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

No. Cion doc.: ST 10706/21 + ADD 1 - D073715

Subject: Commission Regulation (EU) .../...of XXX amending Annexes II, III and V to Regulation (EC) No 1223/2009 of the European Parliament and of the Council as regards the use in cosmetic products of certain substances classified as carcinogenic, mutagenic or toxic for reproduction
- Decision not to oppose adoption

1. On 7 July 2021, the Commission submitted the above draft Regulation to the Council. It amends Annexes II, III, and V in Regulation (EC) No 1223/2009¹, in accordance with its Article 15(1) and the 4th sub-paragraph of Article 15(2). The articles provide that substances classified as carcinogenic, mutagenic or toxic for reproduction (CMR) of categories 1A, 1B or 2 under Part 3 of Annex VI of Regulation (EC) No 1272/2008² are to be prohibited from use in cosmetic products, except under certain conditions.

¹ Articles 31(1) and 32(3) of the current consolidated version of Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products (OJ L 342, 22.12.2009, p. 59); Current consolidated version: 23/08/2021;

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: 10/05/2021;

2. This draft Regulation covers the substances classified as CMR by Delegated Regulation (EU) 2020/1182³, which will apply from 1 March 2022.
3. Under the procedure in Articles 5 and 5a of Council Decision 1999/468/EC, before formally adopted by the Commission, such draft measures are submitted to the European Parliament and the Council for scrutiny. If neither the European Parliament nor the Council oppose the measures, the Commission shall adopt the draft Regulation.
4. On 17 May 2021, the Standing Committee on Cosmetic Products voted in favour of the draft measures with 25 Members in favour, one against, and one abstained, in accordance with Article 5a(2) of the above Council Decision.
5. On 7 July 2021, delegations were invited to indicate their possible opposition to the draft Regulation by 10 August 2021. No delegation raised any grounds for opposition.
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 10706/21 + ADD 1 as an item without discussion at one of its forthcoming meetings.

³ Commission Delegated Regulation (EU) 2020/1182 of 19 May 2020 amending, for the purposes of its adaptation to technical and scientific progress, Part 3 of Annex VI to Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures (OJ L 261, 11.8.2020, p. 2).