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NOTE

From:	Presidency
To:	Delegations
Subject:	ESPR: Discussion note

In view of the upcoming Working Party for Competitiveness and Growth (Internal Market – Ecodesign) on 27 March 2023, delegations will find in Annex a Presidency discussion note.



The Presidency has prepared this discussion note to guide a further round of discussion on better framing the Commission empowerment to adopt ecodesign requirements. At the Coreper of 22 March 2023, a majority of Member States could agree to reverting back to delegated acts, provided that this would be combined with clearer criteria and principles on how the ecodesign requirements will be set, that Member States or their experts are more involved in the development of such requirements and that implementing acts are still used in other parts of the text.

In its note for the WP meeting of 14 March, the Presidency already outlined some proposals. The Presidency has since analysed the relevant articles (4-7a and 16-17a) to come up with a set of preliminary proposals for amendments, as outlined below. Delegations are invited to express their views on these *preliminary* proposals and to make suggestions on how they could be complemented, not least in regard to ensuring that Member States and their experts are sufficiently involved in the development of ecodesign requirements. The drafting suggestions we make have been developed based on our reading of the text and discussions with the Commission. We use bold and underlined for adding text and strikethrough and bold for removing text.

The SE Presidency would like to ask the following questions to delegations:

1. Involvement of Member States and the Working Plan

- What possibilities do you envisage for increasing the involvement of Member States and the expert group in the development of delegated acts setting up ecodesign requirements? Do you have any suggestions as to how the changes can be drafted?
- In what other ways would you propose to specify how the Commission exercise its empowerment to develop and adopt delegated acts when it comes to process, within the limits of the Treaties, in particular Article 290 TFEU, and the Interinstitutional Agreement on Better Law-Making ?
- Could the current Article 16 on the working plan allow for better involvement of Member States and in what way?

2. Ecodesign Requirements or Framing of the Empowerment

- What would be the most important to clarify in Article 5-7a, or connected recitals or annexes, to better frame the empowerment to the Commission? To what extent do you agree with the clarifications and drafting proposed below?

1. **MEMBER STATE EXPERT GROUP AND THE WORKING PLAN (ARTICLES 16-17A)**

1.1 **Enhancing the role of MS experts in the Ecodesign Expert Group**

Most MS have asked for clarifications about the work of the Ecodesign Expert Group to ensure that MS experts are better involved in the development of ecodesign Requirements. While we have to take into account the Interinstitutional Agreement on Better Law-Making, there could still be possible ways of clarifying and/or defining how the Commission has to consult the Member State on draft delegated acts in the specific context of this regulation. For example, one could explore how the Member States are involved in the early preparatory phase of developing an ecodesign requirement.

Another option to consider could be specifying how the Member States Expert Group will work, however expert groups are established by the Commission and there is a decision on how they will be managed.¹ One could foresee that the Commission adopts a statement to be annexed to the regulation once adopted by the co-legislators promising to ensure proper MS consultation, within sufficient time, on all delegated acts.

¹ Commission decision of 30 May 2016 establishing horizontal rules on the creation and operation of Commission expert groups (C(2016) 3301)

We would furthermore propose to add consultation with the Expert Group in the context of Article 5(9) (see above) and in Article 5.4 point (d). One could also foresee that the Member State Expert Group would be informed or consulted on additional elements such as:

- Reporting on the implementation of the ESPR, including the level of Market surveillance.
- Discuss measures to enhance compliance with the regulation by economic operators and customers:
 - Establish portals for facilitating access to legislation, incl. guidelines for economic operators
 - Information and educational campaigns
 - Support for cooperation and exchange of best practices between MS
 - Focus on circular economy actors
 - Support to SMEs
- Discuss measures to enhance cooperation on market surveillance through Adco, funding of EU projects promoting exchange of best practices, and initiatives to carry out common market surveillance activities such as test campaigns.

We would welcome further Member State suggestions on how to ensure better involvement of Member States in the development of ecodesign requirements.

1.2 Working Plan

Making the Working Plan an implementing act

During the Working Party on March 14, several delegations asked for a better involvement of Member States in developing the Working Plan as referred to in Article 16, and greater foreseeability for economic operators as to which products are likely to be regulated under the ESPR.

One way to create greater clarity on which products the Commission will prioritise for being regulated pursuant to the ESPR could be to add further criteria in Article 16.1. Another way to ensure MS involvement could be to consider the working plan – currently being presented by Commission as a Commission communication inspired by the experience of the Ecodesign Directive – as an implementing act. We would however before exploring this like to hear Member States point of views on this. We think the following could be considered here:

- The implementing act setting out the working plan could still be an indicative list, thus not hindering the Commission from starting to prepare the development of ecodesign requirements before the first implementing act setting out the working plan would be adopted.

If explored further, Article 16 could be amended as follows:

[Article 16(2)]

2. **Based on the analysis referred to in paragraph 1 of this Article, the Commission shall, by [12 months after the entry into force of this Regulation], at the latest, adopt an implementing act establishing and regularly update a working plan, covering a period of at least 3 years, setting out an indicative list of product groups which will be considered priorities for the establishment of for which it intends to establish ecodesign requirements in accordance with this Regulation and regularly update it. That indicative list shall include products aspects referred to in Article 5(1) which will be considered priorities for the establishment of for which the Commission intends to adopt horizontal ecodesign requirements in accordance with established pursuant to Article 5(2), second subparagraph. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 67(3).**

~~By [2 years 12 months after the entry into force of this Regulation]], at the latest, the Commission shall adopt the working plan. Before the end of the covered period, the Commission shall update the working plan, unless it duly justifies to the Ecodesign Forum and the Ecodesign Expert Group the reasons for not updating the working plan in the covered period, and sets the date of the next update. When Before adopting or updating the working plan referred to in the first subparagraph, the Commission shall take into account the criteria set out in paragraph 1 of this Article and shall consult the Ecodesign Forum referred to in Article 17 and the Ecodesign Expert Group referred to in Article 17a.~~

The working plan shall be made publicly available.

The Commission shall inform the European Parliament and the Council annually of the progress made in the implementation of the working plan.

1.3. Other

As outlined in previous discussion notes there are other ways of clarifying how the Commission will exercise its empowerment. Within Article 66 the duration of the empowerment could for example be changed (paragraph 2), and the time the Council is given to object to delegated acts could be longer (paragraph 6, 1st sentence), as well as the extension of such time period to object (paragraph 6, 2nd sentence). Furthermore, one could specify what the review will look at.

2. ECODESIGN REQUIREMENTS (ARTICLE 4-5)

2.1 General

To better frame the Commission's empowerment and increase MS influence, it is necessary to understand the main steps that the Commission will take in establishing ecodesign requirements and all the possible outcomes. We believe that this can be summarised as follows.

Product specific ecodesign requirements

The priorities will first be listed in the working plan as an indicative list that contains both prioritised products groups and prioritised aspects that can lead to horizontal requirements (Article 16). After analysing a prioritised product group, the Commission will adopt a delegated act that will define the specific scope or product group to which the requirements will apply (Articles 2(5) and 5(2) and 7a). The delegated act can contain several different combinations of requirements:

- Performance requirements; it seems, however, less likely in practice the Commission would propose only performance requirements as they are typically accompanied by information requirements.
- Information requirements, including the DPP and the tracking of SoCs which are 'default' requirements that applies unless exceptions are provided for.

- Performance requirements and information requirements, with a possible differentiation between aspects (for instance, one aspect might have both type of requirements while another might only have an information requirement).
- Performance requirements and information requirements with an explicit mention of an aspect that shall not be covered by performance and/or information requirements.

Within a specific product group to which ecodesign requirements apply, it is also possible to differentiate between sub-groups of products to which some requirements might not apply or might apply in a different manner.

After analysing a prioritised aspect, the Commission may also adopt a delegated act specifying common horizontal requirements (Article 5(2)). The act will specify to which product groups the common requirements apply but the requirements might be expressed differently for different products included in the product group of the delegated act.

2.2. Product Aspects and Parameters

It could be beneficial to further clarify how aspects and parameters relate to each other, to make it clearer how the Commission will regulate products. All ecodesign requirements serve to improve the product aspects set out in the list in Article 5(1) which shall be based on the parameters listed in Annex I. The parameters, to our understanding, serve to set the specific values, thresholds, and qualitative obligations that constitute the requirements. Thus, all parameters need to be linked to one or more of the stipulated aspects. It should, to our understanding, be possible to put a threshold or a quantitative measurement relating to all parameters, except in some cases where a qualitative approach will be used.

To our understanding, the general relationships between parameters and aspects are as follows:

- Parameter a) in Annex 1 is linked to aspects a) and b) and c) in Article 5(1)
- Parameter b) in Annex 1 is linked to aspect e) and f) and c) in Article 5(1)
- Parameter c) in Annex 1 is linked c), d) and f) and k)

- Parameter d) in Annex 1 is linked to (new) ka)
- Parameter e) in Annex 1 is linked to c-f) and k) and (new) ka)
- Parameter f) in Annex 1 is linked to a), g), j), ka), l) and m) in Article 5(1)
- Parameter g) in Annex 1 is linked to aspect h-ia) and m) in Article 5(1)
- Parameter h) in Annex 1 is linked to j) and l-m) in Article 5(1)
- Parameter i) in Annex 1 is linked to i) and ia) and n) in Article 5(1)
- Parameter j) in Annex 1 is linked to c), e-f), k), m) and n) in Article 5(1)
- Parameter k) in Annex 1 is linked to a), b), c-f), h-ia), k), m) and n) in Article 5(1)
- Parameter l-m) in Annex 1 are linked to g-j), m-n) in Article 5(1)
- Parameter n) in Annex 1 is linked to h-ia) m-n) in Article 5(1)
- Parameter o) in Annex 1 is linked to h-ia), m) in Article 5(1)
- Parameter p) in Annex 1 is linked to m-n) in Article 5(1)
- Parameter q) in Annex 1 is linked to a-b), f), h-ia), m) and n) in Article 5(1)

One idea could thus be to clarify Article 5(1) through the following changes, aiming to clarify that aspects will be regulated to address environmental impacts, but also to create a link between Article 5(1) and Annex I. A text proposal could be:

Article 5(1)

The Commission shall, ~~taking into consideration all of the following product aspects, as appropriate, to the relevant product groups~~ **with due consideration for all to address relevant adverse environmental impacts arising in any** of the stages of the products' life cycle or **to further improve already beneficial environmental impacts**, establish ecodesign requirements **based on the product parameters in Annex I** to improve the **following product aspects** ~~when relevant to the product group concerned the following product aspects:~~

To further clarify the text we also analysed the list of product aspects in Article 5(1). First and foremost, aspect (m) referred to “environmental impacts, including carbon and environmental footprint”. Given that all requirements will aim to address “environmental impact” as an overarching goal (see Annex II, Article 1, recitals etc) we suggest removing the reference to environmental impacts from the list of aspects and instead provide examples of specific environmental impacts that can better serve as aspects for the purpose of this regulation, as well as adding a general category to ensure that nothing is missing in the list of aspects. We also suggest moving the “carbon and environmental footprints” from the list of aspects to the list of parameters under Annex I, as the footprints are related to several of the aspects. We also identified some parameters – such as (g) (partly) and (o) that were not linked to a specific aspect. Some of these were added in compromise proposals and a corresponding aspect had not been added accordingly. We propose some additions to the aspects to ensure that all parameters can be linked to an aspect.

- (a) durability;
- (b) reliability;
- (c) reusability;
- (d) upgradability
- (e) reparability;
- (f) possibility of maintenance and refurbishment;

- (g) presence of substances of concern;
- (h) energy use ~~or~~ and energy efficiency;
- (ha) water use and water efficiency;**
- (i) resource use ~~or~~ and resource efficiency;
- (ia) material use and material efficiency;**
- (j) recycled content;
- (k) possibility of remanufacturing ~~and~~
- (ka) possibility of recycling;**
- (l) possibility of recovery of materials;
- (m) **~~environmental impacts, including carbon and environmental footprint~~ climate change, pollution of water, air and soil, land use, impact on biodiversity and other negative environmental consequences;**
- (n) expected generation of waste ~~materials~~.

It also seems that the meaning of some of the parameters was not evident. Furthermore Member States have made some proposals here. We would therefore propose to add or clarify the following in Annex 1:

- (g) **use or** consumption of energy, water and other resources, **including critical raw materials** in one or more life cycle stages of the product, including the effect of physical factors or software and firmware updates on product efficiency and including the impact on deforestation;
- (q) functional performance and conditions for use **including as expressed through inter alia ability in performing its intended use, precautions of use, skills required, compatibility with other products or systems, etc.;**
- (k) quantity, characteristics and availability of consumables needed for proper use and maintenance **as expressed through yield, technical lifetime, ability to reuse, repair and remanufacture, mass-resource efficiency, inter-operability;**
- (n) microplastic release **as expressed through the release during relevant product life cycle stages including manufacturing, transport, end-use and end-of-life stages;**
- (o) emissions to air, water or soil released in one or more life cycle stages of the product **as expressed through quantities and nature of emissions, including noise;**

2.3. Definition of Product Group

According to Article 5(2), ecodesign requirements shall be established for a specific product group. The definition of a specific product group is essential as it determines which products will be subject to requirements and which products will not, due to their exclusion from the group concerned.

There is a definition in Article 2(5), ‘product group’ means a set of products that serve similar purposes and are similar in terms of use, or have similar functional properties, and are similar in terms of consumer perception. To better frame the empowerment of the Commission to make assessments as to which products should be included in the product group, and which should be excluded, we however propose adding criteria that the Commission should take into consideration.

In article 5(2), the following text could be added after the first sentence:

When assessing the similarities relevant to defining the product group to which ecodesign requirements will apply, the Commission shall take into account:

- a) product characteristics, including material composition, size, or ability to withstand specific conditions of use or specific environments;**
- b) standards, methods, legislation, and policies applicable to the products or being developed;**
- c) requirements related to security, military, safety or medical purposes;**
- d) the product market, including the volume of sales;**
- e) patterns of use or typical real-life use.**

One could also consider to add a recital stating “**When defining the product group, the Commission should consider if products which are produced only as one, or a few, unique items should be excluded from the scope of the delegated acts setting out the ecodesign requirements, or excluded from part of the ecodesign requirements and have particular market surveillance procedures**”. Our understanding is that this corresponds to the current practice under the Ecodesign Directive.

Finally, we propose to add a paragraph clarifying that, withing a specific product group, the ecodesign requirements can be adapted to various sub-groups of products:

[Article 5.2.a] A delegated act could include requirements only applicable to a subset of the products belonging to the product group regulated.

3. SETTING OF PERFORMANCE REQUIREMENTS

In the Commission's proposal, the establishment of performance requirements is subject to the provisions in Article 5, Article 6 and Annex II. To provide further structure to the process of establishing performance requirements one could consider adding text, which we would like to hear your views on.

Firstly, one could consider adding two basic principles:

Article 6.X.

The performance requirements shall be tailored to the particular characteristics of the product group concerned and improve the product group's environmental sustainability by effectively addressing relevant environmental impacts throughout products life cycle.

Article 6.XX

When the Commission envisages a combination of requirements, it shall assess them as a whole and identify the combination of requirements that delivers the highest environmental sustainability benefits while the costs fulfil the criteria in Article 5.

Another option one could consider is adding further principles the Commission should take into account in Article 6 or recitals , as the ones suggested in our discussion note ahead of the meeting in the WP on 14 March, such as consideration of the economic and technical feasibility, including the availability of key resources and technologicis, the impact on innovation, whether the compliance with the performance requirement, for the parameter concerned, can be verified by Market surveillance authorities etc. Another alternative could be to add the type of criterions outlined in our discussion note ahead of the meeting of the WP on 14 March, such as that the total positive impacts on all aspects and parameters resulting from the requirements must outweigh the total negative impacts on all aspects and parameters etc.

Furthermore, details on entry into force and review of the delegated act could furthermore in line with the below potentially be specified.

Article 6.XXX.

The Commission shall fix the date of entry into force for each performance requirement taking into account relevant elements such as the time needed to adapt the product design and production processes.

The Commission shall insert a review clause in each delegated act to adapt the requirements to technical progress, societal changes, availability of standards and methods, policy objectives, environmental issues, and other relevant elements. The time period after which the review should be carried out shall be fixed with regard to the need to ensure legal certainty and stability, the maturity of the market, the characteristics of the product group, and other relevant elements.

4. SETTING OF INFORMATION REQUIREMENTS

In the Commission proposal, the establishment of information requirements is subject to the general provisions in Article 5 and the provisions specific to information requirements Article 7.

Information requirements related to the DPP are regulated in Article 8, and information requirements related to labels are regulated in Articles 14 and 15. There however is no equivalent to the procedure in Annex II for the establishment of information requirements. To provide further structure to the process of establishing information requirements, one could consider adding principles as regards setting of information requirements such as:

Article 7.X

The information requirements shall be tailored to the particular characteristics of the product group concerned and the intended recipients of the information, such as customers or actors involved in value retaining operations. The information requirements shall encourage sustainable product choices for customers and economic actors downstream, ensure appropriate use, facilitate value retaining operations such as repair, refurbishment, remanufacturing, upgrade, recycling and maintenance, and ensure correct treatment at end-of-life.

When a performance requirement is established for a specific parameter, a corresponding information requirement may also be established, as appropriate. An information requirement can also be established without a corresponding performance requirement on that parameter.

One could also add structure to the process applied by the Commission to identify and set information requirements. One could for example add details on what the Commission should take into account when developing information requirements, as outlined in our discussion note ahead of the Working Party on 14 March, such as the relative effectiveness in contributing to environmental sustainability, the technical feasibility of such requirements, the need to verify compliance with the requirements etc.

Furthermore, details on entry into force and review of the delegated act could be specified.

Article 7.XX Commission shall fix the date of entry into force for each information requirement taking into account relevant elements such as the time needed to adapt the product design and production processes.

The Commission shall insert a review clause in each delegated act to adapt the requirements to technical progress, societal changes, availability of standards and methods, policy objectives, , environmental issues, and other relevant elements. The time period after which the review should be carried out shall be fixed with regard to the need to ensure legal certainty and stability, the maturity of the market, the characteristics of the product group, and other relevant elements.

The text proposed above should only apply to information requirements adopted according to Article 7(2), point b) and should not apply to information requirements adopted under Article 7(2), point a), namely the requirements related to the product passport and the requirements related to substances of concern, since they already have specific framing provisions.

5. SETTING OF HORIZONTAL REQUIREMENTS, NO REQUIREMENTS AND METHODOLOGY

5.1 Horizontal requirements

The Commission intends to propose horizontal ecodesign requirements. The empowerment for the Commission to do so is found in Article 5(2) but it is not framed more than that. An example of a horizontal requirement is the ecodesign regulation on off mode, standby and network standby (EC/1275/2008). The draft JRC “preliminary study on new product priorities” (page 24) proposes durability, recyclability, and recycled content as aspects which could be regulated through horizontal requirements across different product groups.

Our understanding is that a horizontal requirement would be adopted in one delegated act applicable to several product groups such as furniture, clothing, and toys. The horizontal requirement would apply to the same aspect(s) (e.g. durability, reliability and reparability) but might be set differently for the different groups covered by the delegated act: for instance, durability could be expressed through provision on “minimum lifetime and labelling” for some of the product groups within the act, and through a provision on “resistance to stressed and ageing mechanisms” for other product groups within the delegated acts. Horizontal requirements could be established both when there are product specific ecodesign requirements on a specific product group and when there are not. There is a possibility that a product aspect could be regulated twice, in different manners to avoid conflict: for instance, the availability of spare parts could be requested in a product specific act, and a reparability scoring, building on the same list of spare parts, could be requested in a horizontal act.

We propose amending the text of Article 5(2) as follows:

- 2.a. **However, Where** two or more product groups display one or more **technical** similarities allowing **one or more product aspects** referred to in paragraph 1 to be improved based on common ecodesign requirements, such requirements may be established horizontally for those product groups.

Horizontal ecodesign requirements shall effectively improve environmental sustainability with respect to the product aspects concerned. A horizontal ecodesign requirement may be further adapted to the specificities of the product groups and products covered.

When establishing such horizontal requirements, the Commission shall also take into account the effectiveness of such an approach, in particular its ability to address a large number of products, including product groups that have not been prioritised individually in the working plan referred to in Article 16.

5.2. Setting of “No requirements”

In its original proposal, the Commission had specified in Article 4 that its empowerment included the possibility to adopt no performance requirement, no information requirements, or neither performance nor information requirements.

The Commission has provided further explanations:

- Most of the time, the Commission will adopt some performance and/or information requirements related to some aspects but not on all aspects (for instance, because they are not relevant). In these circumstances, the Commission will not explicitly specify that “no requirements at all” should be adopted regarding the aspects that are “left out”.

- The Commission does not intend to adopt delegated acts providing that there shall be no performance or information requirements at all on a product group.
- In some exceptional circumstances, the Commission will specify in a delegated act that no performance and/or information requirement should be imposed in relation to a specific aspect for the product group concerned. We understand that this would only happen in the case where adopting a requirement related to that specific aspect would jeopardize the other requirements and/or be detrimental to the goal of the regulation.

It could be useful to clarify the principle that would allow the Commission to explicitly provide, in a delegated act, that “no requirement” shall be adopted in relation to a specific aspect. Article 4 could for example contain wording explaining that this is only possible in exceptional circumstances, when the adoption of requirements on a specific aspect would be detrimental to achieving to the goal of the Regulation as expressed in Article 1. We do not have a drafting suggestion for this framing yet.

5.3 Methodology

Several delegations have asked for clarifications on the methodology to be used for setting of ecodesign requirements.

According to recital 19, the Commission will “select” several methods “*to assess the setting of the ecodesign requirements*” and [...] “*Such methods are to be based on the nature of the product, its most relevant aspects and its impacts over its life cycle*”. The recital concludes that, based on past experience with inter alia MEErP under the Ecodesign Directive, the Commission “*should develop new methods or tools as appropriate*”.

Which methods or tools the Commission develop and select will impact how the ecodesign requirements will be set. Further framing of how the Commission should establish methodologies could be added to Article 5, with some general principles for the methodologies to adhere to as well as principles for updating and revising the methodologies. One could also clarify in Article 17(a) that the Member States Expert Group will be involved and consulted in the process of developing methods or tools to set ecodesign requirements..

6. ARTICLE 7.A.

Article 7.a., old Annex VI, could still be foreseen to be kept as an article but refer to delegated acts. Under f) one could add a sentence in the end “Economic operators shall be given at least X months implementation time, from the entry into force of the delegated act”.

7. RELATIONSHIP WITH OTHER LEGISLATION

Several delegations have raised how the ESPR relates to different types of legislation, both more horizontal type of regulations such as REACH, the Waste Framework Directive, and Market Surveillance Regulation, but also to product specific regulations. We would propose that the relationship between ESPR and the specific pieces of legislation be clarified in the recitals to the proposal. Wording on which legislation applies in case of conflict (e.g. which type of legislation the ESPR should be “without prejudice”) could also potentially be considered. Below you find some preliminary proposals.

7.1 Construction products

The Commission has provided examples of situations where the Ecodesign Regulation could be foreseen to intervene in a complementary manner to the revised Construction Products Regulation (CPR). For energy-related products (such as boilers, air conditioning), it is for example our understanding the ESPR should ensure the continuity of the Ecodesign Directive and existing product regulations. For other construction products, sustainability requirements should be set under the CPR. ESPR should set requirements on environmental sustainability only in cases where requirements under the CPR are not possible to establish in a reasonable time or would not be effective.

Several delegations have voiced concerns over duplication of requirements. One proposal to accommodate this could be to amend recital 43 as follows:

~~In addressing construction products, this Regulation should set requirements on final products only when the obligations created by [the revised Construction Products~~

~~Regulation] and its implementation are unlikely to sufficiently achieve the environmental sustainability objectives pursued by this Regulation.~~ This Regulation should not set requirements on final construction products when requirements on environmental sustainability for such products have already been developed under [the revised Construction Products Regulation]. Only in exceptional cases where requirements under [the revised Construction Products Regulation] are insufficient or ineffective, and cannot be amended or complemented under [the revised Construction Products Regulation] in a reasonable time, this Regulation should be able to intervene in a complementary manner on construction products, provided the administrative cost entailed, including as a result of economic actors being subject to two conformity assessment procedures, is shown to be reasonable. To avoid that economic operators become subject to a duplication of or potentially conflicting requirements or delegated acts the Commission should, before proposing such complementary requirements under the Construction Product Regulation, consider if the delegated act already adopted under this Regulation can be repealed or amended so that requirements are instead included in delegated act being adopted under the Construction Products Regulation.

~~In addition,~~ When formulating working plans under this Regulation, the Commission should however take into account that, in continuation of current practice, [the revised Construction Products Regulation] will, in relation to energy-related products that are also construction products, give s prevalence to sustainability requirements set under this Regulation. This should be the case for instance for heaters, boilers, heat pumps, water and space heating appliances, fans, cooling and ventilating systems and photovoltaic products (excluding building-integrated photovoltaic panels). For these products, [the revised Construction Products Regulation] may only intervene in a complementary manner ~~where needed mainly~~ **in relation to safety aspects**, also taking account of other Union legislation on products such as on gas appliances, low voltage, and machinery.

7.2 Packaging

The Commission has explained that examples of situations where the ESPR could be foreseen to intervene in a complementary manner is where requirements would be specifically related to the product covered by the delegated act. Indicative examples could relate to product to packaging ratios, for instance by restricting practices related to the diluting of detergents that lead to excessive amounts of packaging; requirements on packaging of products for the purpose of environmental protection, for instance packaging of plastic pellets as an intermediary product to prevent the release of these pellets into the environment as microplastics.

We could propose small adjustments to the recital 21 to clarify this further.

7.3 Military products

To clarify how the ESPR might apply to military products, we could propose small adjustments to recital 16 to specify that ecodesign requirements, if put on military products, should not compromise the security needs and the activities of the armed forces.
