



Head of Unit: Sustainable Chemicals
European Commission
Avenue de Beaulieu 9, 1160 Brussels

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Dear [REDACTED],

Thank you for your letter of June 22, 2020 in which you provided more information regarding the rationale behind certain actions in the movement of a PFOA restriction from EU REACH to EU POPs. We wanted to write you back following our feedback on POPs – amended exemption for PFOA submitted on September 28, 2020.

Regarding the statement that the European Commission followed the decision of the Conference of the Parties of the Stockholm Convention when amending EU POPs, we would strongly suggest that the European Commission should not follow the decision of the Conference of the Parties when considering amendment of EU POPs without a more comprehensive understanding of the differences between them.

SEMI did, as you say, send a position paper announcing a change of view related to derogations for the Stockholm Convention, but it is important to note we did not assert simply that it was ‘not needed.’ We explained that no specific exemptions were required under the Stockholm Convention because of the Unintentional Trace Contaminants (UTC) concept that is present therein. Specifically, we wrote:

“We now understand that any PFOA that might be present in fluoropolymers or fluoroelastomers used in our sector is present only as an unintentional contaminant or impurity, and serves no intended purpose or performance function in the materials used in products for our sector. We also understand that the anticipated concentrations of any such impurity in materials used in products and articles used in semiconductor manufacturing are very low. Therefore, we believe that these cases will be adequately addressed by the operation of the Stockholm Convention’s “UTC” exemption (in Note (i) of Annex A and Annex B), and that no specific exemptions are required in order to accommodate the presence of such contaminants.”

We believed the European Commission understands that the concept of UTC as it operates in the Stockholm Convention is quite different from how it operates in EU POPs. However, to be clear:

- UTC is not defined in the Stockholm Convention and is, therefore, a subjective consideration which, as you can see above, SEMI felt well addressed the situation of the PFOA that could be present in articles in our supply chains.
- In stark contrast, EU POPs sets a definition of UTC for each substance restricted, and UTCs are defined differently among the substances.

Our letter stating no specific exemptions were required was related to how the concept of UTC is expressed in the Stockholm Convention. Our position regarding the need for exemptions in EU POPs was, of course, quite different because of how the concept of UTC is defined in EU POPs.

We are also puzzled by the statement that a derogation was not granted under the Stockholm Convention and, “as a consequence, has not been granted under the POPs Regulation.” We have heard this statement often repeated as a sort of *de facto* rule, but even a casual analysis of the two documents indicates it is not a rule at all. We note, for example, that there are no exemptions in the Stockholm Convention for latex printing inks or plasma nano-coatings, however these were given derogation in EU POPs. Likewise, there is no exemption in the Stockholm Convention for “articles containing PTFE micropowders” and yet a derogation is granted in EU POPs. It seems clear that the transposition rules do indeed allow for the provision of a derogation in EU POPs that does not appear as an exemption in the Stockholm Convention.

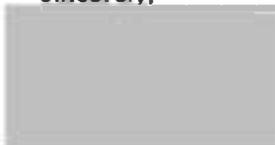
Finally, it is stated that the European Commission did not receive any justification for a higher UTC limit value for semiconductors [sic] equipment. This is a curious assertion, because in response to the public consultation in December 2019 regarding the introduction of a PFOA restriction in EU POPs, SEMI submitted feedback which suggested a UTC level for articles (regardless of their destination – such as to semiconductor manufacturing equipment) and included many points of rationale, including declarations from fluoropolymer article manufacturers showing they do not assert ‘PFOA present’ to a particular threshold.

Our industry has been struggling for years to get the attention of ECHA and/or the European Commission to fully understand a few essential points about PFOA in fluoropolymers and fluoroelastomers. PFOA can be present in articles made from these fluoromaterials above the 25-ppb limit because of decisions made by raw fluoromaterial manufacturers at the start of a deep¹ supply chain over which semiconductor equipment manufacturers have no practical influence in order to get information nor set actions. Semiconductor equipment manufacturers must not be confused with companies that produce consumer goods such as cell phones and laptops who tend to have very strong control over their supply chains because of component volumes and much more direct economic relationships.

We would welcome the opportunity to discuss the afore-mentioned practical issues with the European Commission.

Thank you for your consideration of this important matter.

Sincerely,



SEMI Europe President



SEMI Europe Director of Public Policy

¹ Deep with respect to companies such as semiconductor equipment manufacturers who assemble products, to a large extent, from components purchased out of catalogs.