Re: REACH Committee meeting December 2021

To: Members of the REACH Committee

Brussels, 30 November 2021

Dear Madam/Sir,

We are writing to you regarding the REACH Committee meeting that will take place on 7-8 December 2021. Three crucial discussions (and potentially votes) are planned during this meeting, as well as one oral update by the Commission:

1) Draft Commission Implementing Decision on the **identification of resorcinol as a substance of very high concern** according to Article 57(f) of the REACH Regulation (EC) No 1907/2006 (discussion and potential vote)

2) **Restriction of lead compounds in PVC** (oral update)

3) Draft Commission Implementing Decision **refusing an authorisation** under the REACH Regulation (EC) No 1907/2006 to DCL Corporation (NL) B.V. OR **for certain uses of lead sulfochromate yellow and of lead chromate molybdate sulfate red** (discussion and potential vote)

1) Identification of resorcinol as a substance of very high concern

As you are aware, the proposed identification of resorcinol as a substance of very high concern (SVHC) due to endocrine disrupting properties for health under the REACH regulation (article 57(f)) did not muster consensus at the ECHA Member State Committee, which took place in June 2020[1], and REACH Committee discussions on the matter have so far been inconclusive.

Civil society groups representing health and environmental protection have already called on you to support this identification, as proposed by the European Commission, on numerous occasions[2]. **With this letter, we would like to respectfully repeat this call and stress the urgency to proceed based on the available scientific evidence.** Despite Member States' agreement that the substance meets the World Health Organisation (WHO) definition of an endocrine disruptor, the unfortunate delay in its SVHC identification has allowed continued human exposure to the substance, without even adequate information requirements being put in place. **When considering the matter, we call on your collective responsibility to contribute to the delivery of the Chemicals Strategy for Sustainability, which includes clear protection objectives about endocrine disrupting compounds, and we point to against a serious risk of undermining the public credibility of EU institutions and the strategy as a whole in case of a failed identification.**

Resorcinol is a high-volume compound (registered at 1,000-10,000 tons/annum) used in a variety of industrial and consumer applications. Exposure of workers and the public is therefore high, making the appropriate communication about the properties of the substance throughout supply chains and to the public highly relevant and important. The substance is known to impact

[1] https://echa.europa.eu/-/resorcinol-not-identified-as-a-substance-of-very-high-concern

[2] See for example:
https://www.env-health.org/wp-content/uploads/2021/06/NGO-letter-REACH-Committee_DEHP_resorcinol_info-requirements.pdf
https://www.env-health.org/letter-health-and-environment-groups-call-on-eu-governments-to-identify-resorcinol-as-a-substance-of-very-high-concern/

the functioning of the thyroid system, which is essential for brain development, in particular for unborn children. Rodent studies have documented how exposure to resorcinol affects thyroid hormone levels; while human case reports have shown it leads to several developmental effects related to such hormone level changes (including hypothyroidism, goiter, neurological impacts in the child). These effects can be considered severe and irreversible because they strongly affect the wellbeing and quality of life of an individual over the long-term.

The SVHC identification document supporting the identification proposal has rigorously explained why the substance meets the criteria for equivalent level of concern of REACH article 57(f). You will find a summary of the key elements supporting the identification in an annex at the end of this letter.

2) Restriction of lead compounds in PVC

In November 2019, the Commission proposed a draft REACH restriction banning the use of lead compounds in new PVC but still allowing lead in recycled PVC in the name of circular economy.

As expressed through a joint NGO letter in 2019, NGOs supported the Commission's proposal to restrict the use of lead in PVC as it will reduce emissions of this highly toxic chemical which impairs neurobehavioral function, particularly as a result of childhood or fetal exposure and is linked to lower intelligence quotient (IQ). However, **we vehemently rejected the proposed higher concentrations of lead in recycled materials** (2% and 1% for rigid and flexible PVC recyclate, respectively) **compared to virgin material** (0,1%)**. We also opposed the limited scope of the restriction** as it excluded lead that is not used as stabiliser, such as leaded pigments **and the misleading labelling proposed "contains recovered PVC"** as, in our view, undermined protection.

In February 2020, **the European Parliament objected to this restriction**. The Parliament opposed the derogation for recycled PVC, among other things, such as the labeling provision, in line with NGO concerns.

After more than two years, the Commission seems to be ready to make a follow up proposal to member state representatives. However, NGOs regret the lack of transparency of the Commission to explain what its proposal is.

We would like to use the opportunity of this letter to emphasise the most important aspects that the Commission's restriction should address through the following requests:

1) **Urgently restrict <u>all forms of lead</u> contained in PVC by setting <u>stringent thresholds</u> for lead in PVC <u>regardless if it is primary or secondary material (this is, no higher than 0,1%)</u>**. There is no lower limit for lead – where concentration of lead does not damage the development of children's brains.

Also, any waste with more than 0,3% lead must be treated as hazardous waste and should not be recycled. Hence invalidating the circular economy argumentation by the European Commission to 'promote' (toxic) recycling in most of the cases (if the Commission doesn't lower the concentration limits).

2) **Limit transitional periods to six months since both non PVC and lead-free alternatives are available for all applications since at least 2015** – with NO derogation whatsoever for recycled PVC.

3) **Rephrase the labelling** to '**WARNING: contains lead**'

Given that the recycling of (imported) PVC containing lead waste would re-contaminate the EU's circular economy with this harmful substance that has already been phased out in Europe for many years, **no derogation should be possible.**

If any derogation is finally granted, it should be strictly time-limited. 15 years of derogation is absolutely not acceptable to us since alternatives are available for all applications and it would mean the perpetuation of the use of a legacy substance via recycling for more than a decade. Any derogation should be seen as a transitional/interim period.

Such derogation (if still exists) should also be abided by strict control measures for ALL applications (e.g. close loop systems).

Therefore, the undersigned NGOs call for precaution. Neither recycling (of a toxic material) or disposal (landfilling or incinerations) are sustainable approaches. With a completely persistent (i.e., elemental) hazard like lead, phasing out its use as fast as possible is the only good option.

3) Refusing an authorisation for certain uses of lead sulfochromate yellow and of lead chromate molybdate sulfate red

Because of a wrongful interpretation and implementation of REACH led by DG GROW, uses of lead sulfochromate yellow and of lead chromate molybdate sulfate red have been authorised for many years where an authorisation should have never been granted.

The EU General Court[3] and the EU Court of Justice[4] have both agreed on the matter.The only reason why they did not annul the act is because they saw a risk of diminishing the level of protection as the restricting conditions that the authorisation required would also have stopped

[3] T-837/16, Kingdom of Sweden v European Commission, ECLI:EU:T:2019:144

[4] Case T-837/16, Kingdom of Sweden v European Commission, ECLI:EU:T:2019:144.

applying. It is now time to close this unfortunate chapter of REACH history, to send a clear signal that when there is no adequate control and that doubt on the availability of alternatives remain, REACH authorisation cannot be granted.

We welcome the proposal of the Commission to do so, and call on the Member States to support it.

Therefore, **we ask you to:**

1) **Support the SVHC identification of Resorcinol according to REACH article 57(f);**
2) **Urgently restrict <u>all forms of lead</u> contained in PVC by setting <u>equal-stringent thresholds</u> for lead in virgin and recycled PVC. Avoid derogations and minimise and restrict transitional periods as much as possible (no longer than six months);**
3) **Support the proposal to refuse an authorisation for certain uses of lead sulfochromate yellow and of lead chromate molybdate sulfate red.**

Yours faithfully,

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Natacha Cingotti

Health and Chemicals Programme Lead, HEAL

On behalf of:

Arnika - Toxics and Waste Programme (Czech Republic)

BUND/Friends of the Earth Germany

ChemSec

CHEM Trust

ClientEarth

Ecologistas en acción (Spain)

ECOCITY (Greece)

European Environmental Bureau (EEB)

Health and Environment Alliance (HEAL)

Green Transition Denmark

The Rethink Plastic alliance

Women Engage for a Common Future (WECF)

ZERO - Association for the Sustainability of the Earth System (Portugal)

Zero Waste Europe (ZWE)

In view of the public interest in this matter, we intend to make this letter publicly available.

Annex:

Summary of the SVHC identification document supporting the identification proposal of resorcinol as meeting the criteria for equivalent level of concern of REACH article 57(f):

Endocrine activity:

Resorcinol acts on the endocrine system by strongly inhibiting thyroperoxidase (TPO), which is an essential enzyme in the synthesis of the thyroid hormone. The strength and consistency of such a mechanism across species is clearly documented in the SVHC dossier.

Adverse effects:

It is scientifically established that any modulation in the thyroid function must be considered as adverse. Therefore, the observed impacts of TPO inhibition on the synthesis of the thyroid hormone must be considered as adverse - as is visible with and thoroughly documented in the case of resorcinol.

Human relevance:

Because the thyroid systems are highly conserved across vertebrate species and in the absence of elements proving the contrary, the available animal data in the dossier support can be considered to have a high level of biological plausibility. Furthermore, the available human case reports strengthen the argument, by showing that the same pathways lead to the same adverse effects in humans and in animals exposed to the substance.

Equivalent level of concern:

We wish to stress again that the urgency to proceed with the proposed SVHC identification stems from the impacts of the substance for the thyroid hormones system, which plays an extremely important role in the child's prenatal brain development. As you are well aware, changes in the levels of thyroid hormones have been associated with several severe developmental effects, which can be considered irreversible - such as goiter, neurological impacts in the child, and hypothyroidism - and justify the substance qualification for the criteria of equivalent level of concern. **For all the reasons outlined above, we call on you to support the identification of resorcinol as a substance of very high concern under REACH article 57(f).**