

## REACH

### 2<sup>nd</sup> Reading European Parliament

#### Key Amendments Supported by Importers of Articles

In June 2006 the European Council agreed on a common position on REACH which serves as the basis for the second reading in European Parliament.

Importers of articles support the provisions proposed by the Council on substances in articles (Art. 7).

Only minor changes are necessary to provide final legal certainty and workability. This concerns three aspects:

- ✓ **The term “intended to be released” needs a clear definition**
- ✓ **The notification duty for substances of great concern in articles shall only apply 18 months after the substance is identified in accordance with Art. 58(1)**
- ✓ **Special guidelines must be developed for producers and importers of articles**
- ✓ **Additional Recommendation: No ‘European Quality Mark’**

**The FTA suggests to table the following amendments in the second reading:**

1. **The term “intended to be released” needs a clear definition; Art. 7 (1) (b)**

Council Common Position Art. 7 (1) (b)	Possible amendment in 2 <sup>nd</sup> reading
(b) the substance is intended to be released under normal and reasonably foreseeable conditions of use.	<p><b>Tabled in 1<sup>st</sup> reading (plenary ) as amendments 64 ITRE = 13 ECON</b></p> <p><b>(b) the release of the substance is a specifically designed function of the article under normal and reasonably foreseeable conditions of use.</b></p>

#### *Justification*

*The scope of application of Art. 7 (1) can only be sufficiently determined if it contains a precise definition of the term “intended to be released”. All institutions involved in the legislative procedure apparently convened that Art. 7 (1) should only cover articles, where the release of the substance defines its use (like for example pencils, impregnated cleaning wipes or scented candles). This should be articulated in the text to provide legal certainty for competent authorities as well as producers and importers of articles.*

2. The notification duty for substances of great concern in articles shall only apply 18 months after the substance is identified in accordance with Art. 58(1); Art. 7 (7)

Council Common Position Art. 7 (7)	Possible NEW amendment in 2 <sup>nd</sup> reading
7. From ...* paragraphs 2, 3 and 4 of this Article shall apply <b>6 months</b> after a substance is identified in accordance with Art. 58 (1).	7. From ...* paragraphs 2, 3 and 4 of this Article shall apply <b>18 months</b> after a substance is identified in accordance with Art. 58 (1).

*Justification*

*Retailers and mail order companies order their goods up to 18 months before importation. Already when orders are placed, the importer of an article should be able to provide the supplier with a positive list of substances that must be handled with care or avoided during production. The candidate list – together with Annex XIV to REACH - will serve as this positive list. If the deadline in Art. 7 (7) is too short and does not take the actual buying cycles into account, the importer will not only face legal uncertainty but also will not be able to influence the production procedures accordingly. The deadline therefore needs to be extended.*

3. **Special guidelines must be developed for producers and importers of articles; Art. 7 (7a)**

Council Common Position Art. 7 (7a)	Possible amendment in 2 <sup>nd</sup> reading
	<b>Agreed on in 1<sup>st</sup> reading (plenary) as part of the compromise package found for former Art. 6, part of amendments 88 and 357</b>
	<b>7a. The Agency shall provide guidelines to help the producers and importers of articles as well as the competent authorities.</b>

*Justification*

*REACH represents a huge organisational challenge for importers of articles. Internal procedures must be implemented and adapted within the supply chain which will be a difficult task; the sector is not as familiar with the analysis of chemicals as is the chemicals' industry. The Council proposal foresees several sector specific guidelines; however, the sector specific guidelines for producers and importers of articles, on which the EP agreed in 1<sup>st</sup> plenary reading, are no longer mentioned. Project 3.8 (initially supposed to replace the guidelines for the consumer goods sector) has not produced a workable result. Nonetheless the sector depends on professional and knowledgeable*

*help— just as the different authorities involved in the import procedures. Guidelines drafted by the agency would provide a uniform level of support for companies and authorities in all EU member states and likewise for non-European companies who may lack a thorough knowledge of the REACH legislation.*

#### **4. Additional Recommendation: No ‘European Quality Mark’**

The EP agreed in its first plenary reading on a provision that would have paved the way for the implementation of a ‘European Quality Mark’ for articles which have been produced in compliance with REACH (former Art. 6AA, amendment 90 in first plenary reading). Fortunately the Council proposal does not mention this provision any more.

**The retail sector considers a European Quality Mark as superfluous, meaningless and in some cases misleading.**

Every article that is placed on the European market has to comply with the provisions of REACH. There should be no requirement for an additional label that specifically states this fact. Were this necessary, product labels would have to refer to all other EU regulations to which the article has to comply.

Furthermore, an article that contains a substance of great concern of which less than one ton is imported into the EU also complies with REACH, although the substance has not been notified (according to Art. 7 (2) a notification is not necessary). Would these articles bear the Quality Mark? Normally this would be the case - in spite of the expectations consumers may have that the Quality Mark serves as proof for some kind of notification or registration.

The European Quality Mark would represent mere window dressing and would only lead to unnecessary costs.

Brussels, August 2006

The FTA is the association for European commerce that specialises in foreign trade issues. It is committed to achieving its goal of a true free trade environment. For almost 30 years it has supported its members, consisting of national trade associations and companies from all over Europe, by providing expertise and up-to-date information and by campaigning on their behalf against protectionist measures in the European and international arena.