

Brussels, 26.05.2023

Joint statement by the European Environmental Bureau and ClientEarth on the U-PFAS restriction proposal to the RAC Committee

Dear Chair, thank you for the floor,
dear Members of the Committee,

The European Environmental Bureau and ClientEarth as civil society representatives would like to thank the Dossier Submitters for the great work they've done by preparing this proposal in a joint effort. We largely support the scope and the suggested restriction option as they support a high level of protection for human health and the environment. Safeguarding this high level of ambition is needed now more than ever considering the multiple planetary crisis humanity is currently facing, including the exceedance of the chemical pollution planetary boundary.

We would like to make three general comments to the attention of RAC members.

First, on the hazard assessment. The Annex XV dossier really well substantiates the hazardous properties of all PFASs, and, as a consequence, the need to ban them as a group. Their persistence, leading to potential irreversible pollution, should suffice on its own to justify strict regulatory action. In this regard, we appreciate that scientists, the Court of Justice of the EU (in the GenX case), but also RAC supported this reasoning in previous opinions. In the context of the PFAS in firefighting foams restriction for example, the members of this committee acknowledged that “the high persistence of PFAS in combination with other hazards present grounds for significant concern”¹. This also applies, in our opinion, to fluoropolymers and fluorinated gases.

Strong evidence of polluted water bodies, soil and air worldwide confirms that PFAS endangers the health and wellbeing of humans and the environment, not only theoretically based on potential hazards, but also in real life, already for decades and with probable long-term effects on future generations. A recent report has mapped thousands of polluted sites in Europe. PFAS are not only forever chemicals but also everywhere chemicals, as “The Forever Pollution Project” proves.

Industry tends to frame the PFAS groups of fluorinated gases and fluoropolymers as much more harmless than they are. Scientific evidence proves that representatives of these heterogenous groups are harmful, and that therefore they shall not be exempted from this restriction. The group approach proposed by the Dossier Submitter is the only right answer to uncertainties regarding the extent of the danger posed by these chemicals, the objective being to avoid regrettable substitution. Any

¹ Committee for Risk Assessment (RAC), Committee for Socio-economic Analysis (SEAC) – Opinion on an Annex XV dossier proposing restrictions on Per- and polyfluoroalkyl substances (PFAS) ECHA/RAC/RES-O-0000007226-75-01/F; Draft date: [16/03/2023]; (p. 11)

exemption of substances from the scope should therefore be strictly justified by the companies claiming the need for such derogations.

Fluoropolymers are a good example of chemicals posing a concern due to their hazards, because of, notably, their persistence, potential bioavailability, contribution to the formation of microplastics, as well as additional hazards visible throughout their lifecycle. Their problematic chemical entourage, including harmful substances such as PFAS processing aids, monomers, oligomer and synthesis by-products, is used and emitted in the production, use-phase and at the end-of-life treatment, which poses a risk to human health and the environment. It is critically important to take into account the risks throughout the entire life cycle, to grasp the full picture of its impact. This chemical entourage of fluoropolymers has given rise to important pollution scandals, for example in the Veneto region of Italy following heavy contamination by PFAS of surface and ground waters.

Therefore, it is more than right that the proposed restriction aims for a complete ban of PFAS use, a ban already required by the Chemical Strategy for Sustainability. We support the Dossier Submitters' understanding that the concerns which justify drastic regulatory action are not limited to the group of arrowhead PFAS and their precursors, but also apply to F-gases and fluoropolymers. Irreversible pollution justifies the most ambitious type of action, following the same line of thinking as the one applied in the microplastics restriction.

Second, concerning missing information in the dossier. The dossier rightly underlines the existence of data gaps, depending on the application, PFAS types and single substances. But despite those gaps, what we get from the publicly available data is a clear justification for concern. We would like to remind the Committee that the responsibility to reduce those gaps and uncertainties on the exposure and emissions of PFAS relies on the industry. In line with the basic principles of REACH regarding the burden of proof, industry alone is responsible for providing reliable and representative hazard and emission data. We see no reason to give them the benefit of the doubt, as long as available evidence confirms uncontrolled emissions and increasing environmental stocks of PFAS, with likely long lasting effects on the state of the environment and health of Europeans.

Third and finally, talking about the End of Life appears ironic in the context of PFAS due to their obvious persistence, but the End of Use of PFAS applications is a serious issue, which is in many facets not well understood yet. The fate of PFAS products and how their waste streams are actually managed is not well documented and promising safe treatment methods are not yet in place. What is however understood, is that recycling streams of e.g. metal articles that are coated with PFAS are contaminated and a potential source of uncontrolled emissions. Incineration is in the context of the Green Deal and its circular economy ambitions obviously no preferable treatment option. Even if this treatment method is more established so far, it does not come without risk, and the technology to safely destroy the limited volume of PFAS which can be collected and treated, is not in place yet.

We want to close our statement with the expression of our hope that the RAC committee, despite the challenges with respect to analysis and existing data gaps, contributes to set a milestone in the protection of human health and the environment by supporting the wide ban of PFAS proposed in the dossier.

Thank you very much for your attention.