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NOTE

From:	ES delegation
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 - Comments on clusters I and III by ES

ES Comments on Detergents proposal- Clusters I and III

1. Cluster 1 – Product Requirements

Article 4 – Biodegradability: We want to support the addition of the water soluble films.

1. *“Detergents, and surfactants and water soluble films used in detergent capsules shall...”*

Detergents cannot be assessed for biodegradability as a whole, as they correspond to chemical mixtures. However, their constituents can be assessed for biodegradability when using test methods specific for each constituent.

Moreover, current degradability test methods were developed for small molecules and are not suitable for complex detergent ingredients. For example, polymers, which are used in detergents (including in soluble films for detergent capsules), are at least 10 times larger molecules than some surfactants. For this reason, biodegradability test methods used for surfactants cannot be applied to polymers and the development of new test methods is required. Furthermore, polymers can degrade under the influence of microorganisms (biodegradation), or under the influence of UV light, water, oxygen (abiotic degradation), or both. Both degradation processes should be included in the scope of this legislation.

Article 6 - Limitations on the content of phosphates and other phosphorus compounds

We believe that consistency between this proposal and other legislative acts should be taken into account. Some related products are already regulated through other legislative texts. The first paragraph shall not apply to those detergents that are biocidal products in accordance with Regulation (EU) No 528/2012 or medical devices in accordance with Regulation (EU) No 2017/745.

Article 32 – Micro-organisms review:

Any revision of the Annex III should be based on a strong impact assessment, bearing in mind that any change could potentially imply high costs of reformulation or even loss of products of relevance to current societal needs.

Article 2. Definitions: point (5):

“(5) ‘industrial and institutional professional detergent’ means a detergent for cleaning outside the domestic sphere, carried out by specialised personnel using specific products;”

The definition is not specific enough. It should be amended to distinguish professional laundry detergents & professional dishwasher detergents:

- ‘Industrial and institutional laundry detergent’ means a detergent for laundry placed on the market for use by specialised personnel outside the domestic sphere;
- ‘Industrial and institutional dishwasher detergent’ means a detergent placed on the market for use by specialised personnel in automatic dishwashers outside of the domestic sphere

Annex I - Biodegradability requirements referred to in Article 4

Current degradability test methods were developed for small molecules and are not suitable for complex detergent ingredients. For example, polymers, which are used in detergents (including in soluble films for detergent capsules), are at least 10 times larger molecules than some surfactants. For this reason, biodegradability test methods used for surfactants cannot be applied to polymers and the development of new test methods is required. Furthermore, polymers can degrade under the influence of microorganisms (biodegradation), or under the influence of UV light, water, oxygen (abiotic degradation), or both. Both degradation processes should be included in the scope of this legislation.

Annex II - Requirements for detergents containing micro-organisms referred to in Article 5

Micro-organisms contained in detergents that are placed on the market in a spray format shall pass the acute inhalation toxicity test in accordance with the test method B.2., described in Part B of the Annex to Regulation (EC) No 440/2008.

Detergents containing micro-organisms destined for use by consumers, shall not be placed on the market in a spray format.

Detergents containing micro-organisms destined for use in the industrial and institutional sector, may be placed on the market in a spray format if, in addition to the requirements laid down in Annex V, their label meets the following conditions:

- a) The label contains a warning that the product may cause respiratory sensitisation;
- b) The label contains instructions for use ensuring the safety of the users, if necessary by protective equipment, and of their environment.

The type of formats should not be restricted as a risk-based approach should be followed to prevent any risks for consumer, and, when necessary, mitigations are also considered

Annex III

For both I&I laundry detergents and I&I dishwasher detergents:

- In the absence of legislative intervention, Industrial and Institutional (I&I) sector has already replaced phosphates where technically feasible, reducing by 18% the release of P-based substances in Europe from 2014 to 2020 according to A.I.S.E. internal survey.
- The use of P-based substances is critical for a variety of Industries and Applications especially in the absence of alternatives.
- I&I sector contributes circa 0.7 to 1.6% of the total P total inputs to surface waters according to a published UBA report. It states possible phosphorus restriction in I&I detergents is not expected to lead to a measurable change in surface water quality.
- Disproportional restriction or even more a ban of P-based substances without prior thorough consultation with the industry can lead to disruption in supply chain and can undermine the so far consistent and efficient sustainability efforts of the sector.

Based on the previous bullet points, the EU should avoid imposing to the I&I sector any additional limits in terms of phosphorus content.

2. Cluster 3 – Labelling & Digital labelling

Article 17 – Requirements for digital labelling

“h) the digital label shall remain available for a period of 10 years from the moment the detergent or surfactant is placed on the market, also in cases of an insolvency, a liquidation or a cessation of activity in the Union of the economic operator that created it, or for a longer period as required under other Union legislation covering the information that it contains;”

Obligations for the economic operators to retain information (eg. Technical documentation) should be proportionate to the product lifespan. In case of detergents, this retention period should not be longer than 5 years after the product has been placed on market.

Annex V – Labelling Requirements

The condition listed in point (b) of the first subparagraph does not have to be met where preservatives do not exceed the elicitation thresholds referred to in point 3.4.3.3. / table 3.4.6. of Annex I to Regulation (EC) No 1272/2008 or they no longer have a preservation function in the final product even in synergies with other preservatives.

The requirements referred to in points 1 to 4 shall not apply to professional industrial and institutional detergents and surfactants, provided that the equivalent information to that required in those points is provided in section 15 of the safety data sheet drawn up in accordance with Article 31 of Regulation (EC) No 1907/2006.