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Protecting humans and wildlife
from harmful chemicals

Potential of a grouping approach to improve effectiveness of the enforcement of chemicals legislation

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About CHEM Trust

- A charity working mainly at EU level to protect humans & wildlife from harmful chemicals
- Working with scientists, technical processes and decision makers, in partnership with other civil society groups
- Focus on identification of, and action on, endocrine disrupting chemicals
- See blog & twitter for more:
<https://chemtrust.org/policy>
[@chemtrust](https://twitter.com/chemtrust)

The screenshot shows the CHEM Trust website. At the top left is the CHEM Trust logo and tagline. A search bar is located at the top right. Below the logo is a navigation menu with links: Home, About us, Our work, Problem chemicals, Chemical impacts, Chemicals policy, and Take Action. A green banner contains the text: "CHEM Trust's overarching aim is to prevent man-made chemicals from causing long term damage to wildlife or humans, by ensuring that chemicals which cause such harm are substituted with safer alternatives." Below this is a news article snippet titled "PROTECTION AGAINST MOST HARMFUL CHEMICALS" with a sub-heading "The Commission will:" and a bullet point: "extend the generic approach to risk management to ensure that consumer products - including, among other things, food contact materials, toys, childcare articles, cosmetics, detergents, furniture and textiles - do not contain chemicals that cause cancers, gene mutations, affect the reproductive or the endocrine system, or are persistent and bioaccumulative." To the right of the article is a newsletter sign-up form with fields for "First Name", "Last Name", and "E-Mail Address", and a "SUBSCRIBE" button. Below the form is a link to the "CHEM Trust Privacy Policy" and a "Read our latest newsletter" link. At the bottom right, there is a "Recent Tweets" section.



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Introduction

- **In order to regulate chemical use you need to know (i) what chemicals are used, (ii) where they are used, (iii) what are their hazardous properties and (iv) who (or what) is exposed**
- **For many decades the challenge for chemical regulators has been to get the data from industry to answer these apparently simple questions**
- **It is always claimed that the next reform will solve the issue – and then it doesn't....**
 - Often due to the way parts of industry have lobbied to water down the reform



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A long history of data issues...

- **Summarised in a 2003 study for the European Commission's Joint Research Centre [1]**
 - in 1984 the National Research Council (1984) in the USA estimated that only 22% of the US High Production Volume Chemicals (HPVCs) had “minimal” toxicity data available.
 - In 1990 a detailed analysis of chemicals control in the European Community showed a similar lack of information on use and toxicity of existing chemicals (Haigh & Baillie 1992).
 - In 1996, an international review of risk assessment of chemicals revealed the same.
 - A detailed analysis by the European Chemicals Bureau in 1999 led to the same conclusion with regard to the lack of information on high production volume chemicals: only 14% of the EU HPVC had [publicly available] data at the level of the base-set ...65% had less than base-set and 21% had no data at all
- **REACH has led to *more* information being available on hazards, uses, supply chain**
- **But not as much information as was expected....**



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REACH: some progress, but...

- **REACH obliged companies to register safety and use data for chemicals produced or imported at > 1 tonne per annum**
 - We do now have pretty good list of which substances are used!
- **Unfortunately, we still have a data problem....**
 - “numbers published for 2018 and 2019 indicate that in about 75% of the evaluated dossiers ECHA detected non-compliance. Comparable compliance check activities done by Member States further substantiate the general notion that non-compliance is rather widespread” [2]
- **This non-compliance has not yet been solved, despite a number of different approaches being used**



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Incentivising inaction

- **Too many incentives not to provide good data, as data may result in classification or regulatory action**
- **Too few effective enforcement mechanisms**
- **Too many opportunities to use appeals and missed deadlines to delay delivery of data**
 - E.g. with Decabrominated diphenylethane (DBDPE)
<https://chemtrust.org/sofas-polluting-polar-bears/>



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No data no problem

- **‘No data no problem’ is too often the reality, though REACH is supposed to implement ‘no data no market’**
- **These are usually substances that are on the market, that people and the environment are being exposed to NOW**
 - Classification and labelling may be wrong due to lack of data
 - Restrictions, Authorisations and other controls can’t function without good data, so some of the hazardous substances are not regulated
- **If Registration fails to deliver adequate data, regulator can:**
 - Spend years trying to encourage or enforce (largely failed so far)
 - or **use conservative default data based on similar chemicals**



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Grouping to fill gaps, change incentives

An approach based on precautionary read-across:

- **Hazard**

- Substances would be regarded, by default, to have the hazard properties of the most hazardous chemical in a group of similar substances
 - Leading to Classification, SVHC listing, Restriction etc

- **Use**

- Substances would be regarded, by default, to have the same uses as other chemicals in the group of similar substances
 - Restrictions could then cover all these uses



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What this means in practice

- **No data = precautionary read-across**
 - Not ‘no data no problem’
- **Classification and labelling based on this precautionary read-across**
 - Rather than no hazards classified because no adequate data
- **Creates incentive on industry to provide data if they can show that their chemical has fewer hazards**
 - Implementing producer responsibility
- **A more enforceable system**



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Conclusions

- **Chemical regulation, particularly the collection of adequate safety, use & exposure data, keeps going around in circles**
 - The ‘no data no problem’ incentive is very powerful
 - Enforcement of adequate registration data is difficult
- **Part of the solution is to make the system more inherently protective and change the incentives on industry**
 - Default to protective values, not ‘no data no problem’
 - Incentive becomes more data to (potentially) reduce default regulation
- **Implementation of the Chemicals Strategy for Sustainability must include a change of approach, regulating even when there is a lack of data, using read across and ending ‘no data no problem’**



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References

[1] Pedersen, F., J. de Bruijn, S. Munn, and K. van Leeuwen, *Assessment of additional testing needs under REACH: Effects of (Q)SARS, risk based testing and voluntary industry initiatives*. September 2003, European Commission Joint Research Centre, Institute for Health and Consumer Protection

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[2] Führ, Dr Martin, Dr Julian Schenten, Dirk Jepsen, and Dr Olaf Wirth. 'Advancing REACH: Dossier Evaluation',

https://www.umweltbundesamt.de/sites/default/files/medien/5750/publikationen/2020_11_16_texte_207_2020_weiterentwicklung_reach.pdf