Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (Text with EEA relevance)

[X1TITLE VIII

RESTRICTIONS ON THE MANUFACTURING, PLACING ON THE MARKET AND USE OF CERTAIN DANGEROUS SUBSTANCES, PREPARATIONS AND ARTICLES

CHAPTER 1

General issues

Article 67

General provisions

1 A substance on its own, in a preparation or in an article, for which Annex XVII contains a restriction shall not be manufactured, placed on the market or used unless it complies with the conditions of that restriction. This shall not apply to the manufacture, placing on the market or use of a substance in scientific research and development. Annex XVII shall specify if the restriction shall not apply to product and process orientated research and development, as well as the maximum quantity exempted.

2 Paragraph 1 shall not apply to the use of substances in cosmetic products, as defined by Directive 76/768/EEC, with regard to restrictions addressing the risks to human health within the scope of that Directive.

3 Until 1 June 2013, a Member State may maintain any existing and more stringent restrictions in relation to Annex XVII on the manufacture, placing on the market or use of a substance, provided that those restrictions have been notified according to the Treaty. The Commission shall compile and publish an inventory of these restrictions by 1 June 2009.

CHAPTER 2

Restrictions process

Article 68

Introducing new and amending current restrictions

1 When there is an unacceptable risk to human health or the environment, arising from the manufacture, use or placing on the market of substances, which needs to be addressed on

a Community-wide basis, Annex XVII shall be amended in accordance with the procedure referred to in Article 133(4) by adopting new restrictions, or amending current restrictions in Annex XVII, for the manufacture, use or placing on the market of substances on their own, in preparations or in articles, pursuant to the procedure set out in Articles 69 to 73. Any such decision shall take into account the socio-economic impact of the restriction, including the availability of alternatives.

The first subparagraph shall not apply to the use of a substance as an on-site isolated intermediate.

2 For a substance on its own, in a preparation or in an article which meets the criteria for classification as carcinogenic, mutagenic or toxic to reproduction, category 1 or 2, and could be used by consumers and for which restrictions to consumer use are proposed by the Commission, Annex XVII shall be amended in accordance with the procedure referred to in Article 133(4). Articles 69 to 73 shall not apply.

Article 69

Preparation of a proposal

1 If the Commission considers that the manufacture, placing on the market or use of a substance on its own, in a preparation or in an article poses a risk to human health or the environment that is not adequately controlled and needs to be addressed, it shall ask the Agency to prepare a dossier which conforms to the requirements of Annex XV.

2 After the date referred to in Article 58(1)(c)(i) for a substance listed in Annex XIV, the Agency shall consider whether the use of that substance in articles poses a risk to human health or the environment that is not adequately controlled. If the Agency considers that the risk is not adequately controlled, it shall prepare a dossier which conforms to the requirements of Annex XV.

3 Within 12 months of the receipt of the request from the Commission in paragraph 1 and if this dossier demonstrates that action on a Community-wide basis is necessary, beyond any measures already in place, the Agency shall suggest restrictions, in order to initiate the restrictions process.

4 If a Member State considers that the manufacture, placing on the market or use of a substance on its own, in a preparation or in an article poses a risk to human health or the environment that is not adequately controlled and needs to be addressed it shall notify the Agency that it proposes to prepare a dossier which conforms to the requirements of the relevant sections of Annex XV. If the substance is not on the list maintained by the Agency referred to in paragraph 5 of this Article, the Member State shall prepare a dossier which conforms to the requirements of Annex XV within 12 months of the notification to the Agency. If this dossier demonstrates that action on a Community-wide basis is necessary, beyond any measures already in place, the Member State shall submit it to the Agency in the format outlined in Annex XV, in order to initiate the restrictions process.

The Agency or Member States shall refer to any dossier, chemical safety report or risk assessment submitted to the Agency or Member State under this Regulation. The Agency or Member States shall also refer to any relevant risk assessment submitted for the purposes of other Community Regulations or Directives. To this end other bodies, such as agencies, established under Community law and carrying out a similar task shall provide information to the Agency or Member State concerned on request.

The Committee for Risk Assessment and the Committee for Socio-economic Analysis shall check whether the dossier submitted conforms to the requirements of Annex XV. Within 30 days of receipt, the respective Committee shall inform the Agency or the Member State suggesting restrictions, as to whether the dossier conforms. If the dossier does not conform, the reasons shall be given to the Agency or the Member State in writing within 45 days of receipt. The Agency or the Member State shall bring the dossier into conformity within 60 days of the date of receipt of the reasons from the Committees, otherwise the procedure under this Chapter shall be terminated. The Agency shall publish without delay the intention of the Commission or of a Member State to instigate a restriction procedure for a substance and shall inform those who submitted a registration for that substance.

5 The Agency shall maintain a list of substances for which a dossier conforming to the requirements of Annex XV is planned or underway by either the Agency or a Member State for the purposes of a proposed restriction. If a substance is on the list, no other such dossier shall be prepared. If it is proposed by either a Member State or the Agency that an existing restriction listed in Annex XVII should be re-examined a decision on whether to do so shall be taken in accordance with the procedure referred to in Article 133(2) based on evidence presented by the Member State or the Agency.

6 Without prejudice to Articles 118 and 119, the Agency shall make publicly available on its website all dossiers conforming with Annex XV including the restrictions suggested pursuant to paragraphs 3 and 4 of this Article without delay, clearly indicating the date of publication. The Agency shall invite all interested parties to submit individually or jointly within six months of the date of publication:

a comments on dossiers and the suggested restrictions;

b a socio-economic analysis, or information which can contribute to one, of the suggested restrictions, examining the advantages and drawbacks of the proposed restrictions. It shall conform to the requirements in Annex XVI.

Article 70

Agency opinion: Committee for Risk Assessment

Within nine months of the date of publication referred to in Article 69(6), the Committee for Risk Assessment shall formulate an opinion as to whether the suggested restrictions are appropriate in reducing the risk to human health and/or the environment, based on its consideration of the relevant parts of the dossier. This opinion shall take account of the Member State dossier or of the dossier prepared by the Agency at the request of the Commission, and the views of interested parties referred to in Article 69(6)(a).

Article 71

Agency opinion: Committee for Socio-economic Analysis

1 Within 12 months of the date of publication referred to in Article 69(6), the Committee for Socio-economic Analysis shall formulate an opinion on the suggested restrictions, based on its consideration of the relevant parts of the dossier and the socio-economic impact. It shall prepare a draft opinion on the suggested restrictions and on the related socio-economic impact, taking account of the analyses or information according to Article 69(6)(b), if there are any. The Agency shall publish the draft opinion on its website without delay. The Agency shall invite

interested parties to give their comments on the draft opinion no later than 60 days from the publication of that draft opinion.

2 The Committee for Socio-economic Analysis shall without delay adopt its opinion, taking into account where appropriate further comments received by the deadline set. This opinion shall take account of the comments and socio-economic analyses of interested parties submitted under Article 69(6)(b) and under paragraph 1 of this Article.

3 Where the opinion of the Committee for Risk Assessment diverges significantly from the restrictions suggested, the Agency may postpone the deadline for the opinion of the Committee for Socio-economic Analysis by a maximum of 90 days.

Article 72

Submission of an opinion to the Commission

1 The Agency shall submit to the Commission without delay the opinions of the Committees for Risk Assessment and Socio-economic Analysis on restrictions suggested for substances on their own, in preparations or in articles. If one or both of the Committees do not formulate an opinion by the deadline set in Article 70 and Article 71(1) the Agency shall inform the Commission accordingly, stating the reasons.

2 Without prejudice to Articles 118 and 119 the Agency shall publish the opinions of the two Committees on its website without delay.

3 The Agency shall provide the Commission and/or Member State on request with all documents and evidence submitted to or considered by it.

Article 73

Commission decision

1 If the conditions laid down in Article 68 are fulfilled, the Commission shall prepare a draft amendment to Annex XVII, within three months of receipt of the opinion of the Committee for Socio-economic Analysis or by the end of the deadline established under Article 71 if that Committee does not form an opinion, whichever is the earlier.

Where the draft amendment diverges from the original proposal or if it does not take the opinions from the Agency into account, the Commission shall annex a detailed explanation of the reasons for the differences.

2 A final decision shall be taken in accordance with the procedure referred to in Article 133(4). The Commission shall send the draft amendment to the Member States at least 45 days before voting.**]**

Editorial Information

X1 Substituted by Corrigendum to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (Official Journal of the European Union L 396 of 30 December 2006).

Status:
Point in time view as at 23/11/2007.

Changes to legislation:
There are currently no known outstanding effects for the Regulation (EC) No 1907/2006 of the European Parliament and of the Council, TITLE VIII.