

# Sustainability Outlook European Union

July 2021



## European Commission proposes a landmark “Fit for 55” package of climate and energy legislation.

Delivering a key component of the [European Green Deal](#) umbrella policy that it adopted in December 2019, the European Commission [issued](#) 15 legislative proposals, accompanied by three non-legislative communications. With the supporting documents, e.g. impact assessments, the package adds up to around **4,200 pages**. It includes the following initiatives:

### Legislative

**Amendment to the Renewable Energy Directive 2018/2001 (REDII)** – increasing the overall binding target to 40% of renewables in the EU energy mix (please see below).

**Revision of the EU Emission Trading System (ETS) Directive 2003/87 and related laws** – increasing greenhouse gas emissions reductions from covered sectors to 61% by 2030 (please see below).

**Regulation establishing a carbon border adjustment mechanism (CBAM)** – please see below.

**Revision of the Market Stability Reserve (MSR) Decision 2015/1814** – maintaining that 24% rather than 12% of allowances are placed in the reserve after 2023.

**Revision of the Effort Sharing Regulation (ESR) 2018/842** – increasing the reduction target for covered sectors by 11 percentage points.

**Revision of Energy Efficiency Directive 2018/2002 (EED)** – increasing the energy efficiency targets at EU level and making them binding.

**Revision of the Energy Taxation Directive 2003/96** – to align the minimum tax rates for heating and transport fuels with EU objectives, while mitigating the social impact.

**Amendment of ETS Directive 2003/87** – regarding aviation.

**Amendment of ETS Directive 2003/87** – regarding notifications under Carbon Offsetting and Reduction Scheme for International Aviation (**CORSIA**).

**Amendment of the Regulation 2019/631 setting CO2 emission standards for cars and vans** – setting a 100% reduction target for new cars by 2035.

**Revision of the Alternative Fuels Infrastructure Directive (AFID) 2014/94** – ensuring the necessary deployment of interoperable and user-friendly infrastructure for recharging and refuelling cleaner vehicles.

**Revision of the Land Use, Land Use Change and Forestry (LULUCF) Regulation 2018/841** – setting higher ambitions for the expansion of natural carbon removals.

**Proposal for a Social Climate Fund Regulation** – providing dedicated funding to Member States to help citizens finance investments in energy efficiency, new heating and cooling systems, and cleaner mobility.

**Proposal for ReFuelEU Aviation Regulation** – promoting sustainable aviation fuel blends, as well as synthetic fuels, known as e-fuels.

**Proposal for FuelEU Maritime Regulation** – to promote sustainable maritime fuels by imposing a maximum limit on the greenhouse gas content of the energy that ships use.



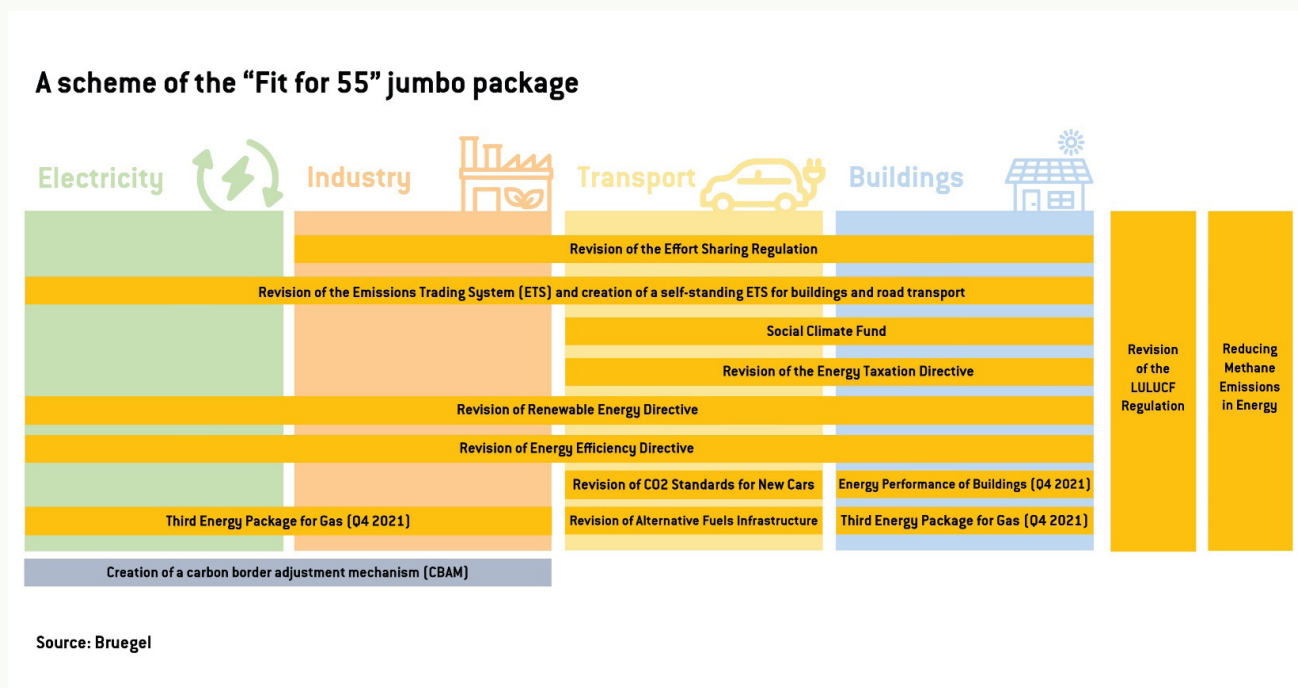
## Non-legislative

[Strategic rollout plan to support rapid deployment of alternative fuels infrastructure](#) – supplementing the legislative proposal.

Communication on the **New EU Forest Strategy for 2030** – unlocking the potential of forests.

[Communication](#) ‘Fit for 55’: delivering the EU’s 2030 Climate Target on the way to climate neutrality’, accompanying the package.

Structure of the Fit for 55 package and related initiatives (source: S. Tagliapietra, [Bruegel](#)):



In the [Communication](#) accompanying the Fit for 55 package, the Commission explains how it is supposed to deliver the 2030 climate target of reducing net greenhouse gas (GHG) emissions by at least 55%, compared to 1990 levels. The EU has made this target legally binding in its [European Climate Law \(Regulation 2021/1119\)](#), which entered into force in July (please see [Sustainability Outlook June 2021](#)). The chosen policy mix **combines pricing, targets, standards and support measures**. Those support measures include using revenues and regulations to promote innovation, build solidarity and mitigate impacts for the vulnerable, notably through the new Social Climate Fund and enhanced Modernisation and Innovation Funds. When [announcing](#) the package, the Commission held that achieving these emission reductions in the next decade is crucial to Europe becoming the world’s first **climate-neutral** continent **by 2050**. At the same time, its intention is “to fundamentally transform our economy and society for a fair, green and prosperous future”. The Commission stated that it has conducted extensive impact assessments before presenting these proposals to measure the opportunities and costs of the green transition.

As usual, stakeholders can **submit comments** on each legislative proposal **until 16 September 2021**. The EU co-legislators **Council and European Parliament** will now start agreeing on their **positions** on these proposals, in order to enter into **inter-institutional negotiations** with a view to **adopting** them. The current Slovenian Council Presidency has already characterised the Fit for 55 package as a legislative “**tsunami**” and expressed its intent to start the debate on it (please see [Sustainability Outlook June 2021](#)). The European Commission will implement its own non-legislative proposals.

## European Commission proposes a revision of the EU ETS.

As part of the Fit for 55 package, the Commission presented a [proposal](#) to revise Directive 2003/87 establishing a system for GHG emission allowance trading within the EU, as well as related legal acts. According to the Commission's Explanatory Memorandum, ensuring continued effective protection for the sectors exposed to a significant risk of carbon leakage while incentivising the uptake of low-carbon technologies will remain a **specific objective** of the EU ETS. Other objectives included addressing the distributional and social effects of this transition, by reviewing the **use of auctioning revenues** and the size and functioning of the low-carbon funding mechanisms. In the [Communication](#) accompanying the package, the Commission explains that **by 2030, all sectors covered** by the revised EU ETS will need to **reduce their GHG emission by 61%**, compared to 2005. To achieve this, the **annual emissions cap would be lowered** in line with the pathway to meeting the higher 2030 ambition. Concretely, the so-called **linear reduction factor** would be changed to 4.2% from the year following the entry into force of the revision, combined with a one-off downward adjustment of the cap so the new linear reduction factor has the same effect as if it would have applied from 2021. To strengthen the role of carbon pricing in the **transport sector**, the Commission proposes gradually **extending the current EU ETS to the intra-EU maritime sector** over the period 2023 to 2025. To reduce emissions from the **aviation** sector, free emission allowances to this sector would be phased out. To complement these changes, the Commission also [proposes a ReFuelEU Aviation Regulation](#) to promote the uptake of sustainable fuels in the aviation and maritime sectors.

A new, separate ETS would be set up for emissions from the **buildings** and the **road transport** sectors. The **emissions cap for this new ETS** would be set **from 2026** based on data collected under the Effort Sharing Regulation 2018/842 to reach **emission reductions of 43% in 2030** compared to 2005. Once the monitoring and reporting of the new emissions trading is established, the total quantity of allowances for 2028 would be adjusted on the basis of the available monitoring, reporting and verification (MRV) data for the period 2024 to 2026. The allowances for this new ETS would be auctioned and **no free allocation** provided. However, as a mitigation measure, 150 million allowances would be made available to the **Innovation Fund** with the objective of supporting innovation in low-carbon technologies and processes. A Market Stability Reserve would also operate in these two sectors.

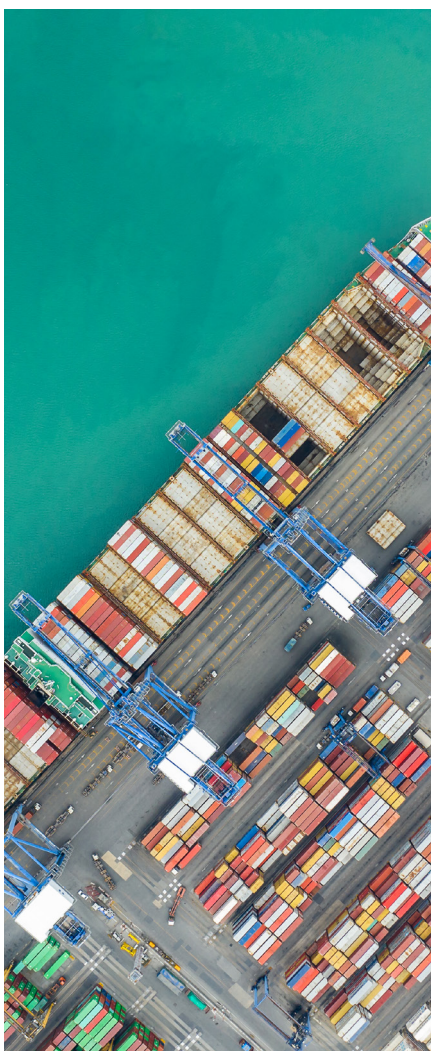
*Marco Mensink*, Director General of the European Chemical industry association Cefic, [commented](#) that the presented review of the EU ETS "might be the most crucial change to the EU ETS so far".





## European Commission proposes a revision of the Renewable Energy Directive.

As another key component of the Fit for 55 package, the Commission made a [proposal](#) to amend Directive 2018/2001 on the promotion of the use of energy from renewable sources (RED II) and related legal acts. The revision would **increase** the overall binding **target** for **renewable energy** in the EU energy mix **from** the current **32% to 40%**, complemented by **indicative national contributions** of Member States to reach the collective EU target. The Commission proposes **specific targets** for renewable energy use in certain sectors by 2030: **transport** (GHG intensity reduction of at least 13%; share of advanced biofuels and biogas increasing to 2.2%; and share of renewable fuels of non-biological origin of at least 2.6%), **heating and cooling** (average minimum annual increase of 1.1 percentage points), **buildings** (49%) and **industry** (*indicative* average minimum annual increase of 1.1 percentage points). To meet both climate and environmental goals, **sustainability criteria for the use of bioenergy** would be **strengthened** and Member States would have to design any support schemes for bioenergy in a way that respects the cascading principle of uses for woody biomass. Under an updated calculation method, energy from renewable fuels of non-biological origin would have to be accounted in the sector in which it is consumed (electricity, heating and cooling, or transport). Renewable electricity used to produce renewable fuels of non-biological origin would not be included in the calculation of the gross final consumption of electricity from renewable sources.



## European Commission proposes a carbon border adjustment mechanism (CBAM).

Another much-anticipated and likely controversial [proposed regulation](#) would establish a CBAM **for imports of iron, steel, cement, fertilisers, aluminium and electricity**. The Commission [presented](#) it as a measure to ensure that ambitious climate action in Europe does not lead to **“carbon leakage”** by pushing carbon-intensive production out of the single European market but contribute to a global emissions decline by encouraging the international partners of the EU and their industries to take steps in the same direction. The [Communication](#) accompanying the Fit for 55 package explains that the CBAM would be **gradually phased-in, while free allowances** under the EU ETS, which weakened its price signal, **are phased-out**, and a **simplified system** would apply in the first years. It would ensure that the same carbon price will be paid by domestic and imported products and would, thus, be non-discriminatory and compatible with WTO rules and other international obligations.

Regarding **electricity**, the final proposal now states that once **third countries** are **fully integrated into the** European internal energy market (IEM) via market coupling, **technical solutions** should ensure the application of the CBAM to electricity exported from such countries into the customs territory of the EU. *If technical solutions cannot be found*, such third countries should benefit from an **exemption from the CBAM until at the latest 2030**. **This exception would apply** under certain conditions, including developing a road map, implementing a carbon pricing mechanism providing for an equivalent price as the EU ETS, and committing to achieving carbon neutrality by 2050, as well as to EU rules in the field of energy, environment and competition. The proposal foresees a phase-in period starting in 2023 and full implementation from 2026. Otherwise, it is similar to aspects discussed in the [Sustainability Outlook June 2021](#) based on an earlier, leaked version. [Industry representatives expressed doubts](#) about the proposal, calling for an export rebate scheme, about which, in turn, environmental NGOs are highly sceptical.

## European countries announce their intention to restrict PFAS.

Germany, Denmark, the Netherlands, Norway and Sweden [registered their intention to restrict](#) the **manufacture, placing on the market and use** of per- and polyfluoroalkyl substances with ECHA. The **scope** of the intended REACH restriction are (all) fluorinated substances that contain at least one aliphatic carbon atom that is both saturated and fully fluorinated, i.e. any chemical with at least one perfluorinated methyl group (-CF<sub>3</sub>) or at least one perfluorinated methylene group (-CF<sub>2</sub>-), including branched fluoroalkyl groups and substances containing ether linkages, fluoropolymers or side chain fluorinated polymers. The five so-called Dossier Submitters have provided an [information document](#) explaining the scope. ECHA also [published](#) its regulatory management option analysis (**RMOA**) conclusions on PFAS. The [Dutch government explained](#) that the restriction will target all applications of PFAS, with the **exception** of some that are considered **essential**. By banning the very large **group** of PFAS, the EU would prevent one harmful PFAS from being substituted by another that later turns out to be harmful as well. It was aiming for the restriction to enter into force before 2025.

The **stated reasons** for the restriction are that all **PFAS** are, or ultimately transform into, **persistent** substances, leading to irreversible environmental exposure and accumulation. Due to their water solubility and **mobility**, contamination of surface, ground and drinking water and soil had occurred in the EU, as well as globally, and would continue. It had been proven very difficult and extremely costly to remove PFAS when released to the environment. In addition, some PFAS had been documented as **toxic** and/or **bioaccumulative** substances, with respect to both human health and the environment. Without taking action, their concentrations would continue to increase, and their toxic and polluting effects will be difficult to reverse.

As usual, the Dossier Submitters ask stakeholders to **provide relevant information**. For this purpose, they provide an [extensive survey in 66 parts](#) (maximum of four pages per use) until 19 September 2021. The questionnaire is also intended to provide the respondents with an overview of the information that the five competent authorities currently have on the different uses of PFAS. This follows on a [first call for evidence](#) in 2020 ([please see frESH Law Horizons May 2020](#)). The expected date of the submission of a restriction dossier (i.e. proposal) is 15 July 2022. This broader intention follows [ECHA registering its intention to restrict](#) the use of PFAS *in fire-fighting foams*. That restriction proposal is expected in October 2021.

## European Commission plans simplification and digitalisation of labelling requirements for chemicals.

The Commission issued an [inception impact assessment](#) (IIA), i.e. the legislative road map for a proposed regulation on **labelling requirements under the general CLP** Regulation 1272/2008 on classification, labelling and packaging of substances and mixtures, the **Detergents** Regulation 648/2004 and the **Fertilising Products** Regulation 2019/1009. The IIA notes that the so-called non-REACH REFIT ([please see frESH Law Horizons June 2019](#)) and the evaluation of the Detergents Regulation found that chemicals labels are overloaded with information. The evaluations also suggested that communication could be improved by using **innovative digital tools for labelling**. The objectives of the initiative include **increasing the effectiveness of communicating essential information on chemicals**, such as safety and instructions on product use, as well as increasing the cost-effectiveness of the EU chemicals industry. Consequently, the policy options include **simplifying** information, e.g. by removing or adding information (relevant to the CLP and Detergents Regulations only) and changing the way in which specific information is currently provided (e.g. from the physical **label** to **digital** means). Stakeholders can provide feedback on the IIA until 20 September 2021. After the usual stakeholder engagement process, the Commission intends to make a legislative proposal in the first quarter of 2023.





### European Commission issues a draft amendment of the REACH authorisation list; does not include BPA.

The [draft implementing regulation](#) would introduce five new entries in Annex XIV of REACH, which includes substances of very high concern (SVHCs) that require authorisation. [ECHA had recommended including 18 substances in 2019 \(please see frESH Law Horizons October 2019\)](#). The Commission explains in its draft that it **postponed the decision on** the bisphenol A (BPA) and dechlorane plus, a flame retardant in adhesives and polymers, **because other regulatory steps have been taken**, in particular by preparing Annex XV restriction dossiers ([please see frESH Law Horizons September 2019](#)). Regarding two skin sensitisers, HHPA and MHHPA, the Commission cites difficulties in establishing a safe level of exposure for workers. It has deferred the inclusion of seven lead compounds with reprotoxic properties, as they are mainly present in **recycled PVC** and cannot be removed with the current technology, but it is working on a regulation to ban their use in PVC articles.



### ECHA seeks views on applications for the authorisation process.

The European Chemicals Agency opened a [survey](#) on this part of the **REACH Regulation**. It contains the following **sections: (a)** submitted applications for authorisation and the process of opinion-making; and **(b)** opinions of the Committees for Risk Assessment (RAC) and Socio-Economic Analysis (SEAC). The multiple-choice questions with the option to comment cover the value and quality of various elements of the authorisation process, including: chemical safety reports and exposure scenarios, analyses of alternatives and substitution plans, socio-economic analyses, comments received during the consultations, additional information requests by RAC/SEAC, applicants' responses to these comments and requests, opportunities for third parties to communicate with the applicant and RAC/SEAC, ECHA's communication with stakeholders, transparency and accuracy of information summaries in RAC/SEAC opinions, conditions and recommendations, and the conclusions of the opinions.

REACH allows companies to apply for an authorisation to continue or start using and placing on the market substances that have been included in the Authorisation List (Annex XIV of REACH), and, thus, are generally banned. The Commission recently called into question maintaining this part of REACH ([please see frESH Law Horizons May 2021](#)).



### ECHA publishes a study finding that trichloroethylene (TCE) has mostly been substituted with perchloroethylene (PERC) in metal parts cleaning.

The Centre for Future Chemical Risk Assessment and Management at the University of Gothenburg (FRAM) conducted the [study](#) in collaboration with ECHA. It is based on an industry survey distributed to former users of TCE. TCE is a substance of very high concern (SVHC) that has been subject to REACH authorisation since 2014, with a sunset date in 2016. The study does not represent the official views or position of ECHA, but based on the findings, the Agency [observed](#) that progressive substitution has been achieved, as, while several hundreds of European companies had been involved in applications for authorisation of TCE, ECHA has not received any review reports (applications for renewed authorisation) after 2020 for TCE in metal parts cleaning. A large share of the companies that had used TCE in metal parts cleaning were instead using PERC. As PERC has similar chemical characteristics as TCE, companies could continue to use the same machines after making minor modifications. Some companies had combined the shift to PERC with the introduction of other solvents or methods, mainly modified alcohols. In some cases, companies continued to use older types of machines (open top). This was surprising since the REACH authorisations for the use of TCE only covered closed metal cleaning systems. Older types of machines increased exposure risks. The costs for substituting TCE with PERC were low. The main reason for substituting TCE had been to avoid the cost of having to renew the application for authorisation.

The study notes that **the substitute PERC has similar hazardous properties** as TCE but is not subject to the same legal constraints. It observes that PERC is classified as suspected to be carcinogenic (Carc. 2) and toxic to aquatic life with long-lasting effects (Aquatic Chronic 2) in the EU but not included in the REACH Candidate List of SVHCs. An EU substance evaluation by Latvia in 2013 had not found PERC to be a PBT nor a CMR substance, and had concluded that there is “no need of further risk management measures”

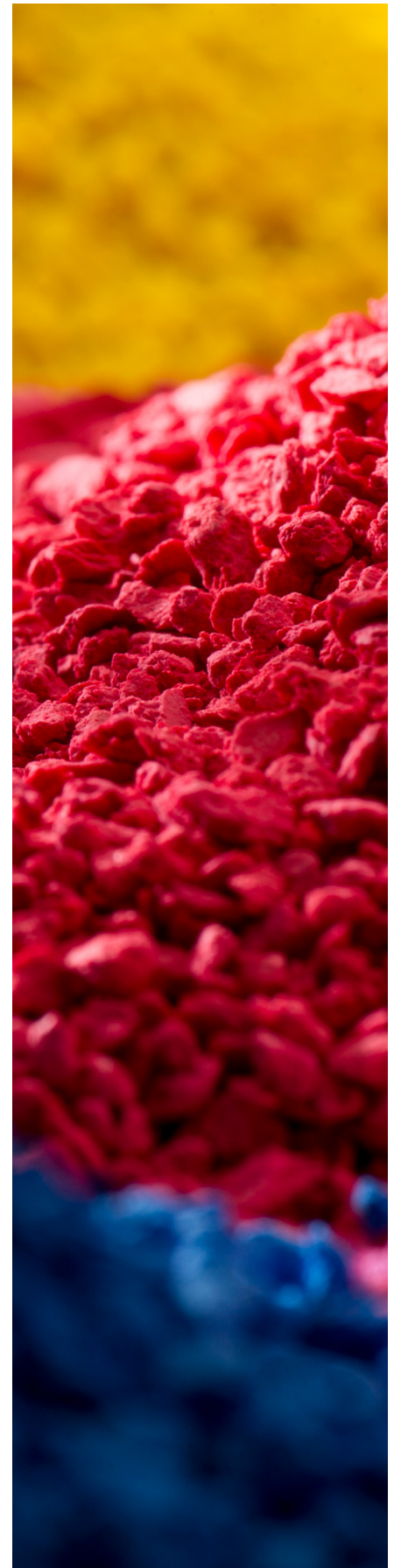
### EU court rejects actions regarding siloxanes.

The European General Court dismissed, in its entirety, a legal action brought by the Global Silicones Council, supported by the American Chemistry Council (ACC) to annul the 2018 decision of ECHA to include octamethylcyclotetrasiloxane (**D4**), decamethylcyclopentasiloxane (**D5**) and dodecamethylcyclohexasiloxane (**D6**) in the REACH **Candidate List** ([Case T-519/18](#)). The court rejected the **extensive plea** of the applicants in **eight parts that** ECHA had committed a **manifest error of assessment**, reviewing multiple details of the procedure. Among many other things, the Court held that the Member State Committee (MSC) may refer to an opinion that it obtained in the context of a different procedure laid down by REACH. Furthermore, it did not find an obligation to assign numerical values (quantitative weight) to the various sources of data in the context of **the weight-of-evidence determination**.

The Court also **rejected** the second plea that **ECHA had breached the principle of proportionality**. Among other things, it held that in judicial review, **ECHA must be allowed a broad discretion** in a sphere that entails political, economic and social choices on its part and in which it is called upon to undertake complex assessments. The recognition of some uncertainties in relation to certain data did not, as such, render the identification of D4, D5 and D6 as SVHCs inappropriate, as it and the assessment of scientific uncertainties are an essential part of the weight-of-evidence determination, as foreseen in Annex XIII of REACH. A substance evaluation, which is intended as a follow-up to registration, would not have been as appropriate for achieving the objective pursued by the identification as SVHCs, and, thus, not a less onerous but equally suitable measure.

The three cyclosiloxanes are mainly used as raw materials in the production of silicone rubbers, gels and resins. These, in turn, have a wide range of uses, including in cosmetics, cleaning products, polishes and waxes, pharmaceuticals and medical devices. D5 and D6 are also used as ingredients in sunscreens and skin creams. Furthermore, D5 is used as a dry cleaning solvent. They have been **restricted in wash-off cosmetics, effective since February 2020**, due to their persistent, bioaccumulative and toxic (PBT) or very persistent and very bioaccumulative (vPvB) properties, respectively. **ECHA proposed a broader restriction in 2019**, which would ban the use of D4, D5 and D6 in consumer and professional products and in dry cleaning solvents in concentrations of more than 0.1% weight-by-weight. According to ECHA, it could lead to a 90% reduction in overall emissions to the environment. The proposal received a **positive opinion from RAC and SEAC in March 2020**, and is **pending with the Commission**. ECHA has also [proposed](#) to include the siloxanes in the REACH **Authorisation List**, which would mean that they are generally banned ([please see frESH Law Horizons April 2021](#)).

The **Court also dismissed an action against the existing restriction** of D4 and D5 in wash-off cosmetics, brought by the same and other parties ([Case T-226/18](#)). The parties may appeal these judgments.





## European Commission body prepares new emission norms for the chemical industry.

The Joint Research Centre of the Commission (JRC) [announced](#) that stakeholders have agreed on a Best Available Techniques (BAT) reference document for Waste Gas Management and Treatment Systems in the Chemical Sector (the so-called **WGC BREF** – *not yet publically available*). It would provide new emission standards for 29 key air pollutants, mainly focusing on emissions to air of volatile organic compounds (**VOCs**), dust and other pollutants, such as ammonia, or nitrogen oxides, address **diffuse emissions** (such as leaks from equipment), and establish specific **emission caps for the production of polymers, such as PVC or PE**. The BREF reportedly establishes “**mass flow thresholds**.” This seems to refer to waste gases with similar characteristics that are discharged through two or more separate stacks that could, in the judgment of the competent authority, be discharged through a common stack. In such a situation, stacks shall be considered as a single stack.

**Cefic** [reportedly](#) welcomed the decision to include mass flows. NGO European Environmental Bureau (EEB) [fiercely criticised](#) the outcome. It warned that the BREF risks allowing up to 80% of the stacks emitting total VOCs and 93% of the stacks emitting particulate matter to be effectively exempt from BAT requirements. Installations in Germany would likely have to cut emissions because the country currently calculates thresholds based on a “virtual stack” approach that adds up all relevant waste gas flows at installation level rather than at the level of individual stacks, whereas the BREF would leave room not to add up all relevant flows in other Member States.

In the coming months, the Commission will draft so-called **BAT conclusions**, as the **legally binding** part of the BREF, and adopt them after receiving an opinion from a committee composed of Member State experts. National environmental competent authorities will then have **four years to update the environmental permits** of the existing chemical installations.

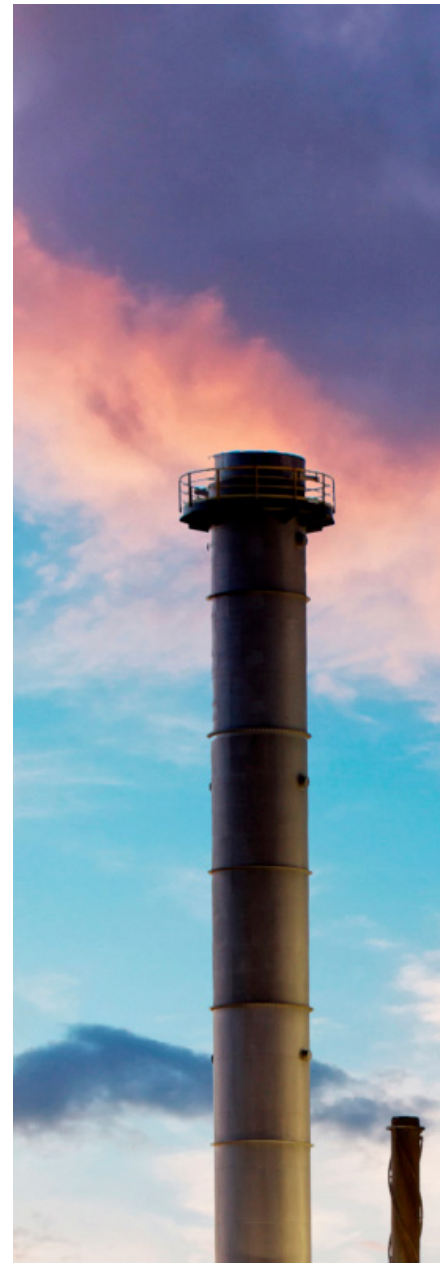
The development of BREFs is a key component of the Industrial Emissions Directive 2010/75 (**IED**). The work programme of the European Integrated Pollution Prevention and Control Bureau (EIPPCB) of the JRC foresees the development of a BREF on the Production of Large Volume Inorganic Chemicals. The JRC expects to start work on it soon to complete the **chemical BREFs**. There are already BREFs production of chlor-alkali, Common Waste Water and Waste Gas Treatment/Management Systems, and the production of Large Volume Organic Chemicals.

## European Parliament adopts a position on the eighth Environment Action Programme (EAP).

The European Parliament (EP) [adopted amendments](#) to the EAP by a large majority. The purpose of the EAP is to guide the EU environmental and climate policymaking until 2030. It will also be the first EAP after the adoption of the [European Green Deal](#) umbrella policy. The amendments call for phasing out all **environmentally harmful subsidies** by 2027, including **fossil fuel subsidies** by 2025 and subsidies in the form of tax exemptions. The EP states that these measures shall follow the principle of just transition and be accompanied by actions to prevent socio-economic impacts. It wants to task the **Commission to assess which subsidies are harmful to the environment** and produce guidance materials for identifying such subsidies at the EU, national, regional and local levels by the end of 2022. It also wants to task the Commission with carrying out a **mid-term evaluation** by March 2024 and submit it to the European Parliament and the Council.

The Council already [adopted](#) its position in March 2021. It is expected that the first inter-institutional legislative negotiation (so-called trilogue) will take place in September 2021.

The EAP is a legally binding decision. EAPs usually include (i) general objectives; (ii) guiding principles; (iii) a description of the state of environmental protection in the EU; and (iv) actions to take in order to achieve the objectives.



## European Commission opens a call for proposals on environment and climate funding.

The First Call for Proposals opened under the new **LIFE programme 2021-2027**, comprising four sub-programmes: nature and biodiversity, **circular economy and quality of life**, climate change mitigation and adaptation and the new sub-programme for a clean energy transition. The deadline to present proposals through the [funding and tender opportunities portal](#) is 30 November 2021. The LIFE programme (*L'Instrument Financier pour l'Environnement*), which mainly provides grants, was launched in 1992. The new [LIFE Regulation 2021/783](#) establishes the programme for the period 2021 to 2027. Its overall budget is €5.432 billion. The new LIFE programme will be managed by the European Climate, Infrastructure and Environment Executive Agency (CINEA), which began operations on 1 April 2021.

## EU co-legislators reach a provisional agreement on access to justice in environmental matters.

The [Council](#) and the [European Parliament](#) concluded inter-institutional legislative negotiations with a [provisional agreement](#) on the revision of the **Aarhus Regulation 1367/2006**. The now agreed revision aims to broaden the scope of the regulation to ensure that the EU fully complies with the UN Aarhus Convention on the right of the public/civil society to review **administrative acts** adopted by an EU institution or body, which have external legal effect and contravene environmental law. This will include administrative acts that require implementing measures at national level or at EU level (contrary to what the Commission had proposed – please see [frESH Law Horizons October 2020](#)), but not state aid decisions. The **right to request an internal review** will be expanded to members of the public under certain conditions, including the demonstration of **an impairment of their rights** caused by the alleged contravention of environmental law and being directly affected by such impairment, or the **demonstration of a sufficient public interest**. Public interest will be demonstrated by having the support of at least 4,000 members of the public residing or established in at least five Member States, with at least 250 members in each of these Member States. EU institutions and bodies will have to publish requests for internal review and decisions on them. The Commission [welcomed](#) the provisional agreement, which the Council and European Parliament are expected to formally adopt.

## European Court of Auditors publishes a report on the polluter pays principle (PPP).

The PPP is one of the key principles underlying the EU environmental policy and law. It entails that polluters bear the costs of measures taken to prevent, control and remedy pollution, as well as the costs this imposes on society. In its [special report](#), the European Court of Auditors (ECA) examines whether the PPP has been implemented properly in EU policy on **industrial pollution, waste, water and soil**. It finds that these EU policies generally reflect the PPP, but incompletely with the PPP being applied unevenly across sectors and Member States. As an example, the report observes that most Member States still do not make industries liable when allowed emissions (under the Industrial Emissions Directive 2010/75) cause environmental damage. With regard to waste, it states generally that measures such as extended producer responsibility (**EPR**) incorporate the PPP but do not ensure that polluters cover the *full* cost. Other problems underlined in the report include the difficulties in making polluters pay for contamination that happened long ago (“**orphan pollution**”) or the lack of sufficient financial security of some businesses, leading to environmental clean-up costs being borne by taxpayers. Among other things, ECA **recommends** to reinforce the Environmental Liability Directive 2004/35 or to make use of EU funds for cleaning pollution while taking other necessary steps to implement the PPP. As documented in the special report, the Commission accepted the need to examine how the PPP is applied and most of the recommendations of the ECA.



## European Commission proposes a new General Product Safety Regulation.

Implementing its New Consumer Agenda of 2020, the Commission [presented](#) a [legislative proposal](#) that would replace the General Product Safety Directive 2001/95 with a Regulation. That Regulation would address **risks related to new technology products, such as cybersecurity risks**, and to **online shopping** by introducing **product safety rules for online marketplaces**. It would ensure that all products reaching EU consumers are safe, whether coming from within the EU or from outside. The new Regulation would make certain that marketplaces fulfil their duties so that consumers do not end up with dangerous products. Concretely, and among other things, that would entail giving national market surveillance **authorities** the power, for all covered products, **to order an online marketplace to remove specific illegal content** referring to a dangerous product, to disable access to it or to display an explicit warning to end users when they access it. Online marketplaces would be obligated to take the necessary measures to receive and process the orders without undue delay, and in any event within two working days in the Member State where the online marketplace operates.

At the same time, it would ensure greater **consistency between harmonised and non-harmonised products**, e.g. by providing a **“safety net” for chemical risks** in products not covered by specific legislation. That safety net function would also apply in case some safety aspects related to **products in the circular economy** are not specifically addressed by initiatives from the [Circular Economy Action Plan](#).

The adoption of the proposal by the Council and European Parliament will follow the ordinary legislative procedure.

## Royal Dutch Shell plc (Shell) confirms that it will appeal Dutch carbon emission ruling.

The District Court in The Hague decided in May 2021 that Shell must reduce its global net carbon emissions by 45% by 2030 compared to 2019 levels. Shell [said](#): “We agree urgent action is needed and we will accelerate our transition to net zero, but we will appeal because a court judgment, against a single company, is not effective. What is needed is clear, ambitious policies that will drive fundamental change across the whole energy system. Climate change is a challenge that requires both urgent action and an approach that is global, collaborative and encourages coordination between all parties.”



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