



EUROPEAN COMMISSION

Brussels, 18.2.2021

C(2021) 1216 final

Dear President,

The Commission would like to thank the Bundesrat for its Opinion on the Communication on the Chemicals Strategy for Sustainability {COM(2020) 667 final}.

The Commission welcomes the support of the Bundesrat for this Strategy, which is the first delivery of our zero-pollution ambition in the context of the Green Deal. The aim of this Strategy is to both strengthen health and environmental protection and at the same time to contribute to improving the competitiveness of Europe's chemical industry, as well as to support the socio-economic recovery from the COVID-19 pandemic and our open strategic autonomy. For this, the Commission has indeed proposed not only a number of legislative but also supportive actions. The Commission is grateful that the Bundesrat acknowledged this positively.

The Commission also takes due note of the views and recommendations expressed by the Bundesrat. The Commission would like to emphasise that it based its Strategy on a number of policy evaluations on the EU chemicals legislation that it has carried out over the last years. Those evaluations clearly show that the EU has a very advanced and protective regulatory framework on chemicals, based on a world-class knowledge base on chemicals. At the same time, they identified a number of gaps, weaknesses and challenges that we aim to address through the actions announced in the Strategy in order to fully achieve the EU policy objectives. In addition to this, in preparing the various proposals for legislative changes announced in the Strategy, the Commission will of course adhere to its Better Regulation principles and will accompany its legal proposals with thorough impact assessments and public consultations. In addition, should the Commission be of the view that specific tasks can best be carried out by the European Chemicals Agency (ECHA), it will add the necessary financial requests to such proposals for decision by the co-legislator.

*Mr Reiner HASELOFF
President of the Bundesrat
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The Commission is also grateful to the German Presidency, under whose term this Strategy was adopted, for its support for the process. This has enabled a first exchange of views in the Environment Council on 17 December 2020, and paved the way for Council Conclusions – planned under the Portuguese Presidency. Such Council Conclusions will be very helpful for the Commission in the practical implementation of the announced actions.

The Commission is now fully committed to starting the implementation. We have published – in an Annex to the Strategy – an ambitious timeline for the various actions, which takes into account the time needed to carry out the necessary impact assessments. Nevertheless, the Commission fully understands the wish of the Bundesrat to speed up some of the actions and will do its utmost to deliver the various proposals and start the non-legislative actions without undue delay.

In response to the more technical comments, the Commission would like to refer the Bundesrat to the attached annex. The Commission hopes that the clarifications provided in this reply address the issues raised by the Bundesrat and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*

*Virginijus Sinkevičius
Member of the Commission*

Annex

As regards the points to which the Bundesrat has drawn the Commission's particular attention, the Commission would like to make the following comments:

Paragraph 11. The Chemicals Strategy for Sustainability is accompanied by a Staff Working Document on the Fitness Check on Endocrine Disruptors (SWD(2020) 251 final). The actions in the Chemicals Strategy are based on the findings of this Fitness Check, which has been announced in the Communication "Towards a comprehensive European Union framework on endocrine disruptors" from 2018 (COM(2018) 734 final). Based on this, the Strategy contains a series of measures, including the proposal "to establish legally binding hazard identification of endocrine disruptors, based on the definition of the WHO, building on criteria already developed for pesticides and biocides, and apply it across all legislation". The Strategy also announces that "endocrine disruptors are banned in consumer products as soon as they are identified, allowing their use only where it is proven to be essential for society". These actions will ensure a coherent approach to the identification of endocrine disruptors and improve the protection in particular of vulnerable groups.

Paragraph 13. The Commission would like to stress the importance it attaches to the enforcement of EU legislation. As said in the Communication, stepping up implementation and enforcement of chemicals legislation is urgently needed to ensure compliance for the production and placing on the market of chemicals, as well as for their release and disposal. This should also help establishing a better level playing field and is therefore important for the competitiveness of the EU chemicals industry. The Commission believes that audits in Member States can also be helpful for them to become aware of possible weaknesses and deficiencies in the way and structure they implement the chemicals legislation. The proposal of the Commission will be based on a thorough impact assessment, including a public consultation, ensuring that the best option will be put forward to the co-legislator.

Paragraph 14/15. Our evaluations have shown that a preventive (generic) approach to risk management is simpler, generally faster and provides clear signals to all actors on the types of chemical substances where innovation should be prioritised by the industry. This is further explained in the Staff Working Document SWD(2019) 199 final/2, accompanying the report of the Commission on the findings of the Fitness check of the most relevant chemicals legislation (except REACH) and identified challenges, gaps and weaknesses. The Commission would also like to point out that the concept of generic risk management – as proposed – will still allow for the use of these most harmful chemicals where proven essential for society

The Commission further believes that the grouping approach will ensure that the EU can take the necessary risk management actions much faster, and with fewer resources. The European Chemicals Agency is currently developing this concept.

Paragraph 18. The Commission would like to like to point out that the work on restrictions of per- and polyfluorinated alkyl substances (PFAS) under Regulation (EC)

No 1907/2006 (REACH) is already ongoing. The Commission has requested the European Chemicals Agency (ECHA) to start working on a restriction dossier for firefighting foams – a common source of PFAS. The Commission is confident that ECHA will be able to deliver this work by October 2021, after which the Commission can start preparing – if appropriate - the respective proposal and discuss it with Member States. In addition, four Member States, including Germany, have announced to prepare a restriction dossier for PFAS more generally. The Commission hopes that the first general analysis will be finalized soon, so that the dossier can be submitted to ECHA in late 2021 or early 2022.

Paragraph 19. The Commission agrees that analytical methods to control and subsequently enforce EU legislation are crucial. It would like to point out that a first step to address the detection and identification of specific pollution problems and their source has recently been made in the context of the Green Deal call as part of the Horizon Europe Work Programme¹. In addition, it trusts that the new research and innovation agenda announced in the strategy will ensure that the necessary research and innovation needs are identified, and subsequently addressed via the EU Research and Innovation Programmes. Finally, it recalls that a Research and Innovation Partnership between the Commission and Member States on Risk Assessment of chemicals has been proposed under Horizon Europe.

Paragraph 22. The Commission plans to initiate the first meeting of a round table in the spring 2021. It counts on the participation of all interested stakeholders to make this round table a success. The Commission is currently discussing internally the mandate of such a group, and will in this context carefully consider the Bundesrat's proposal to include a discussion on risk management options.

¹ LC-GD-8-1-2020: Innovative, systemic zero-pollution solutions to protect health, environment and natural resources from persistent and mobile chemicals