



Council of the
European Union

Brussels, 28 March 2023
(OR. en)

7700/1/23
REV 1

ENT 63
CHIMIE 25
MI 226
IND 137
COMPET 254
SAN 157
ENV 289
CONSOM 98

'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

No. Cion doc.: ST 6423/23 + ADD 1 - D 084710/3

Subject: Commission Regulation (EU) .../... of XXX amending Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council as regards formaldehyde and formaldehyde releasers
- Decision not to oppose adoption

1. On 13 February 2023, the Commission submitted the above draft Regulation to the Council, which amends Annex XVII of Regulation (EC) 1907/2006¹ (REACH), in accordance with its Articles 68(1) and 133 (1).

¹ Regulation (EC) 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation, and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94, as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1) (consolidated version:17/12/2022);

2. Formaldehyde is a highly reactive gas at ambient temperature and atmospheric pressure conditions. It is classified in Part 3 of Annex VI to Regulation (EC) No 1272/2008 (CLP Regulation)². But 98 % of the formaldehyde manufactured or imported in the Union is used in certain resins, thermoplastics, and other chemicals, and may be released in the air as a result. Formaldehyde-based resins, for example, are used in the manufacturing of wood-based panels and related products, like furniture, flooring, wallpapers, foams, parts for road vehicles and aircraft, textile and leather products.

There is a risk to human health from formaldehyde released from consumer articles in indoor environments, and the risk has to be addressed where formaldehyde or formaldehyde-releasing substances were intentionally added to products. An exemption from the restriction refers to articles in which formaldehyde is exclusively emitted due to its natural occurrence in the materials from which the articles are produced.

3. On 10 February 2023, in accordance with Article 5a(2) of Council Decision 1999/468/EC, the Committee voted in favour of the measure with 26 votes ‘yes’ and 1 **against**.
4. On 13 february 2023, delegations were asked to indicate their possible opposition to the draft Regulation by 21 March 2023. No delegation raised grounds for opposition.

² Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1). Current consolidated version is of 17/12/2022.

5. Pursuant to the procedure in Article 5a of Council Decision 1999/468/EC³, before being formally adopted by the Commission, such draft measures are submitted for scrutiny to the European Parliament and the Council. If neither the European Parliament nor the Council had opposed the draft measures, the draft Regulation shall be adopted by the Commission by 13 May 2023.

 6. Against this background, the Permanent Representatives Committee is invited to recommend to the Council to confirm its non-opposition to the draft Regulation, as set out in document ST 6423/23 + ADD 1 as an item without discussion at one of its forthcoming meetings.
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³ Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p. 23); Current consolidated version is of 23/07/2006.