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**NOTE**

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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

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## **Working Party on Technical Harmonisation – 15 May 2024 Detergents and Surfactants Regulation**

This steering note reflects the main adaptations proposed by the Presidency, as laid out in document ST 9522/24 INIT.

On 15 May, delegations will be invited to express their views on the latest text revised by the Presidency. The day should be divided as follows:

- in the morning, we will discuss the clusters 1 and 2;
- in the afternoon, the Presidency would like to hear the delegations' views on the new revised text on clusters 3 and 4.

**Following the Working Party, delegations will be invited to submit their written comments on the whole text for Friday 24.**

### **Cluster 1 – Product requirements**

#### **Recitals and General remarks**

Some recitals have been adapted in line with the new proposed provisions on online sales, the authorized representative and the transition period for the digital product passport.

*Delegations are invited to give their views on these proposals.*

#### **1) General provisions**

Following the request of several Member States, the reference to the Cosmetics Regulation has been deleted in article 1.

In article 2(1), the wording “or added to support cleaning processes” in the detergent definition has been removed. However, the notion of “micro-organisms” has been added to the definition.

In article 2(5), some adjustments were made in the definition of industrial and institutional detergents to clarify the distinction from a consumer detergents that was highlighted by some delegations.

In article 2(10), the Presidency suggest to come back to the initial definition of “genetically modified micro-organisms” that was in the initial Commission’s proposal. This allows the definition to be broader than with the precedent definition with the cross-reference.

In article 2(29a), a new definition for “digital product passport” has been inserted.

In article 2(33), the definition of “refill” has been revised to limit it to the operations on site.

In article 2(34), the definition of “batch” has been replaced by the definition of “model”. Therefore, the digital product passport can apply now to models rather than batch.

*Delegations are invited to give their views on these proposals.*

#### **2) Biodegradability**

The Presidency simplified the provisions regarding the biodegradability requirements notably regarding delegated acts, reports and reviews planned.

*Delegations are invited to give their views on these proposals.*

### **3) Micro-organisms**

Based on some comments, the Presidency suggest to mention micro-organisms and to identify them in the digital product passport and in the ingredients data sheet. In the labelling, the indication of the presence of micro-organisms was already foreseen.

*Delegations are invited to give their views on these proposals.*

### **4) Delegated powers**

Articles 26 has been amended to improve the structure and the framework of the empowerments and extend them to the new requirements.

*Delegations are invited to give their views on these proposals.*

### **5) Review**

Regarding the discussion about the most harmful substances in the delegation's non paper, the Presidency has introduce a review clause that would take into consideration the protection of health and the environment from said substances but empowers the Commission to assess and take action if the evolution of those products impacts the objectives, the coherence or the efficiency of this regulation.

*Delegations are invited to give their views on these proposals.*

### **6) Transitional provisions**

A specific transitional provision has been foreseen in Article 34 for the provisions linked to the digital product passport, in order to ensure sufficient time for operators after the adoption of the implementing acts defining the technical requirements.

*Delegations are invited to give their views on these proposals.*

## **Cluster 2 – NLF and market surveillance**

### **1) Authorised representatives**

Regarding some comments received, the authorised representative is now only foreseen when a manufacturer of a third country places a product on the market via distance sales and without an importer. In addition, the obligations of the authorised representative and of the manufacturer established outside the EU have been revised accordingly.

*Delegations are invited to give their views on these proposals.*

### **2) CE marking**

The Presidency suggests to delete the CE marking since several delegations have pointed out the lack of added value of this provision in addition to the administrative burden this could entail.

*Delegations are invited to give their views on these proposals.*

### **3) Time period to keep the technical documentation and the digital passport**

As requested by several delegations, the Presidency has reduced the time period of 10 years to 5 years regarding the conservation of technical documentation. The same time period applies when it comes to the digital passport.

*Delegations are invited to give their views on these proposals.*

#### **4) Industrial and institutional detergents**

Based on comments from delegations, the Presidency introduced a new article 13a regarding industrial and institutional detergents to avoid selling those products to consumers. Moreover, their labelling should bear a specific statement.

*Delegations are invited to give their views on these proposals.*

#### **5) Market surveillance**

The article 22 has been adapted to also cover routine controls, and not only controls of products where there is sufficient reason to believe that there is a risk to health or the environment.

*Delegations are invited to give their views on these proposals.*

#### **6) The declaration of the composition of the products**

##### **a) “Added” vs “contained”**

Following comments from delegations, the word “contained” has been replaced by “added” in the labelling chapter, in the ingredients data sheet and in the passport product chapter.

This is with the exception of fragrance allergens that are generally not added on purpose but in fragrance mixtures.

##### **b) The list of components**

The list of components was adapted and aligned in the digital product passport and the ingredients data sheet.

*Delegations are invited to give their views on these proposals.*

#### **7) Communication of the ingredients data sheet to poison centers**

As many delegations have not expressed clear positions, the Presidency invites them to give their views on the following options:

- Option A: Initial proposal of the Commission: the ingredients data sheet shall be communicated to poison centers only on request
- Option B: Information shall be communicated to Member States appointed bodies before the placing on the market of a product, with a content and a format similar to what is currently foreseen for dangerous mixtures by the CLP regulation, compatible with the current ECHA notification system.

*Delegations are invited to give their views on these proposals.*

#### **Cluster 3 – Labelling and digital labelling**

##### **1) The declaration of the composition of the products**

###### **a) Carry-over preservatives**

The limit for the labelling of carry-over preservatives has been deleted in order to protect already sensitized persons and to facilitate implementation by economic operators and controls by market surveillance authorities. However, the following still applies for the labelling:

*“(a) contribute to the qualification of the detergent as a treated article within the meaning of Article 3(1), point (l), of Regulation (EU) No 528/2012;” or “ (b) are labelled on a constituent of the detergent.”*

## **b) Labelling requirements under CLP**

In order to avoid double labelling, labelling of preservatives and fragrance allergens on the basis of the detergents regulation shall not apply if they are already labelled in accordance to CLP or biocides regulations.

## **c) Fragrance allergens banned in cosmetics**

In order to have a balanced compromise, the Presidency suggests that the labelling of fragrance allergens banned in cosmetics is now foreseen. The cross reference to the Cosmetics Regulation has been replaced by individual references to fragrance allergens listed in Annex III (mandatory labelling) and Annex II (ban) to the Cosmetics Regulation. As there is no cross reference anymore, the empowerment of the Commission has been enlarged to complete point 4 of Part A of Annex V when new fragrance allergens will be included in Annexes II or III to the Cosmetics Regulation.

*Delegations are invited to give their views on these proposals.*

## **Cluster 4 – Digital Product Passport**

### **1) General comment**

The adjective “digital” has been added throughout the text in front of “product passport”.

### **2) Batch vs Model**

As stated by the delegations as well as the Commission, it seems it would be more suitable to have the digital product passport based on a model level. The Presidency has therefore made changes in that sense and has introduced a new definition for “model level” based on several propositions that were discussed at the last Working Party.

*Delegations are invited to give their views on these proposals.*