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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on the Environment
N° Cion doc.:	7777/23
Subject:	Green Claims Directive: WPE on 28 March 2025: Steering Note by the Presidency

With a view to the WPE meeting on 28 March 2025, delegations will find attached a steering note prepared by the Presidency.

PRESIDENCY STEERING NOTE

WORKING PARTY ON THE ENVIRONMENT (WPE)

Friday, 28 March 2025

GREEN CLAIMS DIRECTIVE (GCD) 2023/0085(COD)

The **second trilogue on the Green Claims Directive (GCD) is scheduled for 24 April 2025.** At the meeting of the Working Party on the Environment on 28 March 2025, the Presidency aims to start **preparations for the trilogue, in view of agreeing on** a revised mandate for negotiations with the European Parliament at Coreper on 11 April 2025.

The trilogue will aim at:

1) **confirming issues agreed so far** at the technical level;
2) **finding an agreement on number** of outstanding political issues. These notably relate to substantiation of explicit environmental claims and labels, communication requirements, verification, competent authorities, access to justice and penalties.
3) holding an **exchange on the most sensitive political issues** (scope, microenterprises, simplified procedure, climate related claims and hazardous substances) to provide guidance for further technical negotiations ahead of the third trilogue scheduled for 10 June 2025, where the co-legislators aim to conclude the negotiations.

An updated four-column table can be found in document **WK 3863/2025**. The four-column documents reflects the current state of technical negotiations with the European Parliament.

In addition to the four-column table, this steering note outlines:

1) the **outcomes of the technical negotiations** with the European Parliament;
2) **Presidency suggestions** on a number of open issues where the aim is to reach agreement at the second trilogue.

Presidency suggests to organise discussions during the meeting in three rounds of interventions focusing on Presidency suggestions on open issues :

ROUND 1: **1. Outcome of the discussions at technical level and Presidency suggestions for 2.1. Substantiation of explicit environmental claims and labels**

ROUND 2: **Presidency suggestions for 2.2. Communication requirements, verification and support to SMEs and 2.3. Competent authorities, access to justice and penalties**

ROUND 3: **Delegations' general comments on the main political outstanding issues (scope, microenterprises, simplified procedure, climate related claims and hazardous substances)**

When intervening, delegations are kindly invited to refer to the row number(s) indicating clearly whether they are intervening on the Council or EP position or the 'draft agreement' column in the four-column table.

1. Outcome of the discussions at technical level

Following the first trilogue on 28 January 2025, the Presidency has engaged in constructive negotiations during ten interinstitutional technical meetings (ITMs), where the co-legislators managed to thoroughly discuss the operative part of the proposal multiple times. It was agreed that a systematic examination of recitals will be done at the later stage. The discussions at the technical level have resulted in a number of provisionally agreed provisions in the operative part. With regard to text marked in the four-column table as "agreed at technical level", the Presidency would like to draw the delegations' attention to the issues set out below.

On **scope and definitions** in the course of discussions with the European Parliament many of the Council amendments for the list of acts in art. 1(2) were accepted. In exchange Council accepted a few EP requests for: to include wording specifying the purpose of the GCD (r. 85a) (final wording still to be agreed), adding to the list of acts in art. 1(2) regulation for

financial statements and ESG rating (r. 102). However, the discussion on scope is influenced by the issue of whether the list of excluded acts should be open or closed and whether the excluded acts on the list provide a level of requirements that can be considered equivalent to those provided by GCD (r. 103a, 98). On definitions, the vast majority of Council's changes have been agreed.

1) On **substantiation of claims in Art. 3 and 4**, the EP has accepted several Council provisions. The EP has agreed to drop its amendments referring to peer-reviewed (r. 128) in connection with the use of secondary information, and consequently its amendments on the definition (r. 120), as well as the amendment in row 135, in exchange for a clarification on secondary information (r. 136).
2) On the **Internal Market Information System** and Single Digital Gateway (e.g. r. 217a-d, 230b, 255d-e) agreement was found to use Council text throughout the whole proposal (NB r. 217a agreed in principle subject to final adjustment of wording).
3) Finally, most Council amendments of a more **conceptual nature** have been agreed, notably those setting out clearly responsibilities in relation to claims and labels, and those clarifying provisions and aligning with other legislation.

Some issues provisionally agreed at technical level are included in the section below as they relate to outstanding political issues.

A number of texts are still under discussion and might be included in the Presidency's suggestion for a revised Coreper mandate. Further, many provisions although deemed rather uncontentious are linked to other provisions and can therefore not be agreed before those are cleared (this concerns in particular provisions referring to climate, communication and the simplified procedure).

In the Presidency's assessment, the provisional agreement found at the technical level represents a balanced approach that includes most of the Council amendments introduced in the General Approach. Delegations are therefore invited to support the provisionally agreed text marked in the four-column table as "agreed at technical level".

2. Presidency suggestions for the second trilogue

2.1. Substantiation of explicit environmental claims and labels

A) Taxonomy and animal welfare (Art. 3(1), point (g), r. 133)

Presidency **suggests to accommodate the Parliament's request to include animal welfare as an aspect to consider when assessing negative trade-offs while maintaining the Council text referring to the taxonomy regulation and not defining animal welfare as an environmental objective.**

Conversely, the EP should accept Council amendment in r. 132 deleting the provision related to claims common practice.

B) PEF methods and monitoring

On Art. 3(4) (r. 139, 142) both co-legislators have added wording on PEFCRs/OEFSRs and other benchmarking methods but with different approaches. Accepting the EP position might result in not being able to use any method because those almost never cover all environmental impacts. Therefore, **Presidency suggests accepting the compromise suggestions relating to rows 139 and 142 as a package i.e. to partly accommodate the EP amendment on PEFCRs/OEFSRs while qualifying that the requirement only covers significant impacts or aspects and keeping the reference to presumption of conformity and remaining Council amendments on monitoring as set out in the text.** As a consequence the EP amendment in row 144a would be deleted.

Article 3(4)	
139	4. ***In order to foster greater harmonisation and ensure a level playing field in the single market, the Commission shall adopt delegated acts in accordance with Article 18 to supplement this Article, based on the EU Environmental Footprint methods, including incorporating PEFCRs and OEFSRs. Where the Commission identifies the need to promote other benchmarking methods in order to foster greater harmonisation and ensure a level playing field in the single market or*** when the regular monitoring of the evolution of ***explicit*** environmental claims ***or environmental labels*** referred to in Article 20 reveals differences in the application of the requirements laid down in paragraph 1 ***and 1aa for certain explicit environmental*** ~~***for specific***~~ claims ***or environmental labels*** and such differences create obstacles for the functioning of the internal market, or where the Commission identifies that the absence of requirements for ~~***specific***~~***certain explicit environmental*** claims ***or environmental labels*** leads to widespread

	misleading of consumers, the Commission ~~may~~ ***is empowered to*** adopt delegated acts in accordance with Article 18 to supplement the requirements for substantiation of explicit environmental claims laid down in paragraph 1 ***and 1aa*** by:
Article 3(4), point (c)	
142	(c) establishing specific life-cycle-based rules on substantiation of explicit environmental claims for certain product groups and sectors***, including, where appropriate on the basis of the Product Environmental Footprint Category Rules and Organisation Environmental Footprint Sectorial Rules where those rules cover all significant environmental impacts or aspects relevant for the product category or trader. Their use shall be presumed to meet the requirements for substantiation established in paragraph 1.***

C) Aggregated claims and labels

Presidency suggests to **reject EP amendments proposing that aggregated claims can be only made when based on environmental label and also using private methodology** (art. 5(5), r. 162) However, if needed to reach an agreement, Presidency suggests to **accommodate only partially EP amendment allowing aggregated scores on the basis of private methods** (Art. 7(2), row 178) while still rejecting the proposal that they can be made on labels only. It could be done by **adding the possibility of using private methods in the Council's text with a hierarchy approach only where there are no national methods (Art. 3(6), row 147a) provided they meet the requirements on substantiation**. Furthermore, Presidency propose to accept additional compromise wording on individual scores related to, at least, the three main environmental impacts or aspects (art. 5(5), r. 162) aimed at requiring additional transparency on the main contributors to the aggregated score. In that context also a change in a definition of 'aggregated environment label' is proposed to facilitate references to aggregated score when discussing both – claims and labels with addition of aspect (Art. 2, first paragraph, point (8c), r. 113b).

Article 2, first paragraph, point (8b)	
113b	***(8b) 'aggregated score' means an environmental information obtained by combining two or more environmental indicators representing different environmental impacts or environmental aspects of a product or a trader;***
Article 3(6)	
147a	***(6) Explicit environmental claims and environmental labels about a product or trader based on one or more aggregated scores shall be made only on the basis of rules to***

	calculate such aggregated scores that are established in Union law. As long as such rules do not exist in Union law, Member States may establish rules to calculate such aggregated scores in national law, provided that those rules comply with the requirements set in Articles 3 and 4. As long as such rules do not yet exist in Union or national law, traders may generate explicit environmental claims or display environmental labels based on one or more aggregated scores, provided that they comply with the requirements set in Articles 3 and 4.
Article 5(5)	
162	5. ***When*** explicit environmental claims ~~***on the cumulative***~~***and*** environmental ~~***impacts of***~~***labels about*** a product or trader ***are*** based on an aggregated ~~***indicator of***~~***score pursuant to Article 3 paragraph 6, the trader shall also present the individual scores related to, at least, the three main environmental impacts or environmental aspects that contribute to the aggregated score.*** ***Where relevant, information about the ranges or classes of performance shall be provided with the explicit*** environmental ~~***impacts can be made only on the basis of rules to calculate such***~~***claim or*** aggregated ~~***indicator that are established in the Union law.***~~***environmental label.***

D) Labelling schemes

The EP has accommodated many of the Council amendments on environmental labels and labelling schemes including, exemption from verification for traders displaying the label (r. 180a), derogation for public national and regional labelling schemes from verification by the verifiers (r. 180b). Many of the Council changes to spell out responsibilities clearly, clarify provisions and align with other legislation were also accepted. On the remaining open issues **Presidency suggests the following overall package as regards outstanding issues on labelling schemes**:

1) on the definition of environmental label (Art. 2, first paragraph, point (8), r. 113) **Presidency suggests to request the EP to drop its amendment on the definition of environmental labels** as the EP amendment de facto extends the scope to sustainability labels that cover predominantly social or other aspects (e.g. labour rights);
2) on the provisions on requirements for labelling scheme, the EP has accepted the Council's approach in Art. 8 (2)(d) to consultation of experts and dropped its request to include wording on conflict of interests and independence from traders. In turn in relation to decision making bodies (Art 8 (2aa), r.182a) the **Presidency propose to show**

flexibility towards the EP amendment and accept a compromise wording on that provision stating that the *decision-making bodies of the environmental labelling scheme are free of conflicts of interest or ensure a balanced representation of diverse stakeholder groups combined* with an explanatory recital.

Article 8(2), point (aa)	
182a	***(aa) the decision-making bodies of the environmental labelling scheme are free of conflicts of interest or ensure a balanced representation of diverse stakeholder groups;***

3) On the provisions on **derogation from verification for the national or regional EN ISO 14024 type I ecolabelling schemes (Art. 8(6a), row 200a), Presidency suggests to maintain the Council position** on the inclusion on the derogation;
4) On the EP amendment proposing that labels developed by recognised consumer organisation would be exempted from verification (Art. 7(1a), r. 177a), **Presidency proposes to show openness to explore options to in some form to accommodate the EP if a clear legal framing can be found and would invite the Commission to bring forward appropriate ideas and suggestions.**
5) On **added value in new public and regional labelling** (Art. 8(3), 8(8a), r. 188, 203) the Presidency believes that EP should be able to accommodate the Council text on these requirements for new public national and regional labelling schemes but expects that the EP in first instance will not accept the use of implementing acts for the detailed requirements, as EP suggests to use delegated acts. **Presidency suggests to maintain the Council text on these provision**.
6) Commission advised that **direct references to ISO standards** (e.g. r. 200a, 221a) should be avoided due to the recent CJEU ruling and a horizontal approach to avoid such references in the enacting terms when not strictly necessary. **Presidency suggests to accommodate that request.**

Article 8(6a)	
200a	***The national or regional schemes officially recognised in the Member States as referred to in Article 2(s) of Directive 2005/29/EC, are exempted from verification in accordance with Article 10 provided they comply with the requirements of this Directive. Member States shall set up procedures for official recognition of such***

	schemes. Member States shall inform the Commission of such officially recognised schemes that can benefit from this exemption. Member States shall inform the Commission in case such schemes shall no longer be recognised based on the criteria above.
Article 11(1a)	
221a	***1a. The verifier shall be accredited in line with a relevant standard containing the general principles and requirements for validation and verification bodies, the reference of which has been published in the Official Journal of the European Union pursuant to Regulation (EC) No 765/2008, or equivalent standard.***

In Presidency's assessment the first compromise package on substantiation of explicit environmental claims and labels represents a balanced approach. Delegations are invited to support the presented approach and compromise suggestions. Indicating further flexibilities and issues especially sensitive for the delegations are more than welcome.

2.2. Communication requirements, verification and support to SMEs

A) Information to be made available to consumers and highly polluting industries

Very little progress has been made on the communication requirements and progress on several other provisions are blocked due to this. It has been argued that the Council's provision on information being provided on request reduces the level of transparency to the consumers and risks adding considerable burden on traders . The Presidency considers that the Council needs to show some flexibility on the issue, also to pave the way for agreement on other issues.

A way forward may be to combine the idea behind the Council's approach to focus on the summary while adding elements from the Commission proposal as (additional) technical information to be provided together with the claim. The Presidency will continue reject providing the full assessment together with the claim as requested by the EP (r. 167). When it comes to **EP amendment on claim by highly-polluting industries (r. 170a), Presidency suggests to reject this request due to the lack of clarity of what the highly polluting industries are and how those claims shall be in relative terms.**

B) Verification

Similarly to other parts of the proposal also here EP accepted most of the Council clarifying and consequential amendments (e.g. r. 214-216, 221, 224) and agreed to drop some of their proposals (e.g. r. 230a, 230d) in exchange Council accepted some of the EP amendments for the verifier requirements in art. 11(3) (r. 229, 230, 230c - see the four column table). On the remaining open issues **Presidency suggests the following package**:

1) **accommodate EP request that Member States in the procedures to be set up ensure that the verification and certification are carried out in a proportionate manner, avoiding unnecessary burdens for economic operator**s (Art. 10 (3a), r. 213a)

Article 10(3a)	
213a	***3a. When setting up the procedures referred to in paragraphs 1 and 2, Member States shall ensure that the verification and certification are carried out in a proportionate manner, avoiding unnecessary burdens for economic operators, notably in terms of costs. The verification and certification shall be carried out taking due account of the size of the trader, with a particular regard to micro, small and medium-sized enterprises, the degree of complexity of the explicit environmental claim in question, and where relevant, the sector in which the trader operates and its structure.***

2) **maintain Council position on communication requirements not being subjected to the verification** (Art. 10(1), r. 211);
3) **reject EP proposal for Member States setting rules on verifiers to complete the verification within 30 days** (Art. 10(4a), r. 214a).

C) Support to SMEs (art. 12)

Progress on has been achieved on art. 12 where co-legislators found some common ground on list of support measures (r. 233-236b). However, two outstanding issues remain to be solved. **Presidency suggest to maintain Council text on the list of measures to support SMEs taken by Member States or Commission which keeps it as a 'may' provision and not 'shall' as proposed by the EP, while accommodating EP request that Commission may support the Member States in development of those measures (r. 232). At the same time Parliament proposal on the single points of contact for SMEs (r. 236c) should be rejected unless this obligation can be fulfilled using existing contact points for SMEs in the member states or become voluntary ('may' provision).**

Article 12, first paragraph	
232	Member States, *[* ~~-~~shall*]* take appropriate measures to help ~~*small and medium sized enterprises*~~ ***SMEs, in particular microenterprises, to*** apply the requirements set out in this Directive. Those measures shall at least include guidelines or similar mechanisms to raise awareness of ways to comply with the requirements on explicit environmental claims ***and the use of environmental labels, with specific examples. If relevant, the Commission may support the Member States in development of those measures.*** ~~.~~In addition, without prejudice to applicable State aid rules, such measures ***to be taken by the Commission or the Member States [may]*** ~~*may*~~ include ***one or more of the following***:

In Presidency's assessment the second compromise package on communication requirements, verification and support to SMEs represents a balanced approach. Delegations are invited to support the presented approach and compromise suggestions presented in this part. Indicating other further flexibilities and issues especially sensitive for the delegations are more than welcome.

2.3. Competent authorities, access to justice and penalties

A) Competent authority

In art. 13-15 both co-legislators agreed on most of the provisions and respective amendments including IMI system and proportionality clause (r. 251a). On the remaining open provisions relating to the competent authority and corrective measures (art. 15(3)-15(3c), r. 255-255e) **Presidency suggests to keep Council wording on corrective measures including the change of 30 days deadline to 'without delay'. In exchange EP amendments on cooperation between competent authorities and withdrawal of verifier's accreditation could be partially included in the compromise drafting**. The proposals set out below would replace EP and Council amendments in r. 255a-d as they would be incorporated in the new wording. The Council text in r. 255e would be maintained.

Article 15(3)	
255	3. Where, further to the evaluation referred to in the ~~*first subparagraph*~~***second paragraph***, the competent authorities find ***[establish]*** that the substantiation and communication of the explicit environmental claim ***or environmental label*** or the environmental labelling scheme does not comply with the requirements laid down in this Directive, ***and where the competent authority considers corrective measures necessary and appropriate,*** they shall notify the trader ***generating*** making the claim ***or***

	displaying the environmental label, or the environmental labelling scheme owner about the non-compliance and require that trader to take all appropriate corrective action ***[without delay]*** to bring the explicit environmental claim or the environmental labelling scheme into compliance with this Directive or to cease the use of and references to the non-compliant explicit environmental claim ***or environmental label***. Such action shall be as effective and rapid as possible, while complying with the principle of proportionality and the right to be heard.
Article 15(3a)	
255a	***3a. Where, further to the evaluation referred to in the second paragraph, the competent authorities of a Member State find [establish] that an explicit environmental claim or an environmental labelling scheme or the corresponding environmental label does not comply with the requirements laid down in this Directive, they shall require the trader to disclose, without undue delay, if the explicit environmental claim or the environmental label has been communicated in another Member State. Where this is the case, the competent authorities that established the non-compliance shall notify, without undue delay, the result of the evaluation to the competent authorities of the other Member States pursuant to paragraph 3c.***
Article 15(3c)	
255c	***3b. Where, further to the evaluation referred to in the second subparagraph, the competent authority finds / establishes that the certificate of conformity issued as per Article 10 is to be annulled or withdrawn, and the verifier does not take action in line with Article 10 paragraph 7a, point c) following notification of this decision, the competent authority shall be empowered to take the appropriate actions in IMI. The competent authority shall notify the National Accreditation Body responsible for the verifier's accreditation without undue delay.***

B) Access to justice

When it comes to art. 16 and access to justice the **Presidency proposes to maintain the Council's deletion of the wording on informing the complainant (r. 260) and on access to courts or public body (r. 261). In order to achieve that Presidency as a starting point suggests showing openness to partially accommodate EP in amendments in r. 257, 259, 262 and 289 while at the same time keeping the Council text in r. 239, 290 and 292.**

However, the Presidency's assessment is that it will not be sufficient and delegations should consider further flexibilities in Art. 16, and would therefore ask delegations to consider two options:

Option 1: reintroduce art. 16(5) as in the Commission proposal (r. 261) and keep the art. 16(4) deleted as per Council text (r. 260). This provision reflects what is already in the Aarhus regulation.

Option 2: reintroduce art. 16(4) as in the Commission proposal without accepting additional EP amendments (r. 260) and keep the art. 16(5) deleted as per Council text (r. 261);

C) Penalties

Similar approach is suggested on penalties in art. 17. Firstly, the **Presidency will try to defend Council deletion of art. 17(3). To try to at least partially accommodate the EP position, reference to 'Member States' discretion' in art. 17(2), point (c) (r. 268) could be deleted. However, as is the case for access to justice, this is unlikely to be sufficient and the Council will have to consider further flexibilities. It should be noted that the Unfair commercial practices directive (UCPD) contains references to fines and their amount. However, three elements are not foreseen in the UCPD: fines depriving traders effectively from economic benefits and increased level of fines, confiscation and exclusion from public procurement (rows 274 – 276).**

Therefore, to reach an agreement, Presidency would like to ask Members States to consider keeping the deletion of the penalties list in r. 274-276 as they are not included in UCPD and in exchange agree to reintroduce only **provisions of financial penalties without specifying it maximum amount as percentage** of the trader's annual turnover based on art. 17(3)(a) in r. 274 based on Art. 13(3) of the UCPD.

Article 17(3), first subparagraph	
273	***Member States shall ensure that when penalties are to be imposed in accordance with Article 21 of Regulation (EU) 2017/2394, they include the possibility either to impose fines through administrative procedures or to initiate legal proceedings for the imposition of fines, or both.***

Well aware of the difficulties for delegations on these issues, it is the Presidency's assessment that agreement on competent authorities, access to justice and penalties is necessary in order to pave the way for agreement in a third trilogue. Delegations are invited to support the suggested approach and compromise suggestions presented in this part and clearly state a preferred option where applicable. Indicating preferences for further flexibilities and issues especially sensitive for the delegations are more than welcome.