CLP Workshop – 23 May 2024

1. Opening the HelpNet CLP Workshop

1.1 Opening by the Chair

The Chair, Erwin ANNYS (ECHA) opened the CLP Workshop by welcoming the representatives of the European Parliament, the European Commission, national helpdesks (NHDs), four candidate countries and industry observers. He mentioned the BPR Workshop was being run in parallel.

This document summarises the topics discussed during the workshop (Annex I) and the follow-up action points (Annex II). The names of the participants attending the event are listed in Annex III to these minutes.

1.2 Follow-up of action points

The Chair reported on the list of action points from the CLP Workshop in November 2023, all of which had been closed.

1.3 Approval of the draft agenda

The Chair presented the draft agenda of the day, which was approved without comments.

Then, the Chair requested the participants to declare any conflicts of interest that they may have on any particular agenda points. No conflict of interest was raised.

In addition, HelpNet members were asked to verbally express their concerns[1] (if any) on the attendance of observers on any agenda points. No objection was raised.

2. Updates from the European Commission and ECHA

2.1 Update from the European Parliament on the CLP revision

Christos VASILAKOS (European Parliament), Senior Policy Adviser to MEP[2] Maria SPYRAKI, gave a presentation on the political process to agree on the revision of the CLP Regulation. He expressed his thanks and appreciations to the European Commission (DG GROW and ENVI) and ECHA for their technical support and fruitful and effective cooperation during the whole cycle of negotiations.

The journey of the CLP revision in the European Parliament started on April 2023 with the preparation of the Draft CLP report. It ended on 23 April 2024 with the final vote in the plenary (English version). Over 90% of the MEPs supported the proposal. The translated versions of the legal text would be voted by the next Parliament term, hopefully in October 2024. The speaker shared with the CLP correspondents highlights of the discussions held amongst the European Commission (COM), the European Parliament (EP), and the European Council, and outlined some of the topics that generated more discussions e.g., due to input from Industry. As examples he mentioned the More than One Constituent Substances (MOCS) concept, the grouping approach or the inclusion of a reference to avoid animal testing in the final legal text.

[1] According to the Handbook, section 1.2 Chair of the HelpNet Steering Group, the Chair considers and takes decisions on any objections from members to the participation of observers or additional experts.
[2] Member of the European Parliament: https://www.europarl.europa.eu/meps/en/125064/MARIA_SPYRAKI/home

The reasons for such a success in the trilogue had been the transparency held during the process and the common and inclusiveness work towards compromising on diverging ideas. All parties involved, including ECHA and its technical advice provided, had positively contributed to the successful outcome. There were lessons learnt for all parties, ranging from implementing synergies between the different stakeholders and interested parties to providing reliable and comprehensive evidence in a simple language.

The three upcoming challenges in the context of the Chemical Strategy for Sustainability and the implementation of the Green Deal were the common data platform on One Substance One Assessment (OSOA), the REACH revision and the Cosmetic Products Regulation.

Discussion

One NHD explained how they followed the process and supported their Ministry in the negotiations. They thanked Christos VASILAKOS for the presentation and for achieving the compromise.

The Chair reminded the CLP correspondents that the discussion on the essential oils (MOCS) started back in the early 2000's. They were included in the Strategic Partnership on REACH Testing (SPORT)[3]. Out of the 16 industry cases covered by the project, one was about essential oils in lavender.

2.2 Update from the European Commission

Svetlana SKRYNIKOVA (European Commission, DG GROW) thanked Christos VASILAKOS for their fruitful collaboration in the trilogue, and for his presentation which provided political insights on the whole process. The text as voted in the European Parliament plenary was already published in the Legislative Observatory of the European Parliament[4]. Though still some lawyer-linguistic check remained, this would not modify the essence of the compromise. The next steps presented included the approval of the translated versions in the Parliament and the Council, and the publication in the Official Journal.

The CLP revision was a targeted revision, focusing on three objectives:

- **Establishing adequate classification rules**, such as by giving legal clarity to the classification rules applicable to MOCS. Also, speeding up CLH process: mandate for ECHA or EFSA to prepare dossiers on request of COM and submission of the dossier by COM to ECHA; prioritisation of grouping approach; transferring SVHCs, PPP and Biocide active substances identified as EDs, PBTs/vPvBs directly to Annex VI to CLP; COM faster to adopt harmonised classifications from RAC opinions.
- **Improving hazard communication**, by clarifying rules for updating labels, laying down minimum font sizes depending on packaging sizes and specific formatting requirements, requiring refill stations to bear the label and laying down packaging and labelling rules for refill sales, and introducing the digital label on a voluntary basis by allowing some of the supplemental information to be presented only in digital form.
- **Addressing main legal gaps**, by introducing the concept of a mandatory supplier in the EU (similar to the approach taken in the Market Surveillance Regulation), requiring advertisements to provide hazard pictograms, signal words, hazard statements and EUH statements and prohibiting them to include misleading statements, and requesting online offers to provide all labelling information.

The dates of the applicability of the legal text would become clear upon publication since the published legal text would include exact dates for the application of the different duties.

[3] The publication page on the European Commission's website: https://ec.europa.eu/docsroom/documents/11764?locale=en
[4] https://www.europarl.europa.eu/doceo/document/TA-9-2024-0296_EN.html

Finally, COM indicated that they were already looking into follow up actions related to digital labelling, MOCS and child-resistant fastening (CRF) provisions. The latter would be combined with the dishwasher tablets study that would look into behaviour of children and handicapped people.

Post-meeting note: France notified an emergency measure under Article 52 of CLP (safeguard procedure) and under the Food Additives Legislation (Regulation (EU) No 1169/2011 on the provision of food information to consumers), requesting hazard labelling of containers filled with pure nitrous oxide (N_2O).

Discussions on the subject matter were held in the REACH Committee on 24/25 April and 25/26 June. Written vote on the draft Commission Decision was launched on 28 June with the deadline of 23 July.

Discussion

A NHD asked if re-labellers and re-branders were explicitly mentioned in Article 45. They also requested clarification regarding which distributors had obligations under that Article. COM replied that distributors who re-label or re-brand are now explicitly mentioned and should make a notification under Article 45.

Another NHD asked if the mentioned five-year possible revision (following Commission's scientific report to the European Parliament and the Council regarding the examination of the information on substances containing more than one constituent extracted from plants) would go through delegated act or through ordinary legislative procedure. COM clarified that it would depend on the findings of the report and the nature of revision. Since COM has no powers to modify Article 5 as such and specifically the derogation for plant extracts, any proposal in that direction should go by ordinary legislative procedure (OLP). However, for other derogations on the applicability of MOCS rules, COM could adopt a delegated regulation, as stipulated by Article 5.

Outi TUNNELA (ECHA) asked what was allowed for advertisements, and inquired whether certain formats, which cannot accommodate the full information, would be prohibited. COM suggested to have further discussions (potentially including Member States) about advertisement and their formats, to address the differences between advertisement and online offer, and to agree on a common understanding.

2.3 Update from ECHA

Pedro ROSELLÓ VILARROIG (ECHA) provided an overview on a variety of aspects of ECHA's work. He presented the CLH process and how different entities could prepare and manage combined dossiers covering CLH, PPP and BP. This would enhance the possibility to share information from the different regulatory programmes, support OSOA including substance identity check, and align the public consultations.

Regarding support material, the diagram of the application dates of the new hazard classes introduced last year had been updated (reclassification of substances and mixtures placed on the market), and work was in progress to provide further advice in various formats. The revision of the Guidance documents, considering the impact of the new hazard classes, was in good progress. The guidance on PBT/PMT criteria was expected to be published in September 2024 and the ED criteria would follow in October. The review of other Guidance documents has started.

On the IT side, the new version of IUCLID had incorporated the new hazard classes and therefore all types of dossiers submitted to, or through, ECHA could now include them.

The presentation ended by reporting on the implementation of Annex VIII. The last application date had gone smoothly and ECHA did not foresee any issues with the end of the transitional period, on 1 January 2025.

Discussion

COM asked for details on the failed PCN notification submissions and how many of those were subsequently corrected and resubmitted. Pedro ROSELLÓ clarified that two types of validation rules can be triggered upon submission of a notification. The quality rules are just warnings, and the submission reaches the appointed bodies. However, a submission that fails the business rules check will not be accepted for further processing and forwarding to the appointed bodies. ECHA had not seen the need to follow up on those failed submissions.

A NHD asked about the procedure to update Guidance documents and shared their concern about duties starting already in October, with the entry into force of the revised CLP. As a second question, they wanted to know if the timelines for the new hazard classes applied to batches or not. The word 'substance' as used in ECHA's website[5] remained unclear.

Pedro ROSELLÓ explained that the work on the Labelling and the Introductory Guidance documents had just started. ECHA would evaluate if any new duty would start upon entry into force of the revised CLP, and, in those cases, a Q&A or another type of support materials could be used to cover the gap until the relevant Guidance document would be published.

Finally, he clarified that the text in ECHA's website did not consider batches. A set of Q&As was being finalised to be sent to COM. The idea was to have a comprehensive set of advice to companies covering immediate impact also on REACH obligations.

2.4 Upcoming changes to the C&L inventory

Roberta DI BLASI and Eoin BRENNAN (ECHA) presented the redesign of the C&L inventory under the ECHA CHEM project, while taking into account the initial aims of the inventory. The initial step of the ECHA CHEM project had been the dissemination of REACH registration dossiers. The second step would be the build of the re-designed C&L inventory into the new system. The presented objectives of the project were to promote the alignment of data, provide well-structured data that is available, accessible and reusable, and improve its transparency and clarity. Some mock-ups were presented and explained, to show how these objectives would be expressed in practice. The approach was presented to and endorsed by CARACAL. The presentation ended with a highlight of the expected benefits, for example, by reducing the presented and distinct classifications.

Discussion

A NHD asked if there would be another revision of the C&L Inventory after the entry into force of the revised CLP.

Eoin BRENNAN replied that the architecture and structure were designed to incorporate changes brought from the CLP revision without the need of releasing an entirely new version.

3. Topics proposed by HelpNet members and observers

3.1 Packaging in breach of Article 35(2) and Forum's practical issue 44.3

Anja HACKMANN (Germany) gave a presentation on packaging in breach of Article 35(2) and the Forum's practical issue raised by Ireland highlighting the increasing number of consumer products with packaging resembling sweets, foodstuff, or cosmetics. Such packaging misled consumers and also attracted the curiosity of children, as they looked like toys and make the application of Article 35(2) complicated. The proposed Forum conclusion relied on inspectors doing a case-by-case assessment. Sometimes these packages included statements such as "This is not a toy/food" or similar. However, such statements would not prevent the application of Article 35(2) of CLP.

[5] New hazard classes 2023: https://echa.europa.eu/new-hazard-classes-2023

The presentation ended with questions to the audience and NHDs were invited to share their experience on this issue.

Discussion

A NHD shared their experience with cake-shaped candles, sold on-line with no warnings. Another NHD explained that in their country, detergents are sold in yoghurt packaging. The case went to court, as the supplier did not agree to have their product removed from the shelves. The inspectorate won the case. The same supplier was placing the same product in a neighbouring MS. The inspector on that MS considered the packaging for the detergent was sufficiently different to the packaging of the yoghurt, in terms of labelling and design, that it did not pose a risk. The product therefore remained on the shelves.

Another NHD said that they had plenty of examples of such cases. One of them, reported by their poison centre, related to a detergent sold in packaging which was very difficult to distinguish from milk. However, they considered that Article 35(2) was easy to apply in such cases.

COM provided a broader legal context by pointing that this problem happens not only to hazardous mixtures, but many other consumer products. COM referred to the Council Directive 87/357/EEC[6] that gives legal basis for those cases which may not be covered by Article 35(2). NHD and inspectors would need to refer to their implementing national legislation, as this was a Directive. This Directive would, in any case, be repealed from 13 December 2024 by the General Product Safety Regulation 2023/988[7].

Another NHD indicated that they raised the cases they have been confronted with to the Forum of enforcement.

A NHD suggested that companies may have sustainability considerations when e.g., using carton or paper packaging that is normally used for food. However, it was clarified that this should not prevent the labelling of such packaging to be clear enough to distinguish it from food or cosmetics.

Action points

The Secretariat will inform the Forum for enforcement about the discussions held in the HelpNet about Article 35(2) and suggest picking the matter as an enforcement project.

3.2 Open HelpEx questions including videoconferences

Pedro ROSELLÓ VILARROIG (ECHA) gave an overview of the CLP videoconferences, reminding the participants about their purpose, providing some numbers and a summary of the topics discussed. He also noted that ECHA had drafted a factsheet[8] on candles, aiming at helping manufacturers in becoming aware of, and deal with, the different pieces of legislation which apply to them. ECHA will share it with the HelpNet as soon as it is published and invite the HelpNet to circulate it as much as possible. The target audience are micro-SME, potentially one person companies, so any help in reaching them would be appreciated.

Pedro ROSELLÓ also reported on the pending HelpEx questions. Three of them were at that time pending with COM and the Secretariat committed to keep the CLP correspondents informed about any progress on them.

[6] https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A31987L0357
[7] Regulation - 2023/988 - EN - EUR-Lex (europa.eu)
[8] Post meeting note: the factsheet 'Complying with CLP when making or importing candles' published on on ECHA website, HelpNet webpage on 1 August 2024: https://echa.europa.eu/about-us/partners-and-networks/helpnet/2023

Discussion

One NHD mentioned a question about external storage which should not have been closed. Pedro ROSELLÓ replied that the discussion could be reopened. At the time of closing it, more elements had been brought to the discussion about the ownership of the physical storage, touching upon private contracts and national legislation. He warned that ECHA would not provide answers to those aspects.

The NHD also asked for the publication date of the factsheet on candles. Pedro ROSELLÓ replied that there was not yet a date, but the HelpNet would be informed before the publication.

Another NHD indicated that candles are considered as mixtures, so the SCIP notification obligations should not apply. Pedro ROSELLÓ clarified that the wick is considered as an article and may need a SCIP notification, while the rest is indeed a mixture which may need a poison centre notification. Outi TUNNELA (ECHA) referred to the Guidance on substances in articles, where candles were covered as mixtures with an article, which is the wick. It was therefore possible that both duties under SCIP and PCN would need to be complied with for the same product.

Following from the previous agenda point, a NHD highlighted the fact that some candles placed on the market resemble food. They wondered if the factsheet could tackle that issue too. They had published their own factsheet on candles and diffusers, and noticed the questions related to those products submitted to the NHD had then declined.

A fourth NHD had published some web pages dedicated to candles, acknowledging the challenges their manufacturers have to face.

Pedro explained the basics of the FAQ process. The originator of a Q&A pair in HelpEx decides that an agreement has been reached and the Q&A pair can be closed. Once closed, it can be flagged as an FAQ proposal. The Secretariat will launch the process then. The aim is to reach a common position amongst the NHD and ECHA. Disagreements at either of the stages could be brought to a videoconference to be solved.

4. Break out session

4.1 Substances in Articles – Borderline Working Group in the context of CLP

Majella COSGRAVE (Ireland) introduced the work of the Borderline Working Group (BWG), which agrees on the assessment of specific cases to conclude whether they are articles, substances/mixtures or a combination of both. When an object is assessed and a conclusion is unanimously agreed upon by the members of the BWG, it is added to the Catalogue of borderline cases between articles and substances/mixtures[9]. This catalogue is published on the HelpNet webpage[10].

The BWG and the BWG Catalogue do not address the question of regulatory obligations, including CLP, for these objects. Therefore, companies placing them on the market may be unaware of their duties. The presentation included some examples, followed by five questions to initiate the discussions in smaller groups:

- When there is agreement that a given product is a substance/mixture, are they in scope of CLP?
- Did NHDs have any experience of classification and labelling of such products?
- Did NHDs receive any queries on the C&L, or other CLP?
- What did NHDs see as issues for companies placing these products on the market?

[9] Link to PDF: https://echa.europa.eu/documents/10162/17240/borderline_cases_substances_articles_catalogue_en.pdf
[10] HelpNet webpage: https://echa.europa.eu/about-us/partners-and-networks/helpnet/2023

- Can a generic approach or guidance be prepared that NHDs can avail of?

Discussion

The outcome of the discussions in smaller groups was as follows.

One of the major challenges for the NHDs was raising awareness about these obligations, in particular towards smaller companies. Some manufacturers, e.g., candle makers, may not be aware that their activities imply compliance with legal obligations under CLP. Some conclusions of the BWG would not be intuitive or self-explanatory to the duty holders. Obligations may seem overwhelming to them. NHDs also noted that importers or distributors may find it challenging to identify their obligations.

NHDs reflected that the questions they received on these cases did not necessarily came spontaneously from duty holders but rather because of enforcement activities. Inspected companies were not aware of the actual status as article or substance/mixture of the objects they placed on the market and therefore did not knew their duties.

It was additionally noted that some of the objects concluded by the BWG Catalogue to be substances/mixtures would be difficult to label, due to their shape, size or lack of packaging. This was for example the case of e-cigarettes or permanent magnets.

Some NHDs highlighted too that the catalogue was not legally binding, and specific assessments had been questioned by customers of the NHDs.

Participants in the meeting noted that a harmonised approach would be useful for the NHDs.

Options were suggested to assist companies in understanding their regulatory obligations, for example:

- The BWG Catalogue could point to regulatory obligations together with the conclusions. A note or disclaimer could be included at the end or beginning of the catalogue, informing companies that they must comply with the legal obligations attached to the status as article or substance/mixture or a combination in alignment with the conclusions reached in the catalogue. There could be a specific section about the actual obligations from CLP.
- Some supporting documents as Q&As or factsheets/handbook could be developed, including generic examples, linking to the BWG Catalogue.
- Short videos targeting specific sectors could be published, linking to the BWG Catalogue.
- The Guidance on Requirements for Substances in Articles and other guidance document could include a reference to the BWG Catalogue.

Some NHDs noted that the advice provided to companies should include possible derogations, such as fold-out labels, to ease their compliance.

The CLP correspondents expressed a wish to get more information on the work and conclusions of the BWG.

Closing of the CLP Workshop

The Chair mentioned the action point of the workshop. He thanked the presenters for their contributions and all participants for the interesting discussions. He invited the participants to reply to the satisfaction survey, which would be sent after the meeting.

The date of the next CLP Workshop was scheduled for 13 November, in a remote setting. The Chair reminded the participants about the upcoming videoconferences until the next CLP Workshop before closing the session.

Annex I – Agenda of the CLP Workshop

CLP Workshop	
1. Opening the CLP Workshop	
09:30	1.1 Opening by the Chair (ECHA, Erwin ANNYS)
09:35	1.2 Follow-up of action points from the CLP Workshop in November 2023
09:40	1.3 Approval of the draft agenda Declaration of conflict of interest with any of the agenda items
2. Updates from the European Commission and ECHA	
09:45	2.1 Update from the European Parliament on the CLP revision (EP, Christos VASILAKOS)
10:15	2.2 Update from the European Commission (DG GROW, Svetlana SKRYNIKOVA)
10:45	2.3 Update from ECHA (ECHA, Pedro ROSELLÓ VILARROIG, Pia KORJUS)
11:15	2.4 Upcoming changes to the C&L inventory (ECHA, Eoin BRENNAN, Roberta DI BLASI)
Coffee break (11:35-11:55)	
3. Topics proposed by HelpNet members and observers	
11:55	3.1 Packaging in breach of Article 35(2) and Forum's practical issue 44.3 (Germany, Anja HACKMANN)
12:15	3.2 Open HelpEx questions and overview of CLP videoconferences (ECHA, Pedro ROSELLÓ VILARROIG)
Lunch break (12:35-13:30)	
4. Break out session	
13:30	4.1 Classification and Labelling obligations for agreed cases from the Borderline Working Group on substances in articles (Ireland, Majella COSGRAVE) **Ideas jam** (discussion in smaller groups) Conclusions (HelpNet participants and ECHA)
14:30	**Conclusions of the day**
14:45	End of the third day meeting
Sandwich and coffee (14:45-15:00)	

Annex II - Action points

No.	Action	Agenda item	Who	Status
1.	Inform Forum about discussion in HelpNet about Article 35(2).	3.1	ECHA	Open

Annex III - List of participants

Country	Name, surname
Austria	Barbara WETZER
Bulgaria	Zvezdelina PETROVA
Croatia	Irena Zorica JEŽIĆ VIDOVIĆ
Cyprus	Maria ORPHANOU (remote)
	Maria PALEOMILITOU (remote)
Czech Republic	Aneta KULHAWIKOVA
Estonia	Aigi LAHE
Finland	Tapio SALONEN
France	Stephanie COPIN
	Nathalie HAYAUD
Germany	Anja HACKMANN
Greece	Eleni FOUFA
Hungary	András KARCZUB
Ireland	Majella COSGRAVE
	Annija LACE
Italy	Silvia ALIVERNINI
	Sonia D'ILIO (remote)
Latvia	Sandra MATĪSA
Lithuania	Agnė JANONYTĖ
Luxembourg	Laurène CHOCHOIS
Netherlands	Leonie FRANSEN
Norway	Sunniva Helene FRØYLAND
Poland	Piotr PACHOLSKI
Portugal	Isabel LAGINHA
Romania	Nicoleta CAROLE
Slovakia	Lucia MURANIOVA
Slovenia	Tatjana HUMAR JURIČ
Spain	Ángela SÁNCHEZ CONDE
Sweden	Susanna NORRTHON RISBERG (remote)

European Parliament

EP	Christos VASILAKOS

European Commission

DG GROW	Svetlana SKRYNIKOVA

Candidate countries observers

Country	**Name, surname**
Bosnia and Herzegovina	Dijana DUJAKOVIĆ
	Milana TELIĆ
	Vesna LOVRIĆ
Montenegro	Ilija GOJOVIC
Serbia	Bojana DORDEVIC
	Snezana KOVACEVIC
Türkiye	Bektas KILIC
	Önder GÜRPINAR

Industry observers

Organisation	**Name, surname**
Cefic	Amaya JANOSI
ORO	Kevin HOBAN

ECHA staff

Unit[11]	**Name, surname**
Support and Enforcement	Amandine JOMIER
	Anita TUOMAINEN
	Evelyne FRAUMAN
	Laure PAIN
	Pedro ROSELLÓ VILLAROIG
	Viorica NAGHY
Classification	Pia KORJUS
	Jonas NYGREN

[11] ECHA – organisation: https://echa.europa.eu/about-us/who-we-are/organisation

Exposure and Supply Chain	Outi TUNNELA
Data Availability	Anna DASZYNSKA
	Anni FAST
	Eoin BRENNAN
	Roberta DI BLASI
Submission and Processing	Tommy HÄGG
	Saara SUMIALA
Corporate services	Ari VALKEINEN
	Konstantinos ANAGNOSTAKIS
	Teuvo HONKAKUNNAS