REACH Guidance VOTOB 2024

REACH from the terminal perspective

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Introduction and purpose of this guide

Why this guide: focus and purpose

With this guide, VOTOB helps its members comply with REACH requirements. REACH is a European legal framework for all substances (fuels and chemicals, hazardous and non-hazardous), with which tank storage companies and its customers must comply when placing a substance on the European market. The **REACH Regulation** aims to protect human health and the environment from the risks that all substances can pose. Much of this is also regulated via working conditions legislation, our permits et cetera, but the data generated via REACH registration, such as REACH-compliant Safety Data Sheets, are also indispensable for this. And terminals depend on their customers for this REACH information.

The essential difference between terminals and other industries is that the terminal's customer retains ownership of the product. The customer is primarily responsible for complying with REACH, but the terminal performs operations (such as storage and blending) on behalf of the customer, and thus becomes co-responsible.

The REACH Regulation distinguishes between substances and mixtures (a mixture consists of two or more “mixed” substances). There is no definition for the term product in the REACH Regulation. Where the general term “product” is used in this report, as above, it is because it can be either a substance or a mixture, in the sense of REACH.

To assist the terminal in this, the purpose of this guide is, in particular, to inform the terminal management to carry out the appropriate checks, when receiving a new substance or composition. Ideally, these checks are carried out the first time before a contract is concluded between the terminal and the customer. It is important to inform the customer about the REACH requirements and the checks carried out by the terminal for this purpose. By informing the customer and laying down requirements in the contract, checks on them can be carried out. These checks are especially important when a product is imported into the EU. In addition, these checks will also have to be carried out when there is a change in the operations the terminal performs for the customer.

This guide explains what REACH means exactly and how it relates to the work of terminals in relation to customers. The guide replaces the existing guidance document from VOTOB: the “REACH Guidance document - Roles and responsibilities for the tank storage terminal operator”, but focuses specifically on the special role a terminal has in relation to its customers and the compliance assessment. In addition, this guide does not address what REACH entails in its entirety. For more information on REACH legislation, please refer to the information available on the ECHA website. VOTOB’s Product Acceptance Directive remains in force and is referred to from this guide.

The REACH Regulation: environmental and safety rules and market regulation

REACH is the European Regulation that applies to all (chemical) substances, so also to a large part of the products handled at storage terminals. Wastes, substances in transit and under customs supervision (provided that no operation is performed with them) fall outside the scope of REACH. For the terminal, relevant operations with a substance are, for example, mixing or adding substances. Taking samples and storing substances does not fall under an operation.

Nutrients, substances, medicinal products, biocides, crude oil and some regulated products are exempt from several obligations in REACH (including registration), but not from REACH as a whole.

REACH is legislation aimed at protecting humans and the environment because of the risks posed by substances. The main duty for all companies manufacturing substances in the EU or importing them into the EU is substance registration with a dossier. Each registrant has to contribute financially to this dossier. This makes REACH not only an environmental and safety law but also an economic/market regulatory legislation. Part of the control of this customer responsibility lies with the terminals, to ensure the level playing field principle.

Failure to comply with this law is, because of this market regulation principle, in Dutch law, an economic offence with associated high fines and personal liability of managers.

About VOTOB

VOTOB is the trade association of tank storage companies (terminals) in the Netherlands. The companies offer terminal facilities for the storage of (bio)fuels, (fine) chemicals and nutrients. The terminals provide customer services such as storage, transhipment and blending of products, while the product remains the property of the customer. In addition, the terminals can also carry out customs activities for the customer. VOTOB helps members do business safely, sustainably and transparently. VOTOB is therefore committed to helping members meet the requirements of this framework in carrying out their services.

1

The REACH Regulation: the essence of the legislation

1.1 Objective and processes of REACH

REACH is European legislation with one main objective: safe use of all substances, divided into the following sub-objectives:

- the safe use of chemicals for humans and the environment;
- the restriction or banning of the most hazardous substances.

The EU legislation is directly applicable in the Netherlands (there are no “country versions” of REACH in the EU). We briefly explain below what these two objectives of REACH mean:

Promoting the safe use of chemicals for humans and the environment
Information is needed to control the risks of using substances. Therefore, anyone who produces a substance in the EU or imports it into the EU must register it. Without registration, the

substance may not be introduced to the market or used. The registration dossier contains the following information:

- the substance identity and composition;
- the properties of the substance including physicochemical properties, toxicology and ecotoxicology;
- the hazard classification;
- limit values for humans and the environment;
- for hazardous substances registered in larger quantities, an overview of uses and detailed information on how the substance can be used safely and responsibly. The latter is contained in a chemical safety report. If the dossier is accepted, the substance is given a registration number;
- the most important information is included in the SDS (Safety Data Sheet) or, in Dutch, VIB (Veiligheidsinforatieblad). The detailed information on how the substance can be used safely (exposure scenarios) can be added as an annex to the SDS. In this case, it is an extended SDS (e-SDS).

Gathering this information creates insight into which (hazardous) substances are present on the European market and how to use them safely. Also, the registration report often triggers follow-up steps for the most hazardous substances that may ultimately lead to a restriction of use or a total ban or phase-out (see below).

Restricting or banning the use of the most hazardous substances
Phasing out, restriction or a total ban are defined in the progressive REACH legislation. Using the CAS or EINECS number, it is possible to check on the ECHA website whether a substance has been banned, restricted or phased out.

For benzene, a variety of restrictive measures (no total ban) apply to the industry and thus the terminals. This substance is listed in Annex XVII of REACH (restrictions), but under conditions it may be marketed in mixtures above 0.1%.

1.2 The REACH registration process

The REACH registration process is mandatory when a substance (with a quantity of more than one tonne/year) is introduced to the EU market. This can be done by manufacturing in the EU or importing a substance onto the EU market. How the REACH registration process works is explained below.

Special situation registration requirement: When a customer requests a terminal to blend products in the customs warehouse.
REACH does not apply to substances under customs supervision, unless they are treated or processed. This means that processing (blending or adding additives) may only take place under customs supervision, provided the substances concerned are registered under REACH. This means that the customer must provide an SDS for these substances that meets the REACH requirements (including a registration number, see below), otherwise the order may not and cannot be carried out.

A registration must be made by a manufacturer in the EU or an importer to the EU. The registrant must be established in the EU or represented in the EU by an Only Representative.

The dossier prepared for this registration is often submitted jointly by several companies (there are often several companies manufacturing or importing a substance). There is one Lead Registrant who submits the lead dossier and the other companies are co-registrants who buy into the dossier.

After the dossier is prepared, it is submitted to ECHA (European Chemical Agency). ECHA then sends a confirmation with the following details:

- the legal entity of the registrant;
- the identity of the substance;
- the corresponding EC number (and CAS number);
- the unique associated registration number (for each company per dossier submitted).

The registration number consists of 18 digits, the last four of which refer to the registrant who submitted the dossier.

Because of the cost of submitting a dossier, failure to register and place a substance on the EU market, or failure to do so correctly, is considered an economic offence, as it avoids registration costs vis-à-vis competitors. Since terminals are co-responsible for their customers' compliance with REACH, this means they may be co-responsible for this economic offence.

1.2.1 The identity of the substances

REACH registration can only take place for substances and not for mixtures. A mixture (consisting of two or more substances) will not be registered. The substances contained in the mixture must be registered on a substance-by-substance basis. Substances that can be REACH registered are defined as follows:

- singular substances;
- multiple substances (with fixed proportions);
- complex substances of unknown or variable composition: known in English as UVCB - Substance of **U**nknown or **V**ariable composition, **C**omplex reaction products or **B**iological materials). These include all petroleum products.

For UVCBs, a so-called substance identity profile must be supplied. This profile must fit within the various levels of substances present as stated on the SDS. Terminals must check this by following the VOTOB Product Acceptance Directive. As a result, this is guaranteed in the product acceptance process of the terminal.

1.2.2 REACH impact on the chain: the REACH "roles"

To understand what a terminal customer must comply with, it is important to understand what role the customer plays. According to REACH, these can be five different roles when the customer supplies a substance or mixture to the terminal. The roles are:

1. the manufacturer (producer);
2. the importer;
3. the only representative (of a manufacturer or formulator outside the EU);
4. the downstream user (for example a formulator in the EU);
5. the distributor.

Companies assuming one of the first three roles are the first to place the product on the EU market and are also registrants of the substance (or of all substances in the mixture). The last two roles have received their product on the EU market and perform an operation with it (downstream user) or trade it further (distributor). In practice, a terminal is a downstream user or distributor. The entity performing one of the five roles is listed in section 1.3 of the Safety Data Sheet (SDS) and takes responsibility for the content of the SDS.

Traders (inside or outside the EU) are often the customer of the terminals. As can be seen above, this is not a role that exists within REACH. It is therefore important to clarify what role the supplier of the product (and SDS) assumes when a trader's customer request is made. Whatever role the customer takes, he is obliged to register a substance from a legal entity in an EU Member State and take responsibility for the SDS.

The terminal only assumes the role of downstream user or distributor in its usual activities. If the terminal does not properly check the registration situation and the SDS of a customer's substance in advance, there is a risk that it will be seen as an importer itself and be responsible for it if there is no registration. This also applies to blending under customs supervision, which requires REACH registration for all components. If this is not done by the customer, the terminal is responsible for this.

1.2.3 Communication: the SDS

The SDS (Safety Data Sheet) is compulsorily supplied with a substance and contains a substance's key information. For terminals, this is **the document** they **must receive** from the customer, so that terminals can check whether the customer complies with the law. This check of a customer's SDS against REACH is crucial because the terminal is co-responsible for complying with REACH. Part of this obligation is to check the SDS properly.

All the details the SDS must comply with are listed in Annex II of REACH. It must be supplied in the language of the country where the substance is supplied. The Working Conditions Act also ensures that REACH-registered substances must have a Dutch-language SDS. In section 3.4.1, we elaborate further on how to check the SDS.

Non-EU traders and the administrative information on the SDS

It regularly happens for a terminal that a customer comes from outside the EU. These customers sometimes put their own non-EU identity in section 1.1. This is not allowed! It is mandatory for the supplier of a REACH-compliant SDS to put an EU entity in this section, which takes responsibility for REACH compliance. For this purpose, a customer can appoint an importer (in the EU) or only representative. An only representative can only represent a manufacturer or formulator from outside the EU, but not a trader.

If it is not possible to obtain an SDS with the correct EU entity because customers stubbornly refuse this, for example, then as alternative proof of registration (when importing into the EU), an ECHA confirmation of registration can be provided. This confirmation shows the CAS/EC number of the substance, the unique and complete REACH registration number and the legal entity (in the EU!) of the registrant (fulfilling one of the first three REACH roles: manufacturer, importer or only representative).

2

The relationship between terminals and their customer

2.1 The service of terminals in relation to the customer

In practice, terminals mainly fulfil the roles of distributor (in case of storage only) or downstream user (in case of blending, additivation or maintaining the quality of the substance). Terminals do not own or become owners of a substance or mixture supplied by the customer.

Besides storing and blending substances and mixture, the terminal may also (on behalf of the customer) clear a substance or mixture in the EU. When a substance (or mixture) is cleared, it enters the EU market. This automatically means that the substance (or mixture) is covered by REACH and must comply with REACH requirements. The substance (or mixture) must then be registered and the associated SDS must meet the requirements of Annex II of REACH. For this, the customer

needs an importer or only representative in whose name this is done. When a terminal clears a substance for the customer, the customer will almost never assume the role of manufacturer, as a manufacturer produces substances in the EU and therefore does not have to import (in some cases, re-importation is involved and then this is possible).

Before a terminal clears a substance (or mixture) on behalf of the customer, the terminal must have confirmation that the substance or substances in the mixture are registered in accordance with REACH. If the customer does not comply with REACH requirements, the terminal becomes (co-) responsible for this and puts an unregistered substance on the EU market. In that case, the terminal must not clear the substance.

If the terminal clears anyway, it is thereby guilty of marketing a substance without REACH registration, which is an economic offence. (High) fines can be imposed for this, exceeding the economic benefit. This guide does not go further into the legal aspects of this.

It is possible to draw up scenarios for the various operations the terminal performs for the customer, combined with the customer's role. Each scenario specifies which checks the terminal must perform to verify the customer's compliance with REACH. Each time the customer demand changes, the scenarios have to be gone through again. An example of a change in customer demand is that the substance was initially just stored, and now the customer asks if it can be mixed.

The following scenarios can be distinguished:

Scenario 1: receipt of a substance (or mixture) in the EU and onward transit in the EU or beyond (the destination makes no difference);
Scenario 2: receipt of a substance (or mixture) outside the EU and import into the EU (or an operation involving a substance (blending/addition));
Scenario 3: receipt of a substance (or mixture) outside the EU and storage in a bonded warehouse.

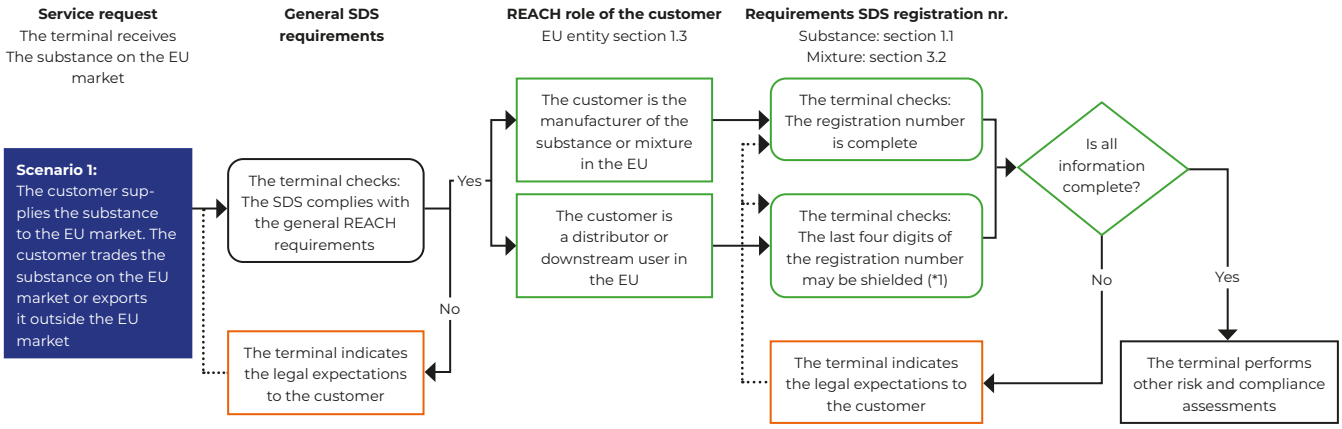
The steps to be followed for the terminal of each scenario are detailed below.

2.2 The scenarios (service and customer)

2.2.1 Scenario 1: receipt in the EU and onward transit in the EU or export outside the EU

In this scenario, the terminal receives the substance from a party in the EU (from a producer, distributor or downstream user) and further transit in the EU or export outside the EU takes place. The REACH obligations upon receipt and the checks the terminal has to perform in the EU are the same in both scenarios and are therefore considered as one. The final destination does not affect this.

Figuur 1 *Scenario 1: the terminal receives the substance on the EU market*

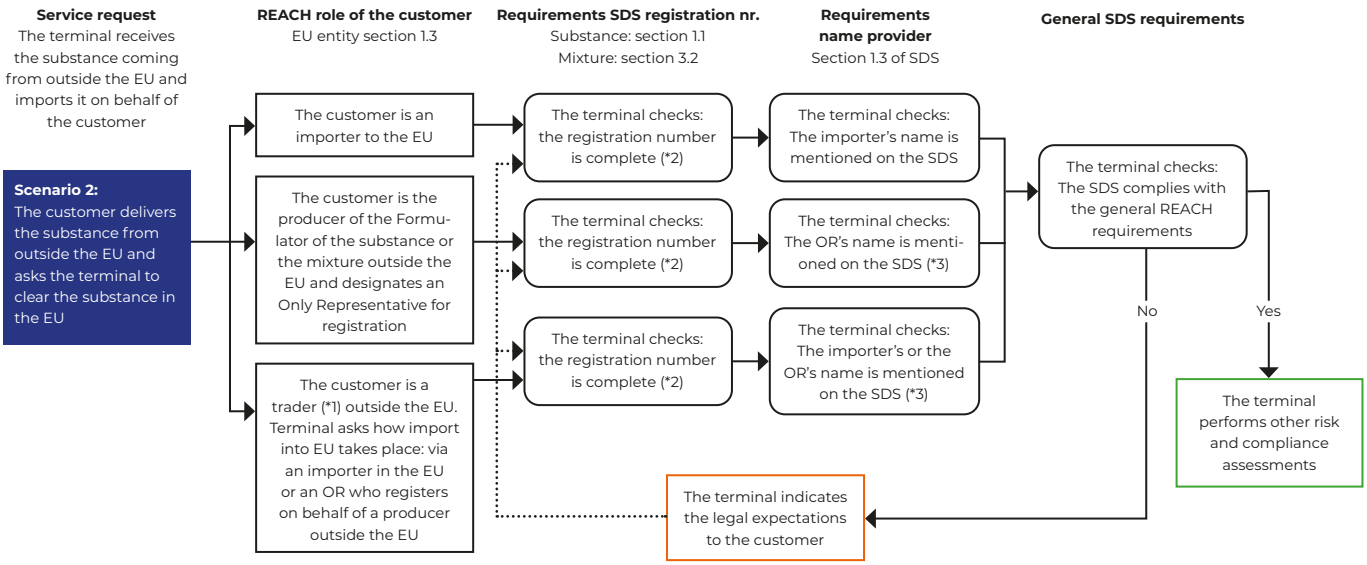


* 1 On enforcement, the supplier must have the full registration number available to the authorities within seven days (The terminal does not need to receive the full number)

2.2.2 Scenario 2: receipt from outside the EU and import into the EU

In this scenario, the terminal receives the substance from a party that asks the terminal to import the product into the EU. The customer is often a trader outside the EU. It must clarify to the terminal through which entity and REACH role the product will be placed on the EU market. The customer need not be the same as the entity fulfilling this REACH role. If a substance remains under customs warehousing and is processed, this scenario also applies.

Figuur 2 *Scenario 2: the terminal receives the substance coming from outside the EU market and imports it on behalf of the customer*



*1 A trader outside the EU cannot place a product on the EU market. That has to be done through an importer or an OR (only representative). But a trader outside the EU cannot appoint a OR itself, it can only do so on behalf of the producer or assembler (blender) outside the EU. That non-EU company does not need to be listed on the SDS, but it must be known to the terminal. The trader must therefore indicate on behalf of which non-EU producer or formulator the OR is designated in the EU. The OR must be indicated in 1.3 of the SDS.

*2 Some non-EU traders fight the obligation of naming the EU entity on the SDS (and full registration number) and place their non-EU identity on the SDS. In such cases, the terminal may alternatively accept the proof of registration and full registration number from ECHA in a separate document, as long as the inspectorate (ILT) has not taken a unified position on the position of these non-EU traders.

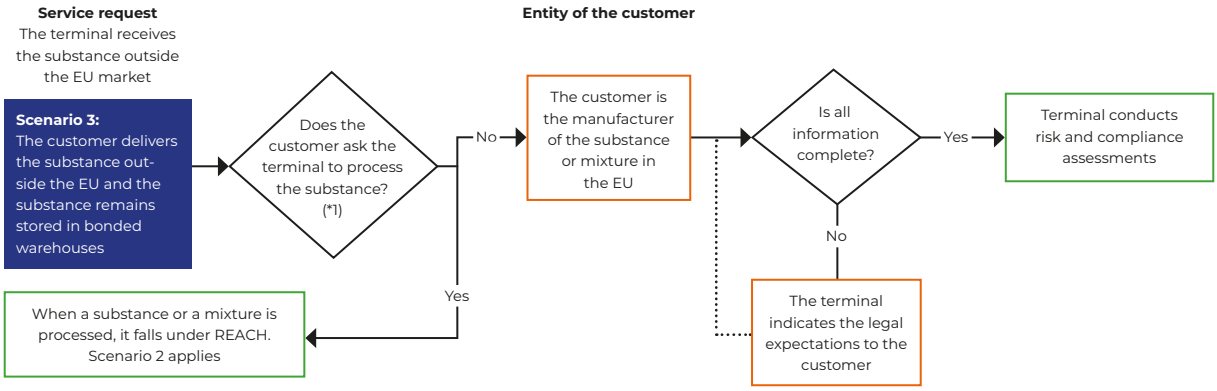
*3 Optionally, the name of the non-EU entity can also be added on the SDS. However, the name of the OR is mandatory. The terminal must be informed on behalf of which non-EU company the OR is acting. If the terminal does not know, it cannot check whether the substance or mixture is coming to the EU according to REACH.

PLEASE NOTE! This scenario also applies to substances stored in bonded warehouses and blended here. This is due to the fact that an operation is performed with the substance(s) and then it is not exempt from REACH. This can only take place if the substances are registered.

2.2.3 Scenario 3: receipt from outside the EU and storage under supervision

In this scenario, the terminal receives the substance from a party asking the terminal to store the product under customs supervision. The product is not imported into the EU. This can be done without REACH registration if the substance is not processed or treated. If that happens, all substances must be registered and scenario 2 applies.

Figuur 3 *Scenario 3: the terminal receives the substance outside the EU market*



*1 When a substance (or mixture) is under customs supervision, REACH does not apply.

PLEASE NOTE! When substances are treated or processed, REACH does apply (article 2.1b). This means that operations such as blending or specifying cannot take place just like that. The substance or mixture being processed is then obliged to comply with REACH. The substance or mixture must therefore be registered and have an SDS in accordance with REACH. In this case, scenario 2 applies.

In this scenario, the terminal receives the substance from a party asking the terminal to store the product under supervision and to perform some operations (for example, blending or specification). The product is not imported into the EU.

Please note special case: operations in customs warehouse
REACH does not apply to substances under customs supervision unless they are processed or treated (Article 2.1b).
An operation, such as blending or specification, is a treatment, which is allowed only on condition that the substances in question comply with REACH. In practice, it means that the substance is not imported into the EU (customs tax rules), but the REACH aspects (such as registration in the EU and an SDS in accordance with REACH Annex II) and the checks listed in scenario 1 do apply.

2.3 Other risk and compliance assessments

Once compliance with the SDS and REACH registration has been checked based on one of the three scenarios, the terminal has to carry out the other risk and compliance assessments. These can be divided into the following two categories:

1. the “own” REACH role;
2. other quality, environmental and safety assessments.

2.4 The “own” REACH role

The scenarios in section 3.2 focus on the role of the terminal checking its customer’s data in order to verify product compliance with REACH regulations. In particular, this involves the registration aspect of REACH through the data on the SDS. The main purpose of these checks is to prevent the terminal from being held jointly responsible for non-compliance with REACH due to lack of checks.

In addition, there are obligations from REACH that relate directly to the terminal. These are explained below.

2.4.1 The terminal in its role as downstream user or distributor

When the terminal receives an SDS from a supplier, the obligation lies with the terminal to check the entire SDS against the REACH requirements (Annex II). The Netherlands Labour Authority has drawn up a checklist for this purpose: VIB-check | Inspectie Checklist door de Nederlandse Arbeidsinspectie (inspectie-checklist.nl). However, this checklist is not sufficient to check full REACH compliance. Checking the SDS is recommended in the following stages:

1. initial quality check (see above: via the website of the Netherlands Labour Authority);
2. administrative check of the terminal customer (including checking the roles and registration numbers in this guide);
3. consistency check of the entire SDS (full check against Annex II REACH);
4. in case of an eSDS: see explanation below.

If it concerns an extended-SDS (eSDS), with an annex that lists all permitted uses and associated safety measures, the terminal must have followed it up within 12 months. This is done in two steps:

1. identify whether the application is in the eSDS;
2. align on-site measures with those listed with the application.

An example of an operation in the eSDS is taking a sample from a tank. The annex may then detail the conditions and measures to be taken. The terminal must then check this and indicate in the management system that the method in the eSDS has been checked and is observed.

ECHA has prepared a concise and comprehensive “Guidance for downstream users” for this purpose. This can be found on the ECHA website with guidelines: Guidance on REACH - ECHA (europa.eu).

Special Case: a substance with a registration as intermediate
Sometimes, as a downstream user, the terminal receives a substance with a registration as intermediate. This intermediate status is listed in Section 1.1. of the SDS.

This has many consequences for the terminal because the substance must be stored under Strictly Controlled Conditions (SCC). This means that any exposure to the substance must be prevented for both humans and the environment. This must be ensured by means of validated technical measures and a solid management system. In addition, SCC must be properly documented by the terminal.

Upon receipt of such an intermediate, it should also be established between supplier and receiver (the terminal) that both will comply with this SCC.
An ECHA guideline elaborates on this: Guidance on Intermediates (europa.eu).

2.4.2 The function of an SDS in and outside the EU

The person supplying a substance or mixture is obliged to prepare the SDS for this shipment. This applies to both delivery under customs supervision and delivery in the EU. SDSs have the same format, but the frameworks they must comply with may differ. In the EU, REACH is the framework, in transport and under customs supervision, the Global Harmonised System of Chemicals (GHS) is the framework.

The purpose of the SDS is to record and transmit information, such as hazard properties, measures for safe use and in case of emergencies and some regulatory information. In this way, the receiving party can safely use the substance and fulfil the legal obligations (especially with regard to REACH in the EU).

Globally, the GHS has been developed by the United Nations. This contains the requirements for a GHS - SDS, which consists of 16 sections. The EU has adopted this system of 16 sections in REACH with additional administrative requirements related to the REACH process. Annex II of REACH lists the exact requirements for SDSs in the EU. In this context, it is worth mentioning that, in principle, an SDS must legally be submitted in Dutch but, given the international world in which terminals operate, an English version is often accepted; the legal requirement is leading.

Resolution MSC.286(86) of the International Maritime Organization (IMO) states which information must be included in the SDS for ship cargoes. This resolution again refers to the same 16 sections that an SDS must consist of, in GHS, the most recent version.

In summary, for every delivery (within or outside the EU), a terminal must receive a complete and accurate SDS containing all information in the 16 sections, both for substances in transit and under customs warehousing, and in the EU. In the EU, the SDS must meet the additional (administrative) REACH requirements.

2.4.3 Role as registrant

The producer or importer of a substance has a registration obligation. In principle, the terminal never assumes this role as registrant. In highly exceptional cases, if there is import into the EU by the terminal itself (not on behalf of a customer) or production of a substance, the terminal must register. There is then production of one or more substances, for example in the following cases:

- in case of distillation;
- recovery of waste into raw material;
- condensate released from a vapour recovery unit (not being waste).

This guidance document does not elaborate on the registration obligation of the terminal in this case and refers for this to the ECHA Guideline (concise and comprehensive) "Guideline on registration", which can be found on the ECHA website with guidance documents: Guidance on REACH - ECHA (europa.eu).

2.4.4 De functie van het stofidentiteitsprofiel (SIP)

To determine whether a substance fits the profile of a submitted registration dossier, the so-called **substance identity profile (SIP)** must be considered. The profile of the substance of the lead dossier is called the SIP. The profile of a co-registrant's substance is called the **"Typical"** or **"Typical composition"**. The SIP indicates what the concentrations of different components may be for a substance. This is then compared with the concentrations of the Typical composition.

The concentrations of the components in the **Typical composition** must fit within the range of the concentrations of the components of the **SIP** so that the co-registrant can use the lead dossier as his registration dossier. This check on whether the concentrations of the Typical Composition are within the concentrations of the **SIP** (see Table 1 as an example) is part of the registration dossier that a co-registrant must have. Here, not only the substance itself is considered, but also the (maximum) percentage of possible trace elements.

Especially for UVCBs, such as petroleum substances, the co-registrant's substance profile is important because of the huge variation in possible component concentrations.

Table 1 *Example Typical of the co-registrant compared to the SIP of the dossier*

Components	Typical	SIP Registration dossier
X	50-60%	30-70%
Y	25-30%	20-50%
Z	11-15%	10-20%

An analysis of the co-registrant's product must be attached to the Registration dossier. The analysis must show that the components fall within the range of the co-registrant's own Typical Composition. If the variation is high, the Typical Composition may assume the limits of the SIP.

Especially for petroleum products, with variable composition, terminal customers are responsible for monitoring that the substance remains within the ranges of components mentioned in the SIP. If this is not the case, it is a substance that needs to be registered under a different CAS/EINECS. This means there is an unregistered substance being marketed in the EU.

The terminal does not have to check the customer's SIP. However, the terminal must ensure that customers, who are also registrants (when importing into the EU), carry out a proper check of their own composition, compared to the SIP of the dossier. This is laid down in the terminal's product acceptance process, in accordance with the VOTOB Product Acceptance Directive.

It is also recommended that such aspects be laid down contractually. This is particularly important with complex substances. By following the product acceptance process, registration by customers is monitored. When this is not done, enforcement counts this as lack of monitoring of proper registration. This is also considered an economic offence.

2.4.5 Authorisation and restriction

REACH authorisation and restrictions are there to control the risks of the most hazardous substances. This means that substances may be restricted or not used at all. Substances falling under the authorisation requirement are listed on Annex XIV of REACH, substances with restrictions are listed in Annex XVII.

If a customer of a terminal offers a product, which is listed in one of the two annexes mentioned, the SDS must mention this and the terminal (in consultation with the customer) must use the product within the preconditions of the authorisation or restriction. The terminal is a downstream user and must comply with the conditions of restrictions or authorisations that may apply to a substance and must be listed on the SDS.

If the SDS is not clear, the terminal can check itself whether the substance is on one of the lists via the ECHA website:
For authorisations: Authorisation list - ECHA (europa.eu)
For restrictions: List of restrictions - ECHA (europa.eu)

Recent customs legislation referring to REACH restriction (Annex XVII)
Please note that recent customs legislation refers to the REACH restrictions list. If a substance is listed and the terminal has to clear the product into the EU on behalf of the customer, it must indicate on the customs form on the basis of which exception to the restriction, the application of the substance is permitted. Full details of the restriction and exceptions can be found in the list of restrictions on the ECHA website.

2.5 Other quality, environmental and safety assessments

Besides REACH, each terminal has its own quality standards, (environmental) permit conditions and obligations based on various decrees/acts (Working Conditions Decree, Major Accidents (Risks) Decree (BRZO), Activities (Environmental Management) Decree, Environment and Planning Act, etc.).

Many, if not all of these conditions, are based on the nature of the substances (e.g. substance of very high concern (SVHC) or not), other hazardous properties of the substances and/or the quantities at the terminal. These obligations must all be assessed for feasibility and compliance before the product can be received on site.

This guidance document does not further address these obligations.

3

Final words

Terminals in the Netherlands are the crucial link in receiving substances and mixtures on the EU market. Often, a terminal is the first stop on the way to the EU, because of the customs activities carried out by a terminal in the name of a customer.

It is of course the customer's responsibility to comply with European legislation (REACH) when importing substances into the European market. However, because the terminal performs operations for the customer to facilitate import, it thereby assumes co-responsibility for the import. This means that the terminal is also co-responsible for any non-compliance with REACH.

The SDS plays a critical role in REACH compliance. On the one hand, it is a communication tool in which environmental and safety risks, and required measures are laid down. On the other hand, the EU SDS demonstrates how compliance with REACH is regulated. Because of the co-responsibility the terminal bears for non-compliance with REACH, it is important to check a substance's SDS accordingly. In addition, it is important to check how compliance with REACH has been arranged by the customer prior to agreeing which services are to be performed.

The provider of the SDS is responsible for compliance of what is on it. The provider is an entity in the EU and fulfils one of the five defined roles according to REACH. In case of an import situation into the EU, the full REACH registration number of the imported substance(s) is shown on the SDS.

For checking REACH compliance by the terminal, three scenarios of the services performed by a terminal for the customer have been drawn up. When a new customer reports to the terminal, or when the customer requests a different service from the terminal, the scenarios have to be run through again.

The following scenarios have been drawn up:

Scenario 1: receipt of a substance (or mixture) in the EU and onward transit in the EU or beyond (the destination makes no difference);
Scenario 2: receipt of a substance (or mixture) outside the EU and import into the EU (or an operation involving a substance (blending/addition));
Scenario 3: receipt of a substance (or mixture) outside the EU and storage in a bonded warehouse.

Please note that when a substance (or mixture) from outside the EU is stored in bonded warehouses and an operation (e.g. mixing or additivation) is subsequently performed with it, *scenario 2* applies instead of scenario 3.

Each scenario indicates what information needs to be checked. Below are some sources of information, which can be consulted for this purpose.

For more information on the product acceptance process, the document “VOTOB Richtlijn Productacceptatie” (Guideline on Product Acceptance) is available.

The Netherlands Labour Authority has prepared a Dutch checklist to check an SDS for REACH requirements: *VIB-check | Inspectie Checklist door de Nederlandse Arbeidsinspectie* (inspectie-checklist.nl)

On the ECHA website ECHA (europa.eu), it is possible to consult the REACH legislation and a Guidance on REACH with various guidance documents. In addition, the ECHA website has a large database with information on registered substances.

In addition, the Dutch government has a REACH and CLP information website, which can also be consulted: *Chemische stoffen goed geregeld! | Chemische stoffen* (Chemicals well regulated! | Chemicals).

Glossary

Term or abbreviation
Definition

Distributor
Any natural or legal person established within the Community, including a retailer, who only stores and places on the market a substance, on its own or in a mixture, for third parties.

Downstream user
Any natural or legal person established within the Community, other than the manufacturer or the importer, who uses a substance, either on its own or in a mixture, in the course of his industrial or professional activities. A distributor or a consumer is not a downstream user. A re-importer exempted pursuant to Article 2(7)(c) shall be regarded as a downstream user.

ECHA
European Chemical Agency. The European authority in the field of the registration of substances.

EC number and CAS number
European and international numbers for identifying a substance or substance dossier.

Only representative (OR)
Any natural or legal person established outside the Community who manufactures a substance on its own or in mixtures or in articles, formulates a mixture or manufactures an article that is imported into the Community, may by mutual consent appoint a natural or legal person established in the Community to fulfil, as his only representative, the obligations on importers under this Title.

Manufacturer
Any natural or legal person established within the Community, who manufacturers a substance in the Community.

GHS
Global Harmonized System of Chemicals: global framework: similar to REACH, but developed by the United Nations.

Trader
This is not an official role under REACH. However, terminals often deal with traders.

Lead registrant
The registrant who submits a substance's full registration dossier to ECHA. Co-registrants can refer to the data in that dossier from the dossier they submit.

ILT
Human Environment and Transport Inspectorate.

IMO
International Maritime Organization.

Import
Bringing a substance from outside the EU market into the EU market. Note: a terminal can import a substance on behalf of a customer. The customer (or designated Only Representative) remains the responsible importer.

Importer
Any natural or legal person established within the Community who is responsible for import.

Mixture
A mixture or solution composed of two or more substances.

REACH
REACH means Registration, Evaluation, Authorisation and Restriction of Chemicals.

Registrant
The manufacturer or importer of a substance, or the manufacturer or importer of an article, who submits a registration for a substance in accordance with Regulation (EC) No 1907/2006.

RMOA
Risk Management Option Analysis: assessment by the EU Commission of which legal process best manages the substance's risks.

Formulator
Formulators are downstream users who produce mixtures and usually sell them further down the supply chain or directly to consumers. They mix substances and/or mixtures without any chemical reaction taking place during the process. *Samensteller* in Dutch.

SCC
Strictly Controlled Conditions. If a substance is supplied as an intermediate, these conditions apply to prevent exposure.

SDS
Safety Data Sheet, also known as *veiligheidsinformatieblad* (VIB) in the Dutch context.

SIP
Substance Identity Profile. This defines the composition of a UVCB.

Substance
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.

SVHC
Substance of Very High Concern – or, in other words, the most hazardous substances.

Typical composition
Substance analysis by a co-registrant. The concentrations of the Typical must fall within the concentration ranges of the registered substance.

UVCB
Substances of Unknown or Variable composition, Complex reaction products or Biological materials. For example petroleum products are UVCBs.

REACH from the terminal perspective

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