Meaning of “Article” in the context of REACH

CEMA
European Agricultural Machinery Association

Ad-hoc group sustainability

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Foreword

- This presentation, prepared by CEMA members [1], explains the meaning of an "article" in the context of REACH [2] and provides guidance on how to calculate the concentration of the candidate list substance over the weight of a "complex object".
- The members didn't get enough clarification from the legal text or from the ECHA Guideline [3] on how to calculate the concentration of the *Substances of Very High Concern* (SVHC) in "articles" joined together, in some real cases of the agricultural sector [4].
- This document focuses only on "complex objects" and "articles" under REACH.

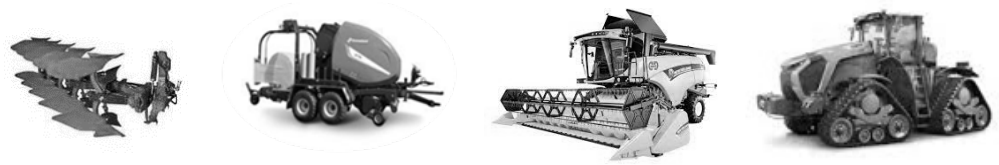

Figure 1. Some examples of "complex objects" in the agricultural sector

- The concentration of the SVHC (in Candidate List) above the threshold of 0,1% weight by the article's weight (w/w), involves obligations for any supplier of these "articles", for example for the Art.33 REACH [5] and for SCIP Database notification [6].

Disclaimer:

- The following information reserved for CEMA's members, is not legally binding. Please note that it is the responsibility of each company to comply with the law.

[1] CEMA AhG "Sustainability".
[2] Regulation 1907/2006/EC (link).
[3] ECHA (European CHemicals Agency) "Guidance on requirements for substances in articles" June 2017, Version 4 (link).
[4] The AhG "Sustainability" decided to prepare a document of the interpretation of "Article" valid for the agricultural sector (@Action 14).
[5] Regulation 1907/2006/EC, Art.33 "*Any supplier of an article containing a substance meeting the criteria in Article 57 and identified in accordance with Article 59(1) in a concentration above 0,1 % weight by weight (w/w) shall provide the recipient of the article with sufficient information, available to the supplier, to allow safe use of the article including, as a minimum, the name of that substance*".
[6] SCIP Database, Directive 2018/851/EU Art.1(10) (link).

Introduction – What is an article?

- Legislation: **Regulation 1907/2006/EC**, Art.3(3) [2]

  *Article: means an object which during production is given a special **shape**, **surface or design** which determines its function to a greater degree than does its chemical composition.*

- **ECHA: "Guidance on requirements for substances in articles"**
  Cap. 2.3 (*Figure 2*) [3]

- **Federal Institute for Occupational Safety and Health helpdesk (DE)** Cap.7.7 [7]

  This means that even an article that is incorporated into a complex product retains its article status (unless it becomes waste or loses its shape, surface or design that determines its function to a greater extent than the respective chemical composition). It is irrelevant how the article is merged or combined with the other articles, i.e. whether it "only" screwed or connected to other articles or glued, soldered or welded onto the articles.

- **FederUnacoma guideline based on Helpdesk REACH clarifications** Question 2.2 [8]

  Example 23 ECHA Guideline: Frame: e.g. top tube, down tube, seat tube, seat stay, chain stay, head tube; These metal articles are joined together by soldering them to make the frame; The whole frame is then painted → Painted metal frame is considered as article as such. Moreover, in Scenario II (Table 5), the CL substances should calculate on the total weight..

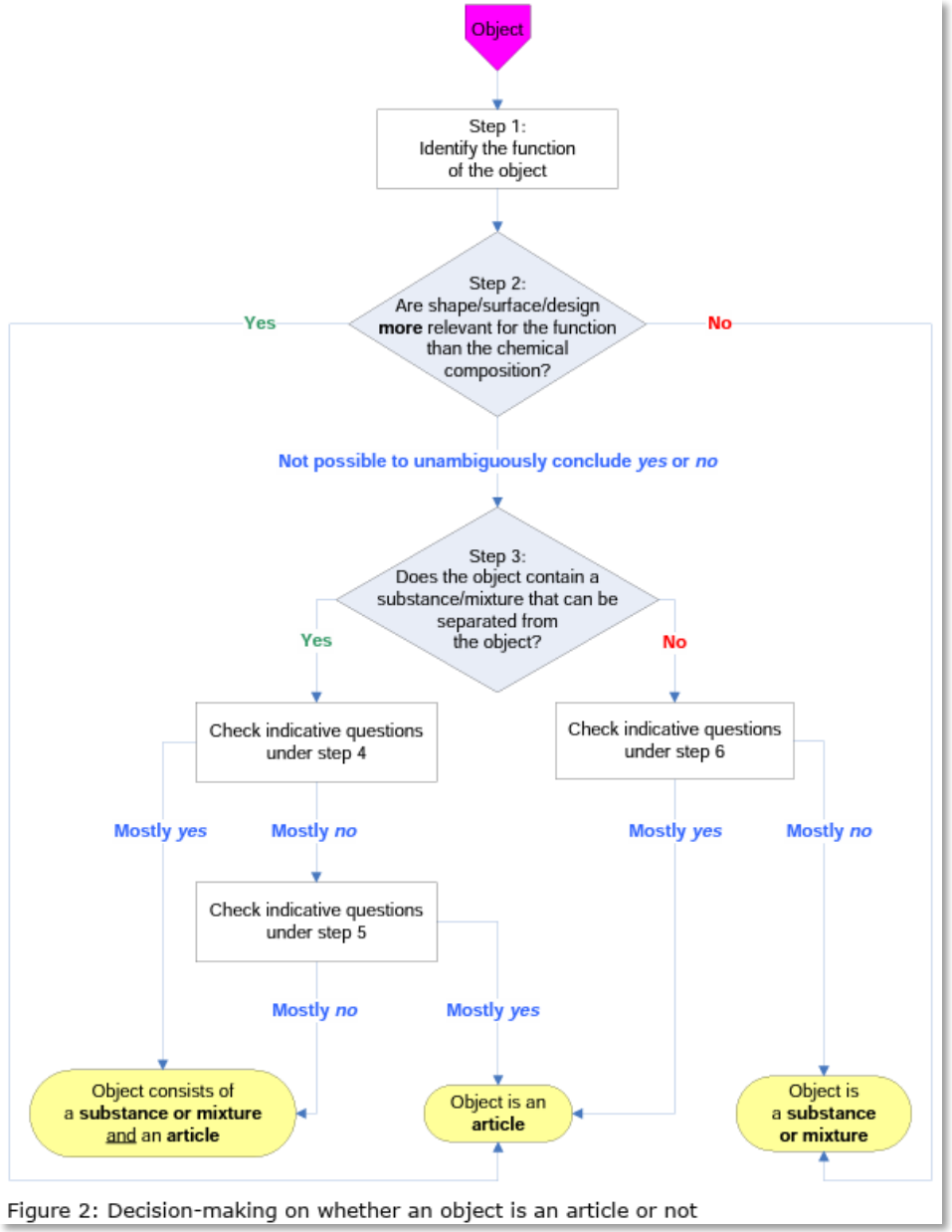

Figure 2: Decision-making on whether an object is an article or not

[2] Regulation 1907/2006/EC (link).
[3] ECHA (European CHemicals Agency) "Guidance on requirements for substances in articles" June 2017, Version 4 (link).
[7] 4th, revised and expanded edition, September 2020 (link).
[8] "*FAQ sulla Banca Dati SCIP_FederUnacoma_Versione Ufficiale_02*" September 2021.

How to calculate the concentration of the candidate list substance over the weight of articles joined together?

Meaning of article – Example 1

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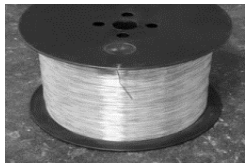
Article 1		Article 2		Article 3
	+		+	
1.5 kg no SVHC		**1.0 kg no SVHC**		**0.10 kg 2% Lead → 0.002 kg**

New article (x)

After welding articles 1, 2 and 3 can't be fully removed from the new article (x). Therefore, the total weight of the new article (x) must be considered.

$$\text{Total lead} = \frac{0.002\ kg}{1.5\ kg + 1.0\ kg + 0.1\ kg}\ x\ 100 = \mathbf{0,08\%\ (w/w)}$$

➔ This New article (x) does not have to be reported to ECHA.

Meaning of article – Example 2

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Article 1

1.5 kg
no SVHC

Article 2

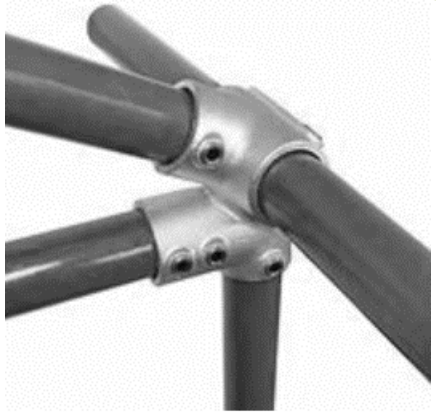
1.0 kg
no SVHC

Article 3

0.1 kg
no SVHC

Article 4

0.50 kg
2% Lead → 0.01 kg



Complex object

After assembly articles 1, 2, 3 and 4 can be fully removed from the complex object. Therefore, the weight of each article must be considered.

$$\text{Total lead} = \frac{0.01\ kg}{0.5\ kg}\ x\ 100 = \mathbf{2,00\%\ (w/w)}$$

➔ Article 4 of this Complex object must be reported to ECHA [6] and provided to the recipient of the Complex object, information according to Art.33 REACH [5].

[5] Regulation 1907/2006/EC, Art.33 *"Any supplier of an article containing a substance meeting the criteria in Article 57 and identified in accordance with Article 59(1) in a concentration above 0,1 % weight by weight (w/w) shall provide the recipient of the article with sufficient information, available to the supplier, to allow safe use of the article including, as a minimum, the name of that substance".*
[6] SCIP Database, Directive 2018/851/EU Art.1(10) (link).

Conclusions

- Focusing on one of the SCIP Database's goals [6], is help the waste operators to dispose parts with SVHC. Machines are disassembled in subsystems. Therefore, the parts that are easily disassembled are separated and treated as articles as such.
- It is important for a supplier of articles (like an Agricultural machinery manufacturer), to understand where the article containing SVHC becomes part of a new article or remains an individual article within a complex object.
- In the example 1, at the end of the process article 3 is not independent from the other articles in the assembly. It is not possible to determine the original dimension of the welding wire in article 3 after the production process, while in case of the example 2, it is possible to back to every single article.
- Therefore:
    - In example 1 → final assembly is a "new article". The % of SVHC and thus reporting is dependent on the weight of the new article and not that of the initial article containing SVHC.
    - In example 2 → final assembly is a "complex object". The % of SVHC and thus reporting is dependent on the weight of the individual articles, containing SVHC, of this complex object.

Thank you
for your attention

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