ACCORD

Advocate for the Consumer, Cosmetic, Hygiene and Specialty Products Industry

Recommendation	SCOC Progress Report	Industry observations on SCOC progress report
General comments In general it would be fair to say that ACCORD is extremely frustrated and very disappointed with the lack of progress on this important reform initiative for our sector. The Productivity Commission's (PC) research report provided a road map for improving the efficiency and effectiveness of the chemicals and plastics industry. The road map was developed through a negotiated outcome which included all stakeholders: government, the community and industry. It is disappointing that much resistance to implementation of the PC recommendations appears to be coming from some key departments and agencies. ACCORD has written on numerous occasions to various government agencies seeking their support to implement the PC recommendations as a suite of reforms. In particular the Department of Health and Ageing's (DoHA) lack of progress is extremely disappointing as it has a pivotal role in ensuring the success of the reform process with the implementation of Rec 4.3 which changes the natures of NICNAS and introduces new structural arrangements for the risk assessment and risk management of industrial chemicals in Australia. Disappointingly, the only recommendation to have made any progress for which DoHA has responsibility is 4.6 – the one with the most significant potential impost on industry. COAG advised that the resource implications require consideration in the development of an implementation plan. We are yet to see a Government decision as to whether this is to proceed, how it will be funded, a cost benefit analysis and an implementation plan.		
3.1 Establishment of Standing Committee	Completed	SCOC has been established but seems to be still finding its feet. Little visible progress to date regarding implementation of PC recommendations. SCOC needs to establish an ongoing dialogue with industry through a formal consultation process. We are seeking strong leadership from SCOC in delivering the PC recommendations as a suite of reforms.
4.1 Impose statutory obligation on NICNAS to ensure costs of chemical assessments commensurate with risk and assessment priorities are directed to the most efficient management of the aggregate risk of all industrial chemicals.	No progress	Agreed – no progress
4.2 The Australian Government should establish a technical advisory committee within NICNAS, as a statutory requirements.	No progress	Agreed – no progress

4.3 The Australian Government should limit the role of NICNAS to the scientific assessment of hazards and risk of industrial chemicals.	No progress	Agreed – no progress
4.4 All relevant national standard setting bodies should be required to respond to NICNAS recommendations within defined times limits.	No progress	Agreed – no progress
4.5 The Australian Government should introduce a statutory timeframe for the technical screening of applications by NICNAS.	No progress	Agreed – no progress
4.6 NICNAS should implement a program to greatly accelerate the assessment of existing chemicals. The Australian Government should meet the cost of screening existing chemicals.	Only reform 4.6 has been progressed to date.	ACCORD has asked to see the Government's decision to implement this recommendation. The Interim COAG response of 2008 states: *COAG notes the response of the Commonwealth as set out below.* *The Productivity Commission's recommendation envisages a resource intensive, Government funded approach to the assessment of exiting chemicals.* *The extent and speed of implementation of this recommendation would be dependant on available funding. The recommendation for budget funding of this activity is not consistent with current cost-recovery policy as implemented in the National Industrial Chemicals and Notification Scheme.* *Resource implications require consideration in the development of an implementation.* Industry has not seen an implementation plan, nor any consideration of resources required. While we understand that some

		consideration to resourcing will be derived from the current cost recovery impact assessment being undertaken by NICNAS, we are yet to see a Government decision which has agreed to implement this recommendation and approving of NICNAS' activities thus far. NICNAS has moved resources from its Priority Existing Chemicals (PEC) program which has a legislative base to this as yet unapproved activity. Costings by NICNAS have ranged from: Stakeholder consultation July 2010 - $21M over 7 years Incoming government brief August 2010 - $10.6M over 5 years Stakeholder consultation Dec 2010 - up to $35M over 10 years This costing does not include the cost impost on industry which is estimated to be significant. NICNAS has sought industry views regarding data collection but this is in the absence of identifying an ability to analyse the data, limited understanding of the significant burden this would impose on industry regarding time and cost, and not taking into account that elsewhere all calls for such data have excluded formulated products such as cosmetics. Cosmetic products have been specifically excluded from calls for data in Canada, the EU and Japan. No clear evidence as to the utility of the provision of this data was provided by NICNAS. Industry remains concerned that no clear plan and costing has been undertaken for this project. There has been ad hoc progress on this recommendation despite issues raised regarding funding of a project of this magnitude, particularly given that it is in the public interest and should be taxpayer funded. We believe the taxpayer funded Canadian review took around 7 years and cost $23M. NICNAS has demonstrated its limited capacity to deliver work on time. In the last 4 years NICNAS has only finalised 4 Priority Existing Chemical (PEC) reviews – averaging 1/year. On average NICNAS takes around 5 years to complete a PEC, eg sodium cyanide was declared in 2002 and published in 2010, formaldehyde was declared in 2002 and published in 2006 and triclosan was

		declared in 2003 and published in 2007. No PECs have commenced in the last 4 years. We cannot see how NICNAS expects to take on additional work and deliver it in a cost effective and efficient manner when its resources have almost doubled since 2004, while its work output has remained constant at best.
5.1 AHMC to proceed with separation of scheduling processes and undertake a review two years after commencement.	Separation commenced 1 July 2010. This reform is largely complete with the remaining element, a review to be conducted two years from reform commencement.	Legislation to give effect to this has been passed but it took an independent Senator to move an amendment for a review. The new process within the TGA creates problems for chemical scheduling not the least of which will be a new cost recovery method for scheduling decisions previously funded by government. The changes to scheduling do not constitute real reform – rather a pragmatic decision to give effect to the recommendation in the least disruptive way to maintain current processes and practices under the auspices of the TGA rather than OCS.
5.2 States and territories should adopt scheduling decisions by direct reference, uniformly adopt regulatory controls for poisons and report any variations.	For reform 5.2, that States and Territories adopt poison scheduling decisions by reference and regulation controls through template/model approaches, decisions relating to scheduling are now adopted by reference by all States and Territories. However, progress on improving consistency over poisons scheduling is not straightforward. The National Coordinating Committee on Therapeutic Goods (NCCTG) is currently developing a business case and project plan to progress the remainder of this reform. This project plan will include the key steps and resources required to develop a recommended policy position for uniform regulations and implementation requirements. When appropriate development of the proposal is completed it will be provided to Health Ministers for consideration. Following approval of the business case and project plan, the AHMC will be in a position to provide a revised implementation plan to COAG.	No visible progress
5.3 Where poisons covered	Work on reform 5.3 is ongoing. This reform is about	No visible progress. We agree that this reform needs to be

by workplace substances regulations, workplace users should be exempt from poisons control.	exempting users from poison controls where the poison is adequately covered under Workplace Substance Regulations and there is a demonstrated compliance. Poisons currently utilised solely for industrial use are exempt from the labelling requirements of the Standard for Uniform Scheduling of Drugs and Poisons. Circumstances where other controls exist on scheduled poisons will be considered as part of the project proposal outlined above. It should also be noted that reform 5.3 needs to be considered in the context of other work already being progressed to develop consistent approaches to labelling such as adoption of the Global Harmonized System for the Classification and Labelling of Chemicals in both workplace and general poisons regulation.	considered in the context of GHS implementation and reform of the OHS laws. Based on our current understanding of the proposed OHS laws, any place where work can be carried out will be considered a workplace, which means that the definition of workplace chemicals will include hospitals, veterinary clinics, restaurants, aged care facilities, schools, farms, etc. While we agree that dual regulatory requirements are unacceptable, there are workplaces where consumer product labelling, therapeutic goods labelling or agvet chemical labelling are more appropriate than workplace labelling which is solely based on hazard and does not provide clear and simple safety instructions.
5.4 The ACCC and NICNAS should negotiate formal arrangements on chemicals in consumer goods.	No progress	Agreed – no visible progress
5.5 The Australian Government should transfer responsibility for the administration and enforcement of the Cosmetic Standard 2007 from NICNAS to the ACCC	No progress	Agreed – no progress
5.6 Ministerial Council on Drug Strategy should develop illicit drug precursor regulations for adoption by reference by all jurisdictions.	Milestone overdue	
6.2 WRMC should implement the GHS in the workplace only when it can be shown that adoption of the new regime would produce benefits.	Reform 6.1, 6.2 and 6.3 are being progressed as part of the broader reforms involving harmonisation of Occupational Health and Safety (OHS) laws—comprising model OHS Act, model OHS regulations and model codes of practice.	Industry has raised concerns regarding the RIS and its consultation process. Because the RIS did not adequately address the regulatory impact of the different options for GHS implementation, industry is finding that the policy on GHS implementation is changing rapidly from one consultation document to the next.

	On 11 December 2009, the Workplace Relations Ministers' Council endorsed the Model Work Health and Safety (WHS) Act. The reforms are due to be implemented by the end of December 2011. Draft model Work Health and Safety regulations have been developed and are currently open to public comment. The model regulations are due to be endorsed by Workplace Relations Ministers in mid 2011.	For example, in 2008/09 consultation, industry was asked to review a document titled "Australian Criteria for Classifying Hazardous Chemicals" which was to provide detailed criteria for classifying hazardous chemicals. For the 2011 consultation, this document has been removed from the suite of consultation documents, and industry has been informed that Australia will be referencing the United Nations Globally Harmonised System for Classification and Labelling of Chemicals (UN GHS), as amended from time to time. When we requested whether our regulations can reference an international standard "as amended from time to time", we were informed that this was an error and it should have referred to the 3rd edition of UN GHS. We are still unsure how the updates will occur – UN GHS is updated every 2 year. The first consultation document on GHS implementation for Australia was put out in 2006. 5 years on, we are yet to finalised the model regulations. This is a fairly significant policy change, and there has been no consideration of regulatory impact for this policy change, and many others that have occurred. There has been significant activity of late in relation to this issue with improved dialogue between industry and Safe Work Australia. Industry still remains concerned that Australia will move down the path of implementation prior to key decisions being made by our major trading partners such as the US and China with regard to their implementation plans for GHS. The current proposal is a Eurocentric model overlaid with some unique Australian elements. Australia already has a good system of chemicals classification in place. For industry to realise any benefits, these have to be derived from enhanced trade. If we do not align with our major trading partners then it will be a costly exercise for little long term benefit.
6.3 The ASCC should conduct an impact assessment of proposal to require agvet chemical products to carry	See above	The RIS undertaken by ACCESS Economics on behalf of Safe Work Australia is flawed and does not contain sufficient justification to warrant a change to the current system. The RIS did not contain a proper impact assessment of the proposal to require agvet products

workplace chemicals labels.		to carry workplace labels, how this would be done in relation to existing labelling systems and controls currently in place in relation to agvet chemicals. While discussion are going on between relevant officials and industry to address this problem, it is disappointing that an inadequate RIS of such poor quality was allowed to be put into the public domain.
7.1 The Australian Transport Council should commission an independent public assessment of the consistency with which ADG is adopted.	The National Transport Commission (NTC) is conducting the review. This reform is underway and is the only reform relevant to the ATC that is outstanding. The delay in the reform's implementation is partially because of jurisdictional delays in adopting ADG7. However, it is expected that the reform's second milestone – a progress report on the status of the review – will be completed by the agreed date of June 2011; and that the third and final reform milestone – completion of the review – will also be completed on time. As part of the review the NTC wrote to States and Territories and 28 industry associations asking for information on implementation inconsistencies and whether these inconsistencies have impacted on them. The request also went to the NTC's 'alert list' and was placed on the NTC website. 40 submissions were received and the assessment of these is ongoing. Workshops with stakeholders to validate submission contents and develop draft recommendations for ATC/COAG are planned for late February and early March 2011. The ATC is to report to COAG, through BRCWG, on the progress of the review.	No visible progress – the review lacks transparency. ACCORD provided a substantial submission to the Review in November 2010 and has only just received some informal feedback from the NTC regarding our position. The submissions to the NTC review have not been made available as of May 2010, nor any analysis of issues raised in the 40 submissions nor any feedback as to the way forward.
7.2 Responsibility for policy development and monitoring should remain with NTC.	Reform 7.2, a review of the NTC, has been completed http://www.infrastructure.gov.au/transport/australia/ntc	This appears to be the current situation although industry has significant concerns with regard to the operation of the Competent Authority Panel (CAP) in relation to its oversight and decisions for

		exemption of the AGD Code(s). It appears that there is no body responsible for the oversight of this officials body which makes decisions with regard to ADG7 implementation and exemptions. There is no transparency in the decision making process, no public disclosure of how decision are made, no calling of submissions form stakeholders to inform decision making. Some of these decisions have policy implications, and we believe that oversight of CAP by a policy body such as the NTC is necessary to ensure decision making in line with government policy.
7.4 NTC should price all modes of provision of ADG at avoidable cost including Explosive Code.	Completed	
8.1 The Australian Government, in consultation with states and territories should ensure costs of chemical assessments are commensurate with risk and assessment priorities are directed to the most efficient management of the aggregate risk of all industrial chemicals	Reforms 8.1 and 8.2 are now being implemented together as part of the COAG Single National Framework for the regulation of agricultural and veterinary chemicals. COAG requested that a detailed regulatory model that incorporates assessment and registration, currently undertaken at a national level by the APVMA with a national control of use regime, be brought forward for COAG's consideration by June 2011. COAG has also requested that PIMC submit an intergovernmental agreement for implementing the regulatory model, a regulation impact statement and a funding model (if required) for COAG's consideration by June 2011. The delivery of this milestone is at risk. The Better Regulation of Agricultural and Veterinary Chemicals Regulation Impact Statement (RIS) has been endorsed by the Animal Welfare Product Integrity Taskforce (AWPIT) and PISC. The Consultation RIS was cleared by the Commonwealth Office of Best Practice Regulation (OBPR) on 3 March 2011 and released on 4 March for public comment until 11 April. Following public	Industry agrees with SCOC's assessment. We still have concerns regarding the outcome of the review. The Consultation RIS was an incomprehensible document which made it extremely difficult to respond to. Stakeholder engagement processes require improvement regarding timing, accessibility and consistency. The result thus far of the intended reform process will be additional costs to industry to implement the proposals for a costly re-registration process and changes to control of use arrangements. Even where the policy at the Departmental level is sound, the implementation by the regulator has not been in line with the policy intent of achieving efficiency. The APVMA appears to be looking at efficiency solely in terms of cost savings for the regulator and not for industry.

	consultation, a COAG decision RIS will be finalised. Consultation is expected to occur over a five week period, and will include accepting written submissions and face-to-face consultations in state and territory capital cities. Consultation will conclude approximately two weeks before the 14-15 April 2011 PIMC meeting. PIMC will receive a paper on the outcomes of the consultation process, providing an opportunity for policy discussion on the key issues. Details and timing of the decision RIS will be discussed by Ministers at the PIMC meeting on 14-15 April 2011.	
8.2 The APVMA should regulate use of agvet chemical products after point of retail sale.	Comments as above	Comments as above
9.1 EPHC should examine costs and benefits of mandatory environmental labelling of chemicals. Should only be introduced if there is net benefit.	These reforms are related to the management of the impact of chemicals on the environment. In recognition of the inter-related nature of the proposed reforms, reforms 9.1, 9.2 and 9.3 are now proposed to be progressed together as an integrated project. This means a number of interim milestones under each reform will not be met. The overall planned completion date for the set of recommendations remains the same. Reform 9.1, examines the costs and benefits of mandatory environmental labelling of chemicals. This work was to be conducted in two parts: first, to consider current institutional arrangements for labelling and identify policy and regulatory options; and second, to undertake a consultancy to establish whether there would be net community benefit from mandatory environmental labelling.	ACCORD agrees with SCOCs assessment. Industry is pleased with the progress and commitment of DSEWPC and EPHC in implementing the PC's recommendations. DESAPC appears to be the quiet achiever in this process along with AG's.

	The preferred option recommended consideration of environmental labelling in the context of other chemicals reforms such as the establishment of the Environment Chemicals Bureau (ECB) under reform 9.2, as labelling may be a tool used by the ECB to communicate risk management recommendations. Accordingly, the second part of this reform (which contains two milestones) will now be undertaken as part of reform 9.2, and will have the same timeframes for delivery.	
9.2 IGA to create an independent standard setting body to manage the impact of chemicals on the environment.	For reform 9.2, consideration of options for establishing an ECB and the development of an intergovernmental agreement is currently under way. In recognition of the significant stakeholder consultation that will be required, in December 2010, EPH Standing Committee approved the budget and project plan for a Consultation and Decision Regulation Impact Statement (RIS) process to be undertaken in relation to the ECB. As mentioned above, the Consultation RIS will also consider the net community benefit of introducing environmental labelling (reform 9.1). The Consultation RIS is expected to be released for public comment in July 2011. Pending establishment of the new Environment and Water standing Ministerial Council, it is expected that the Ministerial Council would consider the Decision RIS, including potential options regarding environmental labelling, in December 2011. Pending the outcomes of consultation and regulatory analysis, legislation for establishment of the ECB would be introduced subsequently in 2012. Resourcing the operation of a new standard setting body and jurisdictional implementation have been identified as potential risks in proceeding with this	Failure to deliver on this recommendation lies in part with DoHA for failure to implement PC recommendation 4.3. NICNAS will undertake scientific assessment and new structures will be developed to undertake the appropriate risk management for environmental use of chemicals to complement existing structures for consumer goods risk management, agvet products and workplace.

	reform.	
10.1 Commonwealth, state and territory governments should implement a nationally uniform approach to conducting security checks for access to security sensitive ammonium nitrate, irrespective of other harmonisation measures. The background checking process should be managed by a single agency such as AusCheck. A database that reports current, refused or revoked security clearances should be established, and the information shared across jurisdictions.	In April 2009, COAG agreed to national arrangements for the management of security risks associated with chemicals that sought to prevent the use of chemicals for terrorist purposes. A number of aspects of this agreement were reflected in COAG's response to the PC report While there is still no implementation plan for recommendations 10.1-10.3 [uniform approach to conducting security checks for access to SSAN regulations (10.1), greater national harmonisation of the SSAN regulations (10.2), and State and Territory governments should not add any additional security sensitive chemicals to the current SSAN regulations (10.3)], if States and Territories, who have legislated the SSAN regulations, agree to the re-examination of controls on SSAN, AGD expects recommendations 10.1-10.3 to be addressed as part of that process. Representatives from AGD have been invited to the 29 March SCOC meeting and will discuss how these reforms will be progressed.	ACCORD agrees with the SCOC progress report and while there has been a delay in implementation, industry is strongly supportive of the stakeholder engagement process and industry consultation undertaken by AG's in considering implementation of these recommendations.
10.2 State and territory governments should consider the following improvements for achieving greater national harmonisation of the security sensitive ammonium nitrate (SSAN) regulations: •removing major inconsistencies in reporting requirements •basing storage requirements on agreed physical properties of SSAN, provided adequate security controls are met	As for 10.1	

• ensuring that a single security plan can be lodged for transporting SSAN nationally •making licence durations nationally consistent requiring regulatory agencies to commit to, and report on, timeframes for assessing licence applications.		
10.3 State and territory governments should not add any additional security sensitive chemicals to the current security sensitive ammonium nitrate regulations.	As for 10.1	
10.4 Commonwealth, state and territory governments should establish an agreed framework for assessing the security risks and appropriate control measures associated with chemicals of security concern. This framework should incorporate strong governance arrangements, underpinned by an intergovernmental agreement, that ensure control measures are implemented consistently across jurisdictions. Once established, this framework should be used to re-examine the controls on ammonium nitrate.	Implementation of reform 10.4, which seeks to establish an agreed framework for assessing the security risks and appropriate control measures associated with chemicals of security concern, is well advanced and has the most potential to increase chemical security. There is likely to be further discussions by jurisdictions about the possibility of re-examining the controls on security sensitive ammonium nitrate (SSAN).	