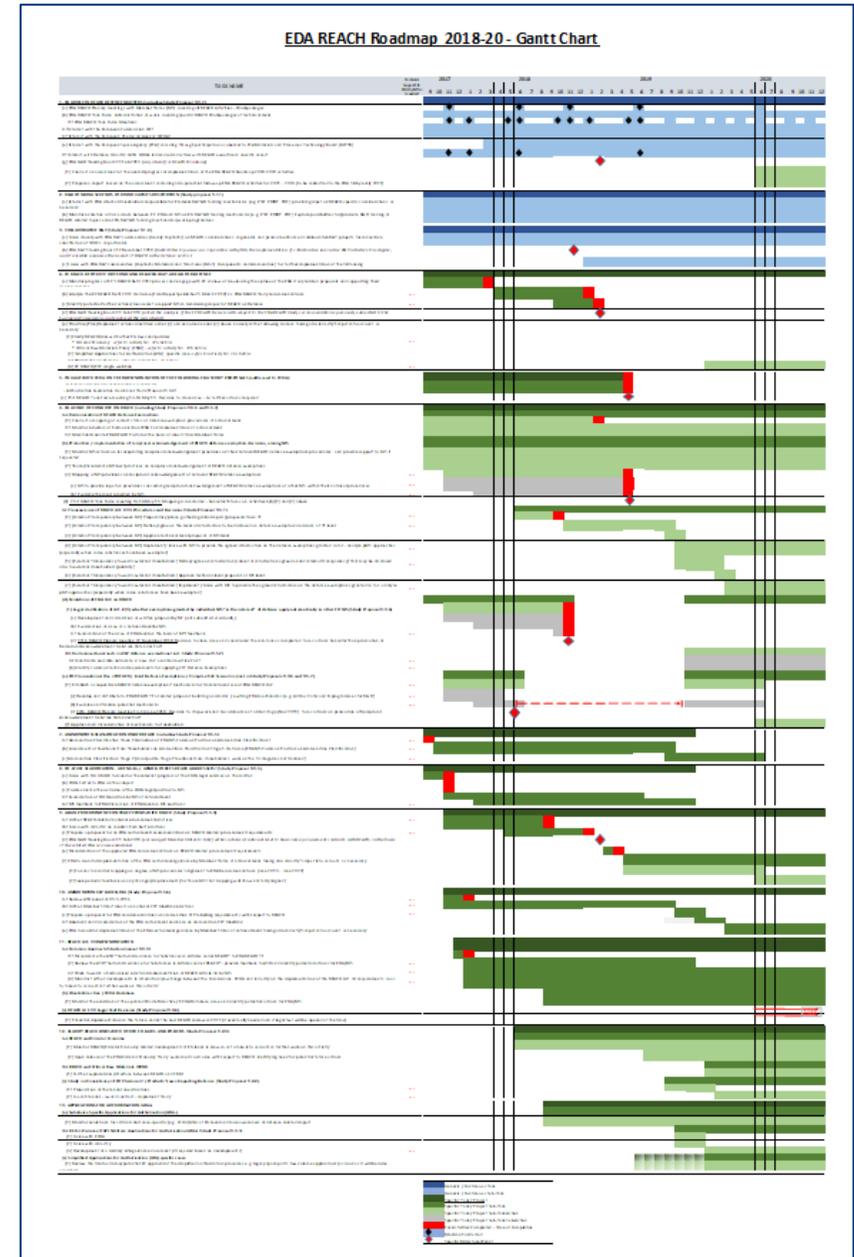
REACH R&T



EDA REACH Roadmap 2018 - 2020

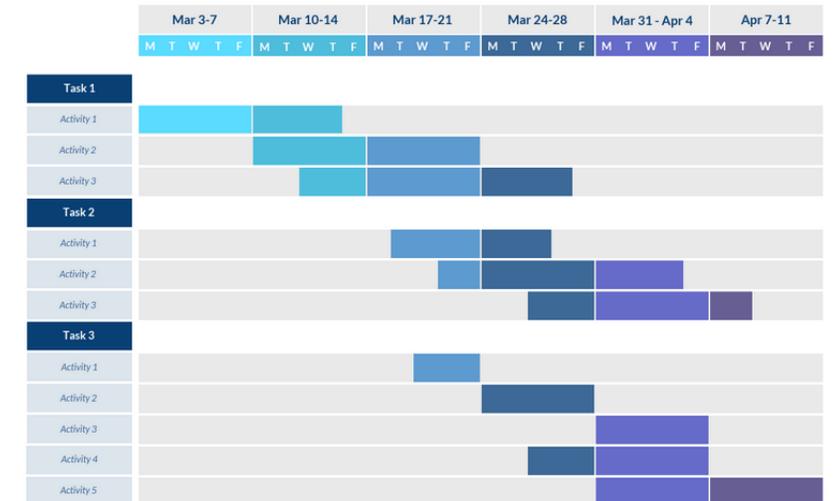
- ❖ adopted Oct 2017 – implementation in progress
 - on the basis also of the 2016 EDA REACH Study Outcome/ Recommendations
- ❖ Facilitating **common prioritised - coordinated actions**, in close cooperation with stakeholders (EC, ECHA, ESA and industry), with the support of the EDA REACH Task Force;
- ❖ Supporting the main purpose of REACH, while **mitigating its impact on Defence and ensuring the operational effectiveness** of the European Armed Forces.

available at: <https://www.eda.europa.eu/docs/default-source/documents/eda-reach-roadmap-2018-2020--ganttt-chart-as-of-6-june-2019.pdf>

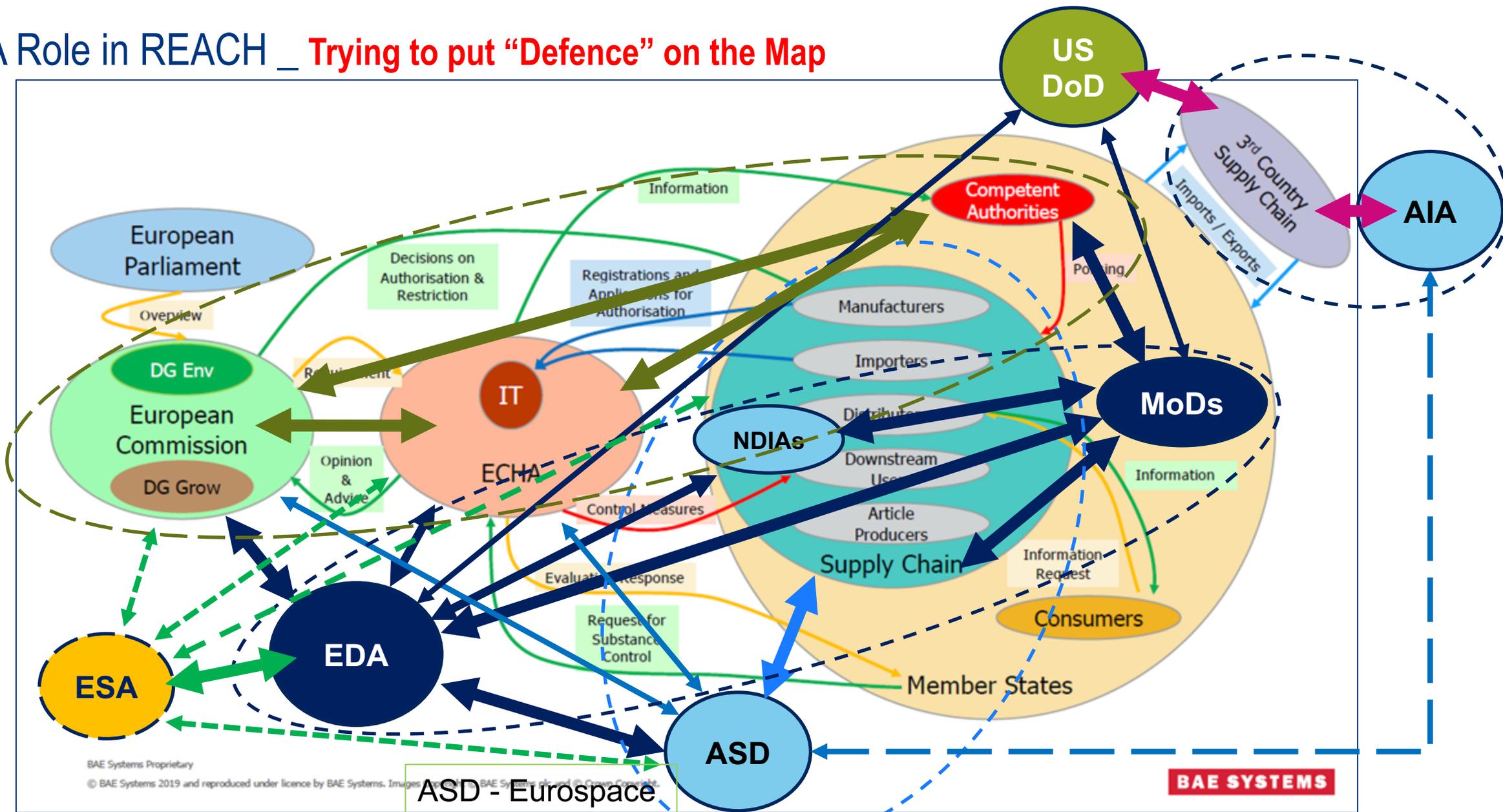


EDA REACH ROADMAP 2018-2020 _ List of Main Activities

- **EDA Role in REACH Defence Matters**
- **Promotion of REACH R&T Activities for Innovative Substitution**
 - Collaborative R&T
 - EU R&T&D Funding Schemes for REACH projects
- **REACH Defence Exemptions – EDA Code of Conduct**
- **Ammunition Classification under REACH**
- **Align Procurement Contract Terms with REACH**
- **REACH Art. 33 Implementation**
- **Clarification of REACH Links with Other EU Laws and Policies**
- **REACH Applications for Authorisation (AfAs), e.g. CrO3**



EDA Role in REACH _ Trying to put "Defence" on the Map



EDA Role in REACH _ Trying to put "Defence" on the Map



EDA Role in REACH _ Trying to put “Defence” on the Map

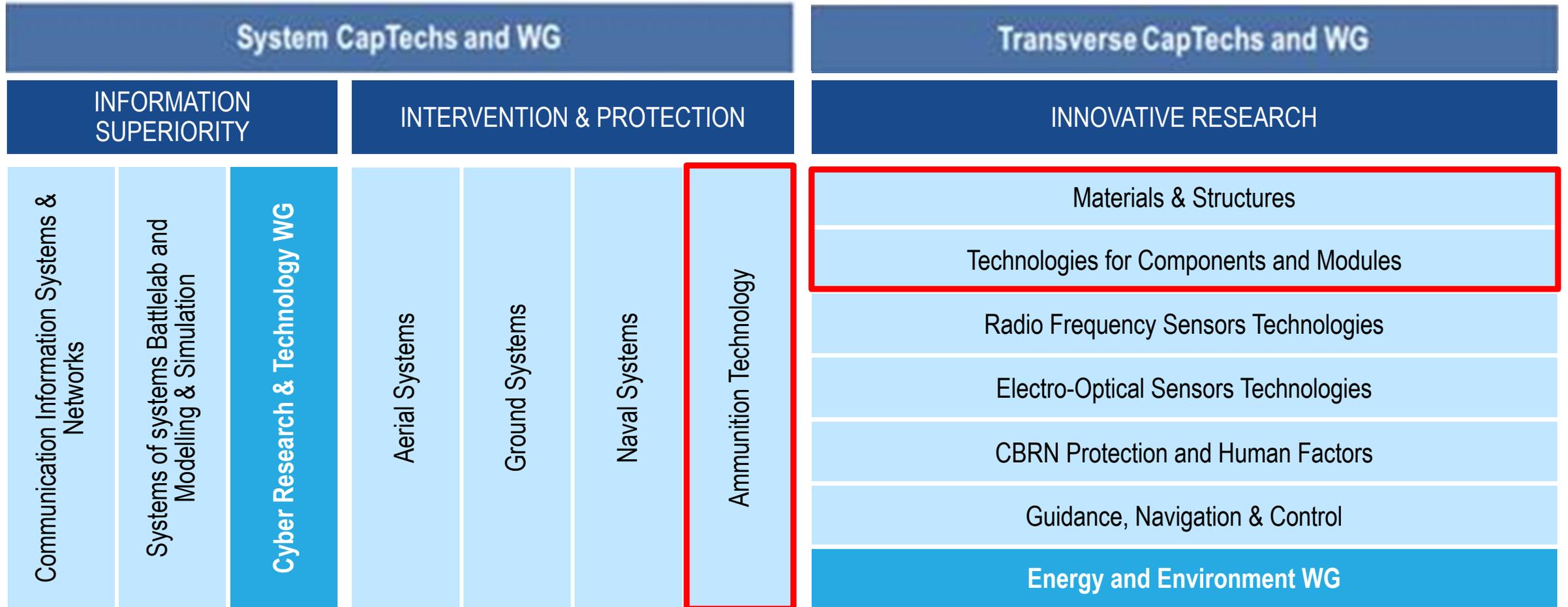
Having said that...

- **Awareness/Understanding of REACH/defence specificities** (by key REACH (non-defence) stakeholders esp. Commission, ECHA, Competent Authorities) **has been steadily improving in recent years**
 - Very good **EDA cooperation with Commission (and ECHA)** established on REACH.

Result of:

- **Outcome of EDA Study** – wide dissemination to all stakeholders + public
- **EDA (at EU-level) and MoDs (at national level) continuous interaction/engagement with main REACH related stakeholders at EU level**
- **One concrete outcome** → **Defence-Related REACH Authorisation Review Criterion**
 - *Following a relevant European Commission proposal, a **defence-specific criterion** related to the “**use for equipment with a very long life-cycle in the defence sector”** when granting longer than 12 years authorisation review periods, **was adopted in November 2017***

REACH R&T _ EDA Capability Technology Groups (CapTechs)



The detailed technical coverage of each group is posted on www.eda.europa.eu

REACH R&T _ Examples of EDA R&T Focus Areas & Challenges

➤ Surface treatment

- ✓ **Hexavalent Chromium compounds** in surface treatment → **Very important for some MoDs**
- ✓ **Cadmium** plating in the aerospace & defence sector (e.g. fasteners, connector housings)
- ✓ **Boric acid**, critical use in electrolytic deposition of metals

➤ Soldering (e.g. Lead-free soldering)

➤ Thermal and fire insulation materials (e.g. Refractory ceramic fibres)

➤ Alloys (e.g. Lead-free alloys)

➤ Boron oxide (Reagent in GaAs manufacturing)

➤ Cobalt (Ni-based corrosion protection)

➤ REACH Compliant Energetic Materials

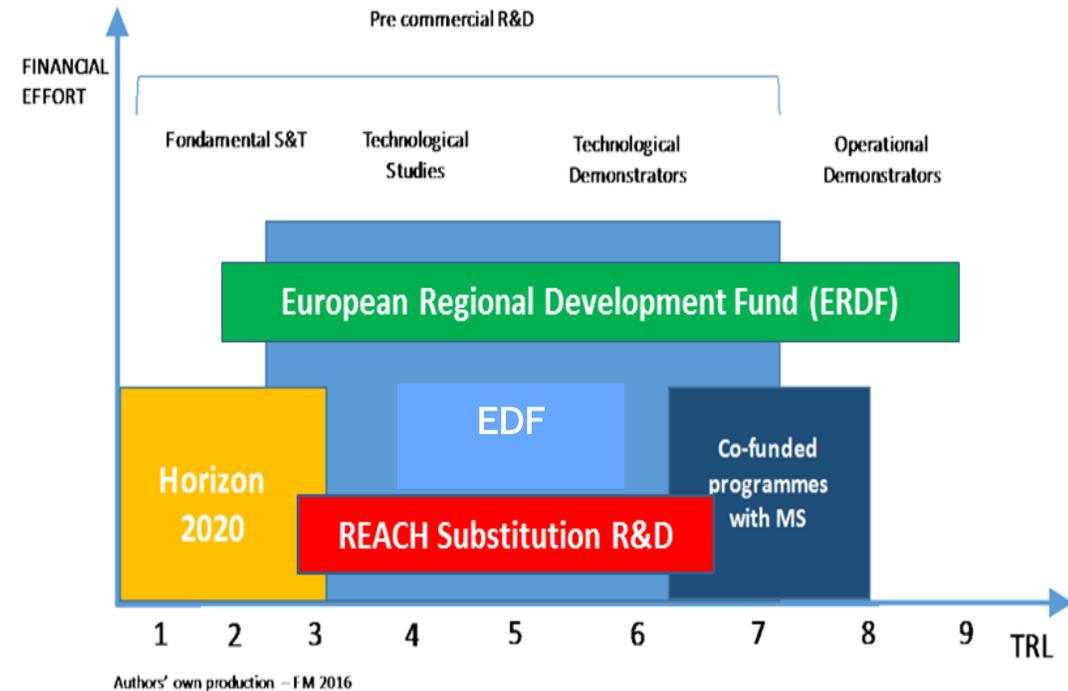


REACH R&T for innovative substitution of substances used in defence is challenging

- especially considering short REACH timelines, limited funding AND strict defence (re-)qualification (e.g. Air Sector/airworthiness) and/or safety (e.g. ammunition) criteria
- In some cases defence R&T efforts have been ongoing for years without concrete outcomes on finding viable alternatives for all defence uses (e.g. chromates in surface treatment, lead in ammunition)

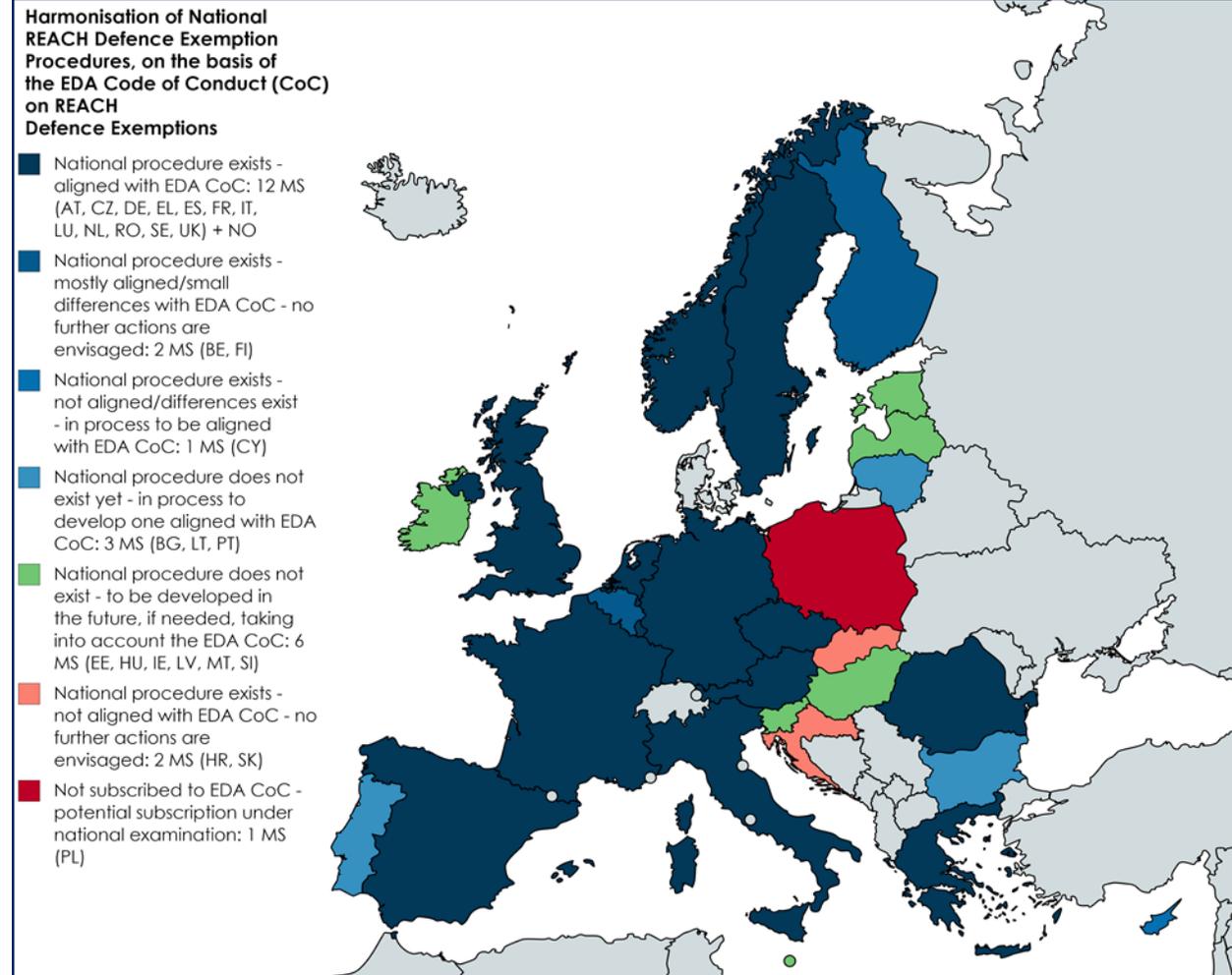
R&D Funding for Innovative Substitution _ Recent Developments at EU level

- Recent EU decisions at highest level to **support the competitiveness of EU defence industry** - dedicated EU mechanisms
 - **Established** (e.g. *European Defence Industry Development Program (EDIDP (2019-2020))*); and
 - **Under development** (e.g. *European Defence Fund (EDF) (2021-2027)*)
- **EDA REACH activities aim: Best exploitation of potential EU-level R&D funding schemes / sources** for funding of R&T projects for innovative substitution of REACH related Substances of Very High Concern (SVHCs) impacting defence, in the near future



REACH Defence Exemptions _ EDA CoC and Harmonisation

- Article 2(3) REACH **“Member States may allow for exemptions from this Regulation in specific cases for certain substances, on their own, in a mixture or in an article, where necessary in the interests of defence.”**
- **EDA Code of Conduct on REACH Defence Exemptions** adopted Mar 2015
 - Aiming to harmonise EDA Member States national processes on defence exemptions
 - Reducing administrative burden and costs for industry
- **EDA activities ongoing**: aiming to enhance transparency, reciprocal acknowledgment, improvements/ evolutions



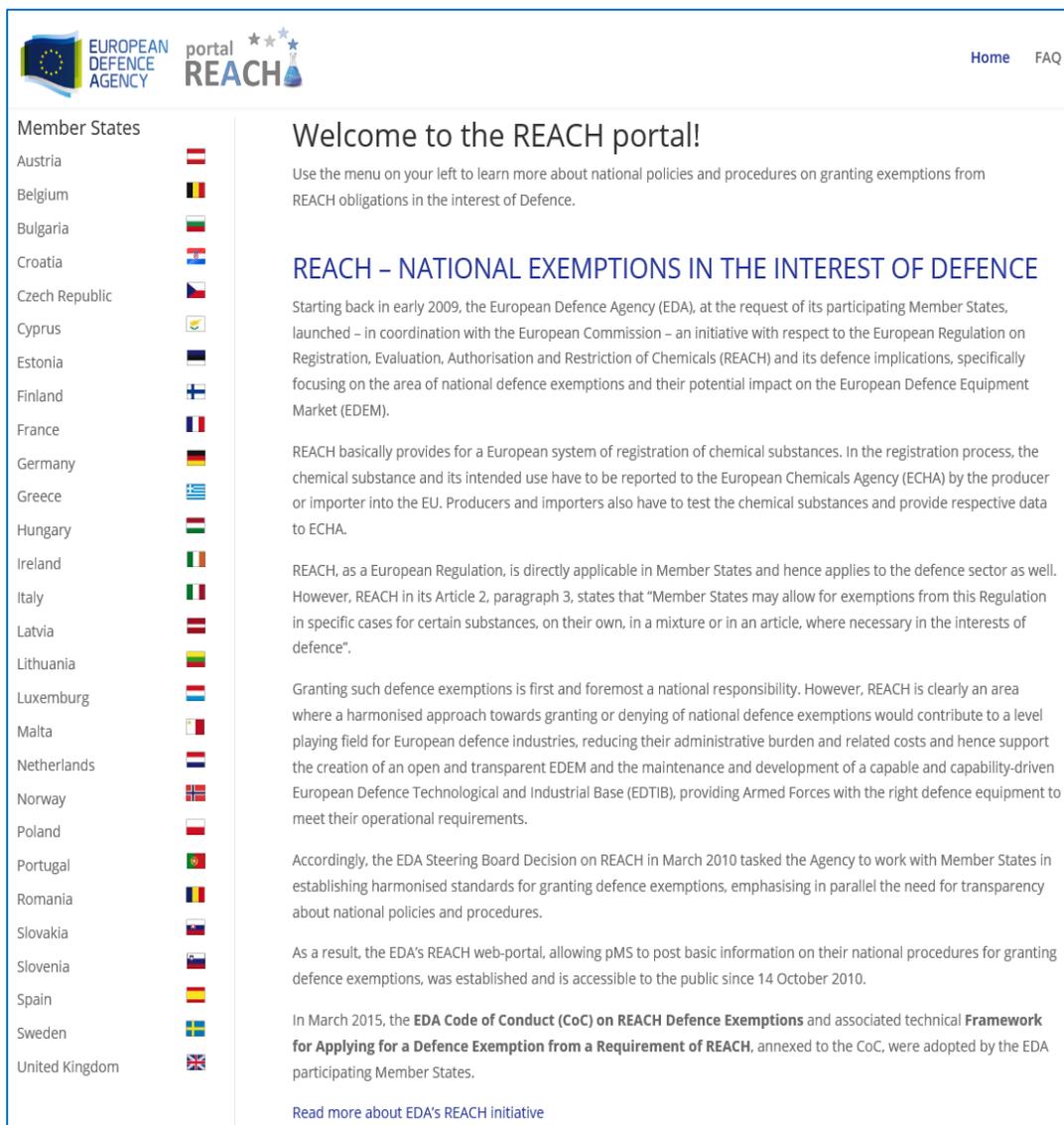
EDA CoC available at:

<https://www.eda.europa.eu/info-hub/press-centre/latest-news/2015/06/23/member-states-implement-code-of-conduct-on-reach>

REACH Defence Exemptions _ **Last Resort Solution**

- Defence Exemptions are not a panacea - **only a last resort solution**
 - They do not ensure that substances affected will remain available in the market
 - They are valid only within the national territory of the Member State granting them – **not across EU**
 - Potential application in cases of cross border supply chains is challenging
 - In many Member States final decisions are not under MoD-only control – other Ministries e.g. MoEnvironment are involved (MoDs identifying “the interests of defence”)
- **Compliance with REACH towards EU-wide solutions has to be the first priority, before defence exemptions are sought, through e.g.**
 - Substitution of SVHCs with more benign alternatives
 - REACH Authorisation

REACH Defence Exemptions _ EDA REACH Portal



EUROPEAN DEFENCE AGENCY portal REACH

Home FAQ

Member States

- Austria
- Belgium
- Bulgaria
- Croatia
- Czech Republic
- Cyprus
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxemburg
- Malta
- Netherlands
- Norway
- Poland
- Portugal
- Romania
- Slovakia
- Slovenia
- Spain
- Sweden
- United Kingdom

Welcome to the REACH portal!

Use the menu on your left to learn more about national policies and procedures on granting exemptions from REACH obligations in the interest of Defence.

REACH - NATIONAL EXEMPTIONS IN THE INTEREST OF DEFENCE

Starting back in early 2009, the European Defence Agency (EDA), at the request of its participating Member States, launched - in coordination with the European Commission - an initiative with respect to the European Regulation on Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and its defence implications, specifically focusing on the area of national defence exemptions and their potential impact on the European Defence Equipment Market (EDEM).

REACH basically provides for a European system of registration of chemical substances. In the registration process, the chemical substance and its intended use have to be reported to the European Chemicals Agency (ECHA) by the producer or importer into the EU. Producers and importers also have to test the chemical substances and provide respective data to ECHA.

REACH, as a European Regulation, is directly applicable in Member States and hence applies to the defence sector as well. However, REACH in its Article 2, paragraph 3, states that "Member States may allow for exemptions from this Regulation in specific cases for certain substances, on their own, in a mixture or in an article, where necessary in the interests of defence".

Granting such defence exemptions is first and foremost a national responsibility. However, REACH is clearly an area where a harmonised approach towards granting or denying of national defence exemptions would contribute to a level playing field for European defence industries, reducing their administrative burden and related costs and hence support the creation of an open and transparent EDEM and the maintenance and development of a capable and capability-driven European Defence Technological and Industrial Base (EDTIB), providing Armed Forces with the right defence equipment to meet their operational requirements.

Accordingly, the EDA Steering Board Decision on REACH in March 2010 tasked the Agency to work with Member States in establishing harmonised standards for granting defence exemptions, emphasising in parallel the need for transparency about national policies and procedures.

As a result, the EDA's REACH web-portal, allowing pMS to post basic information on their national procedures for granting defence exemptions, was established and is accessible to the public since 14 October 2010.

In March 2015, the **EDA Code of Conduct (CoC) on REACH Defence Exemptions** and associated technical **Framework for Applying for a Defence Exemption from a Requirement of REACH**, annexed to the CoC, were adopted by the EDA participating Member States.

[Read more about EDA's REACH initiative](#)

<http://reach.eda.europa.eu/>

Ammunition Classification under REACH

EDA Member States' Common Position on Ammunition Classification under REACH

adopted Sep 2017

- ❖ **Reducing the risk of misinterpretation** of, and **enhancing compliance** to, the REACH provisions on substances/mixtures or articles;
- ❖ **Supporting the European Defence Technological and Industrial Base** (EDTIB) in its efforts to **raise awareness** on issues pertaining to ammunition classification under REACH;

available at: <https://www.eda.europa.eu/docs/default-source/brochures/eda-reach-roadmap-2018-2020.pdf>



SERDP • ESTCP
SYMPOSIUM



EDA MEMBER STATES
COMMON POSITION ON AMMUNITION
CLASSIFICATION UNDER REACH

25 September 2017

Alignment of Procurement Contract Terms with REACH

EDA Recommendations to Member States for Facilitating Alignment of national Procurement Contracts with REACH

adopted Feb 2019

- ❖ **Reducing the risk of misalignment** between MS' REACH-related contractual requirements and REACH Regulation provisions;
- ❖ Reflect **common minimum points for harmonisation**, for which an agreement was reached during the examination of the issue by EDA, with support from MS.
- ❖ Supported by defence industry and disseminated to relevant stakeholders

21 Feb 2019: The EDA Steering Board....

encouraged MS to take further actions at national level to harmonise procurement contracts with REACH, on the basis of the related EDA recommendations.

Alignment of Member States' Procurement Contracts with REACH

Attachment: EDA Recommendations to Member States for Facilitating Alignment of National Procurement Contracts with REACH

Issue/Background

The EDA REACH Study¹, finalised in December 2016, reflected, among others, that EU defence industry has expressed concerns regarding the wording of some contractual clauses in Member States' defence procurement contracts stemming from REACH requirements. Such clauses sometimes deviate/are not aligned with the REACH terminology² and the provisions regarding the communication of information in the supply chain.³

This misalignment between Member States' REACH-related contractual requirements and REACH Regulation provisions, results in uncertainties and lack of clarity for defence industry/contractors, which in turn may create unnecessary risks to contract implementation, both for industry/contractors and Member States which awarded the contract(s). In addition, there may be potential strong implications on already established internal industrial processes, potentially affecting industries throughout the multi-tier supply chains, from the main contractor through to the suppliers of small components, which may cause significant costs.

Against this backdrop, the study recommended (under proposal No. 9.5.3) the implementation, by EDA/MoDs with the support of defence industry, of a follow-up activity aiming to standardise Member States' defence procurement contract terms/clauses around appropriate EU MoD and industrial (supply chain) best practices and return of experience, to best align such terms/clauses with the provisions of REACH.

¹ EDA Study on the Impact of REACH and CLP Chemical Regulations in the Defence Sector, available via <https://www.eda.europa.eu/docs/default-source/documents/eda-reachstudy/final-report-2016-december-16-p.pdf>

² Mainly REACH Article 3(1)(3) defining "substance", "mixture" and "article", as follows:

(1) **substance:** means a chemical element and its compounds in the natural state or obtained by any manufacturing process, including any additive necessary to preserve its stability and any impurity deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition;

(2) **mixture:** means a mixture or solution composed of two or more substances;

(3) **article:** means an object which during production is given a special shape, surface or design which determines its function to a greater degree than does its chemical composition;

³ Mainly REACH Articles 31 (Requirements for safety data sheets), 32 (Duty to communicate information down the supply chain for substances on their own or in mixtures for which a safety data sheet is not required), and 33 (Duty to communicate information on substances in articles). For example, requirements may refer to "hazardous materials", "goods" or "products" when requiring the delivery of safety data sheets (which are only required under REACH Article 31 for hazardous "substances" and "mixtures" in the sense of REACH, but not for "articles" which are subject to REACH Article 33 in relation to candidate list substances).

MS REACH Requirements & Procurement through **US FMS**

❖ **REACH/FMS is a topic of special interest to EDA pMS/MoDs - identified as (one of several) topics of common interest for informal technical exchange between US DoD and EDA/MS on REACH.**

❖ **17 July 2015 DSCA Policy 15-19 Foreign Military Sales (FMS) Advisory for REACH**

“Requests for specific information related to REACH about defense articles being sold through FMS must be submitted in an LOR so that the appropriate requirement can be included in customer-funded FMS contracts between the U.S. Government and the defense article manufacturer. When the LOR is for a sale from U.S. Government stock and includes a REACH information request, the sales price needs to reflect costs of developing REACH data.”



DEFENSE SECURITY COOPERATION AGENCY
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JUN 17 2015

MEMORANDUM FOR DEPUTY UNDER SECRETARY OF THE AIR FORCE FOR INTERNATIONAL AFFAIRS
DEPUTY ASSISTANT SECRETARY OF THE ARMY FOR DEFENSE EXPORTS AND COOPERATION
DEPUTY ASSISTANT SECRETARY OF THE NAVY FOR INTERNATIONAL PROGRAMS
DIRECTOR, DEFENSE CONTRACT MANAGEMENT AGENCY
DIRECTOR FOR SECURITY ASSISTANCE, DEFENSE FINANCE AND ACCOUNTING SERVICE-INDIANAPOLIS OPERATIONS
DIRECTOR, DEFENSE INFORMATION SYSTEMS AGENCY
DIRECTOR, DEFENSE LOGISTICS AGENCY
DIRECTOR, DEFENSE LOGISTICS INFORMATION SERVICE
DIRECTOR, DEFENSE LOGISTICS AGENCY DISPOSITION SERVICES
DIRECTOR, DEFENSE THREAT REDUCTION AGENCY
DIRECTOR, MISSILE DEFENSE AGENCY
DIRECTOR, NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY
DEPUTY DIRECTOR FOR INFORMATION ASSURANCE, NATIONAL SECURITY AGENCY

SUBJECT: Foreign Military Sales (FMS) Advisory for European Union (EU) Regulation (EC) No. 1907/2006, as amended, on Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), DSCA Policy 15-19

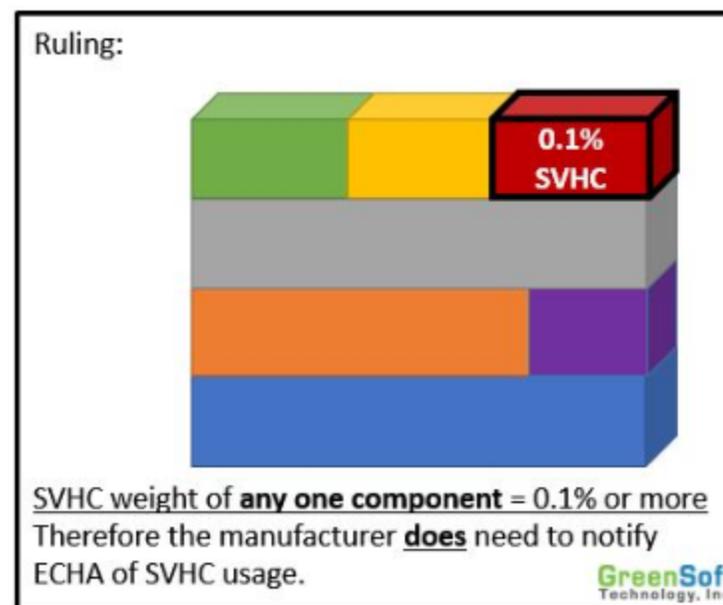
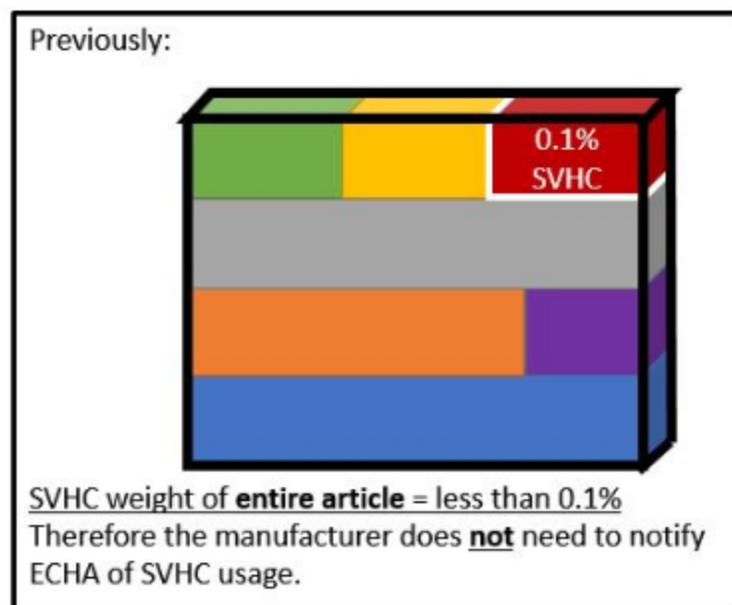
This memorandum serves as an advisory to the Security Cooperation community on how to respond to EU FMS purchaser requests for REACH compliance information regarding defense articles being sold on FMS cases or requests for REACH compliant defense articles.

REACH is a 2006 EU Regulation that restricts the import of chemical substances into the EU that may cause very serious effects on human health and the environment as identified on the EU “Candidate List of Substances of Very High Concern.” The REACH regulation also contains a list of restricted items that may limit or ban the use of a chemical for a particular purpose.

EU member purchasers import FMS defense articles into the EU. The U.S. Government is not the importer and is not responsible for demonstrating the compliance of FMS defense articles with REACH. It is possible that FMS purchaser failure to comply with REACH requirements may result in frustrated cargo. The U.S. Government will not provide assurance or certification of REACH compliance as this may implicate the U.S. Government in any instance of the purchaser’s non-compliance.

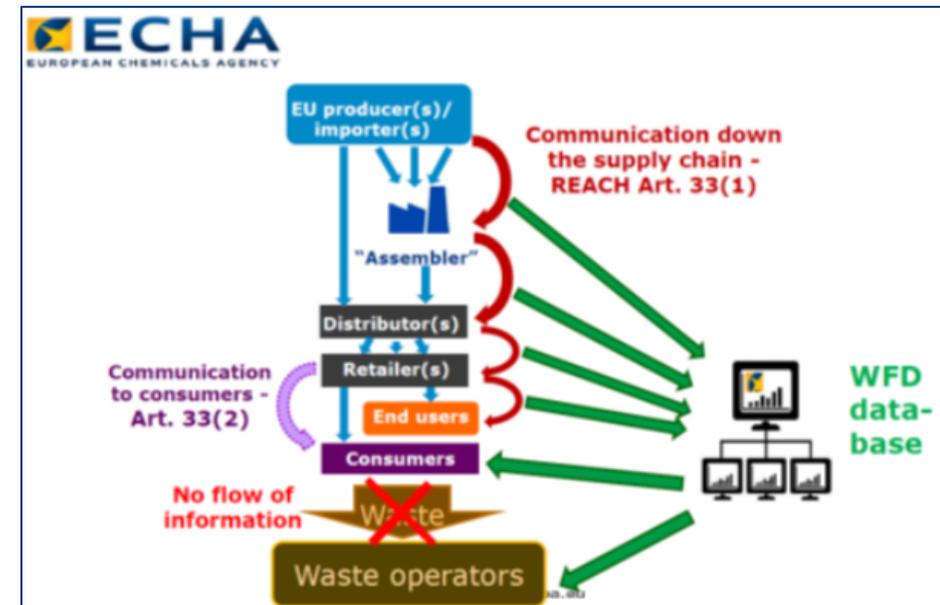
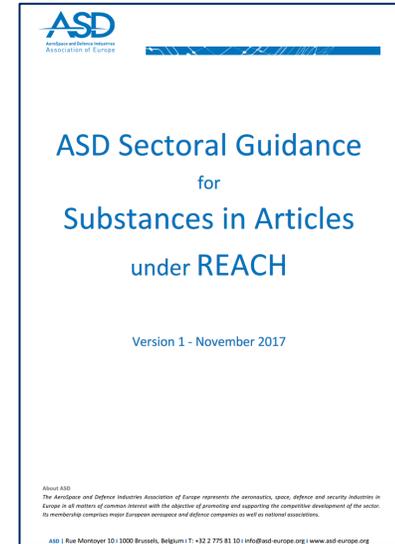
REACH Article 33 Implementation

- REACH Article 33: certain obligations apply for anyone who places articles on the EU market, if substances of very high concern (SVHC) exceed 0.1% (w/w) of the article.
- **CJEU Case C-106/14** : ***'Once An Article, Always An Article'*** (O5A): REACH Candidate List SVHCs are reportable for assemblies if they are present greater than 0.1% weight by weight (w/w) in any component article of that assembly.



REACH Article 33 Implementation

- **Special Challenge for defence: *How to apply this, in practice, for very complex defence products*** e.g. aircrafts, submarines...
 - ASD's view: "**Sectoral Guidance for Substances in Articles under REACH**", Nov 2017
- **New challenge has recently arisen: Updated EU Waste Framework Directive/ ECHA Database publicly available** (populated through REACH Article 33 information) – **how to ensure confidentiality of defence sensitive information??**



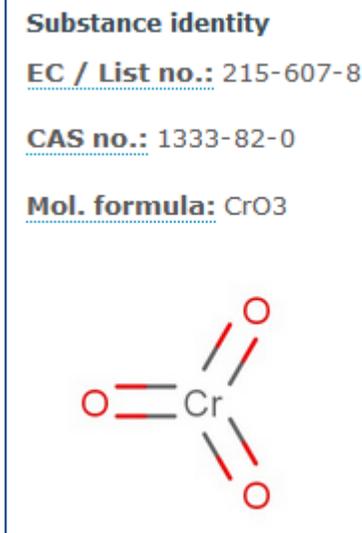
Clarification of REACH Links with Other EU Laws and Policies

- **Circular Economy**
- ***Critical Raw Materials***
- ***Others (e.g. Occupational Safety and Health)***



REACH Applications for Authorisation (AfAs)

- **Overall EU AfA process**
 - Has become progressively stricter/more demanding
 - As a result also of recent **CJEU Decisions** e.g. **Case T-837/16**
- **Serious MoD/defence industry substance-specific concerns, for critical substances used in defence e.g. CrO3**
 - Sunset date has long passed : **Sep 2017**
 - CrO3 AfA review still in progress – final EC decision pending
- **ADCR (Aerospace and Defence Chromate Re-authorisation Consortium)**
 - Preparing for future chromates AfAs <https://www.adcr-consortium.eu/>
 - Launched Sep 2019 (wider industry call for any chromates' users to participate)
 - Consortium with major EU and non-EU/US industries participation





CONCLUDING REMARKS

CONCLUDING REMARKS

EDA is **supporting the continuous effort** required by MoDs to:

- **comply with REACH** while **maintaining the operational effectiveness** of the EU Armed Forces;
- shift to **more energy – efficient** and **environmentally sustainable** EU Armed Forces.

Through **close coordination** with all involved stakeholders at EU (**EC, ECHA, ESA, EU industry associations/ASD**) and national (**MS Competent Authorities, National Defence Industry Associations**) levels

Exploiting Potential Synergies between EU (**EDA, MoDs, EU defence industry**) and non-EU/US (**US DoD, US industry**) defence stakeholders, is **very important**

CONCLUDING REMARKS

Close cooperation between defence (governmental & industrial) stakeholders is **crucial/encouraged** towards **ensuring required REACH compliance**, while exploring common solutions for **mitigating potential negative impact of REACH to defence**

EDA standing ready to further work with and support defence stakeholders, in this challenging endeavor



Thank you very much
for your attention...

REACH IMPACT ON DEFENCE: EU PERSPECTIVE & EDA REACH ACTIVITIES

*promoting military capabilities and
sustainability in the defence sector*

Costas TATAROGLOU

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5 Dec 2019, Washington, DC, USA

