

PFAS-free solutions: the challenge ahead

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Orgalim key messages on PFAS for the policy exchange

Presented at the Orgalim Policy Exchange webinar on PFAS, 15 May 2024

WHAT WE SUPPORT

- **The use of hazardous substances should be reduced.** Our industries have already reduced the content of hazardous substances in their products to support a more circular economy and healthier environment and will continue their efforts to achieve these goals.
- **Emissions of hazardous PFAS should be limited.** We acknowledge that emissions of hazardous PFAS pose a potential risk for both health and the environment, and they should therefore be limited.
- **PFAS applications that have caused environmental problems, and where suitable alternatives exist, shall be controlled.** Orgalim industries recognise the environmental problems that certain PFAS applications can pose. Those with an identified risk, and for which a technically suitable, economically proportionate, and less environmentally and health-damaging alternative exists, should be subject to relevant risk-management measures.
- **Other tools to minimise identified PFAS risks from industrial sites should be considered.** It is also important to consider whether identified risks from industrial sites can be minimised through targeted measures; for example in occupational health and safety, emission control or waste legislation, rather than through a general ban under REACH. Environmental risks could also be addressed via other policy tools for a large number of products.

WHAT CONCERNS US

- **The Green Deal will be hampered if the use of PFAS does not remain possible where there are no substitutes available at full scale.** The derogations currently envisaged are insufficient and do not take into account the relevance of PFAS for a wide range of uses and innovations necessary for the technology industry to fulfil the environmental targets of the Green Deal and other strategic objectives set out by the EU.

- **A PFAS general ban could adversely affect our members' production and lead to economic problems.** We are concerned that the consequences for the economy are being underestimated, as our members will find it difficult to continue production in Europe and industry could be forced to relocate.
- **Effective market surveillance to ensure effective enforcement and a level playing field will be challenging to achieve.** This could result in potential distortions of the single market, especially at external borders, but also within the EU with free riders regarding PFAS.
- **A variety of different PFAS measures have recently been proposed by some EU Member States.** Considering the slow pace of the current approach to the restriction proposal, some Member States (for example France and Denmark) are opting for their own national legislation on PFAS.
- **Unpredictability due to the non-defined timeline for PFAS restriction creates uncertainty for our industries.** Predictability is crucial for companies using PFAS in their production processes. The unpredictable landscape resulting from the significant delay in the PFAS restriction proposal increases the risks associated with investment decisions.

OUR RECOMMENDATIONS

What we recommend for the improvement of the PFAS restriction proposal:

- **A general ban on PFAS should not be implemented as long as substitutes for all uses are not recognised and not all uses of PFAS are reflected in the restriction dossier.** The impact on the Green Deal and socio-economic factors should consider all available PFAS uses and the consequences and implications a restriction may have on them.
- **A risk-based and substance-based approach should be used for the PFAS restriction proposal.** The proposed blanket restriction of all PFAS, regardless of their individual toxicity and risk profile, fulfils neither the requirements of REACH Articles 68(1) nor the criteria of the 'Justification for Restrictions at Community Level' provided for by Annex XV to REACH. We call for a more differentiated regulatory approach, as this would be more consistent with the requirements of a restriction process under REACH.
- **An EU harmonised approach on PFAS in products should be developed instead of national, uncoordinated measures.** A circular single market with a harmonised approach to the various green economy initiatives is essential to avoid a patchwork of different measures on PFAS in individual EU Member States.
- **An impact assessment should be carried out on the ability of ECHA and National Enforcement Authorities** to inspect the conformity of the numerous complex products containing PFAS.
- **An information obligation for "intentionally added" PFAS prior to restriction would allow a smoother implementation.** Most PFAS do not have a harmonised classification according to CLP and are not listed in the REACH candidate list. Therefore, information is not provided throughout the whole supply chain of PFAS. For example, the inclusion of PFAS in the REACH candidate list would allow all relevant uses to be included in the assessment in due time, alternatives to be developed, and any necessary derogations to be applied for. A list with the names and CAS-number of PFAS and scope of the restriction to facilitate supply chain communication as well as compliance and enforcement is needed.

- **A clearly defined procedure for derogations is essential.** Application, review and extension for derogations must be clear, especially in the case of a broad restriction on previously non-declarable substances, to ensure feasibility.
- **The repair-as-produced principle should be applied.** Indefinite derogations for spare parts, refurbished parts and equipment, as well as products already having been placed on the market for the first time, should be granted to support further sustainability goals.
- **A general exclusion of fluoropolymers without relevant risk is needed.** Fluoropolymers are non-toxic and non-bioaccumulate, and do not pose a risk during the use phase. Safe uses of PFAS in equipment, components, and industrial applications generally do not cause associated emissions to the environment when used as intended – and are of high industrial importance.
- **Under the New Essential Use Concept, fluoropolymers should not be banned** The European Commission considers that the Essential Use Concept should be assessed for the “Most Harmful Substances”. Fluoropolymers are not toxic and do not fulfil any criterion defined by the Commission (PBT/vPvB/PMT/vPvM), confirming that fluoropolymers should not be banned.
- **The threshold level 25 ppb for solid materials should be removed and replaced by a threshold level of 0.1% PFAS in the weight of the product when intentionally added in the manufacturing process.** This would avoid the in-depth analysis of solid or complex products with potentially unreliable results. Also, for liquids and gases the threshold level should be higher to allow easier analysis and avoid restriction of contaminated material with no intentionally added PFAS.

Orgalim represents Europe’s technology industries, comprised of 770,000 innovative companies spanning the mechanical engineering, electrical engineering, electronics, ICT and metal technology branches. Together they represent the EU’s largest manufacturing sector, generating annual turnover of €2,819 billion, manufacturing one-third of all European exports and providing 11.9 million direct jobs. Orgalim is registered under the European Union Transparency Register – ID number: 20210641335-88.