



ATIEL comments on draft delegated regulation amending Annex VIII to CLP

(public consultation Ares (2019)4744568)

14 August FINAL

ATIEL is a European Economic Interest Grouping. It represents, supports and develops the common interests of its Members, active in lubricant development, manufacture and marketing¹. It promotes and develops the technical performance and quality standards of the lubricants and acts as an education and expert's hub for public and private stakeholders as well as general publics. It communicates the technical credentials of the lubricant industry worldwide.

ATIEL supports the postponement of the implementation deadline for consumer products until 1st January 2021.

ATIEL further supports:

- The harmonisation with the international standards.

ATIEL wishes to make additional comments in relation to the below mentioned points (numbers refer to paragraphs in the Annex to the draft regulation, Ares(2019)4744568/1):

- **1 (f):** ATIEL welcomes an explicit authorization to place the UFI on the packaging, however, ATIEL suggests adding the below sentence as originally proposed in October 2018:

“The submitter shall print or affix the UFI on the label or – where relevant, inner - packaging of a hazardous mixture.” If not specifically mentioned in the text, this means in practice that the UFI shall be placed on all layers of packaging. This requirement adds disproportionate administrative, legal and economic costs on the economic operators.

¹ The lubricants industry researches, develops and delivers products for a wide variety of globally important applications:

- Automotive transport lubricants contribute to reducing vehicle emissions and costs of operation;
- Off-highway applications such as construction, mining and quarrying or agriculture, lubricant products extend working time and durability of machinery and vehicles often in hostile environments;
- Food and manufacturing industries rely on correct lubricants for metalworking, machinery operation and numerous processes.
- Rail, shipping and aviation also uses many specialist lubricant products in safe and reliable fulfilment of their business.

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Transparency register number : 673525317243-17

- **1 (g):** ATIEL supports the amendment enabling the UFI to be mentioned in the SDS for any mixture supplied for use at an industrial site or any mixtures for consumer or professional use. ATIEL suggests the following text to clarify any potential interpretation in the implementation and enforcement.

“5.3 By way of derogation from the first subparagraph of Section 5.2, in the case of mixtures supplied for use at industrial sites **or for mixtures supplied for consumers or professional use**, the UFI may alternatively be indicated in the Safety Data Sheet.”

- **2 (i):** The proposed change to Part B, 3.2.2 on the submission of information relating to mixtures in mixtures (MIMs) is of concern, mainly:
 - A supply chain communication issue.** The proposed change indicates that the operator shall disclose the names of the Member States where their suppliers have placed each MIM. This could go in detriment of the supplier confidential business interests. A solution for this issue is that the suppliers notify MIMs in all Member States even though not placed in the market in that Member State. This solution is not optimal as the integrity of statistical analysis for identification of risk management needs could be questioned as well as costs and burden on MIM suppliers.
 - The generation of distinct submissions** in countries where the MIM UFI can be used and in those where it cannot. If a mixture contains more than one MIM, each with distinct market placements, this could quickly multiply into a series of distinct submissions for the same mixture. The latter will consist in fluctuating combinations of MIM information. The submission becomes complex for formulators and further denies the benefits of the central submission portal.

ATIEL understands that the Commission intends to seek technical solutions to these problems in the IT tools. ATIEL still believes that the legal text should be proposed after the technical solutions are in place making the legal revision workable. ATIEL therefore suggests that the proposed amendment to 3.2.2 be deleted until technical workable solutions are in place.

Note-word: Study on workability issues concerning the implementation of Annex VIII of Regulation (EC) No 1272/2008 on harmonised information relating to emergency health response and preventative measures

Base Oil Interchangeability:

Furthermore, ATIEL wishes to highlight the important challenge that remains regarding the Commission’s Workability Study on Annex VIII concerning Base Oil Interchangeability.

Indeed, Base Oils, where several very similar substances (same chemical family and classification) can be present interchangeably, the substances could be declared within a single submission. This would require including all interchangeable components in the notification that can possibly be present at 0% concentration accompanied by a commentary within the notification. This would allow notifying components that are not present in each and single batch of a mixture.

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