

ECHA European Chemicals Agency

Submitted via online consultation form

Economic Policy

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Position and consultation contribution regarding PFAS restriction

Dear Madam, dear Sir

Swissmem is the leading association for SMEs and large companies in the tech industry of Switzerland. Swissmem promotes the national and international competitiveness of its 1,350 member companies in this sector through effective representation of their interests, needs-based services, targeted networking, and market-oriented training and continuing education of employees.

The Swiss tech industry is a multifaceted and innovative sector that offers high-performance solutions in all areas of life and the economy. It generates about 7% of the gross domestic product of Switzerland (2022) and thus occupies a key position in the Swiss economy. With around 325,000 employees (approx. 16,000 vocational trainees), the sector is the largest industrial employer in Switzerland and accounts for 26% of total goods exports with exports worth CHF 72.3 billion. 57% of the goods exported by the Swiss tech industry are exported to the EU.

Effects on Swiss industry interlinked with EU industry

Even though the legislation REACH does not directly apply to Switzerland, Swiss industry is very affected by its regulation. This is because Switzerland has transposed the most important pillars of REACH into national law and is adapting continuously to the current status. In addition, Swiss tech industry is to a great extent part of global and especially European value chains where European customers are dependent on Swiss technology, and vice versa.

Strong concerns regarding the restriction proposal

Swissmem and our members fully support the regulation of emissions from hazardous substances that pose a risk to the environment or human health. It is with great concern however that we follow the development of the restriction dossier on the substance group of PFAS. This has several reasons:

- We strongly oppose the hazard-based approach driven in this restriction dossier. The goal of chemicals legislation should be to protect human health and the environment from proven, science-based risks that occur in combination with specific use and exposure due to emissions of hazardous substances.

- No thorough impact assessment has been conducted for all sectors. Sectors not evaluated in detail are being overlooked which leads to the risk of value chain distortion and moving to other economic areas.
- Certain sectors such as mechanical engineering or chemical production (including plant engineering) have been mentioned initially in the Annex on manufacture and use (table A.12) but have been ignored in the restriction dossier. The sector of mechanical building technology has for example not been mentioned once. Some sub-uses have also not been considered such as fluoropolymer applications under high voltage or sealing applications in the energy sector.
- A broader approach for some derogations is needed as besides final products, many industries heavily rely also on important processing aids, engineered fluids, coating, washing or packaging applications. Otherwise, most of already proposed exemptions for 'end products' would become obsolete.
- Some PFAS applications are essential and today with no alternatives to achieve sustainability goals such as climate neutrality, energy efficiency or circular economy. For some applications, even if alternatives exist, they will entail a large step backwards regarding efficiency. One example for this are PTFE for ball valve sealing for HVAC valves in building technology which allow for a much more energy efficient flow control of heat, air, or water. In addition, several alternatives listed in the documents do not meet the technical requirements in the respective industrial context. The technical feasibility of alternatives is overestimated in many cases.
- Spare parts, maintenance, refurbishment, and second-hand articles must be exempted from the restriction to not compromise the sustainability goals in circular economy and not producing unnecessary waste. The restriction might make design changes necessary, which will impede the circularity and extended lifetime of products already in use.
- Fluoropolymers and fluoroelastomers as "PFAS of low concern" according to the OECD should be exempted from the restriction. Risks in other phases of their lifecycle should be addressed with suitable measures such as industrial emissions threshold, requirements for the disposal of the material or even a waste label.
- A general transition time of 18 months is by far too short. Several years are usually needed to implement new processes once alternatives are known and proven to be workable. The complex value chains and approval procedures (of official institutions but also of clients) have to be taken into account.
- A mechanism should be put in place to prolong exemptions as it cannot be predicted when workable alternatives are available. One example for this is the semiconductor industry that is foreseen for a (much needed) exemption: The technical requirements of the sector are such high in terms of acid resistance, temperature resistance, material stability (in order to avoid impurities), tribological properties etc. that it is highly questionable that an alternative material to PTFE will ever be found.
- It is questionable that alternatives will be found in all applications (which is the ultimate goal of the restriction proposal) due to physical and chemical reasons.
- Proposed alternatives in some cases turn out to be worse in other aspects. For example, they may show lower lifetime, more abrasion or are less safe.

Downstream users' situation within complex value chains

Even though trying to compile as much information as possible within the timeframe of the stakeholder consultation and even before, it is difficult for downstream users to know which

PFAS is present in which parts. PFAS are for example used as flame retardants in plastics which is mostly a business confidentiality of plastics producers. Actors of the mechanical engineering sector have no chance to know about such ingredients. Therefore, there is a need to ensure a mechanism for cases where no alternative is available and for newly identified (currently not recognized) uses of PFASs to ensure continued access to essential technologies.

Where the presence of PFAS is known, companies often have searched for alternatives due to cost efficiency reasons: The PFAS used for technical reasons are usually expensive materials. Where the presence of PFAS has just recently become known, it was impossible to conduct representative studies on alternatives in the timeframe of the consultation.

Derogations needed

Amongst the foreseen derogations (5.a to 5.t and 6.a to 6.f) the following derogations have been mentioned by companies to be needed:

- 5.g, 5.h, 5.k, 5.n, 5.o, 5.r, 5.s, 5.t, 6.a, 6.b, 6.c, 6.d, 6.e, 6.f

In addition, the following potential derogations have shown to be essential:

- 5.v, 5.w, 5.x, 5.bb, 5.cc, 5.ee, 6.g, 6.j, 6.l, 6.n, 6.o.

The derogation for semiconductor manufacturing should be broadly understood:

- 5.ee semiconductor manufacturing process: including e.g. installations, equipment, products, materials, additives, and process chemicals

(This does not imply that other derogations are not needed.)

Additional derogations to be foreseen

According to the information from companies in the European value chains, specific derogations are needed for:

- applications of fluoropolymers in sealings application for the energy sector (equal to the derogation for fluoropolymers in the "petroleum and mining" sector).
- applications of fluoropolymer affecting the proper functioning related to the safety of energy systems and affecting the safety of operators, the environment or infrastructure related to energy systems.
- applications of fluoropolymers under harsh conditions (such as aggressive chemicals, high temperature range, high friction, etc.) or for special conditions (e.g. handling of ultrapure water)
- applications of fluoropolymers for sealing for applications where no alternative exists.
- applications of fluoropolymers where alternatives exist but lead to less efficient solutions regarding energy or material use (e.g. energy efficiency in building technology) or have other negative properties (e.g. regarding human or environmental toxicity).
- applications of fluoropolymers in mechanical engineering such as sealing, bearings, valves, linings, coatings, cleaning solvents, solid lubricants and others

Longer derogation times strongly needed

For all the mentioned derogations, finding a technically and economically feasible alternative is only the first step: Adaptations of technical processes, adjustments within the complex value chains and in some specific approval processes are then needed. This takes several years, in

addition to the years of research to find an alternative. Therefore, derogation times needed are in most cases at least 13.5 years. Many companies indicate that the proposed derogation time is far too short regarding their development and product cycle.

Tremendous negative impact feared for Europe

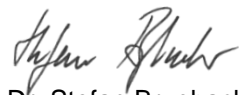
With the information available to us, we conclude that the PFAS restriction as proposed now would have a tremendous negative impact on various value chains within Europe. Some sectors, uses and many sub-uses have not been taken into account properly or not been evaluated in detail.

Complementing the above position, we are in support of the positions of the following organisations in development or already submitted (non-exhaustive list):

Orgalim, ZVEI, VDMA, FEC, T&D Europe, Europump, Semi Org, Euralarm, VDW, BDI

Thank you for considering our position and the information submitted.

Yours sincerely



Dr. Stefan Brupbacher
Director



Dr. Christine Roth
Head Environment Policy

Enclosures

- Excel sheet of Swissmem reply to the stakeholder consultation
- 24 supporting documents provided by our member Levitronix (Levitronix study plus references in the area of semiconductor industry)