

Brussels, 26.05.2023

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

Dear Madame Chair, thank you very much for the floor.

Dear Members of this Committee,

The European Environmental Bureau and ClientEarth as civil society representatives would like to thank the Dossier Submitters for the great work they've invested into preparing this proposal. We largely support the scope and the suggested restriction option which reflect the ambition to ensure a high level of protection for human health and the environment, in accordance with the Chemicals Strategy for Sustainability.

In line with the various scientific assessments made these past years, the Annex XV dossier describes in detail the grave environmental and health risks posed by these chemicals. PFAS have been at the centre of the biggest environmental scandals in the EU these past years. PFAS are not only forever chemicals, they're also everywhere chemicals: 17,000 polluted sites all over Europe according to "The Forever Pollution Project". A wide restriction as proposed by the Dossier submitter is therefore not only urgently needed and expected, but also the only way to address the already extensive and largely irreversible pollution caused by this group of chemicals.

The assessment of this restriction will be challenging from a socio-economic perspective, given its wide scope both in terms of substances and uses covered. A broad scope restriction might have large financial stakes, justified in some instances, but also largely overestimated by the various manufacturers of PFAS, who have been extremely vocal in the past months, contesting the disproportionate burden that this ban would put on their industries. However, the costs of continuing business as usual and the benefits of eliminating the use of PFAS are much higher. As the Court established on various occasions, the financial burden for companies of a restrictive measure cannot alone take precedence over the broader protection of health and the environment.

As previous restriction processes have shown, it is easier to monetize costs for industry than to monetise societal benefits. The ECHA framework on how to conduct a SEA shows that both quantitative and qualitative approaches are needed to best represent the impacts of a complex restriction like the PFAS one. We are confident that the new guidance on qualitative methods to socio-economic assessment will also help SEAC members in assessing all – present and future - impacts, whether economic, social, health or environmental, of banning PFAS across sectors.

Economic impacts of PFAS do not only include the mentioned remediation and health related costs due to continued exposure, but also the costs for the member states of monitoring pollution, providing soil and water decontamination efforts, relocating people from heavily polluted sites and implementing resource intensive administration of the issue on a national level. These costs might

become even higher over time. The price to local communities, for example related to financial losses to farmers and fishers due to contaminated harvest, and the expected claims for compensation, already launched by victim groups in several countries, should also be scrutinised. The list is long.

Regarding benefits, we want to encourage SEAC to take due consideration of the positive societal impacts of this restriction, in terms of avoided additional exposure to new or increasing emissions, boosting innovation and profits for alternative providers, as well as creating the conditions for a flourishing toxic-free circular economy, once the material streams have been cleaned-up from new PFASs.

We would also like to comment on the possible derogations to this restriction, which will be assessed by SEAC.

First, given the irreversibility of the damage caused by PFAS emissions, we want to remind the Committee that derogations should remain exceptional, time-limited and justified, that is only for uses for which no alternatives are available and that are critical for society. The burden to substantiate, with reliable and verifiable evidence, the need for a derogation should strictly rely on the companies requesting them, in line with the basic principles of REACH Article 1.

As for the late requests for derogations, meaning they were not submitted to the dossier submitters and therefore not assessed by them, we would invite SEAC to treat them very strictly. While preparing the dossier, the five member states have conducted in-depth research and consultations, providing many opportunities to both companies and independent experts to provide information on possible derogations. Yet, we are already seeing industry statements in the press regarding missing derogations, for example for seals, for membranes in fuel cells, for PFAS in solar cells and for ionic liquids in batteries. All of these uses are neither proposed as derogations nor as bracketed derogations in the current dossier. They should therefore only be considered as relevant if industry brings strong evidence of their necessity.

As the Court of Justice of the EU settled, restrictions on the placing on the market are the most effective measure for achieving the REACH objective. Any exemption should therefore remain exceptional or it may risk depriving the final measures of their effectiveness.

Thank you very much for your attention.