

Mr Karmenu Vella, Commissioner for Environment, Maritime Affairs and Fisheries

European Commission
Rue de la Loi 200
B- 1049 Brussels

Brussels, 7 September 2015

Dear Commissioner Vella,

As the EU intends to move toward a Circular Economy, it is critical that hazardous chemicals be eliminated from the circle. This is especially important when considering the recycling of products containing toxic chemicals. Unfortunately, at international level the EU has a poor track record on this issue by repeatedly promoting toxic recycling policies under the Stockholm Convention on Persistent Organic Pollutants.ⁱ We are particularly concerned about the position of the EU on the recent proposal to recycle materials containing the toxic flame retardant DecaBDE. This proposal will be addressed at the upcoming meeting of the Stockholm Convention POPs Review Committee (POPRC)ⁱⁱ in October.

We urge the Commission to take a clear position against recycling materials containing DecaBDE and send a strong signal to this effect to the upcoming POPs Review Committee meeting. The Stockholm Convention does not permit the recycling of POPs and a recycling exemption would lead to prolonged and uncontrolled exposure to a very persistent, toxic and harmful substance to human health and the environment. The EU has a timely opportunity to demonstrate that recycling materials containing hazardous chemicals has no place in the Circular Economy.

DecaBDE is a toxic flame retardant mainly used in plastics for electronic and electrical equipment and in textiles. According to expert evaluation by the POPRC, DecaBDE is bioaccumulative and persistent and has potential adverse effects on the hormone, reproductive, and nervous systems.ⁱⁱⁱ In 2014, the POPs Review Committee determined that DecaBDE, *"...together with other PBDEs pose a significant concern for human health and the environment."*^{iv} Clearly this is not the type of substance that should be carried along into new products during recycling.

Recycling DecaBDE-containing products would allow a re-injection of this hazardous chemical into the production cycle and create an endless hazardous legacy. The new contaminated products will be almost impossible to track and DecaBDE will be given a second chance to be released into the environment and wildlife, and to endanger human health.

The EU's final position on the recycling of materials containing DecaBDE will be informed by the discussion at the next meeting of ECHA's Committee for Socio-economic Analysis (SEAC) on 8-11 September. It is obvious from the proceedings of previous SEAC meetings that at least one member is actively pushing for the adoption of a recycling exemption for DecaBDE, both under REACH and the Stockholm Convention.

The draft opinion of SEAC on the proposed DecaBDE ban dated 10 June 2015 correctly notes that a recycling exemption is not necessary for materials containing DecaBDE.^v In addition, the draft opinion correctly states that such an additional derogation *"could lead to a lower emission reduction of decabde"* and that *"a derogation of the recycling of materials would complicate the enforcement of the proposed"*

restriction.”^{vi} The original public consultation conducted on the matter in March 2015 did not attract comments from the recycling industry despite the inclusion of a direct question relating to DecaBDE recycling.

Despite this, in a second public consultation organised in August 2015 on its draft opinion, SEAC included a series of very leading questions to invite industry recommendations for a recycling exemption, “*In case you consider a derogation to be needed*”.^{vii} This appears to be an effort to justify the inclusion of a recycling exemption for DecaBDE in the final SEAC opinion. This is contrary to public consultation established practices, as well as chemical safety principles and common sense.

After the EU and a handful of other countries successfully pushed for global recycling exemptions for PentaBDE and OctaBDE in the Stockholm Convention, parties to the Convention requested an analysis of this practice by the POPRC. The consensus opinion of the POPs Review Committee clearly warned against the practice of recycling materials containing flame retardants.

“The objective is to eliminate brominated diphenyl ethers from the recycling streams as swiftly as possible. To meet this objective, the principal recommendation is to separate articles containing brominated diphenyl ethers before recycling as soon as possible. Failure to do so will inevitably result in wider human and environmental contamination and the dispersal of brominated diphenyl ethers into matrices from which recovery is not technically or economically feasible and in the loss of the longterm credibility of recycling.”^{viii}

As a party to the Stockholm Convention, the EU should follow this recommendation and apply it broadly to DecaBDE and all other hazardous substances. So far, the EU has not acted to require the removal of toxic substances before recycling. As a result, DecaBDE and other toxic flame retardants from e-waste are being recycled into food contact articles for sale and use in the EU.^{ix, x}

Now is the time for the EU to signal that a clean, effective, and sustainable circular economy does not include materials containing hazardous chemicals. We urge the Commission to consider the full impact of its decision and clearly oppose a recycling exemption for materials containing DecaBDE at the next face-to-face meeting of the Stockholm Convention POPs Review Committee in October.

Yours sincerely,



Jeremy Wates
Secretary General of the European Environmental Bureau (EEB)

On behalf of:

CIEL – Center for International Environmental Law
EEB – The European Environmental Bureau
IPEN
WECF – Women in Europe for a Common Future

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TEDX - The Endocrine Disruption Exchange, US
The Cancer Prevention and Education Society, United Kingdom
Wemos, The Netherlands

In view of the public interest in this matter, we intend to make this letter publicly available.

ⁱ In 2009, the EU pushed for an exemption in the listing of PentaBDE and OctaBDE in the Stockholm Convention that permits recycling of materials that contain these toxic chemicals until 2030. A subsequent evaluation of the policy by the POPRC recommended stopping this practice as soon as possible and 5th Conference of the Parties encouraged governments and other stakeholders to implement this recommendation. Later in 2013, the EU tried pushing for a recycling exemption for the flame retardant HBCD at the 6th Conference of the Parties, but governments rejected the proposal and it was withdrawn.

ⁱⁱ The POPs Review Committee (POPRC) is an expert committee of the Stockholm Convention that evaluates candidate substances for addition to the treaty and makes recommendations for listing to governments at the Conference of the Parties.
<http://chm.pops.int/TheConvention/POPsReviewCommittee/OverviewandMandate/tabid/2806/Default.aspx>

ⁱⁱⁱ Stockholm Convention (2014) Decabromodiphenyl ether Risk Profile
<http://chm.pops.int/TheConvention/POPsReviewCommittee/ReportsandDecisions/tabid/3309/Default.aspx>

^{iv} Stockholm Convention (2014) Decabromodiphenyl ether Risk Profile
<http://chm.pops.int/TheConvention/POPsReviewCommittee/ReportsandDecisions/tabid/3309/Default.aspx>

^v The draft highlights that “*the results of the Public Consultation do not indicate that the proposed restriction will have significant negative impacts on the recycling of plastic (and potentially textile) waste.*”:
https://comments.echa.europa.eu/comments_cms/SeacDraftOpinionDecaBDE.aspx

^{vi} https://comments.echa.europa.eu/comments_cms/SeacDraftOpinionDecaBDE.aspx

^{vii} Question 2 at https://comments.echa.europa.eu/comments_cms/SeacDraftOpinionDecaBDE.aspx

^{viii} Stockholm Convention POPs Review Committee (2010) Recommendations on the elimination of brominated diphenyl ethers from the waste stream and on risk reduction for perfluorooctane sulfonic acid (PFOS) and perfluorooctanesulfonyl fluoride (PFOSF), UNEP/POPS/COP.5/15

^{ix} Samsonek J, Puype F (2013) Occurrence of brominated flame retardants in black thermo cups and selected kitchen utensils purchased on the European market, Food AdditContam Part Chem Anal Control Expo Risk Assess 30:1976-1986
<http://www.tandfonline.com/doi/abs/10.1080/19440049.2013.829246>

^x Puype F, Samsonek J, Knoop J, Egelkraut-Holtus M, Ortlieb M (2015) Evidence of waste electrical and electronic equipment (WEEE) relevant substances in polymeric food-contact articles sold on the European market, Food AdditContam Part A Chem Anal Control Expo Risk Assess, 32:410-426