



ORGALIME INFORMATION NOTE

**Article 33
of Regulation (EC) No 1907/2006 of the
European Parliament and of the Council on
the Registration, Evaluation, Authorisation
and Restriction of Chemicals (REACH)**

**Communication obligations on
substances in articles**

SEPTEMBER 2018

CONTENTS

FOREWORD – INTRODUCTION TO THIS ORGALIME INFORMATION NOTE	3
1. SOME PRECISIONS ON TERMINOLOGY AND DEFINITIONS	4
1.1 Definitions in the REACH Regulation	4
1.2 Definitions in the European Court of Justice judgment in the case C-106/14 of 10 th September 2015	4
1.3 Definitions in the ECHA guidance on requirements for substances in articles, June 2017	5
1.4 Orgalime table with examples of articles, complex objects and very complex objects for the technological sector	5
2. THE REQUIREMENTS OF ARTICLE 33 OF REACH	6
2.1 REACH Regulation	6
2.1.1 B2B communication obligations (Article 33.1 REACH)	6
2.2.2 B2C communication obligations (Article 33.2 REACH)	7
2.2 European Court of Justice judgment in the case C-106/14.....	7
2.3 Update of ECHA Guidance on requirements for substances in articles, June 2017.....	8
2.4 Substances triggering communication obligations under Article 33	11
2.5 When the communication obligations of Article 33 kick-in	13
3. A DECADE OF REACH IMPLEMENTATION: AN OVERVIEW OF EXISTING PRACTICES ACROSS THE TECHNOLOGICAL SECTOR	14
3.1 Information to be communicated	14
3.2 Information supply.....	14
3.3 Voluntary information requests to suppliers.....	16
3.4 Information management.....	17
3.5 New ECHA waste database on Article 33 REACH	18
ANNEX I: Overview of process for the identification of a Substance of Very High Concern and its inclusion on the Candidate List.....	19
ANNEX II: Orgalime model letter for structuring communication up the supply chain in order to implement Article 33(1) REACH information requirements.....	20
ANNEX III: Reference documents	22
ANNEX IV: ORGALIME members.....	23

FOREWORD – INTRODUCTION TO THIS ORGALIME INFORMATION NOTE

This information note provides a descriptive summary (no interpretation) of the requirements of Article 33 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and provides readers with an overview of common existing practices within the industry to meet them.

The information note addresses the following main points:

- It takes stock of common existing practices of implementation of the communication obligations on substances in articles of REACH Regulation.
- It considers those practices in light of the [European Court of Justice \(ECJ\) judgment related to case C-106/14](#) of 10th September 2015 that clarified the scope of the communication obligations under Article 33 of REACH further to different views of six Member States and the European Commission on how to calculate the relevant concentration threshold for complex articles. The ECJ ruled that the given concentration threshold of 0.1% does not apply to the entire complex of very complex object (as was the Commission's, ECHA and industry's common understanding so far), but to each article included in the complex or very complex object (i.e. object made up of more than one article).
- It includes the latest update of the related [ECHA Guidance](#) on requirements for substances in articles which incorporates the changes following the ECJ judgment and was completed in June 2017. Note: the interpretation from ECHA is challenged by several industry sectors in particular against the principle of proportionality established in Article 5 of the EU Lisbon Treaty (the measure shall not exceed what is necessary to achieve the given objective).

In the next pages, the following issues are tackled:

1. General introduction on the relevant terminology and definitions;
2. Description of the requirements of Article 33 of REACH;
3. Overview of common existing practices among the industry and how these should be amended following the European Court of Justice judgment.

Disclaimer: this ORGALIME information note reflects the best knowledge of industry experts from all over Europe and the state of the art at the moment of its publication. This document **aims at providing a descriptive overview of the relevant legal provisions, interpretation notes and reference documents that technology manufacturers need to be aware of when identifying the precise compliance measures to be taken for their specific products.** A binding interpretation of Community legislation is of the exclusive competence of the European Court of Justice. Subject to new information, this document may be modified to accommodate new developments. Such information will be made available on ORGALIME's [website](#).

ORGALIME representing the European Technology Industries speaks for 45 trade federations of the mechanical, electrical, electronic, metalworking & metal articles industries of 23 European countries. The industry employs nearly 11 million people in the EU and in 2016 accounted for some €2,000 billion of output. The industry represents over a quarter of the output of manufactured products and over a third of the manufactured exports of the European Union.