



CLP ANNEX VIII

Statement

18 December 2019

At the 31st Meeting of the Competent Authorities for REACH and CLP (CARACAL) the European Commission committed to amending Annex VIII to the CLP Regulation¹. This Delegated Act would occur before CLP Annex VIII² applicability date and “*contain uncontentious clarifications of the text. The act also contains an amendment of the first compliance deadline (identical with the applicability date of Annex VIII) from 1 January 2020 to 1 January 2021 given that there have been calls for more extensive amendments to Annex VIII before its applicability date, for reasons of certain workability concerns.*”³.

In accordance with the requirements for Delegated Acts, the European Commission adopted and transmitted the first amendment of CLP Annex VIII to the European Council and European Parliament on the 29th October 2019. At the time of writing, the adopted Regulation is subject to scrutiny by both the European Council and the European Parliament. Assuming neither body seeks to extend this scrutiny period, it will end on 29 December 2019. Publication in the Official Journal will follow subsequently (date unconfirmed), with the delegated Regulation entering into force 20 days after publication. Consequentially this Regulation is not expected to enter into force until sometime in January 2020. Article 2 of the delegated Regulation provides that it applies from 01 January 2020.

In light of the above timeline, ATIEL and multiple other industry sectors raised concerns about the applicability of CLP Annex VIII during January 2020. These concerns were discussed at the 32nd meeting of CARACAL. During this meeting the European Commission reported its interpretation of how CLP Annex VIII should apply during January 2020:

“the applicability date of 1 January 2020 was inserted in the act in order to align this act with the applicability date of the original Annex VIII. COM intended to have the first amendment entered into force before that date, but due to the peculiar situation (change of COM etc.) COM unfortunately did not make it in time. However, 1 January 2020 is inserted as applicability date and this date will apply once the first amendment entered into force – so de facto the first amendment will apply as from 1 January 2020 and everybody (stakeholders and CAs) is aware about that.”

¹ Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008

² Commission Regulation (EU) 2017/542 of 22 March 2017

³ Source: [The European Union Interinstitutional register of delegated acts](#)

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Whilst ATIEL welcomes the legal interpretation communicated and disseminated by the European Commission (see attached), it is highlighted that Member States may adopt alternative legal interpretations regarding the implementation status of CLP Annex VIII during January 2020.

ATIEL highlights that the period 01 January 2020 to 01 January 2025 is a transitional period for CLP Annex VIII. Products notified via a national notification before the applicability date of Annex VIII can be placed on the market (in the notified Member State) until 01 January 2025 provided there is no need to submit updated information.

Therefore to mitigate any compliance uncertainty during January 2020, it is suggested that ATIEL members review any existing national notifications they have made and ensure that they are up to date.

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