

CBD in natural cosmetics: Under scrutiny

By Dr. Mark Smith and Paula Gómez de Tejada

A versatile, sustainable but controversial substance

Cannabidiol (CBD) has rapidly become a focal point for both consumer interest and regulatory scrutiny. It is derived from *Cannabis sativa L.* (its botanical origin), a plant that can be cultivated sustainably, and acts as a carbon sink, supports soil regeneration and can be certified as organic. Since virtually the entire plant – stalks, seeds, flowers and leaves – can be harvested and processed, hemp is a multipurpose, versatile crop used to produce bio-based products across various sectors, including cosmetics, food, feed, and textiles. In the European Union (EU), “hemp” (*Cannabis sativa L.*) is authorised under Regulation (EU) No 1308/2013¹, allowing for industrial production from 75 varieties with THC content (*tetrahydrocannabinol*, the psychoactive component) of less than 0.2% by law.

CBD, one of the approximately hundred naturally occurring cannabinoids found in Cannabis plants, can account for up to 40 % of the plant’s extract.² It can be synthesised from petrochemical moieties or extracted from the leaves of *Cannabis sativa L.* as an isolate, using supercritical carbon dioxide. In cosmetics, CBD functions as active ingredient thanks to its antioxidant, anti-sebum, and skin conditioning properties.

However, while substances such as *Cannabis sativa* (hemp) Seed Oil have a long-term use and acceptance as an emollient in natural cosmetics skincare, CBD has faced greater regulatory scrutiny. As of 2025, reviews are ongoing in the European Union (EU) regarding its use in cosmetics. Divergent positions among Member States and a new wave of regulatory developments are likely to shape the ingredient’s future. Beyond the EU, for example, in China, the National Medical Products Association (NMPA) banned cannabidiol, cannabis sativa fruit, cannabis sativa oil and cannabis sativa leaf extract in May 2021.

Clarifying the Cannabis – CBD connection

According to the World Health Organization (WHO), CBD is a non-psychoactive cannabinoid with no abuse or dependence potential.³ In EU law, an underlying principle of the Cosmetics Regulation (EC) 1223/2009⁴ (EU CPR) is that products must be safe for human health. Consequently, cosmetic products shall not contain substances prohibited by law that are listed in Annex II of the EU CPR, which includes banned ingredients.

Entry 306 of Annex II indicates reference to: “*Narcotics, natural and synthetic: All substances listed in Tables I and II of the Single Convention on narcotic drugs of 1961*” for various substances derived from Cannabis sativa. Under the 1961 Convention⁵, a “drug” is defined as any substance listed in Schedules I and II, whether natural or synthetic. Schedule I includes cannabis, cannabis resin and extracts, and tinctures of cannabis, but **CBD itself is not explicitly listed**.

As a result, CBD could be considered outside the scope of the Annex II, except if it is prepared from a substance listed in Schedule I – in which case, the prohibition for cosmetics could apply.

This interpretation (i.e.: “CBD is not a narcotic”) gained significant legal support in November 2020, when the Court of Justice of the European Union (CJEU), in Case C-663/18⁶, concluded that **CBD should not be considered as a drug** under the 1961 Convention. The Court equally covered cases where CBD is a cannabis extract, since, according to the CJEU, CBD “*does not appear to have any recognised psychoactive effects in the current state of scientific knowledge.*” While the CJEU acknowledged that extraction would lead to variable THC content, it noted that this would not exceed 0.2%.

Following this judgement, it became clear that regulatory clarification on the use of CBD was needed across various sectors, including cosmetics. To this end, under the EU CPR, if CBD does

not fall under entry 206 of Annex II, then it would not be automatically prohibited. Its use in cosmetics would therefore be permitted, provided that the product complies with Article 3 of the EU CPR (i.e., it is safe for human health under normal conditions of use).

However, according to Article 17 of the EU CPR, any presence of the psychoactive THC, even if unintended, must be addressed because it affects the overall safety and the profile of CBD.

In 2022, the EU Commission updated its non-legally binding Cosmetic Ingredients Database (CosIng⁷) to modify the status of CBD by removing the reference to entry 306 from Annex II of the EU CPR. This revision placed CBD – whether natural or synthetic – with the same status as *Cannabis sativa* (hemp) Seed Oil and other hemp extracts or derivatives.

Nevertheless, an important distinction remains: the specific part of the plant could influence whether the substance falls within the definition of “*cannabis*” set out in the 1961 Convention. Concretely, seeds, leaves, roots, stems, calluses, and sprouts without flowering tops would be considered out of scope. In contrast, flowers or leaves with tops, from which resin has been extracted, could fall under the Convention (i.e., as “drugs”) – unless derived from industrial crops where the THC level is low, as permitted in the EU.

Safety Assessment

Following changes to CosIng, it became necessary to evaluate the safety of CBD in cosmetic products. In June 2023, the EU Commission opened a call for evidence for CBD as a first step towards an independent risk assessment for the substance by the Scientific Committee on Consumer Safety (SCCS). This call⁸ closed in October 2024.

Subsequently, in January 2025, the EU Commission mandated⁹ the SCCS to provide a scientific opinion within 12-months. The

assessment will aim to determine the maximum concentration of CBD in cosmetics, the maximum safe level of THC as a contaminant in CBD preparations, and to identify any scientific concerns about CBD or the possible non-intended presence of at trace levels of other cannabinoids in such products.

Nevertheless, in a parallel assessment, a more restrictive step was taken in France. The French national health agency (ANSES) proposed¹⁰ a harmonised classification of CBD¹¹, asking for classifying this substance under the EU CLP Regulation (EC) No. 1272/2008 as Reprotoxic Category 1B (presumed human reproductive toxicant) and as hazardous to breastfeeding. If accepted, this classification could trigger an automatic ban under Article 15(2) of the EU CPR, unless four specific conditions outlined in the Article are met.

If the conclusions from the SCCS and the CLP classification process conflict, the EU will need to resolve these differences to provide regulatory clarity for manufacturers.

Meanwhile, in early 2025, in the absence of this assurance, Portugal's National Authority for Medicines and Health Products (Infarmed) took enforcement action by removing multiple CBD-based cosmetic products from the market. Infarmed justified this by stating that CBD from cannabis extracts is considered a narcotic in Portugal – a position that conflicts with the EU's principle of free movement of goods and contradicts the 2020 judgement of the CJEU. This case highlights the **ongoing legal uncertainty** for businesses operating in this space and the potential for further legal challenges across Member States.

A safe and legal future?

Although CBD itself is non-psychoactive, both public and regulatory perceptions continue to be influenced by its association with the narcotic effects of cannabis and the psychoactive compound THC. On-going scientific evaluations are essential to provide





regulatory clarity needed to support recent and legal CJEU judgments. This clarity is not only vital for ensuring compliance, but also for encouraging investment from operators and maintaining consumer trust.

As an abundant and regulated agricultural crop, hemp biobased products offer significant potential to meet growing consumer demand for natural (or organic), renewable, sustainable, and functional beauty solutions; especially as market demand for such raw materials and finished products continues to rise. However, this opportunity presents regulators with a delicate position: how to safeguard public health without stifling innovation in the natural beauty space and undermining the broader benefits CBD could bring to the European bioeconomy.

The next 12 to 18 months will be pivotal in shaping the future of CBD in natural cosmetics. As regulators work to clarify legal boundaries and safety parameters, industry stakeholders must remain alert, informed, and ready to adapt depending on the final verdicts.

References

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