EURATEX

THE EUROPEAN APPAREL AND TEXTILE CONFEDERATION

22 March 2021

EURATEX response to the Commission's call for contributions regarding notifications 2020/833/F and 2020/832/F of France

EURATEX, representing the European Apparel and Textile Industry, globally welcomes the opportunity to provide comments on the French draft decrees on the identification of dangerous substances in waste-generating products and the provision of information identifying endocrine disruptors ('EDs') in products.

Our membership supports the goal of reducing the use of hazardous substances in clothing and other textile applications which are harmful to the environment and human health in a cost-efficient and enforceable manner. As such, EURATEX has been working extensively on the restriction of hazardous substances under the REACH legislation and Stockholm Convention for several years.

We share several concerns regarding the considered draft decrees that we hope will receive the highest attention from the Commission and the other Member States. Specifically, we question the value and the appropriateness of introducing new national obligations which are not aligned with the European ones. This would inevitably lead to **competitive distortion** and jeopardise the **level playing field within the EU** as well as the **good functioning of the Internal Market**.

Mindful of the measures that are going to be adopted in the context of the EU Green Deal, the Sustainable Product Initiative and the Chemicals Strategy for Sustainability, we urge the Commission to duly consider that requirements for **information and labelling shall be developed on a harmonised basis across all EU Member States without exceptions**.

Considering the details of the notified draft decrees, we wish to raise the following issues.

1) Regarding the draft decree on the **identification of dangerous substances in waste-generating products**, the requirements on information to consumers go beyond the REACH Regulation on the following grounds:

    a. The French Law No 2020-105 of 10 February 2020 ('the law') foresees an obligation to inform consumers of the presence of SVHC in products, whereas REACH states that information to consumers should be given on demand (Article 33.2);
    b. This obligation also extends to informing consumers of the presence of substances having a comparable concern to SVHC, but not listed on the Candidate List. However, the text is not explicitly referring to Article 57 of REACH for identification criteria. Furthermore, instances have occurred whereby substances have been proposed for identification as SVHC but have not been confirmed after discussion under the European procedure. This new requirement jeopardizes the harmonised European procedure. Among 231 dossiers Annex XV requiring an SVHC identification published so far on ECHA's website, 7 substances have been found not to be SVHC (i.e. Cyclododecane, or trichlorobenzene). Listing and mandatory consumer information on those substances is likely to lead to unfair competition;
    c. Stakeholders are not given the chance of being consulted – unlike the procedure under REACH – before the lists of hazardous substances is finalized by ANSES followed by a TRIS notification before publication;

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d. For substances that are not subject to harmonised mandatory traceability on European territory, a period of 18 months should be foreseen from the publication of the lists of substances (and their updates);
e. In addition, this draft decree does not mention the threshold for application of information requirements. The reference to a concentration threshold is essential for regulatory compliance and legal security of the system, for the producer as well as the control agency;

2) Regarding the draft decree on the provision of information to identify EDs in a product, which includes the creation of a database on EDs, we recommend the following:

a. An evaluation of the criteria used by ANSES for the identification of EDs in 3 categories as foreseen by the law (known/presumed/suspected). A harmonisation with the criteria defined at EU level is essential;
b. A definition of the methodology defining criteria and more transparency on the process followed for listing substances;
c. The reference to a concentration threshold is essential for regulatory compliance and legal security of the system, for the producer as well as the control agency. The threshold for application of information requirements is not mentioned in the draft decree;
d. A consultation of stakeholders before the lists of EDs is finalized by ANSES and followed by a TRIS notification before publication;
e. Clarifying the scope of the information requirements applied to consumer products.