



Re: A Chemicals Strategy for Sustainability - International Aspects

July 3rd 2020

Dear Ms de Avila,

We welcome the EU initiative to develop a Chemicals Strategy for Sustainability and the commitment to promote the highest standards of environmental and health protection globally. As a group of NGOs working on international chemicals policy, we call on the EU to ensure strong and coherent action at the global level, in the Chemicals Conventions and SAICM, as well as through EU regulations affecting especially developing countries and countries with economies in transition.

While we welcome the EU's initiative to address international chemicals management and policy in the Chemicals Strategy, much more needs to be done to protect human health and the environment outside the EU. Part of this action must take into account the EU's global chemical footprint, including the negative consequences of EU exports, EU-produced chemicals, and waste in non-EU countries.

We hope that the EU Commission will effectively implement the goals of the European Green Deal concerning a toxics-free environment. It is high time for the EU to take the lead once again and ensure a toxic-free future for all worldwide.

We recommend to include our proposed aspects in the Chemicals Strategy for Sustainability. The proposal is attached.

We are happy to discuss this with you in an online meeting.

Best regards, on behalf of the whole group
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Joint NGO suggestions to strengthen the international aspects of the EU Chemicals Strategy for Sustainability

EU CHEMICALS AND WASTE EXPORTS: DOUBLE STANDARDS

- There is a growing concern among European and non-EU NGOs that the EU chemicals policy does not prevent the hazardous chemicals contamination outside of the EU. A number of practices especially relating to waste exports largely contribute to the spread of toxics worldwide. One of the major routes of toxic chemicals contamination is the export of waste. Currently, the waste is exported through both legal and illegal means and is comprised of plastics, electronics, and automotives. This can create difficulties, especially in the case of electronics, where items are exported to countries with little or poor capability for their safe management. Prohibit the export of waste containing hazardous chemicals through EU regulations and international standards. Further promote very strict regulations to stop EU waste export that is mislabeled as “used products” or “materials intended for recycling.”
- Develop legislation that guarantees that the same standards and regulations in the EU are implemented and followed when chemicals and products are exported to other countries, especially low- and middle-income countries (LMICs). Waste should not be exported outside of the EU, especially in the name of aid.
- Strictly enforce the EU’s legislation and promotion of the highest standards of environmental and health protection globally to ensure the safety and sustainability of chemicals and products imported into and exported from the EU.
- Require transnational EU companies with businesses in LMICs to adhere to EU regulations for the export and manufacturing of chemicals that are not permitted in the EU. Regulations should require greater accountability and transparency for these businesses. Monitor the export of chemicals and waste to other countries, but particularly LMICs, where the EU registration of exemptions under the Stockholm Convention has been withdrawn, where use and disposal is not permitted, or where there are bans.
- Ban the exportation of substances that are prohibited, for which the EU registration has been withdrawn, or use and disposal is not permitted, or substances on the SVHC list—substances that are harmful in the EU are not safer outside of Europe.

- Regulations in the EU should adhere to a rights-based approach for citizens of the EU and citizens of low- and middle-income countries (LMICs) the EU exports chemicals and products to.
- On pesticides:
 - Prohibit EU production and export of pesticides that have been banned in the EU for health and environmental reasons.
 - Strongly advocate for a global agreement to end all production and use of Highly Hazardous Pesticides.
 - Prohibit the importation of food with residues of pesticides that have been banned in the EU or severely restricted due to harmful effects on human or animal health or unacceptable effects on the environment.

PLASTIC: CHEMICALS ADDITIVES

Every stage of the life-cycle of plastic involves hazardous chemicals, which threaten human health, the environment, biodiversity, and the climate. Therefore, non-essential uses of plastics must be phased out, and the remaining plastic produced in a way that does not cause harm. The EU should lead the way by banning non-essential uses of plastics and the use of hazardous chemicals in plastic.

- Consider a tax on plastic that contains toxic chemicals in order to achieve the ambitious recycling goals set in the Circular Economy Action Plan. The overall burden lies in the fact that clean materials are much more expensive, and the price of plastics containing hazardous chemicals does not take into account the external costs connected with their adverse effects on human health and the environment.
- Label products that are both used in and exported from the EU, indicating the presence of toxic chemicals, health risks of use, and guidance on how consumers can prevent exposure.
- Develop and enforce broad bans against Per- and polyfluoroalkyl substances (PFAS). PFAS are “forever-chemicals” that already contaminate humans and the environment around the world. Increasing evidence shows that they all have similar toxicity profiles of endocrine (thyroid hormone) disruption and liver-related damage. Short-chained PFAS have been used as regrettable substitutes and are virtually impossible to remove from contaminated drinking water. Given the longevity of PFAS, several steps are warranted—the cost of contamination and exposure greatly exceed the cost of the industry switching to safer alternatives. First, the EU should ban the use of PFAS as a group and promote a group restriction globally through the Stockholm Convention. Second, producers should recall products containing PFAS and ensure their safe destruction.

RECYCLING WITHOUT TOXIC CHEMICALS

Our primary concern is the persistent organic pollutants (POPs) and their continuous presence in material cycles. Where waste cannot be reduced, recycling is the preferred option for the management of waste. Still, it must not lead to the recycling of substantial volumes of toxic chemicals without any further control mechanism – limits for recycled products must be set at the same level as virgin products (e.g., trace contamination of Polybrominated diphenyl ethers (PBDEs) at a level of 500 ppm should not be acceptable in recycled products. The current limits for PBDEs in both recycled products and wastes do not prevent further contamination of consumer goods with these harmful chemicals. New limits should be established and internationally promoted at levels defined as health and environment protective).

- Set limits for toxic chemicals that are based on the prevention of food chain contamination and/or health protection, rather than the economic interest of industry or waste management capacities (specifically such limits are for: PBDEs 50 ppm, HBCD 100 ppm, SCCPs 100 ppm, PCDD/Fs + dl PCBs 1 ppb). Apply these same standards and limits for POPs in recycled and virgin products.
- Regulate brominated dioxins in the same way, and with similar limits, as their chlorinated twins, as they exhibit the same levels of toxicity.
- Promote the rapid listing of brominated dioxins under Annex C to the Stockholm Convention as many PBDD/Fs releases into the environment remain unregulated and are even not recognized.
- Establish strict limits for trace contamination in products.
- Ban the use of waste containing dioxins and dioxin-like compounds above 0.05 ppb for any applications including base layers for road construction without any pretreatment.
- Promote and support alternative technologies for POPs-containing waste within the EU as well as globally, rather than waste incineration or co-incineration in cement kilns (for example, the use of Gas Phase Chemical Reduction (GPCR), Alkali Reduction, BCD or Supercritical Water Oxidation (SCWO) seems to prevent creation of unintentionally produced POPs during waste management).

MERCURY

- Commit to strengthening the Minamata Convention by broadening the scope of products and industrial processes where mercury should be phased out as well as sources of emissions.
- Support programs of just transition to sustainable new livelihoods for women and men working in artisanal small-scale gold mining to prevent them from using and being exposed to mercury.

SAICM, STRATEGIC APPROACH AND SOUND MANAGEMENT OF CHEMICALS AND WASTE BEYOND 2020

- Support a SAICM successor that includes a mechanism of work on new and already recognized issues of concern that should provide roadmaps, targets, milestones, and indicators, and should have sustainable and sufficient funding for implementation. It should include concrete risk elimination or risk reduction measures and it should ensure full public engagement. The mechanism should also include to move the issues of concern on which no sufficient progress has been achieved to a level with increased obligations.
- Commit to a global overarching chemicals policy framework that includes the following: 1) combined mandatory national action plans for all chemicals and waste conventions, including SAICM and its successor; 2) ensures strong enforcement, transparent, and fair stakeholder participation at the national, regional, and international levels; and 3) contains mandatory reporting and evaluation mechanisms.
- Reform the Special Programme to reduce the bureaucratic burden and make it eligible for NGOs to apply. Provide to projects where public engagement is clearly identified.
- Establish a global fund for exposure reduction to internalize the cost of polluting industry and to raise funds for remediation, capacity building, awareness-raising, and implementation of projects on chemicals and waste.
- Ensure adequate, predictable, and sustainable financing that includes a significant cash contribution from the chemical industry obtained through a coordinated national tax on basic chemicals.

- Leverage the EU's presence in the World Health Organization (WHO) governing bodies to support Participation of the WHO in SAICM, as outlined in paragraph 29, the SAICM Overarching Policy Strategy, and significantly strengthen engagement of IOMC organizations through detailed plans of action.

EXTENDED PRODUCER RESPONSIBILITY

- Require that companies adhere to EU producer responsibility standards and regulations, even when their companies are operating in LMICs, as exporting hazardous chemicals strains regulatory infrastructure in low- and middle-income countries, endangering human health and the environment. Such requirement would also increase safer chemicals substitution, as building an export business on banned chemicals disadvantages greener substitutes.
- Require companies to pay for cleanup operations when accidents and spills occur. Support adoption of decisions under the Basel Convention to close the current loopholes that exist e.g., exports of e-waste that can be "repaired."

TRANSPARENCY IN SUPPLY CHAINS

- Include obligatory disclosures of hazardous chemicals in consumer products throughout the life-cycle in place, including imported and exported ones.
- Expand the SCIP database globally.
- Clearly differentiate and disclose what is confidential and non-confidential business information, extending these rules to EU companies based in LMICs.

INTERNATIONAL ASPECTS OF REACH

- Extend the REACH authorization processes to cover imported articles.
- Take into account the risks generated in third countries and posed by substances under the authorisation and restriction processes as determined in REACH assessments.
- Apply REACH provisions to substances, mixtures, and articles exported to third countries.

STOCKHOLM CONVENTION ARTICLE 3 IMPLEMENTATION

Article 3, paragraphs 3 and 4 of the Stockholm Convention: is essential to prevent regrettable substitution and remove existing substances with POPs properties from the market. Denmark, Luxembourg, Norway, and Sweden have provided similar reasoning for prohibiting PFAS substances as a class, and this would serve as an appropriate case study. The EU should set a positive example of how this part of the treaty should be implemented and reported on.

- Use modeling, existing data, and other techniques to prevent the production and use of new pesticides or industrial chemicals with POPs properties.
- Use modeling, existing data, and other techniques to remove pesticides and industrial chemicals with POPs properties from the market.

- Report on the implementation of Article 3, paragraphs 3 and 4 to Conferences of the Parties.
- Use the prohibition of PFAS as a class as a case study of Article 3 implementation.

OPERATIONALIZING THE POLLUTER PAYS PRINCIPLE GLOBALLY

Chemicals present a particular difficulty in operationalizing the polluter pays principle, and much of the pollution from chemical products manufactured in the EU occurs outside its borders. Those who manufacture products that carry persistent and non-transparent risk must be thought of as polluters, within the ambit of TFEU art. 191.

The Commission's second REACH Review found that only 70% of ECHA funding was coming from fees paid by industry and that this revenue was expected to drop sharply after 2020.

- Support global initiatives to implement the polluter pays principles to the chemical sector through the Chemicals Strategy for Sustainability. Until such a global taxation system is established, the should EU implement a broad-based tax on production or sales of chemicals. Some of the funds should go towards funding ECHA, while some of the funds should supplement existing EU contributions to multilateral efforts for safe chemicals and waste management in countries without present capabilities.