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DIRECTORATE-GENERAL
ENVIRONMENT
Circular Economy & Green Growth
Sustainable Chemicals
Head of Unit

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Advocacy and Public
Policy
SEMI Europe
Rue de la Science 14
1040 Brussels
E-mail: @semi.or

Dear ,

Thank you for your letter, in which you raise the concerns of EU semiconductor industry as regards the inclusion of PFOA, its salts and PFOA-related compounds in Annex I to Regulation (EU) No 2019/1021 (the POPs Regulation), recently published in the Official Journal¹, and the deletion of the corresponding REACH restriction (entry 68 of Annex XVII to REACH), which is under discussion in the REACH Committee.

In the amendment of Annex I to the POPs Regulation to include PFOA the Commission followed the decision of the Conference of the Parties of the Stockholm Convention. In April 2019, just before the Conference of the Parties, SEMI sent to the Commission a position paper announcing that a derogation for the equipment used to manufacture semiconductors and for refurbishment parts was no longer needed. A SEMI representative gave the same information during the discussion on the listing of PFOA in that Conference of the Parties. This is the reason why the derogation was not granted under the Stockholm Convention and, as a consequence, has not been granted under the POPs Regulation.

Concerning the setting of an Unintentional Trace Contaminant (UTC) limit value, the Commission has always applied the limit value of the REACH restriction as UTC in the POPs Regulation, when such value had been specified in a REACH restriction. UTCs higher than the limit values of REACH restrictions have only been introduced where duly justified, upon submission of specific information and after discussion with the POPs Competent Authorities. The Commission did not receive any justification for a higher UTC limit value for semiconductors equipment.

¹ https://eur-lex.europa.eu/eli/reg_del/2020/784/oj

I would like to draw your attention to Article 4(2) of the POPs Regulation, which introduces an exemption for articles “already in use”, which would apply to equipment for semiconductor production produced before the entry into application (4 July 2020). The interpretation of this exemption was discussed in a recent meeting of the POPs Competent Authorities and the Commission will soon publish a clarification.

It is a regulatory practice of the Commission to delete specific entries of Annex XVII to REACH, once a substance listed in that Annex is included at a later stage in the Annexes to the POPs Regulation.

Yours sincerely,

(e-signed)

