

REACH-Code-Model

Solution for the Non-EU Supply Chain with final export to the EU

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CodeTrustee 1.2.0.8 Login

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▶ Regulatory Affairs Services

Independent Service Provider

- Global Chemical Inventory Listings
- **REACH (incl. Code-Model)**
- International Chemical Control Legislation
- Global Food Contact Notifications & Petitions and approval status review
- Substance Notifications & Registrations (incl. Biocides and Pesticides)
- Hazard Communication
 - Labels, (M)SDS, Work Instructions, Tremcards
- Regulatory Questionnaire Response
- Introduction of Regulatory Data Sheets (RDS)
- Monitoring of relevant Legislation and Business Impact Assessment
- Training, Product Stewardship, Advocacy Advice



▶ ORO – The Only Representative Organization

- Chemservice is founding Member of ORO
- Dieter Drohmann has been elected as President



www.OnlyRepresentatives.org

**Only Representative Organisation
(ORO) AISBL**

360 Boulevard du Souverain Box 5
1160 Brussels
Belgium

- ORO's main objectives are to:
 - Set up OR quality standards;
 - Develop a common understanding of REACH requirements for ORs;
 - Represent the interests of ORs and non-EU manufacturers;
 - Cooperate with regulators and other stakeholder in the REACH process.



Customer Locations



▶ REACH-Code-Model



► Imports from Non-EU Manufacturers

- Substances imported into the EU on their own, in preparations or, in certain cases, in articles require (pre-)registration before they can be imported
- Natural or legal persons that manufacture substances, formulate preparations or produce articles outside the EU cannot by themselves register substances
- (Pre-)registrations of substances
 - Will have to be submitted by the EU importers.
 - or
 - The non-EU manufacturer can nominate an **“Only Representative”** (OR) established within the EU to carry out the required registration. This will relieve the EU importers within the same supply chain from their registration obligations, as they will be regarded as Downstream Users of the Only Representative.

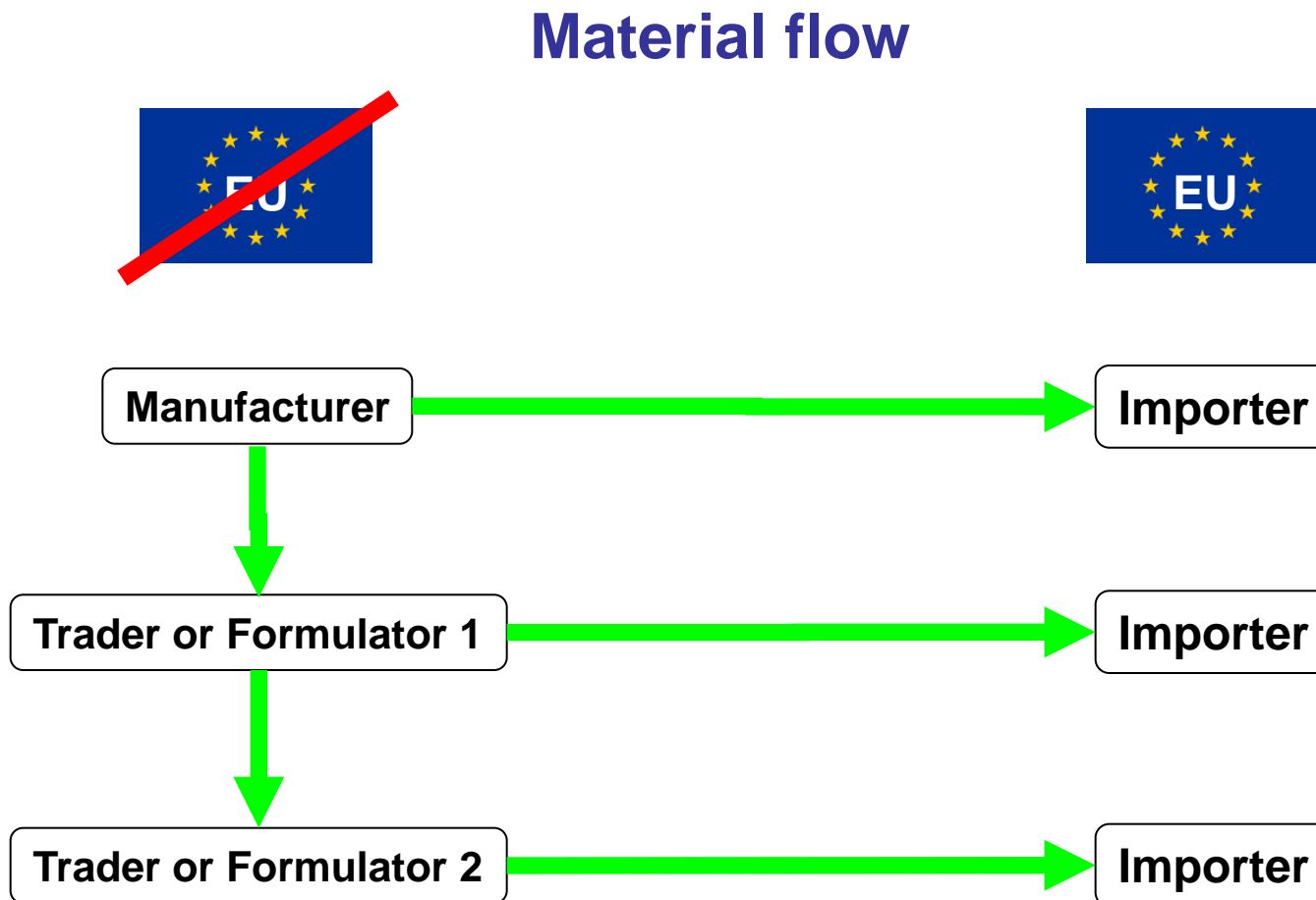


► Problem case: Non-EU supply chain



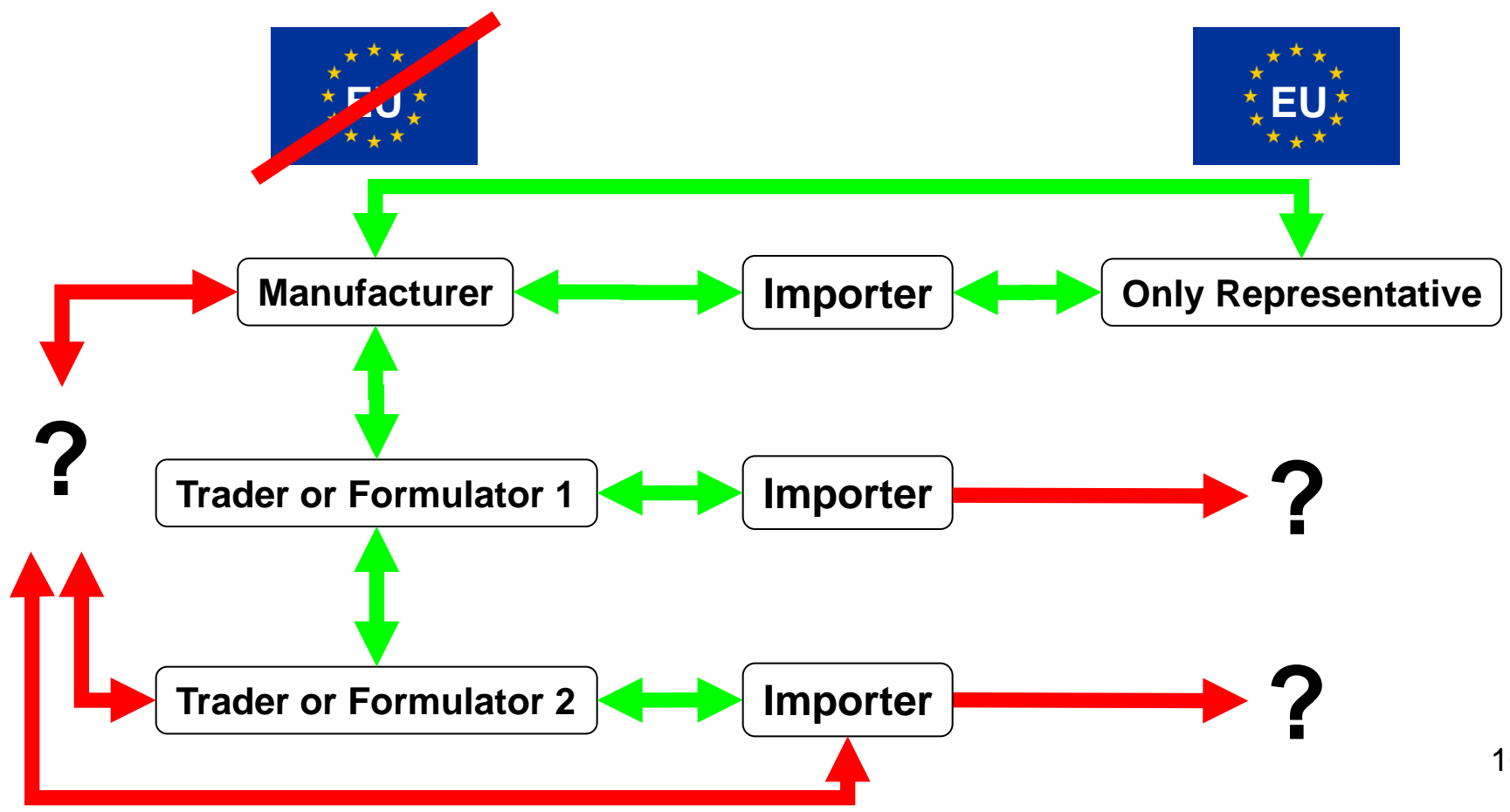
- In order to fulfill the REACH obligations either
 - the importer needs to register and keep track of the substances and volumes imported
 - or**
 - the non-EU manufacturer needs to inform his OR about all importers and the volume of the substances that are being imported into the EU.
 - In a multi-level non-EU supply chain the manufacturer of a substance usually does not know through which channels, in which products and finally how much volume of his substances is being imported into the EU.
 - It is an essential business secret (CBI) of traders or formulators what the components of their products are and who are their suppliers and customers.
 - Antitrust rules need to be followed.
- Neither the non-EU manufacturer (represented by the OR) nor the importer can fulfill his obligations without disclosing CBI and potentially leading to loss of business !!!

▶ **Problem case: Non-EU supply chain**



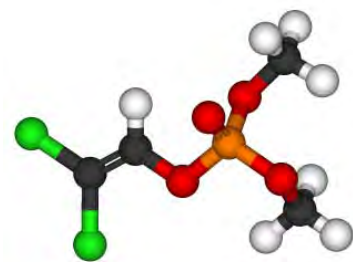
▶ Problem case: Non-EU Supply Chain

Information flow



► Solution: REACH-Code-Model

- Trustee will act on behalf of the supply chain for their respective products in order to maintain confidentiality for all steps of the supply chain and to allow coverage for the importers.
 - A coding system will be used for exchanging **supplier, material and volume information** between the different parties of the supply chain and Trustee.
 - Trustee generates and assigns unique and time limited codes to every participant of the supply chain for every single product containing material coming from the non-EU manufacturer.
 - The Trustee keeps track of all imported products and their volumes and issues certificates to the importers related to the imported products, volumes and percentage covered.
- **All parties can continue their business without disclosing confidential business information (CBI)**
- **All parties can fulfill their REACH obligations**



▶ Only Representative Trustee (ORT) Case

- Internal OR (Legal Entity of non-EU manufacturer) has been appointed by non-EU supplier
 - CHEMSERVICE acts as Trustee and tracks non-EU manufacturer's products along the supply chain
 - CHEMSERVICE provides to internal OR cumulated volumes of EU-imported products from non-EU manufacturer
 - Suppliers, Importers and composition of formulations will be kept secret
 - Internal OR can break down products into substances and by this fulfilling his obligations



▶ Code Procedure – Working with a Trustee

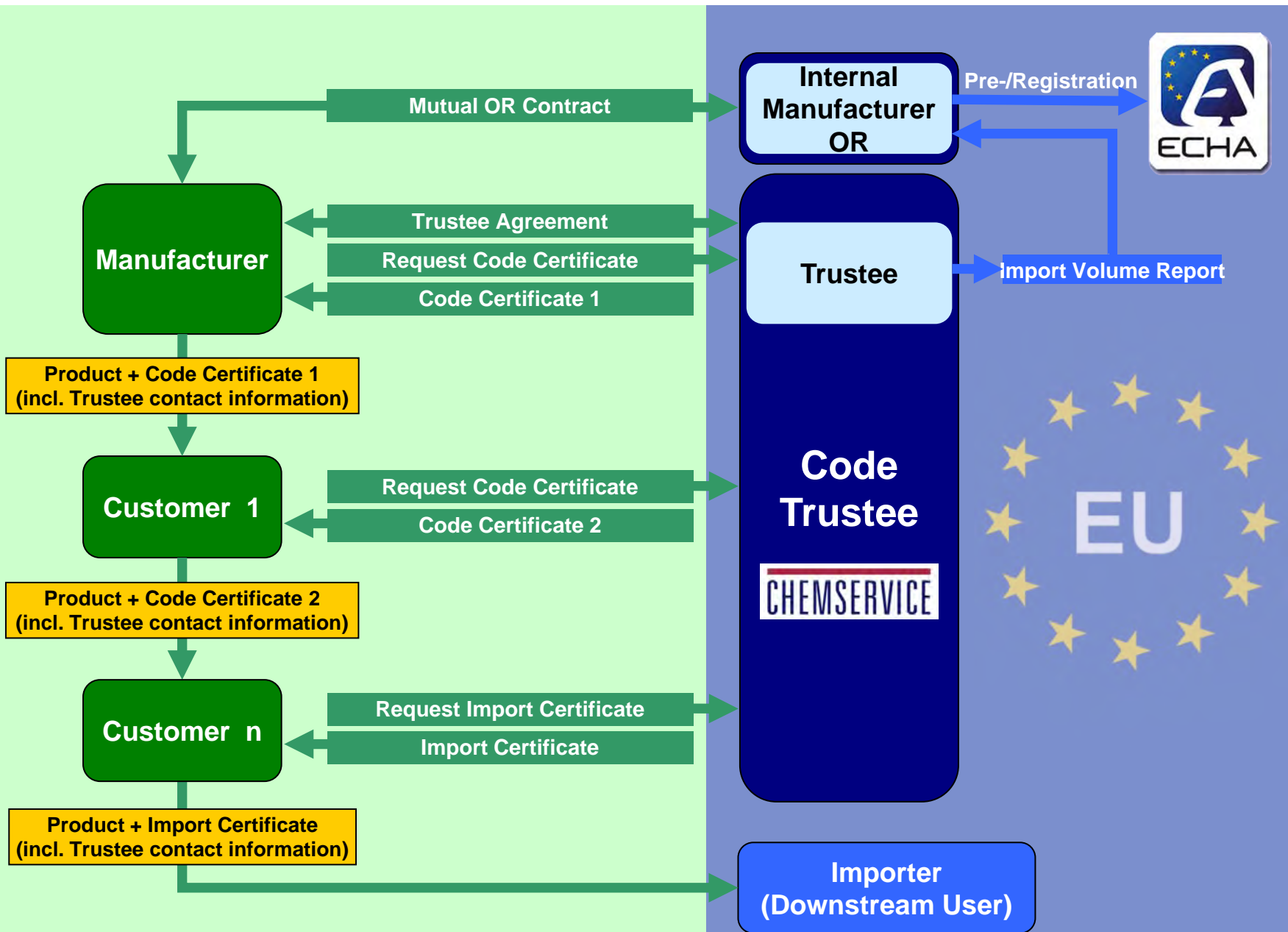
■ Can the OR involve a Trustee?

“Article 8 (1) and (2) places the obligations of importers on the OR. This includes that the OR “shall keep available and up-to-date information on quantities imported and customers sold to” (Article 8 (2)). However, this does not mean that the OR has to fulfil these obligations personally. Under specific circumstances, especially to protect confidential information of third parties (e.g. on the supply chain), the OR may involve a trustee. The trustee keeps the information available and can submit it to the ECHA (or the national authorities) on behalf of the OR. In such a case, the trustee would factually submit the information, but he would be obliged to do so, based on his contract with the OR. The bottom line is that the flow of information to the authorities would not be affected, and, at the same time, confidential business information could be protected effectively.”

Source:

Professor Dr. Kristian Fischer, Legal Opinion on Only Representatives

Trustee Model



► Terms & Conditions

REACH-Code-Model

Definitions, Terms & Conditions

Non-EU downstream user/formulator/trader

- hereinafter „Customer” -

Chemservice S.A.
5, an de Laengten
L-6776 Grevenmacher, Luxembourg

- hereinafter „REACH-Code-Trustee” -

WHEREAS, pursuant to the REACH Regulation (hereinafter: “REACH”) substances may only be manufactured or placed on the market in the European Union (hereinafter “EU”) if they have been first pre-registered by the manufacturer or importer in accordance with the provisions of REACH.

WHEREAS, a manufacturer who is not established in the EU and who exports or intends to export into the EU may, pursuant to Article 8 of REACH, appoint a natural or legal person established in the EU to fulfil the obligations of an importer under REACH (hereinafter referred to as an “Only Representative”).

WHEREAS, REACH-Code-Trustee has been appointed Only Representative by a non-EU manufacturer of certain substances in a supply chain of which Customer is a part;
and/or

WHEREAS, REACH-Code-Trustee has been appointed Trustee by a non-EU manufacturer (or their Only Representative) of certain substances and/or products in a supply chain of which Customer is a part;

and/or

WHEREAS, REACH-Code-Trustee has been appointed Trustee by an EU manufacturer (Re-import) of certain substances and/or products in a supply chain of which Customer is a part.

WHEREAS, REACH-Code-Trustee has concluded an Agreement with a non-EU manufacturer or the Only Representative of a non-EU-manufacturer or an EU manufacturer (Re-Import) on the use of the REACH Code-Model.

CODE CERTIFICATE OF REACH COMPLIANCE COVERAGE (NON-EU)

Code No.: 71696AF80E1AF582F61CE400A1-2009

As the appointed Only Representative of a non-EU manufacturer, according to Article 8 of the Regulation (EC) No. 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH), and/or Trustee of a non-EU and/or EU manufacturer and/or Trustee of a non-EU manufacturer's Only Representative, we herewith confirm that

the following product **Product ABC**

supplied by **AllChemicals Corp.
Great Ave. 6278
Fantasy City, GX 02654
USA**

to **Mishmash Chemicals
Uphill Road 1423
Plastics Town, KL 72533
USA**

with a delivery amount of **80 metric tons**

contains **100% (w/w)** of substances which are either exempt from the obligation to register, according to REACH Article 2, or are covered (within the supply chain of this product) by (Pre-)Registration(s) at the European Chemicals Agency (ECHA).

This document and the provided Code are only valid for the named customer outside the European Union. The Only Representative and/or Trustee has to be contacted by the named customer to provide further REACH-Code-Model support either for the non-European supply chain or for the European importers.

We are prepared to provide enforcement authorities in the EU with the necessary details upon request.

This certificate is valid from **November 06, 2008** to **December 31, 2009**.

Dr. Dieter Drohmann
Managing Director

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Email: info@chemservice-group.com

November 06, 2008

Chemservice S.A.
5, an de Laengten
L-6776 Grevenmacher, Luxembourg
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▶ **Code
Certificate**



IMPORT CERTIFICATE OF REACH COMPLIANCE COVERAGE (EU)

Certificate No.: 88696CF80E1AF388F61EB2000B-2008

As the appointed Only Representative of a non-EU manufacturer, according to Article 8 of the Regulation (EC) No. 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH), and/or Trustee of a non-EU and/or EU manufacturer and/or Trustee of a non-EU manufacturer's Only Representative, we herewith confirm that

the following product **Multimix 25**
supplied by **Mishmash Chemicals**
Uphill Road 1423
Plastics Town, KL 72533
USA

to **European Importer**
P.O. Box 53778
D-09724 Nordhall
Germany

with a delivery amount of **50 metric tons**

contains **80% (w/w)** of substances which are either exempt from the obligation to register, according to REACH Article 2, or are covered (within the supply chain of this product) by (Pre-)Registration(s) at the European Chemicals Agency (ECHA).

We are prepared to provide enforcement authorities in the EU with the necessary details upon request.

This certificate is valid for the year **2008**.

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Dr. Dieter Drohmann
Managing Director

December 15, 2008

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► Import Certificate

▶ Code Procedure – Tools & Premises

- Ad hoc programmed Database
- Security System to protect CBI
- Contract between Trustee and non-EU Manufacturer
- Standard Agreement between Trustee and Code-User (including NDA)



▶ Costs

Non-EU Customer

- 100,- EUR per Code-/Import Certificate



► Further Information

http://www.chemservice-group.com/reach_code_model.html
code@chemservice-group.com

REACH-Code-Model

"You can do your business. We remove the regulatory roadblocks."

The REACH-Code-Model allows REACH compliance by substance volume & importer tracking in a multi-step non-EU supply chain with final exports to the EU.

Tracking of non-EU Substances & EU Importers

Issue

The European Chemical Regulation REACH (EC/1907/2006) requires importers to pre-/ register imported substances, unless the importer is considered to be a downstream user. This is the case if the imported volume is covered by an Only Representative (OR) appointed by the non-EU manufacturer of the imported substances on their own or in a preparation.

REACH does not distinguish between direct and indirect imports into the EU. Therefore, non-EU business followed by export to EU is more complicated – in particular if several non-EU steps along the supply chain are involved and substances have been formulated into preparations with confidential composition. In a multi-level non-EU supply chain the manufacturer of a substance usually does not know through which channels, in which products and finally how much volume of his substances is being imported into the EU. It is an essential business secret (CBI) of traders or formulators what the components of their products and who their suppliers and customers are. Neither the non-EU manufacturer (represented by the OR) nor the importer can fulfill their obligations without disclosing CBI and potentially leading to loss of business.

Solution

The non-EU manufacturer of a substance has nominated an OR (according to REACH Article 8) and agreed to the use of the REACH-Code-Model. The OR will act as a trustee of the non-EU manufacturer, the traders, formulators and importers for their respective substances or preparations in order to maintain confidentiality for all steps of the supply chain. A coding system will be used for exchanging supplier, material and volume information between the different parties of the supply chain and the OR. The OR generates and assigns unique and time limited Codes to every participant of the supply chain for every single product containing material coming from the non-EU manufacturer. The OR keeps track of all importers, substances and volumes and issues Import Certificates to the importers related to the substances and volumes covered.

All parties can continue their business without disclosing confidential business information (CBI) and in full compliance with REACH.