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EEB FIRST COMMENTS TO THE WHITE PAPER ON THE FUTURE EU CHEMICALS POLICY

Input to the Stakeholder conference on the Chemicals White Paper, 2 April 2001

April 2001

The EEB generally welcomes the White paper as proposed by the Commission as a positive step towards protecting human health and the environment. Knowledge and control of hazardous substances should be one of the most important projects of the 6th Environment Action Programme and should therefore be ambitious enough to make a real difference. The current situation is characterised by toxic ignorance, an ineffective reporting and control system and hence by an ongoing in vivo experiment with man and nature. This situation needs a fundamental reform. The proposed strategy seems to adopt an approach, which may lead to a safer future as regards the regulation of hazardous substances. The EEB welcomes the common approach, which is now proposed for both existing and new substances, but demands that a high level of protection should be guaranteed.

To ensure that the result will indeed move to the direction the White Paper want to show, many issues need to further be clarified and the actions included need to be concretised and strengthened.

For these reasons the EEB, based on the Copenhagen Charter's 5 demands as follow,

- 1) A full right to know, including what chemicals are present in products.
- 2) A deadline by which all chemicals on the market must have had their safety independently assessed. All uses of a chemical should be approved and should be demonstrated to be safe beyond reasonable doubt.
- 3) A phase out of persistent or bioaccumulative chemicals.
- 4) A requirement to substitute less safe chemicals with safer alternatives.
- 5) A commitment to stop all releases to the environment of hazardous substances by 2020.

further wants the following points to be properly addressed to improving the future EU chemicals strategy.

Overall objectives

The clear target to cease all releases of hazardous substances to the environment by 2020, was adopted by all the environmental ministers of the European states having signed the OSPAR convention in 1998. However, this so-called Generation target still

needs implementation. The White paper presents a very good opportunity to really give this aspiration flesh and bone.

Banning with derogation

Starting from the most important part of the new system, the *'authorisation'*, we would like to propose that the word *'authorisation'* should be replaced by *'banning of substances of concern, with derogation for strictly defined uses where safer alternatives are not available'*. This wording will clarify the actions to be taken for the unwanted substances and it will prevent introduction of a contradiction in terms, which will inevitably spring from application of a "positive", accepting wording being tied to substances otherwise recognised as hazardous to the environment and human health! In addition such a wording will strengthen the implementation of the substitution principle, which is currently weakly addressed in the White Paper.

The *scope of the substances* which (based as a minimum on criteria presently applied internationally) potentially need banning should be extended to all persistent and bioaccumulative substances, to all carcinogenic, mutagenic and toxic to reproduction substances (categories 1,2,3), to all endocrine disrupting substances and sensitisers. Furthermore, heavy metals (especially mercury, lead and cadmium) and their toxic derivatives should also be phased out unless these are essential for a specific application, given that they present negligible risk and no alternatives exist. In addition there should be a general obligation for producers and downstream users to use the safest available chemicals.

Registration

All above mentioned properties should therefore be identified through the data and testing requirements included in the information package which will be submitted during registration. Registration should be requested for all -individual or contained in products - substances exceeding a cumulative production threshold of 1 tonne and not only the threshold of one tonne by producer, since these substances will in total contribute to a considerable exposure to the public. For that reason the volumes of production of each substance should be reported as soon as possible and on a continuous basis. Considering the fact that the currently marketed substances may be of high concern to the environment or human health, it is very important that indication for these properties is identified as soon as possible. Data provided on theoretically based modelling systems (QSARs) as well as more pragmatic, but still essential grouping of substances should therefore be used, as first evidence of high concern, until industry delivers real data. Strict deadlines for the registration of substances should be set according to their qualitative properties or a tonnage threshold (considering production volumes even lower than the 1 tonne per producer threshold), and sanctions should be imposed if these deadlines are not met, by marketing prohibitions.

Furthermore the future chemicals strategy should also cover commercially exploited naturally occurring substances, polymers and other materials, which are insufficiently covered by existing legislation.

Right to know

Information should be made available to and from downstream users to producers for the potential uses and hazardous properties. Safety data should not be considered as

confidential and consumers should have the right to know of the constituents in products in order to make informed decisions on their choices.

Institutional responsibility in the chemicals control system

To ensure that decisions are made with the intention to protect the environment and human health, and not only the economic benefit of shareholders, it has to be ensured that these decisions are being taken by independent bodies under the responsibility of the Member States or the European Commission. This however does not mean that the burden of proof of the hazardousness of a substance will lie with the latter. Industry should deliver data and should take responsibility and hold liability for the products they put on the market, and therefore prove that the substances they produce are the safest available for the purpose they intend to serve. Preliminary risk assessments should be carried out by industry; the results and data delivered should be independently checked through a Quality Assurance System, for example by independent validation. Tailored-made assessments for substances of high concern - because of their properties or their high exposure - in case those substances are not banned, should be under the responsibility of the Member States. Industry could be allowed to carry out risk assessments for substances of low concern.

Resources

For the whole system to work it is evident that a substantial increase in human and financial resources is needed. Adequate financial resources should therefore be allocated from the European Institutions and the Member States. Industry should contribute to the financing of the system through a differentiated fee, according to the substances registered. The most hazardous a substance is expected to be, the highest the fee to be paid. The money industry contributes should cover costs for administration, evaluation, carrying out of risk assessments and of the independent validation of data and testing results at all levels. A real and firm commitment to really protect the environment and human health from uncontrolled exposure to hazardous chemicals is therefore needed at European and Member States level.

Finally, the EEB demands that the European Commission and Parliament commit themselves in providing resources for the effective operation of a strict and coherent system, which protects the environment and human health, and which will ensure that the transition to such more sustainable chemical policies takes place within the time limits stipulated by the above mentioned Generation target. Industry on the other hand should effectively prove their 'Responsible Care' for the public by delivering valuable data and producing continuously safer substances serving adequately people's needs.

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