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## France

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### **French National Assembly Supports BPA Ban Bill- Hastens Implementation**

**Report Categories:**

Sanitary/Phytosanitary/Food Safety

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**Report Highlights:**

On November 28, 2012, the French National Assembly approved the proposed Bisphenol-A (BPA) ban bill. It amended the Senate version by notably dropping medical devices (with the exception of tubes with DEHP) from the bill, but hastened the implementation date for all food containers with BPA to January 1, 2015. The bill will now return to the Senate for a second reading, likely to be in early 2013. Part of the bill (pertaining to polycarbonate containers) conflicts with EU Regulation 10/2011 on plastic material. The French Government also announced that it will lobby other Member States and the Commission to expand the BPA ban on food containers to the entire EU-27.

## The French National Assembly votes on BPA ban:

Following the Senate vote ([GAIN Report FR9120](#)) of the bill that would ban the use of Bisphenol-A (BPA) in food containers, the French National Assembly had its turn on November 28, 2012, to discuss and then vote on the bill.

The reporter of the bill was Député (Representative) [Gérard Bapt](#). Mr. Bapt, who is a heart surgeon by profession, has championed his political actions on denouncing chemical endocrinous disruptors. Mr. Bapt focused his critics on BPA and phthalates. He initiated the [original BPA ban bill in October 2011](#). Leading up to his report, Mr. Bapt held several auditions (some of them available on the National Assembly [website](#)) with key stakeholders, including representatives from major food companies, packaging manufacturers, government agencies, and NGOs.

The Commission for Social Affairs of the National Assembly discussed the proposed bill on November 21 ([transcript of the discussion here](#)), amending the Senate's version. The floor discussion took place on November 28 ([transcript of the discussion here](#)). It further amended the text.

The main amendments to the Senate version include the following:

- Limiting the ban to food containers **where BPA is in direct contact with the food** content (instead of “food containers with BPA,” thus excluding items such as containers where BPA is on the outside label)
- **Dropping the ban on medical devices containing BPA or other endocrinous disruptors** from the senate version, as health experts warned that the Senate proposal might endanger the availability of medical devices for newborns and pregnant women
- Setting a ban on the use of tubing containing DEHP (di (2-ethylhexyl) phthalate) in maternity, pediatrics, and neonatology hospitals
- Banning the manufacture and sales of baby bottle mouthpieces, pacifiers, and teething rings containing BPA
- Modifying the date of suspension for food packaging specifically for infants and children under age 3 containing BPA, to the first day of the month that follows the promulgation of the bill in the French Official Journal, acknowledging that the discussion will not be final by January 1, 2013
- **Shortening** the interim period for the full implementation of the ban (to all food containers with BPA in direct contact with the food) to **January 1<sup>st</sup>, 2015**

This last amendment was a compromise as the Green Party (EELV) led by Député [Jean-Louis Roumegas](#) had proposed to set the implementation date back to January 1, 2014. The Greens backed their demands with a [petition](#) signed by 45,000 petitioners demanding an immediate ban on BPA, claiming that otherwise, the 830,000 children born in France by January 2015 will be endangered by BPA.

The Parliamentarians also asked the French Government to present to them, one year from the promulgation of the bill, a report on the sanitary and environmental consequences of the “growing presence of endocrinous disruptors in food, direct environment, medical devices and human body”. The report is to specifically focus “on the opportunity to ban di (2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), and butyl benzyl phthalate (BBzP) in all medical devices with respect to alternate materials and their safety.”

The parliamentarians refused to exclude exports from the ban, which was based on the argument that it would make French products uncompetitive. To oppose this amendment, the Ministry of Health [Marysol Touraine](#), representing the French Government, informed the parliamentarians that France will lobby other EU Member States to expand the ban to the entire EU-27 area.

### **Next Steps**

Because the National Assembly amended the text which had been voted by the Senate, the proposed bill goes back to the Senate for a second reading, which is expected to take place early 2013. If there are still differences between the two versions after the second Senate vote, the Presidents of the both Senate and the National Assembly will name a “Commission Mixte Paritaire (CMP)” (French equivalent of a U.S. Congressional Conference Committee) with seven Députés and seven Senators. The CMP will propose a unique text to be voted by both Assemblies. If the CMP fails to get the unique text or if one or both Assemblies do not approve the text, the Government will then ask the National Assembly alone to vote on a final text which would become law. This process is likely to take several weeks, precluding that the bill is unlikely (unless the Senate does not amend it) to be fully approved before mid-2013.

### **Is the French BPA Ban EU-Compatible?**

Even after being approved by the Parliament, the bill would need to be examined at the European level. EU [Regulation 10/2011](#) on plastic materials and articles intended to come into contact with food is applicable to containers in polycarbonate, such as water bottles. As such, it supersedes any French legislation applicable to those products. On the other hand, legislation on epoxy resins used in metal cans is not harmonized at the EU level, i.e., is of Member States’ competence. Therefore, if in theory, the Commission can strike down the part of the BPA bill which falls under EU Regulation 10/2011, it cannot do it in its entirety. Under current conditions, it would be up to the Commission and other Member States to take France to the European Court of Justice if they believe the BPA ban is not scientifically justified and is a breach of single market rules. The French Government is aware of these shortfalls and explains that once the BPA ban bill is approved, the Government will lobby other Member States to expand the ban to the entire EU-27.

