

# POSITION PAPER

Free trade. Sustainable trade.



FTA  
Foreign Trade Association

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## FTA comments on the European Commission Stakeholder Consultation on the Chemical, Product and Waste Interface

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### INTRODUCTION

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The Foreign Trade Association (FTA) would like to comment the Stakeholder Consultation paper on Chemical, Product and Waste interface. FTA represents over 2000 retailers, importers and brands to promote and defend international trade and supports their business by providing information and practical solutions towards sustainability in the global supply chain. We aim at inspiring confidence that goods coming from factories and farms worldwide are sourced from supply chains where workers and the environment are respected.

The European Commission's work on the chemical, product and waste interface is therefore of key importance to FTA members as many of them have established company level policies on those issues, and internal tools to respect existing regulations in the EU and third countries, including REACH and the many existing product specific regulations.

The consultation paper identifies four main obstacles for a smooth transition of recycled materials from waste to new products. Several of these obstacles are linked to the fact that many articles in the EU are imported from third countries, notably Asian states. FTA members are often, but not only, sourcing from third countries and are therefore importing in the EU articles and sometimes mixtures. FTA members are however rarely incorporating substances in articles or mixtures themselves and might not have a full visibility on the different stages at which substances might have been added in the supply chain.

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## ON THE INSUFFICIENT INFORMATION ABOUT SUBSTANCES OF CONCERN IN PRODUCTS AND WASTE (#1)

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Value chains for consumer goods are global, in 2015 China was the EU top sourcing country with around 137.3 billion euros of goods being imported into the EU. Value chains are complex, involving many actors with different levels of knowledge on chemicals and information on chemicals could be lost along the way, especially in the first stages on productions.

In REACH however, under article 33, any supplier has the legal obligation to provide information on the presence of SVHCs in articles in a concentration above 0.1% by weight. This obligation conflicts with the **lack of visibility and limited influence of the last actors in the supply chain** and the **absence of legal obligation for suppliers that are not based in the EU**, which could be an obstacle for European suppliers to get information on chemicals present in products.

Retailers and brands are answering this communication challenge by developing Restricted Substances Lists (RSLs) which helps having greater control over chemicals incorporated in articles in the supply chain. There are currently many different RSLs in force, often developed by brands or importers themselves who would test the final article, with no industry-wide standard on which substances should be restricted. **Increasing the obligation for communication to other chemicals that are not SVHCs will bring further complexity and will not ease compliance.** This type of information is currently not shared by manufacturers of substances or suppliers at different stages in the supply chain. FTA members recommend keeping the communication obligations as set out in article 33 to SVHCs only, however communication on substances should be improved and the chemical industry, together with the authorities should collaborate with manufacturers of articles, including retailers and importers, in order to ensure RSLs for instance are properly established and implemented.

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## ON SUBSTANCES SUBJECT TO REACH RESTRICTIONS THAT ARE PRESENT IN RECOVERED MATERIALS (SUBSTANCES, MIXTURES AND ARTICLES) (#2 A)

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As previously mentioned, several retailers, brands and importers have established RSLs to ensure that certain substances are not present in final articles. These RSLs cannot achieve their intended use if substances are present in raw materials. **Recycled raw materials should therefore comply with all existing regulations on chemicals, including REACH.** This way manufacturers or importers of articles can have full control on the chemical content of their products, including when it is made of recycled material. Using recycled materials should be promoted and ultimately should not increase legal uncertainty for the final supply chain actor, be it the brand, retailer or importer.

Sending materials to landfill or energy recovery because of their chemical content is also difficult to support as those products could still be reused. FTA would for instance support **recycling certain materials containing restricted substances for non-sensitive uses**, we could imagine that for instance a shoe sole or a bench could be made of recycled materials containing restricted substances provided the substances are stable in the article with no release to the environment in the long term. This would not be acceptable in toys or textiles in direct contact with the skin.

## ON THE APPLICATION OF AUTHORISATION REQUIREMENTS TO THE PRESENCE OF SUBSTANCES OF CONCERN IN EU-PRODUCED ARTICLES BUT NOT IN THEIR PRESENT IN IMPORTED ARTICLES (#2 C)

**Expanding authorization requirements to imported articles is not a viable option** to control the presence of hazardous substances in those articles. This would imply that the article producer would need a legal entity in the EU, or a representative, to apply for authorisation. This is not realistic and would simply bar those products from entering the EU market. Many consumer goods are nowadays produced in third countries and the EU cannot afford to stop trading with those countries.

The stakeholder consultation paper suggests that the issue could also be addressed by using restrictions that apply both to domestically produced and to imported articles. **While restrictions can help phasing out substances from certain products, it cannot drive innovation in the development of less hazardous chemicals as much as authorisation.** Restrictions put the burden of substituting substances on the manufacturer which might have a very limited set of options if no new substances are available on the market and also very limited chemical knowledge. Authorisation of the contrary puts the burden on the chemical manufacturers and creates an innovation incentive, which ultimately will also bring safer products.

On the overall, FTA members call for developing options to the chemical, product, waste interface challenge that would take into account the reality of global trade and help importers, retailers and brands to bring safer products on the European market instead of banning access to the EU market.

**For further information, please contact:**

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*The Foreign Trade Association (FTA) is the leading business association of European and international commerce that promotes the values of free trade. We bring over 2000 retailers, importers, brands and national associations to improve the political and legal framework for trade in a sustainable way.*



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