

## **Responses to the Commission's paper on the use of Cannabis/Hemp-derived ingredients in cosmetic products (each heading is addressed separately):**

### ***Cannabis***

The background information in this section on the '1961 Convention' is essentially accurate with the conclusion that *'ingredients derived from 'cannabis' to the extent that they fall within the scope of the 1961 Convention should be banned in cosmetic products based on entry 306 of Annex II of the Cosmetics Regulation'*.

However, if the '1961 Convention' applies as described, **they *'are prohibited'* rather than *'should be banned'***.

### ***Cannabidiol (CBD)***

The Commission are correct to state that CBD is not directly identified in either Annex II of the Cosmetics Regulation or in the reference made by entry 306 to the '1961 Convention' but, as it can be present in the cannabis plant, resin, extracts or tincture, then CBD as well as all other cannabinoid substances, are captured along with THC.

Depending on the concentration of CBD present in the cosmetic product, it is also likely that its use would be prohibited if it has a pharmacological, immunological or metabolic action as it would no longer meet the definition of a cosmetic product within the meaning of the regulation.

### ***Hemp***

This depends on whether the '1961 Convention' applies in its entirety. From a botanical perspective, 'hemp' is the same as 'cannabis' as they are both defined as the species '*cannabis sativa*'. It is believed the variety of cannabis plant identified as hemp generally has a lower concentration of cannabinoids such that its potency makes it less attractive to be misused but, as the same plant species, it produces the same chemical ingredients as cannabis.

Consequently, if an enforcement agency were to test a cosmetic product and detect the presence of cannabinoids, it would be difficult to analytically distinguish the source of the cannabinoids i.e. from either an illicit or permitted cannabis plant/plant part. Consequently, the Commission have indicated proof of origin would be required from the 'Responsible Person' to verify the detected cannabinoids were sourced from either 'hemp' or other parts of the cannabis plant exempted under the '1961 Convention'. This may lead to dispute regarding the validity and proof of any claim.

### ***Conclusion***

- Cannabis is an unusual entry in the '1961 Convention' in that it refers to the plant instead of specific component substances, therefore, it is suggested that definitions are

included in this document e.g. for hemp, cannabis, extracts, tinctures etc., to ensure clarity on this subject matter and minimise misinterpretation. Without this clarity, we have reservations in adapting the CosIng database to identify ingredients, particularly ‘hemp’, as being either applicable or not applicable to entry 306 in Annex II.

- In the listing there is potential for confusion, for example:

CANNABIS SATIVA FLOWER/LEAF/STEM EXTRACT	II/306
CANNABIS SATIVA STEM POWDER	No

The first entry identifies stem extract and the second entry is stem powder but what is stem powder if it is not an extract of the stem of the cannabis plant applicable to II/306.

- With reference to the following entry:

CANNABIDIOL	No
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**Cannabidiol (CBD) is not listed in the Schedules of the Single Convention on Narcotic Drugs. Therefore, it shall be prohibited from use in cosmetic products (II/306), if it is prepared as an extract or tincture or resin of Cannabis in accordance with the Convention.** As CBD is extracted from cannabis plant material, it should technically fall within the scope of the entry described as:

Cannabis and Cannabis resin; Cannabis sativa, ext. (Substance)	II/306
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There is a contradiction here as it is either within the scope of II/306 or it is not.

- It may be useful to include a cautionary note reminding member states to check their own national legislation on controlled substances that may also impact a cosmetic product.