

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: REACH - PFAS restriction - meeting with industry
Date: mardi 29 août 2023 19:38:08

Dear [REDACTED], dear [REDACTED],

With many thanks to [REDACTED] and [REDACTED], please find below a debrief of today's meeting with W.L. Gore:

On Tuesday August 29, DG DEFIS met with industry representatives from W.L. Gore ([REDACTED]) and SEC Newgate ([REDACTED]) to be informed about the ongoing process to restrict the use of all Per- and Polufluorinated Substances (PFAS). From Defis participated [REDACTED]
[REDACTED]

Background

Pollution from PFAS (per- and polyfluoroalkyl substances) is a human health and environmental concern. At the same time, PFAS are needed in critical applications, for example in the digital and energy sectors (e.g. semiconductors, electrolyzers and membranes for green hydrogen production). Under the REACH Regulation, five national authorities (from the Netherlands, Germany, Denmark, Sweden and Norway) have proposed a broad ban with some derogations on the use of PFAS. This proposal is currently undergoing an independent scientific assessment in the European Chemicals Agency (ECHA) Committees.

As a part of this assessment, ECHA has a public consultation ongoing until 25 September. Thereafter ECHA will present its assessment, which will be subject to a 2-month public consultation. In the third stage, the ECHA's Scientific Committees will submit their opinion to the Commission. Based on that opinion, the **Commission** will consider an amendment to REACH on the manufacture and use of PFAS accordingly, taking into account the risks posed by the substances, including emissions, as well as the socio-economic impacts of the restriction and the availability of alternatives. The Commission proposal will be discussed with Member States in the REACH Committee. A decision on the PFAS restriction is not expected before 2025.

Two other REACH-related processes are also ongoing. The first concerns a restriction of the substance PFHxA for consumer goods and for training and testing. A proposal has been presented to the MS in the REACH committee, and a decision is planned to be taken towards the end of this year. The second is a review of the whole REACH regulation, where there will be an ISC mid-September. Both of these processes will affect the defence sector, and I will come back to you with more information.

Meeting

(SEC Newgate) presented briefly W.L. Gore (privately held US company producing GORE-TEX) business activities and the relevance of Gore materials for the Space (cable and other materials in harshest environments) & Defence (high-performance technical fabrics for end-users in security and defence), highlighting that:

- Many Defence applications are based on fluoropolymers because of their unique chemical/ mechanical properties that cannot be replaced (there are no technically viable alternatives), especially the combination of several properties;
- Gore argued for a derogation to this exemption for all uses of fluoropolymers (ie to exempt the substance, and not essential uses, which is a concept that has been introduced when discussing the REACH revision). As a fallback option, also presented in their feedback to the ongoing public consultation, they argued for exemption for space/ Defence applications. The justification is 1) that fluoropolymers are not hazardous (they veritably do not pose an “unacceptable risk”), and 2) their importance for the space and defence sector.
- US/ UK/ JP have a different view on fluoropolymer restrictions and EU would put themselves into a position with severe competitive advantages for many sectors, not only Space/ Defence
- The general defence exemption in REACH is not sufficient, and will also cause a fragmentation of the EU market (each MS following a different line).

DG DEFIS acknowledged the information/presentation, and mentioned that for the moment it is

ECHA that is responsible for the process, and that DEFIS will be consulted when it is time for the Commission to make a decision. DG DEFIS asked to receive Gore’s comments to the ongoing public consultation.

Comment:

ENV and GROW have not involved in DEFIS in the different processes regarding REACH, even though the proposals to some extent will affect the defence sector. GROW is now aware of this, and discussions have been initiated. [REDACTED] has contacted these DGs to ensure that we are involved (DEFIS will meet ENV next Monday 4/09 – thanks, [REDACTED]). She has also reached out to DG CNECT to make sure they are aware of this file, notably in view of PFAS’ uses for semiconductors and other digital applications.

As regards tomorrow’s meeting with CEFIC, [REDACTED] will ensure participation of R1 (I will try to join remotely while travelling) – you should all have received a Teams invitation. Then we will meet with DG ENV on Monday 4/09.

Thanks to all for the good cooperation,

[REDACTED]

[REDACTED]

DG DEFIS.R1 – Coordination & Interinstitutional Relations

DEFIS_SIGNATURES_CORPORATE_a



DG for Defence Industry and Space
Avenue d'Auderghem 45 (BREY)
B-1049 Brussels/Belgium



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