PU Europe proposal:
Guiding principles for the award of the Ecolabel to goods containing hazardous substances

Starting points according to the new Ecolabel Regulation and requirements of Ecolabel bodies:

1. Many Ecolabel bodies require the Ecolabel to go beyond existing legislation. PU Europe can accept this as long as coherence with other legal acts is maintained.
2. Ecolabelled products should provide a high level of environmental and health protection during their entire life cycle.
3. The Ecolabel may not be awarded to goods containing substances or preparations/mixtures meeting the criteria for classification as toxic, hazardous to the environment or CMR except for cases where derogation was granted by the Commission. The most hazardous substances (REACH art. 57 and 59(1)) will be banned completely (above 0.1% content), according to the regulation.
4. The best 10-20% of a specific product group (Annex I A.2) may qualify for the Ecolabel. PU Europe believes that, in the case of intermediary products, this will be difficult to determine as the environmental performance varies according to end-use applications.
5. Ecolabel requirements must be determined on a scientific basis considering the whole lifecycle of products and focus on the most significant environmental impacts.

Practical consequences of this approach:

- The European chemicals legislation in force today is **risk-based** (emission-related). The Ecolabel Regulation is **content-related**, which is not consistent with existing legislation and will not necessarily reduce the risk associated with the products.
- With the exception of substances covered by REACH art. 57 and 59(1), the requirements of articles 6.6 and 6.7 clearly refer to **eco-labelled goods and not parts of goods**. In other words, when determining whether a substance, which is not covered by REACH art. 57 and 59(1), is present in concentrations above authorised concentration thresholds, the content of that substance in all product components should be summed up and put in relation to the complete product.
- With environmental and health protection being a guiding principle of the Ecolabel, **all hazardous substances** must be taken into account whether they are **naturally contained in products / materials or intentionally added**. This is in line with the Ecolabel Regulation article 6.6, but goes beyond REACH requirements.

  - Formaldehyde is contained in many products naturally or added intentionally. Users can be exposed to several sources at the same time. Health risks can only be assessed / avoided when all sources are taken into account regardless of whether they are natural or man-made.

- Exposure to **natural radiation** has become a real health concern and several Member States (Austria, Poland) have introduced legislation to limit exposure. Introducing such exposure limits in the Ecolabel would clearly go beyond REACH which excludes radioactive substances.

  - Natural radiation can occur in different products extracted from the ground. Measurement methods will be developed by CEN/TC351 in the framework of the Construction Products Directive.

- Under the Dangerous Substances Directive, "Harmful (Xn)" was a separate hazard class which is not explicitly mentioned in the Ecolabel Regulation. In the latest CLP Regulation (1272/2008), "Harmful" has become of sub-category of "Toxic". Consequently, no ecolabelled product would be allowed to contain harmful substances. This would go far beyond any European or national Ecolabel requirements and would not be practical. Hence, the following **risk phrases should be exempted** from the scope of article 6.6: H302, H312, H332, H335, H336, H341, H351, H361f, H361d, H361fd H362, H373, H412, and H413.

- The **authorised content thresholds for hazardous substances** others than those covered by REACH art. 57 and 59(1) need to be determined. The presence of each of those substances should respect the generic or specific concentration limits determined **in accordance with the Article 10 of the CLP Regulation No1272/2008**. If specific concentration limits are determined they should prevail against the generic ones. Concentration limits should apply to **intentionally added substances, naturally occurring substances and impurities / uncontrolled contamination**.

- The procedure for **derogations** needs to be better defined. Derogations according to article 6.7 should be granted on a case-by-case basis. There should be **no arbitrary discrimination against materials** unless there is scientific evidence proving that they represent a risk for health and environment in at least one of the life cycle phases, and a sound analysis that the substitution materials perform better. In the case of intermediary products, this will be difficult to determine as the environmental performance varies according to end-use applications.

- When deciding on granting derogations, it should be taken into account whether a **specific risk phrase is of relevance** in the context of the use of a substance in a product **in a specific end-use application**.

  - A substance may be toxic to aquatic life. However, if it is used in a product which is not in direct or indirect contact with drinking / waste / river / sea / ground water, the risk becomes negligible and a derogation should be granted.

- Furthermore, the bio-availability of substances above the concentration limits should be taken into account. In other words, it should be possible to use substances others than those covered by REACH art. 57 and 59(1) in **concentrations above the CLP limits** provided there is independent scientific evidence that **this substance is not bio-available** during the whole use phase of the product (e.g. it is immobilised in a material matrix or has reacted such that is no longer present).

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