Government Offices of Sweden

Memorandum

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An ambitious chemicals strategy for a toxic-free environment is urgently needed

We welcome the Commission's initiative to develop a chemicals strategy for sustainability within the zero-pollution ambition for a toxic-free environment and the ideas put forward in the roadmap published on 9 May 2020. We look forward to a strategy that delivers on the commitments made in the 7th EAP and ensures a high level of protection of human health and the environment. The strategy should provide the structure for and outline an integrated EU chemicals policy to help governments and stakeholders to efficiently manage chemicals **across all relevant legislation and policy areas**.

As pointed out in the roadmap, the chemicals strategy will support a large number of Commission priorities in the years to come. We believe that an ambitious chemicals strategy is key to successfully implementing some of the most important parts of the European Green Deal: it is not only crucial for the zero pollution ambition but also for parts of the new Circular Economy Action Plan, the Farm to Fork strategy, the strategy for biodiversity, and the Green deal diplomacy. It also contributes to the fulfilment of the UN Sustainable Development Goals.

In addition, as identified in the roadmap, the chemicals strategy has a role to play in the current COVID-19 crisis and its aftermath: from an economic perspective, the strategy can – to borrow the words of President Van der Leyen – be used as a "compass" for the allocation of investments (e.g. in less hazardous chemicals, in non-toxic and easily recyclable materials)[1]; from a health perspective, the strategy should address chemicals that are known to weaken the immune system (e.g. certain endocrine disruptors or PFASs[2]).

The strategy needs to be implemented through short- and long- term actions, with a focus on outcomes and accounting for the need to protect the most vulnerable groups,

[1] See https://www.euractiv.com/section/energy-environment/news/green-deal-will-be-our-motor-for-the-recovery-von-der-leyen-says/ [accessed on 13 may 2020].

[2] Per- and polyfluoroalkyl substances.

such as children, pregnant and breastfeeding women, and other specific groups (e.g. workers, the elderly, and people with chronic diseases).

In light of the challenges and goals identified in the roadmap, we believe the issues and priority actions identified in a previous Swedish position paper (attached as Annex I) remain very relevant and should be taken into account when developing the strategy[3].

In particular, we would like to draw the attention of the Commission on the following elements, which are of particular interest to us given the goals and initiatives already outlined in the roadmap.

Phase out substances of very high concern

One of the actions envisaged under the Circular Economy Action Plan[4] is to minimise the presence of substances that pose problems to health or the environment in recycled materials and articles made thereof. This is indeed key to achieving a well-functioning circular economy, which protects human health and the environment. A prerequisite to this action is to accelerate the phasing out of substances of very high concern.

The Commission should therefore develop a chemicals strategy with concrete measures and principles for phasing out substances of very high concern. In particular, the Commission should:

- Take decisions, at the latest by 2030, to **end the use of substances of very high concern**[5], to the extent possible, in all areas of use and across all relevant legislations.

- Develop a mechanism, at the latest by 2025, that ensures that when a substance has been **identified to be of very high concern in one** legislation, a **revision of all other relevant legislations is triggered**[6]**.** This connects to the principle of "one substance, one assessment" as proposed in the European Green Deal.

- Further explore regulatory measures for **grouping approaches** to effectively handle the large number of hazardous substances and **ensure substitutes are not of equal or greater concern**.

[3] The memo for a non-toxic environment strategy (Annex I) emphasizes the need to (i) ensure that information on the chemical content of materials and products is available throughout the product's lifecycle; (ii) accelerate the phasing out of substances of very high concern in products, including imported ones; (iii) efficiently manage chemicals across legislation and policy areas; (iv) minimise the total exposure to chemicals with a particular focus on protecting children and other vulnerable groups; (v) support the development of less hazardous chemicals and products.

[4] See Circular Economy Action Plan, page 17, accessible at https://ec.europa.eu/environment/circular-economy/pdf/new_circular_economy_action_plan.pdf

[5] Substances of very high concern (SVHCs) are defined as substances fulfilling the criteria listed under Article 57(a) through (f) and Annex XIII of the REACH Regulation.

[6] For instance, the Food contact materials legislation should have links with the legislation identifying substances of very high concern such as the REACH and POPs regulations.

- Ensure that the implementation of the authorisation and restriction procedures under Reach act as **strong drivers for substitution**. Ensure that the derogation on negligible risk under the biocides legislation is interpreted in a strict manner and that the definition of negligible exposure in the pesticides legislation is kept. The authorisations and derogations should remain exceptions that are only granted in **very limited cases and for specific uses**.

- Ensure that for active ingredients in plant protection products, the **cut-off criteria** apply, even for metabolites, and that the provision regarding the derogation for negligible exposure continues to be **linked to exposure and not to risk**.

Stimulate safe design and non-toxic material cycles for an innovative circular economy

As pointed out in the roadmap, chemicals can play an important role to develop and deploy technologies necessary to achieve a circular and climate-neutral economy.

We agree and we believe that the transition to circular economy requires addressing and reducing the chemical risks to human health and the environment from new as well as legacy chemicals. This includes ensuring safe design, having information on substances of concern in materials and products (throughout the whole life cycle, including the waste stage), and applying the same requirements to both virgin and recycled material. Designing "safe" chemicals, materials and products/articles could also boost the competitiveness of the EU industries on the global markets and put them at the forefront in terms of innovation.

In this context, the Commission should:

- Ensure that safety aspects, such as minimising toxicity and examining non-chemical alternatives, are considered already **in the design phase of all chemicals**, **materials and products**, in particular for nanomaterials and other advanced materials. The concept "safe and sustainable by design" may be interesting but it requires further clarification and development as its definition is still unclear (and, also, the links to the principles of Green Chemistry could be explored).

- Address **more substances than those identified to be of very high concern**. Thus, develop a definition of *substances of concern* in line with the discussions in the Commission's Staff Working Document concerning options

to address the interface between chemical, product and waste legislation[7] as well as the ensuing consultation[8].

- When the database for Substances of Concern in Products (SCiP)[9] is operative, **expand the scope** of the database to include the above-mentioned *substances of concern*.

- Ensure that virgin and recycled materials are subject **to the same chemical requirements** to promote safe material cycles. Similarly, to avoid contamination of recycled materials through imports, appropriate regulatory measures should be taken to ensure that imported articles/products from outside EU are subject to the same requirements as EU-produced articles/products, in line with the European Green Deal.

- Investigate possible instruments and measures to ensure that articles/products purchased by consumers through **e-commerce marketplaces**, (stationed within as well as outside EU), are safe. A first step could be to extend the Safety pledge[10] to additional market platforms.

- Retain the principles of **comparative assessment and substitution** in the plant protection regulation to drive the agricultural sector towards innovation and use of safer products for human health and the environment.

Address existing policy gaps

As pointed out in the roadmap, recent evaluations and fitness checks have identified several policy gaps in the EU chemicals legislation that should be addressed by the chemicals strategy on sustainability.

The Commission should:

- Update the **information requirements** for endocrine disruptors (EDs) in all relevant legislations in order to improve the identification of EDs. Develop a horizontal approach to establish **scientific hazard-based criteria** for the identification of EDs across EU legislations to ensure consistency, legal clarity and to avoid ambiguity (see the Swedish input provided in the ED fitness check).

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[7] Commission´s Staff Working Document on the implementation of the circular economy package: options to address the interface between chemical, product and waste legislation (2017): https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018SC0020&from=EN

[8] The summary of the public consultation on the interface between chemical, product and waste legislation is available at https://ec.europa.eu/info/consultations/public-consultation-addressing-interface-between-chemical-product-and-waste-legislation_en

[9] SCiP is the database for information on Substances of Concern In articles as such or in complex objects (Products) established under the Waste Framework Directive (WFD). For a full description of the SCiP database, see https://echa.europa.eu/sv/scip-database

[10] The Product Safety Pledge is a voluntary commitment of online marketplaces to take specific actions with respect to non-food consumer products sold online by third parties.
https://ec.europa.eu/info/sites/info/files/voluntary_commitment_document_4signatures3-web.pdf

- Make potentially fundamental changes to the **information requirements** in REACH, e.g. in the context of the Commission's reviews for **low tonnage substances** and **polymers** for registration (e.g. fluorinated polymers). Further, the Commission should make a comprehensive review of integrated testing strategies for health and environment endpoints and address the need for changes to the information requirements covered in REACH Annexes VII-X (including for mutagenicity and reproductive toxicity testing).

- **Develop a PFAS-strategy** to address the large group of fluorinated substances. PFASs should be managed as a group and only uses essential for society, which can be strictly controlled, should be allowed, i.e. only where and when alternatives are unavailable and until suitable alternatives become available.

- By 2021, introduce a mixture assessment factor to **account for combination effects** of different substances in relevant chemicals and emissions legislations. The REACH Regulation, which covers ~22 800 registered chemicals[11] placed on the market, is a good starting point for applying such a factor to address the risks from combined unintentional exposure.

- Develop an action plan[12] to prevent and **minimise incidences of allergies caused by respiratory and skin sensitizers**. The strategy should include regulatory and other possible complementary measures. Chemical substances causing respiratory and skin sensitization need to be efficiently addressed across legislations since they are used in a variety of products and therefore covered by various legislations but not regulated in the same way. The occurrence of, for example, skin sensitizers in personal care and household cleaning products causes actual problems for EU citizens, which need to be addressed as a matter of urgency.

- Develop an **early warning system** on a European level based on e.g. environmental and human screening and monitoring, effect screening methodologies and data base screening to identify new emerging pollutants in a systematic way at an early stage.

[11] See ECHA website https://echa.europa.eu/sv/information-on-chemicals/registered-substances [accessed on 13 May 2020].

[12] Finland has successfully developed a Finnish Allergy Program to minimise the incidences of allergies in the population that could be used as an inspiration. It involves collaboration between different institutes and organisations where exposure to chemicals is one of many factors looked at. http://www.allergiaterveys.fi/fi/allergiaohjelma/finnish-allergy-programme-2008-2018.html

Global actions

In the context of its "Green deal diplomacy", and following the Commission's observation on the fragmented management of chemicals at global level[13], the EU should take action on a global level to ensure a renewed global agenda for chemicals and waste beyond 2020 that:

- includes a mechanism to identify and address substances and group of substances that are of international concern,
- ensures that information on hazardous chemicals in products is available throughout supply chains,
- supports the adoption of requirements on generating data on chemical properties in countries with chemical production,
- provides that *all* countries should adopt legal requirements to implement the Global Harmonised System of Classification and Labelling of Chemicals by 2030 the latest, and
- strive for a sustainable and more efficient use and management of material and resources to reduce the amount and hazardousness of waste.

[13] See Roadmap on Chemicals Strategy for Sustainability, page 2: "*Global governance on the sound management of chemicals is also extremely fragmented, and health and environmental standards for chemical production and use greatly vary across countries leading to different levels of protection for humans and the environment*."