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NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Key issues in chemicals policy on the road to a non-toxic environment - Information from the Austrian, Belgian, Danish, German, French, Dutch and Swedish delegations, and Norway, supported by the Croatian and Luxembourg delegations

Delegations will find attached an information note from the Austrian, Belgian, Danish, German, French, Dutch and Swedish delegations, and Norway on the above subject, which will be discussed under "Any other business" at the Environment Council meeting on 17 December 2014.

ANNEX

Key issues in chemicals policy on the road to a non-toxic environment

- Information from the Austrian, Belgian, Danish, German, French, Dutch and Swedish delegations, and Norway -

Background

The Seventh Environment Action Programme (7th EAP)[1], the European Commission Roadmap to a Resource Efficient Europe[2] and the Commission Communication "Towards a circular economy" [3] set the basis for our joint efforts on contributing to the EU "Green Growth" agenda, *inter alia* by delivering decent jobs and sustainably stimulating growth for the European citizens.

Chemicals are an important topic for both businesses and the protection of consumers, workers and the environment. At the Rio+20 Conference on Sustainable Development, the UN members reaffirmed their commitment to achieve, by 2020, sound management of chemicals throughout their life cycle in ways that lead to minimisation of significant adverse effects on human health and the environment[4]. In the EU, the REACH Regulation has now been functioning since 2007, and is unquestionably an improvement in the regulation of chemicals. However, there are still areas where both the efficiency and the effectiveness of REACH need improvement. Therefore, the 7th EAP calls on the Commission to develop, by 2018, a Union strategy for a non-toxic environment that is conducive to innovation and the development of sustainable substitutes including non-chemical solutions, building on horizontal measures to be undertaken by 2015. This should be done while being mindful to the specific needs of SMEs (including reducing costs), such as targeted information campaigns and specific guidance. In order to achieve this, new service-based business models, such as "Chemical Leasing", could be implemented, thus optimising the cost-benefit balance by combining better protection of health and environment with lower costs for society, including businesses and, in particular, SMEs.

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1 Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013.
2 14632/11 - COM(2011) 571 final
3 11592/14 - COM(2014) 398 final
4 "The future we want" - Outcome document adopted at Rio+20.

Being strongly committed to this agenda, we have identified a number of key issues which should be addressed by the Commission and the Member States with priority in order to achieve the long-term goal of a non-toxic environment in the European Union.

Minimising or substituting the use of substances of concern

We note that the practical implementation of the provisions on authorisation of Substances of Very High Concern (SVHC) in the framework of REACH is still in its infancy. In order to accelerate and stimulate innovation by introducing less harmful alternative substances and cleaner technologies, we need to create a transparent, stable and predictable regime.

To this end we:

- call on the Member States to reconfirm their commitment to implementing the SVHC 2020 roadmap, including the development of Risk Management Options Analyses, thus ensuring that all relevant SVHCs are included in the candidate list by 2020;
- urge the Commission to provide both transparency and predictability on when specific SVHCs will be included in the list of substances requiring authorisation and under which conditions authorisation of specific uses can be expected;
- call on the Commission to better integrate the regulatory instruments under REACH (restriction, authorisation), ensuring that problematic uses of chemicals are readily restricted following streamlined procedures, and to initiate the authorisation process (inclusion in the candidate list and Annex XIV of the REACH Regulation) for other uses, if appropriate.

Endocrine disruptors

The "Community Strategy for Endocrine Disruptors" from 1999 already identified endocrine disruptors as a concern for human health and the environment. New scientific knowledge has added to this concern[5]; therefore, the 7th EAP requires that horizontal measures be in place by 2015 in order to minimise exposure to such substances. In order to meet this goal, we urge the Commission to:

- identify the necessary initiatives, including deciding on scientific criteria for identification of endocrine disruptors, and to develop a work plan specifying the measures required by 2015 to minimise exposure to endocrine disruptors as part of a Union strategy for a non-toxic environment in 2018.

Nanomaterials

We would like to recall the letter on the safety of nanomaterials, which was sent in July 2012 by 10 Member States to the Commission[6], as well as the conclusions in the Regulatory Review[7] that current information on nanomaterials is insufficient to identify risks or safe use. The Review concluded that the annexes of REACH dealing with information requirements should be amended to clarify those requirements and that an impact assessment on costs and benefits of further transparency measures, including a European registration system, should be conducted. We therefore stress how important it is that the Commission, in conformity with the 7th EAP, takes all necessary measures to ensure the safety of manufactured nanomaterials and materials with similar properties by 2015. Therefore, we urge the Commission:

- to provide for adaptations to existing legislation (REACH and other EU legislation) to improve its application to nanomaterials by making it "nano proof" by 2015;
- to consider development of a Union-wide database in order to increase transparency and regulatory oversight and build trust.

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5 WHO & UNEP (2012). State of the science of endocrine disrupting chemicals 2012, summary for decision makers (IOMC).

6 Cf. http://www.government.nl/documents-and-publications/letters/2012/07/06/letter-to-the-european-commission-on-review-nanotechnology.html

7 14869/12 - COM(2012) 572 final

Substances in articles and imported products

With the present REACH requirements, substances of concern may still enter the EU via imported articles even when all EU uses have been phased out. This causes health and environmental concern as well as competitive disadvantages for European industry. The legislation is also deficient with respect to information on hazardous substances in articles. To fully enable appropriate risk management actions to be taken by companies and authorities, substantial improvements – such as clearer information requirements ensuring that useful information reaches all actors, including recyclers – are necessary. Finally, articles, such as textiles, may contain many different hazardous substances that together may cause risks to consumers, including sensitive groups such as children, or the environment. Therefore, we urge the Commission to:

- initiate appropriate action to fully apply the current legislation and possibly consider additional legislative measures, including complementary product legislation, to address these problems.

Improving the quality of REACH registrations

Any progress in safe use of chemicals requires reliable information on the hazards of chemicals, and REACH registrations serve that purpose. REACH places the responsibility to demonstrate safe use of substances on industry. Manufacturers and importers of substances are obliged to collect and generate information on hazards and risk, register such information with the European Chemicals Agency (ECHA) and pass it on to downstream users. However, experience to date shows that information in many registration dossiers is incomplete or inadequate, which hampers safe use. Therefore, greater effort is required by authorities, both ECHA and Member States, to disseminate information on REACH and to ensure that industry lives up to their obligations, including the duty to share data and jointly submit registrations for the same substances. In this light, we urge the Commission:

- to consider all suitable options including measures according to Article 41(7) to ensure that ECHA uses its resources most effectively and efficiently to bring dossiers into compliance with respect to the information most relevant for safe use.

ECHA is the central hub for operational activities as regards the REACH, CLP, Biocides and PIC Regulations. Recognising that, due to the deficiencies of the registration dossiers, more efforts than expected are required by ECHA in the years to come, we are concerned about the basis for financing the work in the years after 2018. Therefore, we invite the Commission:

- to consider all suitable options to safeguard the operations of ECHA and to ensure the long-term sustainability of our future chemicals policy after 2018.

Based on the above considerations we therefore call on the Council, the Commission and the European Parliament to further consider and act on these important topics with a view to paving the way towards reaching a non-toxic environment in the European Union.