Brussels, October 10, 2017

Dear Sir/Madam,

We are writing to express concerns surrounding EU actions on the evaluation of PFOA, its salts and PFOA-related substances under the Stockholm Convention. The treaty's POPs Review Committee will take important decisions on the PFOA evaluation including recommendations for listing in the treaty at its upcoming meeting, 17 – 20 October.[1] The EU has an important role to play as the nominator of this substance, but its actions raise questions about its commitment to the Convention's objectives.

In our letter of September 2016[2], we expressed concerns about the proposed PFOA regulation. Many of the issues we raised about unjustified derogations are now part of the weak EU PFOA regulation. This has negatively impacted the current Stockholm Convention evaluation process.

1 http://chm.pops.int/TheConvention/POPsReviewCommittee/Meetings/POPRC13/Overview/tabid/5965/Default.aspx

2 http://env-health.org/IMG/pdf/08092016_-_ngo_letter_reachcom_pfoa_sept16.pdf

The EU hired an industry consultancy to prepare recommendations for listing PFOA in the treaty – but this consultancy has had clients that make or use fluorinated chemicals including PFOA. This conflict of interest appears to have resulted in proposals for a large number of unjustified exemptions at the behest of industry. Most of these exemptions should not be supported due to the lack of justification and/or the presence of alternatives. To make matters worse, the industry consultancy hired by the EU has also made exemption proposals that are even weaker the EU PFOA regulation.

Exemptions are a serious matter. The Stockholm Convention expert committee has agreed that PFOA is linked to at least six serious diseases in humans; high cholesterol, ulcerative colitis, thyroid disease, testicular cancer, kidney cancer and pregnancy induced hypertension

We call on the EU to exert leadership in the Stockholm Convention PFOA listing process. This means acting on three points:

1) Prioritize protection of human health and the environment by supporting a recommendation to list PFOA in Annex A of the treaty and minimize the number of exemptions. Few of the proposed exemptions can be justified based on Convention objectives;
2) Rectify conflict of interest issues by assuming full responsibility for the PFOA nomination and not utilize BiPRO any further for matters related to fluorinated compounds or other substances that create a real or perceived conflict of interest;
3) Utilize the Stockholm Convention process to strengthen the EU's weak PFOA regulation, rather than seeking to globalize it.

Thank you for your consideration.
Yours faithfully,

Tatiana Santos
Senior Policy Officer: Chemicals & Nanotechnology

On behalf of:
Arnika
ChemSec
CHEMTRUST
CIEL
The Danish Ecological Council
ECOCITY
Ecologistas en Acción
ECOS
The European Environmental Bureau (EEB)
Fédération Inter-Environnement Wallonie
Friends of the Earth Germany-BUND
Health and Environment Alliance (HEAL)
Health Care Without Harm (HCWH) Europe
HEJSupport
IPEN
Society for the Earth (TNZ)
Swedish Society for Nature Conservation
Women in Europe for a Common Future (WECF)
Za Zemiata (For the Earth)

Annex 1. Exemption comparison: Proposals in the Stockholm Convention draft PFOA Risk Management Evaluation vs. EU PFOA regulation

The draft PFOA Risk Management Evaluation written by BiPRO on behalf of the EU contains proposals for 11 exemptions. Seven proposed exemptions replicate the weak EU PFOA regulation. Three proposed exemptions are weaker than the EU PFOA regulation by converting them to time-unlimited exemptions. The Stockholm Convention draft contains a proposal for one exemption that is not present in the EU PFOA regulation.

Color coding: EU regulation is the same as draft proposal for Stockholm Convention
Draft proposal for Stockholm Convention is weaker EU regulation
Not present in the EU regulation

Proposed for Stockholm Convention	EU PFOA regulation
1. Equipment to make semiconductors, spare parts, and infrastructure; possible time-unlimited exemption	1. Equipment to make semiconductors, spare parts, and infrastructure; until 4 July 2022
2. Semiconductors or compound semiconductors; possible time-unlimited exemption	2. Semiconductors or compound semiconductors; time-unlimited exemption
3. Photolithography processes for semiconductors or etching processes; possible time-unlimited exemption	3. Photolithography processes for semiconductors or etching processes; possible time-unlimited exemption; time-unlimited exemption
4. Technical textiles; time-limited exemption	4. Technical textiles; until 4 July 2023
5. Membranes for medical textiles, filtration in water treatment, production processes and effluent treatment; time-limited exemption	5. Membranes for medical textiles, filtration in water treatment, production processes and effluent treatment; until 4 July 2023
6. Aqueous film-forming foams for firefighting; time-limited exemption	6. Aqueous film-forming foams for firefighting; exempt if place on market before 4 July 2020; or if used for training purposes, emissions to the environment are minimized and effluents collected are safely disposed of
7. Medical devices; possible time-unlimited exemption	7. Medical devices; until 4 July 2032
8. Production of implantable medical devices; possible time-unlimited exemption	8. Production of implantable medical devices; time-unlimited exemption
9. Photographic coatings applied to films, papers or printing plates; possible time-unlimited exemption	9. Photographic coatings applied to films, papers or printing plates; time-unlimited exemption
10. Transport of intermediates to enable reprocessing at another site; possible time-unlimited exemption	10. Transport of intermediates to enable reprocessing at another site; time-unlimited exemption
11. Use of perfluoro iodide to make perfluorooctyl bromide for pharmaceutical products; possible time-unlimited exemption	11. Use of perfluoro iodide to make perfluorooctyl bromide for pharmaceutical products; No exemption

References:
European Commission (2017) Perfluorooctanoic acid (PFOA) its salts and PFOA-related substances, Official Journal of the European Union, 14 June 2017
UNEP (2017) Draft risk management evaluation pentadecafluorooctanoic acid (CAS No: 335-67-1, PFOA, perfluorooctanoic acid), its salts and PFOA-related compounds, Stockholm Convention POPs Review Committee, UNEP/POPS/POPRC.13/3http://chm.pops.int/TheConvention/POPsReviewCommittee/Meetings/POPRC13/MeetingDocuments/tabid/6024/Default.aspx

Annex 2. Information about PFOA and the Stockholm Convention process

Previous concerns about the weak EU PFOA regulation
In our letter to the Commission on 7 September 2016, we noted how ECHA's committees unjustifiably weakened the original PFOA regulatory proposal submitted by Germany and Norway.[3] We expressed concerns that RAC and SEAC had not taken the environmental and health impacts of proposed derogations into account nor the availability of alternatives. Unfortunately, the EU proceeded to adopt a very weak PFOA regulation with many unjustified derogations. Even worse, the EU appears to be trying to globalize its weak regulation through the Stockholm Convention listing, instead of using it as an opportunity to strengthen its regulation of PFOA to protect human health and the environment.

EU hires industry consultants who draft exemption proposals for industry
In 2015, the EU nominated PFOA for listing in the Stockholm Convention and became the drafter of the evaluation documents. However, instead of carrying out the assessment in-house, utilizing provided information about alternatives, the EU hired industry consultants, BiPRO, to do the drafting. BiPRO's client list contains companies that make fluorinated compounds and/or use PFOA in their manufacturing processes. These corporate entities include 3M, Saint Gobain, and even CEFIC – the European Chemical Industry Association.[4] It is not appropriate for the EU to select an industry consultancy that serves clients making and using fluorinated chemicals to guide a process that results in global exemption recommendations for those same industries. In fact, BiPRO's drafting process has a created a conflict of interest cloud over the proceedings. Public interest stakeholders raised concerns about the issue but BiPRO has denied even the perception of a conflict of interest. The EU should assume full responsibility for its PFOA nomination and not utilize BiPRO any further for any matter related to fluorinated compounds or other substances that create a real or perceived conflict of interest.

Most of the proposed PFOA exemptions should not be supported
At the upcoming POPRC meeting, the EU should support a recommendation to list PFOA in Annex A of the treaty and not support many of the proposed global exemptions for PFOA. [5] Many of the proposed exemptions cannot be justified for a substance with extreme persistence and a link to six serious illnesses in humans.

For example, to appease the German industry, BiPRO proposed an exemption for photographic coatings. This is a *"*dinosaur*"* use of PFOA since it has essentially been replaced by digital imaging. There is no justification for continuing this archaic use of PFOA. In a bow to the industry and the weak EU regulation, the EU/BiPRO draft includes the possibility of a time-unlimited global exemption for this use. The EU should take the opportunity to strengthen its own regulation and not support any exemption for this use.

Another example, is a proposal for a time-unlimited exemption to allow the transport of intermediates to another site to enable processing. BiPRO acquiesced to the FluoroCouncil industry association's request for this exemption which uses transfer of chemicals from Japan to the US as an example and justifies it based on "stringent" practices in the EU. In reality, this proposed exemption opens the door to waste dumping of PFOA and related compounds in developing and transition countries under the guise of "reprocessing." In many countries, none of the "stringent" measures described as common EU practice could be effectively implemented or enforced. This global exemption could result in significant further releases of PFOA globally and should not be granted or supported by the EU.

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3 http://env-health.org/IMG/pdf/08092016_-_ngo_letter_reachcom_pfoa_sept16.pdf

4 BiPRO's corporate clients include CEFIC, Saint-Gobain, Dow Europe GmbH, Bayer AG, 3M, RAG Aktiengesellschaft, Daimler AG, Robert Bosch GmbH, H.C. Starck, TIMCAL AG, Federation of European Producers of Abrasives, Silicon Carbide Manufacturers Association, Association of German Abrasive Manufacturers, Deutscher Industrieverband Keramische Fliesen und Platten e.V. http://www.bipro.de/en/referenzen/auftraggeber/

5 UNEP (2017) Draft risk management evaluation pentadecafluorooctanoic acid (CAS No: 335-67-1, PFOA, perfluorooctanoic acid), its salts and PFOA-related compounds, Stockholm Convention POPs Review Committee, UNEP/POPS/POPRC.13/3 http://chm.pops.int/TheConvention/POPsReviewCommittee/Meetings/POPRC13/MeetingDocuments/tabid/6024/Default.aspx

BiPRO repeats German textile industry claims that if they do not have PFOA, they cannot make high performance technical textiles to protect workers. The draft Risk Management Evaluation does not even state what specific products the exemption would cover or how worker protection could be achieved without relying on toxic chemical-impregnated textiles. The EU should not support global exemptions that are undefined and do not have independent verification of performance claims or needs.

Firefighting foams containing PFOA and other fluorinated substances are a dispersive use and a key source of water pollution in the EU and many sites around the world, including as a result of training exercises. The EU granted an exemption for PFOA use in firefighting foams placed on the market before 4 July 2020. In addition, the EU granted an even wider exemption that allows use of PFOA-containing firefighting foams if they are used for training purposes with minimized emissions to the environment (undefined) and, *"effluents collected are safely disposed of."* Ironically, the draft Risk Management Evaluation notes that, *"Recent calculations of the total costs for cleaning up groundwater polluted by PFAS around fire-fighting areas in Norway show that 3.5-5.5 million euros is required per training site."*[6] Dispersive uses of PFOA are especially serious due to widespread contamination of drinking water. The availability of technically feasible fluorine-free foams and the time frame of entry into force of a PFOA amendment (2020) means that the EU should not support an exemption for this use.

In 2015, the EU joined more than 100 other countries in the SAICM process to make environmentally persistent pharmaceutical pollutants an emerging policy issue of global concern. However, the EU/BiPRO draft proposes the possibility of a time-unlimited exemption for making pharmaceuticals using perfluoro iodide to make perfluorooctyl bromide. BiPRO accepted this proposal on behalf of a single company: fluorinated chemical producer, Daikin, of Japan. The EU should not support global exemptions for environmentally persistent pharmaceutical products.

In total, the EU draft Risk Management Evaluation contains 11 exemptions that cover all major uses of PFOA – and proposals for 8 of them include the possibility of no time limit. They are all weakly justified based mostly on EU industry requests and/or the weak EU regulation. The numerous industry-requested exemptions in the EU/BiPRO draft create the impression that the EU has simply hired an industry consultancy to advance its own industry's interests. That's a conflict of interest and not the kind of chemical safety leadership we expect from the EU.

Globalizing a dysfunctional REACH process

The draft PFOA Risk Management Evaluation proposes an exemption for membranes used in medical textiles, filtration in water treatment, production processes and effluent treatment. The EU granted an exemption for this undefined use until 2023. However, the EU REACH Risk Assessment Committee did not even propose this exemption. Instead, the EU Committee for Socio-economic Analysis (SEAC) simply made a general statement that, *"SEAC does not have in depth information per article type but prefers to allow a longer implementation period for certain article types where uses could be critical for the protection of human health and the environment or for the safety of industrial processes."*[7] Now this vague statement is being proposed for a global exemption – despite the fact that water treatment facilities have been identified as one of the most PFOA-contaminated areas with high potential to disperse PFOA into the wider environment. The EU should not support this exemption due to serious environmental releases and the presence of alternatives for medical textiles.

EU/BiPRO draft is even weaker than the EU PFOA regulation

For example, the EU regulation has a derogation for equipment to make semiconductors, spare parts and infrastructure until 2022, but BiPRO has proposed no time limit for this global exemption under the

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6 UNEP (2017) Draft risk management evaluation pentadecafluorooctanoic acid (CAS No: 335-67-1, PFOA, perfluorooctanoic acid), its salts and PFOA-related compounds, Stockholm Convention POPs Review Committee, UNEP/POPS/POPRC.13/3 http://chm.pops.int/TheConvention/POPsReviewCommittee/Meetings/POPRC13/MeetingDocuments/tabid/6024/Default.aspx

7 See page 38 of this document https://echa.europa.eu/documents/10162/2f0dfce0-3dcf-4398-8d6b-2e59c86446be

Stockholm Convention based on industry requests. BiPRO justifies a global exemption for this use by stating that its use is low in the EU (120 kg/year) and it causes a *"low share of total emissions"* in the EU. This EU-centric view neglects the rest of world. No justification exists for a time-unlimited exemption, and an argument can be made that no exemption is justified considering that Norway's exemptions expired in 2016. In addition, the industry admits that only several companies continue to use PFOA in the photo-lithography process, implying that most have substituted the substance. The majority of companies that have already discontinued use of PFOA should get the economic benefit of a global ban on this use and no exemption should be supported.

Another example is an exemption for unnamed medical devices and production of unnamed implantable medical devices. The EU regulation allows PFOA use in medical devices until 2032, but BiPRO has proposed the possibility of no time limit without even stating what products it covers. Any consideration for global exemptions should be based on specific products after an analysis of alternatives has been completed. BiPRO does not present this information so no exemption should be granted.

Many exemptions proposed for a substance that damages public health

BiPRO has proposed exemptions that cover all major uses of PFOA, but this is an extremely harmful substance. In 2016, the Stockholm Convention POPs Review Committee agreed by consensus that, *"there was a probable link to PFOA exposure for diagnosed high cholesterol, ulcerative colitis, thyroid disease, testicular cancer, kidney cancer and pregnancy induced hypertension."*[8] The Committee agreed that PFOA and its related compounds, *"are likely to lead to significant adverse human health and environmental effects such that global action is warranted."*[9] Since then, the US National Toxicology Program concluded that PFOA was an immune hazard to humans, capable of impacting all aspects of human health; a finding that the Committee has acknowledged.[10] Exemptions that continue production and use of PFOA endanger public health and should not be supported by the EU.

Conclusions

The EU selected an industry consultancy with clients who make and/or use fluorinated chemicals to guide the process of making global exemption recommendations for PFOA in a Stockholm Convention listing. BiPRO's drafting on behalf of the EU has served both its industry client base and the weak EU PFOA regulation. BiPRO has replicated or weakened the numerous derogations present in the EU regulation and included all the exemptions requested by PFOA producers and users – its client base. This unfortunately creates the international impression that the EU prioritizes the financial requests of its industry and industry consultants over the protection of its own public from the serious harms to human health and the environment caused by PFOA.

8 UNEP (2016) Risk profile on pentadecafluorooctanoic acid (CAS No: 335-67-1, PFOA, perfluorooctanoic acide), its salts and PFOA-related compounds, Stockholm Convention POPs Review Committee, UNEP/POPS/POPRC.12/11/Add.2

9 UNEP (2016) Risk profile on pentadecafluorooctanoic acid (CAS No: 335-67-1, PFOA, perfluorooctanoic acide), its salts and PFOA-related compounds, Stockholm Convention POPs Review Committee, UNEP/POPS/POPRC.12/11/Add.2

10 National Toxicology Program (2016) Monograph on immunotoxicity associated with exposure to perfluorooctanoic acid (PFOA) or perfluorooctane sulfonate (PFOS). National Toxicology Program, US Department of Health and Human Services. https://ntp.niehs.nih.gov/ntp/ohat/pfoa_pfos/pfoa_pfosmonograph_508.pdf