**EU Textile, Apparel and Footwear industry comments on Sweden’s proposal for a Chemical tax on clothing and footwear products**

The undersigned organisations, representing a significant amount of clothing and textile related businesses and jobs in Europe, globally welcome the opportunity to provide comments on the proposal to introduce a Swedish tax to reduce hazardous chemicals.

Our joined membership supports the goal of reducing the use of hazardous substances in clothing and footwear harmful to the environment and human health in a cost efficient and enforceable manner. As such, our members have been working individually and collectively on restricting hazardous substances in textiles and footwear for several years.

We collectively share several concerns regarding the proposed Swedish tax that we hope will receive the highest attention from the Swedish and European public authorities.

 Specifically, we question the appropriateness and legality of the proposal as the most effective, scientifically sound solution and legal option of phasing out the use of certain chemicals in articles based on the following principles:

**Legality:** REACH provides full harmonization of the requirements regulating (the restriction of) hazardous substances and BPR – the antimicrobial substances. The question is whether these recent national tax measures aiming at reducing (or phasing out) certain types of substance are still 'taxation' measures if their claimed objective is to prohibit substances (and not or not only to generate revenues for the state). Therefore, one should seriously doubt if the Swedish tax should be allowed.

**Lack of Proportionality:** It is our understanding that the proposal aims at protecting the environment and health of consumers, but meanwhile it is targeting all clothing and footwear, although the inquiry considers that close to 85% of those products contain none of the chemicals in the proposed act. In addition to this, differentiation of risks needs to be taken into consideration. This is already done in the different type of regimes under REACH and other EU chemical legislations. For instance, not all substances are prohibited for any use. For example, a substance which is a skin sensitizer can pose no issue when washed into wastewater.

**Cost efficiency:** While the inquiry failed to deliver a thorough socio-economic impact assessment of the proposal compared to actual risk, it is likely to trigger unforeseen circumstances. One could evaluate that it is more cost-efficient to pay the tax in full rather than running costly and administratively burdensome third-party testing thus rendering the entire exercise redundant or even counterproductive.

**Reduction of Risk:** Testing of substances that are not used does neither lead to risk reduction, nor does it support the environmental aim of the tax. Rather, such testing will draw focus and resources where there is no risk, instead of channelling it into real environmental improvements.

**Enforceability:** We share the assessment of Swedish companies that the market enforcement authorities will have limited capacity and ability to regulate and monitor the proposal. This concerns chemicals expertise to carry out checks, and a lack of clear guidance in the legislation on testing methods and relevant thresholds.

**EU Internal Market:** REACH (EC 1907/2006) already aims to improve the protection of human health and the environment through the better and earlier identification of the intrinsic properties of chemical substances. REACH has shown efficiency in restricting hazardous substances and promoting substitution. The proposed tax intends to tackle international issues with a national tax and could easily be perceived as a non-tariff barrier and a redundancy of the work already done by REACH and ECHA. We believe that the tax contravenes both EU regulations governing the single market and WTO trade regulations. It cannot be justified to design trade barriers on environment and health grounds when the vast majority of product targeted do not contain the chemicals to be taxed and pose no risk. REACH and BPR for example establish ‘exhaustive harmonization’ of the requirements regulating the use/presence of hazardous chemicals and antimicrobials in clothing and footwear and the Swedish tax prohibit *de facto*the use in clothing and footwear of substances authorized and/or otherwise regulated by the EU.

**Test methods and thresholds:** The criteria for the eligibility of the tax deductions are unclear, e.g., no analytical test methods are referred to, although this is of great consequence for testing results. It is further not clear which level of proof is to be provided, at which frequency, and how the deduction is obtained. The proposal entails a heavy administrative burden for those reporting the tax, who must ensure they have satisfactory documentation supporting the right to a deduction. Companies who have already invested in common international third-party RSL product certifications, such as Bluesign or Standard 100 by OEKO-TEX®, may not be able to leverage these, as several of the proposed chemical thresholds deviate from such industry best-practice standards.

**Substitution:** While we do not oppose the overall goal of the tax, we question if such a tax is likely to get in the way of comprehensive cooperate chemical management programmes, thereby hindering non-regrettable substitution where it is most needed and diverting investments from safer alternatives and a green recovery to covering a tax.

**Proposed options:** For the abovementioned reasons the signatories strongly believe that setting up a national tax is not the most efficient way to proceed as it aims at regulating an industry built on global supply chains and operating under robust European and international regulations and programs.

Ideally, globally harmonised chemical regulations are preferable for simplicity, clarity and compliance.
Additionally harmonisation at EU level is also preferable and any national regulatory action shall be aligned with ongoing European regulatory efforts such as the EU Chemicals strategy for sustainability addressing the interface between chemicals, products and waste legislation and strengthen synergies with the circular economy.

**In conclusion:** We call on the Swedish authorities to abandon the proposed chemical tax, and alternatively consider collaborative work at European and global level and to resend it for further investigation where industry experts would be invited to participate.

The signatories will also share these concerns with the competent European authorities with further legal evidence in view of the notification to the European Commission.

We look forward to a dialogue with the competent authorities and trust that our comments will be given the appropriate attention.

The undersigned:

Eurocommerce

Eurochambers

E-commerce Europe

Independent Retail Europe

European Branded Clothing Alliance

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CIRFS

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