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NOTE

From:	Presidency
To:	Working Party on Technical Harmonisation (Dangerous Substances - Chemicals)
N° Cion doc.:	ST 8904 2023 ADD 1-7
Subject:	Proposal for a Regulation of the European Parliament and of the Council on detergents and surfactants, amending Regulation (EU) 2019/1020 and repealing Regulation (EC) No 648/2004 - Presidency steering note

Working Party on Technical Harmonisation – 6 March and 29 April 2024

Detergents and Surfactants Regulation

This steering note contains the main adaptations proposed by the Presidency, as laid out in document WK 3020 2024 INIT.

Following the input received from the Member States, a first compromise proposal has been drafted and is submitted for discussion at the Working Party.

6 March program:

Cluster 1 and Cluster 3 will be discussed during the meeting of 6 March. Following these discussions, the Presidency will invite Member States to share written comments on these two clusters by 20 March.

Main topics are presented hereunder.

A. CLUSTER 1 – Product Requirements

- 1) Article 4 & Annex VII: Measuring the biodegradability of surfactant in mixture placed on the market (product testing).

The placing on the market of detergents requires an evaluation of the biodegradability of surfactant ingredients according to methods established by types of surfactants. The results of these tests must document the placing on the market. These methods are not relevant for mixtures of surfactant testing.

To our knowledge, the product testing methodology set out *in extenso* in Annex VII is a method designed for control authorities verifying the biodegradability of surfactants in a detergent mixture. This method assesses the ultimate biodegradability of the surfactant and evaluating ingredients, cannot be used when several types of surfactants are present. Although, to our knowledge it has not been performed since 2004. The method does not require any advanced technological means nor sophisticated expertise, to our knowledge the method is simply outdated and its sizing in modern labs is problematic.

On the other hand, the Presidency considers that it would be a problem to deprive control authorities of the only binding method concerning the biodegradability requirements in products Member States could find on the market. Realistic circumstances leading to a difference between the composition as documented and the actual composition are not difficult to imagine.

The Presidency invites the delegations to prepare their positions for a discussion during the Working Party on 6 March, on the need for a product testing method of control and the possible alternatives in way to retain a means of control by the authorities in case of doubts on the veracity of the information accompanying the product for placing on the market.

2) Article 5 & Annex II: Detergents containing micro-organisms in spray format

The test method proposed in Annex II (5) is an acute inhalation toxicity test. Besides the fact that this test is an animal test, it only gives information on a single toxicological endpoint and does not cover other hazards. Moreover, other exposure routes than inhalation are likely, such as eye and skin exposure. In addition, use in spray products could result in uncontrolled dissemination of micro-organisms and possible contaminations (e.g. food in a room).

The Member States are invited to prepare their positions for a discussion during the Working Party on 6 March whether the proposal to restrict the use of such products to industrial and institutional uses, with specific instructions ensuring the safety of the users and their environment, is acceptable for them.

3) Article 6 & Annex III: Phosphorus content

Some Member States suggested further restrictions on phosphorus in detergents.

Different options were proposed:

- 1) a further reduction for the categories of products already regulated (consumer laundry and dishwasher detergents);
- 2) extending the scope to professional laundry and dishwasher products;
- 3) extending the scope to other types of products.

The Member States are invited to prepare their positions for a discussion during the Working Party on 6 March. The Presidency would like to engage in a debate on the basis of available quantitative information such as phosphorus (phosphates and other compounds) discharges problems, market control, problems related to the current scope, possible problems for substitution.

The proposal in the current Annex III is option 1 by reducing the current values by one third and option 2 by drawing on the values for the European I&I ecolabel. It proposes deadlines of 5 years.

B. CLUSTER 3 – Labelling & Digital labelling

1) Article 16: Forms of labelling

In order to address some Member States' concerns on the absence of essential information in a physical format for products made available in refill format, the derogation foreseen in Article 16(2), allowing digital label only, has been removed. A provision ensuring physical labelling on the refill station has been added.

Language requirements have also been adapted.

2) Annex V: Labelling requirements

Proposed adaptations have been introduced in Annex V on the basis of Member States comments, notably for the labelling of preservatives and perfume allergens.

29 April program:

Cluster 2 and Cluster 4 will be discussed during the meeting of 29 April. Following these discussions, the Presidency will invite Member States to share written comments on these two clusters by 8 May.

Main topics are presented hereunder.

A. CLUSTER 2 – Obligations of economic operators, CE marking, market surveillance.

1) Article 8: Authorised representative

Some Members States expressed concerns about the limited responsibilities of the authorised representative. They pointed out the need to have an operator established within the EU who ensures compliance, notably for products sold online by operators in third countries without EU importers. Market control authorities cannot take action against operators in third countries when there is no liable operator in the EU, which is detrimental for the protection of health and the environment and leads to unfair competition between EU and non-EU operators.

In other European legislations, such as the Cosmetics Regulation or the newly agreed CLP proposal, a responsible operator established in the EU is foreseen.

A new paragraph has been added to Article 8(3) stating that the authorised representative shall ensure that the detergent or the surfactant he is appointed for fulfils the requirements set out in this Regulation.

The name and contact details of the authorised representative have also been added to Article 15(3) on the labelling information.

Member States are invited to prepare their positions for a discussion during the Working Party on 29 April on the authorised representative responsibilities and to express their preference between the following options:

- Option A: Initial proposal of the Commission
- Option B: Proposal presented in the text as revised by the Presidency
- Option C: Any alternative proposal to specify.

2) Article 14: Rules and conditions for affixing the CE marking

In light of the comments made by some Member States, a digital CE marking is proposed and would only be mentioned on the product passport.

B. CLUSTER 4: Product Passport.