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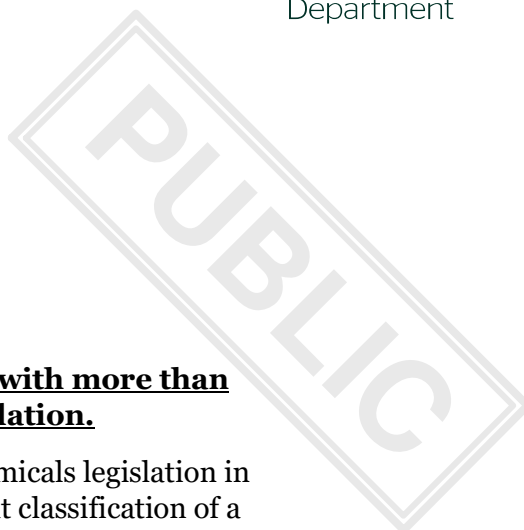
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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Delegations
N° prev. doc.:	CM 5319/23
N° Cion doc.:	ST 16258 2022 ADD 1 - ADD 8
Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures (CLP Revision) - Non-paper by Denmark on the classification of substances with more than one constituent (MOCS) under the CLP Regulation

Delegations will find in the Annex the non-paper by Denmark on MOCS, as expressed at the meeting of the Working Party on Technical Harmonisation (Dangerous Substances - Chemicals) on 17 November 2023.



Non paper on the classification of substances with more than one constituent or MOCS under the CLP Regulation.

The CLP Regulation is one of the cornerstones of chemicals legislation in the European Union. It is built upon the principle that classification of a substance or mixture should be based upon scientific evidence and the inherent properties of chemicals.

The amendments suggested by EP and put forward by the Presidency include the proposal from the Commission where new text was brought into play in article 5(3) to better accommodate the need for a clear approach to the classification of multi-constituent substances or MOCS. This is very positive as there really is a need to strengthen the classification of MOCS. However, the EP compromise suggest a permanent exemption for substances of 'renewable botanical origin', such as essential oils, from this very article. With respect to social and economic impacts, EP suggests that these impacts should be considered when a substance is classified.

One of the core principles of the CLP Regulation is that classification is based on scientific data and when the criteria for classification is met, a hazard class and a category is assigned to the substance. Social and economic factors are not to be considered when assessing the inherent hazardous properties of a substance. Any social and economic impacts as a consequence of a substance or a group of substances meeting the criteria for classification as hazardous, should be dealt with under the relevant sector legislation.

With respect to the wish to exempt all MOCS of 'renewable botanical origin' there is no relevant or scientific data yet presented that could lead to an exemption for the entire undefined and incredibly diverse group of substances. Classification based on tests on a MOCS will be less sensitive for statistical reasons, than classification based on the individual constituents and the purpose of classification is to identify the inherent properties of the substance.

It has also been suggested that codified rules for MOCS would result in more tests being required. However, it does not follow from the new rules on MOCS that there is an obligation for suppliers to generate new data. CLP is not a data generating regulation and the proposed rules on MOCS do not change that. We would therefore support clarification of this point in either the recitals or the articles, which we hope will allay some of these legitimate concerns.

For both suggested changes by the EP, the permanent exemption for MOCS of 'renewable botanical origin' and the inclusion of social and economic impacts in hazard evaluation, these suggestions – if implemented – would lead to insufficient classification and improper and potentially dangerous use of chemicals. These suggested changes are unacceptable as the level of protection would drop significantly and the consequences would result in long term devastating impacts on health and environment.