

New SCIP Notification Requirement

What does it mean for the European Space Industry and
EEE Parts Supply Chain?

*Tim Becker, Senior Legal Advisor; Project Manager of Space Sector Waste
Framework Directive Task Force*

REACHLaw legal notice

The material in this presentation has been prepared by REACHLaw Ltd. based on available information. The views expressed and all recommendations made are those of the author. Whilst this presentation has been drafted in good faith and based on the best information currently available to us, any action to be taken by the reader of this presentation is under their own responsibility and risk. No representations or warranties are made with regards to the completeness or accuracy of the contents of this presentation, and no liability is accepted by REACHLaw Ltd., its affiliates and partners for damages of any nature whatsoever resulting from the use of or reliance on the information in this presentation. Before acting on any information presented you should consider the appropriateness of the information for your specific case.

REACHLaw Ltd. reserves all rights. All content (such as text, graphics and designs) created by REACHLaw Ltd. as part of this presentation is the intellectual property of REACHLaw Ltd. Any copying, distribution, display, retransmission, or modification of information or materials contained in this presentation or the presentation as such, whether in electronic or hard copy form, without the express prior written permission of REACHLaw Ltd. (please contact info@reachlaw.fi) is prohibited, unless to the extent that something else has been agreed.

Providing Chemical Regulatory Compliance Services Globally

ABOUT US

- Established in Helsinki, Finland **2006**
- Offices in **six (6) countries**
- Multidisciplinary team - Business, Legal & Technical: *Toxicologists, Chemists, Socio-econ. Analysts, Environmental specialists, Lawyers*
- **20+** local partners in Europe, Asia, Latin-America & USA
- Support in 10+ different languages
- More than **500 customers** from **47+ countries**; from governmental organisations, industry associations to Fortune 100 companies & SMEs.
- Major industries served: *Oil, Chemicals, Specialty Chemicals, Metals, Aerospace & Defence, Electronics, Healthcare, Pulp & Paper and other Downstream Users (DU) industries, etc.*
- More info at: www.reachlaw.fi

SERVICES

- Authorisation
- Only Representation
- Registration / Notification
- SVHC Advocacy
- Outsourcing
- CLP & GHS Services
- Legal & Technical Consulting
- SCIP Strategy and Notification
- Impact/Policy studies
- SDS Authoring & Certification ...

Providing Support for REACH and “REACH-Like” Chemical Regulations Globally

We Specialize in
Chemical Regulatory
Compliance and
Sustainability

UK REACH / CLP

EU REACH / CLP

EURASIA “REACH”

KOREA REACH

CHINA “REACH” / GHS

TURKEY KKDİK / SEA / GBF

INDIA “REACH”*

Our work for the European Space Sector

- Ongoing since 2011
- Contractor to ESA and ASD-Eurospace
- Supporting the **Materials and Processes Technology Board of the European Space Components Coordination (ESCC MPTB)** - incl. agencies and space industry and related Task Forces, on REACH/related EU chemicals legislation
 - Energetic Materials Working Group - **EMWG**
 - Lead Metal Task Force - **LTF**
 - Hydrazine Task Force (inclusive of other liquid propellants) - **HTF**
 - Space Chromates Task Force - **STF**
 - Waste Framework Directive Task Force on SCIP - **WFD TF**
- More info at: <https://eurospace.org/working-groups/#reach>

New SCIP notification requirement

Agenda

1. Introduction to WFD/SCIP
2. SCIP requirements
3. Impact of national transposition
4. Implementation in the sector
5. Takeaway

New SCIP notification requirement

1. Introduction to WFD/SCIP
2. SCIP requirements
3. Impact of national transposition
4. Implementation in the sector
5. Takeaway

Introduction to WFD/SCIP

Background: REACH Article 33(1) reporting in the supply chain

Article 33

Duty to communicate information on substances in articles

1. Any supplier of an article containing a substance meeting the criteria in Article 57 and identified in accordance with Article 59(1) in a concentration above 0,1 % weight by weight (w/w) shall provide the recipient of the article with sufficient information, available to the supplier, to allow safe use of the article including, as a minimum, the name of that substance.



Reporting is triggered for each component article with CL-SVHC above 0.1% w/w
“Once an article, always an article”
(CJEU judgment 10.9.2015 in Case C-106-14)



Objects can be very complex...



... but principles remain the same.

Applies to Substances of Very High Concern (SVHCs)
included in the REACH Candidate List (CL)

The Candidate List is currently updated twice per year.

<https://echa.europa.eu/de/candidate-list-table>



*Substances of Concern
In articles, as such or
in complex objects (Products)*

Introduction to WFD/SCIP

SCIP legal basis: The revised Waste Framework Directive (WFD)

Legal basis

Art. 9(1)(i)&(2) of Directive (EU) 2018/851 of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on waste - **revised Waste Framework Directive (WFD)**

SCIP notification

*“Member States shall take measures to prevent waste generation... ensure that **any supplier of an article as defined in point 33 of Article 3 of REACH** provides the **information pursuant to Article 33(1) of that Regulation** to the European Chemicals Agency as from 5 January 2021”*

SCIP database

- ECHA to establish a database for the information to be notified and maintain it
- Database access to **waste operators** and **consumers** (upon request)

ECHA objectives

Support the **Circular Economy** by (1) decreasing hazardous waste generation by supporting the **substitution** of SVHCs in articles; (2) making information available to further **improve waste treatment processes, namely recycling**; (3) increasing **authorities' information** basis on SVHCs in articles. **Complement and re-inforce** - *not replace!* - REACH Article 33 and 7(2).

Introduction to WFD/SCIP

SCIP database ready for use - Notifications since 28 October 2020

News



Tracking chemicals of concern in products – SCIP database ready for use

28/10/2020

Industry can now submit information on substances of very high concern in their articles to ECHA's SCIP database. The aim is to make recycling of products safer and improve information about dangerous chemicals in products.

SCIP duty kicks in: 5 million notifications received for harmful chemicals in products

ECHA/NR/21/02

Since 5 January, companies have had to submit data to ECHA on chemicals of concern in their products. Over five million notifications have already been received in the SCIP database, and the data will be published in the coming months.

Helsinki, 11 January 2021 – The obligation to submit data on substances of very high concern (SVHCs) in articles under the Waste Framework Directive applies as of 5 January 2021. The new requirements concern all companies placing articles containing SVHCs from the Candidate List on the EU market.

Companies have already submitted more than five million notifications to the database. ECHA will start publishing the data on its website in the coming months, and this function will be further developed. The increased transparency on chemicals of concern will help consumers make more informed choices and improve waste operators' recycling processes.

Source: <https://echa.europa.eu>

New SCIP notification requirement

1. Introduction to WFD/SCIP

2. SCIP requirements

3. Impact of national transposition

4. Implementation in the sector

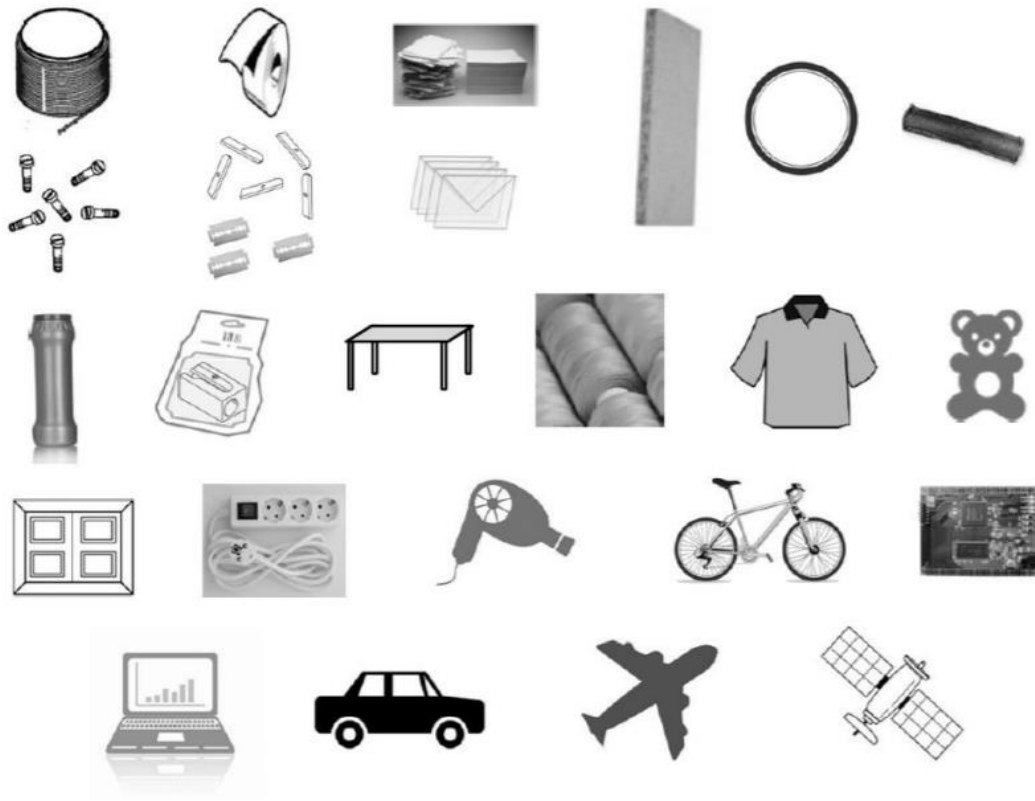
5. Takeaway

SCIP requirements

Potential scope of SCIP notifications

Figure 5: Illustration of the potential very broad scope of the SCIP notification duty.

(The examples are shown for illustration purposes only. It does not necessarily mean that the articles as such shown usually contain Candidate List substances or that some simpler complex objects shown usually incorporate articles containing such substances)



- Applies to **articles/complex objects** only, not substances/mixtures supplied
- **No** exemption with regard to **RoHS** (EEE)
- **No** exemption recognized by the European Commission for **Space Products** (even if they do not result in waste in EU!)
- Possible national exemptions in the interest of defence (see [EDA study 2020, Chapter 3](#))

Source: https://echa.europa.eu/documents/10162/28213971/Information_requirements_for_scip_notifications_en.pdf/db2cf898-5ee7-48fb-e5c8-4e6ce49ee9d2

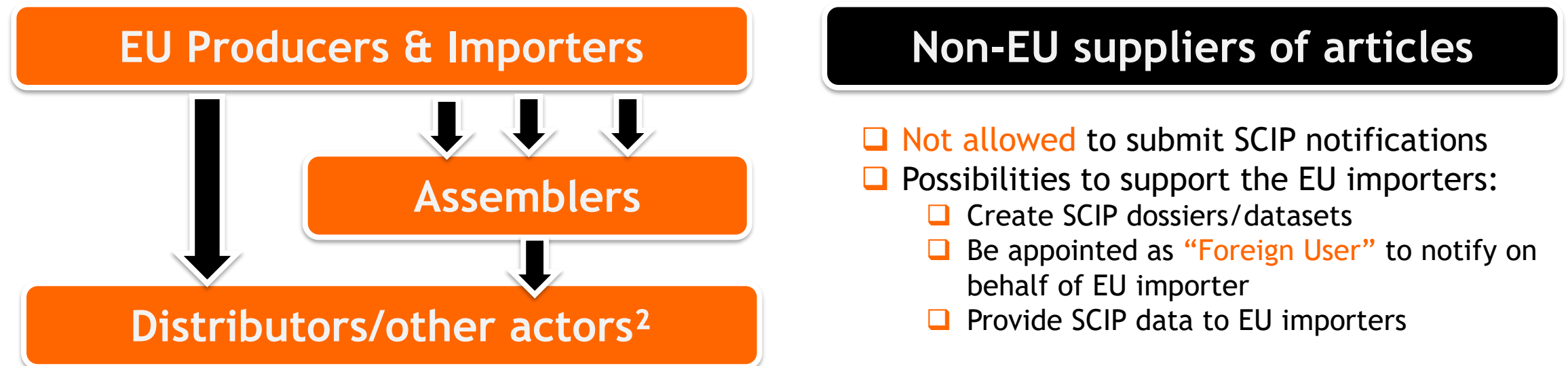
SCIP requirements

Who has to notify?

“... any natural or legal person (established within the Community) who...” (legal entity according to national law)

SCIP notification applies to **any EU¹ supplier of an article** as such or in a complex object containing a Candidate List substance above 0.1%, **irrespective of the position of that supplier in the supply chain**. Article 3(33) of the REACH Regulation defines ‘supplier of an article’ as *“any producer or importer of an article, any distributor or other actor in the supply chain who **places** an article **on the market**”*.

¹Application in Norway, Iceland and Liechtenstein is subject to incorporation into the EEA Agreement.



²Except retailers/other supply chain actors that supply directly and exclusively to consumers

SCIP requirements

When to notify?

- The obligation - *practically to be fulfilled before placing on the market*
- applies to **articles placed on the EU market from 5 January 2021 onwards**, with regard to the Candidate List at that time.
- **If the Candidate List is updated subsequently**, a new SCIP notification or update of an existing one is required only if and when the product is then placed on the market again by the submitter

Further information: Section 1.4 ‘Timelines’ and Section 2.4 (regarding updates) of ECHA ‘Requirements for SCIP notifications’, October 2020 ([link](#))

SCIP requirements

What? ECHA information requirements

Category	SCIP information requirement	Classification
Common requirements for both articles as such and complex objects	Name of the article (article as such or complex object)	Mandatory
	Other name(s) , e.g. brand, model	Optional
	Primary Article Identifier (EAN, part no, ...) - <i>Submitter choice</i>	Mandatory
	Other article identifier(s)	Optional
	Article category (based on CN/TARIC codes and descriptions on function/use)	Mandatory
	Production in the European Union (Option “no data”)	Required
	Characteristics and picture(s)	Optional
	Safe use instruction(s) , <i>if necessary</i>	Required
Additional requirements for complex objects only	Disassembling instructions	Optional
	Identify the relevant ('concerned'/'linked') complex object component(s) / subcomponents ('component entities'), incl. above requirements for each	Mandatory
Additional requirements for articles as such only (concern elements)	Number of units of concerned complex object components	Optional
	Candidate List (CL) substance (name; EC and CAS no., if available)	Mandatory
	CL substance concentration range , incl. > 0.1% w/w and ≤ 100% w/w	Required
	Material category for the article containing the CL substance and/or Mixture category (EuPCS) containing the CL substance in article	Mandatory
	Additional material characteristics	Optional
	CL substance no longer present (indicate as part of voluntary update)	Optional

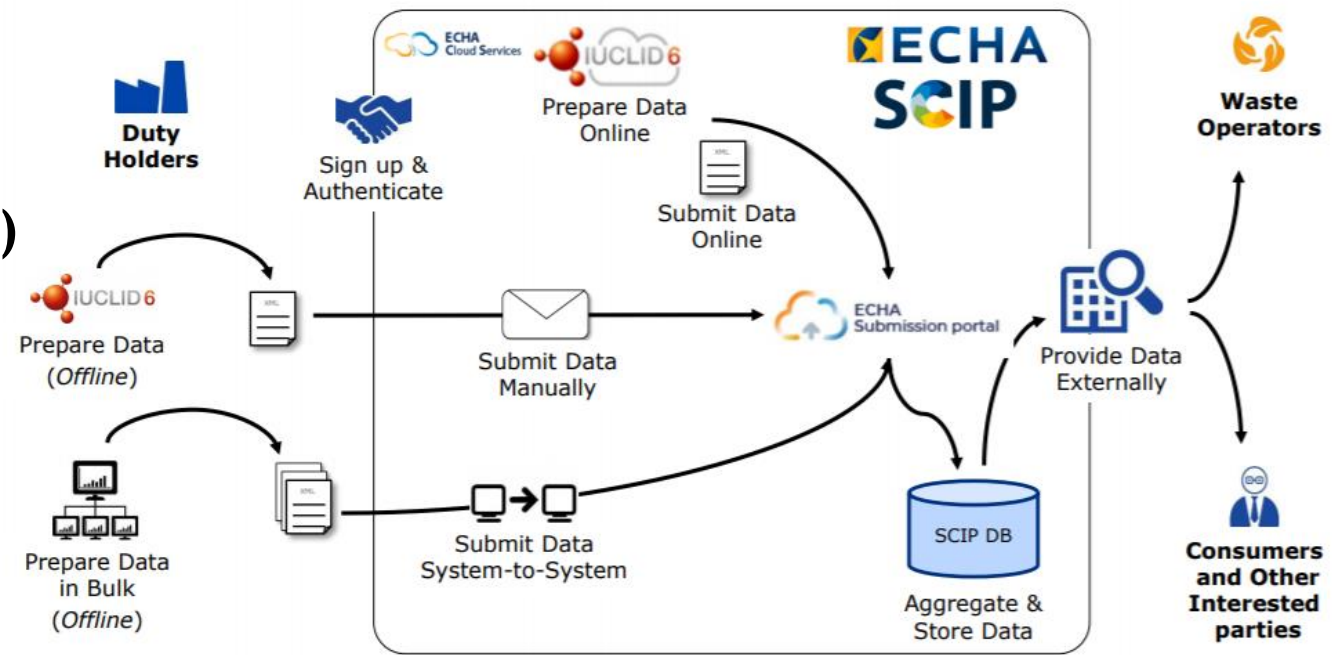
SCIP requirements

How? Technical process (SCIP format and IT tools)

1. Create **ECHA account**
(per Article Supplier legal entity)
2. Prepare dossier in **IUCLID**
(offline or online in IUCLID cloud)*
3. Submit: **ECHA Submission Portal**
(manually/online/System-to-System)
4. Submission Report → SCIP number
5. Publication on the ECHA website

*Available simplifications (voluntary):

- **Simplified SCIP notification (SSN)** for identical products
- **'Referencing'** for complex object components



SCIP format, tools and information flow. Source: ECHA ([link](#))

SCIP requirements

Public database access and protection of confidential information

- All data as submitted in SCIP notifications are to be **published as received, except***
 - Identity of the submitters
 - Component identifiers/names (e.g. brand, model) other than their article name and category
- **Search tool** based on different criteria (e.g. article identity, categories, substance of concern)
- Release date of **SCIP Dissemination Portal** is to be confirmed

**National enforcement authorities could make specific requests to ECHA for such data*

The figure shows a hypothetical SCIP notification form with the following fields and content:

- Article name:** Pencil sharpener
- Brand:** Deneb®
- Model:** FC500
- Primary Article ID:** 558877899
- Article Category:** 821410 (CN code)
- (Characteristics):** Weight: 0.05kg, Colour: Silver
- Safe use instructions:** (icon of a person with an 'i')
- Disassembling instructions:** (document icon)
- Components:**
 - Name:** Altairblade
 - Article Category:** 821410
 - Candidate List substance CLS, EC zzz-yyy-x:** (icon of a box)
 - Concentration range:** ≥ 1.0% and < 10.0% w/w
 - Material category:** Metal > Steel
 - Mixture category:** Paints/coatings-Protective and functional
- Name:** Screw
- Article Category:** 7318155890

Figure 3: SCIP and CBI principles. Illustrates the data in the fields that will be made public for a hypothetical example.

Responsibility for confidentiality of the data reported in fields that will be made public* lies with the duty holder. = picture; = document; = safe use instructions; = concern elements.

Source: ECHA, Dissemination and confidentiality in the SCIP Database, July 2020 ([link](#))

New SCIP notification requirement

1. Introduction to WFD/SCIP

2. SCIP requirements

3. Impact of national transposition

4. Implementation in the sector

5. Takeaway

Impact of national transposition

Transposition status

- Transposition deadline expired **5.7.2020**
- **Delays** in numerous Member States - EC infringement procedures started
- Where transposed: **Differences** on
 - Reference to SCIP format / database (DB)
 - Allowance for defence exemptions*
 - Sanction provisions (e.g. CZ, DK, SK)
- Challenges for **cross-border** activities
- Enforcement lies with Member States too

*See [EDA Study - EU Chemicals Waste Regulations Defence Sector - Final Report - 2021 \(Chapter 3\)](#)

EU WFD/SCIP implementation

- Format / DB inclusion foreseen
- Format / DB not mentioned
- Transposition pending
- Transposition to be confirmed
- EEA Agreement & transposition pending
- Non-EU countries



DISCLAIMER: The purpose of the mapping is to illustrate the current diversity in Europe as regards the national implementation of WFD in relation to SCIP. It is based on an assessment of publicly available sources. No translation agency has been used when reviewing the national transpositions. The reader is invited to check the relevant national laws and latest status in relation to WFD/SCIP prior to taking related action on compliance.

Impact of national transposition

What may happen if you do not comply?



- **Public enforcement**
 - Current lack of sanction provisions in most Member States that have transposed WFD Article 9 (but examples from CZ, DK, SI)
- **Commercial sanctions**
 - e.g. possible loss of customers if SCIP reporting requests (e.g. provision of SCIP numbers) are not fulfilled

New SCIP notification requirement

1. Introduction to WFD/SCIP
2. SCIP requirements
3. Impact of national transposition
4. Implementation in the sector
5. Takeaway

Implementation in the sector

Sector-level guidance on SCIP notification

- **Eurospace** Best-Practice Guidance (BPG): Simplified approach confirmed with update of 3.2.2021*
- Work on a sectoral "**ASD** guide for *WFD/SCIP compliance*" kicked off in February 2021
 - Planned completion by May 2021
 - Planned reference to Eurospace BPG

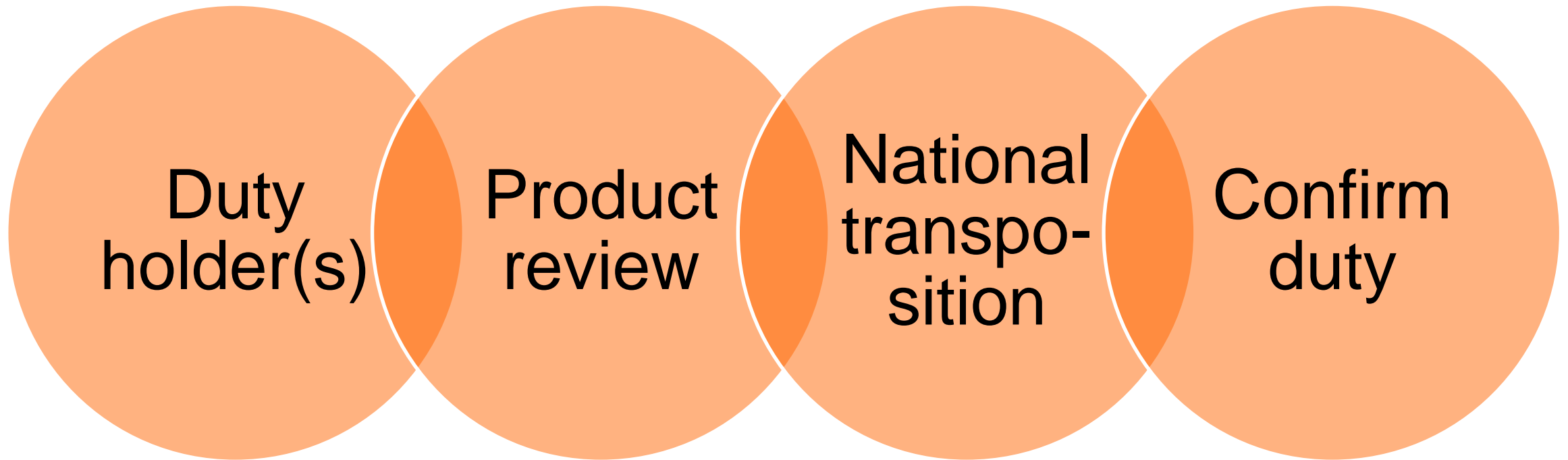
Recommendations for Space Products*

1. Analyse duty holder role carefully
2. Aggregation approach in **ASD SiA Guidance** can be followed for SCIP notifications
3. Make use of **ECHA SCIP formats**
4. Use REACH Article 33(1) data (only)
5. 'Representative article approach'
6. In case of defence/security concerns due to SCIP: Turn to Member States (possible exemption)
7. In case of non-EU imports, analyse specific voluntary instruments (e.g. 'foreign user')

*Link to the Space BPG: <https://eurospace.org/wp-content/uploads/2021/02/scip-space-best-practice-guidance-v1.1.-3feb2021.pdf>

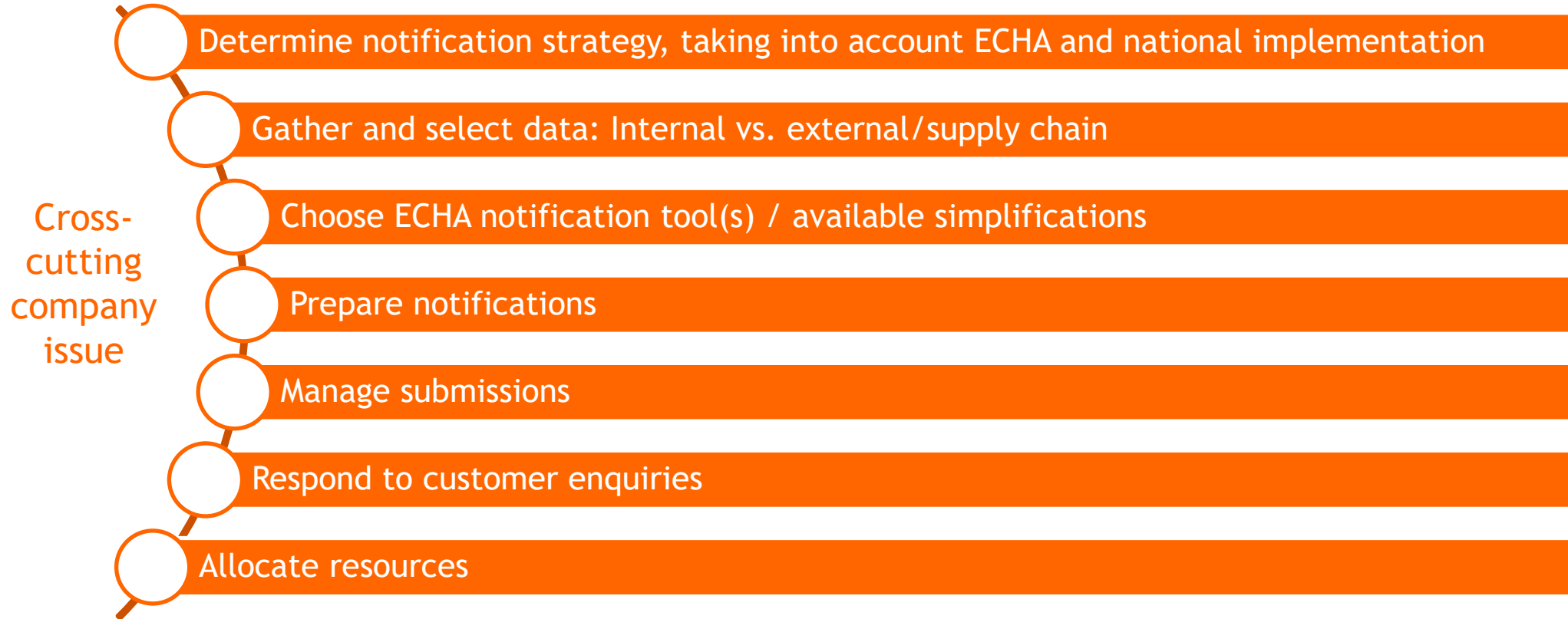
Implementation in the sector

How to prepare as a company? Make a SCIP impact assessment



Implementation in the sector

Develop your programme to SCIP compliance: Key elements



Implement (duty starts 5 January 2021)& maintain SCIP compliance from 2021 onwards

New SCIP notification requirement

1. Introduction to WFD/SCIP
2. SCIP requirements
3. Impact of national transposition
4. Implementation in the sector
5. Takeaway

New SCIP notification requirement

Takeaway

- Large scope with global impact
- A massive job ahead for industry, incl. a steep learning curve (see ECHA requirements, national implementation) and data gathering challenge
- Need structured approach with possible sector-level/cross-sector alignment
 - Space Sector Guidance available, ASD Guidance under development
- A pragmatic and documented response is better than none!
- We recommend use of the ECHA formats and tools (even where not explicitly required (yet)), otherwise no proof of submission will be issued by ECHA

Directive requirement applies since 5 January 2021 (if transposed)

Further support

REACHLaw SCIP Services

1. Impact Assessment
2. 'Importer' determination & support
3. Compliance Strategy and Roadmap
4. Legal/contract drafting
5. Notifications via IUCLID
6. Foreign User Service
7. Sector-level support for Harmonisation
8. Supplier Briefing
9. Compliance Maintenance
10. ...and more

Available to:

- EU article suppliers
- Non-EU exporters
- Industry Associations



Questions & Answers



Thank You for Your Attention!

REACHLaw Ltd

Vänrikinkuja 3 JK 21
02600 Espoo, Finland

www.reachlaw.fi
info@reachlaw.fi

TIM BECKER

Senior Legal Advisor

+358 40 773 8143

tim.becker@reachlaw.fi

List of key acronyms

Abbreviation	Explanation
CJEU	Court of Justice of the European Union
CL	Candidate List
CN	Combined Nomenclature (Annex I to Council Regulation (EEC) No 2658/87) on the tariff and statistical nomenclature and on the Common Customs Tariff
EEA	European Economic Area (EU MS + Norway, Iceland, Liechtenstein)
EU	European Union (currently 27 Member States, not including the UK)
EuPCS	European Product Categorization System. EuPCS webpage
IUCLID	International Uniform Chemical Information Database
SCIP	Substances of Concern In articles, as such or in complex objects (Products)
SSN	Simplified SCIP notification
SVHC	Substance of Very High Concern (REACH Article 57)
TARIC	TARif Intégré Communautaire; The integrated Tariff of the European Union database . The TARIC list is also known as the EU product classification system.
WFD	Waste Framework Directive (Directive 2008/98/EC on waste, as amended by Directive (EU) 2018/851)

Relevant definitions in REACH Article 3

REACH Article 3	Definition
Point 3	<i>“article: means an object which during production is given a special shape, surface or design which determines its function to a greater degree than does its chemical composition”</i>
Point 4	<i>“producer of an article: means any natural or legal person who makes or assembles an article within the Community”</i>
Point 10	<i>“import: means the physical introduction into the customs territory of the Community”</i>
Point 11	<i>“importer: means any natural or legal person established within the Community who is responsible for import”</i>
Point 12	<i>“placing on the market: means supplying or making available, whether in return for payment or free of charge, to a third party. Import shall be deemed to be placing on the market”</i>
Point 17	<i>“actors in the supply chain: means all manufacturers and/or importers and/or downstream users in a supply chain”</i>
Point 33	<i>“supplier of an article: means any producer or importer of an article, distributor or other actor in the supply chain placing an article on the market”</i>
Point 35	<i>“recipient of an article: means an industrial or professional user, or a distributor, being supplied with an article but does not include consumers”</i>

REACH→LAW

***We Specialize in Chemical
Regulatory Compliance and Sustainability***