



Mr. Frans Timmermans
First Vice-President of the European Commission responsible for Better Regulation, Interinstitutional Relations, the Rule of Law and the Charter of Fundamental Rights

Ms. Elżbieta Bieńkowska
European Commissioner for Internal Market, Industry, Entrepreneurship and SMEs

Mr. Karmenu Vella
European Commissioner for Environment, Maritime Affairs and Fisheries

Brussels, 12 May 2016

Non-REACH Chemicals REFIT process fails to comply with Better Regulation guidelines

Dear Mr Timmermans, Ms Bieńkowska and Mr Vella,

The undersigned organisations would like to express our deep concern with the way the European Commission is carrying out a Fitness Check of non-REACH chemicals legislation.

The Commission's Better Regulation Guidelines¹ establish that Roadmaps are a mandatory requirement for REFITs. The Guidelines state that these should summarise the design purpose and scope of the exercise to allow stakeholders to comment and that these documents require political validation from the lead Commissioner, Vice-President and First Vice President.

In the case of the non-REACH chemicals REFIT, no such roadmap has been published. Yet the responsible Directorate General of the Commission, DG Growth, is nevertheless running a consultation exercise on the basis of a background document that is not approved by the Commission before this mandatory step is carried out.

¹ Better Regulation Guidelines on Planning. http://ec.europa.eu/smart-regulation/guidelines/ug_chap2_en.htm

The aim of the Non-REACH Chemicals REFIT, as stated in a background document² from the Commission, is to ascertain whether the European Union chemicals acquis still meets its primary aims, namely to offer European citizens and the environment a high level of protection and to ensure that the EU internal market in chemicals functions well, thereby stimulating innovation and competitiveness.

This may well be the widest REFIT exercise carried out until now, covering over a hundred pieces of law, and may have significant consequences. It is therefore even more important to ensure that the process follows the established requirements, is transparent and sound, and leads to reliable results.

However, during the consultation workshop organised by consultants on behalf of DG Growth on 19 April 2016 to gather stakeholder input to a key study on the Regulation on classification, labelling and packaging of substances and mixtures (CLP Regulation) and related legislation commissioned under this REFIT exercise, Commission representatives stated that no stakeholder consultation was foreseen for the overall roadmap. They also stated that the scope and planned activities of the Chemicals REFIT were those already included in the background document, which were agreed after a consultation with only a limited number of unknown stakeholders.

Equally worrying is the fact that no activity is foreseen as part of this exercise to seek to gather evidence on how European citizens and the environment are benefiting from the European Union chemicals acquis.

The public consultation that has been launched is directed at only a limited number of stakeholders. It fails to include the scientific and healthcare community that could provide evidence on the environmental and health benefits of chemicals legislation. It addresses only the chemical industry, there seems to be no plan to send questionnaires to downstream users apart from a few sectors such as detergents, and there is no intention to gather any information on the benefits of chemicals legislation for industry. Such an approach suggests that rather than making a balanced assessment of whether the legislation in question still meets its primary aims, the intention is to focus only or primarily on regulatory burden on the industry. This is at clear variance with the stated aim of this REFIT exercise and casts further doubt on the rationale behind the Commission's 'better regulation' agenda.

Furthermore, as each group of stakeholders has a different questionnaire, it will not be possible to compare opinions and information provided by different stakeholders during the public consultation by public debate and exchange.

² Background document. http://ec.europa.eu/growth/sectors/chemicals/ec-support/index_en.htm.

We therefore ask you to pause this process until a roadmap has been published and consulted on, as laid out in the Better Regulation guidelines. If such an important REFIT can proceed with such flagrant disregard for these guidelines, then one might question why these guidelines exist at all.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'J. Wates', is positioned above the printed name.

Jeremy Wates,

Secretary General of the European Environmental Bureau

On behalf of:

Cancer Prevention and Education Society

CHEM Trust

ClientEarth

Danish Ecological Council

Ecologistas en Acción

European Environmental Bureau (EEB)

Health and Environment Alliance (HEAL)

Health Care Without Harm

Pesticide Action Network-Europe

Women in Europe for a Common Future (WECF)