

Public consultation on possible restriction of hazardous substances (CMR 1A and 1B) in textile articles and clothing for consumer use under Article 68(2) of Regulation EC No 1907/2006 (REACH)

Summary

TEKO, Swedish Textile & Clothing Industries' Association has worked in close co-operation with its member companies, other NGOs in Sweden, the Swedish Trade Federation (Svensk Handel) as well as the Swedish Research Institute Swerea to be able to answer the public consultation on a possible restriction of hazardous substances (CMR 1A and 1B) in textile articles and clothing for consumer use under Article 68(2) of Regulation EC No 1907/2006 (REACH).

TEKO is the Swedish trade and employers' association for companies working in the textile and fashion industry. We have about 200 member companies with a combined work force of 7 000 employees. Their operations range from global corporations with a hundred years in business to newly established sole proprietorships. They work in different fields of textile production such as fashion and apparel, technical textiles and interior textiles, many with a focus on export.

We fully endorse the objective of restricting the use of CMR substances in consumer products. TEKOs, Swedish Textile & Clothing Industries' Association and the Swedish Trade Federation (Svensk Handel) have addressed the EU Commission during 2015 to take action to eliminate hazardous chemicals in textile products by regulation on EU level through REACH. We very much appreciate that our call for action has been heeded.

However, we are critical to the way in which this has been done, using the "fast track" through Article 68 (2), instead of using the routines for assessment on risk approach in REACH. The on-going consultation puts an enormous pressure on the Swedish industry which is asked to acquire, agree upon and provide, in a short time-frame, detailed information on as many as 286 substances. Pressure and objective difficulties create a risk for us and our members to make mistakes or provide incomplete information.

We also have major concerns about the difficulty assessing which articles are covered by the possible restrictions as well as the interactions with current regulation in terms of two or more restriction limits for the same group of substances.

All the listed substances are CMR 1A or 1B which means that a fixed restriction limit is in order for a hazard orientated restriction limit. This is however not in order for a risk oriented restriction limit, since these substances represent various normal foreseeable uses and physical/chemical properties and consequently various exposure scenarios.

The limit set out in the list of “Other substances” is a generic limit of 50 mg/kg (50 ppm) and has no risk approach. We want the EU Commission to withdraw the suggested generic limit and use a risk approach instead. We also want the Commission to assure that there is no overlap with current regulation in terms of two or more restriction limits for the same group of substances. This will be conflicting and result in uncertainties for enforcement of the regulation.

For your information we enclose Appendix 1, a document about the substances in the list of the proposal and divided by the same headings. The information was prepared in collaboration with Swerea and the Swedish Trade Federation. We also enclose Appendix 2, where more information is to be found about the textile or non-textile relevance for the substances. This Appendix is the table from the EU website for the consultation, but now extended with more columns with information that we together with Swerea found important to add.

2. The definition of the articles covered by the possible restriction

2.1 Is it clear which articles are covered by the possible restriction? Please justify your reply.

No.

The scope is very unclear. It says “Articles that consist of at least 80% of textile fibres by weight” and that e.g. clothing “made of synthetic/artificial leather” are intended to be covered. Coated textile fabrics for synthetic leather or e.g. heavy raincoats do not consist of 80% textile fibres. In these cases the main part consist of the coating.

Our major concerns are:

- If your intention is to include the whole textile product also including the non-textile parts?
- Is e.g. footwear or furniture where a part consist of at least 80% of textile fibres by weight intended to be covered of a possible restriction?
If so, are restrictions intended for other parts in these products as well?
- As the restrictions are aimed for consumer articles, we wonder which responsibility companies selling textile products B2B e.g. profile and workwear have.
- It is also unclear about toys (see above), but also how this proposal will work together with the Toy safety Directive 2009/48/EC.

2.2. Do you think that the range of articles covered by the possible restriction is appropriate? Please justify your reply.

No.

Due to the unclearness of the scope explained in 2.1 the range is not appropriate.

For instance Footwear is a large product group including a lot of different types of materials and, as such, should be handled by itself for possible restrictions and not be mixed with textile articles.

3. Comments on specific CMR substances

Substances in the list

3.1 Are there any substances in the list that are not present in the articles covered by the possible restriction?

Yes, if the intention of the proposal is to cover substances in the textile material and not the whole article. See comments in Appendix 1.

3.2 Do you have comments on the function of the substances as presented in the list, or additional information on their function in the articles covered by the possible restriction?

We interpret that suggested substances in the proposal should have textile relevance and as such not be present in the textile material. We have identified several substances on the list with no relevance for the textile material, some of them can however be found in non-textile parts of the product, others have no relevance at all to the textile product.

Because of the huge range of different types of non-textile materials that can be a part of the textile product and the limited time to work with this consultation, our opinion is that only substances with high or medium textile relevance should be included in the proposal (see Appendix 2).

3.3 Are there any substances on the list for which you have evidence that they do not cause dermal or inhalation exposure of consumers during normal or foreseeable use? ("Normal or foreseeable use" includes wearing the clothes or children mouthing parts of the clothing)

Our fundamental approach is that hazardous substances should never be a part of the chemical product used to produce textile articles for the consumer. No substances whatsoever used in textiles for consumer use should cause dermal or inhalation exposure. This is one of the major objectives for the Swedish textile industry.

3.4 Do you have any evidence of an increasing or decreasing trend of the market and use inside or outside of the EU for any of the listed substances? Please provide the evidence or a summary of it, including the name of the country.

Since the 1970s TEKÖ and its members have actively voluntarily been working to phase out hazardous chemicals from their textile production.

This work was intensified during the 1990s when substances such as sodium hypochlorite, tri-chloro-benzene, nonylphenoletoxylate, carcinogenic azo dyes, brominated flame retardants, phthalates and more substances were phased out.

To which degree these are still in use globally, we can't answer, but what we do know is that a number of substances still can be found in textile products for the consumer.

Substances you may propose to be added to the list

3.5 Are there any CMR substances Category 1A or 1B not mentioned in the list, for which you have evidence of the presence in the articles covered by the possible restriction?

TEKO, Swedish Textile & Clothing Industries' Association fully endorse the objective of restricting the use of CMR-substances in consumer products. However, we are critical to the way this has been done, using the "fast track" through Article 68 (2), instead of using the routines for assessment on risk approach in REACH.

We also have major concerns about the difficulty assessing which articles are covered by the possible restrictions and the interactions with current regulation in terms of two or more restriction limits for the same group of substances.

With this in mind, we will not suggest any more substances to be added to the list at this point. If additional substances are considered we suggest that the Commission starts with the substances identified as CMR substances with high or medium textile relevance found in the KemI (Swedish Chemicals Agency) report 6/14.

3.6 Do you have any evidence of an increasing or decreasing trend of the market and use inside or outside of the EU of the substances you propose to add to the list? Please provide the evidence or a summary of it, including the name of the country.

See 3.5

All substances

3.7 Do you have evidence of the presence of any specific CMR substances Category 1A or 1B no longer used in the EU in textile articles or clothing, but potentially present in such articles that are imported from third countries?

Among the substances which TEKÖ and its members have actively phased out since the 1970s there are CMR substances such as nonyl-phenol-etoxylylate and carcinogenic azo dyes, but these substances are still found in textile products sold within EU.

3.8 Do you have information on the presence of the listed CMR substances and other CMR substances Category 1A and 1B in non-textile (parts of) articles such as:

a) Non-fibre elements of clothing and accessories that are incorporated to the clothing article, including zips, buttons, decorative elements?

b) Clothing or its parts made of a non-textile material other than leather, furs and hides (e.g. plastic or plasticised materials)?

We enclose Appendix 1, where general information about the presence of listed CMR substances in non-textile parts of articles can be found.

3.9 Are there any cases where the limit set out in the list of substances could not be met (e.g. due to the production process for a specific article, specific function of the substance in that article, the absence of a suitable alternative etc.)?

- The limit set out in the list of "Other substances" is a generic limit of 50 mg/kg and has no risk approach. We want the EU Commission to withdraw the suggested generic limit and instead use the risk approach (more information under 4. General comments).

- We want to emphasize the importance that each regulated substance needs to be analysed with international (EN) standardised and validated EU mandated methods and the respective regulatory restriction limits must not be set higher than each approved test methods detection limit plus the method reproducibility.

- We have comments on the substances DMFa, DMAC and NMP and the problematic issue to set limits for these substances. These substances are used e.g. for processing polyurethane (for more information, see enclosed Appendix 1).

4. General comments

TEKO, Swedish Textile & Clothing Industries' Association and the Swedish Trade Federation (Svensk Handel) have during 2015 addressed the EU Commission to take action to eliminate hazardous chemicals in textile products by regulation on EU level through REACH and we very much appreciate that our call for action been heeded. But, we are very much critical about the way in which this has been done, using the "fast track" through Article 68 (2), instead of using the routines for assessment on risk approach in REACH.

All the listed substances are CMR 1A or 1B which means that a fixed restriction limit is in order for a hazard orientated restriction limit. This is however not in order for a risk oriented restriction limit since these substances represent various normal foreseeable uses and physical/chemical properties and consequently various exposure scenarios. The limit set out in the list of "Other substances" is a generic limit of 50 mg/kg (50 ppm) and has, as mentioned above, no risk approach.

We want the EU Commission to withdraw the suggested generic limit and instead use a risk approach and also ensure that there is no overlap with the current regulation in terms of two or more restriction limits for the same group of substances. This will be conflicting and result in uncertainties in the enforcement of the regulation. We have identified substances suggested in this proposal as substances already regulated e.g. in REACH and EU Water Framework Directive.

As the EU Commission during the stakeholder meeting in Brussels in November 2015 presented the list from Keml as the main source for the substances to be covered by the proposal, we want to emphasize the importance of understanding how the concept of textile relevance has been used for this source in the report of Keml 6/14. We enclose Appendix 3 for additional information.

Our fundamental approach is that hazardous substances should never be a part of the chemical product used to produce textile articles for the consumer. Due to that we emphasize the importance for the EU Commission, in a global perspective, to consider that it might be relevant to review what information needs to be provided in future MSDS (Material Safety Data Sheets) to facilitate for textile producers to comply with future legislations.

The on-going consultation puts an enormous pressure on the industry which is asked to acquire, agree upon and provide, in a short time-frame, detailed information on as many as 286 substances. In theory as many as 3146 ($286 * 11$) questions deserve consideration. Some of the considered substances regard vital components of companies' supply-chains scattered across the world. Pressure and objective difficulties create a risk for any stakeholder (regardless of its stances pro or against the substances use) to make mistakes or provide incomplete information. Some stakeholders, notably SMEs, typically a TEKÖ member, may simply not have the resources and technical know-how, to address, in a limited time frame, detailed technical questions.

Stockholm, 22 Mars 2016



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