



Reference:

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# ESA 4<sup>th</sup> REACH Workshop

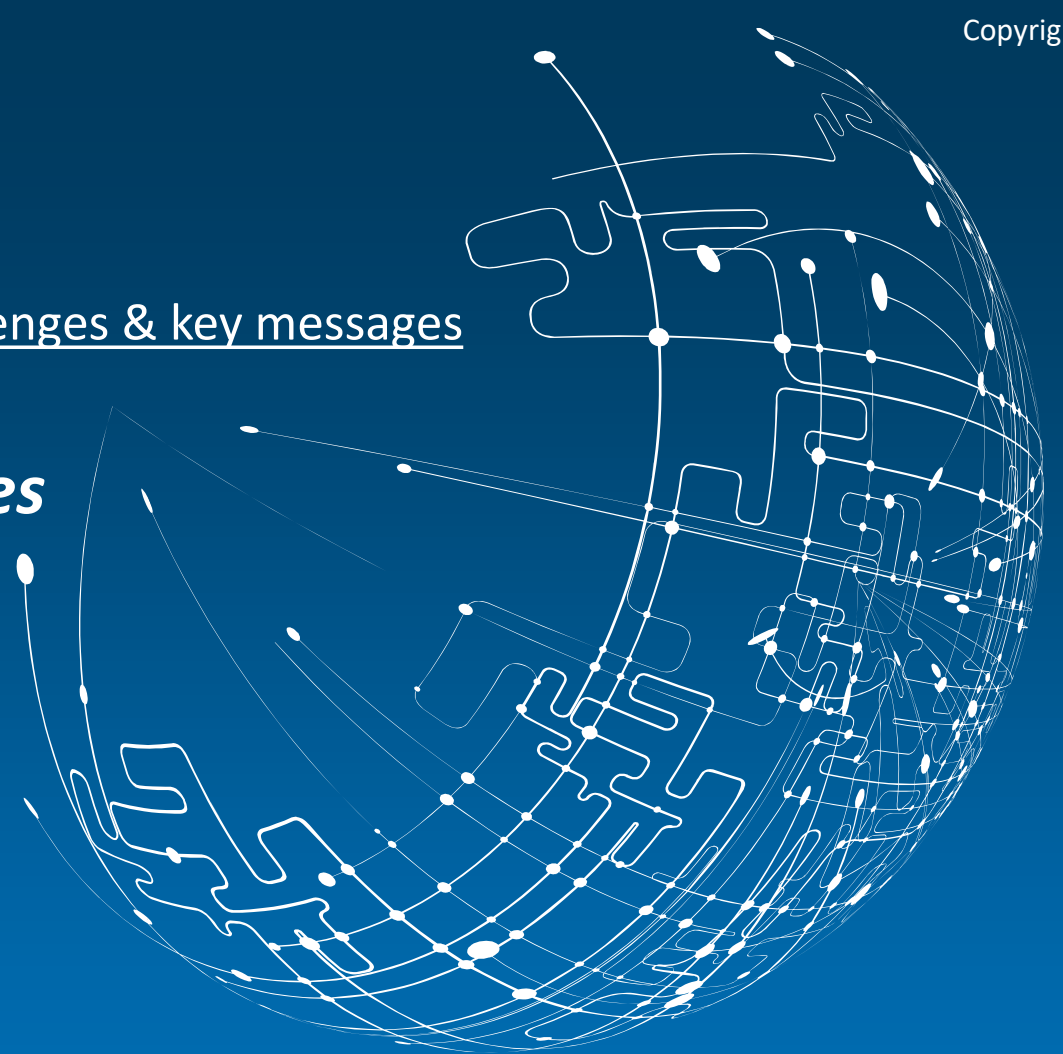
Session II - REACH Revision activities, other regulatory challenges & key messages

## *Views of AeroSpace and Defence Industries Association of Europe (ASD)*

18. October 2022

**Josef Denzel** (Airbus Defence & Space)

Vice-Chair ASD REACH & Chemical Management WG



# ABOUT ASD

- The voice of Europe's aeronautics, space, defence and security industry
- 18 major companies and 21 national associations, representing over 3,000 companies of all sizes from 17 countries

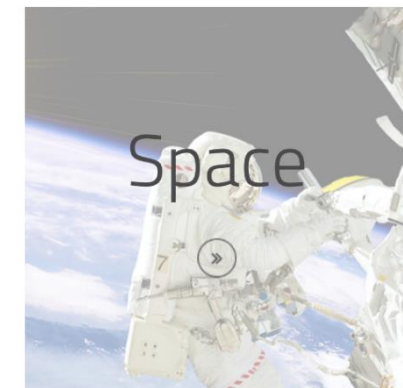
## Turnover in 2020: € 229.7 billion

- € 99,3 bn civil aeronautics
- € 118,5 bn defence
- € 11,9 bn space

## Direct jobs in 2020: 885.000

- 372.000 civil aeronautics
- 463.000 defence
- 50.000 space

Indirect Jobs (estimate) in 2020: > 1.000.000



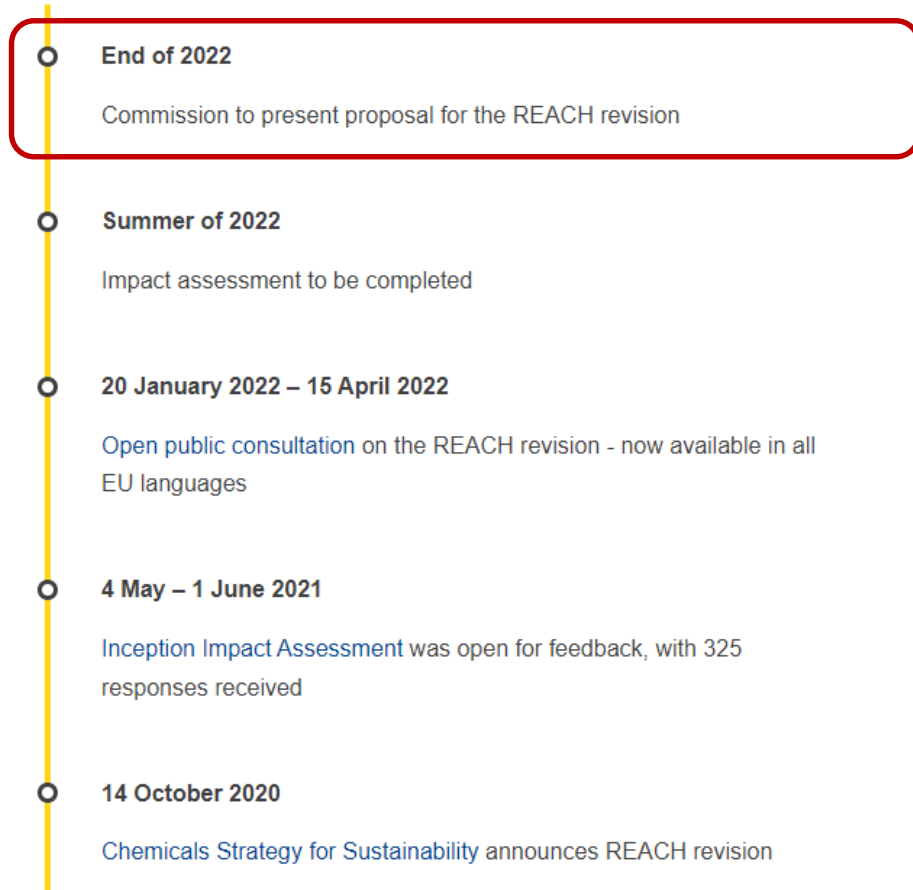
# Role of ASD



# Status of the ongoing REACH Revision

## Official Timeline

Previous and upcoming actions on the REACH revision



## Status from ASD perspective

- EC is in the phase of “digestion” of the many contributions received with an iterative process before EC decision making.
- Legal drafting phase expected for Q4/22-Q1/23 with few opportunities for ASD to interact
- Currently the EC plan is to issue the **final proposal of REACH Revision by Q1 2023**
- Next phase will be the co-legislative one in 2023, there will be a new wave of involvement of stakeholders, further consultations unlikely to come.
- Revised REACH regulation: EiF expected 2025-2027

# General ASD Messages - focus on Product Safety and Airworthiness

- The Aerospace/Defence sector fully supports the intent of REACH to ensure a high level of protection of human health and the environment and is investing a lot e.g. for the substitution of Chromates
- Aerospace and Defence products are subject to strict safety requirements

Product changes require substantive evidence of safety to maintain airworthiness/approval

Alternative materials are being developed, but where not validated, airworthiness and fulfilment of safety requirements must be prioritised

Repair of existing products often dependent on materials whose use will be or may be restricted in the future  
“Repair as Produced”

- Our products have a long-life cycle and changes can seldom be implemented at short notice.
- Several aerospace and defence companies are supporting the current initiatives for re-authorization of SVHCs.
- With an expected significant increase in magnitude of classified (CLP) and restricted substances the **sector may simply be overwhelmed by the required speed of substitution** (incl. risk of regrettable substitutions) **and investment** needed to develop and implement modified or new technologies compatible with our strict airworthiness and safety requirements.

# ASD activities in relation to CSS & REACH Revision

- ASD established a dedicated **“CSS and REACH Revision Ad-Hoc Working Group”** (kick-off on May 4<sup>th</sup> 2021) with the mandate:
  - follow the planned REACH revision
  - cross link to the EC preparatory activities on CSS
  - assess impact and
  - prepare inject contributions in support of our sector A&D interests wherever appropriate
- Setup collaboration with other relevant industry groups, especially “ESCC MPTB “CSS SFG Space Focus Group”, EDA, AIA, ...
- ASD nominated representatives to join various round tables on CEFIC Cross Industry Platform (mainly SWGs on EUC, GRA, Enforcement, SPI, S&SbD).

# Key Elements for ASD (1)

**Current authorisations & forthcoming restrictions pose significant challenges to A&D sector, in particular with regards to the ability to replace these substances whilst still meeting the critical safety requirements imposed by airworthiness authorities**

- Critical substances such as Lead, Bisphenol-A and PFAS, facing potential severe restriction under REACH over the next few years are used in our products thanks to their inherent structural/physico-chemical properties, to fulfil key functionalities required for safety, reliability and longevity.
- **A&D Sector will not be able to cope with the sheer magnitude & speed of work and investment needed** to develop and implement modified or new technologies free of these chemicals.  
It is essential to be given sufficient time to adapt to new constraints and ensure the safe transition to alternative technologies.
- As an example, it is taking several decades to replace chromates - qualification of anti-corrosion solutions is still ongoing for a number of applications in particular primer coatings due to challenging technical requirements and limited available solutions



## Key Elements for ASD (2)

### Focus on the key messages/ take away for the REACH Revision

- **More clarity, certainty and transparency on the EU COM decision making processes** when navigating through this major regulatory change proposals are absolutely essential to be in a position to fully understand and assess the impact on A&D industry ability to comply with future requirements in a timely manner.
- **More details on criteria and appointed / legitimated bodies** needed to support decision making on key elements (such as essential use, industry driven derogations/authorisations).
- **Clarity on numerous scenarios/ options at different legislative work streams currently in discussion** (e.g. future Restrictions/ Authorisation, Essential Use Concept, GRA for professional/ industry uses,...) makes it nearly impossible to judge on most likely/ realistic industry impacts due to ambiguous combination variants.
- Building an **industrial transition pathway** in collaboration with key stakeholders (ECHA, EASA, EDA, ESA) & COM, as well as key sectoral company representatives is paramount to facilitate an effective REACH implementation (e.g. Essential Use, sectoral derogations, assessment of suitable alternatives).
- **Maintain existing legal exemptions in REACH** (e.g. Defence in Article 2 (3), fuel in closed systems in Article 56 (4d)).
- Need to **involve industry (incl. complex article manufacturer)** in stakeholder consultations during this critical phase.
- **Clarity on «Essential Use Concept»** and role of EASA/ESA/EDA to support our sector's position

# Essential Use Concept

- We emphasize that it is crucial that the **end product/ application is included early in the assessment process to identify essentiality**; the essentiality of the use of a substance cannot be appreciated without considering the end-product/application.
- A **clear definition of essential use and a recognition of strategic sector** that base their productions on specific chemicals and do not have applicable alternatives is the correct way to ensure European industrial competitiveness and limit the workload on ECHA Committees.

- **Expectation to have A&D Sector covered by Essential Use concept**

Recognition that **Aerospace just like Defence end products**, due to their critical safety and airworthiness requirements and contribution to EU key policies as reflected in specific EU legislation (e.g. Regulation (EU) 2021/696 on the Union Space Programme) are **considered an essential use** and therefore should benefit from authorisation or sectoral/ generic derogation when no suitable alternatives are available.

- **Competent sectoral agencies (EASA, EDA, ESA) should be consulted** to support the decision process on essentiality.

# Reform of Authorization and Restriction Processes

- Industry needs to **retain the possibility to apply for authorization / derogation**. Sectorial derogations are considered beneficial.
- As part of the REACH authorisation revision, **simple processes such as generally applicable derogations for a well defined scope** are strongly recommended to facilitate implementation and compliance in the whole supply chain. A&D need a **fast-tracking route for “essential use”** as a real simplified possibility for granting derogation/ authorization.
- The **minimum exposure route** - for operators - shall be applicable to obtain derogations / authorisation.
- **Extension of the authorisation scope to articles**, as stated in the last document from CARACAL, is a **major concern** as it will have damaging effects on the industry (detrimental to maintain long lifetimes of A&D products in support of EU circularity objectives), also with regards to the **ability to stock or import articles** as compliance & business continuity strategy, when timely substitution is not possible due challenging technical and certification constraints imposed by airworthiness standards.

## Future Role of Candidate List

- **A&D Industry needs transparency and a clear understanding of what substances are being identified as SVHCs** to be able to start detecting any dependency on those as early as possible, including those in our complex and global supply chains.
- **Additional information requirement on substances** on the Candidate List and on further substances (MHC, SOCs etc.), going beyond what is available now, will impose challenges and a **heavy burden for industry**
- ASD is highly concerned for the **envisaged automatism**s, that could endanger affordability of the process to be followed. With an expected significant increase in magnitude of classified and restricted substances (e.g. CEFIC estimated the impact on chemicals portfolio with 28% of the registered substances, equals to over 6.000 substances on the market) the **sector may simply overstressed by the required speed of substitutions** (incl. risk of regrettable substitutions).
- **Fees are detrimental to incentivize substitution** activity in A&D sector. Furthermore, **additional fees on the European industry will lead to competitive disadvantages against non-EU industry** and will contradict the aim of ensuring a level playing field. Companies could end up paying various millions of euros for a low volume consumption of critical substances with no alternative in place.


# Generic Risk Management Approach (GRA)

- **Industrial Uses** are **out of scope** and shall be dealt under REACH Article 68 (1).

This must include any maintenance, repair or overhaul operations carried out on aerospace and defence products outside a factory environment! Infrequent “field repairs” made by employed and trained personnel is very different to other professional actors serving consumers such as hairdressers or heating engineers in domestic homes, thus a differentiation between different types of uses has to be ensured.

- **Maintain risk-based instead of a pure hazard based approach** which is considered essential for our sectorial application, in particular for chemical substance applications under strictly controlled industrial uses.

# Further steps – Advocacy on EU- & MSs level



**ASD**  
AeroSpace and Defence Industries  
Association of Europe

**Position Paper**  
Contact: Vincent De Vroey

## ASD Key Messages on REACH Revision

16<sup>th</sup> September 2022

### Introduction

The Aerospace and Defence Sector fully supports the intent of REACH to ensure a high level of protection of human health and the environment. Since the implementation of this EU chemicals regulation, we have always demonstrated our support and are committed in meeting all regulatory requirements that apply to our products.

From the various proposed options and changes communicated through past consultations and CARACAL papers, our sector is highly alerted by some elements currently under consideration, which may result in a heavy burden for our industry sector and therefore would lead to unacceptable competitive disadvantages compared to non-EU industry.

Therefore, the paper at hand shall emphasize our key messages on the REACH Revision, which we consider as essential for our strategically relevant industry sector, enabling us to further comply with all regulatory requirements while ensuring a level playing field.

These key messages are also supported by the CSS Space Focus Group, an initiative of the Materials and Processes Technology Board of the European Space Components Coordination (ESCC MPTB), which is a partnership of the European Space Agency (ESA), national space agencies, and space industry represented by ASD-Eurospace; the European Defence Agency (EDA) attends as an observer.

### Comments on the Overall REACH Revision Process

Through the entire REACH Revision Impact Assessment process, various options and change proposals have been communicated, often with sudden new considerations, sometimes even contradicting, and in many cases only understandable in a broader consideration taking other legislative revision processes into account.

Furthermore, we observed a lack of key details on criteria and appointed / legitimated bodies, which would be needed to clearly understand the decision-making process, in particular on essential use, industry-driven derogations and screening / assessment of alternatives.

There are numerous scenarios / options raised under different legislative workstreams currently in discussion (e.g. future Restrictions / Authorisation, Essential Use Concept, GRA for professional / industry uses), which makes it nearly impossible to judge on most likely / realistic industry impacts due to ambiguous combination variants.

About ASD  
The AeroSpace and Defence Industries Association of Europe represents the aeronautics, space, defence and security industries in Europe in all matters of common interest with the objective of promoting and supporting the competitive development of the sector. Its membership comprises major European aerospace and defence companies as well as national associations.

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## BDLI POSITION ZUR REACH 9/2022 REVISION

FÖRDERUNG NACH UMWELTSCHONENDER EU-CHEMIKALIENSTRATEGIE  
IM EINKLANG MIT SICHERER UND LEISTUNGSFÄHIGER  
LUFT- UND RAUMFAHRTINDUSTRIE IN DEUTSCHLAND UND EUROPA

GEMEINSAM MIT EU UND BUNDESREGIERUNG FÜR NACHHALTIGKEIT, WACHSTUM UND INNOVATION



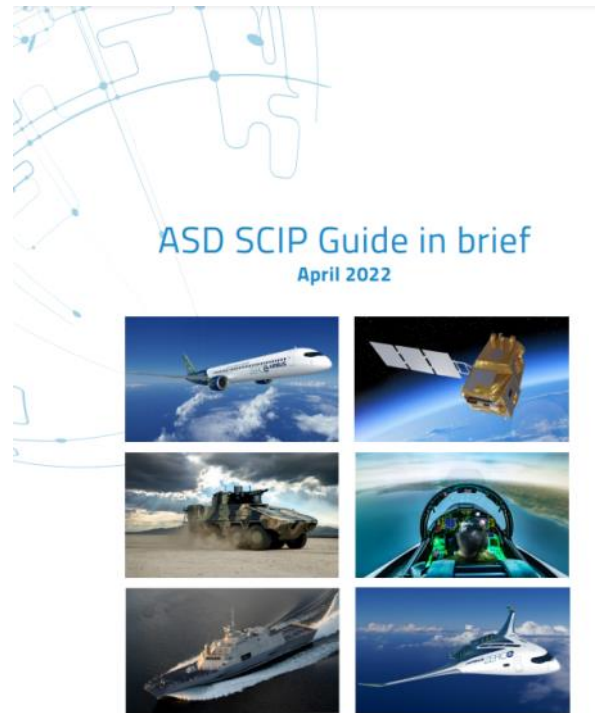
Mehr erfahren.



**BDLI**  
Bundesverband der Deutschen  
Luft- und Raumfahrtindustrie e.V.

# ASD WFD/SCIP Guidance (published 2022)

<https://www.asd-europe.org/chemicals-hazardous-materials>

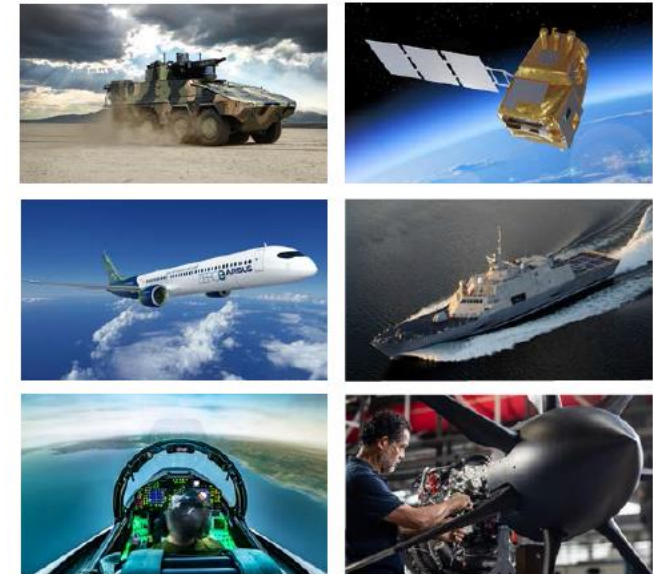


[Link](#)

[Link](#)



ASD  
Sectoral Guidance for  
WFD/SCIP implementation  
Version 1.1 – 14 April 2022



13 pages

<https://www.asd-europe.org/sites/default/files/atoms/files/ASD%20SCIP%20Guide%20in%20brief.pdf>

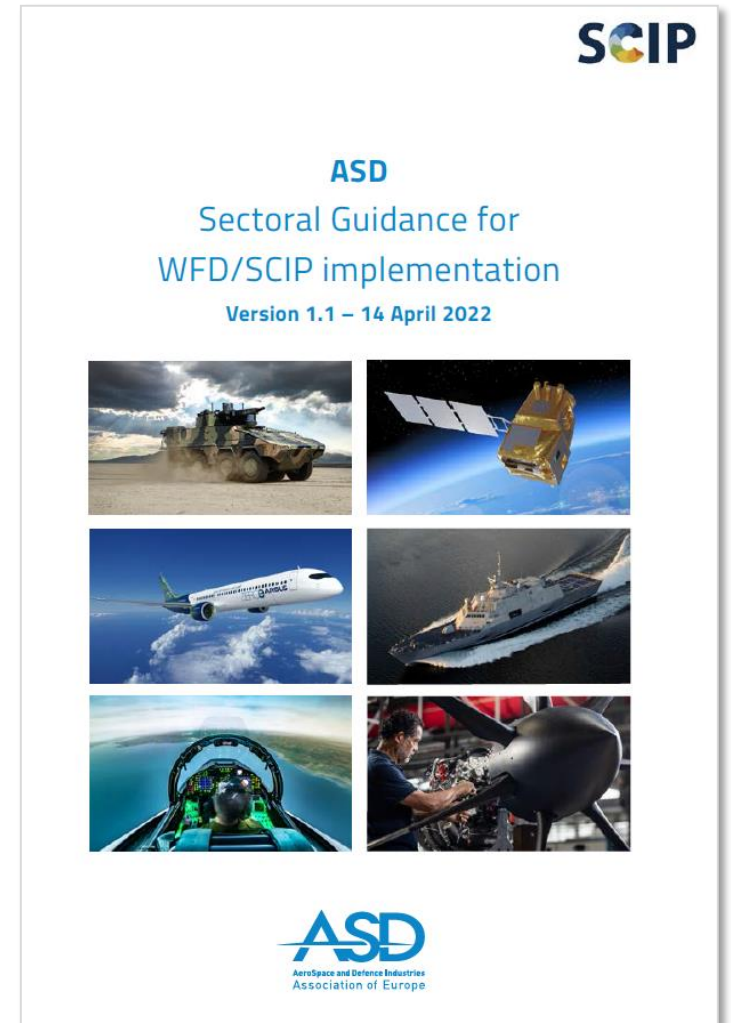


130 pages

<https://www.asd-europe.org/sites/default/files/atoms/files/ASD%20Sectoral%20Guidance%20for%20WFD-SCIP%20implementation0421.pdf>

# ASD WFD/SCIP Guidance structure v1.1

- 1 GENERAL INTRODUCTION
- 2 EXECUTIVE SUMMARY
- 3 EU LEGAL BACKGROUND & SCOPE OF SCIP NOTIFICATIONS
- 4 NATIONAL TRANSPOSITION OF WFD/SCIP
- 5 SPECIFICITIES OF THE A&D SECTOR
- 6 STRATEGIES TOWARDS WFD/SCIP COMPLIANCE
- 7 A&D SPECIFIC EVALUATION OF ECHA'S PROPOSED SIMPLIFICATIONS FOR SCIP NOTIFICATIONS
- 8 OPERATIONAL RECOMMENDATIONS & OPTIONS FOR SCIP NOTIFICATIONS
- 9 EXAMPLES OF SCIP NOTIFICATIONS
- 10 Q&A SECTION
- 11 OUTLOOK FOR GUIDANCE UPDATES
- 12 ACRONYMS, DEFINITIONS, REFERENCED DOCUMENTS, USEFUL LINKS
- 13 APPENDICES





# Summary of major ASD issues with WFD/SCIP

## 1. Handling of complex dossiers (>1000 comps) for super complex objects

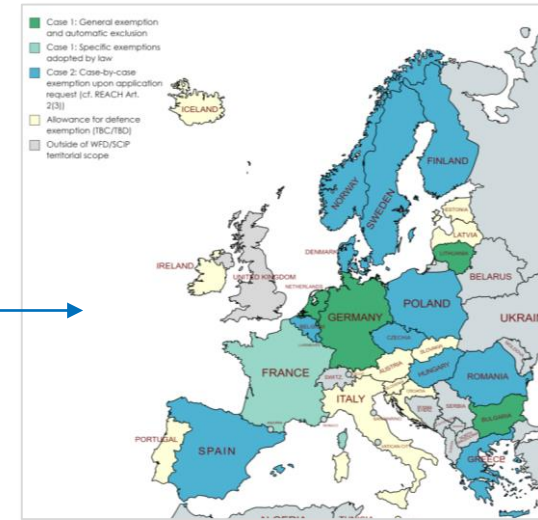
- ASD proposed simplifications to make SCIP workable: [Aggregation](#) & [Representative Article Approach RAA](#)
- ECHA: “RAA may be allowed to be used by duty holders in each individual EU MSs in exceptional and justified cases such as: for specific extremely complex and customised products like e.g. (e.g. airplanes, ...satellites)” >> **no decision taken so far!**

## 2. Handling of CBI / classified data in SCIP (= most critical concern of ASD !)

- How to handle SCIP notifications for Military/ Dual use articles subject to export control regulation(s)?
- How to handle the SCIP notification for an imported US article covered by ITAR or EAR restrictions?
- How does a company achieve legal compliance facing a legal conflict due to contradictory legal obligations (WFD vs. Export Control)?

## 3. Heterogeneity of national WFD transpositions for Defence & Dual-Use

- Serious issues esp. for trans-national defence programmes
- How to achieve MSs mutual recognitions and simplify the defence exemption process (→ issue also addressed to EDA)



## 4. Non-Availability of mandatory data from the depth or the global, very specialized supply chain (→ awareness!)

ITAR - International Traffic in Arms Regulations  
EAR - Export Administration Regulations

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**Thanks for your attention!**  
**Any Questions?**

