

Consultation response from Confederation of Danish Industry for the public consultation on the restriction proposal on PFAS under REACH

Confederation of Danish Industry (DI) is a private business and employers' organisation representing more than 20,000 companies employing approx. 600,000 employees in total. 38 per cent of our members are in the manufacturing industry or in the energy and supply sector corresponding to approx. 7,600 companies.

Among our member companies are large and globally recognized Danish companies supplying specialized components and technologies essential for use in sectors as energy, production equipment for the food industry, the defense industry, medical devices and pharmaceuticals.

Today, almost every one of them depend on some kind of production equipment containing a variation of PFAS.

First of all, DI supports the direction put forward in the restriction proposal in order to avoid emissions of PFAS to the environment. We support a restriction to be put on PFAS in consumer products and substitution where possible, and we recognise the importance of prioritising research and development to find the alternatives to the use of PFAS. However, we also strongly support the risk-based approach to chemical legislation rather than a hazard-based one. Furthermore, we have to stress that there is a need for realistic transition periods.

The proposed restriction includes a very broad definition of PFAS and aims at restricting the manufacture, import, use and marketing of PFAS in the EU. The broad definition comprises smaller molecules as F-gasses as well as very large molecules as fluoropolymers. As a consequence, the use of PFAS is varying across all sectors and product groups.

Some industries will be affected by the proposed PFAS restrictions more than others, and some industries may already be well on their way towards finding suitable alternatives. After the publication of the PFAS restriction proposal by ECHA in February 2023 we have been in contact with several hundreds of our member companies to initiate a mapping of the present use of PFAS and to get feedback from companies on where the use can be substituted and where it is not possible. Our interaction with our members on this topic included webinars, member association meetings, company visits and feedback as well as bilateral meetings and consultation with member companies.

The work related to mapping and possible substitution

A number of the larger companies have done – or have started – a mapping of their use of PFAS in cooperation with their suppliers, and some have started substitution processes where possible. However, there are still a lot of uses which are not replaceable with other products or technologies – and which will be crucial for the ability to have a production to be leak-tight to avoid emissions from hazardous substances, being able to supply compliant products, fulfill guarantees of products and contract services and being able to supply products for the common good including hospital equipment and medicines and last but not least: technologies essential for the green transition of Europe.

Mapping the uses of PFAS in raw materials, equipment etc. is not a simple task as a lot of uses have not been known. It is a time consuming task as a lot of suppliers and sub-suppliers in the value chain are involved. Some of our member companies have reported up to 7000 suppliers globally. The time being spent on this communication and mapping process is time being taken from other important work related to improving the environmental impact of the company.

Most of our members are contributing to sector specific responses in European organisations attending to their specific uses and interest. In the present response we focus on giving feedback related to production companies across all sectors as they all face corresponding challenges with the proposed restrictions.

Use of PFAS in production companies

A number of PFAS substances are used, but especially the use of fluoropolymers and fluorelastomers are critical in an industrial production. As an example PTFE is used in plastic compounds due to their low friction, chemical resistance, high temperature resistance, electrical insulation, flame retardancy, chemical inertness, etc; which makes them hard to be substituted in many cases.

Some PFAS applications are reported to be partially replaceable with other tribological combinations e.g. in lubricants. PTFE, used to reduce friction, has possible alternatives depending on specific requirements and applications. However, those have not been fully tested yet.

In other cases, PFAS are considered irreplaceable due to outstanding chemical resistance; Substitution of PFAS does not seem possible for applications requiring exceptional chemical resistance.

Fluoropolymers are being used in components for e.g. heating for buildings and district energy including heat pumps and include materials as PTFE, FEP, PVDF, PFA and a lot of other materials are being used e.g. in valves.

As an example the following fluoropolymers have been reported as used in engineering polymer shapes for machining:

- PTFE (EC number: 618-337-2; CAS number: 9002-84-0);
- PFA (EC number: 682-550-7; CAS number: 26655-00-5).

The applications where these substances are used include:

- Wide range of applications (automotive/chemical industries/food contact/medical/parts in machines);
- PTFE as lubricant for semi-finished products. The technical application of the products;
- PTFE based coatings needed in a wide range of tooling systems.

The main concern for all PFAS in the restriction proposal is the very high persistence and potential accumulation in the environment and in humans.

As most industrial uses of fluoropolymers do not lead to emissions in the use phase other possibilities to mitigate the exposure from this use should be explored.

We believe that the risk of exposure of PFAS to the environment, to a large extent, can be mitigated by ensuring well-established processes for handling products in the production and in the waste phase. Danish production companies are sorting their waste streams in a large number of fractions – adding a category for PFAS materials will not be a big hassle.

Consequences by the proposal and possibilities for enforcement

By publishing the restriction proposal the Commission introduced a very large room for hesitation when considering investments in European industries. This uncertainty and room for hesitation need to be closed as soon as possible, in order to attract investors and companies' belief in the possibility of having production based in the EU.

To politicians and the population transition periods for up to twelve years + a year and a half may seem as long and sufficient time for the transition. In reality it is not possible to develop new technological solutions, test them to ensure reliability and to implement such solutions in production environments within this time frame. A long-term general derogation with review before exuration of fluoropolymers without relevant risk is necessary.

Companies planning to establish new production facilities will plan years ahead – and they will need environmental permits by national authorities before new facilities can be built and taken into use. A process which may take years. Facilities will only be built if the companies can trust in a certain period of having a production at the site. However, it is not possible to plan and build a production site for a technology not yet developed.

As PFAS are used due to their strong resistance to harsh environments, it will not be possible to replace with other substances having the same characteristics without the same (eco)toxicological concerns – nobody is in favor of regrettable substitutions. As a consequence new technological solutions are expected to be developed during the next 10-20 years for specific uses – and those cannot be planned when building new production sites, yet.

Furthermore, we are concerned about the authorities ability to enforce a broad restriction covering more than 10,000 substances. How will it be possible to check a possible content of these substance in imported goods? In addition, we do not see the laboratory capacity to perform relevant tests and the analytical methods are not yet developed. Further no laboratory will be able to work without PFAS materials in their analytical equipment.

A proper enforcement is crucial to ensure a fair level playing field for European manufactures in order to ensure that the competitiveness of the European industry will not be compromised.

Finally, we would like to stress one more time that DI supports a constructive regulatory approach for industrial use of PFAS and especially fluoropolymers and fluorelastomers, which seems to be crucial for all production environments.

A swift decision on how the industrial uses can be handled in a future regulation is also needed in order not to harm the Green Transition and possible investments in European production facilities. We would like to know what kind of data the European Commission needs to address as soon as possible.

Kind regards,

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