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NOTE

From:	DE, DK, RO, IE 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 cluster 4 by DE, DK, RO, IE

Federal Ministry for the Environment,
Nature Conservation, Nuclear Safety
and Consumer Protection

Berlin, 10.01.2024

Germany

German comments and proposed amendments on European Commission's proposal for a regulation on detergents and surfactants, amending Regulation (EU) 2019/1020 and repealing Regulation (EC) No 648/2004

Germany comments on the fourth cluster of the proposed regulation as shown in the table below:

Column 1 of the table contains the European Commission's proposal for a regulation, column 2 contains comments on the provisions of the proposed regulation as well as the justifications for the proposed amendments, which are shown in column 3.

Cluster 4 – Product Passport

Article 18 – Product Passport

Article 19 - Technical design and operation of the product passport

Article 20 - Product passport registry

Article 21 - Customs controls relating to the product passport

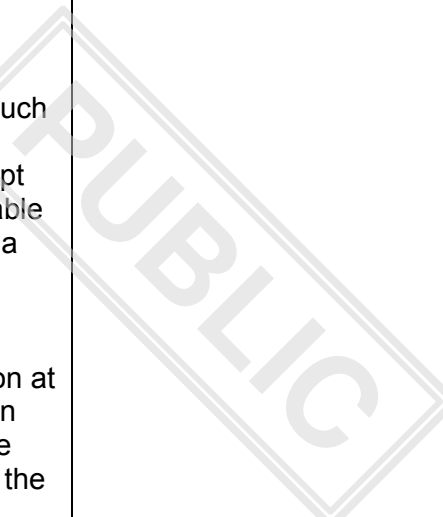
Article 26(1), (2), (3) and (4) – Delegated powers

Article 2 – Definitions

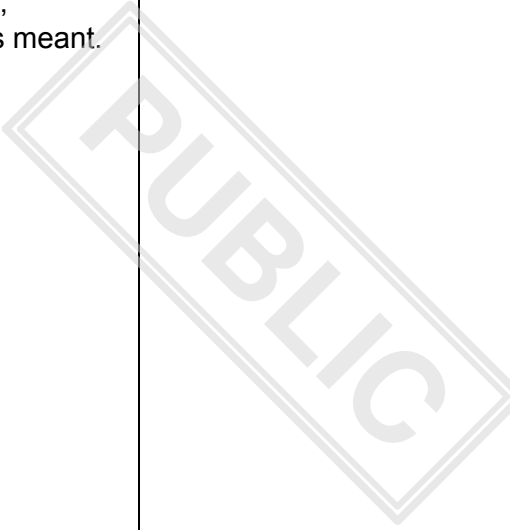
points 26, 27, 28, 29, 30, 31

Annex VI – Product Passport

Commission Proposal (28. April 2023) COM(2023) 217 final	Comments Justification for proposed amendments	Proposed amendments (The rejected text of the Commission proposal is marked in striketrough , a new text proposal in <u>underlined</u>)
CHAPTER V PRODUCT PASSPORT		
Article 18 Product passport	Firstly, we welcome the introduction of the Digital Product Passport (DPP) and the planned unrestricted access to it for market surveillance authorities and consumers as a measure to strengthen	

	<p>enforcement and consumer protection.</p> <p>In addition, we believe that such a digital product passport represents the central concept for making information available digitally without the need for a parallel "digital label".</p> <p>We welcome the intention expressed by the Commission at the Working Party Meeting on 11.12.2023 with regard to the design of the DPP to ensure the necessary coherence of this regulation with the Ecodesign for Sustainable Products Regulation (ESPR). This is absolutely essential to ensure the interoperability of the DPP. With the conclusion of the trilogue on the ESPR we ask the presidency to update the draft text at this point.</p> <p>We also welcome the Commission's willingness to reconsider the creation of the DPP for a single batch (existing for a detergent (e.g. washing powder), often in large numbers) in order to avoid additional administrative burden for companies.</p>	
<p>1. Before placing a detergent or surfactant on the market, manufacturers shall create a product passport for those products. The product passport shall meet the requirements laid down in this Article and Article 19.</p>		
<p>2. The product passport shall meet the following requirements:</p>		
<p>(a) it shall correspond to a specific batch of the detergent or surfactant;</p>	<p>See comments above.</p>	
<p>(b) it shall state that compliance of the</p>		

detergent or surfactant with the requirements set out in this Regulation has been demonstrated, and, where relevant, indicate the test methods used;		
(c) it shall contain at least the information included in Annex VI;		
(d) it shall be up-to date;	Adjustment to the ESPR	(d) it shall be <u>accurate, complete and up-to date</u> ;
(e) it shall be available in the language or languages required by the Member State where the detergent or surfactant is placed or made available on the market;		
(f) it shall be accessible to end-users, market surveillance authorities, customs authorities, the Commission and other economic operators;	The product passport should also be accessible to Member States' appointed bodies in order to check whether the detergents on the market correspond to the ingredient data sheets provided by the manufacturers.	(f) it shall be accessible to end-users, market surveillance authorities, customs authorities, <u>Member States' appointed bodies</u> , the Commission and other economic operators;
(g) it shall be available for a period of 10 years after 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 the product passport;	See justification relating to Article 7(3).	(g) it shall be available for a period of 10 years after the detergent or surfactant is <u>made available</u> placed on the market <u>by the economic operator for the last time</u> , also in cases of an insolvency, a liquidation or a cessation of activity in the Union of the economic operator that created the product passport;
(h) it shall be accessible through a data carrier;		
(i) it shall fulfil the specific and technical requirements laid down pursuant to paragraph 8.		
3. The data carrier shall be physically present on	The reference in Article 18(3) to paragraph 8 seems to be	

<p>the detergent or surfactant, their packaging or the documentation accompanying them, in accordance with the implementing act referred to in paragraph 8.</p> <p>In addition to the requirement in the first subparagraph, where detergents and surfactants are made available on the market in a refill format, the data carrier shall be present on the refill station.</p> <p>The data carrier shall be clearly visible to the end-user before any purchase and to market surveillance authorities, including, where applicable, in cases where the detergent or surfactant is made available through distance sales.</p>	<p>incorrect. Please check, probably paragraph 9 is meant.</p>	
<p>4. Where economic operators provide a digital label, a single data carrier shall be used to access the product passport and the digital label.</p>	<p>See comment on the deletion of digital labels above</p>	
<p>5. Where other Union legislation requires information on the detergent or surfactant to be available via a data carrier, a single data carrier shall be used to provide the information required under this Regulation and the other Union legislation.</p>		
<p>6. Where other Union legislation applying to detergents and surfactants requires a product passport, a single product passport shall be created</p>		

<p>for detergents and surfactants, containing the information set out in paragraph 2 as well as any other information required for the product passport by that other Union legislation.</p>		
<p>7. Economic operators may, in addition to the information referred to in paragraphs 5 and 6, make other information accessible through the data carrier referred to in paragraph 6. Where this is the case, that information shall be clearly separated from the information required under this Regulation and, where relevant, under other Union legislation.</p>		
<p>8. By creating the product passport, the manufacturer shall assume the responsibility for the compliance of the detergent or surfactant with this Regulation.</p>		
<p>9. The Commission shall adopt an implementing act determining the specific and technical requirements related to the product passport for detergents and surfactants.</p> <p>Those requirements shall set out at least the following:</p>	<p>Technical requirements for the product passport and also for data carriers and the product passport register should be laid down at an early stage, so that the requirements are clear, when manufacturers need to apply them under the Detergents Regulation. This should also be taken into account for the transitional provisions.</p>	
<p>(a) the types of data carrier to be used;</p>		
<p>(b) the layout in which the data carrier shall be presented and its positioning;</p>		

<p>(c) the technical elements of the passport for which defined European or international standards shall be used;</p>		
<p>(d) the actors that may introduce or update the information in the product passport, including where needed the creation of a new product passport, including manufacturers, competent national authorities, and the Commission, or any organisation acting on their behalf, and the types of information they may introduce or update;</p>		
<p>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2).</p>		
<p>Article 19 Technical design and operation of the product passport</p>	<p>Currently no comments.</p>	
<p>Article 20 Product passport registry</p>	<p>The product passport register does not yet exist and has to be established by the time the Regulation on detergents and surfactants enters into force (see comments to Article 18(9)).</p>	
<p>1. Before placing a detergent or surfactant on the market, economic operators shall upload, in the registry established under Article 12(1) of Regulation (EU) .../... on Ecodesign for Sustainable Products the unique product identifier and the unique operator identifier for the detergent or surfactant.</p>		

<p>2. The Commission, the market surveillance authorities and the customs authorities shall have access to the registry referred to in paragraph 1 for carrying out their duties pursuant to this Regulation.</p>		
<p>Article 21 Customs controls relating to the product passport</p>	<p>It is essential that the rules on customs controls be aligned with the provisions of Article 13 of the ESPR.</p>	
<p>1. Detergents and surfactants entering the Union market shall be subject to verifications and other measures laid down in this Article.</p>	<p>See above</p>	
<p>2. Declarants as defined in Article 5, point (15), of Regulation (EU) 952/2013 shall include the unique product identifier in the customs declaration for release for free circulation of any detergent or surfactant</p>	<p>See above</p>	
<p>3. Customs authorities shall verify whether the unique product identifier indicated by the declarant in accordance with paragraph 2 of this Article matches a unique product identifier included in the registry in accordance with Article 20(1).</p>	<p>See above</p>	
<p>4. In addition to the verification referred to in paragraph 3, customs authorities shall verify the consistency of information made available to customs by declarants with other information stored in the registry referred to in Article 20(1) listed in the</p>	<p>See above</p>	

delegated act referred to in Article 26(3).		
5. The verifications referred to in paragraph 3 and 4 shall take place electronically and automatically before the release for free circulation.	See above	
6. For the purpose of paragraphs 3 to 5, the interconnection between the registry referred to in Article 20(1) and the EU Customs Single Window Certificates Exchange System referred to in [Article 13 of Regulation (EU) .../... on Ecodesign for Sustainable Products] shall be used.	See above	
7. Paragraphs 3, 4 and 5 shall apply from the day when the interconnection between the registry and the EU Customs Single Window Certificates Exchange System referred to in [Article 13 of Regulation (EU) .../... on Ecodesign for Sustainable Products] becomes operational. The Commission shall publish a notice in the Official Journal of the European Union to that effect indicating the date when the interconnection becomes operational.	See above	
8. Customs authorities may retrieve and use the information included in the product passport and the registry referred to in Article 20(1) for carrying out their duties pursuant to Union legislation, including for risk management in accordance with Articles		

46 and 47 of Regulation (EU) No 952/2013.		
9. The verifications and other measures laid down in this Article shall be carried out on the basis of a list of Combined Nomenclature codes, as set out in Annex I to Regulation (EEC) No 2658/87, under which detergents and surfactants are classified as well as the product descriptions of those detergents and surfactants.	The verifications and other measures shall be carried out on the basis of a list of Combined Nomenclature codes set out in Annex I to Regulation (EEC) No 2658/87. The specific scope of application is not specified. However, Article 26(4) empowers the COM to define the scope in a delegated act. The scope of application should be set out directly in an annex of the regulation, like in the proposal of the toy regulation.	
10. The verifications and measures laid down in this Article shall not affect the application of other Union legal acts governing the release for free circulation of products, including Articles 46, 47 and 134 of Regulation (EU) No 952/2013, as well as the controls referred to in Chapter VII of Regulation (EU) 2019/1020.		

Commission Proposal (28. April 2023) COM(2023) 217 final	Comments Justification for proposed amendments	Proposed amendments (The rejected text of the Commission proposal is marked in strike through , a new text proposal in <u>underlined</u>)
CHAPTER VII DELEGATED POWERS AND COMMITTEE PROCEDURE		
Article 26 Delegated powers		
(1) – (3)	Currently no comments.	
4. The Commission is empowered to adopt	See comments to Article 21(9).	

delegated acts in accordance with Article 27 amending this Regulation by providing an Annex containing a list of Combined Nomenclature codes, as set out in Annex I to Regulation (EEC) No 2658/87, and product descriptions of detergents and surfactants and by updating such Annex.		
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Commission Proposal (28. April 2023) COM(2023) 217 final	Comments Justification for proposed amendments	Proposed amendments (The rejected text of the Commission proposal is marked in strikethrough , a new text proposal in <u>underlined</u>)
Article 2 Definitions		
For the purpose of this Regulation, the following definitions apply:		
(1) – (25)		
(26) – (31)	Currently no comments.	
(32) – (36)		

Commission Proposal (28. April 2023) COM(2023) 217 final	Comments Justification for proposed amendments	Proposed amendments (The rejected text of the Commission proposal is marked in strikethrough , a new text proposal in <u>underlined</u>)
ANNEX VI PRODUCT PASSPORT		
The product passport shall include the following information:		
(a) the unique product identifier of the detergent or surfactant;	What does unique product identifier mean? May manufacturers refer to their own numbers or is it going to be a	

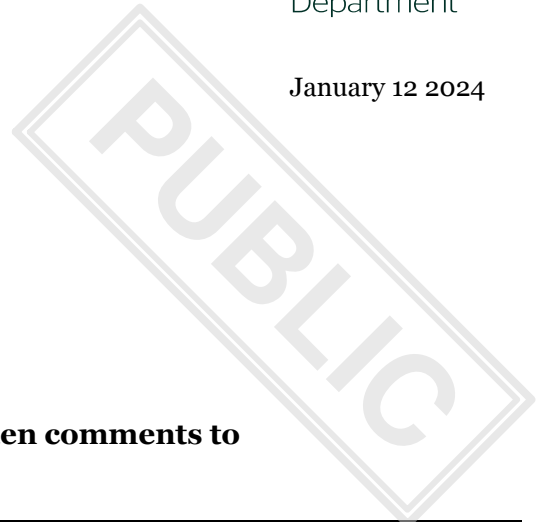
	specific format? Is this the batch number or something similar to be able to clearly trace and identify the product?	
(b) the name, the address of the manufacturer or the manufacturer's authorised representative as well the manufacturer's unique operator identifier;		
(c) the identification of detergent or surfactant allowing traceability, including a colour image of sufficient clarity to enable the identification of the detergent or surfactant;	The indication of the name or trade name of the detergent/surfactant is missing. It is of crucial importance for the identification of a product.	(c) the identification of detergent or surfactant allowing traceability (<u>at least name or trade name</u>), including a colour image of sufficient clarity to enable the identification of the detergent or surfactant;
(d) the commodity code under which the detergent or surfactant is classified at the moment the product passport is created, as set out in Council Regulation (EEC) No 2658/87 ¹ ;		
(e) references to Union legal acts that the detergent or surfactant complies with;		
(f) a full list of substances intentionally added in the detergent or surfactant and of preservatives labelled in accordance with part A, point 3, first subparagraph, point (b), of Annex V, using the International Nomenclature of Cosmetic Ingredients, or where it is not available, the European Pharmacopoeia		

¹ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

<p>name and, when also the latter is not available, the common chemical name or International Union of Pure and Applied Chemists name.</p>		
<p>The obligation referred to in point (f) shall not apply to professional detergents, or to surfactants for professional detergents, for which a safety data sheet referred to in Article 31 of Regulation (EC) No 1907/2006 is available.</p>		



January 12 2024



Detergents regulation revision – Danish written comments to cluster 4

The Belgian Presidency has invited delegations to provide written comments to the proposal to the draft from the Commission within a deadline of January 15th 2024.

We welcome the revision of the Detergents regulation. Our general view on the proposal is positive and we support the overall intention of the revision.

The Danish delegation has the following comments and suggestions to cluster 4:

Cluster 4

Denmark supports the introduction of the digital product passport.

We welcome the increased digitalisation of data about detergents and expect it to contribute to a more effective sharing of relevant information and overall to be of great benefit for the free circulation of detergents. We encourage the Commission to streamline the development of the underlying IT-system for data sharing across EU legislations and to ensure that interoperability is ensured through a uniform and coherent infrastructure for data sharing of product information. The provisions related to the DPP should be formulated in accordance with the ESPR provisions in order to strengthen traceability and accelerate the transition to a circular economy.

Art. 18:

If product groups are regulated under the Ecodesign for Sustainable Products Regulation, we encourage that the decision on the level of granularity for DPPs follows that Regulation. If this is not the case, we believe that changes in formulation that significantly affects the safety of the product to the environment or human health is reflected in the product passport. So we suggest including a reference with the potential of changing to product level, if the products significantly differ or if other economic actors add or change information in the DPP. This could be added to article 18 paragraph 6 or article 18 paragraph 9 litra d).

Art. 18 paragraph 2 litra f):

We suggest including a reference to specific access rights based on the ‘need to know’ principle, as set out in the Ecodesign for Sustainable Products Regulation. Not all details within the product passport will be relevant for all parties. However, it should be clearly stated, that all details relating to detergents as required under the proposal for revision of the Detergents Regulation should be accessible to all parties.

Art. 18 paragraph 9 litra c):

The technical elements of the DPP should rather follow harmonised European standards published in the Official Journal of the EU.

Art. 19 paragraph 1 litra b):

We suggest including a reference to the provision related to interoperability of the underlying IT-infrastructure as included in the Ecodesign for Sustainable Products Regulation:

“The information shall be transferable through an open interoperable data exchange network without vender lock-in.”

IE Comments on Cluster 4 of the Detergents Proposal – Product Passport

Overall comments:

IE recommends that most of the content of Article 18, 19 and 20 are included in Annex VI and not in the Regulation.

In addition, Ireland seeks clarification on how the product passport will operate (in practice), when a detergent product also comes under the scope of other legislation such as REACH, CLP and BPR. In such cases would the product passport cover all relevant/ applicable EU legislation or just detergents (we assume all). If so, how is consistency/harmonisation in compliance to be achieved when some legislation relevant to a detergent product will have a requirement for a product passport while others may not?

We have no issues with the creation of the Digital Product Passport as such, however we do have concerns about the verification at import and the additional burden for Customs.

Custom Controls are set out in Articles 46 and 47 of EU Reg 952/2013 – Union Customs Code (UCC). As per UCC, customs controls are applied on a Risk basis, where the customs authorities target their controls on consignments presenting a risk and allow legitimate trade to flow freely. The verification of the DPP by customs as set out in Article 21(2), we believe diverges from risk based to automatic control of all consignments covered by the proposal. This we believe will create significant burden for customs.

Furthermore Article 21(4) and Article 26(3) requires customs to verify the information in the DPP against the information provided in the customs declaration, this is an additional measure which we believe should be carried out by the relevant competent authority (MSA).

The customs controls set out in Art 21 are in addition to those already included in Regulation (EU) 2019/1020, it is our view that customs authorities should not be responsible for product compliance, this should be the exclusive competence of Market Surveillance Authorities.

Article 20 - Product passport registry:

IE notes the requirement for a unique product identifier and unique operator identifier for detergents and surfactants. We request that consistency is applied across the need for these identifiers and the requirement for a unique formulation identifier under CLP to ease the burden for industry and to reduce confusion for consumers/users.

We have no issues with the creation of the Digital Product Passport as such, however we do have concerns about the verification at import and the additional burden for Customs.

Custom Controls are set out in Articles 46 and 47 of EU Reg 952/2013 – Union Customs Code (UCC). As per UCC, customs controls are applied on a Risk basis, where the customs authorities target their controls on consignments presenting a risk and allow legitimate trade to flow freely. The verification of the DPP by customs as set out in Article 21(2), we believe diverges from risk based to automatic control of all consignments covered by the proposal. This we believe will create significant burden for customs.

Furthermore Article 21(4) and Article 26(3) requires customs to verify the information in the DPP against the information provided in the customs declaration, this is an additional measure which we believe should be carried out by the relevant competent authority (MSA).

The customs controls set out in Art 21 are in addition to those already included in Regulation (EU) 2019/1020, it is our view that customs authorities should not be responsible for product compliance, this should be the exclusive competence of Market Surveillance Authorities.

15th January 2024

RO position on 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

Cluster 2

Art. 7 (2), letter c

The wording **where relevant** is confusing; in which cases is not relevant to affix the EC marking? In addition, art. 9 and 10 foresee the obligation of the importer and distributor to ensure that detergent bears the EC marking, without mentioning where relevant.

Art.7 (6)

Clarification is needed for the case the producer is non-UE, namely if the ingredient datasheet will be transmitted also to the authorised representatives, in case the appointed bodies request it.

Also, art. 7 should include the manufacturer obligation to inform, if appropriate, the competent authorities, upon request, on the name and contact details of the authorised representative. Another option would be to include in the art.15 (3) a reference to the relevant e-mail address (of the authorised representative, importer or distributor).

Art. 14

We do not see the added value or the benefit for the introduction of EC marking for detergents, neither from the industry's point of view nor from the authorities' point of view. Also, it is difficult to understand how the EC marking can attest to compliance with CLP requirements.

Annex IV

Point 1 refers to points 2,3 and 4, but point 4 is missing from the annex.

Cluster 3

Art 15 (2) and 16 (2)

For ensuring protection consumers, we consider the physical label should be available to the end-user in case of refill stations. In this context, the exemption from art 16 (2) should be deleted.

Art. 15-16

Regarding the labelling, it is important that essential information for consumers appears on the physical label, such as fragrances, allergens, micro-organisms, instructions for use and/or special precautions, dosage.

In addition, we support Greece position from the document WK 17207/2023, namely "Furthermore, the role in the supply chain of the "owner of the refill business" is not clear in the cases where the refill operation is carried out". Moreover, a legally binding contract between the owner of the refill station and the retail supermarket in which to be mentioned

specific responsibility for each party, eg. periodic service/maintenance, how and who intervenes in an emergency in the event of an accident, type/quality of refill bottle, etc.

Art. 17

We support the Danish position from the document WK 17207/2023, namely “the introduction of digital labelling. The most essential information for safe use should still be available on the physical label. The digital label shall be available in the language or languages of the country of purchase”.

Annex V, part B, point 3

We suggest an addition, namely:

The label of consumer automatic dishwasher detergents shall indicate the standard dosage expressed in grams or millilitres or number of *units (e.g. tablets or capsules)* for the main washing cycle for normally solid tableware in a fully loaded 12 place settings dishwasher, adjusting the standard dosage, where relevant, for soft, medium, and hard water hardness.

Motivation: to adapt the text to current product formats, for all categories of detergents for both washing machines and dishwashers.

Cluster 1

Annexes I, II and VII

The laboratories where the manufacturers have carried out the initial tests should be different from laboratories where the market surveillance authorities repeat the tests (according to art.22, pct 2)? If so, this aspect should be mentioned at least in a recital.

Further, the table below, our national accreditation body sent the following observations:

Annex I, point. 4 a)	(a) the laboratories are complying with the principles of good laboratory practice provided for in Directive 2004/10/EC of the European Parliament and of the Council or international standards recognised as being equivalent	Clarification request: Which are the international standards referred to in the text?
Annex I, point. 4 b)	(b) the laboratories are accredited in accordance with the standard for laboratories referred to in Regulation (EC) No 765/2008.	b) the laboratories are accredited in accordance with the harmonized standard EN ISO/IEC 17025 by a national accreditation body, which operates in accordance with Regulation (EC) no. 765/2008.
Annex II point. 2	The following pathogenic micro-organisms shall not be present in any of the strains included in the finished product when screened using the indicated test methods or equivalent:	The following pathogenic micro-organisms shall not be present in any of the strains included in the finished product when screened using the indicated test methods or equivalent: (a) E. coli, test method ISO 16649-3:2015; (b) Streptococcus

	<p>(a) E. coli, test method ISO 16649-3:2005;</p> <p>(b) Streptococcus (Enterococcus), test method ISO 21528-1:2004;</p> <p>(c) Staphylococcus aureus, test method ISO 6888-1;</p> <p>(d) Bacillus cereus, test method ISO 7932:2004 or ISO 21871;</p> <p>(e) Salmonella, test method ISO 6579:2002 or ISO 19250.</p>	<p>(Enterococcus), test method ISO 21528-1:2017;</p> <p>(c) Staphylococcus aureus, test method ISO 6888-1;</p> <p>(d) Bacillus cereus, test method ISO 7932:2004 or ISO 21871;</p> <p>(e) Salmonella, test method ISO 6579-1:2017 or ISO 19250.</p>
Annex II, point. 11 a)	<p>(a) the laboratories are complying with the principles of good laboratory practice provided for in Directive 2004/10/EC of the European Parliament and of the Council³ or international standards recognised as being equivalent;</p>	<p>Clarification request: Which are the international standards referred to in the text?</p>
Annex II, point 11 b)	<p>(b) the laboratories are accredited in accordance with the standard for laboratories referred to in Regulation (EC) No 765/2008.</p>	<p>b) the laboratories are accredited in accordance with the harmonized standard EN ISO/IEC 17025 by a national accreditation body, which operates in accordance with Regulation (EC) no. 765/2008.</p>