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COVER NOTE

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To:	General Secretariat of the Council
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Subject:	COMMISSION DECISION of XXX establishing the EU Ecolabel criteria for absorbent hygiene products and for reusable menstrual cups

Delegations will find attached document D088269/02.

Encl.: D088269/02



Brussels, **XXX**
D088269/02
[...] (2023) **XXX** draft

COMMISSION DECISION

of **XXX**

establishing the EU Ecolabel criteria for absorbent hygiene products and for reusable menstrual cups

(Text with EEA relevance)

COMMISSION DECISION

of **XXX**

establishing the EU Ecolabel criteria for absorbent hygiene products and for reusable menstrual cups

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel¹, and in particular Article 8(2) thereof,

After consulting the European Union Ecolabelling Board,

Whereas:

- (1) Under Regulation (EC) No 66/2010, the EU Ecolabel may be awarded to those products with a reduced environmental impact during their entire life cycle.
- (2) Regulation (EC) No 66/2010 provides that specific EU Ecolabel criteria are to be established according to product groups.
- (3) Commission Decision 2014/763/EU² established EU Ecolabel criteria and related assessment and verification requirements for the product group ‘absorbent hygiene products’. The period of validity of those criteria and requirements has been extended to 31 December 2023 by Commission Decision (EU) 2018/1590³.
- (4) In order to better reflect best practice in the market for the product group and to take account of policy developments, potential future windows of opportunity for increased uptake and the market’s demand for sustainable products, it is appropriate to establish a new set of criteria for absorbent hygiene products. As a sustainable alternative with a potential growing market, it is also appropriate to establish a set of criteria for reusable menstrual cups.

¹ Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel (OJ L 27, 30.1.2010, p. 1).

² Commission Decision 2014/763/EU of 24 October 2014 establishing the ecological criteria for the award of the EU Ecolabel for absorbent hygiene products (OJ L 320, 6.11.2014, p. 46).

³ Commission Decision (EU) 2018/1590 of 19 October 2018 amending Decisions 2012/481/EU, 2014/391/EU, 2014/763/EU and 2014/893/EU as regards the period of validity of the ecological criteria for the award of the EU Ecolabel for certain products, and of the related assessment and verification requirements (OJ L 264, 23.10.2018, p. 24).

- (5) The EU Ecolabel Fitness Check Report⁴ of 30 June 2017, reviewing the implementation of Regulation (EC) No 66/2010, concluded on the need to develop a more strategic approach for the EU Ecolabel, including the bundling of closely related product groups where appropriate
- (6) In line with those conclusions and after consulting the EU Ecolabelling Board, it is appropriate to bundle the product group ‘absorbent hygiene products’ with the product group ‘reusable menstrual cups’ in the same Decision, as the two product groups fulfil the same function.
- (7) In line with Regulation (EC) No 66/2010, the EU Ecolabel shall not be awarded to any type of medical device, including those defined in Regulation (EU) 2017/745 of the European Parliament and of the Council⁵.
- (8) The new Circular Economy Action Plan for a cleaner and more competitive Europe⁶ adopted on 11 March 2020 stipulates that the durability, recyclability, and recycled content requirements are to be more systematically included in the EU Ecolabel criteria.
- (9) The revised EU Ecolabel criteria for absorbent hygiene products and reusable menstrual cups should aim to promote products that have limited environmental impact along their life cycle, and that are produced using material-efficient and energy-efficient processes. In particular, the revised EU Ecolabel criteria promote products that have limited impacts in terms of emissions to water and to air during production, that use raw materials sourced from sustainably managed forests, and that fulfil strict requirements on harmful substances. Moreover, in order to contribute towards the transition to a more circular economy, the criteria promote the use of paper and/or cardboard packaging, when possible, as an alternative to plastic packaging, and promote packaging with recycled content and which can be easily recycled.
- (10) Reusable products made of textiles are appearing on the market as an alternative to single-use products. The revised EU Ecolabel criteria for absorbent hygiene products and for reusable menstrual cups do not apply to these reusable textile alternatives, whose environmental hotspots and ecological criteria are planned to be specifically investigated for the purposes of the revision of EU Ecolabel criteria for textile products established by Commission Decision 2014/350/EU⁷.

⁴ Report from the Commission to the European Parliament and the Council on the review of implementation of Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) and the Regulation (EC) No 66/2010 of the Parliament and of the Council of 25 November 2009 on the EU Ecolabel (COM(2017) 355 final).

⁵ Regulation (EU) 2017/745 of the European Parliament and of the Council of 5 April 2017 on medical devices, amending Directive 2001/83/EC, Regulation (EC) No 178/2002 and Regulation (EC) No 1223/2009 and repealing Council Directives 90/385/EEC and 93/42/EEC (OJ L 117, 5.5.2017, p. 1).

⁶ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A new Circular Economy Action Plan for a cleaner and more competitive Europe (COM(2020) 98 final) (OJ C 364, 28.10.2020, p. 94).

⁷ Commission Decision of 5 June 2014 establishing the ecological criteria for the award of the EU Ecolabel for textile products, notified under document C(2014) 3677 (OJ L 174, 13.6.2014, p. 45).

- (11) The new criteria and related assessment and verification requirements should remain valid until 31 December 2029, taking into account the innovation cycle for the product groups.
- (12) For reasons of legal certainty, Decision 2014/763/EU should be repealed.
- (13) A transitional period should be available to producers whose products have been awarded the EU Ecolabel for absorbent hygiene products on the basis of the criteria set out in Decision 2014/763/EU, so that they have sufficient time to adapt their products to comply with the new criteria and requirements. For a limited period after adoption of this Decision, producers of absorbent hygiene products should be allowed to submit applications based either on the criteria established by Decision 2014/763/EU or on the new criteria established by this Decision. It should also be allowed to use EU Ecolabels awarded in accordance with the criteria established by Decision 2014/763/EU for a transitional period.
- (14) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 16 of Regulation (EC) No 66/2010,

HAS ADOPTED THIS DECISION:

Article 1

1. The product group ‘absorbent hygiene products’ shall comprise any article whose function is to absorb and retain human fluids such as urine, faeces, sweat, menstrual fluid or milk, excluding textile products. The product group ‘absorbent hygiene products’ shall include products for both private and professional use.
2. The product group ‘absorbent hygiene products’ shall not include products falling under the scope of Regulation (EU) 2017/745.

Article 2

1. The product group ‘reusable menstrual cups’ shall comprise reusable flexible cups or barriers worn inside the body whose function is to retain and collect menstrual fluid, and which are made of silicone or other elastomers.
2. The product group ‘reusable menstrual cups’ shall not include products falling under the scope of Regulation (EU) 2017/745.

Article 3

1. In order for a product to be awarded the EU Ecolabel under Regulation (EC) No 66/2010 for the product group ‘absorbent hygiene products’, it shall fall within the definition of that product group as specified in Article 1 of this Decision, and shall comply with the respective criteria and related assessment and verification requirements set out in Annex I to this Decision.

2. In order for a product to be awarded the EU Ecolabel under Regulation (EC) No 66/2010 for the product group ‘reusable menstrual cups’, it shall fall within the definition of that product group as specified in Article 2 of this Decision and shall comply with the respective criteria and related assessment and verification requirements set out in Annex II to this Decision.

Article 4

The EU Ecolabel criteria for the product group ‘absorbent hygiene products’ and for the product group ‘reusable menstrual cups’ and the related assessment and verification requirements shall be valid until 31 December 2029.

Article 5

1. For administrative purposes, the code number assigned to the product group ‘absorbent hygiene products’ shall be ‘047’.
2. For administrative purposes, the code number assigned to the product group ‘reusable menstrual cups’ shall be ‘055’.

Article 6

Decision 2014/763/EU is repealed.

Article 7

1. Applications for the EU Ecolabel submitted before ... [*OP please insert the date = the day before the date of publication of this Decision*] for the product group ‘absorbent hygiene products’ as defined in Decision 2014/763/EU shall be evaluated in accordance with the criteria set out in that Decision as applicable on ... [*OP please insert the date = the day before the date of publication of this Decision*].
2. Applications for the EU Ecolabel for products falling within the product group ‘absorbent hygiene products’ submitted in the period ... [*OP please insert the date = the date of publication of this Decision*] to [*OP please insert the date = two months after the date of publication of this decision*] may be based, by the applicant, on, and evaluated in accordance with, either the criteria set out in this Decision, or on the criteria set out in Decision 2014/763/EU as applicable on ... [*OP please insert the date = the day before the date of publication of this Decision*].
3. EU Ecolabels awarded on the basis of an application evaluated in accordance with the criteria set out in Decision 2014/763/EU may be used until ... [*OP please insert the date = the first day of the month following 12 months after the date of publication of this Decision*].

Article 8

This Decision is addressed to the Member States.

Done at Brussels,

For the Commission
Virginijus SINKEVIČIUS
Member of the Commission