



Exactly what is an Only Representative and what are its advantages?

An Only Representative appointed by a non-EU supplier will fulfil all the supplier's duties under REACH within the EU. In purely formal terms, the importer thus becomes a downstream user who is free from any obligation to register.

Any foundry that directly procures certain raw materials or expendables from non-EU states acts as an importer. Consequently, it must comply with the obligations to register under REACH because, like a manufacturer, it puts a substance into circulation within the EU for the first time. In such cases, a non-European supplier may appoint an Only Representative established within the EU. This may be either a natural or a legal person resident in the Community who fulfils, as Only Representative, the obligations of one or more manufacturers of a substance within the EU. Basically, an only representative appears within the EU as the manufacturer of the substance in question and is thus required to meet a manufacturer's obligations to register. In formal terms, a foundry will then be regarded as a downstream user who is free from any obligation to register.

It is therefore recommended that foundries procuring substances from non-EU countries approach their suppliers and advise them of the option to appoint an Only Representative. Moreover, this would do away with the need to gather the detailed information required for registration from a manufacturer established outside the EU, as this would be handled by the Only Representative. In this way, a foundry's obligations would essentially be reduced to giving information.

Whenever possible, suppliers should be informed in no uncertain terms that it would no longer be economical to procure a substance from outside Europe if it were not registered by an Only Representative, and that it might become necessary to look for an intra-EU alternative in consequence. As many suppliers established outside the EU and/or the EEA will probably not be familiar with the REACH regulation or may not even be aware of its existence, it may be important to 'take them by the hand' and show them how to appoint an Only Representative within the EU. Links to the German and English-language versions of the master contract developed under the direction of the German Chemicals Association VCI are

http://www.vci.de/template_downloads/tmp_VCIInternet/MustervertragAlleinvertreter_eng~DokNr~123069~p~101.pdf for the English version and

http://www.vci.de/template_downloads/tmp_VCIInternet/MustervertragAlleinvertreter_dt~DokNr~123069~p~101.pdf to download the German version.

In addition, the ECHA itself has developed a brochure for suppliers established outside the EU which contains information about the REACH regulation and any further steps that may be necessary. This English brochure may be downloaded from http://www.echa.europa.eu/doc/REACH_Industry.pdf.

By now, numerous firms have established themselves that fulfil the duties of an Only Representative for a fee. Firms whose service portfolio includes an Only Representative-function often ask lump-sum prices staggered by substance and quantity range. In this context, please note that fees for work in the pre-registration phase are generally lower than in the 'hot phase' of registration.

What is more, future sale and purchase agreements should specify individually that the supplier has met his obligation by appointing an Only Representative. The appointment of an Only Representative by a supplier is a one-off cost item.

Suppliers resident outside the EU may appoint no more than one Only Representative per substance. Both Only Representatives and importers must be in a position to furnish the authorities in charge with documentary evidence of what imported substances will be registered by an Only Representative. If this is not done, the importer himself will be held responsible for registering the substances he imports.

Please note that the appointment of an Only Representative will relieve an importer of his obligation to register only if the representative is active within the same supply chain. In other words: the obligation to register will not be affected if it becomes known that some supplier or other has commissioned an Only Representative to register the same substance within the EU. Therefore, it is necessary that the Only Representative should be appointed by the importer's own contract partner.

An importer should obtain a confirmation, preferably in writing, from both his contract partner and the Only Representative that the quantity range of a given substance imported by him will be registered by the Only Representative. Not only will this enable the importer to make contact with his registering authority to inform it about his use of the substance in question, it also helps to document the entire process.