6-point plan towards a workable REACH restriction proposal for PFAS

FPP4EU
FluoroProducts and PFAS for Europe

On 7 February 2023, the European Chemicals Agency (ECHA) published the REACH restriction proposal prepared by the competent authorities of Norway, the Netherlands, Sweden, Denmark and Germany. With over 10,000 substances potentially facing a ban, this restriction proposal is likely to affect a wide range of products, from pharmaceuticals and medical devices to renewable energy and technical engineering, that use PFAS at some point in their value chains.

FluoroProducts and PFAS for Europe (FPP4EU), the Cefic sector group representing manufacturers and users of PFAS, understands concerns around the use of these substances and supports a balanced regulatory action on PFAS. To ensure a practical and enforceable implementation of this restriction, we believe that 6 key elements should be addressed:

1 IMPROVE THE UNDERSTANDING OF PFAS USES TO PREVENT SUPPLY CHAIN DISRUPTIONS AND ELMINATION OF IMPORTANT PRODUCTS AND APPLICATIONS

The current proposal, whilst detailed, reflects only a fraction of the current uses of PFAS. There is no existing tracking system that provides information about PFAS along the whole supply chain. Many product manufacturers may unknowingly place on the market non-PFAS containing products that rely on PFAS in their production process.

WHAT DO WE THINK?

FPP4EU will compile a non-exhaustive list of generic uses not covered by the proposal and identify potential impacts this restriction may have on some (currently unforeseen) critical uses. As stakes are high for many applications and there are no alternatives currently identified for many uses of PFAS, we also ask the authorities to allow sufficient time to hear all concerned stakeholders, clarify data requirements, and ensure adequate time to review all data.

2 EXEMPT PFAS USED IN INDUSTRIAL SETTINGS

The properties of many PFAS substances are often the reason that they are used. They can withstand harsh conditions such as high voltage and temperatures, corrosiveness or chemical interactions. It means that they are absolutely crucial to use in pipes and vessels transporting highly corrosive chemicals or solvents, to prevent accidents and protect workers. For example, PFAS coating is key for the safe transport of liquid hydrogen, protecting the integrity of the pipes from the degradation of mechanical properties.

WHAT DO WE THINK?

FPP4EU asks to consider an exemption for those PFAS used in industrial settings, potentially with additional reporting and management plan obligations to ensure emissions from the use of PFAS are minimised.

3 WHEN ASSESSING PFAS, KEEP THEIR DIFFERENCES IN MIND

The list of PFAS includes over 10,000 substances. Not all PFAS are equal, many have very different properties and they do not all have the same effects on health and environment.

WHAT DO WE THINK?

FFP4EU has designed a decision tree that provides elements that can be considered when discussing exemptions. It includes a risk assessment phase which takes into account that PFAS can have completely different hazard profiles.

4 ADDRESS ECONOMIC IMPACTS OF THE PROPOSAL ALONG THE ENTIRE VALUE CHAIN

The current proposal addresses the use of PFAS in the final products and applications as well as the use of PFAS in the manufacturing stage. Restricting uses of certain PFAS may have knock-on effects on non-restricted uses of the same PFAS substances or products produced with them, as a low production volume may not justify continued manufacture. This could result in these non-restricted or exempted products disappearing in European value chains. Some companies may go out of business if they can't use PFAS to manufacture their products within the EU, even in some cases where the products do not even contain a PFAS.

WHAT DO WE THINK?

FPP4EU proposes an impact assessment is undertaken to establish the financial implications of the restriction proposal.

5 CONSIDER THE IMPORTANCE OF PFAS IN ACHIEVING THE EUROPEAN POLICY OBJECTIVES

Some PFAS substances are indispensable to reach the objectives set out in various EU policy initiatives such as the EU pharmaceuticals strategy, the new Industrial Strategy, the European Chips Act, the EU Strategic Action Plan on Batteries or the EU strategy on hydrogen, just to name a few. For instance, applications such as electric vehicles, renewable energy production, energy storage or hydrogen pipes, rely on the performance and functionality of PFAS. While the search for alternatives may accelerate, the typical time scale of the R&D process – from discovery to commercial scale up – is at least a decade, especially for high-end sophisticated applications.

WHAT DO WE THINK?

It is vital to allow sufficient transition time to search for and test the potential alternatives in Europe that offer the same combination of properties, but may have a better environmental footprint.

6 ENSURE THE PFAS RESTRICTION IS ENFORCEABLE

Evidence has shown that imported goods are the largest source of non-compliance with EU chemicals and product safety laws. Enforcing a restriction targeting thousands of substances will be very challenging and extremely difficult to achieve.

WHAT DO WE THINK?

To better enforce the PFAS restriction, FPP4EU would recommend to:

- Standardise and fund development of analytical methods to detect PFAS in products and consider the availability of these methods when setting transition periods.
- Put in place measures and processes to improve the enforcement of the restriction at the borders.

About FPP4EU

FluoroProducts and PFAS for Europe (FPP4EU) is a sector group of Cefic (the European Chemical Industry Association). The group represents producers, importers and users of the many potential substances that fall within the broad definition of PFAS.

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