



POSITION STATEMENT

The potential impact of REACH authorisation requirements on mining in developing countries

Mining is a foundation industry for many developing countries. The links between Africa and the EU are especially strong in trade of raw materials and many Southern African countries depend on exports of those commodities to Europe. The Chamber of Mines of South Africa is concerned that draft EU legislation REACH (Registration, Evaluation and Authorisation of Chemicals) has the potential to seriously damage that trade relationship and poses a major threat to the future of mining industry especially in Sub-Saharan countries.

The Chamber fully supports the objectives of REACH, accepting that the use of substances must be regulated to protect human health and the environment. The Chamber understands that mining products such as metals are subject to REACH requirements and is assisting companies producing these materials to prepare for REACH compliance. However, the Chamber fears that the consequences of including ores, concentrates and minerals in REACH have not been fully considered by the EU. These complex materials are already regulated by existing EU legislation and the impact of their inclusion would be most severely felt in many African economies.

The Chamber raised its concerns with the European Union during 2005 and recognises that some amendments have been approved to exempt ores, concentrates and minerals from registration and evaluation, but not from authorisation requirements. A recent study by the European Parliament on the impact of REACH on developing countries finds that 'the effects of REACH on African, Caribbean and Pacific countries will be manageable.' Yet the same report fails to consider the impact of authorisation requirements, which are the biggest source of concern to the mining industry. The Chamber commissioned a study aimed at explaining this impact in more detail.

Based on this study, the Chamber seriously questions the workability of REACH for ores, concentrates and minerals because of the natural composition of those substances. These materials have particular properties and uses that would make the application of REACH difficult and cumbersome and not proportionate to its aim, of which some are the following:

1. **Ores, concentrates and minerals are not generally sold to the public and their risks are covered by existing EU worker and environmental protection legislation.** The Chamber study shows that these materials are used in installations issued with authorisations under the Integrated Pollution Prevention Control (IPPC) legislation. These materials are already subject to effective control. Authorisation under REACH therefore means an additional burden on industry and the Chemicals Agency that is disproportionate to any marginal benefit.
2. **In nature, constituents in ores, concentrates and minerals vary significantly from one ore body to another.** The Chamber study shows variabilities larger than 1000% among ore bodies of the same ore type over which mining companies have no control. Under REACH, such variability has a number of implications:
 - The list of authorisation candidates will have to identify specific ore bodies by name or by properties. This will stigmatise materials originating from such ore bodies and make them targets for inappropriate substitution. The least developed developing countries that do not have the technological capability to process mining products beyond their natural state will suffer the most. As such this is the concern that could have the most severe consequences.
 - Due to the variability among ore bodies, companies will not be able to share information in their preparation of chemical safety reports required under REACH. This will increase the

cost of REACH compliance and serve as a barrier to entry for new entrants into the industry. In South Africa, the government is trying to transform the industry by encouraging the entry of black-owned companies that were historically disadvantaged. REACH compliance will have a negative impact on such initiatives.

3. **Ores, concentrates and minerals are by their nature high volume materials.** The prioritisation criteria for authorisation are PBT or vPvB, wide dispersive use OR high volumes. Due to the high volume of these materials they will logically be regarded as priority materials.
4. **In nature, constituents in ores, concentrates and minerals vary significantly within a single ore body.** The Chamber study concludes that variability as high as 90% in a single ore body is possible. This may imply a batch-by-batch authorisation under REACH, which will be a tremendous burden on industry and the Chemicals Agency without a proportionate benefit. This is clearly not a practical situation.
5. **Ores, concentrates and minerals are highly complex materials consisting naturally of many different constituents.** The Chamber study highlights the complex nature of these materials and the difficulty associated with classification and risk assessment as expected under REACH. They often consist of low concentration impurities, which if simply added together, could be above the 0.1% classification of the materials as carcinogen, mutagen and reproductive toxins (CMRs). It is noted that the installations processing these materials are designed to deal with these impurities. Furthermore, the way in which different chemical compounds are bound in a natural mineral may result in a practical risk that is different from the individual chemical species.

In addressing the above shortcomings and concerns, the Chamber of Mines of South Africa proposes that:

- a. Further clarification is needed on ores, concentrates and minerals. The current text of REACH does not properly take into account the complexity of ores, concentrates and minerals with their own specific properties.

For ores, concentrates and minerals that go to IPPC facilities:

- b. As with fuels used in combustion plants, Article 53(5) (of the Council text) should be amended to exempt ores, concentrates and minerals that would be used in installations regulated under the Integrated Pollution Prevention Control legislation from REACH authorisation requirements. Should gaps be identified in the content or enforcement of current EU legislation, the legislation should be amended or its enforcement strengthened.

For ores, concentrates and minerals that do NOT go to IPPC facilities:

- c. Provision should be made for one authorisation for each type of ore, concentrate and mineral (that is not used in installations regulated under existing EU legislation) regardless of the natural variability of its constituents.
- d. Article 55(3) should be amended to restrict prioritisation criteria to toxicity (PBT and vPvB) properties or to clarify that 'high volumes' will be a criterion with a lower weighting.

The Chamber of Mines of South Africa will continue to support all efforts to make REACH achieve its objectives in a workable and fair manner and look forward to further co-operation with the EU on this matter.