

NOTIFICATION (TRIS) 2021/160 / P, 03/16/2021

The draft decree-law regulates Article 321 of Law No. 75-B / 2020, of December 31, on the State Budget Law of 2021

The draft decree-law prohibits the placing on the market of cosmetic products, hygiene products, detergents and cleaning products, which contain microplastics, consisting of synthetic particles with a diameter of less than 5 millimeters.

COMMENTS by AIC and AISDPCL

AIC - Business association representing manufacturers, importers and distributors of cosmetics, perfumes, and body care products in Portugal. AIC is a member of Cosmetics Europe.

AND

AISDPCL - Business association representing manufacturers, importers and distributors of soaps, detergents and cleaning products in Portugal. AISDPCL is a member of AISE.

AIC and AISDPCL, with APA, an association that represents aerosol manufacturers in Portugal and with APPBIO, an association that represents biofuel manufacturers in Portugal, are federated in FIOVDE. FIOVDE and its federated associations actively participate in CIP - Confederação Empresarial de Portugal, a member of Business Europe.

AIC AND AISDPCL POSITION

NOTIFICATION (TRIS) 2021/160 / P, 16/03/2021 concerns a proposal for a decree-law that will have an important impact for the sectors represented by AIC and by AISDPCL since it will impose barriers to proper functioning Internal Market, which justifies the comments expressed in this document and the consequent intervention by the Commission.

- 1 AIC and AISDPCL regret that the Portuguese Government has decided to present a proposal for a decree-law prohibiting the use of plastic microspheres in cosmetics and detergents without consulting the sectors involved.**
- 2 AIC and AISDPCL regret that the notification of the proposed decree-law made in TRIS does not mention in its title the fact that it is a proposal for an immediate**

ban on the national market for cosmetics and detergents containing microplastics.

- 3 AIC and AISDPCL, as representatives of important sectors Downstream Users of Chemicals, have always been active participants with the Portuguese Government and the National Competent Authorities in the public discussions and consultations that culminated in the publication of Regulation (EC) No. 1907 / 2006 of the European Parliament and of the Council of 18 December 2006 on the registration, assessment, authorization and restriction of chemicals (REACH) and have maintained this activity until today, with respect to the successive amendments to REACH and the numerous published Guidelines .
- 4 AIC and AISDPCL have been paying special attention to the discussion of the proposed restriction of microplastics under REACH and have proactively communicated the position of the sectors they represent to the National Authorities.

Therefore, the Associations want to express their concern about the proposed decree-law notified in TRIS by the Portuguese Government and consider that it should be the subject of a detailed opinion that prevents its publication until the restriction / prohibition on the use of microplastics is published in detergents and cosmetics under REACH, because:

- A. AIC and AISDPCL do not understand how the proposal notified in TRIS is presented when a harmonized legislation in the European Union on exactly the same subject is in the final stage to be approved.

In the Preamble of the notified proposal, the initiative to restrict / ban the use of microplastics in detergents and cosmetics, under REACH, is extensively referred to. This restriction / prohibition under REACH is in the final stage of approval and is expected to be published and enter into force at the beginning of the year 2022.

Therefore, Portugal must respect the principle of not taking legislative initiatives on a subject that is subject to harmonization in the European Union.

- B. The proposal to restrict / prohibit the use of microplastics in detergents and cosmetics under REACH is complex, has been the subject of detailed assessments and provides for a phased application of the requirements to different product categories over time, taking into account the environmental impact of this ingredient.

The ECHA REACH restriction proposes to ban on the use of microplastics intentionally added to all cosmetic products, both leave -on and rinse-off, with differing transition periods.

The proposed decree-law notified by the Portuguese Government imposes, quite simply, a ban on the use of microplastics, in all its functions and in all detergents and cosmetics.

- C. We will comply with the REACH restriction on intentionally added microplastics once it becomes law.

The establishment of other deadlines to comply with this restriction / prohibition will be impossible to meet by the manufacturers of cosmetics and detergents installed in the European Union and the rest of the world.

It is manifestly impossible to comply with the ban on the use of microspheres in detergents and cosmetics on the day following the publication of the proposed decree-law, as provided for in number 1 of art. 9.

- D. AIC and AISDPCL consider that the extemporaneous and unilateral approval of national legislation that prohibits the use of microplastics in detergents and cosmetics, constitutes an unacceptable technical barrier to the free movement of detergents and cosmetics in the European Union's Single Market.

This technical barrier will be duly overcome by the publication and application of the restriction / ban on the use of microplastics under REACH, which will be published shortly.

Lisbon, May 5th, 2021