Final minutes: 2nd Ad-Hoc Working Group (AHWG) Meeting

Revision of EU Ecolabel Criteria for Rinse-off Cosmetics

Tuesday 4th June 2020, 09:30 – 16:30 CEST

Friday 5th June 2020, 9:30 – 13:00 CEST

Webex meeting platform

Agenda

	Day 1 – morning session	**Schedule**
	Opening of virtual room	**09:30 - 09:45**
	Welcome and Political objectives of the EU Ecolabel and process description	**09.45 - 10.00**
1.	Revised scope and definitions	**10.00 - 10:45**
	15 min break	
2.	Criterion 1. Toxicity to aquatic organisms: Critical Dilution Volume (CDV)	**11.00 - 12.00**
3.	Criterion 2. Biodegradability	**12.00 - 13.00**
	Day 1 – afternoon session	
4.	Criterion 3. Excluded or limited substances and mixtures	**14:00 - 15:45**
5.	Criterion 4. Packaging	**15.45 - 16:30**
	Day 2 – morning session	
	Opening of virtual room	**09:30 - 09:45**
6.	Criterion 5. Renewable ingredients	**09.45 - 10:30**
7.	Criterion 6. Specific requirements for wet wipe	**10:30 - 11:15**
	15 min break	
8.	Criterion 7. Fitness for use	**11:15 - 12:15**
9.	Criterion 8. Information on the EU Ecolabel	**12:15 - 12:45**
	Conclusion, next steps and closure of the workshop	**12:45 - 13:00**

List of participant organizations

NATRUE AISBL
Finnish Competent Body
Galician Competent Body
Novamex
Asociación Nacional de Perfumería y Cosmética (STANPA)
IFRA
CTPA
BEUC/EEB
L'Oréal
AS ESTKO
Swedish Competent Body
Seal
Diversey
Bulgarian Competent Body
Colgate-Palmolive
Danish Competent Body
Danish Consumer Council
UBA
DVRH
Chrisal
ECHA
Unilever
Croda Europe Limited
Belgian Competent Body
Technical University Vienna
AFNOR Certification (French Competent Body)
DG ENV
EFfCI
Ecolabel Norway
Plastics Recyclers Europe
Austrian Competent Body
Berioska SL
IT ISPRA
EEB/SSNC
DECO PROTESTE
Cosmed
EY - ADEME (France)

The working group meeting was run in a web meeting format using the WEBEX platform. For each agenda point, a short presentation was given by JRC. Participants were asked to comment/ask questions orally. Posting comments in the 'chat room' facility was also allowed. During the meeting the oral questions were addressed first. Subsequently, JRC addressed the comments posted in the chat.

Revised scope and definitions

There was a general agreement on the extension of the scope to all cosmetics under the Cosmetics Regulation. Several stakeholders mentioned that they are against the inclusion of hand sanitizers since these products are biocidal products and are not environmentally friendly. JRC clarified that there is no intention to include hand sanitizes under the scope and the text will be clarified accordingly.

There were divided views with regards sunscreens. It was mentioned that UV filters should comply with Cosmetics Regulation. A stakeholder commented: "*the Ecolabel proposed criteria ensures that the problematic UV filters on the market are not used. UV filters provide protection against the sun and thus reduce the risk of skin cancer, so there are advantages to using sun protection products with UV filters. UV filters used to protect the user are the only filter covered by Annex VI to the Cosmetics Regulation. With the proposed criteria, the UV filters are not suspected to be bioaccumulative or toxic to aquatic organisms". It was commented: "There is a large request for ecolabelled sun care products in the nordic countries, and there are UV filters that are more preferential than others. We support including suncare products, but it is an option not include UV filters in other product types".* In addition, it was remarked: *"*As Sun Care products are partially released in sea water we suggest to add criteria related to marine toxicity." Other stakeholder mentioned that UV filters are very bad for environment and sunscreens are against the EU Ecolabel philosophy.

JRC mentioned that toxicity of sunscreens is addressed in criterion 3 and that it is important to give the consumers the choice to select a better environmental product under this category. Sunscreens are widely used.

In relation to animal care products, a stakeholder was reluctant to include these products under the same Commission Decision: "*it will raise again the confusion of animal testing in cosmetics and these products will be evaluated with animals".* In addition, it was mentioned: "*I recommend removing the animal shampoos from the scope. They are not cosmetics and are not subject to the same strict legal requirements as cosmetics*." *O*ther stakeholders welcomed the inclusion of these products which are very successful under other schemes.

JRC mentioned that having animal care products under a separated annex would avoid confusions.

Stakeholder mentioned that the definition for ingoing substances from the Nordic Ecolabel needs to be better defined. In addition it was mentioned: *"The limit on 0,1% impurities seem quite high. Can we lower this?".* JRC mentioned that it is important to harmonize definitions considering that EU Ecolabel is using similar criteria and thresholds and that the text will be revised and clarified as far as

possible. JRC asked to stakeholder to provide written comments with suggestions or clarifications of the proposal.

There were divided views in relation to the inclusion of wet wipes. Several stakeholder were against its inclusion. A stakeholder commented: "*How do you consider taking into account the environmental impact of wet wipes in the end-of-life phase in addition to the requirement on consumer recommendations presented in criterion 6b? Lots of wet wipes are found in water treatment plants and in the nature, and they are hard to recycle".* It was expressed strongly disagreement on the inclusion of these products under the scope since they are single use products. Other stakeholder mentioned that if these products are included strict requirement on biodegradability of the substrate need to be included.

A stakeholder mentioned that biodegradable wipes are increasingly on the market. Additionally, a stakeholder expressed "*we should not forget that biodegradable is automatically better for the environment, assessment of what the product biodegrades into and its impact on the environment also has to be considered*"

JRC clarified that criterion 6 sets specific requirements on the substrate linked to EU Ecolabel certification for paper products and for Absorbent Hygienic products. However, the inclusion of wet wipes is subject to the overall comments expected to be received during the consultation. A final decision will be taken after the consultation.

Criterion 1. Toxicity to aquatic organisms: Critical Dilution Volume (CDV)

Overall, there was a general agreement on the decrease of the Critical Dilution Volume (CDV) threshold values for the different product categories. *However, some stakeholders suggested that CDV thresholds could be decreased even further, in line with values from current licences and knowing that the limits set by the Nordic Swan Ecolabelling will be decreased further as a result of the ongoing revision process.* The JRC responded that will look at Nordic Swan licences and that will organise further exchange of data. However, the JRC warned that the EU Ecolabel should target the whole European market, therefore this will be kept in mind when evaluating Nordic Swan data, which typically address European Nordic countries and cannot be considered representative of Southern European conditions. Indeed, the EU Ecolabel aims at targeting the 10-20% best-in-class products of those put on European market, although sometimes this estimate is difficult to address due to lack of data. One stakeholder asked on the rationale behind not setting CDV limits on leave on products. The JRC answered that the CDV thresholds do not include leave on products due to the lower risk of release to water (being not immediately rinsed off) and due to a lack of data, since Nordic Swan also does not set CDV limits on leave-on products. Finally, one stakeholder suggested considering toothpaste as leave on products (in line with Nordic Swan and due to the lack of data).

Most of stakeholders disagreed with the CDV calculation used as a method to evaluate the toxicity to aquatic organisms. It was questioned that *"the more you add ingredients, the lower will be the CDV, in contradiction with the aim of the criteria. It's very important to have the same calculation as the detergent products to have a good impact of CDV limits. COLIPA reference dosage quantity exists".* Another stakeholder also commented against the current CDV calculation: *"The active*

content apart of being more complicated has no interest and allow dilution by ingredients. Other point is the fragrance contribution which does not take into account the risk phrase restriction. The did-list must be revised to take into account fragrance differences(H412 has the same value that non classified fragrance).”

Usetox seemed not to have the support of the participants, as exemplified by the following comment:

“We disagree on using USEtox as we are pilots cover around 2500 to 3000 substances for aquatic ecotoxicity and about 1000 substances for human toxicity . This has been elevated to around 3100 chemicals in the actual downloadable version of the mode . In February 2020, data for freshwater ecotoxicity of additional 4064 substances have been published. This is still less compared to about 100 000 single chemicals to play a major industrial role.

- *(Eco)-toxicity is frequently excluded from LCA studies based on the argument that with high uncertainty factors in the range of 102 to 105 it is still too uncertain (or even immature) and deemed not useful (at first sight) to proceed with the comparative analyses, as the output is considered not to provide information in a meaningful way (from 9).*
- *Some dangerous properties, at least PBT and vPvB , mutagenic, reprotoxic and endocrine disrupting chemicals seem not adequately captured.”*

Stakeholders were generally in favour of setting a reference dosage and align the criterion to the structure used in EU Ecolabel criteria for detergents, as exemplified by the following comment:

“In detergents we have also ready-to-use (RTU) products so without determined dose but in the RTU detergents decision, their thresholds are however defined per liter of product. Indeed, the reference dosage for RTU products is defined as "1 litre of RTU products". We can use the same definition of reference dosage for cosmetics products. We reiterate our request to change the current calculation to delete the fact CDV is based on the active content because: 1) it is more complicated to deal with CDV depending on CA and 2) it is not environmentally friendly to add substances to reduce the ratio of CDV/CA. This practise goes against principles of the European Ecolabel.”

The JRC responded that the establishment of a reference dosage will be investigated, although it is challenging to set due to unpredictable consumer behaviour and different consumer needs. Stakeholders were invited to submit their proposal and possibly any additional data during the written consultation period. Additional comments by stakeholders referred to the inappropriate suitability of the detergents ingredients database (DID) list, which integrate new data coming e.g. from REACH, lacks data for natural extracts and toothpaste/mouthwash ingredients and gives the same weight to all fragrances, regardless their hazard classification. However, the JRC is not responsible for the development and update of the DID list.

Criterion 2. Biodegradability

In relation to the newly included exemption of anaerobic biodegradability for surfactants not classified for the environment in line with detergents product group, it was mentioned by several stakeholders that is better to keep current formulation and not to include such exemption.

JRC clarified that the inclusion of this exemption was made on the basis of harmonization among different EU Ecolabel product groups, but if the general feeling is that existing formulation is better the change will be reverted.

It was mentioned that QSAR method should be verified by independent parties or toxicologist. JRC mentioned that these methods are included in other EU Ecolabel group (EU Ecolabel for Lubricants) and no reference to third party toxicologist is made for this product group, but it will however evaluated the need to include third party verification in this specific case.

With regards thresholds and ambition level, several stakeholders asked to further restrict biodegradability thresholds. The existing values of Nordic Swan are from 2016. At least EU Ecolabel should align to these values even if EU Ecolabel licences are lost. Stakeholders highlighted the need of a continuous improvement of the EU Ecolabel scheme.

It was commented: "*EU Ecolabel should incentivise improvement of environmental performance and reflect environmental excellence of products already in the market (as shown by NS broad number of certified products against very few products with EU Ecolabel assessed by JRC). JRC should look at NS statistics and not only EU Ecolabel. Stricter limits for CDV and Biodegradability reflect better EU policy priorities for a non-toxic environment. Reducing the ambition to preserve and increase license holders does not seem the best strategy if this can question robustness of the scheme compared to other more ambitious labels."*

Additionally, it was expressed: "*If fragrances are not sufficiently biodegradable, they should not be included in ecolabelled products.*" and mentioned the availability of fragrance free products on the market.

While other stakeholders mentioned: "*If fragrances are not accepted anymore, you won't sell any rinse off cosmetics nor cosmetics as bold milk in southern Europe"* and "Fragrance free products are not common at all in France and Southern Europe"

It was pointed out by several stakeholders that there are Fragrances with low anNBo so it is no banning perfume, but using the better ones meaning that stricter values does not equal excluding fragrances.

JRC mentioned that the aim was to reach a compromise, by increasing the ambition label while keeping existing licences

DG ENV mentioned that Ecolabel is a logo for the whole Europe and should represent southern countries too. The aim should be 10-20% of the whole market, not 10-20% of the licences we have now.

In relation to microplastics it was mentioned: "*As a result of the discussion about microplastics and other polymers, a new criterion for the degradation of synthetic polymers was introduced at the Blue Angel. All synthetic polymers must be inherently biodegradable."*

In addition it was expressed that the inclusion of must be defined correctly - not all polymers are plastics, but all plastics are polymers.

A stakeholder expressed: *"The emerging ECHA definition of microplastics should be used which makes a distinction between particulate polymers and non particulates. Also it defines biodegradation criteria - inherent biodegradation testing is not always suitabe for polymers; a wider range of biodegradability tests should be included. Please align with ECHA on this."*

JRC mentioned that these comments will be considered and the text will be revised accordingly.

With regards BCF and Log Kow values, stakeholder asked to clarify why these values are different from the cut off values used in REACH. JRC clarified that stricter values are used in line with other EU Ecolabel product groups.

A stakeholder mentioned that DID list have presents lack of data and that to test log Kow is challenging.

A stakeholder commented: "*General remark on the cut-off values for BCF/log Kow (which stems from the previous DSD legislation). The higher cut-offs in CLP (and implemented in the Nordic Ecolabel) are based on scientific reasons. Hence, for example a substance with a BCF of let's say 150 would not be classified for environmental hazards (if not toxic to aquatic environment) but excluded from EUEL. We would recommend to reconsider."*

Another stakeholder mentioned: *"The log 3 was from the old classification under 1999/45/EG, log 4 was from the new REGULATION (EC) No 1272/2008."* and several stakeholders supported to continue using the strict value of the EU ecolabel.

Criterion 3. Excluded or limited substances and mixtures

Criterion 3 (a) - Restrictions on ingoing substances/mixtures classified under the Classification, Labelling and Packaging (CLP) Regulation

Overall, stakeholders welcomed the changes introduced in sub-criterion 3 (a).

A general comment was to increase the clarity of the criteria text, e.g. defining the word "unambiguous" when referring to SCCS opinions, or when indicating the limit of 0% for carcinogenic, mutagenic or toxic to reproduction (CMR) substances. Moreover, one stakeholder stated that some of the text should refer only to ingoing substances, and not mixtures: *"Substances/mixtures classified with any of the H-statements which are included in Table 3 shall not present, in the final product, at or above the concentration of 0.010 % (w/w) for rinse-off products and 0.001% (w/w) for leave-on cosmetics. This must refer to incoming substances, not mixtures*". Some stakeholders agreed with this position, "*to ensure alignment with other EU Ecolabel product groups and because dangerous properties of the substances are always "diluted" in mixtures - therefore it is sufficient to look at individual substances"*. However, one stakeholder disagreed with the above because *"it is essential to evaluate the cumulative effect in the product which is intended to apply on skin's humans or animals".*

Stakeholders had split views on the need for CMR substances to be included in the Annex II of the Cosmetics Regulation before being eligible for exclusion according to subcriterion 3 (a) (ii) (avoiding the delay between the classification in REACH and the amendment to the Cosmetics Regulation). The majority of comments supported the exclusion of CMR as soon as they are CMR. One stakeholder commented that *"With regards to classification it would be relevant to know whether reference is made to CLP Annex VI or self-classifications"*. It was clarified that it was decided at the CB forum that Competent Bodies must accept harmonised classification but also rely on self-

classification. The JRC responded that will check with the decision at the CB forum and will clarify the matter in the next report.

The sub criterion 3 (a) (iii) was welcomed by stakeholders, who nevertheless pointed at a mistake in the formula in the technical report: *"please confirm it's a mistake for 2.5% and the right value is 25%"*. Also, it was asked why this criterion does not apply to substances covered by Article 2(7)(a) and (b) of REACH. The JRC responded that this exemption is applied horizontally to all product groups but that will investigate further the need for it.

Stakeholders commented that substances classified as sensitizers to the skin according to the hazard classes H317 and H334, *"should not be allowed in EU Ecolabel cosmetics, regardless of their concentration"*, since these substances are used in very little amounts and would be used in EU Ecolabel products despite the restriction limit of 0.01% w/w for rinse-off products and 0.001% w/w for leave-on products. The JRC responded that will await all comments until the end of the consultation period and will then evaluate this possibility.

Finally, stakeholders asked on the procedure to follow for derogating substances, which can be found in the Annex I to the technical report. Moreover, it was agreed that key stakeholders would be contacted/sub-groups would be established when evaluating submitted derogation forms.

Criterion 3 (b) - Specified excluded substances

Stakeholders expressed their concern on the proposed exclusion of identified endocrine disruptor compounds (EDs). They suggested to extend the exclusion also to suspected EDs, referring in the criterion to the list that the European Commission made in 2019 (the "call for data" list A and B) and to the list that was developed by the collaboration between five Member States: Belgium, Denmark, France, The Netherlands and Sweden. Another stakeholder suggested to *"exclude identified and confirmed EDs"*. However, it was also commented: *"it may be very relevant to know what criteria are used to make a substance a suspected ED"*. The JRC stated that further work is already being carried out, including in the discussion relevant European Agencies and NGOs, in order to preserve the reputation of the EU Ecolabel and at the same time ensure the feasibility of an objective exclusion for the Competent Bodies. Most of stakeholders expressed their interest in setting a specific exclusion on fragrances, which in their opinion are quite overlooked in this set of criteria. This exclusion should target the 26 fragrances officially recognized by SCCS as sensitizers and additionally the 82 fragrance allergens object of the public consultation in the framework of the Cosmetics Regulation. One stakeholder mentioned that *"if SCCS opinions are adopted when unambiguous, the exclusion of the 26 fragrances mentioned above would follow implicitly"*. The JRC thanked for the comments received and mentioned that would address the fragrances issue.

The exclusion on isothiazolines was considered as doable by stakeholders, which reminded that this exclusion is already in force in some certification schemes and private standards on the market.

One stakeholder asked to review the decision on mineral oils in order to exclude them from lip care products due to the risk of ingestion.

Some stakeholders questioned the rationale behind the exclusion of phenoxyethanol in products for children, pointing that *"its safety has been confirmed by the SCCS, and there is no reason for its*

prohibition in the Ecolabel". The JRC stated that the proposed exclusion of phenoxyethanol is due to its harmonised classification as H301 "toxic if swallowed".

Criteria 3 (c), 3 (d), 3 (e), 3 (f) and 3 (g)

The discussion mainly focused on criterion 3 (d) on fragrances. Stakeholders suggested to ban completely the use of fragrances marketed for children, while restricting its use in other products, as illustrated in the following comments:
"Regarding the fragrances, we ask for exclusion from 0,01% (rinse-off products) and 0,001% (leave on products)
- *all H317 and H334 substances and especially*
- *Sensitizing fragrance ingredients listed in Table 13-1 of the SCCS-opinion on fragrance allergens in cosmetic products, 26-27 June 2012 (54 individual chemicals, 28 natural extracts (mixtures of chemicals), including all 26 fragrance allergens identified by SCCNFP in 1999)"*

"Morover, specifically for children, I suggest if we improve the restriction of fragrances to allow it for children product as we'll guarantee a good health security."
"Cosmetic products that are specially developed for children under the age of 3 or allergy sufferers and marketed accordingly must not contain any fragrances."
Indeed it was explained that *"the more children are exposed to fragrances, the higher the risk that allergies develop",* therefore stakeholders ask to ban also fragrances which have not been identified as being sensitizing up to now. One stakeholder suggested to align with the criterion in Nordic Swan and to impose a label on the packaging warning that the product contains fragrances, when it is not possible to completely exclude them. The labelling should also state when a product contains perfume. However, one stakeholder mentioned that *"products should not have to place contains fragrance on-pack since conditions for optional claims are already in place according to the rules set by the Sub-Working Group on Claims"*. Finally, some stakeholders highlighted the importance of flavours in toothpaste for children, as their absence would discourage children to clean their teeth: *"If flavours are considered to be "fragrances" in toothpaste, then they need to be included in children's tootpaste otherwise they will not tolerate using the toothpaste due to the taste, this would discourage children to clean their teeth... therefore we want to stress that flavours are needed for children's toothpaste for dental health reasons"*. The JRC welcomed the discussion and will use it as a basis for further research.

Other comments referred to the criterion 3 (e) on preservatives, which should be banned regardless of their concentration if classified as H317 (due to the low amount in which there are used in the formulations). Another stakeholder asked to remove the requirement on the approval of preservatives/colorants as food additives: *"Why are preservatives and colourants singled out to be food grade while other ingredients in toothpaste are not? Cosmetic grades as well as food grade are currently used under EU law and are safe"*. Finally, one stakeholder suggested to include a requirement on marine biodegradability for sunscreens, using existing ISO tests: *"sun care products have partially an end of life in marine so marine test such as may be added: 1) Luminescence inhibition test ISO 11348-3:2007; 2) Algal growth inhibition test (ISO 10253:2006) on the marine diatom micro-algae Pheodactylum tricornutum*". Finally, with respect to criterion 3 (g) on UV filters, one stakeholder expressed the concern that the potential exclusion of TiO2 (due to its reclassification as carcinogenic) would exclude all pure mineral suncare products. JRC mentioned

that a consultation of industries is currently in progress in order to investigate whether it is needed to allow the use of TiO2 in suncare products (if not in sprayable form).

Criterion 4. Packaging

In relation to packaging and contaminants, several stakeholders mentioned that it must be ensured that packaging made with recycled material should exclude contaminants and SVHCs because these substances can migrate to the product and because of the risk of greenwashing.

Other stakeholder mentioned: "these products have safety evaluation and higher amount of lead can be considered as safe."

JRC mentioned that this discussion was already addressed in other EU Ecolabel products and it seems to be difficult to set a verifiable requirement, however this possibility will be further explored. JRC asked to provide concrete suggestions in written form.

With regards PIR calculation and values, a stakeholder suggested to align with Nordic Swan as the existing formula may not be suitable for new products under the scope.

Several stakeholders supported a further restriction of PIR values. A stakeholder mentioned: *"The value of PIR shall be more restrictive and reduced. We sent you our values: we have only 3 products by 34 certified products with this huge value and the average is 0,15. We propose a threshold of 0,18g."*

With regards the exemption of PIR requirement for products with 80% of recycled material, a stakeholder asked there is data to support such exemption.

In relation to the residual amount, several stakeholders considered that decreasing R from 10 to 8% is not enough.

Other stakeholder mentioned that this value will by challenging specially for toothpaste: "the shoulder section of toothpaste tubes means it's very difficult to get down to this level, we propose a higher level for toothpaste". It was remarked that the data amount of residual product come from rinse-off products and these threshold would be very difficult for viscous leave-on product and it was suggested that the restriction must be limited to the rinse-off product.

A stakeholder expressed: "The procedure to calculate residual amount shall be harmonized.
For example, we can require to test at least 5 packaging in order to calculate the residual amount."

JRC mentioned that to further restrict PIR and R values will be reconsidered especially for rinse-off products. Exemption or different values will be considered for leave on products if needed.

With regards take-back system, stakeholders considered the new proposal much more workable now. However, they still see problematic because of it does not consider the product chain.

A stakeholder commented: *"We are in favour of this requirement for products to be used by accommodation services in a small packaging. We would have preferred to prohibit small bottles < 300ml (used for example in hotels) because it's a huge waste of plastic: a major environmental issue.*

Moreover, these products can be replaced by dispensers with EU Ecolabel products. Nevertheless the new requirement you propose is an acceptable alternative."

Another stakeholder mentioned: *"It's not sufficient : you need to require also 1) evidence of this take-back system such as receipt proof of these empty packaging and 2) reusing evidence of them"*

A stakeholder suggested limiting this criterion only if producer is directly dealing with hotels.

In addition, it was expressed: *"Good to try take back systems for hotels. We wonder whether setting a limit at 75 ml would not encourage bigger packaging though to avoid needing to comply with this requirement"*

JRC agreed on the difficulties of implementation in case the producer is not directly dealing with the accommodation, and that all comments will be considered in order to decide a final proposal based on the overall feedback received.

In relation to secondary packaging, a stakeholder mentioned that toothpaste cannot be refilled and suggested that secondary packaging should be allowed for toothpaste as 2-3 pack are a more sustainable solution.

A stakeholder suggested, *"to limit refills only to rinse-off cosmetics as this is not suitable for new product category (body milks, decorative cosmetics, sunsreams...). Moreover, French market isn't ready to propose so much refills it's very difficult to be in the market with refills in cosmetic."*

Additionally a stakeholder commented: *"for the refill being mandatory for packaging with pump, some studies have shown that refilled packaging had increased contamination growth. This is an issue in hospitality and health care. Rinse off products and cosmetics are produced under GMP and controlled conditions to prevent microbial growth since they are sensitive products."*

Criterion 5. Renewable ingredients

Criterion 5 (a) - Sustainable sourcing of palm oil, palm kernel oil and their derivatives

The stakeholder discussion mainly addressed the issue of excluding the Book and Claim system as a certification method in the framework of the Roundtable for Sustainable Palm Oil (RSPO), as an amendment to the second Technical Report. Stakeholders highlighted that Blue Angel and the upcoming updated criteria within Nordic Swan set the Mass Balance system as a minimum requirement. Moreover, it was mentioned that the analysis should be done on existing licenses, because current data on the type of certifications available on the market justifies the feasibility of excluding the Book and Claim method. One stakeholder suggested adopting a step-wise approach and allowing for acceptance of Book and Claim credits only temporarily. Another stakeholder mentioned that *"if the EU Ecolabel will set stricter RSPO levels (e.g. identity preserved, segregated) the suppliers will not able to provide sufficient ingredients, and the cost would increase by 20% at least".* The JRC acknowledged that indeed the share of RSPO-certified ingredients available on the market with a level stricter than Mass Balance has increased considerably in the last years, and that will consider excluding the acceptance of Book and Claim credits, maybe adopting a step-wise approach.

Two stakeholders commented on the difficulty and lengthiness of the verification method for this requirement and ask for removing this criterion or finding alternative certification schemes:
"With the current criterion we have no guarantee that EU Ecolabel certified products contain sustainable derivatives of palm oil (only with « segregated » certification) whereas it's particularly difficult and time-consuming to check differents proofs. Since the low benefit in comparison with the high complexity, we ask for the removal of this requirement. It's necessary to find another scheme to deal with palm oil issue. Nevertheless, if you choose to keep this criterion, it's necessary to clarify what kind of proofs shall be provided by applicants. You must specify if these documents shall be checked annually by the competent body for each certified product."
Indeed, Competent Bodies have to check that the Book and Claim credits have not already been used in other products. However, another stakeholder mentioned that the verification of this criterion would become much easier, would the Book and Claim system be removed. Stakeholders asked for improved clarity as to what concern the annual audits to be performed by Competent Bodies: *"In the previous draft, we indicated it's necessary to clarify what kind of proofs shall be provided by applicants and if these documents shall be checked annually by the competent body for each certified product. You mention verifications of validity RSPO certificates (only for MB certified ingredients) but you don't mention frequency for non-certified ingredients (covered by book and claim)".*

Criterion 5 (b) - Certification of plant based ingredients

Stakeholders were confused as to what ingredients are covered by the scope of the EU Organic Regulation. Doubts were expressed on the covering of derivatives, of palm oil, surfactants, on-food substances like extracts used exclusively in cosmetics but produced from organic plants. The question is further complicated by the fact that a positive list of substances included in the EU Organic Regulation does not exist. JRC responded that will clarify this issue in the next technical report.

Split views were recorded for the level of ambition of the proposed threshold for organic ingredients. The risk is that the consumer perceives the product as organic and feels greenwashed. However, an official definition of organic cosmetic product does not exist, also due to the presence of water: *"The 20% value is because cosmetics are not food e.g. they contain formulation water which is not organic. Equally, for certain product categories functionality products will require raw materials only avaiable in natural qualiy grade eg.g surfactants. Hence, except for a limits range of products (e.g. body oils) an organic cosmetic is unlke to be 100% organic. This is certainly a step away from consumer understanding of the claim from food agreeably".* One stakeholder commented that *"it will be possible to assess the feasibility of this criterion only once it will be clear which ingredients are covered by this requirement".*

Finally, stakeholders suggested to modify the requirement and to target bio-based ingredients instead, as done in Blue Angel and to accommodate the demand of consumers for natural products. Indeed, the risk is that including a requirement on the organic cultivation of plant-based ingredients would have the rebound effect to favour petrochemical substances, which under the current set of criteria would be subject to less certifications and declarations than plant-based ingredients. Moreover, another stakeholder commented that life cycle assessments found that organic products have a high land footprint and possibly other environmental impacts: "*Organic is not necessarily*

more sustainable from our life cycle assessments - requires more land footprint. This criterion may be lead to other environmental impacts - a life cycle assessment approach should be considered to make sure the most sustainable agriculture solution overall is promoted". One suggestion referred to *"setting a bio-based minimum content, which may vary by product type such as other criteria (CDV and biodegradability)"*. JRC stated that the risk of a rebound effect favouring petrochemicals should be avoided, however added that consumers' demand for organic ingredients is increasing as well.

Criterion 6. Specific requirements for wet wipes

Discussions on this criterion where closely linked to the inclusion of wet wipes under the revised scope.

Some stakeholders agreed on the inclusion of wet wipes under the scope and suggested improvements to the proposed criterion:

- *It was suggested to ban fragrances.*
- *Fibre cannot be awarded with the Absorbent Hygienic Products (AHP) EU Ecolabel, therefore the wording need to be changed to reflect that instead of being awarded with the certification, the fibres shall meet the underlying requirements under the AHP EU Ecolabel.*
- *The user manual must include details of calculation method.*
- *There are other available standards and these should be explored and included.*
- *Avoid certifying fibres made by viscose. Certify only fibres made with cellulose.*
- *As a minimum, the wipes must be 100% bio-based excluding petrochemicals materials.*
- *The substrate must be biodegradable.*
- *Investigate if it is technically possible to use paper as a substrate.*

Other stakeholders were against the inclusion of wet wipes under the scope and suggested to remove this criterion:

- *We're not in favour of including wet wipes on the scope. Wet wipes are a ecologic disaster (unique usage as alternatives exists), the SUP regulation is including new requirements like not flush wet wipes and not let it in environment because of many "biodegradable" claims on wet wipes packaging that create confusion on consumers. I don't think ECOLABEL has interest to promote this controversial category.*
- *We're not a fan from including wet wipes in the scope.*
- *When you give the ecolabel you sort of give a green light to these single use product*
- *The requirement for Forestry in Ecolabel for AHP is really low ambition. Only 25% from sustainable managed forests compared to vs as benchmark in FSC and PEFC.*
- *Wet wipes generate waste. It doesn't matter whether they are biodegradable, because they have to be disposed of with household waste and then have to be incinerated.*
- *The best is that they are not included. But if they are, clear difference has to be made with conventional products.*

JCR mentioned that the potential inclusion of wet wipes under the scope will be further evaluated and discussed. JRC will bring the discussion to EUEB level. Initially, JRC agrees that wet wipes should be included only in the case of solid biodegradability standards.

Criterion 7. Fitness for use

One stakeholder suggested to remove from the criterion text the specific questions related to the consumer tests, in order to preserve flexibility. The JRC responded that the inclusion of the consumer test questions in the criterion text aims at standardizing the tests for all products, although it has to be checked that the questions can be applicable to all product categories (given the enlargement of the scope). One stakeholder stressed the importance to keep the requirement concerning the application ease of the cosmetic product and suggested to replace the question relating to the easiness of application by requiring applicants to define the correct dosage or the appropriate quantity and test it in laboratory tests. One suggestion was:

"In order to control the dosage of certified products and avoid any overdosage, we should require :

applicants shall define the correct dosage or the appropriate quantity, then they shall test the product with this dosage/quantity,

applicants shall provide a convenient dosage system (as for detergents) if appropriate or a effective system of delivery,

applicants shall indicate the correct dosage on the label and a sentence which underlines the importance of using the correct dosage/quantity in order to minimise energy and water consumption, reduce water pollution and save money.

This requirement should replace the question « How easy is it to apply the dosage of the product in comparison with a market-leading product? » because:

it's not a scientific and reliable method and

it's binding because applicants shall provide a new test when they change their packaging."

Moreover, stakeholders expressed their interest in favouring laboratory tests over consumer tests. The JRC agreed with the statement but also expressed the difficulty on ensuring compliance with a non-mandatory requirement. Examples of instrumental tests that were suggested include sunscreen ISO method and method for testing toothpaste in USA.

Stakeholders had polarized views on the existing legislation on claims. Some stakeholders judge the EU legislation on claims not to be comprehensive and prompted the EU Ecolabel to add an extra layer of protection for the consumers and adopt stricter requirements, especially targeting products misleadingly claimed to be sensitive while containing allergens: *"The cosmetics regulation has issues here, that can mislead consumers. It will be good if EU Ecolabel is very clear on this".* On the other hands, other stakeholders considered the requirements under the Cosmetics Regulation, Regulation 655/2013 and the Unfair Commercial Practices Directive to be sufficient: "*Keep in mind fragranced product are compatible with "sensitive" or "gentle" as soon as we have strict criteria on fragrances (no H317/334 nor allergen)"*; *"The claim sensitive skin is already regulated by cosmetics regulation and technical guideline for allegations. ECOLABEL certification doesn't have to have a different point if view"*.

Criterion 8. Information on the EU Ecolabel

About the sentences on the label, a stakeholder proposed to focus the sentences on criterion 3 and other stakeholder mentioned that the sentence on restriction of hazardous substances is used in other product groups.

It was mentioned that the sentence about biodegradability would not apply with wet wipes if the final decision is to keep them in the scope.

A stakeholder suggested *"Promoting care for the environmental"*

It was expressed: *"The AGEC french law is releasing banning the words "biodegradable" are "respectfull for environment" or equivalent that is totally in contradiction with ECOLABEL aim. Regarding AGEC French law "loi n°2020-105 relative à la lutte contre le gaspillage et à l'économie circulaire", EC must push to exmpt ECOLABEL proiducts from this new French law"*

Other stakeholder commented*: "It's important to modify information appearing on the EU Ecolabel to add a sentence concerning conducted tests in order to highlight also the performance of EU Ecolabel certified products."*

Additionally a stakeholder mentioned: "we would prefer the criteria for claiming biodegradable/lower impact on environment are not required"

Finally it was suggested to add a criterion about information provided on labels which requires:
- information on product's use : dosage which shall be easily achievable with the effective system of delivery (applicants shall also indicate on the label how to use it),
- applicants have to prove differents claims,
- information on the reuse – requirement connected to packaging criterion, recycling and correct disposal of packaging,
- In order to harmonise with good pratises used in detergents products >> A text shall appear on the primary packaging indicating the importance of avoiding overdosage and to refill the product in order to minimise energy and water consumption, reduce water pollution and save money.

JRC mentioned that in sentences should be harmonised across EU Ecolabel products groups and that all suggestions provided will be considered in order to revise this criterion.