



Stockholm 2018-01-22

To: Mr Daniel Calleja Crespo
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European Commission
Avenue de Beaulieu 9
1160 Brussels
Belgium

Legally binding protocol on transparency of hazardous chemicals in the SAICM post 2020 framework

Non-transparency of hazardous chemicals in products is a serious global challenge as supply chains of products usually span many countries with different chemical legislation, and different degrees of law enforcement and compliance. Numerous investigations have shown the frequent presence of highly hazardous chemicals in consumer products.

Experience shows that the industrial sector is currently not doing enough to address the problem. Despite the efforts of a few larger companies (to our knowledge mostly based in high income countries) to create transparency systems on a voluntary basis, there is no sufficient driver to foster more widespread information disclosure for hazardous chemicals in product supply chains. The fact that only one company so far has joined the Chemicals in Products Programme, adopted by the SAICM stakeholders in 2015, is illustrative of the situation. Clearly, the problem warrants global action

Political statements and initiatives around the world show strong trends towards the transformation of economies into circular economies. Full transparency of hazardous chemicals and the mandatory sharing of information among stakeholders in supply chains are at the core of a “safe” circular economy. Toxic free material cycles will help us progress and reach many of the targets of the Sustainable Development Goals and the EU’s 7th Environmental Action Programme. On the other hand, without transparency we will create hazardous circular economies.

At the first intersessional meeting for the SAICM post-2020 process in Brasilia, 7th to 9th of February 2017, some stakeholders expressed the need to explore the possibility of adding legally binding components to the SAICM post-2020 framework. We firmly support this and believe that we need to explore the possibility to regulate hazardous chemicals, currently not covered by any Chemicals Convention, in a legally binding protocol in the SAICM post-2020 framework.

Such a protocol could lay the foundation for a “safe” circular economy globally, and create an even playing field for companies worldwide. It could spur substitution and innovation. For details on what the protocol could entail, please see the statement below endorsed by several civil society stakeholders.



Swedish Society
for Nature Conservation



We urge you to support our idea in the upcoming Regional Intersessional SAICM post-2020 Meetings in Paris, 9th of February, and in Lodz, 19th to 21st of February, and work for the formulation of a regional resolution requesting the SAICM Secretariat to commission a legal expert to investigate how a legally binding protocol could be constructed and integrated into the SAICM post-2020 framework, which in its remaining parts would still be voluntary.

With best regards,

Karin Lexén
Secretary General
Swedish Society for Nature Conservation

NGOs PROPOSAL FOR A LEGALLY BINDING PROTOCL ON TRANSPARENCY OF HAZARDOUS CHEMICALS IN PRODUCTS IN THE SAICM POST 2020 FRAMEWORK

At the next Intersessional Meeting for the SAICM post-2020 Process, in March 2018 in Stockholm, it is urgent to drive concepts into concrete actions and start formulating the overall scope for the post-2020 framework. With reference to that, we wish to highlight what we think is crucial for the EU to bring to the discussions at the Regional Intersessional Meetings in Paris, 9th of February, and in Lodz, 19th to 21st of February, prior to the Stockholm meeting.

Specific requests

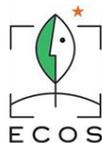
We would like a legally binding protocol regulating hazardous chemicals in the SAICM post-2020 framework.

The proposed protocol only addresses hazardous chemicals that are currently not regulated by any of the existing global conventions, and is thus complementary and avoids duplication.

Specifically, the protocol should include:

1. **A ban of the most hazardous chemicals** based on GHS criteria. These chemicals have the following characteristics:
 - (a) Are category 1A or 1B carcinogens;
 - (b) Are category 1A or 1 B mutagens;
 - (c) Are category 1A or 1B reproductive toxicants, with adverse effects on reproductive function and fertility or on development;
 - (d) Are category 1A and 1B neurotoxic, according to the GHS criteria for single exposure and repeated exposure;
 - (e) Are persistent, i.e. that have degradation half-lives in marine water higher than 60 days, degradation half-lives in fresh or estuarine water higher than 40 days, degradation half-lives in marine sediment higher than 180 days, degradation half-lives in fresh or estuarine water sediment higher than 120 days, or degradation half-lives in soil higher than 120 days;
 - (f) Are very persistent, i.e. have half-lives in marine/estuarine/fresh water, soil, and sediment higher than 180 days;
 - (g) Are bio accumulative, i.e. have a bioconcentration factor (BCF) 1000-5000;
 - (h) Are very bio accumulative, i.e. have a BCF higher than 5000.Furthermore, endocrine disruptors should be included, according to the best available criteria; such as the ones from the Danish Ministry of Environment¹.
2. **Restriction of the most hazardous chemicals for which there is currently no viable substitutes.**
3. **Full transparency on chemicals regulated by the protocol**, in all constituent components of products when concentrations equal or exceed 0.1% (weight/weight in the components), and an obligation for stakeholders in the supply chains to share this information with all other stakeholders.
4. **Internalization of costs to companies**, in line with the polluters' pay principle and with Article 16 of the Rio Declaration, for the establishment of transparency systems. This can also cover the financing of an independent scientific body that maintains and updates the list of banned and restricted chemicals in the legally binding protocol. The model of cost recovery

¹ Criteria for endocrine disruptors (<http://mst.dk/media/mst/9106718/danskeforslag.pdf>)



should support redistribution of funds to weak companies, particularly in low income countries, to support their establishment of transparency systems, and could be managed by the SAICM Secretariat. The International POPs Elimination Network (IPEN) estimated, based on figures from the UN report Global Chemicals outlook 2012, that if the chemical industry pays a 0.1% levy of their annual turnover, this could generate US \$4.1 billion annually. This represents only 1 cent per US \$ 10 of sales revenue.

Justifications

There is growing recognition that a circular economy will support the fulfilment of several targets of the Sustainable Development Goals². The EU and its Member States are right now transforming its economy into a circular one, adjusting all relevant chemicals, products, and waste legislation according to an action plan³. Recently, the African Ministerial Conference on the Environment (AMCEN) at its Sixteenth session decided “to promote the circular economy, green economy, blue economy and industrial symbiosis strategies in our countries given that such models provide opportunities to enhance economic and social prosperity while reducing waste and pollution”⁴.

However, we are faced with some real challenges when it comes to circular economies. At the core of a “safe” circular economy is the need for full transparency on the hazardous chemicals in products and product components, including where they are found in the products and their concentrations. This information needs to be shared among all stakeholders in product supply chains and throughout the entire life cycle of the products, all the way to recyclers and those handling terminal waste. Failure to do so, puts a risk of creating hazardous circular economies. For example, in a study by the International POPs Elimination Network (IPEN), toys were found to contain highly toxic flame retardants typical of plastic components for electric and electronic products. This clearly illustrates the issues of non-transparency and indiscriminate recycling⁵. Removing toxics should be a top priority when transforming the economy into a circular one, as prevention is better than costly cure.

Trade is globalized with supply chains often spanning many countries with different chemical legislations, and various degrees of law enforcement and compliance. Consequently, even though the EU reforms and aligns its own chemicals, products, and waste legislation to perfection in order to support a circular economy, we still have the challenge of highly hazardous chemicals banned or restricted in the EU entering our market with imported goods. This is again due to a lack of transparency on the hazardous chemicals they contain. It is a global challenge!

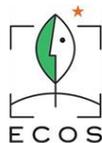
Consequently, we are strongly convinced that the only way to address these chemicals effectively and systemically is to ban or severely restrict them globally. A very limited number of chemicals are regulated in global conventions and the vast majority do not fulfil the criteria to fit in any convention, but may still be hazardous to human health and the environment. For example, there are chemicals that fail to meet the persistence criteria necessary for listing under the Stockholm Convention, who are carcinogenic, mutagenic, or endocrine disrupters.

² 1:5, 2:1, 2:4, 3:9, 6:3, 7:1, 7:2, 7:3, 8:1, 8:2, 8:3, 8:4, 8:8, 9:2, 9:4, 11:6, 12:4, 12:6, 14:1, 14:3, 15:1 and 15:5.

³ EU circular economy (http://ec.europa.eu/environment/circular-economy/index_en.htm).

⁴ AMCEN declaration (<http://wedocs.unep.org/bitstream/handle/20.500.11822/21689/K1707093%20-%20Report%20of%2016th%20session%20of%20AMCEN-English.pdf?sequence=1&isAllowed=y>).

⁵ POPs recycling contaminates children’s toys with toxic flame retardants (http://www.ipen.org/sites/default/files/documents/toxic_toy_report_2017_update_v1_5-en.pdf)



Furthermore, we remind you that the UNEP Cost of Inaction Report clearly showed substantial externalized costs for hazardous chemicals on health and the environment, and that these costs are increasing⁶. They may become an obstacle to poverty eradication in some countries, due to costs from ill-health, degradation of the environment and loss of income.

Emerging policy issues in SAICM allow us to address issues for which more information is needed. However, when enough proof has been gathered to enable a global action, there is currently no efficient function in SAICM to take action. The possibility to elevate emerging policy issues into legally binding protocols in a still voluntary SAICM post-2020 framework, would give us the tools necessary to rapidly and efficiently address issues that do not fit into current chemicals conventions, without the need to start negotiations for new conventions.

Chemicals in Products (CiP) has been an emerging policy issue in SAICM for a number of years. A CiP Programme was launched by SAICM in 2015, but so far only one company has enrolled. We clearly need more than a voluntary process to foster full disclosure of information on hazardous chemicals in products at the national and international levels. We believe that CiP is mature enough to be elevated to a global plan of action under SAICM, and could best fit into a legally binding protocol in a still overall voluntary SAICM post-2020 framework.

We are fully convinced that the proposed legally binding protocol for SAICM post-2020 would act as a driver for rapid adoption of the Globally Harmonized System (GHS) worldwide, and pave the ways for the establishment of safe circular economies for the benefits of human health and ecosystems.

We therefore request DG Environment to raise the issue about a legally binding CiP protocol and argue for it in the EU group, in preparation of the regional intersessional meeting. We wish the EU group to do the same at the global Intersessional Meeting 2018, as well as request the SAICM Secretariat to commission a legal expert to investigate how a legally binding protocol could be integrated into an overall voluntary SAICM post 2020 framework.

With best regards,

Karin Lexén
Secretary General of the Swedish Society for Nature Conservation

Co-signatories:

Arnika, Toxics and Waste Programme, Chairman Jindrich Petrlik.

ECOS, Director Laura Degallaix

EEB, Secretary General Jeremy Wates

HEAL, Executive Director Génon K. Jensen

⁶ Cost of inaction on the unsound management of chemicals
(http://www.indiaenvironmentportal.org.in/files/file/Report_Cost_of_Inaction_Feb2013.pdf).